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**EUROPEAN COMMUNITIES – DEFINITIVE SAFEGUARD MEASURE  
ON SALMON**

Request for Consultations by Norway

The following communication, dated 1 March 2005, from the delegation of Norway to the delegation of the European Communities and to the Chairman of the Dispute Settlement Body, is circulated in accordance with Article 4.4 of the DSU.

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Norway hereby requests consultations with the European Communities (EC) pursuant to Article 4 of the Understanding on Rules and Procedures Governing the Settlement of Disputes (DSU), Article XXII:1 of the General Agreement on Tariffs and Trade (GATT 1994) and Article 14 of the Agreement on Safeguards (Safeguards Agreement). This request is related to the definitive safeguard measure applied by the EC in terms of Commission Regulation (EC) No. 206/2005 of 4 February 2005 ("EC Regulation") to imports of farmed salmon, whether or not filleted, fresh, chilled or frozen.

The EC Regulation was published in the *Official Journal of the European Union* on 5 February 2005. It took effect on 6 February 2005 and will remain in force until 13 August 2008. The measure consists of (a) a system of tariff quotas beyond which an additional duty will be applied to imports of the product in question; (b) a minimum import price, which applies to all imports, whether within or in excess of the tariff quota; and (c) a security to be provided on importation payable by all importers.

Norway considers this definitive safeguard measure to be inconsistent with the European Communities' obligations under the GATT 1994 and the Safeguards Agreement, because, *inter alia*:

- (a) There were no "unforeseen developments" that resulted in an increase in imports as required by Article XIX of GATT 1994;
- (b) The product concerned is not being imported in sufficiently sudden, sharp, and significantly increased quantities and under such conditions as to cause or threaten to cause serious injury to the domestic industry producing like or directly competitive products, as required by Article XIX of GATT 1994 and Article 2.1 of the Safeguards Agreement;
- (c) The determination of the scope of the domestic industry is not consistent with Article 4.1(c) of the Safeguards Agreement.
- (d) In determining whether the domestic industry suffered serious injury, the competent authorities failed adequately to evaluate all relevant factors (including those listed in

Article 4.2(a) of the Safeguards Agreement) of an objective and quantifiable nature having a bearing on the situation of the domestic industry, as required by Article 4.2(a). Furthermore, there was no "significant overall impairment" in the position of the domestic industry that justified the determination of serious injury as required by Article 4.2(a) of the Safeguards Agreement;

- (e) The determination fails to establish the existence of the necessary causal link between the increased imports and the finding of serious injury, as required by Article 4.2(b) of the Safeguards Agreement. The determination also fails to adequately distinguish between the injurious effects of the increase in imports and the injurious effects of other factors causing injury to the domestic industry at the same time, and fails to ensure that injury caused by other factors has not been attributed to increased imports as required by Article 4.2(b) of the Safeguards Agreement;
- (f) The determination that an increase in imports and serious injury justified the imposition of a safeguard measure on 4 February 2005 was not based on sufficiently recent data, given that the Commission terminated the period of investigation at the end of December 2003, and the determination is therefore inconsistent with Article XIX of the GATT 1994 and Articles 2.1, 3.1 and 4.2 of the Safeguards Agreement;
- (g) The report issued by the competent authorities did not set forth adequately the findings and reasoned conclusions on all pertinent issues of fact and law, including those identified in the preceding paragraphs, as required by Article 3.1 of the Safeguards Agreement, and does not provide a detailed analysis of the case, including a demonstration of the relevance of the factors examined, as required by Article 4.2(c) of the Agreement;
- (h) The competent authorities have failed to comply with the obligations set forth in Article 3.1 of the Safeguards Agreement to provide all interested parties with an adequate opportunity to present their views and to respond to the presentations of other parties;
- (i) The definitive safeguard measure imposed is inconsistent with Article 5.1 of the Safeguards Agreement because it exceeds the extent necessary to prevent or remedy serious injury caused by increased imports and to facilitate adjustment;
- (j) Articles 2 and 3 of the EC Regulation are inconsistent with Article 11.1(b) of the Safeguards Agreement in so far as they impose a minimum price control mechanism - including the provision of a security to guarantee import prices - which monitors import prices.
- (k) Articles 2 and 3 of the EC Regulation are inconsistent with Article 7.4 of the Safeguard Agreement because they do not include any basis for a progressive liberalization of the minimum price and the security to be provided on importation.

In light of the above considerations, Norway considers the definitive safeguard measure imposed on imports of farmed salmon, whether or not filleted, fresh, chilled or frozen, to be inconsistent with various WTO provisions including Articles 2, 3, 4, 5, 7 and 11 of the Safeguards Agreement and XIX:1 of GATT 1994.

Norway reserves its rights regarding the pursuit of the remedies provided for in the Safeguards Agreement and the DSU and also reserves its rights to raise additional factual matters and legal claims during the course of the consultations and in any future request for panel proceedings.

We look forward to receiving your reply to this request and to fixing a mutually acceptable date for consultations.

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