

WORLD TRADE ORGANIZATION

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Committee on Anti-Dumping Practices
Committee on Subsidies and Countervailing Measures
Committee on Safeguards

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NOTIFICATION OF LAWS AND REGULATIONS UNDER ARTICLES 18.5, 32.6 AND 12.6 OF THE AGREEMENTS

NORWAY

The following communication, dated 5 May 2009, has been received from the Permanent Mission of Norway.

Reference is made to the provisions of Articles 18.5, 32.6 and 12.6 of the Anti-Dumping Agreement, the Agreement on Subsidies and Countervailing Measures and the Agreement on Safeguards, respectively.

Please find enclosed an unofficial translation of the relevant elements of Norway's new Act on Customs Duties and Movement of Goods (Customs Act) of 21 December 2007 No. 119; which entered into force as from 1 January 2009. In case of discrepancies, the original text in Norwegian prevails.

[Provisions relevant to Trade Remedy Measures only]

Chapter 10 Trade measures

Section 10-1 *Trade measures against dumping (anti-dumping measures)*

(1) If the Ministry determines that dumping has taken place, and that the dumping causes or threatens to cause significant injury to an industry in the customs territory or significantly delays the establishment of such an industry, the King may, within the limitations that follow from an agreement with a foreign state or an international organisation, or from international law, implement an anti-dumping measure. Such measure may also be implemented at the request of a third country where the dumping causes or threatens to cause significant injury to an industry in that country.

(2) An anti-dumping measure in the form of a special anti-dumping duty shall not exceed the margin of dumping as calculated pursuant to section 10-2. An anti-dumping duty shall be ordered on the importation of any dumped goods that have caused injury, except goods from suppliers who have given a price undertaking. If possible, the order shall identify the suppliers at whom the order is directed.

(3) The anti-dumping measure shall remain in force only as long as is necessary to counteract injury resulting from the dumping, and the measure shall be reduced if called for by a further review. Where there are reasons for doing so, the authorities shall on their own initiative or on request consider whether, after a certain period, it is necessary to uphold the measure.

(4) An anti-dumping measure may be implemented as a provisional measure. Such measure may be implemented no earlier than 60 days after a formal investigation was initiated and announced. A provisional measure shall last for as short a period as possible and no longer than four months. Where exporters representing a significant share of the trade concerned so request, the measure may last for up to six months. The duration may be extended to respectively six and nine months should the investigation indicate that a customs duty less than the margin of dumping will be sufficient to ensure that no injury is caused.

(5) An anti-dumping measure shall be removed at the latest five years from the date of its implementation, unless it is determined in a review that such removal would be likely to lead to a continuation or recurrence of the dumping and the injury.

(6) Legal action concerning the validity of a decision to implement an anti-dumping measure shall be heard in Oslo District Court as the court of first instance. The court shall see to it that such hearing is expedited.

(7) The Ministry shall announce the implementation of anti-dumping measures in regulations. If possible, the announcement shall identify the suppliers encompassed by the measure.

(8) The Ministry may make regulations concerning anti-dumping measures in pursuance of this section.

Section 10-2 *Definition of dumping*

(1) "Dumping" means the importation of goods:

- (a) at a price lower than the comparable price charged in the ordinary course of trade for like goods intended for consumption in the export country concerned, or
- (b) if no such domestic market price exists in the export country, at a price which is either:

- 1. lower than the highest comparable price charged in the ordinary course of trade for like goods that are exported to any other country, or
- 2. lower than the cost of production in the country of origin plus a reasonable amount for selling, general and administrative costs and for profits.

(2) When prices are compared, account shall be taken of differences in sales and delivery conditions, transport costs, taxation, and other factors of significance for comparison.

(3) The definition in subsection (1) may be derogated from where the anti-dumping measure is implemented within rules of international law permitting such derogation.

Section 10-3 *Trade measures against subsidies (countervailing measures)*

(1) If the Ministry determines that there exists direct or indirect subsidisation of goods that are exported to Norway, and that the subsidisation causes or threatens to cause significant injury, the King

may, within the limitations that follow from an agreement with a foreign state or an international organisation, or from international law, implement a countervailing measure.

(2) A countervailing measure in the form of a special countervailing customs duty may not exceed the subsidy that has been determined, calculated per unit of the subsidised and exported goods. A decision pursuant to subsection (1) shall explicitly explain the method of calculation in the individual case, and that method shall be in conformity with the applicable contractual obligations. A countervailing customs duty shall be imposed on any subsidised goods that have caused injury, except goods from suppliers who have relinquished the subsidies concerned or who have given a price undertaking.

(3) The countervailing measure shall remain in force only as long as is necessary to counteract the injury caused by the subsidies. The measure shall be reduced if called for by a further review.

(4) A countervailing measure may be implemented as a provisional measure. Such measure may be implemented no earlier than 60 days after a formal investigation was initiated and announced. A provisional measure may not last longer than 120 days.

(5) Legal action concerning the validity of a decision to implement a countervailing measure shall be heard in Oslo District Court as the court of first instance. The court shall see to it that such hearing is expedited.

(6) The Ministry shall announce the implementation of countervailing measures in regulations. If possible, the announcement shall identify the suppliers encompassed by the measure.

(7) The Ministry may make regulations concerning trade measures pursuant to this section.

Section 10-4 *Definition of subsidies*

(1) A "subsidy" means a financial contribution from a public authority when a benefit is thereby conferred where:

- (a) a government practice involves a direct transfer of funds (grants, loans, equity infusion, etc.), or potential direct transfers of funds or liabilities (loan guarantees, etc.),
- (b) government revenue that is otherwise due is forgone or not collected,
- (c) the government provides goods or services other than general infrastructure, or purchases goods,
- (d) the government makes payments to a funding mechanism, or entrusts or directs a private body to carry out one or more of the type of functions which would normally be vested in the government, and which are described under (a) to (c), and the practice differs in no real sense from practices normally followed by the government,
- (e) there is any form of income or price support which directly or indirectly causes increased exportation of goods.

(2) The definition in subsection (1) may be derogated from provided the countervailing measure is implemented within rules of international law permitting such derogation.

Section 10-5 *Safeguard measures and countermeasures*

- (1) If the Ministry determines that, as a result of an unforeseen development, goods are being imported in such increased quantities and under such conditions as to cause, or threaten to cause, serious injury to Norwegian producers of similar or competing goods, the King may within the limitations that follow from an agreement with a foreign state or an international organisation, or from international law, implement a safeguard measure.
- (2) Investigations into whether there is reason to implement a safeguard measure or countermeasure pursuant to subsection (1) shall be carried out as provided in section 12-8. The investigating authorities may obtain information pursuant to section 12-5.
- (3) A safeguard measure shall be applied only to the extent necessary to prevent or remedy serious injury and to facilitate necessary adjustments. Such measure shall be implemented in the form of a special customs duty on the goods concerned irrespective of their origin, or in the form of quantitative restrictions which can be distributed such that affected countries are allotted a pro rata share. A safeguard measure shall not be applied beyond a period of four years, unless it is again determined that the measure continues to be necessary. A provisional safeguard measure of up to 200 days' duration may be implemented.
- (4) The King may implement an agreement with another state regarding trade compensation for the adverse effects of a safeguard measure as mentioned in subsection (1).
- (5) Where Norwegian producers are affected by a safeguard measure imposed by another country, the King may implement a countermeasure in the form of a rebalancing measure, including the suspension of customs duty concessions.
- (6) The conditions mentioned in subsections (1) and (2) may be derogated from provided the safeguard measure is implemented within rules of international law permitting such derogation.
- (7) The Ministry shall announce the implementation of any safeguard measure or countermeasure pursuant to this section in regulations.
- (8) The Ministry may make regulations concerning safeguard measures and countermeasures pursuant to this section.

Chapter 12 **Special administrative rules**

Section 12-5 *Duty of disclosure in regard to cases relating to trade measures*

- (1) Where consideration is given to implementing trade measures against certain types of goods pursuant to Chapter 10 of the Act, or to extending measures which have already been implemented, the Ministry or whomever the Ministry empowers may obtain or cause to be obtained further information on prices, production, turnover, earnings and other circumstances concerning such or similar types of goods, both foreign and domestic.
- (2) A duty to disclose information as mentioned in subsection (1) rests on any person who imports, produces, processes or sells such goods. A duty of disclosure also rests on:
 - (a) authorities responsible for overseeing compliance with the provisions of the competition legislation, and

- (b) authorities responsible for regulation and control of the movement of goods.
- (3) Parties subject to the duty of disclosure pursuant to subsections (1) and (2) may communicate information notwithstanding the duty of confidentiality otherwise resting on them. Nor does the duty of confidentiality prevent accounting material, books and documents in the possession of such authorities from being inspected pursuant to section 13-4.
- (4) The Ministry may make regulations concerning investigatory powers and duty of disclosure pursuant to this section.

Section 12-6 *Investigation, etc. in anti-dumping cases*

- (1) Complaints against dumped imports shall be directed to the Ministry, and shall be accompanied by necessary evidence. A decision to impose an anti-dumping measure or provisional measure shall only be taken after a prior formal investigation. The opening and closing of such investigation shall be announced by the Ministry, and affected parties shall be informed. The Ministry may, as a step in preparing a case, obtain advice from a specially appointed committee, and entrust to other supervisory or control authorities to carry out an investigation.
- (2) The investigation shall be halted immediately if there is insufficient evidence, if the margin of dumping is minimal or the volume is insignificant. The affected parties shall be made aware of the information presented, and be given an opportunity to present any further evidence that may be relevant. The investigation shall ordinarily be brought to a close within one year and at all events within 18 months of its commencement.
- (3) Information turned over to the investigating authorities under conditions of confidentiality shall be treated accordingly except as otherwise provided by law.
- (4) The Ministry may make regulations concerning administrative procedure in dumping cases pursuant to this section, including in regard to investigation procedures, notification, announcement and implementation of decisions concerning anti-dumping measures and in regard to payment and repayment.

Section 12-7 *Investigation, etc. in subsidy cases*

- (1) Complaints against subsidised imports shall be directed to the Ministry, and shall be accompanied by necessary evidence. A decision to impose a countervailing measure or provisional measure shall only be taken after a prior formal investigation. The opening and closing of such investigation shall be announced by the Ministry, and affected parties shall be informed. The Ministry may, as a step in preparing a case, obtain advice from a specially appointed committee, and entrust to other supervisory or control authorities to carry out an investigation.
- (2) The investigation shall be halted immediately if there is insufficient evidence, if the subsidy share is minimal or the volume is insignificant. The affected parties shall be made aware of the information presented, and be given an opportunity to present any further evidence that may be relevant. The investigation shall ordinarily be brought to a close within one year and at all events within 18 months of its commencement.

(3) Information turned over to the investigating authorities under conditions of confidentiality shall be treated accordingly except as otherwise provided by law.

(4) The Ministry may make regulations concerning administrative procedure in subsidy cases pursuant to this section, including in regard to investigation procedures, notification, announcement and implementation of decisions concerning countervailing measures and in regard to payment and repayment.

Section 12-8 *Investigation, etc. in cases relating to safeguard measures*

(1) A safeguard measure may only be implemented after a prior formal investigation. The opening and closing of such investigation shall be announced by the Ministry, and the same applies to the implementation of the safeguard measure and to information on the scope and period of the measure. At least two days shall elapse between the announcement and implementation.

(2) The Ministry may, as a step in preparing a case, obtain advice from a specially appointed committee, and entrust to other supervisory or control authorities to carry out an investigation.

(3) Information turned over to the investigating authorities under conditions of confidentiality shall be treated accordingly except as otherwise provided by law.

(4) The Ministry may make regulations concerning investigation and administrative procedure in cases relating to safeguard measures pursuant to this section, including in regard to investigation procedures, notification, announcement and implementation of decisions concerning measures and in regard to payment and repayment.

Chapter 13 **General provisions regarding customs control**

Section 13-4 *Control of documents, etc.*

(1) In order to verify the accuracy and authenticity of documents, statements or other information which there is a duty to give pursuant to this Act, the customs authorities or such authority as the Ministry decides may conduct or cause to be conducted a search of any business premises that are wholly or partly at the disposal of the person who has a duty to give the information. Searching the business archives, the customs authorities can copy material to an electronic storage medium, for subsequent examination of the material either at the business premises or at the office of the customs authorities. The person who has a duty to give information shall on demand and without delay provide access to, present, hand over or send in any accounting record, accounting material, contract, correspondence, board minute or minute of proceedings, or other documents of significance for inspection, including electronic documents. The duty also includes electronic programmes and programme systems. The customs authorities may also take for examination any necessary samples of goods. Such samples may be taken without payment.

(2) If necessary, the police may be called on to assist in the obtaining of accounting material, books, documents, goods, etc.

(3) Subsections (1) and (2) apply correspondingly to the importer, exporter or producer for the purpose of verifying the accuracy of any invoice, certificate of origin or other special identification document.

(4) If the Office of the Auditor General so demands, any person who has a duty to give information shall without delay produce documents and statements that confirm data transmitted by electronic means.

(5) The Ministry may make regulations concerning the customs authorities' control pursuant to this section.
