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Trade Remedies Investigations Directorate  
21-23 Valpy Street  
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United Kingdom

24 July 2020

Dear Sir,

**Re: Countervailing proceeding concerning Rainbow Trout from Turkey - Notice of deficiency regarding your questionnaire response and disclosure**

**Our client: Selina Balık İşleme Tesisi İthalat İhracat ve Ticaret Anonim Şirketi ("Selina Balık")**

Please find below our responses to the question raised in the notice of deficiency regarding Selina Balık's questionnaire response ("the notice of deficiency").

## 1. CONFIDENTIALITY OF CERTAIN INFORMATION

The first question listed in Annex A to the notice of deficiency concerns the non-confidential version of Selina Balık's questionnaire response.

In this regard, we take note of the observations raised by the Secretary of State for International Trade ("the Secretary of State"), and we submit herewith a revised non-confidential version of

Selina Balik's questionnaire response, which includes more comprehensible non-confidential summaries of sections B3.1.8, B.4, C4.1 and C11.

As requested by the Secretary of the State, we have modified the relevant non-confidential Tables, (which were previously left blank) providing appropriate indexes and/or ranges for inspection of other interested parties. Moreover, we have revised the relevant parts of the narrative questionnaire by either i) deleting the redactions and re-introducing the information which was previously treated as confidential, or ii) providing a more detailed statement of reasons as to why that particular information cannot be summarised.

## **2. RAW MATERIAL PURCHASES**

With regards to the third question listed in Annex A to the notice of deficiency, we would like to draw your attention to the following.

According to the questionnaire issued by the TRID, all purchases of the products under review must be reported in "Table C10 – Purchases", while all the purchases of raw materials or major inputs that account for over 5% of the CoP of the goods under investigation should be reported in "Table C13- RM Purchased".

As far as Selina Balik is concerned, the company estimates that the only raw material accounting for more than 5% of the CoP (labour excluded) is live fish. However, live fish also falls in the product scope of the present investigation. For this reason, all purchases of live fish were reported in "Table C13- RM Purchased" and not in "Table C10 – Purchases".

In light of the foregoing, for the information on raw material purchases reference should be made to "Table C10 – Purchases" instead of "Table C13- RM Purchased".

## **3. COST OF PRODUCTION**

As regards the second and fourth question listed in Annex A to the notice of deficiency, which concern the fact that Selina Balik failed to provide the detailed CoP information for the goods under review as well as other products which was requested in Tables "C12.1 – CTMS in Turkey", "C12.2 – CTMS in the UK" and "Table C4.1 – Cost reconciliation", we would like to better clarify the reasons why Selina Balik is not in a position to provide the information at stake.

At the outset it should be recalled that Selina Balik did not export the product under review to the UK during the investigation period, therefore "Table C12.2 – CTMS in the UK" cannot and should not be completed by our client.

As regards “Table C12.1 – CTMS in Turkey” and “Table C4.1 – Cost reconciliation” we feel obliged to point out that, as previously explained, Selina Balık is a small, family-owned company which does not have any internal cost (managing) accounting system. Selina Balık only uses the financial (general) accounting for the purpose of preparing its financial statements, as required by the applicable domestic laws and regulations. It follows that the only cost information available to Selina Balık is the information contained in Selina Balık’s balance sheet and income statement. This information only provides the cost picture at company level. Selina Balık does not dispose of an internal cost accounting system which allows to determine the CoP with a greater level of detail, such as the CoP for each individual product type.

For the above reason, the completion of “Table C12.1 – CTMS in Turkey” and “Table C4.1 – Cost reconciliation” is unpracticable for our client, since the company would need to calculate the CoP of each individual product type it manufactures from scratch, just for the purpose of this investigation. However, this is impossible since Selina Balık does not have sufficient internal resources and skills to carry out such exercise within the procedural timeframe. As already explained, indeed, the company is small, and the available personnel is limited.

The above clarified, we also wish to reiterate that, in our view, Selina Balık’s CoP data are in principle irrelevant for determining Selina Balık’s subsidy margin and, more generally, the level of subsidization of the Turkish trout industry. As it is well known, the subsidy margin is calculated based on the amount of benefit received by each individual exporter with regard to the products under review, expressed as a percentage of the value (turnover) of the products under review. It follows that the information requested in “Table C12.1 – CTMS in Turkey”, “Table C12.2 – CTMS in the UK” and “Table C4.1 – Cost reconciliation” is not necessary for the purpose of calculating Selina Balık’s level of subsidisation in the present investigation.

This is confirmed by the fact that neither the applicable legislation - i.e. Schedule 4 of the Taxation (Cross-border Trade) Act 2018 and Part 3 (Regulations 19 to 26) of the Trade Remedies (Dumping and Subsidisation) (EU Exit) Regulations 2019 - nor the Guidance on trade remedies investigations process published by the UK Government Department for International Trade on 6 February 2020 (“the Guidance”) make any reference to the CoP of the relevant exporting producers in the context of subsidy investigations.<sup>1</sup>

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<sup>1</sup> The Guidance on trade remedies investigations process published by the UK Government Department for International Trade on 6 February 2020 is available here: <https://www.gov.uk/government/publications/the-uk-trade-remedies-investigations-process/how-we-carry-out-a-subsidy-investigation>

In light of the foregoing, we consider that the request addressed to Selina Balik to complete “Table C12.1 – CTMS in Turkey”, “Table C12.2 – CTMS in the UK” and “Table C4.1 – Cost reconciliation” of the questionnaire is unnecessary and unreasonably burdensome for our client, and should therefore be reconsidered by the Secretary of State.

We also wish to point out that any finding of non-cooperation vis-à-vis Selina Balik for not having provided the information requested in Table C12.1 – CTMS in Turkey”, “Table C12.2 – CTMS in the UK” and “Table C4.1 – Cost reconciliation” – *quod non* – would be unwarranted, for the same reasons explained above. In that regard, reference is made to Regulation 49(2) of the Trade Remedies (Dumping and Subsidisation) (EU Exit) Regulations 2019, which reads as follows:

*“[...] the TRA must not determine that an interested party is a non-cooperative party where it*

*(a) determines that that interested party has acted to the best of their ability to cooperate with an investigation; or*

*(b) has accepted that compliance with any request for information to be supplied in a particular form would be unreasonably burdensome to that party”*

In light of the foregoing, we respectfully ask the Secretary of State to reconsider the request addressed to our client to complete “Table C12.1 – CTMS in Turkey”, “Table C12.2 – CTMS in the UK” and “Table C4.1 – Cost reconciliation” of the questionnaire and, instead, conclude that the level of information already provided by Selina Balik is sufficient and satisfactory for the purpose of the present transition review.

Kind regards,

Gabriele Coppo

**Enclosure[s]:**

1. TS0002 – Exporter Questionnaire Narrative (Non-Confidential version)
2. TS0002 – Exporter Questionnaire Tables (Non-Confidential version)