

**World Trade Organization**

**Panel Proceedings**

***United States – Certain Methodologies and their Application to  
Anti-Dumping Proceedings involving China  
(DS471)***

**Third Party Oral Statement**

**by**

**Norway**

**at the Third Party Session of the Panel**

**Geneva, 15 July 2015**

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 all the arguments presented by Norway in its written submission, but rather take this opportunity to briefly comment on one other issue of relevance to this dispute: the “mathematical equivalence” argument put forward by the United States.
2. From the outset, I would like to reiterate that it is Norway’s firm view that the use of all forms of zeroing, in all forms of proceedings under the *Anti-Dumping Agreement*, is prohibited. This applies regardless of the comparison methodology employed to calculate the dumping margin, including the weighted average-to-transaction comparison methodology of the second sentence of Article 2.4.2.
3. The United States argues in its first written submission that prohibiting the use of zeroing under the weighted average-to-transaction comparison methodology would be an incorrect interpretation of Article 2.4.2, as this would lead to results that are “mathematically equivalent” to the comparison methodologies under the first sentence of the provision. According to the United States, this would render the second sentence of Article 2.4.2 redundant. The United States draws this conclusion from findings by the Appellate Body in other disputes that the first two comparison methods should not “lead to results that are systematically different”.<sup>1</sup> Thus, the United States asserts that the third comparison method “logically” should lead to results that *are* systematically different, and that any interpretation to the contrary would mean that Article 2.4.2 would no longer be “exceptional” and therefore inutile.<sup>2</sup> Norway disagrees with this reasoning.
4. The mathematical equivalence argument is based on the assumption that the investigating authority must use the same set of pricing data. This is a consequence of the United States’ interpretation of the term “a weighted average normal value” in

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<sup>1</sup> United States’ First Written Submission, para. 229.

<sup>2</sup> United States’ First Written Submission, paras. 229-230.

the first sentence as meaning the same as “a normal value established on a weighted average basis” in the second sentence. Norway agrees with Korea that this interpretation is incorrect, and that it does not follow from the wording of Article 2.4.2 that these two normal values should be the same.<sup>3</sup> On the contrary, as Japan puts it in its third party submission, an investigating authority “may use different pools of home market transactions” when calculating the two different normal values.<sup>4</sup>

5. Like Canada and Japan in their third party submissions,<sup>5</sup> we would also point to the fact that this argument has already been rejected by the Appellate Body. *In US – Softwood Lumber V (Article 21.5. – Canada)*, the Appellate Body stated that

the fact that, under the specific assumptions of the hypothetical scenario provided by the United States, the weighted average-to-transaction comparison methodology could produce results that are equivalent to those obtained from the application of the weighted average-to-weighted average methodology is insufficient to conclude that the second sentence of Article 2.4.2 is thereby rendered ineffective.<sup>6</sup>

6. Norway would also like to point out that the “mathematical equivalence” argument is in any event misleading. The focus of the exceptional methodology in the second sentence of Article 2.4.2 is, after having examined all transactions, to show a pattern of dumping targeted at particular purchasers, regions or time periods. What is then allowed is to address such targeted dumping with targeted measures.

Mr. Chair, distinguished Members of the Panel,

7. This concludes Norway’s statement. Thank you.

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<sup>3</sup> Korea’s Third Party Submission, paras. 50-51.

<sup>4</sup> Japan’s Third Party Submission, para. 28.

<sup>5</sup> Canada’s Third Party Submission, para. 21; Japan’s Third Party Submission, para. 25.

<sup>6</sup> Appellate Body Report, *US – Softwood Lumber V (Art. 21.5 – Canada)*, para. 99.