NORWAY

TRADE SUMMARY

The U.S. goods trade deficit with Norway was $4.3 billion in 2007, a decrease of $425 million from $4.7 billion in 2006. U.S. goods exports in 2007 were $3.1 billion, up 27.5 percent from the previous year. Corresponding U.S. imports from Norway were $7.3 billion, up 3.3 percent. Norway is currently the 46th largest export market for U.S. goods.

U.S. exports of private commercial services (*i.e.*, excluding military and government) to Norway were $2.5 billion in 2006 (latest data available), and U.S. imports were $2.0 billion. Sales of services in Norway by majority U.S. owned affiliates were $3.0 billion in 2005 (latest data available), while sales of services in the United States by majority Norway-owned firms were $617 million.

The stock of U.S. foreign direct investment (FDI) in Norway was $10.3 billion in 2006 (latest data available), up from $8.8 billion in 2005. U.S. FDI in Norway is concentrated largely in the mining and manufacturing sectors.

IMPORT POLICIES

Industrial Goods

Norway, along with Switzerland, Iceland, and Liechtenstein, is a member of the European Free Trade Association (EFTA). EFTA members, with the exception of Switzerland, participate in the European Union (EU) single market through the European Economic Area (EEA) accord. Norway grants preferential tariff rates to EEA members. As an EEA signatory, Norway assumes most of the rights and obligations of EU member states. The exceptions are in the agricultural and fishery sectors, in addition to finance and foreign policy, none of which are covered by the EEA accord. As a non-EU member, Norway's ability to influence EU decisions is limited.

Although Norway maintains a liberal trade and investment regime with respect to industrial products, its agricultural sector remains highly protected. Some of Norway's agriculture trade restrictions are more severe than those of the EU, such as nontariff barriers related to approval for agricultural products derived from biotechnology. As a general matter, Norway has implemented or is in the process of implementing most EU trade policies and regulations. Therefore, U.S. exports to Norway face many of the same trade and investment barriers that limit U.S. access to the EU, such as the ban on hormone-treated meat products.

Norway's market, except for agricultural products and processed foods, is generally transparent and open. Norway has continued on a unilateral basis to dismantle import tariffs on industrial products. The average Most Favored Nation (MFN) tariff on nonagricultural products has fallen from 2.3 percent in 2000 to less than 1 percent today. More than 90 percent of industrial tariff lines are currently duty free.

Agricultural Products

Although agriculture accounts only for about 1 percent of Gross Domestic Product (GDP), Norway maintains strict protections that shelter the sector from global competition. As justification for this policy, Norway emphasizes the importance of "nontrade concerns," which include food security, environmental protection, rural employment, and the maintenance of human settlement in sparsely populated areas. One of Norway's leading concerns in the WTO Doha Development Round has been the preservation of its highly subsidized and protected agricultural sector. Norway remains committed to advocating tariff, sensitive product, and special product protections for its agricultural sector.

Agricultural Tariffs

Norway bound its tariffs for agricultural commodities in 1995 as part of its WTO commitments. Tariffication of agricultural nontariff barriers as a result of the Uruguay Round led to the replacement of quotas with high *ad valorem* product tariffs. Although Norway is only 50 percent self-sufficient in agricultural production, it maintains a protective system that assures that domestic producers – farmers and the food processing industry – have little competition until all domestic production has been consumed. Tariff rates on agricultural products currently average about 38 percent – in comparison to less than 1 percent for nonagricultural products – and can range as high as several hundred percent.

Domestic agricultural shortages and price surges have been offset by temporary tariff reductions. Lack of predictability in tariff adjustments and insufficient advance notifications of these adjustments – generally only 2 days to 5 days before implementation – favor nearby European suppliers and make imports from the United States, especially of fruits, vegetables, and other perishable horticultural products, very difficult. For a number of processed food products, tariffs are applied based on their recipes, requiring the Norwegian importer to provide a detailed disclosure of product contents. Many exporters to the Norwegian market refuse to give all requested details and their products are, as a result, subjected to maximum tariffs.

Agricultural Tariff-Rate Quotas

Norwegian tariff-rate quotas (TRQs) are divided into two categories – minimum access quotas and Generalized System of Preferences quotas. TRQs exist for grains and a number of horticultural products. In 2001, Norway also implemented auction quotas for grain and other carbohydrate feed. All quotas are traded at auctions held by the Norwegian Agricultural Authority, a Ministry of Agriculture agency that controls all agricultural imports. Interest in the quotas among Norwegian importers is limited, except for grain, despite the substantial reductions in duties for some products. Compared with domestic consumption and production, the quotas are very small. Most of the interest in Norway's quota auction comes from smaller importers who use their quotas for niche products.

Auction participation is inexpensive, and those who secure a quota are not required to actually import. Although about 98 percent of the quotas each year are sold on these auctions, only 40 percent to 60 percent of the quotas auctioned are usually filled. There is no system to reallocate unused import quotas, also hindering foreign exporters seeking access to the Norwegian market for these products.

Raw Material Price Compensation

Though Norway uses high import tariffs to protect domestic commodities from foreign competition, the situation is more complex for certain processed goods. Although the EEA does not generally apply to agricultural products, it includes provisions on raw material price compensation that are meant to increase trade in processed food. Norway has a special agreement with the EU within the EEA framework that grants some EU processed food products a preferential duty. In 2003, this agreement extended coverage to bread and baked goods, breakfast cereals, chocolate and sweets, ice cream, pasta, pizza, soups, and sauces. This scheme disadvantages U.S. exporters in the Norwegian market for the covered processed foods.

Norway also maintains a price reduction scheme that includes subsidies for using certain domestically-produced raw materials in processed foods. Products for which such subsidies are paid include chocolate, sweets and ice cream (for milk and glucose), and pizza (for cheese and meat). The purpose of the system is to help compensate the domestic food processing industry for high domestic raw material costs.

EU Based Agricultural Regulations

In addition to its own requirements related to the import of food products, Norway has generally implemented EU regulations since 1999. The majority of Norwegian sanitary and phytosanitary measures related to trade in plants, animals, and foodstuffs are harmonized with EU legislation through the EEA Agreement. An exception is plant health legislation and the approval and use of pesticides. Some EU regulations that Norway has adopted inhibit trade, such as EU regulations on veterinary control of animals and animal products requiring that meat products entering the country come from an EU-approved plant and be accompanied by the necessary health certificates. The importer in Norway must be registered and notify authorities in advance of the arrival of any shipment (24 hours in advance for plants and 30 days in advance for animals). Except for fish products, shipments must enter through either Oslo harbor or Oslo airport. Twenty entrance locations exist for fish products.

Norway also implements EU regulations that bar imports of meat from animals treated with growth hormones. However, the market for U.S. beef for consumption on cruise ships based in, or calling on, Norwegian ports is burgeoning, as beef consumed on board is not subject to such import restrictions.

Biotechnology

Norway’s strict limitations on imports of agricultural biotechnology products have had an adverse impact on U.S. producers. Before the limitations took effect in 1996, U.S. exporters usually supplied 60 percent to 80 percent of the Norwegian soybean market. As a result of the limitations, the entire market has been lost.

Although not a member of the EU, as an EEA member Norway is required to implement EU legislation with regard to food, feed, and seed produced from genetic engineering. However, the Norwegian Gene Technology Act of 1993 is more restrictive than EU legislation, as it requires proof that agricultural biotechnology products were developed with an ethical justification, provide a societal benefit, and accord with sustainable development goals. This difference in the assessment of products of bioengineering for licensing has led to Norway’s rejection of several biotechnology products approved in the EU. Only four biotechnology products have actually received approval for marketing in Norway – one line of tobacco and three lines of carnations. In 2004, the EU implemented Regulation 1829/2003 on Genetically Modified Food and Feed, as well as Regulation 1830/2003 on Traceability and Labeling of Genetically Modified Organisms and the Traceability of Food and Feed Products produced from Genetically Modified Organisms. These polices were integrated into Norwegian regulations in September 2005.

All food and feed produced from genetic engineering – including products that no longer contain detectable traces of agricultural products derived from biotechnology – must be labeled. The allowable adventitious presence level is set at 0.9 percent for EU-approved products and 0.5 percent for products that have not yet been approved but have successfully completed an EU or Norwegian risk assessment. All products testing above these levels must be labeled. The regulation does not require labeling of products that are not food ingredients, such as processing aids. Meat, milk, or eggs obtained from animals fed with products derived from biotechnology or treated with medicinal products derived from biotechnology do not require additional labeling.

Flame Retardants

On the recommendation of the Norwegian Pollution Control Authority, on May 3, 2007, Norway proposed a regulation restricting the import or export of 18 chemical substances – including the brominated flame retardants, Tetrabromobisphenol-A (TBBPA) and Hexbromocyclododecane (HBCD) – despite risk assessments conducted by the EU demonstrating a lack of consumer risk for both TBBPA and HBCD. The proposed legislation was due to enter into force on January 1, 2008. However, implementation has been indefinitely postponed due to the magnitude of comments and concerns on the legislation sent to the Norwegian government from domestic and foreign industry and foreign governments.

Separately, on January 17, 2008, Norway announced the decision to ban the flame retardant DecaBDE in all applications apart from transport as of April 1, 2008. This extends an existing ban on DECA in electric and electronic equipment to applications such as textiles, upholstered furniture and cables. Norway did not implement the EU's exemption of DecaBDE as granted under the restriction on Hazardous Substances Directive. U.S. companies are concerned that Norway's nonimplementation of EU standards means that they must now comply with a separate set of non-EU standards.

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Wines and Spirits

The wine and spirits retail market in Norway is controlled by the government monopoly Vinmonopolet, with a stated social mission of contributing toward curbing alcohol consumption, regulating spirit access, and adhering to a system of social control. There were 212 Vinmonopolet stores throughout Norway at the end of 2007, with over 10,000 products sold. The market share of U.S. wine offered through the Vinmonopolet in 2007 is less than 2 percent. Wine and spirits sales through ordinary retail stores are not allowed. An approved importer/agent and distributor are required in order to enter the market. Gaining approvals to include wines and other alcoholic beverages on Vinmonopolet's retail list is cumbersome, contributing to the limited variety of U.S. wines available to Norwegian consumers. Vinmonopolet relies on a rather subjective tender system, with set specifications and conditions for quality, price and delivery, to acquire most new products. Products chosen for sale through Vinmonopolet must meet annual minimum sales quotas or they are dropped from the basic list inventory. Advertising of alcoholic beverages is strictly prohibited. In 2007, U.S. and Norwegian authorities held constructive discussions as to raising the awareness of U.S. wines and increasing the number of quality U.S. wines in Norway.

GOVERNMENT PROCUREMENT

Norway is a signatory to the WTO Agreement on Government Procurement (GPA). Norway's government procurement procedures are nondiscriminatory and based on open, competitive bidding for procurement above certain threshold values. A similar set of national rules applies to public contract tenders below these thresholds. Exceptions for defense procurement leave a "gray area" for dual use items such as search and rescue helicopters that can also be used in military operations. National law regulates defense procurement. Although disputes may be settled by the European Surveillance Authority (ESA) or by the courts, the process can be unduly lengthy.

INTELLECTUAL PROPERTY RIGHTS (IPR) PROTECTION

Enforcement of IPR in Norway is inconsistent. Norwegian police and judicial authorities are generally committed in principle to taking action against piracy, counterfeiting, and other forms of IPR infringement, to the extent authorized by Norwegian law, and have successfully prosecuted a number of high profile cases. However, the authorities lack the capability and resources to handle complaints about IPR violations in many cases. Given limited resources, Norwegian law enforcement authorities have placed more priority on areas like computer crime than traditional IPR violations. For example, local business representatives indicate that complaints about copyright infringement usually either remain unaddressed or are given low priority. The Norwegian government will review its IPR laws in 2008 in preparation for a future White Paper.

Internet piracy and cable/satellite decoder and smart card piracy have risen in Norway. Broadband Internet is standard, making peer-to-peer downloads of music and video easy and common. Peer-to-peer networks using Direct Connect systems or BitTorrent to share pirated files are popular. Groups that release early copies of motion pictures (including so-called "encoding groups," "release groups," and "top sites") on the Internet are problematic. Television and cable companies are active in combating decoder and smart card piracy, and satellite operators have introduced conditional access technologies that have mitigated the problem. Private organizations like the Motion Picture Association are working to raise public awareness of Internet and video piracy, for example, by running anti-piracy advertisements in movie theaters. Affected organizations have also advocated that Internet Service Providers (ISPs) be obligated to disclose the identity of customers committing piracy to rights-holders. They claim that Norwegian authorities have not undertaken any serious public relations efforts to combat Internet or other piracy of copyrighted works.

Norway does not expressly ban imports of counterfeit or pirated goods. In September 2007, legislation was enacted providing Norwegian customs officials with discretionary authority to inform rights holders of seized goods that are suspected of being counterfeit or pirated. Previously, Norway's strict privacy laws barred customs authorities from informing rights holders when such suspected shipments arrive at the border. The new legislation provides rights holders with a 5 day window, following notice of the seized goods, to decide whether to proceed with an injunction request. Should that request fail, the rights holder is liable for all legal fees associated with that request. Although counterfeit and pirated goods are not commonly available domestically, counterfeiters and intellectual property pirates have used Norway as a "gateway" to third countries – importing illicit goods, paying applicable import duties, and reshipping the goods to EU nations.

In June 2005, Norway enacted legislation based on the EU's 2001 Copyright Directive that combats Internet piracy and addresses some gaps in Norway's IPR protections. The legislation bans unauthorized peer-to-peer file sharing and requires that creative works can be downloaded from the Internet only with the artist's prior approval. However, contrary to the EU Copyright Directive, Norway has failed to provide rights holders the ability to seek injunctive relief against ISPs that allow pirate websites to operate on their networks. The Ministry of Church and Cultural Affairs informed rights-holder representatives that rights holders are allowed to seek such injunctive relief under existing Norwegian law. Despite such assurances, industry representatives have voiced concern that the Ministry's interpretation would not be sustained in the Norwegian court system. The EFTA Surveillance Authority may review whether Norway has correctly implemented the EU Copyright Directive.

Norwegian legislation also grants legal protection to technological protection measures designed to prevent unauthorized use of a creative work. The law bars the intentional circumvention of such systems in most circumstances. However, an exception is made for the "private use" of music compact disc (CD) content on certain playback equipment. This exception allows music CD owners to circumvent protection measures on their CDs in order to transfer copyrighted music to an MP3 player. Although not expressly stated in the law, the legislative history of this provision suggests that "private use" also includes providing free copies to family and friends. Norway budgeted NOK 33.5 million in 2006 and NOK 34.8 million in 2007 for compensation payments to adversely affected music and motion picture rights holders. Norway plans to make such payments annually from future government budgets. However, the funds will be paid only to artists in the EU and EFTA countries, though copyrighted U.S. products undoubtedly comprise a high percentage of downloaded material. The funds are distributed by a nongovernmental organization, the Norwegian Organization of Rightholders in Audio-visual Works, which uses radio air time statistics to determine their allocation among EU and EFTA artists.

Significant public attention has developed in Norway with respect to the demands of some consumer advocates to mandate interoperability among consumer electronic devices used for downloading and playing recorded music. While it is not clear whether Norwegian law will be amended to address interoperability of digital rights management (DRM) technologies, this issue merits continued monitoring to ensure that the intellectual property rights of DRM developers, and of artists whose copyrighted works are protected by DRM technologies, remain fully respected.

Different sets of taxes/levies are imposed on home video sales in Norway, including a fixed levy assessed on videocassettes and optical discs, paid by distributors. Industry representatives voice concerns that rights holders do not receive any benefit from such a levy.

SERVICES BARRIERS

Financial Services

Current regulations require that the Norwegian Financial Supervisory Authority grant permission for ownership levels in local financial institutions that exceed certain thresholds. The Authority assesses the acquisitions to ensure that prospective buyers are financially stable and the acquisition does not unduly limit competition. The Authority applies national treatment to nonbank foreign financial groups and institutions, but applies nationality restrictions to bank ownership. At least half the members of the board and half the members of the corporate assembly of a financial institution must be nationals and permanent residents of Norway or another EEA nation. On January 1, 2005, Norway removed the ceiling on foreign equity in a Norwegian financial institution, provided the Authority has granted a concession.

Telecommunications

Telenor, a company in which the government holds a 54 percent stake, is the dominant operator in the Norwegian telecommunications market. In 2005, the Norwegian Post and Telecommunications Authority (NPTA), in line with the EU's telecommunications regulatory framework, declared that Telenor had significant market power in a number of segments in the telecommunications sector including: leased lines; call origination; transit services; wholesale unbundled access to metallic loops and sub-loops for the purpose of providing broadband and voice services; wholesale broadband access; and wholesale transmission services for national radio, local television, and national television on analog terrestrial networks. The NPTA imposed regulatory requirements on Telenor in order to facilitate competitors' entry into, and further access to these markets.

Telenor's dominant position in the Norwegian broadcasting market has been raised as a growing concern by the Norwegian telecommunications and broadcasting sector, media and Parliamentarians. Telenor is currently the Norwegian market leader in both cable and satellite broadcasting through its subsidiary content provider Canal Digital. Telenor's reported television channel holding expansion is raising market dominance concerns given its already significant market position in the Norwegian television, Internet, and wireless industries. Compared to the printed press, there is weaker legislation in the telecommunications and broadcast industry regulating market position exploitation.

INVESTMENT BARRIERS

Norway welcomes foreign investment as a matter of policy and grants national treatment to foreign investors, except in financial services, mining, hydropower, and property acquisition. Foreign companies are required to obtain concessions for the right to own or use various kinds of real property, including forests, mines, tilled land, and waterfalls. However, foreign companies do not need concessions to rent real estate, provided that the rental contract is made for a period of fewer than 10 years.

Norway's petroleum concession process still operates on a discretionary basis, with the government awarding licenses based on subjective factors rather than competitive bidding. The Norwegian government rarely allows foreign investment in hydropower production, and such investments, if approved, are limited to 20 percent equity participation.

Energy Sector Competition

Norway's two major petroleum producers and the largest Norwegian Continental Shelf (NCS) operators – the government controlled Statoil and Norsk Hydro – merged on October 1, 2007. The new entity, StatoilHydro, will control 80 percent of NCS operatorships. Following the merger, the Norwegian government has a 62.5 percent share in the merged firm, and stated that it will increase ownership to a 67 percent share. Given the two Norwegian petroleum firms' previous dominant and competitive NCS operatorship roles, the merger may have ramifications for foreign competitors seeking to operate and/or develop the NCS. The Norwegian government contends that the merger will not reduce NCS value creation, even though the government recognizes that the merger requires governmental monitoring to ensure a balance in future NCS development.

On June 22, 2007, the Norwegian government also bought a 30 percent share in the Norwegian company Aker Holding AS, which in turn is a 40 percent owner of the largest Norwegian-owned company in the country's oil and gas industry, AkerKvaerner. AkerKvaerner is the largest equipment supplier to Norway's oil and gas industry. The approximately $800 million investment was prompted by the government's call to ensure national ownership in key businesses. The impact on market access to U.S. companies resulting from both the StatoilHydro merger, and AkerKvaerner buy-in, is unclear.

Government Pension Fund

In 2004, the Norwegian Ministry of Finance adopted ethical guidelines for the "Government Pension Fund - Global" (the Fund), one of Norway's sovereign wealth funds. The Fund is composed of 78 percent tax revenue the government of Norway receives from petroleum profits and from returns on its direct interests in petroleum production licenses; this capital is then invested entirely through small holdings in foreign financial instruments. At the end of 2007, assets accumulated in the Fund were projected to reach $388 billion. The ethical guidelines state that the Norwegian Central Bank, which manages the Fund, may exclude investments in, or divest itself from, companies that: (1) produce weapons, such as nuclear arms or cluster bombs, that may violate humanitarian principles; or (2) contribute to serious violations of fundamental ethical norms, such as through human rights violations, severe environmental damage or gross corruption. In 2006, the Finance Ministry, on the recommendation of the Fund's Council on Ethics, instructed the Central Bank to divest shares in a number of companies, the majority of which are from the United States. In 2007, one additional (non-U.S.) company was excluded from the Fund's investment portfolio. In 2008, the government will begin preparations of a White Paper on the ethical review process.

OTHER SECTORAL POLICIES

Pharmaceuticals

Foreign pharmaceutical firms continue to experience significant difficulties in the Norwegian market. Until 1992, Norway limited patent protection for pharmaceuticals to the manufacturing process for a drug's active ingredient. Although Norway introduced product patents for pharmaceuticals in 1992, the previous system has left a difficult legacy for pharmaceutical companies as competitors claiming to use nonpatented processes have recently entered the market. Several U.S. pharmaceutical companies are involved in legal actions in Norwegian courts alleging infringement by these new entrants. One U.S. company was denied a preliminary injunction in a patent infringement case in 2006, which allowed the copycat drug to enter the market immediately, cost the company significant revenue, and led to layoffs of local employees. The United States has supported a proposal, advanced by affected multinational pharmaceutical companies, that Norway amend the public health care system's drug reimbursement regulations to bar pharmacies from substituting generics for branded drugs that are protected by process patents. The Norwegian government has so far rejected these appeals. The U.S. Government has consistently urged Norway to recognize and address the negative consequences to foreign pharmaceutical companies resulting from the country's reliance on process, rather than product, patent protections. U.S. pharmaceutical companies have surmised that 50 percent to 60 percent of their local sales are at risk due to this policy.

Norway's procedures governing the reimbursement of drug costs lack transparency. U.S. pharmaceutical products often face lengthy delays in securing approval for their products' inclusion in the state health care reimbursement scheme. Reimbursement and approval decisions are complex and political, with the Parliament making final decisions as part of its budget process, rather than leaving reimbursement decisions to the discretion of the Norwegian Medicines Agency (NMA). The NMA is the government body responsible for supervising the production, trials, marketing, and cost-effectiveness of medicines.

U.S. pharmaceutical manufacturers cite Norway's total prohibition of supplying product information to consumers – ranging from advertising to scientific data – as an additional barrier to market entry and expansion. As a direct result of such prohibitions, consumers are not fully informed about pharmaceutical innovations, often delaying consumer access to the latest medicines.

The Norwegian Association of Pharmaceutical Manufacturers, which includes U.S. pharmaceutical firms, has complained about Norway's inadequate implementation of EU directives on transparency of measures regulating medicinal products for human use. Although Norway complies with the letter of EU requirements that reimbursement applications be acted on within 180 days, Norwegian authorities often reject applications as the period expires, giving them an unlimited amount of time to consider applications once appealed.

Automotive Sector

The general vehicle taxation system that Norway implemented in 1996 – under which taxes are calculated progressively on the basis of vehicle weight, engine horsepower, and engine displacement – has had a strong negative impact on sales of U.S. vehicles in Norway. These parameters tend to be unfavorable to vehicles manufactured in the United States, which are generally heavier and equipped with engines with more horsepower and higher displacement than vehicles manufactured in other nations. In the year before this tax regime went into effect, approximately 9,500 American vehicles were sold in Norway, nearly 8 percent of the market. Since that time, sales of U.S. vehicles in Norway have steadily declined, to less than 1,500 in 2005 (about 1 percent of the market), most of which were light trucks. However, in its 2006 budget, the Norwegian government imposed new taxes on light trucks that, in effect, eliminated the last significant remaining market for U.S. vehicles in Norway. More than 1,000 U.S. light trucks were sold in Norway before the tax went into effect. Post-tax sales plummeted to several dozen vehicles.

Effective January 1, 2007, Norway substituted a new carbon dioxide (CO_2) emissions factor for the engine displacement parameter in its vehicle taxation regime. All non-EU tested cars are subject to an engine displacement factor when taxes are formulated. Certain American cars exported to Norway, which are neither tested in Europe, nor use EU test cycles, must now use the displacement factor (which increased by 23 percent from 2006 levels), resulting in higher taxes. The new system encourages sales of diesel powered passenger vehicles, which generally are not manufactured in the United States. Moreover, Norway will not accept any foreign emission standards, including those of the U.S. Environmental Protection Agency, in the new tax regime, adhering only to EU standards for measuring CO_2 emissions. Norway announced that it would lift the light truck tax in 2007 for trucks with cargo space above certain limits, but the space limitations deny most U.S. light trucks the benefit of the restored exemption. Estimates indicate a 50 percent reduction in the number of exported American cars, specifically affected by the new tax, since the newly-factored tax rate was instituted.