

Original: Spanish

**EUROPEAN COMMUNITIES – MEASURES AFFECTING THE APPROVAL
AND MARKETING OF BIOTECH PRODUCTS**

Request for Consultations by Argentina

The following communication, dated 14 May 2003, from the Permanent Mission of Argentina to the Permanent Delegation of the European Commission and to the Chairman of the Dispute Settlement Body, is circulated in accordance with Article 4.4 of the DSU.

The Government of Argentina has instructed me to request consultations with the European Communities pursuant to Article 4 of the Understanding on Rules and Procedures Governing the Settlement of Disputes, Article 11.1 of the Agreement on the Application of Sanitary and Phytosanitary Measures, Article 19 of the Agreement on Agriculture, Article 14.1 of the Agreement on Technical Barriers to Trade, and Article XXII.1 of the GATT 1994 with regard to certain measures taken by the European Communities and their member States which affect products of biotechnology.

As a global producer and exporter of biotechnology products, for Argentina the systemic and trade implications of the aforementioned measures constitute a clear nullification or impairment of its rights under the WTO Agreements.

Since 1998, the European Communities has suspended consideration of applications for approval of biotechnology products. In addition, some of their member States have introduced prohibitions, even infringing Community rules¹ for biotechnology products.

In effect, Argentina indicates that the action by the European Communities is detrimental to international trade in biotechnology products, as can be seen from the following: (a) de facto measures leading to the **suspension** of consideration or the **non-consideration** of various applications without sufficient scientific evidence or a proper risk assessment; and (b) **undue delay** in **finalizing consideration** of various applications for approval of biotechnology products submitted by various WTO Members. This action affects biotechnology products approved for marketing in Argentina and those still being considered, prior to approval, as indicated in Annex I.

¹ The EC rules concerning the approval of GMO events include Directive 2001/18/EC of 12 March 2001, published in Official Journal No. 106 of 17 April 2001, pages 0001-0039 (and the previous Directive 90/220 of 23 April 1990, published in Official Journal No. 117 of 8 May 1990, as amended by Directive 94/15, published in Official Journal No. 103 of 22 April 1994 and Directive 97/35, published in Official Journal No. 169 of 27 June 1997) and Regulation (EC) No. 258/1997, published in Official Journal No. 043 of 14 February 1997.

Furthermore, Argentina challenges the specific prohibitions introduced by the member States of the European Communities, which infringe Community legislation and affect, *inter alia*, biotechnology products approved for marketing in Argentina, as indicated in Annex II.

The relevant measures by the European Communities and some of their member States infringe the following provisions of the WTO Agreements:

- (a) *Inter alia*, but not exclusively, Articles 2, 5, 7, 8, 10 and Annexes B and C of the Agreement on the Application of Sanitary and Phytosanitary Measures;
- (b) Article 4 of the Agreement on Agriculture;
- (c) *inter alia*, but not exclusively, Articles I, III, X and XI of the GATT 1994; and
- (d) *inter alia*, but not exclusively, Articles 2, 5 and 12 of the Agreement on Technical Barriers to Trade.

Consequently, it is proposed that the requested consultations be held as soon as possible at a mutually agreed date and venue. In addition, I have been instructed to indicate that my Government reserves the right to raise further factual or legal claims during the consultations.

ANNEX I

Product	Situation in the EC
Maize "GA-21"	In 1997 in the United Kingdom: Procedure abandoned under Directive 90/220; Directive 2001/18 no data
Maize "GA-21"	In 1998 in Spain: Notification No. E/ES/98/01 submitted to Spain, Directive 2001/18 applied
Maize "GA-21"	In 1998 in the Netherlands: PENDING in the EC, Regulation (EC) No. 258/97 applied
Maize "GA-21"	In 2000 in the Netherlands: PENDING in Member State, Regulation (EC) No. 258/97 applied
Maize "T-25 and MON 810"	In 1998 in the Netherlands: procedure abandoned, Directive 90/220 applied
Maize "T-25 and MON 810"	PENDING in Member State, Regulation (EC) No. 258/1997 applied
Monsanto Bt x Roundup Ready (MON-810 & GA-21) Corn (stack)	In 1999 in Spain: Notification No. C/ES/99/02 submitted to Spain, Directive 2001/18 applied
Maize "NK-603"	In 2000 in Spain: Notification No. C/ES/00/01 submitted to Spain, Directive 2001/18 applied
Maize "NK-603"	PENDING in Member State, Regulation (EC) No. 258/1997 applied
Syngenta glyphosate resistant Maize and resistant to Bt "Bt-11"	PENDING (not submitted to Art. 21 Committee), Directive 90/220 applied; no data, Directive 2001/18
Hybrid Syngenta "Bt-11" Maize (for cultivation)	In 1996 and 1998 in France: no data
Maize Syngenta Bt-11 Sweetcorn	PENDING in the EC, Regulation (EC) No. 258/1997 applied
Soya "A2704-12" and "A5547-127"	In 1998 in Belgium, abandoned; In 1999 in Portugal: Notification No. C/BE/98/01 submitted to Belgium (Directive 2001/18 applied)
"Bt-531" Cotton	REJECTED by the EC, Directive 90/220 applied
"RRC1445" Cotton	REJECTED by the EC, Directive 90/220 applied

ANNEX II

Product	EC country that imposes a ban
Maize "Bt-176"	Austria Germany Luxembourg
Maize "MON-810"	Austria Italy
Maize "T-25"	Austria Italy
Maize "Bt-11"	Italy
