

NORWAY

TRADE SUMMARY

The U.S. goods trade deficit with Norway was \$4.9 billion in 2005, about the same as in 2004. U.S. goods exports in 2005 were \$1.9 billion, up 20.2 percent from the previous year. Corresponding U.S. imports from Norway were \$6.8 billion, up 4.6 percent. Norway is currently the 48th largest export market for U.S. goods.

U.S. exports of private commercial services (i.e., excluding military and government) to Norway were \$1.7 billion in 2004 (latest data available), and U.S. imports were \$2.0 billion. Sales of services in Norway by majority U.S.-owned affiliates were \$2.7 billion in 2003 (latest data available), while sales of services in the United States by majority Norway-owned firms were \$936 million.

The stock of U.S. foreign direct investment (FDI) in Norway in 2004 was \$9.1 billion, up from \$7.7 billion in 2003. 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 principal exception is in the agricultural sector, which the EEA accord does not cover.

Although Norway maintains a liberal trade and investment regime with respect to industrial products, its agricultural sector remains highly protected. Some of Norway's trade restrictions are more severe than those of the EU, such as non-tariff 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. As a non-EU member, Norway's ability to influence EU decisions is limited.

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 non-agricultural products has fallen from 2.3 percent in 2000 to 0.9 percent in 2004. About 94 percent of industrial tariff lines are currently duty free.

FOREIGN TRADE BARRIERS

STANDARDS, TESTING, LABELING AND CERTIFICATION

On July 30, 2005, the Government of Norway notified the WTO Technical Barriers to Trade committee about a draft regulation that was under consideration in the Norwegian government related to brominated flame retardants. The draft regulation proposes to ban as of July 1, 2006 products that consist of, or contain, decabromodiphenyl ether (“decaBDE”) in concentrations higher than 0.1 percent. The flame retardant decaBDE is manufactured in the United States and used in electronics and textiles to increase their resistance to fire.

Many of Norway’s standards are harmonized with the EU. With the exception of telecommunications equipment, few technical standards exist. However, there are stringent regulations for chemicals and foodstuffs. No country of origin labeling is required.

Agricultural Goods

Though it accounts only for about one percent of Gross Domestic Product (GDP), Norway maintains strict protections for agriculture that shelter the sector from global competition. As justification for these protective policies, Norway emphasizes the importance of “non-trade 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 is the preservation of its highly-subsidized and protected agricultural sector. The August 2005 Parliamentary elections brought the agrarian Center Party to power as part of a center-left coalition. With a Center Party official appointed as Minister of Agriculture and Food, Norway is expected to more aggressively oppose opening its agricultural sector to outside competition.

Tariffs

Norway bound its tariffs for agricultural commodities in 1995 as part of its commitments in the WTO. Tariffication of agricultural non-tariff 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 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 one percent for non-agricultural 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 – generally only 2-5 days before implementation – favor nearby European suppliers and make imports from the United States, especially of fruit, 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.

FOREIGN TRADE BARRIERS

Tariff-Rate Quotas

Norwegian tariff-rate quotas are divided into two categories – minimum access quotas and Generalized System of Preferences (GSP) quotas. Tariff-rate quotas exist for grains and a number of horticultural products. In July 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 or from large farmer-owned companies to block competition to their own domestically produced 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 30 percent to 40 percent of the quotas auctioned are usually filled through imports. There is no system to reallocate unused import quotas, 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, the agreement extended coverage to bread and baked goods, breakfast cereals, chocolate and sweets, ice cream, pasta, pizza, soups, and sauces. This scheme disadvantages the competitiveness of 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 Regulations

In addition to its own requirements related to the import of food products, Norway has generally implemented EU regulations since 1999. 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 certificates. The importer in Norway must be registered and notify authorities in

advance of the arrival of any shipment (twenty-four hours in advance for plants and thirty 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.

Biotechnology

Norway's strict limitations on imports of agricultural biotechnology products have had a particularly adverse impact on U.S. producers. Before 1996, when the limitations took effect, 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. Norwegian soybean imports in 2004 were 374,898 tons, valued at \$121 million, all of which was sourced from Brazil.

Over the last year, Norway has gradually adopted the EU's biotechnology policies with regard to allowable content and labeling of genetically modified materials in foodstuffs, marking the culmination of an administrative review process initiated earlier this decade. However, adopting EU standards has not necessarily eased entry for genetically modified agricultural products, as Norway still maintains a separate and independent domestic approval process that has kept practically all genetically modified foodstuffs, even many of those approved in the EU, off the local market.

Under the authority of Norway's 1993 Gene Technology Act, the government maintains its own review board and may ban the import of agricultural biotechnology products based on several criteria, including ethical issues, sustainable development, and social justification. The Review Board performs independent studies on biotechnology products and does not always accept EU findings. Before approval of an agricultural biotechnology product – even if the product does not require labeling – a health risk assessment must be conducted according to Norwegian guidelines for assessments of novel foods.

Norway has implemented EU Directive 90/220 on the deliberate release into the environment of agricultural biotechnology products. Also, Norway generally uses a more expansive interpretation of the possible “unintended effects” of bioengineering than does the EU. To date, Norway has only approved four agricultural biotechnology products for import: one type of tobacco plant – grown only in France – and three types of dried, cut carnations grown in greenhouses. Norway has rejected fourteen biotechnology products approved for use in the EU.

In October 2004, Norway slightly relaxed its “zero tolerance” policies on agricultural biotechnology products. Norwegian environmental and food safety authorities raised the limit for the “unintentional” presence of material derived from biotechnology in foodstuffs from zero to 0.9 percent, in line with EU standards. Though the change paved the way for U.S. “identity preserved” agricultural products (with inadvertent content of 0.9 percent or less) to return to the Norwegian market, no U.S. exports of major identity preserved crops – soybeans, corn or wheat – have occurred since this change took effect.

The Norwegian Food Law of 1997 governs the labeling of agricultural products derived from biotechnology. On September 15, 2005 Norway's Food Safety Authority (NFSA) adopted new

FOREIGN TRADE BARRIERS

rules for labeling agricultural products derived from biotechnology that bring Norway's treatment of such goods into line with EU standards. The previous system required labeling whenever more than 2 percent of *any ingredient* was derived from biotechnology. Under the new, more reasonable system, labeling is required whenever 0.9 percent of an *entire product* contains genetically modified materials. The revised labeling requirement applies to food, feed, additives, and aromas.

Taxes and Fees

Norway's internal tax system on agricultural products, which includes various inspection and control levies and taxes, is complex and difficult for potential exporters to navigate. For example, a special inspection fee imposed on U.S. wheat from autumn 2000 until February 2004 rendered U.S. wheat noncompetitive in the Norwegian market. The special fee, which was directed at wheat and rye imports from countries affected by fungal diseases, substantially raised the cost of importing U.S. wheat into Norway. U.S. wheat exporters were practically eliminated from the local market after years of supplying food wheat to Norway. Although the NFSA lifted the fee in February 2004, American wheat exporters have yet to return to the market.

Limited Competition

The spirits and wine retail market in Norway is controlled by the government monopoly Vinmonopolet. There are 190 Vinmonopolet stores throughout Norway. Spirits and wine 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 new wines and other alcoholic beverages on Vinmonopolet's retail list is cumbersome, limiting the variety of U.S. wines available to Norwegian consumers. Vinmonopolet's reputation was badly damaged over the last year after allegations surfaced in January 2005 that some managers and employees had improperly accepted gifts and other favors from Norway's leading wine importer in exchange for favored treatment for the company's wine offerings.

GOVERNMENT PROCUREMENT

Norway is a signatory to the WTO Government Procurement Agreement (GPA). Norway's government procurement procedures are non-discriminatory 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 items such as rescue helicopters that can also be used in military operations. 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

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. Encoding groups that release early copies of new motion pictures on the internet are problematic. Television and cable companies are active in combating decoder and smart card

FOREIGN TRADE BARRIERS

piracy and satellite operators recently introduced conditional access technologies that have mitigated the problem. Private organizations like the Motion Picture Association are attempting to raise public awareness of internet and video piracy, for example by running anti-pirating advertisements in movie theaters. Norwegian authorities have not undertaken any serious public relations efforts to combat internet or other piracy of copyrighted property.

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 intellectual property rights protections. The legislation bans unauthorized peer-to-peer file sharing and requires that creative works can only be downloaded from the internet with the artist's prior approval. The 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 "private use." Norway thus expressly allows circumvention of copy protection and other technical measures for private use of copyrighted materials except computer software. This measure allows music CD owners, for example, to legally breach protection measures in order to transfer copyrighted music. 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.

In compensation, Norway budgeted NOK 32.5 million (\$5 million) in 2005 for payments to affected music and motion picture rights holders. Norway plans to make these payments annually from future government budgets. The funds will be paid only to artists in the EU and EFTA countries, though copyrighted American products undoubtedly comprise a high percentage of downloaded material. The EFTA Surveillance Authority is reviewing whether Norway has correctly implemented the EU Copyright Directive.

Norway made no substantial progress last year in addressing the lack of an express ban on imports of counterfeit or pirated goods. A trademark or copyright holder must obtain a court order and have the case referred to the police before customs authorities will take action to stop entries of pirated goods. However, Norway's strict privacy laws bar customs authorities from informing rights holders when questionable shipments arrive at the border, rendering the remedy practically moot. Although counterfeit and pirated goods are not commonly available domestically, counterfeiters and intellectual property pirates use Norway as a "gateway" to third countries – importing illicit goods, paying applicable import duties, and reshipping the goods to EU nations. For example, significant numbers of pirated DVDs from Russia and the Far East – some reports suggest as many as 80,000 in larger shipments – are believed to have transited Norway for consumption in the EU.

Enforcement of IPR protections is inconsistent. Norwegian police and judicial authorities are generally committed in principle to taking action against piracy and intellectual property right infringement, to the extent authorized by Norwegian law, and have successfully prosecuted a number of high-profile cases in the last year. However, the authorities lack the capability and resources to handle complaints about IPR violations effectively. Police authorities are aware of such problems as the "gateway" gap and have been working to address them, but with little

FOREIGN TRADE BARRIERS

result. Given limited resources, Norwegian law enforcement authorities have placed more priority on areas like computer crime than traditional IPR violations. Local business representatives indicate that complaints about copyright infringement, for example, usually either go unaddressed or are given low priority.

SERVICES BARRIERS

Financial Sector

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 non-bank 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. Norway grants branches of U.S. and other foreign financial institutions the same treatment as domestic institutions.

Telecommunications Sector

In 1998, Norway began to liberalize the former monopoly of telecommunications services (Telenor) in Norway. Telenor was partially privatized in December 2000, leaving the government with a stake of 78 percent. Since that time, the government's share has declined to about 54 percent, though Norway's new center-left government has indicated it will suspend further privatization of state-controlled companies.

Telenor remains the dominant operator in the Norwegian Telecom 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 analogue terrestrial networks. New regulatory obligations have been imposed on Telenor by the NPTA in order to facilitate competitors' entry into and further access to these markets.

The introduction of Voice-over Internet Protocol (VoIP) telephone services has further encouraged competition among telecommunications operators in Norway. The NPTA released an outline of regulation on VoIP services in April 2005.

Equipment that has not been tested and certified under the EEA's common technical regulations must be type-approved by the Norwegian telecommunications authority. The Norwegian government maintains that that this takes about six weeks under normal procedures. In the past,

FOREIGN TRADE BARRIERS

U.S. companies have reported that such approval is slow and costly for companies offering new products.

INVESTMENT BARRIERS

Norway welcomes foreign investment as a matter of policy and grants national treatment to foreign investors, except in the following sectors: 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 need not seek concessions to rent real estate, provided that the rental contract is made for a period not exceeding ten years.

In the offshore petroleum sector, Norwegian authorities encourage the use of Norwegian goods and services. The Norwegian share of the total supply of goods and services in this sector has remained high, approximately 50 percent, over the last decade. Norway's petroleum concession process still operates on a discretionary basis, with the government awarding licenses based on subjective factors rather than competitive bidding. Though the Norwegian government had in the past shown a strong preference for Norwegian petroleum companies in awarding the most promising oil and gas exploration and development blocks, foreign companies report no discrimination in recent licensing rounds. Norway has implemented EU directives requiring equal treatment of EEA oil and gas companies.

Foreign and domestic investors are barred by law from investing in industries monopolized by the government, which includes postal services, railways, and the domestic production and retail sale of alcohol. The government rarely allows foreign investment in hydropower production, and such investments, if approved, are limited to 20 percent equity participation. Norway has fully opened the electricity distribution system to foreign participation.

State Ownership and Control of Commercial Enterprises

The government continues to play a strong role in the Norwegian economy through its ownership or control of many of the country's leading commercial firms. The public sector accounts for nearly sixty percent of Norway's Gross Domestic Product and approximately 100 enterprises are either fully or partly owned by the central government. Central or local authorities own approximately 35 percent of the companies listed on the Oslo Stock Exchange, and approximately 42 percent of the stock exchange's capitalization at the end of 2004 was in government hands.

An April 2002 government "White Paper" called for reducing and improving State ownership in the economy. Norway took steps over the last several years to implement that policy, partially privatizing some of the country's leading firms, e.g. Statoil, Norsk Hydro, Telenor and others. However, the new government has announced that it will halt further privatization of state-controlled companies.

FOREIGN TRADE BARRIERS

OTHER SECTORAL POLICIES

Pharmaceuticals

Foreign pharmaceutical firms continue to experience 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 that claim to use non-patented processes have recently entered the market. Several U.S. pharmaceutical companies brought actions in Norwegian courts in 2005 alleging infringement by these new entrants. Norwegian Health Ministry officials have been considering, but not yet acted upon, proposals to amend the public health care system's drug reimbursement regulations to bar pharmacies from substituting generics for branded drugs that have process patents.

Transparency on pricing, reimbursement decisions, and recommendations is lacking. 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 Parliament making final decisions as part of its budget process.

The Norwegian Medicines Agency (NMA) added another potential hurdle to reimbursement approvals in 2005 by denying a U.S. pharmaceutical manufacturer's reimbursement application for lack of documentary proof – which would have taken several years to develop – that the costs of the drug in question compared reasonably with its treatment value and the costs of alternative treatments. The NMA's procedures for reviewing reimbursement applications neither require such cost-benefit data nor make them a factor in reimbursement decisions. The drug at issue is reimbursed in all EU countries except Denmark, and no other EU country requested such data as a condition of approving reimbursement. Requiring manufacturers to perform multi-year cost-benefit studies of medically approved pharmaceuticals as a condition of reimbursement will result in significant additional costs and delays in bringing new drugs to the Norwegian market.

U.S. pharmaceutical manufacturers cite Norway's total prohibition of supplying product information to consumers – ranging from advertising to scientific data – as a barrier to market entry and expansion. Consumers are not fully informed about pharmaceutical innovations, dampening demand for new products and sometimes 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.