

# GENERAL AGREEMENT ON

RESTRICTED

SCM/123/Add.1  
23 September 1991

# TARIFFS AND TRADE

Special Distribution

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Committee on Subsidies and  
Countervailing Measures

Original: English

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

Addendum

The following communication, dated 19 September 1991, has been received by the Chairman of the Committee from the Permanent Delegation of Norway.

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Reference is made to document SCM/123 of 28 August 1991 in which Norway communicated its request for a panel to be established in accordance with 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 respect of the countervailing duty imposed by the United States on imports of fresh and chilled Atlantic salmon from Norway.

In order to facilitate the decision of the Committee on Subsidies and Countervailing Measures regarding the establishment of the panel at the meeting of the Committee on 26 September, Norway herewith submits the enclosed supplemental details on the issues it wants the panel to review.

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1. The United States failed to satisfy itself that the written petition requesting the salmon countervailing duty investigation was filed on behalf of the domestic industry, in violation of Article 2.1.

(a) It appears that the United States authorities did not make any investigation, at any time, to determine whether the petitioners in the fresh Atlantic salmon from Norway investigation had standing.

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(b) Therefore, the United States violated the Code by not satisfying itself of the petitioners' standing to bring an action prior to initiating the investigation.

2. The countervailing duty imposed by the United States is in excess of the benefit received from the subsidies it found to exist, in violation of Article 4.2.

(a) In determining the level of benefit the United States found to exist from certain alleged subsidies, the United States Government refused to consider whether the benefit to the recipient from those alleged subsidies was less than the nominal amount disbursed by the government because of the taxes levied on those alleged subsidies by the government.

(b) In determining the level of benefit received from loan programmes, the United States Government used as its benchmark an interest rate that "double-counted" the premium charged to fish farmers. Therefore, the United States overstated the benefit received from the loans.

3. The United States failed to determine whether its domestic industry suffered material injury through the effects of the subsidies it found to exist, in violation of Article 6.4.

(a) The United States' assessment of injury in countervailing duty investigations requires that, if the domestic industry is materially injured, the subject imports (some or all of which are allegedly subsidized) need be only a cause of material injury, rather than requiring that the allegedly subsidized imports through the effects of the alleged subsidies cause material injury by themselves.

(b) In the present case the United States failed to consider the effects of the allegedly subsidized imports separately from the effects of other factors, thus attributing injury caused by other factors to be subsidized imports.

(c) The United States made no investigation of the effects of the regional subsidies it found to exist and, therefore, failed to determine whether any material injury was caused through the effects of these alleged subsidies. Article 11 of the Code confirms the right of signatories to use such programmes and the United States has failed to demonstrate that these programmes had any trade effects.

(d) When all relevant economic factors are considered as a whole, the United States failed to demonstrate that the consequent impact of the effects of allegedly subsidized imports from Norway was to cause material injury.