

(AS DELIVERED)

IN THE WORLD TRADE ORGANISATION

**United States – Anti-Dumping Measures on
Certain Shrimp from Viet Nam**

(AB-2015-1/WT/DS429)

Oral Statement

by

Norway as a Third Participant

Geneva

2 March 2015

Mr. Chair, Members of the Division,

1. Norway welcomes the opportunity to make a statement as a Third Participant before the Appellate Body in this appeal.
2. In this oral statement, we will not comment upon the claim by Viet Nam that the Panel failed to conduct an objective examination as required by DSU Article 11. Rather, Norway will briefly set out its views on one of the underlying substantive issues of this appeal. This concerns the application of measures taken to comply with rulings and recommendations of the DSB, to imports occurring before the end of the reasonable period of time.
3. Viet Nam requests the Appellate Body to complete the analysis and find that Section 129(c)(1) of the Uruguay Round Agreements Act is “as such” inconsistent with the United States’ WTO obligations.¹ Viet Nam maintains that this provision prohibits the United States from complying with adverse rulings and recommendations of the DSB. Specifically, Vietnam holds that it prohibits compliance where imports have occurred before the end of the reasonable period of time.²
4. Norway recalls that, in accordance with Article 21.3 of the DSU, Members shall comply with the rulings and recommendations of the DSB “immediately”. If immediate compliance is impracticable, the Member shall have a reasonable period of time to comply.
5. The Appellate Body has clarified that Members have an obligation to comply with the rulings and recommendations of the DSB no later than by the end of the reasonable period of time. In *US-Zeroing (Japan) (Article 21.5 - Japan)*, the Appellate Body explicitly addressed the obligation to implement recommendations and rulings of the DSB in respect of conduct relating to imports that entered a Member’s territory prior to the expiration of the reasonable period of time. In this case, the Appellate Body stated that WTO-inconsistent conduct must cease completely by the end of the reasonable period of time, irrespective of the date on which the imports entered the territory of the implementing Member.³ Thus, WTO-inconsistent measures affecting imports that entered the implementing Member’s

¹ Viet Nam Appellant Submission, para. 5.

² Viet Nam Appellant Submission, para. 8.

³ *US-Zeroing (Japan) (Article 21.5 - Japan)*, WT/DS322/AB/RW, paras 160-161.

territory prior to the expiration of the reasonable period of time must be rectified by the end of the reasonable period of time.

6. Section 129(c)(1) concerns the implementation of DSB reports recommending that the United States bring a measure, found to be inconsistent with WTO, into compliance with its WTO obligations. Even if Section 129(c)(1) is a general measure, it must be in conformity with WTO law. Thus, the provision must ensure that WTO inconsistent conduct ceases completely by the end of the reasonable period of time. In our reading of Section 129(c)(1), we struggle to see how it can ensure such conformity and compliance with regard to imports entering prior to the expiration of the reasonable period of time. This is especially due to the fact that the provision focuses on import as the date of reference, rather than the final liquidation, which is the relevant reference according to WTO law. Furthermore, as we understand it, Section 129(c)(1) contains no relationship between import and final liquidation, which could have made the situation different. In Norway's view, these factors suggest that Section 129(c)(1) could be WTO inconsistent.

Mr, Chair, Members of the Division,

7. This concludes Norway's statement. Thank you for your attention.