

GENERAL AGREEMENT ON

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TARIFFS AND TRADE

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Committee on Subsidies and
Countervailing Measures

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UNITED STATES - COUNTERVAILING MEASURES AGAINST IMPORTS OF FRESH AND CHILLED ATLANTIC SALMON

Request by Norway for the Establishment of a Panel under Article 17:3 of the Agreement

The following communication, dated 22 August 1991, has been received by the Chairman of the Committee from the Permanent Delegation of Norway.

I have been instructed by my authorities to request that the Committee on Subsidies and Countervailing Measures establish a panel pursuant to Article 17:3 of the Agreement on Interpretation and Application of Articles VI, XVI and XXIII of the General Agreement on Tariffs and Trade (the Agreement) in order to consider a dispute between Norway and the United States regarding the imposition by the United States of countervailing duties on imports of fresh and chilled Atlantic salmon from Norway.

My Government considers that the duties imposed by the United States are in contravention of the United States obligations under the relevant provisions of the Agreement and constitute a case of nullification or impairment of the benefits accruing to Norway.

Consultations held with the United States on 15 March and 2 May 1991 failed to reach a mutually acceptable solution. My Government then referred the matter to the Committee for conciliation. For that purpose a special meeting of the Committee was held on 18 July to examine the matter. However, during the conciliation process no mutually satisfactory solution has been found.

Norway is thus left with no other choice than to request that a special meeting of the Committee be convened as soon as possible for the establishment of a panel.

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The procedures followed by the United States as well as the determination of alleged subsidies and injury raise questions as to their compatibility with the provisions of the Agreement.

The main issues of the case include:

Standing of the petitioner

It appears that the Department of Commerce did not conduct any investigation to satisfy itself that the petition was made on behalf of the domestic salmon industry in the United States as prescribed by Article 2 of the Agreement.

Determination of subsidies

Norway considers that the United States has failed to demonstrate that the effects of i.a. regional development support would be adverse to the conditions of normal competition for fresh and chilled Atlantic salmon (Article 11:2). Norway has reservations to the calculation methods of alleged subsidies made by the Department of Commerce.

Injury

Norway considers that the United States has failed to demonstrate that a domestic industry is materially injured through the effects of the alleged subsidy (Article 6:4). The United States has made one collective determination concerning material injury for both an anti-dumping case and the countervailing case. There has been no investigation and no determination concerning alleged material injury caused exclusively by alleged subsidized imports of salmon from Norway. Thus, no causal link has been proven as required by the Agreement.

Furthermore, Norway finds that the United States has not made an objective examination of information regarding volume of imports and prices as well as of relevant economic factors (Article 6).

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The Government of Norway therefore requests that a panel be established to determine whether the decisions made by the United States are in conformity with the provisions of the Agreement and to make appropriate recommendations.