NORWAY

TRADE SUMMARY

The U.S. trade deficit with Norway was $4.9 billion in 2004, an increase of $1.2 billion from $3.8 billion in 2003. U.S. goods exports in 2004 were $1.6 billion, up 9.4 percent from the previous year. Corresponding U.S. imports from Norway were $6.5 billion, up 24.9 percent. Norway is currently the 51st largest export market for U.S. goods. U.S. exports of private commercial services (i.e., excluding military and government) to Norway were $1.6 billion in 2003 (latest data available), and U.S. imports were $1.4 billion. The stock of U.S. foreign direct investment (FDI) in Norway in 2003 was $8.3 billion, up from $6.3 billion in 2002. U.S. FDI in Norway is concentrated largely in the mining and manufacturing sectors.

INDUSTRIAL TRADE POLICIES AND PRACTICES

Norway, with Switzerland, Iceland and Liechtenstein, is a member of the European Free Trade Association (EFTA). EFTA members, except 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.

Norway maintains a liberal and open trade and investment regime with respect to industrial products, but 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 labeling and approval for agricultural goods produced through bioengineering. As a general matter, Norway has implemented or is in the process of implementing most EU trade policies and regulations. U.S. exports to Norway therefore 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 0.7 percent in 2003. About 94 percent of industrial tariff lines are currently duty free.

Many of Norway's standards are harmonized with the EU. Few technical standards exist except in telecommunications equipment, although there are stringent regulations for chemicals and foodstuffs. No country of origin labeling is required.

AGRICULTURE TRADE POLICIES AND PRACTICES

Though it accounts only for about one percent of Gross Domestic Product (GDP), Norway maintains strict protections for agriculture that shelters the sector from global competition. As justification for these protective policies, Norway emphasizes the importance of "non-trade concerns" – food security, environmental protection, rural employment and the maintenance of human settlement in sparsely populated areas.

Agricultural Tariffs

Norway bound its tariffs for agricultural commodities in 1995 as part of its commitments in the World Trade Organization (WTO). Tariffication of agricultural non-tariff barriers as a result of the Uruguay Round led to the replacement of quotas with higher 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 domestic production is consumed. Domestic agricultural markets are protected by high tariffs on products grown in-country. Tariff rates on agricultural products currently average about 38 percent – in comparison to less than one percent for non-agricultural products – and can range up to several hundred percent.

Domestic agricultural shortages and price surges have been countered by temporary tariff reductions. Lack of predictability of 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 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.

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 working to inhibit competition to their own domestically produced products.

Auction participation costs little and those who secure a quota do not have to import. Although about 98 percent of the quotas each year are sold on these auctions, only 30-40 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. In 2002, actual within-quota imports averaged only 33 percent of the quotas sold in the auction, despite the fact that within-quota duties were only one-third of the ordinary tariff. The figure for 2003 is higher – 57 percent – but was skewed by an unusually high requirement for pork imports.

On July 1, 2003, Norway committed to reduce the minimum access quota duty by as much as 25 percent for bovine, swine, chicken, turkey and fowl meat, butter, and eggs. This means that the in-quota duty for these products will only be about 28 percent of ordinary duty. The reductions are pursuant to an agreement between Norway and the EU under the EEA agreement.

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 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. The annual turnover in this sector in Norway is $ 3.36 billion, including the beverage industry. In 2003, the import of these products totaled $61 million. 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 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, e.g., 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 twenty-four hours in advance for plants and thirty days in advance for animals of the arrival of any shipment. 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.

Agricultural Biotechnology Products

Norway's strict limitations on imports of agricultural biotechnology products have hit U.S. producers particularly hard. 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 2003 were 465,000 tons, valued at $111 million, all of which was sourced from Brazil.

Norway's restrictions on agricultural biotechnology products are more severe than the EU's with respect to allowable content and labeling, though Norway is evolving toward adopting EU standards. Norway has implemented EU Directive 90/220 on deliberate release into the environment of agricultural biotechnology products, but also maintains more stringent regulations that require approval for marketing products already approved in other EEA countries.

Under the authority of Norway's 1993 Gene Technology Act, the government may ban the import of agricultural biotechnology products based on several criteria, including ethical issues, sustainable development, and social justification. 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 biotech products approved for use in the EU.

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's guidelines are based on EU standards, but Norway generally interprets and applies the guidelines more broadly (e.g., by liberal interpretation of the possible "unintended effects" of bioengineering) than does 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. The change paves the way for U.S. "identity preserved" agricultural products, with inadvertent content of 0.9 percent or less, to return to the Norwegian market. However, food products that contain intentional content are still banned.

The Norwegian Food Law of 1997 governs the labeling of agricultural products derived from biotechnology. Norway's new Food Safety Authority (NFSA) currently exercises responsibility for product labeling. Norwegian law requires that all agricultural biotechnology products be labeled, whether or not their properties or characteristics differ from those of comparable conventional food products. Current regulations require that products must be labeled whenever more than 2 percent of any *ingredient* is derived from biotechnology. These labeling standards are stricter than the EU's, which require labeling when more than one percent of the *entire product* contains material derived from biotechnology. However, the NFSA announced in October 2004 that it proposes to conform Norway's labeling regulations to the EU's scheme. The NFSA is conducting a series of hearings on the proposal that should lead to a final decision in 2005.

Taxes and Fees

Norway's internal tax system on agricultural products – various inspection and control levies and taxes – is complex and difficult for potential exporters to navigate. An example is the special inspection fee imposed on U.S. wheat from autumn 2000 until February 2004, rendering U.S. wheat noncompetitive in the Norwegian market. The special fee was directed at wheat and rye imports from countries affected by fungal diseases. The 1.8 percent control fee translated into approximately $3.00 per ton, or U.S. $ 75,000 for a shipment of 25,000 metric tons of wheat. The U.S. had supplied food wheat to Norway for years, but imports from the U.S. practically disappeared when the fee was imposed. The NFSA lifted the fee in February 2004, but did not bring the repeal of the fee to the attention of Norwegian grain importers or American wheat exporters. The manner in which the fee was lifted – an obscure reference in a long list of NFSA actions – also raises transparency issues.

Limited Competition

The spirits and wine retail market in Norway is controlled by a government monopoly, Vinmonopolet. There are 188 Vinmonopolet stores throughout Norway. Spirits and wine sales through ordinary retail stores are not allowed. Gaining approvals to include wines and other alcoholic beverages on Vinmonopolet's retail list is cumbersome, limiting the variety of U.S. wines available to Norwegian consumers. An approved importer/agent and distributor are necessary to enter the market.

Subsidies

Norwegian farming has been highly subsidized and protected for years. This has occasionally contributed to surplus production in excess of domestic demand. However, Norwegian farm production policy has focused on national food self-sufficiency and providing incentives for farmers to remain in sparsely-populated areas of the country, rather than exports. Surpluses, at prices much higher than international price levels, have been disposed of via official government subsidies or producer-financed subsidies. Of the total export subsidies in 2001, only 13 percent were direct support and 87 percent were producer-financed. Outlays for agricultural export subsidies have decreased significantly over the last several years but remain substantial for dairy products.

GOVERNMENT PROCUREMENT

Norway is a signatory to the WTO Government Procurement Agreement (GPA). In addition, under the EEA, Norway implemented EU legislation on government procurement on January 1, 1994. Norway's procurement procedures are non-discriminatory and based on open, competitive bidding for government procurement above certain threshold values. A similar set of national rules applies to public contract tenders below these thresholds. Exceptions for defense procurement leave "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

Norway is party to key international agreements for the protection of property rights, such as the Paris Convention for the Protection of Industrial Property, the Berne Copyright Convention, the Universal Copyright Convention of 1952, and the Rome Convention. It has notified its main intellectual property laws to the WTO. Norway's intellectual property statutes cover the major areas referred to in the TRIPS Agreement.

The chief domestic statutes governing intellectual property rights include: the Patents Act of December 15, 1967, as amended; the Designs Act of March 14, 2003; the Copyrights Act of May 12, 1961, as amended; the Layout-design Act of June 15, 1990, as amended; the Marketing Act of June 16, 1972; and the Trademarks Act of March 3, 1961, as amended. The above legislation also protects trade secrets and industrial designs, including semiconductor chip layout design. As an EEA member, Norway has implemented the 2002 EU Copyright Directive.

The patent office (Styret for det Industriale Rettsvern) grants patents for a period of 20 years (Acts of June 8, 1979, and May 4, 1985). However, Norway adopted a product patent protection system for pharmaceuticals in 1992, much later than most other European nations. Pre-1992 pharmaceuticals are covered only by process patents. Over 80 percent of prescription drugs currently sold in Norway are covered by the old process patent system.

As in other European countries, internet piracy and cable/satellite decoder and smart card piracy have risen in Norway. Broadband internet is used widely, 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. "Fee for download" systems are not generally available in Norway, limiting opportunities for consumers who wish to pay honestly to download copyrighted material.

Legislation is scheduled to be introduced in 2005 to combat internet piracy, which has prompted a significant upsurge in Internet downloads of copyrighted music and video in advance of the anticipated ban. Television and cable companies are active in combating decoder and smart card piracy. Norwegian authorities and private organizations are attempting to raise public awareness of Internet and video piracy, for example running anti-pirating advertisements in movie theaters prior to screening.

Counterfeit and pirated goods are not commonly available in Norway, but there is technically no ban on the importation of pirated goods per se. The 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 illegal pirated goods. This significant gap in the intellectual property legal regime allows counterfeiters and IPR pirates to 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 are believed to have transited Norway to the EU.

Law enforcement is reasonably effective, helping limit the extent of piracy and counterfeiting. Norwegian police and judicial authorities are generally committed to taking action against piracy and intellectual property right infringement, to the extent authorized by Norwegian law. Police authorities are aware of such problems as the "gateway" gap and are actively working to address them.

SERVICES BARRIERS

Financial Sector

In 2003, Norway repealed a requirement that an investor – foreign or domestic – obtain permission from the Ministry of Finance before purchasing more than 10 percent of the equity of a Norwegian financial institution. Current regulations require that the Norwegian Financial Supervisory Authority grant permission for ownership levels 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. Effective January 1, 2005, there will be no ceiling on foreign equity in a Norwegian financial institution, provided the Authority has granted a concession.

The Finance Ministry has abolished restrictions on the establishment of foreign financial institutions, including banks, mutual funds, and others. 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 the main provider of telecommunications services – Telenor – on fixed line voice services, infrastructure, and telex services. Telenor was partially privatized in December 2000, leaving the government with a stake of 78 percent. In July 2003, the state sold an additional 270 million shares of Telenor to private and institutional investors, reducing the state's share to 62.6 percent. Though its monopoly over telecommunications services has ended, Telenor still maintains exclusive control over fixed line infrastructure and charges consumers a monthly usage fee even if they choose an alternative phone service provider.

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 has said that this takes about six weeks under normal procedures. In the past, 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. There are no general restrictions on foreign investment in the manufacturing sector, though foreign ownership continues to be restricted or prohibited in some other sectors, including financial services, mining, hydropower, property acquisition, and areas considered politically sensitive.

Foreign investors are not required to obtain government authorization before buying shares of Norwegian corporations. Legislation that formerly required both foreign and Norwegian investors to notify the Ministry of Industry and Trade if their holdings of a company's equity capital exceeded certain threshold levels was repealed in 2002. In October 2002, the government also abolished a seven percent tax on investments that applied to purchases of business assets. Norwegian and foreign firms alike complained that the investment tax and its complex accompanying regulations impeded asset acquisitions.

Foreign companies are required to obtain concessions for the acquisition of rights 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 has remained approximately fifty percent over the last decade. Though the Norwegian government had in the past shown a strong preference for Norwegian oil companies in awarding the most promising oil and gas exploration and development blocks, foreign oil companies report no discrimination in recent licensing rounds. Norway has implemented EU directives requiring equal treatment of EEA oil and gas companies. However, Norway's concession process still operates on a discretionary basis with the government awarding licenses based on subjective factors rather than strictly according to competitive bidding.

Foreign and domestic investors are barred by law from investing in industries monopolized by the government – 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 of equity. However, 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 GDP (compared to about thirty-four percent in the United States). Around 100 enterprises are either fully or partly owned by the central government. Central or local authorities own about 35 percent of the companies listed on the Oslo Stock Exchange, and approximately forty percent of the stock exchange's capitalization at the end of 2003 was in government hands.

The government's April 2002 "White Paper" called for reducing and improving State ownership in the economy. Norway has taken steps over the last several years to implement the policy, partially privatizing some of the country's leading firms. The state oil firm – Statoil – was partially privatized in June 2001, when 19.8 percent of the firm was sold in an initial stock offering. The state's share of Statoil has since fallen to 76.3 percent. A majority share (56.2 percent) of Norway's second largest petroleum firm and largest aluminum producer – Norsk Hydro – is now in private hands, though the government retains "negative control" as the company's largest single shareholder. Prompted by EU calls for liberalization, Norway's Petroleum and Energy Ministry dismantled its gas sales monopoly – Gassforhandlingsutvalget (GFU) – in 2002. All gas producers and operators on the Norwegian continental shelf are now free to negotiate gas sales contracts on an individual basis.

OTHER SECTORAL POLICIES

Competition, Acquisition, and Takeovers

New and tougher legislation governing competition went into effect in Norway on May 1, 2004, replacing the 1993 competition law. The previous law only provided for "intervention" against abuse of dominance – a method appropriate for minor offences, but does not provide sufficient deterrence to serious violations. The new legislation introduces competition infringement fees. The Norwegian Competition Authority (NCA) is now authorized to impose fees through a non-criminal procedure. These fees – the size of which would depend on a variety of factors including company turnover and severity of offense – will be much higher than current Norwegian anti-competition fines and comparable to those charged in the EU. Companies planning mergers are now obliged by law to report to the NCA, and the NCA is empowered to halt merger plans should their implementation significantly weaken competition. The NCA has moved quickly to assert its new authority, finding in December 2004 that the SAS air carrier group abused its dominant market position and engaged in predatory behavior on a particular domestic air route. NCA has warned that it may fine SAS up to 20 million Norwegian kroner (about $3.5 million).

Pharmaceuticals

Foreign pharmaceutical firms continue to experience difficulties in the Norwegian market. Transparency on pricing and 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 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.

U.S. pharmaceutical manufacturers cite Norway's total prohibition of supplying product information – ranging from advertising to scientific data – to consumers 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. Drug prices and consumption of medicines in Norway are below European averages.