

**CLOSING STATEMENT OF NORWAY AT THE FIRST MEETING WITH THE PANEL
13 DECEMBER 2006**

1. Mr. Chairman, distinguished members of the Panel, and staff of the Secretariat, Norway would like to thank you for your efforts and attention these past two days, and in the remainder of the dispute. In closing, we will be short and address just two points.
2. *First*, yesterday, Norway argued that seven EC Exhibits are inadmissible because they were not part of the record of the investigation. The EC responded that its seven new Exhibits are drawn from the record of the investigation, and it asked for an opportunity to provide the documents from the record in support of this assertion.
3. Norway reiterates its request to the Panel that the EC be asked to provide these documents from the record by next Wednesday, 20 December 2006. As a matter of procedural fairness, Norway believes that the EC should provide this information in advance of the Second Written Submission, due on 15 January 2007. This would enable Norway to present argument in its Second, and final, Written Submission that takes account of these documents of record. This request should not be onerous for the EC because the documents are part of the EC's own record of the investigation.
4. *Second*, in its Opening Statement, the EC repeatedly invoked the standard of review in Article 17.6(i) of the *Anti-Dumping Agreement*. In fact, the EC mischaracterizes numerous legal determinations as mere factual findings. We also said yesterday that the EC misstates the standard of review because Article 17.6(i) must be read together with Article 11 of the DSU. Moreover, the Appellate Body ruled that, in anti-dumping disputes, panels must provide a "critical and searching" review of the investigating authority's determination. In particular, the Panel must be satisfied that the EC's authority adequately explained, in the published determination, *how the facts on the record supported its findings and conclusions*.¹
5. The reason that this standard has been developed is precisely to ensure that panels are in a position to decide whether an authority's establishment of the facts is unbiased and objective. In this dispute, although the EC asserts – time and time again – that its authority made unbiased and objective findings, its published determination fails to refer to the facts in the record that demonstrate that this is so. Even now, the EC presents no facts. It is, therefore, impossible for the Panel to verify that the EC's factual findings are unbiased and objective. To paraphrase Jean Shepherd, "*In God we trust, all others provide evidence.*" Thank you, again.

¹ Appellate Body Report, *US – Softwood Lumber VI (Article 21.5 – Canada)*, paras. 93 – 99.