
MASARYK UNIVERSITY
**FACULTY OF LAW**

PŘEDNÁŠKA Č. 3

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# DOHODA O ZEMĚDĚLSTVÍ

- ZÁSADNĚ PROBLÉMOVÁ OBLAST – JEN NA VYMEZENÉ VÝROBKY
- TARIFF ONLY REGIM – VŠECHNY PŘEKÁŽKY PŘEVÉZT NA CELNÍ SAZBY

- **TŘI OKRUHY PROBLÉMŮ:**
- - PŘÍSTUP NA TRH
- - DOMÁCÍ PODPORY
- - VÝVOZNÍ PODPORY

# PŘÍKLAD

- EC — Seal Products I
- Complainant: Norway
- Respondent: European Communities
- Agreements cited:
  Agriculture: Art. 4.2
  Technical Barriers to Trade (TBT): Art. 5, 6, 7.1, 7.4, 7.5, 9.2, 9.3, 2.1, 2.2
  GATT 1994: Art. I:1, III:4, XI:1Request for Consultations received: 5 November 2009

# PŘÍKLAD

- On 5 November 2009, Norway requested consultations with the European Communities concerning Regulation (EC) No. 1007/2009 of the European Parliament and of the EC Council of 16 September 2009 on trade in seal products, and subsequent related measures (the "EC seal regime"). According to Norway, the EC seal regime prohibits the importation and sale of processed and unprocessed seal products, while containing certain exceptions that afford privileged access to the EU market to seal products originating in the EC and certain third countries, but not Norway.

- Norway claims that the above measures are inconsistent with the obligations of the European Communities under Article 4.2 of the Agriculture Agreement; Article 2.1 and 2.2 of the TBT Agreement; and Articles I:1, III:4 and XI:1 of the GATT 1994.

# DOHODA O UPLATŇOVÁNÍ SANITÁRNÍCH A FYTOSANITÁRNÍCH OPATŘENÍ

- SNAHA O VYROVNÁNÍ ZÁJMŮ NA OCHRANĚ LIDSKÉHO A ZVÍŘECÍHO ZDRAVÍ NA JEDNÉ STRANĚ, A LIBERALIZACÍ MEZINÁRODNÍHO OBCHODU NA STRANĚ DRUHÉ

# PŘÍKLAD

- Short title: US — Clove Cigarettes
- Complainant: Indonesia
- Respondent: United StatesThird Parties: Brazil; Colombia; Dominican Republic; European Union; Guatemala; Mexico; Norway; Turkey
- Agreements cited:
  ( Sanitary and Phytosanitary Measures (SPS): Art. 3, 5, 7, 2Technical Barriers to Trade (TBT): Art. 2, 12, 2.1, 2.2, 2.3, 2.5, 2.8, 2.9, 2.10, 2.12
  GATT 1994: Art. XXIII:1(a), III:4, XXRequest for Consultations received: 7 April 2010

# PŘÍKLAD

- On 7 April 2010, Indonesia requested consultations with the United States with respect to a provision of the Family Smoking Prevention Tobacco Control Act of 2009 that bans clove cigarettes. Indonesia alleged that Section 907, which was signed into law on 22 June 2009, prohibits, among other things, the production or sale in the United States of cigarettes containing certain additives, including clove, but would continue to permit the production and sale of other cigarettes, including cigarettes containing menthol. Indonesia alleged that Section 907 is inconsistent, inter alia, with Article III:4 of the GATT 1994, Article 2 of the TBT Agreement, and various provisions of the SPS Agreement.

# DOHODA O TECHNICKÝCH PŘEKÁŽKÁCH OBCHODU

- „Cílem dohody je zajistit, aby technické předpisy, standardy, testování a udělování certifikátů nezpůsobovaly zbytečné překážky mezinárodního obchodu.“

# PŘÍKLAD

- EC — Poultry (US)
- Complainant: United States
- Respondent: European CommunitiesThird Parties:
  Agreements cited: Sanitary and Phytosanitary Measures (SPS): Annex C, Art. 5, 8, 2.2
  Agriculture: Art. 4.2
  Technical Barriers to Trade (TBT): Art. 2
  GATT 1994: Art. X:1, XI:1Request for Consultations received: 16 January 2009

# PŘÍKLAD

- The United States notes that the EC prohibits the import of poultry treated with any substance other than water unless that substance has been approved by the EC. Consequently, the EC prohibits the import of poultry that has been processed with chemical treatments ("pathogen reduction treatments" or "PRTs") designed to reduce the amount of microbes on the meat, effectively prohibiting the shipment of virtually all US poultry to the EC. The EC has not published or otherwise made available the process for approving a substance. The EC also maintains a measure regarding the marketing standards for poultry meat, which defines "poultry meat" as only "poultry meat suitable for human consumption, which has not undergone any treatment other than cold treatment."

# DOHODA O TEXTILU A OŠACENÍ

- NENÍ V PLATNOSTI
- NELZE POUŽÍVAT KVÓTY, JEN TARIFNÍ SAZBY
- VÝJIMKY – VIZ BĚŽNÝ REŽIM GATT

# DOHODA O OBCHODNÍCH ASPEKTECH INVESTIČNÍCH OPATŘENÍ

- ZÁKAZ TZV. TRIMS

- OVLIVNĚNÍ DALŠÍCH OTÁZEK V MEZINÁRODNÍM OBCHODU – INVESTIC, DVOJÍHO ZDANĚNÍ

# PŘÍKLAD

- European Union
- Respondent: Canada
- Agreements cited:
  (as cited in request for consultations) Subsidies and Countervailing Measures: Art. 3.1(b), 3.2, 1.1
  Trade-Related Investment Measures (TRIMs): Art. 2.1
  GATT 1994: Art. III:4

# PŘÍKLAD

- The European Union claimed that the measures are inconsistent with Canada's obligations under Article III:4 and III:5 of the GATT 1994 because they appear to be laws, regulations or requirements affecting the internal sale, offering for sale, purchase, transportation, distribution, or use of equipment for renewable energy generation facilities that accord less favourable treatment to imported equipment than that accorded to like products originating in Ontario; that the measures could be internal quantitative regulations relating to the mixture, processing or use of a specified amount or proportion of equipment for renewable energy generation facilities which require that equipment for renewable energy generation facilities be supplied from Ontario sources; and that the measures appear to require the mixture, processing or use of equipment for renewable energy generation facilities supplied from Ontario in specified amounts or proportions, being applied so as to afford protection to Ontario production of such equipment, contrary to the principles of Article III:1 of the GATT 1994.

# DOHODA O PROVÁDĚNÍ ČLÁNKU VI GATT

- DUMPING V. ANTIDUMPING
- ANTIDUMPINGOVÉ CLO

# PŘÍKLAD

- United States
- Respondent: China
- Agreements cited:
  Subsidies and Countervailing Measures: Art. 10, 11.1, 12.3, 12.4.1, 12.7, 12.8, 15.1, 15.2, 15.4, 15.5, 16.1, 19.4, 22.3, 22.4, 22.5

- Anti-dumping (Article VI of GATT 1994): Art. 1, Annex II, 3.1, 3.2, 3.4, 3.5, 4.1, 5.1, 6.2, 6.4, 6.5.1, 6.8, 6.9, 12.2, 12.2.1, 12.2.2, 2.2, 2.2.1.1
  GATT 1994: Art. VI, VI:3

# PŘÍKLAD

- The United States claimed that the measures appear to be inconsistent with various provisions of the Anti-Dumping Agreement related to the process of the anti-dumping investigation as well as the anti-dumping duty determination at issue (including improper dumping and injury determination, improper reliance on the facts available, failure to provide access to relevant information, insufficient explanation of the basis for the determinations, absence of proper analysis of the effects of imports under investigation, and absence of objective determination of causality).

- The United States alleges violations of Articles 1, 2.2, 3.1, 3.2, 3.4, 3.5, 4.1, 5.1, 6.2, 6.4, 6.5, 6.8, 6.9, and 12.2 of the Anti-Dumping Agreement.

# DOHODA O PROVÁDĚNÍ ČLÁNKU VII GATT

- **CELNÍ HODNOTA ZBOŽÍ**

- **DOVOLENÉ METODY**
- metoda převodní (transakční) hodnoty čl. 1 a 8 dohody,
- metoda převodní hodnoty stejného zboží čl. 2 dohody,
- metoda převodní hodnoty podobného zboží čl. 3 dohody,
- deduktivní metoda čl. 5 dohody,
- metoda vypočtené hodnota čl. 6 dohody,
- *fall back* metoda čl. 7 dohody odkazující na čl. VII GATT 1994.

# DOHODA O KONTROLE PŘED ODESLÁNÍM

- ZABRÁNĚNÍ NETRANSPARENTNÍCH, DISKRIMINAČNÍCH PRAKTIK

# PŘÍKLAD

- DOPOSUD ŽÁDNÝ PŘÍPAD

# DOHODA ODOVOZNÍM LICENČNÍM ŘÍZENÍ

- automatické dovozní licence. Ty jsou bez dalšího vydávány na základě splnění požadavků stanovených dohodou. Upravuje je čl. 2.

- neautomatické dovozní licence. U neautomatických licencí jsou čl. 3 Dohody zmírněny administrativní požadavky na žadatele. Je zde navíc zakotvena zásada nediskriminace mezi žadateli a stanoveno období pro vyřizování žádostí na max. 30 (či 60) dní.

# PŘÍKLAD

- Short title: Turkey — Rice
- Complainant: United States
- Respondent: Turkey
- Third Parties: Argentina; Australia; China; Egypt; European Union; Korea, Republic of; Pakistan; Thailand
- Agreements cited:
  Import Licensing: Art. 3.2, 3.3, 3.5(a), 3.5(b), 3.5(d), 3.5(e), 3.5(f), 3.5(g), 3.5(h), 3.5(k), 1.2, 5.1, 5.2, 5.3, 5.4, 1.3, 1.4, 1.5, 1.6
  Agriculture: Art. 4.2
  Trade-Related Investment Measures (TRIMs): Annex 1, Art. 2.1
  GATT 1994: Art. X:3(a), III, III:4, X:1, X:2, XI:1

# PŘÍKLAD

- On 2 November 2005, the United States requested consultations with Turkey concerning the latter's import restrictions on rice from the United States. According to the request, Turkey requires an import license to import rice but fails to grant such licenses to import rice at Turkey's bound rate of duty. According to the request, Turkey also operates a tariff-rate quota for rice imports requiring that, in order to import specified quantities of rice at reduced tariff levels, importers must purchase specified quantities of domestic rice, including from the Turkish Grain Board (TMO), Turkish producers, or producer associations ("the domestic purchase requirement").

# DOHODA O OCHRANNÝCH OPATŘENÍCH

- NOUZOVÁ OPATŘENÍ PŘI DOVOZU
- DETAILNÍ ÚPRAVA ČLÁNKU XIX GATT
- DEFINICE PORUŠENÍ PRAVIDEL MO
- UVALENÍ OCHRANNÝCH OPATŘENÍ

# PŘÍKLAD

- Short title: Dominican Republic — Safeguard Measures
- Complainant: El SalvadorRespondent: Dominican Republic
- Third Parties: China; Colombia; Costa Rica; European Union; Guatemala; Honduras; Nicaragua; Panama; Turkey; United StatesAgreements cited:
  (as cited in request for consultations) Safeguards:
  Art. 3.1, 3.2, 4.1, 4.1(a), 4.1(b), 4.1(c), 4.2, 4.2(a), 4.2(b), 4.2(c), 5.1, 6, 8.1, 9.1, 11.1(a), 12.3, 13.3, 2.1, 2.2
  Dispute Settlement Understanding: Art. 4
  GATT 1994: Art. II:1, XIX:1, XIX:2

# PŘÍKLAD

- On 19 October 2010, El Salvador requested consultations with the Dominican Republic concerning the provisional and definitive safeguard measures imposed by the Dominican Republic on imports of polypropylene bags and tubular fabric and the investigation that led to the imposition of those measures. The products at issue are classified under subheadings 5407.20.20, 6305.33.10 and 6305.33.90 of the Dominican Republic General Tariff.
- El Salvador is concerned about certain aspects of the safeguard measures and the underlying investigation. In particular, El Salvador alleges that these measures appear to be inconsistent with Articles 2.1, 2.2, 3.1, 3.2, 4.1(a), 4.1(c), 4.2(a), 4.2(b), 4.2(c), 5.1, 6, 9.1, 11.1(a) and 12.3 of the Agreement on Safeguards, and Article XIX:1(a) of the GATT 1994.

# DOHODA O SUBVENCÍCH A VYROVNÁVACÍCH OPATŘENÍ

- ČLÁNEK VI GATT – MOŽNOST PŘIJMOUT VYROVNÁVACÍ CLA
- UPRAVA REŽIMU V OBLASTI
- UPRAVA CHOVÁNÍ STÁTU
- DEFINICE
- DĚLENÍ SUBVENCÍ
- PROCESNÍ PRAVIDLA

# PŘÍKLAD – WIND POWER EQUIPMENT

- Complainant: United States
- Respondent: China
- ¨Third Parties:
- Agreements cited:
  (as cited in request for consultations) Subsidies and Countervailing Measures: Art. 3, 25.1, 25.2, 25.3, 25.4
  Protocol of Accession: Part I, para. 1.2
  GATT 1994: Art. XVI:1

# PŘÍKLAD

- The United States indicated that the measures appear to provide grants, funds, or awards that are contingent on the use of domestic over imported goods and, consequently, they appear to be inconsistent with Article 3 of the SCM Agreement.
- In addition, the Untied States considered that, as China has not notified these measures, it appears to have failed to comply with Article XVI:1 of the GATT 1994 and Article 25.1, 25.2, 25.3 and 25.4 of the SCM Agreement. The United States also alleged that, as China has not made available a translation of these measures into one or more of the official languages of the WTO, it also appears to have failed to comply with its obligation under Part I, Paragraph 1.2, of its Protocol of Accession (to the extent that it incorporates paragraph 334 of the Report of the Working Party on the Accession of China).

# DOHODA O PRAVIDLECH O PŮVODU

- - NEPROBLÉMOVÉ V. PROBLÉMOVÉ OTÁZKY
- VLIV GLOBALIZACE
- ZÁKLADNÍ VÝZNAM PRO DUMPING. VYROVNÁVACÍ CLA, OCHRANNÁ OPATŘENÍ
- PRAVIDLO POSLEDNÍHO PODSTATNÉHO ZPRACOVÁNÍ, PRAVIDLO ZMĚNY CELNÍHO ZAŘAZENÍ, …..
- ZÁKLADNÍ PRAVIDLO: ZEMĚ, KDE BYLO ZBOŽÍ ZCELA ZÍSKÁNO

# PŘÍKLAD

- US — COOL
- Complainant: Mexico
- Respondent: United States
- Third Parties: Argentina; Australia; Brazil; Canada; China; Colombia; European Union; Guatemala; India; ; Korea, Republic of; New Zealand; Peru; Chinese Taipei
- Agreements cited: Rules of Origin: Art. 2
  Sanitary and Phytosanitary Measures (SPS): Art. 5, 7, 2, Technical Barriers to Trade (TBT): Art. 2, 12
  GATT 1994: Art. III, IX, X

# PŘÍKLAD

- On 17 December 2008, Mexico requested consultations with the United States concerning the mandatory country of origin labelling (COOL) provisions in the Agricultural Marketing Act of 1946, as amended by the Farm, Security and Rural Investment Act of 2002 and the Food, Conservation and Energy Act of 2008, and as implemented through the regulations published as 7 CFR Parts 60 and 65.

- According to Mexico, in the case of certain products, the determination of their nationality deviates considerably from international country of origin labelling standards, a situation which has not been justified as necessary to fulfil a legitimate objective.


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# DĚKUJI ZA POZORNOST

DALŠÍ PŘÍKLADY V ELEKTRONICKÉ OSNOVĚ.