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THE USE OF SANITARY AND PHYTOSANITARY MEASURES AND THE PRINCIPLE OF PRECAUTIONS ON TRADE OF GENETICALLY MODIFIED PRODUCTS

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The article deals with the safety of products and the competence of WTO bodies such as the Committee on Technical Barriers to Trade and the Committee on Sanitary and Phytosanitary Measures arising disputes and review of the Authority to resolve disputes, the SPS Committee functions for the expression forum concerns specific trade positions ('specific trade concerns'), the creation of procedures to monitor the harmonization in the framework of related organizations that develop standards in this area, the development of standards established by the SPS Agreement.

***Key words:** Global food security, WTO, international legal instruments of the World Trade Organization, Application of Sanitary and Phytosanitary Measures, GMO*

В статье рассматриваются вопросы по обеспечению безопасности продуктов и компетенции таких органов ВТО, как Комитет по техническим барьерам в торговле и Комитет по санитарным и фитосанитарным мерам, возникающие споры и рассмотрение в Органе по разрешению споров, функции комитета СФС, форум для выражения озабоченности по конкретным товарным позициям ('specific trade concerns'), создания процедуры для мониторинга за гармонизацией в рамках сопутствующих организаций, которые занимаются разработкой стандартов в данной сфере, развитие норм, установленных в Соглашении СФС.

***Ключевые слова:** глобальная пищевая безопасность, ВТО, международно-правовые документы Всемирной торговой организации, применение санитарных и фитосанитарных мер, ГМО.*

In the context of the interpenetration of the legal system and the close interweaving of economic and other intergovernmental and private relationship to food and food safety is one of the main tasks of the twenty-first century.

An important condition for achieving global food security becomes the implementation of an effective international monitoring and coordination of international cooperation in this field. The solution to this problem can be achieved if the introduction of the states in the national legislation on the basis of best practices in line with international requirements and standards.

The entry of Kazakhstan into the global system of trade relations within the framework of the World Trade Organization (WTO) was the most important prerequisite for the further development of the country. However, in the literature there are concerns about the fact that membership in the WTO is a certain risk for the sanitary and epidemiological welfare of the population. A further reduction of tariff barriers, reduction of state support, the elimination of import quotas and export subsidies, import of cheap and not always high-quality food can have a very significant impact on the processes in the field of domestic production and turnover of food products.

Marrakesh Agreement Establishing the World Trade Organization refers to those international agreements that have an impact on the entire system of law. Implementation adopted at the WTO obligations affects nearly all economic and legal spheres, which inevitably leads to the need to protect social values such as life, health, well-being of animals, plants and the environment.

However, the introduction of restrictive technical, sanitary and phytosanitary measures, in certain cases, it may be considered contrary to the rules of the WTO and become the basis for the emergence of an international trade dispute.

Food safety refers to basic problems of food security in Kazakhstan.

Objectives of the study

The aim of the study is the international food safety regulation in the framework of the World Trade Organization and the impact of the WTO on the domestic legislation of Kazakhstan.

To achieve this goal the author has the following objectives:

- Define the role and features of the Agreement on the Application of Sanitary and Phytosanitary measures WTO;
- Consider other issues of food safety in the WTO, such as the role of international legal standards, the principle precaution in the context of trade of genetically modified products.

The object of this study is the relationship between the subjects of international law arising about food safety.

As a subject of research, the rules of WTO law and its application, as well as the activities of States and international organizations in the field of food safety.

As the regulatory framework of this study were used international legal instruments of the World Trade Organization: Marrakesh Agreement Establishing the World Trade Organization; General with the announcement on Tariffs and Trade (GATT); Understanding on Rules and Procedures Governing the Settlement of Disputes; Agreement on the Application of Sanitary and Phytosanitary Measures; Agreement on Technical Barriers to Trade; other acts, including the reports of the panel and the Appellate Body. In addition, they were examined international instruments in the field of food safety, as well as the normative legal acts of the European Union, the Eurasian Economic Union, the Customs Union.

Methodology and research methods are complex scientific and special methods of cognition. The basis of the methodology performs general scientific dialectical method. To make the necessary generalizations, development of classifications studied concepts and phenomena, as well as the reasoning of the findings were applied scientific methods integrated system of study, as well as special and particular methods of scientific knowledge, including systematic, logical, formal and legal, comparative legal, historical statistical.

Scientific novelty consists in the fact that studied the complex current theoretical as well as theoretical and practical issues related to food security in connection with the accession of

Kazakhstan to the World Trade Organization. Established place and role of the WTO in the international legal system to ensure food safety, the scope of its powers defined.

The use of the WTO dispute resolution mechanism is by far the most effective tool for the protection of national interests in foreign markets. Trade Conflict Resolution at the multilateral level is an important element of the foreign economic strategy of states - members of the WTO, and particularly important for new entrants, which include Kazakhstan. WTO Dispute Settlement Body established the possibility of taking into account the positions of different countries and find a compromise solution, and every new dispute has an impact on the further formation of the WTO case-law practice.

The very concept of food security includes issues as an integral part of the environment and protection of animals. Of particular note in this regard requires the consideration of the international trade of food products derived through new technologies (mainly genetic engineering), and arising in this connection, the contradictions between the states - members of the WTO [7].

Since the 90-ies the last century, the production and circulation of genetically modified products (hereinafter - GMO) is becoming increasingly important in world trade. At this point, scientists can not state unequivocally on GMO safety in the long term. In turn, the poor kinds of agricultural practices or in the field of food production may contribute to the potential risks with regard to the impact on human health or endanger the safety of food products. In the food and agricultural sector, such potential risks are the risks to human health associated with the consumption of food or exposure to agricultural products; impact on the lives and health of plants and / or animals; impact on the environment, such as the potentially harmful effects on the conservation and sustainable use of biodiversity, including genetic resources for food and agriculture [9,6].

However, at present there is no single approach GMO regulation at the international level. The legislation states varies considerably, depending on the principles on which it is based. Countries such as the USA, Canada, Brazil, adhere to the "substantial equivalence" principle, under which genetically modified food can be considered as safe as conventional food products in the event that their main toxicological and nutritional components are comparable with components traditional foods, and further provided that itself genetic modification recognized as safe [2,3,11,]. Evaluated not the level of safety of new food products as such, but its change in comparison with traditional food counterparts, have a long history of safe use. This principle is widely used by both national and international agencies - the Agency of Canada's food control, the Ministry of Health and Welfare of Japan's population, the Office for sanitary inspection by the Food and Drug Administration, as well as FAO, WHO and OECD.

Due to the lack of accurate scientific data on the harmful effects of GMOs, as opposed to the principle of "substantial equivalence" I have formed the legal concept of the precautionary approach, which got its spread in Europe [8].

The SPS Agreement applies directly to all sanitary and phytosanitary measures that may directly or indirectly have a negative impact on international trade (clause in contract 1.1 of the SPS Agreement). The SPS Agreement applies in the case of risks arising from additives, contaminants, toxins or disease-causing organisms in foods, but it is unclear whether the potential risks associated with GMOs fall under one of these categories. If the SPS Agreement applies, that of the regulation in respect of GMO products must comply with the provisions of the Agreement, in particular with regard to scientifically validated risk assessment and least trade restrictive measures [1,10,6].

Life or health of humans, animals or plants, provided that such measures are not inconsistent with the provisions of the SPS. foods. 268 They also accused the countries - EU members that are introduced bans on the sale and import of biotech products that have already been approved at EU level. They argued that these measures are inconsistent with the provisions of the Agreement on the Application of Sanitary and Phytosanitary Measures and other WTO agreements in connection with the fact that the purpose of introducing de - facto moratorium in force since 1999, was hidden protectionism, rather than fear of possible harm to the health of consumers and environment [9,4].

The panel examined three groups of measures taken by the EU in respect of biotechnological products: 1) the so-called total actual EU moratorium on the issuance of permits for the sale of products containing GMOs; 2) some "measures for specific products", i.e the EU refusal to grant permission to a few specific products containing GMOs.; 3) the number of individual countries' security measures - the EU Member States [9,5].

Conclusion

Questions to ensure food safety can be attributed to the competence of WTO bodies such as the Committee on Technical Barriers to Trade and the Committee on Sanitary and Phytosanitary Measures arising disputes shall be referred to the Dispute Settlement Body. The SPS Committee has three main functions. Firstly, it acts as a forum for the expression of concerns specific headings ('specific trade concerns'). Second, it established a procedure for monitoring the harmonization in the framework of related organizations that develop standards in this area. B - Third, the Committee develops standards established by the SPS Agreement.

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