

Sayı: 17812098-TİM.AKİB.GSK.TAR.2025/305-3689

Mersin, 03/07/2025

Konu: AB/Gökkuşuğu Alabalığı Sübvansiyona Karşı Telafi Edici Önlem Soruşturması**DUYURU****Sayın Üyemiz,**

T.C. Ticaret Bakanlığı İthalat Genel Müdürlüğünden alınan yazıda, Avrupa Birliği (AB) tarafından ülkemiz menşeli “gökkuşuğu alabalıkları” ithalatına karşı sübvansiyona karşı telafi edici önlem uygulanmakta olup, Avrupa Komisyonu tarafından yürütülen ve 8 Aralık 2022 tarihli 2022/2390 sayılı bildirimle tamamlanan gözden geçirme soruşturması neticesinde alınan karar, İhracatçı Birliklerimizce AB Adalet Divanı’na taşınmış olduğu belirtilmektedir. Mahkeme, bir ihracatçımızın faydalandığı iki destek kaleminde Komisyon’un hesaplama hatası yaptığı gerekçesiyle söz konusu bildirim iptal etmiştir. Bu kapsamda, 15 Nisan 2025 tarihinde AB Resmi Gazetesi’nde yayımlanan bildirimle gözden geçirme, yalnızca mahkeme kararında iptale esas hususların incelenmesi amacıyla yeniden başlatılmış olduğu iletilmektedir.

Bu defa, Daimi Temsilciliğimiz kanalıyla alınan yazıda;

Dünya Ticaret Örgütü Sübvansiyonlar ve Telafi Edici Önlemler Anlaşması Madde 12.8 kapsamında, nihai kararın verilmesinden önce uygulanacak önleme temel oluşturan incelenmiş hususlar ve önerilen önlem hakkında ilgili taraflara bilgi verilmesi hükmü uyarınca Komisyon tarafından ekte bir örneği kayıtlı 26 Haziran 2025 tarihli “Genel Açıklama Belgesi”nin (General Disclosure Document) yine ekte sunulan Nota ile iletiliği belirtilmektedir.

Aynı yazıda devamla, sözkonusu dokümanın incelenmesinden esasen Komisyon’un;

- ABAD tarafından ilgili İ.G.G.S’de incelenen yalnızca 2 sübvansiyon programı – Fuar Desteği ve EİB tarafından hava kargo için sağlanan destek – hakkında hatalı değerlendirme yapıldığı yönünde bir karara vardığı,
- Fuar desteği konusunda ABAD’ın, soruşturma kapsamında örneklemeye alınmış bir firmamız tarafından 17-19 Mart 2019 tarihleri arasında Boston/Amerika Birleşik Devletleri’nde katılım sağlanan uluslararası bir fuara yönelik alınan devlet desteğinin, AB’ye soruşturma konusu ürün ihracatı ile ilişkilendirilemeyeceğine hükmettiği,
- EİB tarafından sağlanan hava kargo desteğinde ise ABAD’ın, bir firmamız tarafından soruşturma konusu ürün ihracatının karayolu ile gerçekleştirilmesinden ötürü; sübvansiyon programı için adigeçene yönelik sübvansiyon marjı hesaplanmasının bu temelsiz olduğuna hükmettiği,
- Diğer taraftan, sözkonusu 2 sübvansiyon programının kümülatif marja yönelik etkilerinin çok düşük düzeyde olmasından ötürü; son durumda telafi edilmelerine gerek görmediğinin,

anlaşıldığı; bu itibarla, mezkur raporda ilgili firmalara ait revize edilmesi teklif edilecek marjların da yer aldığı belirtilmektedir.



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Ayrıca Komisyon tarafından iletilen Nota'da;

- Genel Açıklama Belgesi'ne yönelik sunulacak **görüşlerin** Nota'nın tarihi olan **26 Haziran 2025'ten sonraki 10 gün içerisinde**, dolayısıyla **en geç 7 Temmuz 2025** tarihinde sunulması gerektiği,
- Bu tarihten sonra iletilecek görüş ve yorumların Komisyon tarafından dikkate alınmayabileceği,
- Komisyon'un istişarelere çağırılması için yapılacak talebin ise Nota'nın tarihi olan **26 Haziran 2025'ten sonraki 10 iş günü içerisinde** yapılması gerektiği, ifade edilmektedir.

Bilgileri ve gereğini rica ederim.

Dr. Osman ERŞAHAN
Genel Sekreter V.

Ek:

- 1) R749A NV to Turkey disclosure (1 sayfa)
- 2) R749A Trout Reimposition (7 sayfa)





EUROPEAN COMMISSION

DIRECTORATE-GENERAL FOR TRADE AND ECONOMIC SECURITY

NOTE VERBALE

The Directorate-General for Trade and Economic Security of the European Commission presents its compliments to the Permanent Delegation of Türkiye to the European Union and has the honour to present this note which, with its enclosures, constitutes disclosure of the essential facts and considerations on the basis of which the Commission intends to reimpose the anti-subsidy measures in force on imports of certain rainbow trout from Turkey.

Please find attached the following documents:

- Annex 1: General Disclosure Document

This disclosure, including its Annex, does not prejudice any subsequent decision which the Commission may take. Where any such decision is based on different facts and considerations, these will be disclosed as soon as possible.

Any comments concerning this disclosure should reach the Commission within 10 days from the date of this note - by **7 July 2025**. The Commission may disregard comments received after this deadline.

The consultations with the Commission may be requested no later than 10 working days from the date of this note.

The Directorate-General for Trade and Economic Security of the European Commission takes this opportunity to renew to the Permanent Delegation of Türkiye to the European Union the assurance of its highest consideration.

Brussels, 26 June 2025

trade.g.2(2025)7315172

Permanent Delegation of Türkiye to the European Union
Avenue des Arts 36-38
B-1040 Brussels
BELGIUM





EUROPEAN COMMISSION

DIRECTORATE-GENERAL FOR TRADE AND ECONOMIC SECURITY

Brussels, 26 June 2025

GENERAL DISCLOSURE DOCUMENT

Subject: R749A – reopening of the investigation on imports of certain rainbow trout originating in Türkiye following the judgement of the General Court of the European Union in case T-122/23

OFFICIALS IN CHARGE
SUBSIDY TEAM
Richard Coxon Email: TRADE-R749-TROUT-SUBSIDY@ec.europa.eu

1. Procedure

1.1. Previous investigations and measures in force

- (1) By Commission Implementing Regulation (EU) 2015/309¹, the European Commission ('the Commission') imposed definitive countervailing duties on imports of certain rainbow trout originating in Türkiye ('the original investigation').
- (2) On 4 June 2018, following a partial interim review concerning subsidisation of all exporting producers in accordance with Article 19 of Regulation (EU) 2016/1036 of the European Parliament and of the Council ('the basic Regulation')², the Commission decided to maintain the measures as established in the original investigation by Commission Implementing Regulation (EU) 2018/823³.
- (3) On 15 May 2020, following a partial interim review, in accordance with Article 19 of the basic Regulation, by Commission Implementing Regulation (EU) 2020/658⁴, the Commission amended the level of the countervailing duty for one exporting producer.
- (4) On 25 May 2021, following an expiry review in accordance with Article 18 of the basic Regulation, the Commission extended the measures as established in the original investigation (and as amended by Commission Implementing Regulation (EU) 2020/658) for a further five years by Commission Implementing Regulation (EU) 2021/823⁵.
- (5) On 8 December 2022, following a partial interim review the Commission published Commission Implementing Regulation (EU) 2022/2390 of 7 December 2022 amending the definitive countervailing duty imposed on imports of certain rainbow trout originating in Türkiye by Implementing Regulation (EU) 2021/823⁶ ('the contested Regulation').

1.2. The Judgement of the General Court of the European Union

- (6) On 6 March 2023, Ege İhracatçıları Birliği (Aegean Exporters Association), Akdeniz İhracatçıları Birliği (Mediterranean Exporters Association), İstanbul İhracatçıları Birliği (Istanbul Exporters Association), Doğu Karadeniz İhracatçıları Birliği (Eastern Black Sea Exporters Association), and Denizli İhracatçıları Birliği (Denizli Exporters Association), jointly with their members ('the applicants'), brought an annulment action before the General Court of the European Union ('the General Court') challenging the legality of the contested Regulation.

¹ OJ L 56, 27.2.2015, p. 12

² OJ L 176, 30.6.2016, p. 21.

³ OJ L 139, 5.6.2018, p. 14

⁴ OJ L 155, 18.5.2020, p. 3

⁵ OJ L 183, 25.5.2021, p. 5

⁶ OJ L 316, 8.12.2022, p. 52 ELI: http://data.europa.eu/eli/reg_impl/2022/2390/oj

- (7) On 5 February 2025, the General Court issued its judgement in case T-122/23⁷ *Ege İhracatçıları Birliği and others v Commission*, partially annulling the contested Regulation, insofar as it concerned the exporting producers Ege İhracatçıları Birliği and the other applicants, except for Özpekler İnşaat Taahhüt Dayanıklı Tüketim Malları Su Ürünleri Sanayi ve Ticaret Ltd Şirketi and Selina Balık İşleme Tesisi İthalat İhracat Ticaret AŞ ('the Judgement').
- (8) The applicants raised several claims challenging the contested Regulation affecting the amounts of benefit found. The General Court ruled in their favour on two claims as it found that the Commission had made two errors of assessment affecting the amounts of benefit, namely the benefit received by way of 'Exhibition Support Scheme' and the benefit received by way of 'Aegean Exporters' Association support'.
- (9) Firstly, the General Court found that the Commission made a manifest error of assessment when allocating the benefit received by Gümüşdoğa under the 'Exhibition Support Scheme' to the product concerned exported to the European Union during the investigation period.
- (10) The General Court established that the support received by Gümüşdoğa under this scheme was linked to its participation in an international trade fair organised in Boston (United States) between 17 and 19 March 2019 and that there was nothing in the file to conclude that the support was also linked to the product concerned exported to the European Union during the investigation. Consequently, the General Court found that the approach followed by the Commission in the contested Regulation did not appear to be substantiated.
- (11) The General Court further noted that it was for the Commission to demonstrate, on the basis of evidence or at least indicia, that, notwithstanding the fact that that support was linked to Gümüşdoğa's participation in an international trade fair organised in Boston, the support also benefited exports of the product concerned to the European Union during the investigation period concerned.
- (12) Secondly, the General Court ruled that the Commission also made a manifest error of assessment when attributing the benefit received by Gümüşdoğa in respect of 'Aegean Exporter's Association support' to the product concerned exported to the European Union during the investigation period.
- (13) The General Court found that the benefit from the Aegean Exporter's Association was linked to support in respect of air transport and, during the investigation period concerned, the exports of the product concerned to the European Union were carried out by Gümüşdoğa by road transport and not by air transport.
- (14) Under those circumstances, the General Court found that the approach followed by the Commission, consisting in allocating the benefit received under that scheme to the total export turnover of the group during the relevant period, and then attributed to the product concerned, did not appear to be substantiated.
- (15) The General Court did not annul the measures with respect to two of the sampled exporting producers, Özpekler İnşaat Taahhüt Dayanıklı Tüketim Malları Su

⁷ ECLI:EU:T:2025:133

Ürünleri Sanayi ve Ticaret Ltd Şirketi and Selina Balık İşleme Tesisi İthalat İhracat Ticaret AŞ, as they did not have an interest in bringing proceedings.

1.3. Implementation of the General Court's Judgement

- (16) Article 266 of the Treaty on the Functioning of the European Union ('TFEU') provides that the Institutions must take the necessary measures to comply with the judgement. In case of annulment of an act adopted by the Institutions in the context of an administrative procedure, such as the anti-subsidy investigation in this case, compliance with the General Court's judgement consists in the replacement of the annulled act by a new act, in which the illegality identified by the General Court is eliminated⁸.
- (17) According to the case-law of the Court of Justice of the European Union ('the Court of Justice'), the procedure for replacing the annulled act may be resumed at the very point at which the illegality occurred⁹. That implies in particular that in a situation where an act concluding an administrative procedure is annulled, that annulment does not necessarily affect the preparatory acts, such as the initiation of the anti-subsidy procedure.
- (18) In a situation where for instance a Regulation imposing definitive anti-subsidy measures is annulled, that means that subsequent to the annulment, the anti-subsidy proceeding is still open, because the act concluding the proceeding has disappeared from the Union legal order¹⁰, except if the illegality occurred at the stage of initiation. The resumption of the administrative procedure and the eventual re-imposition of duties cannot be seen as contrary to the rule of non-retroactivity¹¹.
- (19) In this case the General Court annulled the contested Regulation as regards the exporting producers concerned on the grounds that the Commission had incorrectly allocated the benefit received by one sampled exporting producer from two subsidy schemes.
- (20) The other findings of the contested Regulation which were not contested, or which were contested but rejected by the General Court, remain fully valid and are not affected by this reopening¹².
- (21) Given the judgement of the General Court, the Commission decided to reopen the investigation that led to the contested Regulation and to resume the investigation at the point where the illegality occurred.

⁸ Joined cases 97, 193, 99 and 215/86 Asteris AE and others and Hellenic Republic v Commission [1988] ECR 2181, paragraphs 27 and 28.

⁹ Case C-415/96 Spain v Commission [1998] ECR I-6993, paragraph 31; Case C-458/98 P Industrie des Poudres Sphériques v Council [2000] I-8147, paragraphs 80 to 85; Case T-301/01 Alitalia v Commission [2008] II-1753, paragraphs 99 and 142; Joined Cases T-267/08 and T-279/08 Région Nord-Pas de Calais v Commission [2011] II-0000, paragraph 83.

¹⁰ Case C-415/96 Spain v Commission [1998] ECR I-6993, paragraph 31; Case C-458/98 P Industrie des Poudres Sphériques v Council [2000] I-8147, paragraphs 80 to 85.

¹¹ Case C-256/16 Deichmann SE v Hauptzollamt Duisburg, Judgment of the Court of 15 March 2018, paragraph 79 and C & J Clark International Ltd v Commissioners for Her Majesty's Revenue & Customs, judgment of 19 June 2019, paragraph 5.

¹² Case T-650/17, Jinan Meide Casting Co., Ltd, ECLI:EU:T:2019:644, paras. 333–342

- (22) Following the Judgement, on 15 April 2025 the Commission published a Notice¹³(‘the reopening Notice’), reopening the investigation but limited in scope to the implementation of the judgement of the General Court.
- (23) The Commission also published Implementing Regulation 2025/719¹⁴ (‘the registration Regulation’) making imports of certain rainbow trout subject to registration and instructed national customs authorities to await the publication of the relevant Commission Implementing Regulation re-imposing the duties before deciding on any claims for repayment and remission of countervailing duties regarding these imports.
- (24) The Commission informed interested parties of the reopening and invited them to comment. One comment was received from the Danish Aquaculture Organisation supporting the imposition of countervailing duties on imports of certain rainbow trout from Türkiye. They made no comments however on the judgement of the General Court.
- (25) No interested party requested a hearing with the Hearing Officer in trade proceedings.

1.4. Procedural steps for the implementation of the General Court’s Judgement

- (26) The General Court decided that the Commission had not correctly allocated the benefit received by Gümüşdoğa from two subsidy schemes during the investigation period.
- (27) For both schemes the Commission had allocated the benefit to export turnover. However, the General Court disagreed with this allocation and set out its reasons in the Judgement.
- (28) The Commission noted that the General Court did not contest the Commission’s findings that both schemes were countervailable and that a benefit was received, and therefore to implement the Judgement the allocation may need to be established differently.
- (29) The WTO case-law stipulates that money giving rise to countervailable subsidies received by exporting producers is fungible¹⁵ and thus could confer benefit to the production and/or exports of the product concerned. Consequently, at the very least the Commission could have allocated the amount of the benefit which is countervailable to the total turnover of the exporting producer.
- (30) However, the Commission noted that, due to the very small amounts that Gümüşdoğa received as benefit for both the ‘Exhibition Support Scheme’ and the ‘Aegean Exporters’ Association support’ scheme, the duty rate for Gümüşdoğa would be adjusted to 4,2%, irrespective of whether these subsidies were allocated to the product concerned or not taken into account at all.

¹³ OJ C, C/2025/2264, 15.4.2025, ELI: <http://data.europa.eu/eli/C/2025/2264/oj>

¹⁴ OJ L, 2025/719, 15.4.2025, ELI: http://data.europa.eu/eli/reg_impl/2025/719/oj

¹⁵ ‘capable of being substituted in place of one another’ (www.oed.com) . See in this sense for example WT/DS267/R, [United States - Subsidies on Upland Cotton](#), para 7.644.

- (31) Thus, the Commission decided not to countervail the two schemes in question. This led to decrease of the total amount of subsidisation found from 4,4% to 4,2%.
- (32) Given that Gümüşdoğa was part of the sample, its subsidy calculations also affected the sample average duty applicable to the following companies that are also affected by the judgment, namely Abaloğlu Balık ve Gıda Ürünleri A.Ş., Bağcı Balık Gıda ve Enerji Üretimi Sanayi ve Ticaret A.Ş., Ertuğ Balık Üretim Tesisi Gıda ve Tarım İşletmeleri Sanayi ve Ticaret A.Ş., Kemal Balıkçılık İhracat LTD. ŞTİ., Kılıç Deniz Ürünleri Üretimi İhracat ve İthalat A.Ş., Liman Entegre Balıkçılık San ve Tic. Ltd. Şti, More Su Ürünleri Ticaret A.Ş., Ömer Yavuz Balıkçılık Su Ürünleri San. Tic. Ltd. Şti, Premier Kültür Balıkçılığı Yatırım ve Paz. A.Ş., Uluturhan Balıkçılık Turizm Ticaret Limited Şirketi, and Yavuzlar Otomotiv Balıkçılık San. Tic. Ltd. Şti.. Their countervailing duty rate was revised down from 4,0% to 3,8%.
- (33) Given that the countrywide duty was set at the level of Gümüşdoğa, which received the highest individual duty of the sampled exporting producers, the revised subsidy calculations also affected the duty for one company that is also affected by the judgement, which had received the countrywide countervailing duty, namely Kuzuoğlu Su Ürünleri Sanayi ve Ticaret A.Ş. Its countervailing duty rate was revised down from 4,4% to 4,2%.

2. Definitive countervailing measures

- (34) The revised level of countervailing duty resulting from the reopening of the investigation applies without any interruption from the entry into force of the contested Regulation (namely, as of 9 December 2022 onwards). Customs authorities are instructed to collect the appropriate amount on imports and refund any excess amount collected so far in accordance with the applicable customs legislation.
- (35) In view of Article 109 of Regulation (EU, Euratom) 2024/2509¹⁶, when an amount is to be reimbursed following a judgment of the Court of Justice of the European Union, the interest to be paid should be the rate applied by the European Central Bank to its principal refinancing operations, as published in the *Official Journal of the European Union* on the first calendar day of each month.

¹⁶ OJ L, 2024/2509, 26.9.2024, ELI: <http://data.europa.eu/eli/reg/2024/2509/oj>

Proposed duty levels:

Company	Countervailing duty (%)	TARIC additional code
Fishark Su Ürünleri Üretim ve Sanayi Ticaret A.Ş.	3,4%	B985
Gümüşdoga Su Ürünleri Üretim İhracat İthalat AŞ	4,2%	B964
Özpekler İnşaat Taahhüd Dayanıklı Tüketim Malları Su Ürünleri Sanayi ve Ticaret Limited Şirketi	3,1%	B966
Selina Balık İşleme Tesisi İthalat İhracat Ticaret Anonim Şirketi	2,8%	C889
Abaloğlu Balık ve Gıda Ürünleri A.Ş.	3,8%	B968
Bağcı Balık Gıda ve Enerji Üretimi Sanayi ve Ticaret A.Ş.	3,8%	B977
Ertuğ Balık Üretim Tesisi Gıda ve Tarım İşletmeleri Sanayi ve Ticaret A.Ş. and More Su Ürünleri Ticaret A.Ş.	3,8%	C891
Kemal Balıkçılık İhracat Ltd. ŞTİ.	3,8%	B981
Kılıç Deniz Ürünleri Üretimi İhracat ve İthalat A.Ş.	3,8%	B965
Liman Entegre Balıkçılık San. Ve Tic. Ltd. Şti	3,8%	B982
Ömer Yavuz Balıkçılık Su Ürünleri San. Tic. Ltd. Şti	3,8%	B984
Premier Kültür Balıkçılığı Yatırım ve Paz. A.Ş.	3,8%	C893
Uluturhan Balıkçılık Turizm Ticaret Limited Şirketi	3,8%	C894
Yavuzlar Otomotiv Balıkçılık San. Tic. Ltd. Şti	3,8%	C895
Alima Su Ürünleri ve Gıda Sanayi Ticaret A.Ş.	4,0%	B974
Baypa Bayhan Su Urunleri San. Ve Tic. A.S.	4,0%	C890
Lazsom Su Urunleri Gıda Uretim Pazarlama Sanayi Ve Ticaret Limited Sirketi	4,0%	C892
Kuzuoğlu Su Ürünleri Sanayi ve Ticaret A.Ş.	4,2%	89MI
All other imports originating in Türkiye	4,4%	B999