

Brussels, 10 January 2007
CAB24/PM/RN/mvd1 D(07) 31

Caroline Lucas MEP
European Parliament
Office 8G103
Rue Wiertz
1047 Brussels

Dear Caroline,

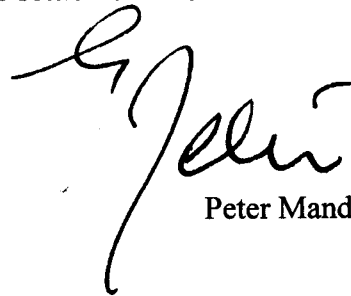
Thank you for your letter of 1 December 2006 concerning the adoption without appeal of the report of the WTO panel in the case "EC – Biotech" and the subsequent adoption of this report by the Dispute Settlement Body (DSB) on 21 November 2006.

The Commission agrees that there are certain errors in the legal arguments made by the Panel. Nevertheless, the WTO report, which focused only on the implementation of Community legislation, has limited implications for the Community at present. With the exception of the national safeguard measures, the report rejected all the substantive claims made by the complainants and made only findings related to procedural obligations. It is important to note that the national safeguard measures need to be addressed under the Community regulatory regime in any event.

The panel's findings do not call into question the right of WTO Members to regulate (and even restrict or prohibit, if justified on a scientific basis), GMOs as or in a product on their territory. The dispute was exclusively about the implementation of the Community legislation on GMOs and did not reach any conclusions on how GM products are regulated in the EU. Therefore the report has no effect on the right of the European Union to determine its own environmental and health standards. Moreover the report should not have adverse consequences on those developing countries wishing to regulate GMOs with strict rules similar to those of the Community. The Commission will make the necessary to clearly communicate this message to these countries.

With respect to the interpretation of the role of Multilateral Environmental Agreements (MEAs) and the precautionary principle enshrined therein in defining the obligations of WTO members, it is worth noting that earlier Appellate Body rulings have clarified that the WTO agreements cannot be interpreted in "clinical isolation" from the rest of international law. Furthermore, the Panel has not excluded that MEAs might be relevant in the interpretation of the WTO obligations of Members that are also parties to those MEAs. Finally, regarding the precautionary principle, the Panel limits its findings to noting that there is still no international consensus on the legal status of the precautionary principle (i.e. whether this principle is of general customary international law) and avoids taking any position in this respect. The application of the precautionary principle by the European Union, in line with the Commission Communication on the precautionary principle¹, remains therefore unchallenged.

I would like to note that the Community will still have the opportunity to make its views on these issues prevail in the context of other dispute settlement cases.



Peter Mandelson

¹ COM(2000) 1, 02.02.2000