

WTO dispute analysis – biotech products

Summary

In 2003, three countries – the US, Canada and Argentina – filed a complaint against the European Union with the World Trade Organization (WTO) concerning the use of biotechnology in agriculture. The complainants claimed that the European Union and its member states had breached the SPS agreement by applying a moratorium on the import of biotech products.

The core of the dispute is the difference of approach towards the use of biotechnology in agriculture. While the western side of the Atlantic sees biotech products as being similar to traditional products, and thus not requiring special regulation or labelling, the eastern side approaches these products with precaution claiming that the difference in production process justifies creation of special laws and the need to label these products. Moreover, the European consumers are concerned about the possible impact of biotech products on the environment and human health. These concerns have been strengthened by a series of food scandals in the 90s of the 20th century that undermined confidence in the ability of the European representatives to protect the consumers. That's why the EU is reluctant to loosen the import of these products.

The reluctance of the EU to approve certain biotech products for the European market resulted in the complaint of three pro-biotech countries which claimed that a) the EU had applied a general de facto moratorium on biotech products, b) the EU had applied product specific moratoriums on several biotech products, c) 6 of the EU member states had applied prohibitive measures against several biotech products in spite of former EU approval. According to the WTO, all of these complaints were justified, as they represented a breach of the Agreement on the Application of Sanitary and Phytosanitary Measures (SPS) – a), b) the EU has applied a general de facto moratorium/product specific moratoriums by means of undue delays within the approval process of biotech products, c) the EU member states failed to base their restrictive measures against certain biotech products on risk assessment as required by the WTO agreements.

This conflict resulted in the recommendation to bring the mentioned measures in compliance with the SPS agreement. The use of biotechnology in agriculture has always been an extremely sensitive topic for the EU representatives and the consumers as well. In spite of this binding decision of the WTO, the opposition in the EU against biotech products remains

strong, and some of the member states are ready to preserve their restrictions. The EU achieved a mutually agreed solution with Canada and Argentina, but the conflict between the EU and the US still remains.

The biotech dispute revealed limits of the WTO dispute settlement mechanism. Although this mechanism has evolved over decades, and proved to be an effective tool in dealing with international trade clashes, it lacks strength to handle the social and cultural aspects of certain conflicts.