

RESUME

Legal Aspects of Genetically Modified Organisms.

Recently the transatlantic debate over the use of genetically modified organisms (GMOs) as food products, with the USA as a proponent on one side, and the European Union as an opponent on the other, was set to take center stage.

The USA has initiated formal legal action under the World Trade Organization Dispute Settlement System, charging that the EU violates several agreements of international trade law, including Article III of GATT, an anti-protectionist measure which forbids a country from favoring its own products over imported "like products."

The USA claims that GMOs and conventional crops are "like products", and that the EU moratorium on GMOs thus violates Article III.

This Diploma work assesses the USA "like products" claim, most notably in light of Asbestos, Beef Hormone case and a recent WTO case which provides important guidance for determining likeness under four criteria of BTA Test (Border Tax Adjustments).

At the heart of the GMO Dispute is the precautionary principle. The EU holds steadfast to this principle while the USA shuns it in relation to products containing GMOs.

The EU's use of the precautionary principle as a guide for GMO regulation is supported by the overwhelming use of the precautionary principle worldwide in relation to environmental issues, thereby creating a possible international customary law.

As a customary law, the EU's use of the precautionary principle should be given credence in the GMO dispute because there is a lot of scientific uncertainty involved with GMOs

Even if the USA continues to resist the application of the precautionary principle to GMO regulation after a decision favoring it, a WTO decision supporting the principle would be a great step forward in acknowledging and giving credence to health and environmental concerns in international trade.

The issue of this work will be if applying the precautionary principle to the GMO dispute would be consistent with the WTO trade agreements as they have been interpreted by the WTO.