

Normentwicklung durch WTO-Gremien am Beispiel von Handel und Gesundheitsschutz: der SPS-Ausschuss

Development of standards by WTO bodies on the example of Trade and health: the SPS Committee

TranState Working Papers

No. 68

Sfb597 „Staatlichkeit im Wandel“ – „Transformations of the State“

Bremen, 2007

Matthias Leonhard Maier

Universität Bremen

Sonderforschungsbereich 597 / Collaborative Research Center 597

Staatlichkeit im Wandel / Transformations of the State

Postfach 33 04 40

D - 28334 Bremen

SUMMARY

The paper is dedicated to a little- noticed aspect of global governance, namely the Committee System of the World Trade Organization (WTO) and in particular that committee, of the Agreement on Sanitary and Phytosanitary Measures (SPS Agreement) is assigned. First, the historical and political background and the basic provisions of the SPS Agreement briefly discussed and it is explained how the SPS Committee 's work organized. Four specific provisions of the Agreement will then be in the main part examines how the Committee specifies its content with his decisions has . This involves (1) the monitoring of international harmonization through standard-setting organizations such as the Codex Alimentarius Commission , (2) the recognition the " equivalence " of food law protection measures between WTO member countries , (3) the demand for " consistency" between different SPS measures of a member , and (4) the transparency of national standards and regulatory procedures . Thereafter, the impact of these decisions are discussed , both in the formal sense - here proves the Committee to be remarkably productive - and in terms of two core problems of regulatory Multi-level systems : (1) What the effect of international law on the nation-state political autonomy is concerned, the Committee has the precarious balance of permitted and Precautions untersagtem protectionism essentially maintained even if some of it has taken procedural rules are capable of long-term further restrict state autonomy . (2) What does the " Separation of powers " between with judicial and political-administrative bodies of the WTO is concerned, the Committee has been placed in him the hopes

for a recovery not met the institutional balance. The study concludes with some recommendations for further research into these issues.

...4.2 Influence on the relationship between WTO law and state regulatory competence

The substantive assessments will vary with most committee decisions fail depending on which one the greatest threat to successful global governance seen in the context of trade and health . If this risk by protectionist abuses of national health measures (as, inter alia Roberts 1998, Irwin 2002, **Kogan 2003**) ? Or , conversely, the restriction of travel for such measures by WTO law , even if the measures a legitimate May serve the purpose , the greater danger (Silver Glade 1998, Wagner 2000; Suppan 2005) ?
(p. 27)

... LITERATUR (p. 39)

...Kerr, William A. 2003. Science-based Rules of Trade – A Mantra for Some, An Anathema for Others. *Estey Centre Journal of International Law and Trade Policy* 4 (2):86-97.

Kingsbury, Benedict, Nico Krisch und Richard Stewart. 2005. The Emergence of Global Administrative Law. *Law and Contemporary Problems* 68 (3/4):15-61.

Knipschild, Klaus. 2003. *Lebensmittelsicherheit als Aufgabe des Veterinär- und Lebensmittelrechts: Risikoverwaltung im europäischen Binnenmarkt*. Baden-Baden: Nomos.

Kogan, Lawrence A. 2003. Looking Behind the Curtain: The Growth of Trade Barriers that Ignore Sound Science. Washington: National Foreign Trade Council.

Lang, Andrew und Joanne Scott. 2006. Regulatory convergence -- a role for the WTO? Paper read at Sixth Annual WTO Conference of the British Institute for International and Comparative Law, 23-24 May, at London.

Makatsch, Tilman. 2004. *Gesundheitsschutz im Recht der Welthandelsorganisation (WTO): Die WTO und das SPS-Übereinkommen im Lichte von Wissenschaftlichkeit, Verrechtlichung und Harmonisierung*. Berlin: Duncker & Humblot.

(p. 41)