

World Trade Organization

Panel Proceedings

**Canada – Anti-Dumping Measures on Imports of Certain Carbon Steel
Welded Pipe from the Separate Customs Territory of Taiwan, Penghu,
Kinmen and Matsu**

WT/DS482

Third Party Oral Statement

by

Norway

at the Third Party Session of the Panel

Geneva, 17 March 2016

Thank you, Mr. Chair, Members of the Panel,

1. Norway welcomes this opportunity to present its views on the issues raised in these panel proceedings. In this statement, I will not repeat the arguments presented by Norway in its written submission. Rather, I will briefly offer our observations on one of the arguments presented by Canada in relation to the claim regarding the treatment of exporters with a *de minimis* margin of dumping under Article 5.8 of the Anti-Dumping Agreement.
2. As set out in Norway's written observations, Norway holds that the determination of *de minimis* dumping is producer-specific. This conclusion is supported by the wording of Article 5.8, as well as the context and the consistency with the other Articles of the Anti-Dumping Agreement.
3. However, Canada argues that the context of Article 5.8 requires that an investigation need only be terminated when the country-based margin of dumping is *de minimis*. In particular, Canada relies on the context of Article 9.4 of the Anti-Dumping Agreement for this interpretation.¹ As Norway understands it, Canada argues that as Article 9.4 refers to the disregardment of zero and *de minimis* margins of dumping, this means that the investigation is not terminated with respect to these individual exporters. Therefore, this exclusion of *de minimis* dumping margins confirms that an investigation is only terminated pursuant to Article 5.8 when the margin of dumping of a country is *de minimis*. Norway disagrees with this line of reasoning.
4. Article 9.4 contains special rules for the imposition of anti-dumping duties where the authorities have resorted to sampling of exporters. For the non-sampled producers, the anti-dumping duty imposed may not exceed the weighted-average dumping margin established for the sampled producers, with the exception of any *de minimis* dumping margins. In Norway's view, this reference to the formula for calculation of

¹ First Written Submission of Canada, paras. 76-81.

anti-dumping duties when sampling is involved cannot be read as a reference to when an investigation is to be considered terminated in accordance with Article 5.8. There is nothing in the wording of Article 9.4 that suggests such a reading and it is indeed a completely different question.

5. Contrary to what Canada argues, an interpretation of Article 5.8 supporting termination of an investigation with respect to an individual exporter with a *de minimis* margin of dumping would *not* make parts of Article 9.4 redundant and therefore be at odds with the principle of effectiveness in treaty interpretation. Quite the opposite – such an interpretation would be in line with the system of the Anti-Dumping Agreement. Where dumping margins are established as *de minimis* or zero, the investigation is to be terminated *with respect to* these individual producers, in line with Article 5.8, as established by the panel and the Appellate Body in *Mexico – Anti-Dumping Measures on Rice*.² Hence, these margins of dumping should not be used as a basis for calculating anti-dumping duties when sampling is involved either. A different interpretation could lead to a situation where anti-dumping duties are not calculated for the individual producers with zero or *de minimis* margins of dumping, while these dumping margins could be used in the calculation of duties for non-sampled producers. This would clearly be at odds with the system of the Anti-Dumping Agreement.
6. Accordingly, it is Norway's view that the context of Article 9.4 does not support an interpretation where the obligation in Article 5.8 to terminate an investigation where the margin of dumping is *de minimis* pertains to a country. On the contrary, it supports the interpretation where this duty pertains to the individual producer. The consistency of the system, and the numerous references in Article 9.4 to the individual exporters and producers, clearly lead to this conclusion.

² Panel Report, *Mexico – Anti-Dumping Measures on Rice*, para. 7.140, and Appellate Body Report, *Mexico – Anti-Dumping Measures on Rice*, para. 218.

Mr. Chair, Members of the Panel,

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