

# WORLD TRADE ORGANIZATION

WT/DS401/1/Add.1  
G/L/912/Add.1  
G/TBT/D/37/Add.1  
G/AG/GEN/88/Add.1  
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## EUROPEAN COMMUNITIES – MEASURES PROHIBITING THE IMPORTATION AND MARKETING OF SEAL PRODUCTS

### Request for Consultations by Norway

#### Addendum

The following communication, dated 19 October 2010, from the delegation of Norway to the delegation of the European Union\* and to the Chairman of the Dispute Settlement Body, is circulated in accordance with Article 4.4 of the DSU.

On 5 November 2009, Norway requested consultations with the European Communities ("EC") concerning certain measures affecting trade in seal products (Document WT/DS401/1, G/L/912, G/TBT/D/37, G/AG/GEN/88). The present request complements, constitutes an addendum to, and must be read with, the original request for consultations presented on 5 November 2009.

On 15 December 2009, Norway and the European Union ("EU") held consultations on the EU seal regime.

On 10 August 2010, the EU adopted Commission Regulation (EU) No. 737/2010 laying down rules for the implementation of the Regulation.

Pursuant to Article 4 of the *Understanding on Rules and Procedures Governing the Settlement of Disputes*, Article XXII of the *General Agreement on Tariffs and Trade 1994* ("GATT 1994"), Article 19 of the *Agreement on Agriculture*, and Article 14 of the *Agreement on Technical Barriers to Trade* ("TBT Agreement"), Norway hereby renews its request for consultations with the EU concerning certain measures affecting trade in seal products and collectively referred to as the "EU seal regime". The measures at issue include:

- Regulation (EC) No. 1007/2009 of the European Parliament and of the Council on trade in seal products, adopted on 16 September 2009 (the "Regulation"), which establishes a harmonized EU regime for the importation and marketing of seal products;<sup>1</sup>

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\* On 1 December 2009, the *Treaty of Lisbon amending the Treaty on European Union and the Treaty establishing the European Community* (done at Lisbon, 13 December 2007) entered into force. On 29 November 2009, the WTO received a Verbal Note (WT/L/779) from the Council of the European Union and the Commission of the European Communities stating that, by virtue of the *Treaty of Lisbon*, as of 1 December 2009, the European Union replaces and succeeds the European Community.

<sup>1</sup> Official Journal of the European Union, L 286/36, published 31.10.2009.

- Commission Regulation (EU) No. 737/2010, adopted on 10 August 2010 laying down detailed rules for the implementation of the Regulation (the "Implementing Regulation");<sup>2</sup>
- omissions to adopt adequate procedures for establishing that seal products conforming to the relevant conditions in the EU seal regime may be placed on the EU market; and
- any other related measures adopted by the EU or its member States that guide, amend, supplement, replace, and/or implement the rules set forth in the Regulation and Implementing Regulation, whether adopted pursuant to these regulations or otherwise.

The EU seal regime imposes a general prohibition on the importation and sale of processed and unprocessed seal products in the EU, thereby depriving Norway of access to a significant market for its exports of these products. The EU seal regime contains certain exceptions that set forth circumstances in which seal products may be placed on the EU market. However, these exceptions appear to discriminate in favour of seal products originating in the EU and in certain third countries. The EU seal regime also includes elements of a system for certifying that seal products are in conformity with the relevant conditions for being placed on the EU market. This system, too, appears to be discriminatory and trade-restrictive in a number of respects. Moreover, the Regulation and the Implementing Regulation do not appear to establish adequate procedures for the assessment of conformity of imported seal products with the relevant conditions for being placed on the EU market.

The EU seal regime appears to be inconsistent with the EU's obligations under the *Agreement on Agriculture*, the *TBT Agreement* and the GATT 1994, in particular:

- (i) Article 4.2 of the Agreement on Agriculture;
- (ii) Articles 2.1, 2.2, 5.1, 5.2, 5.4, 5.6, 6.1, 6.2, 7.1, 7.4, 7.5, 8.1 and 8.2 of the TBT Agreement; and,
- (iii) Articles I:1, III:4, and XI:1 of the GATT 1994.

These violations appear to nullify or impair benefits accruing to Norway directly or indirectly under the covered agreements within the meaning of Article XXIII:1(a) of the GATT 1994.

Moreover, the EU seal regime appears to nullify or impair benefits accruing to Norway directly or indirectly under the covered agreements within the meaning of Article XXIII:1(b) of the GATT 1994.

Norway reserves its rights to raise additional matters during the course of these consultations and in any future request for panel proceedings.

Norway looks forward to the EU's reply to this request, and to fixing a mutually acceptable date for consultations.

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<sup>2</sup> Official Journal of the European Union, L 216/1, published 17.08.2010.