

# EC – SALMON (NORWAY)<sup>1</sup>

## (DS337)

PARTIES		AGREEMENTS	TIMELINE OF THE DISPUTE	
Complainant	Norway	GATT Arts. VI:2 ADA Arts 2.1, 2.2, 2.2.1, 2.2.1.1, 2.2.2, 2.2.2(iii), 2.6, 3.1, 3.2, 3.4, 3.5, 3.6, 4.1, 5.4, 6.2, 6.4, 6.8, 6.9, 6.10, 9.1, 9.2, 9.3, 9.4(i), 9.4(ii), 12.2 & 12.2.2, Annex II paras 1, 3 & 6.	Establishment of Panel	22 June 2006
			Circulation of Panel Report	16 November 2007
Respondent	European Communities		Circulation of AB Report	NA
			Adoption	15 January 2008

### 1. MEASURE AND PRODUCT AT ISSUE

- **Measure at issue:** EC definitive anti-dumping measures on imports of farmed salmon from Norway.
- **Product at issue:** Farmed salmon.

### 2. SUMMARY OF KEY PANEL FINDINGS

- **ADA Arts. 2.1, 2.6 and 4.1 (dumping determination – product and domestic industry):** The Panel concluded that Arts 2.1 and 2.6 did not require the European Communities to have defined the product under consideration to include only products that are all "like", and do not establish an obligation on investigating authorities to ensure that where the product under consideration is made up of categories of products, all such categories of products are individually "like" each other, thereby constituting a single "product". The Panel found that the exclusion of certain categories of economic operators from the definition of the domestic industry resulted in an investigation concerning a domestic industry that did not comport with the definition set forth in Art. 4.1 and found consequential violations of Arts 5.4, 3.1, 3.2 and 3.5. The Panel concluded that sampling is not prohibited in injury analysis.
- **ADA Arts. 2.1, 2.2, 2.2.1.1, 2.2.2, 2.2.2(iii), 6.8, 6.10 and 9.4(i) (dumping determination – evidence, and imposition of anti-dumping duties):** The Panel considered 27 separate claims concerning technical issues. The Panel upheld 14 of Norway's claims under Arts. 2.2, 2.2.1.1, 2.2.2, 2.2.2(iii), 6.8 and paras. 1 and 3 of Annex II, 6.10, and 9.4(i). The Panel rejected eight of Norway's claims under Arts. 2.1, 2.2, 2.2.1, 2.2.1.1, 2.2.2, 6.8, 9.4(i) and para. 1 of Annex II, 6.10. No findings were made in respect of five additional claims. The Panel's rulings clarified, *inter alia*, the investigating authority's (IA) power to limit its investigation to a sample, rules governing determination of constructed normal value including various cost adjustments, rules governing determination of the amounts for SG&A costs and profits, reliance on "facts available", and the basis for determining the margins of dumping for non-investigated co-operating companies.
- **ADA Arts. 3.1, 3.2, 3.4 and 3.5 (injury determination – causation):** The Panel considered claims and found violations under Arts. 3.1, 3.2, 3.4 and 3.5 despite having concluded that the determinations were necessarily flawed as a result of the violations already found. Its rulings clarified, *inter alia*, the treatment of certain imports as dumped for purposes of injury analysis, the obligation on the IA to consider arguments presented, and the requirement to address other causes of injury.
- **ADA Arts. 9.1, 9.2, 9.3, 9.4(ii) and GATT Art. VI:2 (imposition of anti-dumping duties):** The Panel found that the European Communities had erred in its calculation of the amounts of minimum import prices imposed, thus failing to ensure that anti-dumping duties were collected in the "appropriate amounts", in violation of Arts 9.2 and 9.4(ii). The Panel rejected additional claims under ADA Arts 9.1, 9.2 and 9.3 and GATT Art. VI:2.
- **ADA Arts. 6.2, 6.4, 6.9, 12.2 and 12.2.2 (evidence – notification):** The Panel upheld Norway's claim that the IA had acted inconsistently with Art. 6.4 by failing to provide timely opportunities for interested parties to see certain information before the IA, and rejected claims alleging a right to see confidential information under Art 6.4, disclosure of essential facts under Arts 6.2 and 6.9 and the contents of public notices under Arts 12.2 and 12.2.2. The Panel made no finding on additional claims under Arts 6.2, 12.2 and 12.2.2.

<sup>1</sup> European Communities – Anti-Dumping Measure on Farmed Salmon from Norway