

**ASSOCIATION  
BETWEEN  
THE EUROPEAN UNION  
AND TURKEY**

**The Association Council**

**Brussels, 11 February 2021  
(OR. en)**

**UE-TR 4803/21**

**NOTE**

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From:	Mr Denis REDONNET, Deputy-Director General for Trade, European Commission
On:	5 February 2021
To:	President of the EU-Turkey Association Council

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Subject:	Partial interim review investigation of the countervailing measures on imports of certain rainbow trout originating in the Republic of Turkey, limited to the subsidy aspects of one Turkish exporting producer
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Excellency,

I have the honour to refer to my letter of 17 December 2020 regarding a request for the initiation of partial review of the countervailing measures on imports of certain rainbow trout originating in Turkey.

In accordance with Article 46 of Decision No 1/95 of the EC-Turkey Association Council of 22 December 1995 on implementing the final phase of the Customs Union, I hereby inform the Customs Union Joint Committee that the European Commission, following the receipt of this request, has now decided to initiate the review.

Consequently, this letter constitutes the official application to the EU-Turkey Association Council in the sense of Article 47 of the additional Protocol to the EU-Turkey Association Agreement.

A copy of the relevant Notice of initiation published in the Official Journal of the European Union together with a copy of the non-confidential version of the request, the questionnaire for the exporter and the questionnaire to be filled in by the Government of Turkey are enclosed for your information.

According to the Commission's standing practice, the Mission of Turkey to the European Union has been informed by Note Verbale of the initiation of the proceeding.

I take this opportunity to renew to the President of the EU-Turkey Association Council the assurance of my highest consideration, and to assure you that you will be kept duly informed of any further developments.

Yours sincerely,

Denis REDONNET

Encl. : - Notice of initiation

- Non-confidential version of the request
- Questionnaire for the exporter<sup>1</sup>
- Questionnaire for the Government of Turkey<sup>2</sup>

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<sup>1</sup> This document is not attached to this cover because of its size. Copy can be obtained upon request.

<sup>2</sup> This document is not attached to this cover because of its size. Copy can be obtained upon request.

## V

(Announcements)

PROCEDURES RELATING TO THE IMPLEMENTATION OF THE COMMON  
COMMERCIAL POLICY

## EUROPEAN COMMISSION

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

(2021/C 40/07)

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

## 1. Request for review

The request for review was lodged by Selina Balik Isleme Tesis Ithalat Ihracat ve Ticaret Anonim Sirketi (the applicant), an exporting producer from the Republic of Turkey (the country concerned).

The request for a partial interim review is limited in scope to the examination of subsidisation as far as the applicant is concerned.

## 2. Product under review

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

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

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

## 3. Existing measures

The measures currently in force are a definitive countervailing duty imposed by Commission Implementing Regulation (EU) 2015/309 (the original Regulation) <sup>(2)</sup>. The investigation leading to the original Regulation is referred to as 'the original investigation'. On 4 June 2018, the measures were maintained following a partial interim review concerning subsidisation of all exporting producers, where the Commission found that the constant changes in the implementation of direct

<sup>(1)</sup> OJ L 176, 30.6.2016, p. 55.

<sup>(2)</sup> Commission Implementing Regulation (EU) 2015/309 of 26 February 2015 imposing a definitive countervailing duty and collecting definitively the provisional duty imposed on imports of certain rainbow trout originating in Turkey (OJ L 56, 27.2.2015, p. 12).

subsidies could not be deemed to be of a lasting nature <sup>(7)</sup>. On 15 May 2020, following a partial interim review limited in scope to subsidisation of one Turkish exporting producer, the Commission found that the circumstances with regard to the subsidisation changed significantly and the decrease of direct subsidies is of a lasting nature insofar as the exporting producer BAFİ Su Ürünleri Yavru Üretim Merkezi Sanayi Ticaret A.Ş. was concerned and adjusted its level of duty accordingly <sup>(8)</sup>.

On 27 February 2020, the Commission published a Notice of initiation of an expiry review of the anti-subsidy measures applicable to the product under review <sup>(9)</sup>. Pending the completion of the expiry review investigation, the measures continue to be in force.

#### 4. Grounds for the review

The applicant submits that the circumstances with regard to subsidisation on the basis of which the existing measures were imposed as regards the applicant have changed and that these changes are of a lasting nature as far as the applicant is concerned.

The applicant alleges that the continued imposition of the measures at their current level is no longer necessary to offset the injurious subsidisation in its particular situation. The applicant alleges that, during the investigation period of the original investigation, that was from 1 January 2013 to 31 December 2013, it had entered into a lease agreement for a period of one year according to which its entire business (facilities, staff, and existing contracts) was transferred to the lessor, Ternaeben Gıda ve Su Ürünleri İthalat ve İhracat Sanayi Ticaret A.Ş. as from 15 October 2013. As a result, during the original investigation, the applicant was not in a position to participate in the proceeding in its own name. Its data were however incorporated in the data of the lessor, which cooperated with the original investigation and for which a company-specific amount of subsidisation and duty were calculated. After the expiry of the lease agreement on 15 October 2014, the applicant became subject to the 'All other companies' countervailing duty rate of 9,5 % which applied to all the companies not listed in the Annex of the original Regulation. The applicant submits that the expiry of the lease agreement constitutes a significant change in circumstances, compared to the situation existing during the investigation period of the original investigation and that this change is of a lasting nature pursuant to Article 19(4) of the basic anti-subsidy Regulation.

In addition, the applicant submits that the amount of subsidy it receives has decreased well below the duty rate currently applicable to the applicant. This decrease was the result of changes in the structure and the terms of the implementation of the direct subsidies granted to producers of the product under review per kg produced by the Turkish Government, affecting the situation of the applicant.

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

The Commission reserves the right to investigate other relevant subsidy practices, which may be revealed during the course of the investigation.

#### 5. Procedure

Having determined, after informing the Member States that sufficient evidence exists to justify the initiation of a partial interim review limited to the examination of subsidisation as far as the applicant is concerned, the Commission initiates a review in accordance with Article 19(1) of the basic anti-subsidy Regulation. The purpose of the review is to establish the rate of subsidisation, which prevails for the applicant as a result of the subsidy practices of which it is found to benefit.

Following the review, it may be necessary to amend the rate of duty imposed on imports of the product under review originating in Turkey for the applicant. The Commission does not intend to amend the subsidy rates other than that of the applicant as a result of this partial interim review, if warranted.

<sup>(7)</sup> Commission Implementing Regulation (EU) 2018/823 of 4 June 2018 terminating the partial interim review of the countervailing measures applicable to imports of certain rainbow trout originating in the Republic of Turkey (OJ L 139, 5.6.2018, p. 14).

<sup>(8)</sup> Commission Implementing Regulation (EU) 2020/658 of 15 May 2020, amending Implementing Regulation (EU) 2015/309 imposing a definitive countervailing duty and collecting definitively the provisional duty on imports of certain rainbow trout originating in Turkey following an interim review pursuant to Article 19(4) of Regulation (EU) 2016/1037 of the European Parliament and of the Council (OJ L 155, 18.5.2020, p. 3).

<sup>(9)</sup> OJ C 64, 27.2.2020, p. 22.

However, if any interested party considers that a review of the measures applicable is warranted, that party may request a review pursuant to Article 19(1) of the basic anti-subsidy Regulation.

The Government of the Republic of Turkey has been invited for consultations in accordance with Article 10(7) of the basic anti-subsidy Regulation.

Regulation (EU) 2018/825 of the European Parliament and of the Council (TDI Modernisation package) <sup>(\*)</sup>, which entered into force on 8 June 2018, introduced a number changes to the timetable and deadlines previously applicable in anti-subsidy proceedings. Therefore, the Commission invites interested parties to respect the procedural steps and deadlines provided in this Notice as well as in further communications from the Commission.

The Commission also draws the attention of the parties that further to the COVID-19 outbreak a Notice <sup>(†)</sup> has been published on the consequences of the COVID-19 outbreak on anti-dumping and anti-subsidy investigations that may be applicable to this proceeding.

#### 5.1. Review investigation period

The investigation will cover the period from 1 January 2020 to 31 December 2020 (the review investigation period).

#### 5.2. Questionnaires

In order to obtain the information it deems necessary for its investigation, the Commission will send questionnaires to the applicant and to the authorities of the country concerned. This information and supporting evidence must reach the Commission within 37 days from the date of publication of this Notice in the *Official Journal of the European Union*.

A copy of the above-captioned questionnaire is available in the file for inspection by interested parties and on DG Trade's website ([https://trade.ec.europa.eu/tdi/case\\_details.cfm?id=2510](https://trade.ec.europa.eu/tdi/case_details.cfm?id=2510)).

#### 5.3. Interested parties

Parties will only be able to participate in the investigation as interested party from the moment they make themselves known, and provided that there is an objective link between their activities and the product under review. Being considered as an interested party is without prejudice to the application of Article 28 of the basic anti-subsidy Regulation.

Access to the file available for inspection for interested parties is made via Tron.tdi at the following address: <https://webgate.ec.europa.eu/tron/tdi>. Please follow the instructions on that page to get access.

#### 5.4. Other written submissions

Subject to the provisions of this Notice, all interested parties are hereby invited to make their views known, submit information and provide supporting evidence. Unless otherwise specified, this information and supporting evidence must reach the Commission within 37 days of the date of publication of this Notice in the *Official Journal of the European Union*. In order to obtain the information it deems necessary for its investigation, the Commission may send questionnaires to interested parties that have come forward.

#### 5.5. Possibility to be heard by the Commission investigation services

All interested parties may request to be heard by the Commission investigation services. Any request to be heard must be made in writing and must specify the reasons for the request as well as a summary of what the interested party wishes to discuss during the hearing. The hearing will be limited to the issues set out by the interested parties in writing beforehand.

In principle, hearings will not be used to present factual information which is not yet on file. Nevertheless, in the interest of good administration and to enable Commission services to progress with the investigation, interested parties may be directed to provide new factual information after a hearing.

<sup>(\*)</sup> Regulation (EU) 2018/825 of the European Parliament and of the Council of 30 May 2018 amending Regulation (EU) 2016/1036 on protection against dumped imports from countries not members of the European Union and Regulation (EU) 2016/1037 on protection against subsidised imports from countries not members of the European Union (OJ L 143, 7.6.2018, p. 1).

<sup>(†)</sup> On the consequences of the COVID-19 outbreak on anti-dumping and anti-subsidy investigations (OJ C 86, 16.3.2020, p. 6).



#### 5.6. Instructions for making written submissions and sending completed questionnaires and correspondence

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

All written submissions, including the information requested in this Notice, completed questionnaires and correspondence provided by interested parties for which confidential treatment is requested shall be labelled 'Sensitive' <sup>(9)</sup>. Parties submitting information in the course of this investigation are invited to reason their request for confidential treatment.

Parties providing 'Sensitive' information are required to furnish non-confidential summaries of it pursuant to Article 29(2) of the basic anti-subsidy Regulation, which will be labelled 'For inspection by interested parties'. These summaries must be sufficiently detailed to permit a reasonable understanding of the substance of the information submitted in confidence.

If a party providing confidential information fails to show good cause for a confidential treatment request or does not furnish a non-confidential summary of it in the requested format and quality, the Commission may disregard such information unless it can be satisfactorily demonstrated from appropriate sources that the information is correct.

Interested parties are invited to make all submissions and requests via TRON.tdi (<https://tron.trade.ec.europa.eu/tron/TDI>) including scanned powers of attorney and certification sheets. By using TRON.tdi or email, interested parties express their agreement with the rules applicable to electronic submissions contained in the document 'CORRESPONDENCE WITH THE EUROPEAN COMMISSION IN TRADE DEFENCE CASES' published on the website of the Directorate-General for Trade: [http://trade.ec.europa.eu/doclib/docs/2011/june/tradoc\\_148003.pdf](http://trade.ec.europa.eu/doclib/docs/2011/june/tradoc_148003.pdf). The interested parties must indicate their name, address, telephone and a valid email address and they should ensure that the provided email address is a functioning official business email, which is checked on a daily basis. Once contact details are provided, the Commission will communicate with interested parties by TRON.tdi or email only, unless they explicitly request to receive all documents from the Commission by another means of communication or unless the nature of the document to be sent requires the use of a registered mail. For further rules and information concerning correspondence with the Commission including principles that apply to submissions via TRON.tdi and by email, interested parties should consult the communication instructions with interested parties referred to above.

Commission address for correspondence:

European Commission  
Directorate-General for Trade  
Directorate G  
Office: CHAR 04/039  
1049 Bruxelles/Brussel  
BELGIQUE/BELGIË

TRON.tdi: <https://tron.trade.ec.europa.eu/tron/tdi>

Email address: [TRADE-R735-TROUT@ec.europa.eu](mailto:TRADE-R735-TROUT@ec.europa.eu)

#### 6. Schedule of the investigation

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

<sup>(9)</sup> A 'Sensitive' document is a document which is considered confidential pursuant to Article 29 of the basic Regulation and Article 12 of the WTO Agreement on Subsidies and Countervailing Measures (SCM Agreement). It is also a document protected pursuant to Article 4 of Regulation (EC) No 1049/2001 of the European Parliament and of the Council (OJ L 145, 31.5.2001, p. 43).

### **7. Possibility to comment on other parties' submissions**

In order to guarantee the rights of defence, interested parties should have the possibility to comment on information submitted by other interested parties. When doing so, interested parties may only address issues raised in the other interested parties' submissions and may not raise new issues.

Comments on the information provided by other interested parties in reaction to the disclosure of the definitive findings should be submitted within 5 days from the deadline to comment on the definitive findings, unless otherwise specified. If there is an additional final disclosure, comments filed by other interested parties in reaction to this further disclosure should be made within 1 day from the deadline to comment on this further disclosure, unless otherwise specified.

The outlined timeframe is without prejudice to the Commission's right to request additional information from interested parties in duly justified cases.

### **8. Extension to time limits specified in this Notice**

Extensions to time limits provided for in this Notice may be granted upon request of interested parties showing due cause.

Any extension to the time limits provided for in this Notice should only be requested in exceptional circumstances and will only be granted if duly justified. In any event, any extension to the deadline to reply to questionnaires will be limited normally to 3 days, and as a rule will not exceed 7 days. Regarding time limits for the submission of other information specified in the Notice of Initiation, extensions will be limited to 3 days unless exceptional circumstances are demonstrated.

### **9. Non-cooperation**

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

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

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

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

### **10. Hearing Officer**

Interested parties may request the intervention of the Hearing Officer for trade proceedings. The Hearing Officer reviews requests for access to the file, disputes regarding the confidentiality of documents, requests for extension of time limits and any other request concerning the rights of defence of interested parties and third parties as may arise during the proceeding.

The Hearing Officer may organise hearings and mediate between the interested party/-ies and Commissions services to ensure that the interested parties' rights of defence are being fully exercised. A request for a hearing with the Hearing Officer should be made in writing and should specify the reasons for the request. The Hearing Officer will examine the reasons for the requests. These hearings should only take place if the issues have not been settled with the Commission services in due course.

Any request must be submitted in good time and expeditiously so as not to jeopardise the orderly conduct of proceedings. To that effect, interested parties should request the intervention of the Hearing Officer at the earliest possible time following the occurrence of the event justifying such intervention. In principle, the timeframes set out in section 5.4 to request hearings with the Commission services apply *mutatis mutandis* to requests for hearings with the Hearing Officer. Where hearing requests are submitted outside the relevant timeframes, the Hearing Officer will also examine the reasons for such late requests, the nature of the issues raised and the impact of those issues on the rights of defence, having due regard to the interests of good administration and the timely completion of the investigation.

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

#### 11. Processing of personal data

Any personal data collected in this investigation will be treated in accordance with Regulation (EU) 2018/1725 of the European Parliament and of the Council. <sup>(9)</sup>

A data protection notice that informs all individuals of the processing of personal data in the framework of Commission's trade defence activities is available on DG Trade's website: <http://ec.europa.eu/trade/policy/accessing-markets/trade-defence/>

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<sup>(9)</sup> Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ L 295, 21.11.2018, p. 39).