

U.S. STATEMENT AT THE WTO DISPUTE SETTLEMENT BODY MEETING

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Geneva,
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Item 6. EUROPEAN COMMUNITIES – MEASURES AFFECTING THE APPROVAL AND MARKETING OF BIOTECH PRODUCTS

A. REPORTS OF THE PANEL (WT/DS291/R AND CORR.1; WT/D292/R AND CORR.1; WT/DS293/R AND CORR.1)

- Mr. Chairman, the United States is pleased to request that the DSB adopt the report of the Panel in WT/DS291, the dispute brought by the United States.
- Before initiating this dispute in May 2003, the United States waited patiently for five years for the EC to follow the WTO rules, as well as its own published procedures and the recommendations of its own scientists.
- Pursuing this case in the WTO has taken an additional three years and thousands of pages of factual and legal argumentation, resulting in the longest panel report in the history of the WTO.
- The panel undertook a thorough, well-reasoned analysis of both the extensive factual information submitted by the parties and of the applicable WTO obligations. In a report of this length, there are bound to be discrete elements of analysis with respect to which the United States is not in full agreement. But the report on the whole is prepared with care and written with clarity. The United States wishes to thank the Panel, the Secretariat, and the scientific experts for the countless hours that they spent during the course of the proceedings.
- The United States is gratified that the Panel agreed with the United States that the measures at issue of the EC, Austria, France, Germany, Greece, Italy and Luxembourg are inconsistent with the obligations set out in the Agreement on the Application of Sanitary and Phytosanitary Measures. In particular:

- The Panel found that the EC adopted a de facto, across-the-board moratorium on the final approval of biotech products, starting in 1999 up through the time the panel was established in August 2003.

- The Panel found that the EC had presented no scientific or regulatory justification for the moratorium, and thus that the moratorium resulted in "undue delays" in violation of the EC's obligations under Annex C of the SPS Agreement.

- The Panel also identified specific, WTO inconsistent "undue delays" with regard to 24 of the 27 pending product applications that were listed in the U.S. panel request.

And the Panel upheld the United States' claims that, in light of positive safety assessments issued by the EC's own scientists, the bans adopted by six EC member States on products approved in the EC prior to the moratorium were not supported by scientific evidence and were thus inconsistent with WTO rules.

· Although the EC has approved a handful of biotech applications following the initiation of the dispute in 2003, the EC has yet to lift the moratorium in its entirety. Some biotech product applications have been pending for 10 years or more, and applications for many commercially important products continue to face unjustified, politically motivated delays.

· The United States urges the EC to comply with its WTO obligations, and to proceed to consider all outstanding biotech product applications in the time necessary to evaluate their scientific merits, in accordance with the EC's own laws, and without undue delays.

· The United States believes that in addition to the importance of the Panel's findings with regard to the specific measures at issue of the EC, Austria, France, Germany, Greece, Italy and Luxembourg, the panel report is equally important in illustrating the successful operation of the rules-based trading system.

· The findings of the Panel uphold the principle of science based policymaking over unjustified, anti biotech policies.

· Such policies, as represented by the EC moratorium and the bans of Austria, France, Germany, Greece, Italy and Luxembourg, have perpetuated an unjustified trade barrier that has impeded both

U.S. exports and the global use of a technology that promises great benefit to farmers and consumers around the world.

- Food and animal feeds produced from biotech crops are safe and widely used around the world. Biotech crops help nourish the world's hungry population, offer tremendous opportunities for better health and nutrition, and protect the environment by reducing soil erosion and pesticide use.

- The United States recognizes that despite the EC' s moratorium and the member State product bans, there is considerable support for agricultural biotechnology within the EC. The United States looks forward to working with the EC, Austria, France, Germany, Greece, Italy and Luxembourg to enhance the availability of this technology to farmers and consumers throughout the world.

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