

RE: NOTIFICATION BY BELGIUM TO PROHIBIT THE PRODUCTION AND MARKETING OF PRODUCTS DERIVED FROM SEALS.

WTO DOCUMENT CODE: G/TBT/N/BEL/39

1. Norway has the honour to refer to the notification by Belgium in document G/TBT/N/BEL/39 of 8 March 2006, in which Belgium notified a draft law on the prohibition of the production and marketing of products derived from seals.
2. Norway welcomes this opportunity to comment on the proposed prohibition. Norway understands that this ban goes beyond the general European Union restrictions set out in Council Regulation 83/129/EEC¹, and is thus a national, non-harmonized measure of a Member of the European Union. Norway notes that bilateral trade in the covered products is covered also by the Agreement on the European Economic Area (EEA).
3. In the notification, Belgium describes the proposed measure as follows:

“The notified draft law is composed of nine articles the aim of which is prohibition of the production and marketing of products derived from seals.” “.... products derived from seals hunted traditionally by the Inuit people are not covered by the prohibition on production and marketing.
4. Furthermore, the justification for the measure is described as follows:

“The draft law aims to prohibit the production and marketing of products derived from seals for reasons of public opinion and animal suffering.”
5. We find it difficult to see the rationale for this justification.
6. Norway notes that the notification by Belgium is made under Article 2.9.2 of the TBT Agreement. It would seem that the alleged basis for the ban invoked by Belgium is Article 2.2 of the TBT Agreement. That provision specifically makes reference to the available scientific and technical basis for the risk assessment performed by a Member. In this respect Norway notes that invoking “reasons of public opinion” as an argument for the ban is difficult to square with the requirements of the TBT agreement.
7. The information provided so far by Belgium does not allow Norway to fully understand and evaluate the scientific underpinning for this notified technical regulation, and the risk assessment upon which it is based, as required by Article 2.2 of the TBT Agreement. Furthermore, we cannot from the notification see how Belgium has ensured that its barrier to trade is no more trade restrictive than necessary, as also required under Article 2.2 of the TBT Agreement.
8. Norway therefore, with reference to Articles 2.5 and 10 of the TBT Agreement, requests Belgium to provide the necessary documentation to justify its proposed

¹ Council Directive 83/129/EEC, OJ L 91 of 28 March 1983 as last amended by Council Directive 89/370/EEC, OJ L 163 of 8 June 1989.

measure. Absent such explanations it is difficult to see how the ban complies with the TBT Agreement or other WTO Agreements.

9. We extend an invitation to the appropriate officials and experts of Belgium to discuss the scientific facts, as well as any questions they may have concerning Norwegian management of its seal populations, to sort out and solve any misunderstanding on the subject. Norway respectfully maintains that the ban in question should not be put in place, unless the scientific underpinnings demonstrating and justifying the need for measures and the appropriateness of the measures chosen, can be provided by Belgium.
10. According to the directive 98/34, the draft under the provisions should be notified. To our knowledge, this obligation has yet to be fulfilled.
11. Norway reserves the right to pursue the matter in the appropriate fora, including through the TBT Committee.

[sign.]

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