

Why is the Beef Hormones Dispute Still Pending?

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AN ESSAY

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“...In Beef Hormones, the EC imposed an almost complete ban on beef treated with growth hormones in 1989. This measure resulted in the prohibition of the importation of most US beef since the use of growth hormones is allowed in the US and widely used by the American farmers. Consequently, the case was brought to the Dispute Settlement Body (—DSB) of the World Trade Organization (—WTO) twice. The DSB failed to resolve

completely both of these disputes even today. The first dispute that the DSB had to resolve will be referred to as *EC-Hormones* in this paper. The second dispute brought to the DSB will be referred to as *Continued Suspension of Obligations in the EC – Hormones Dispute*. This dispute as a whole, first dispute and second dispute included, will be referred to as the Beef Hormones Dispute throughout this paper...

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... The fact that the EC maintained its ban despite the sanctions imposed by the US suggests that the EC ban was motivated by something that went far beyond protectionist and discriminatory reasons (e.g., the EC consumers' fears and the political pressures imposed on the EC).

C. Differences in Risk Perception

The Beef Hormones dispute has occurred, in large part, because the US and the EC have differing risk perceptions of health risks.⁵⁹ As Diahanna L. Post notes, both the EC and the US use the precautionary principle and risk assessment—but in different ways and to differing degrees.⁶⁰ The EC tends to adopt the precautionary principle while the US is more likely to adopt the risk assessment approach when deciding matters of food safety. A discussion of the EC and the US perceptions of risk will be developed below.

1. Risk Perception in the EC

a) The Precautionary Principle

The EC decided to adopt “a better safe than sorry’ or precautionary approach” in dealing with the increase of risks to health and the environment.⁶¹ This approach was referred to as the precautionary principle.⁶² This principle is a ‘...controversial doctrine [that] is still evolving.’⁶³

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61 Lawrence A. Kogan, *The Precautionary Principle and WTO Law: Divergent Views Toward the Role of Science in Assessing and Managing Risk*, 5 SETON HALL J. DIPLOM. INT’L RELAT. 77 (2004), 78.

62 Id.

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