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## **EC Drops the Ball on WTO Biotech Ruling** **Decision Not to Appeal Lets Stand WTO Ruling to Override UN Treaty**

Minneapolis/Geneva—The European Communities (EC) elected today not to appeal a World Trade Organization (WTO) dispute panel decision on regulating genetically engineered (GE) crops brought by the U.S., Canada, and Argentina. The decision not to appeal leaves intact a controversial ruling that a United Nations environmental treaty did not apply in regulating GE crops, according to the Institute for Agriculture and Trade Policy (IATP).

“The EU’s unfortunate decision could be used to undercut international environmental treaties across the board,” said Steve Suppan, an IATP senior policy analyst and author of a backgrounder in the case. “The decision says that WTO members cannot keep their commitments to multilateral environmental agreements [MEAs] if measures to do so are challenged under WTO rules. The ruling sets a terrible legal precedent that will be used to attack regulations that comply with MEA commitments.”

In the WTO dispute, the EC defended its regulatory system before the WTO by referring to the UN’s Cartagena Protocol on Biosafety, a ratified treaty that authorizes signatories to take a precautionary approach to regulating GE crops when there is scientific uncertainty or insufficient data about a product. Over 130 countries around the world have signed onto the Biosafety Protocol, but the U.S. is not one of them. The WTO panel ruled that because the U.S., Argentina and Canada have not ratified the Protocol, the EC could not use a Protocol based defense.

“Only a diplomatic conference could reconcile commitments to divergent international treaties,” said Suppan. “By declining to appeal, the EC has allowed a very bad precedent to become a foundation for ruling on disputes about trade vs. MEA conflicts, for example, disputes about the regulation of synthetic biology or agri-nanotechnology products.”

Europe utilizes the “precautionary principle” to regulate not only GE crops, but also toxic chemicals as part of their recently approved REACH system. The WTO panel ruled that the precautionary principle is too controversial and unsettled in international public law to serve as a basis for panel rulings.

The U.S., Argentina and Canada brought the case against the EC’s regulatory system for “undue delay” in approving new GE crops. The EC has since modified its regulatory system and approved GE crops. EC officials argue these modifications already make the EC compliant with the Biotech Products ruling. U.S. officials dispute that conclusion and may launch another dispute to challenge EC rules that require labeling and traceability of GE crops and foods. European consumers are overwhelmingly opposed to GE crops. IATP supports labeling of approved GE foods and moratoria against commercialization of GE crops such as wheat that have been rejected by farmers, food processors and consumers.

IATP has written a backgrounder and analysis of the case, available at: [www.tradeobservatory.org](http://www.tradeobservatory.org).

*The Institute for Agriculture and Trade Policy works globally to promote resilient family farms, communities and ecosystems through research and education, science and technology, and advocacy.*