

IN THE WORLD TRADE ORGANIZATION

*United States – Certain Measures on Steel and
Aluminium Products
(WT/DS552)*

**Norway's Closing Statement at the Second
Substantive Meeting of the Panel with the Parties**

28 January 2021

LIST OF ABBREVIATIONS

Abbreviation	Description
DSU	<i>Understanding on Rules and procedures governing the Settlement of Disputes</i>
GATT 1994	<i>General Agreement on Tariffs and Trade 1994</i>
<i>Safeguards Agreement</i>	<i>Agreement on Safeguards</i>
US	United States
US DOC	United States Department of Commerce
WTO	World Trade Organization
WTO Agreement	<i>Marrakesh Agreement Establishing the World Trade Organization</i>

1. Norway thanks the Panel for its work on this dispute, including the considerable efforts that the Panel and the Secretariat made to organise this virtual hearing.
2. This dispute raises questions that go to the very heart of the WTO as a “viable and durable”¹ enterprise fostering international cooperation. The WTO agreements represent a collective undertaking by 164 Members. Those agreements encompass binding obligations that WTO Members recognise as “reciprocal and mutually advantageous”² and that are designed to bring “security and predictability”³ to the multilateral trading system. A “central element” of this system is binding dispute settlement, with disagreements between Members decided by independent adjudicators guided by objectivity and the rule of law.⁴
3. The US defence amounts to a concerted effort to undermine these core features of the multilateral trading system, and to replace them with unilateralism.
4. Through its challenged measures, the United States seeks to protect two US industries from import competition, by raising tariffs and imposing quotas. Let us not forget that it does so even though important parts of the two US industries are world-leading, and thriving economically.⁵ Let us also not forget that the United States protects these industries selectively, exempting imports when it suits US economic interests.⁶
5. Norway takes the view that the United States’ actions run directly counter to the terms of the WTO agreements. To escape the consequences of these agreements, the United States argues that it can decide unilaterally on the scope of its WTO rights and obligations.
6. It asserts that it can decide unilaterally which WTO obligations apply to measures it has taken at domestic level, by choosing whether to notify its measure to the WTO or not. In so doing, the United States believes that it can decide unilaterally whether its WTO partners enjoy their WTO right to take counterbalancing action under Article 8 of the *Safeguards Agreement*. The United States likewise believes that it can decide unilaterally whether its measures fulfil the requirements of the WTO national security defence.
7. Mr. Chair, these arguments cannot be reconciled with the terms of the WTO agreements. The Membership’s collective engagement in multilateralism means that, under

¹ Preamble to the *WTO Agreement*.

² Preamble to the *WTO Agreement*.

³ DSU, Article 3.2.

⁴ DSU, Article 3.2.

⁵ Norway’s first written submission, paras. 231-237; DOC Aluminum Report, (**Exhibit NOR-49**), pp. 129-130.

⁶ Norway’s first written submission, paras. 37-39, Table 2, Figure 1.

the DSU, in the case of a disagreement between two Members, an independent adjudicator decides which WTO obligations apply to domestic measures, and whether a domestic measure fulfils the requirements of a WTO defence.

8. In this dispute, therefore, the Panel's task is to decide, with independence and objectivity, whether the US tariffs and quotas are safeguard measures for purposes of WTO law. In that respect, Norway has shown that the US tariffs and quotas have the objective attributes of WTO safeguard measures and are, therefore, subject to the *Safeguards Agreement*. If the measures are safeguards, the United States has not contested Norway's *prima facie* case that the measures violate that *Agreement*. Norway has also shown that these measures, as well as the US country-wide exemptions and product exclusions, violate the GATT 1994. Again, the United States has not contested Norway's *prima facie* case.

9. If the US measures violate the WTO agreements, the Panel's task is then to decide, once more with independence and objectivity, whether the four sets of US measures are justified under Article XXI(b) of the GATT 1994. The United States cannot decide unilaterally that its measures are justified under that provision. Instead, it must show, with argument and evidence, that its measures meet the terms of the defence. However, it has failed to do so.

10. In these circumstances, the Panel must uphold Norway's claims and reject the US defences.

11. Mr. Chair, this concludes Norway's closing statement.