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Norwegian Ministry of Climate and Environment,

Canada appreciates the opportunity to provide written comments to Norway's notification (G/SPS/N/NOR/33/Add.2), entitled, "*Proposal for amendments to the Regulations relating to alien organisms*", issued on December 7, 2017 to the World Trade Organization (WTO) Committee on Sanitary and Phytosanitary Measures (SPS Committee). Canada submits these written comments for Norway's consideration of further actions to address barriers to trade and to contribute to the public consultation process.

Canada recognizes that the proposed measures would replace the current prohibition against the importation of live *Homarus americanus* (*H. americanus*), a measure that Canada believes is not justifiable under the *WTO Agreement on the Application of Sanitary and Phytosanitary Measures*. Canada remains concerned that Norway's proposed new measure would also be more trade restrictive than necessary and disproportionate to the alleged risks associated with imports of live *H. americanus*.

The measures outlined in Norway's December 7, 2017 notification to the WTO SPS Committee were first applied as an exemption to Norway's ban on the importation of live lobster in 2016, and the trade-distorting effect has already been felt. Based on Norwegian import statistics, between 2015 and 2016, there was a decrease in the importation of live lobster from Canada of roughly 3.94 percent from 157,878 kg to 151,663 kg. The impact was even more pronounced in 2017 with imports dropping by approximately 23.61 percent to 115,856 kg.

Canada's concerns have been expressed to Norway on a number of occasions. Canada remains concerned that the ban and the proposed replacement measures would be undertaken without a clear scientific basis to support the claim that *H. americanus* presents a high risk of invasiveness and in light of the fact that *H. americanus* has not been shown to be capable of completing its life cycle and establishing beyond its native territory, despite attempts to establish populations in France, Italy and other parts of the world including on the west coast of Canada.

Canada understands and shares Norway's concern about the introduction and spread of aquatic invasive alien species (IAS), but Canada is not convinced that the scientific evidence supports a conclusion that *H. americanus* could successfully complete its life cycle outside of its native range. Moreover, Canada submits that the likelihood of significant numbers of live lobster being intentionally or accidentally released into

Norwegian waters is low, further reducing the possibility that *H. americanus* could be a high-risk ecological threat.

As noted in Norway's consultation paper, any alleged risk of release would come from poor practices or improper handling of live *H. americanus*. In September 2015, Great Britain's Non-Native Species Secretariat released a Risk Assessment Summary sheet that outlined their analysis of the risk of *H. americanus*' invasiveness, concluding that the most likely method of release is from the lobsters escaping the holding facility. Further, the NOBANIS – IAS Fact Sheet on *H. americanus* notes that the four regions in Norway where *H. americanus* were found were all close to airports with international traffic, harbours with large ferry lines and visiting cruise ships and live marine crustaceans offered for sale on the market.¹

As illustrated by the NOBANIS – IAS Fact Sheet, and backed by the 2015 Risk Assessment from Great Britain, any risk of escape would likely come from lobsters being held in sea enclosures, although release from cruise ships or by individuals cannot be discounted. Canada submits that the risk of Canadian lobsters escaping at Norwegian airports is very low, given that live lobsters from Canada are flown to Norway in sealed containers designed to prevent escape. Canada further submits that it would be unlikely that a lobster could escape from a modern holding facility. Accordingly, Canada suggests that Norway's emphasis should be on prohibiting the holding of *H. americanus* in sea-based enclosures, improving public awareness of current Norwegian laws governing the release of alien species, and ensuring that cruise ships take steps to prevent the release of lobsters.

As the principal supplier of live *H. americanus* to Norway, Canada would be disproportionately affected by Norway's proposed measures. The measures would restrict development of retail and restaurant markets and constrict potential developments in the lobster processing industry. Likewise, the cost of the additional investment in cooking equipment could discourage new importers from entering the market if that condition were to be widely applied to permits. Any restriction would also negatively impact the consumer market by limiting foreign supplies and increasing prices for domestic species of lobster.

There is a shared acknowledgement of the need for robust supporting scientific evidence and the use of a weight-of-evidence approach to guide governments' efforts to address IAS concerns. Canada wishes to stress the need for any measure intended to curb the introduction and spread of IAS to be based on robust science, and to be no more restrictive on trade than necessary to achieve the objectives, as outlined in the *WTO Agreement on the Application of Sanitary and Phytosanitary Measures*.

On page 20 of its consultation paper, Norway described the proposed measures as "onerous" and indicated that the Regulations would not initially allow direct imports by restaurants or stores. Restrictions on imports by restaurants and stores, as proposed in the discussion paper, would reduce the potential for new market development by

¹ https://www.nobanis.org/globalassets/speciesinfo/h/homarus-americanus/homarus_americanus.pdf

Canadian exporters, discourage the entry of new importers into the marketplace and, accordingly, would be more trade-restrictive than necessary if the restaurant or store could otherwise meet Norway's requirements. Canada encourages Norway to consider applications from all wholesalers, including restaurants and stores.

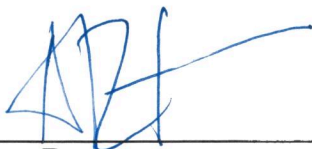
Canada strongly encourages Norway to repeal its existing ban on the importation of live *H. americanus*, and to reconsider replacing the proposed measures with ones that are more trade facilitating and proportionate to the level of risk, such as preventing the holding of *H. americanus* in sea-based enclosures, improving public awareness about current Norwegian laws governing the release of alien species and requiring cruise ships to take steps to avoid release.

However, if Norway were to adopt the proposed measure, Canada requests that, while Norway continues to seek the necessary scientific evidence to make a more objective assessment of risk, Norway apply the proposed permit regime in a manner that is trade facilitating and no more trade restrictive than necessary. This would include considering permit applications from any wholesaler that can meet the basic requirements of safe handling and storage practices, including restaurants and stores, and limiting the conditions applied to permits to only those that are absolutely necessary with respect to the particular applicant.

Norway and Canada have a long track record of working together to liberalize and facilitate trade, exemplified by the free trade agreement between Canada and the European Free Trade Association countries and our on-going collaboration at the WTO. Canada would like to build on this track record and work constructively with Norway to ensure that Norway's concerns about *H. americanus* are addressed in the most trade facilitating manner possible.

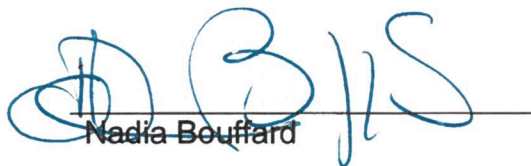
Canada asks that Norway accept these comments in the spirit of openness and cooperation.

Yours respectfully,



Ana Renart

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