

Dissertation for the Degree of
MSc in Management Research

The governance of biotechnology at the
World Trade Organization:
A cultural theory framework

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Abstract

The current dispute in front of the World Trade Organization (WTO), between the United States (US) and the European Communities (EC)¹ over *Measures Affecting the Approval and Marketing of Biotech Products (EC – Biotech Products)*, provides a valuable opportunity to address the role of the WTO in governing biotechnology. The United States has chosen to bring the issue before the WTO, addressing it only in terms of trade agreements based on scientific risk analysis. The European Communities, however, sees the issue as one about social and environmental concerns rather than just trade concerns. There is a great deal of evidence to suggest that this dispute is representative of a much broader cultural debate between competing rational viewpoints. By employing a cultural theory framework, I address the adequacy of the WTO forum for carrying out this broader debate. Cultural theory posits that there are a limited number of types of discourse that can be present in a debate, and that the most robust outcome from a debate comes when all of the types are fully represented. My analysis of the dispute over *EC – Biotech Products* provides evidence that there are two dominant discourses, represented by the US, the EC, and one marginalised discourse represented by the authors of an *amicus curiae*, present to some degree in the dispute over biotech products. I then argue that the WTO, in making a decision on the dispute over *EC – Biotech Products*, is also acting as an arbiter in the broader cultural debate. The role of an arbiter requires it to fully take into account each discourse's standpoint, and it is not clear that the WTO can.

¹ To minimise confusion, I will always refer to the European Union by the title it uses in WTO proceedings, the 'European Communities', which is a term that still takes the singular case.

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At the end of the day, though, I was the one who sat down and wrote this paper. It is therefore, quirks and all, my own work.

Section One: Introduction

In this paper, I address the role of social organisation and discourse in the dispute at the World Trade Organization (WTO) over *Measures Affecting the Approval and Marketing of Biotech Products*. My intent is two-fold. First, I provide an understanding of how the dispute can be seen as part of a broader cultural debate between different sets of social commitments. Second, I address the ability of current governance mechanisms at the WTO (i.e. the Dispute Settlement Body and applicable agreements) to accommodate this broader debate.

Social organisation and discourse is complex. Much of social theory, however, attempts to simplify social life into dichotomies. These dichotomies, however, are inadequate to capture the richness of the multiple ways of life. Current research in social science has developed an alternative theory based on plural rationalities. The shift from a dualistic framework for analysis to a pluralistic framework is at the heart of this paper.

The complexity of social life is particularly evident in disputes over science and technology, and there have been a number of theoretical developments aimed at analysing and addressing this complexity. One such development that has proved useful in addressing issues such as climate change and nuclear policy is cultural theory (Gross & Rayner, 1985; Rayner & Malone, 1998). In this paper, I will apply a cultural theory framework to analyse the dispute over agricultural biotechnology.² In particular, I will provide evidence to suggest that there are at least three different

² While the title of the WTO dispute is *EC – Biotech Products*, the dispute only concerns agricultural biotechnology. I use the terms biotechnology and agricultural biotechnology interchangeably.

types of discourse that need to be accounted for in deciding the issue of trade in biotechnology products that is currently at the WTO. The WTO's Dispute Settlement Body, in deciding how to rule on this issue, would benefit from taking each of these different discourses fully into account. The Dispute Settlement Body has a paradox in this dispute, between opening up to non-scientific concerns and still having an objective basis from which to judge disputes.

By applying a cultural theory framework to the agricultural biotechnology debate, I provide another test-bed for its applicability to real world situations.

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