

Legal memorandum

Law



Legal Case Study " Memorandum" of the al Affiliation IV SUMMARY OF FACTS Forestland is a member of WTO and produces 50% of the world's ForestFuel. Ecoland, another member of WTO, produces nearly 80% of the world's RecycloFuel. By chemical description, both RecycloFuel and ForestFuel are monoalkyl ester biofuels. When burnt they give off less than 50% less emissions as compared to gasoline. There are ten other states that produce ForestFuel but only one state (EnviroLand) produces RecycloFuel. Both countries, that is, Ecoland and Forestland exports fuel to each other. In terms of price, ForestFuel is cheaper when compared to RecycloFuel in all markets (Prezi, 2015).

2. Forestland and Ecoland is both signatory of GWA that requires reduction in carbon emissions. The two states have devised measures to deal with the issue. Forestland have built on dams and Ecoland have introduced ECTR, patent and labeling regulations.

3. ECTR levy tax depending on the level of carbon emissions with the higher the carbon the higher the tax. ECTR classify RecycloFuel as carbon-neutral manner („ BCNs"), while ForestFuel as non-carbon-neutral manner (BCs") on the grounds that forest fuel powered by hydroelectricity emits carbon emission. Nevertheless, there is no conclusive evidence that this is true (Prezi, 2015).

4. Eco-labeling mandates the labeling of the products depending on the fuel used. Products made from RecycloFuel are labeled using a " happy marmot" label, product made from ForestFuel have " unhappy marmot" label and products made from fossil fuels have " furry marmot unfriendly"

5. Section 66. 6 requires no patent to inventions directed in prevention of commercial exploitation in which it is necessary to protect the public or
<https://assignbuster.com/legal-memorandum/>

morality comprising of animal and plant life or health, humans or to avoid grave consequences on the environment.

6. Ecoland in this case wish to protect, a special species, marmot that helps in distribution of Ecolandian Fir tree, the main source of biofuel. The climate has changed in the last five years with a drop in ski slopes and global warming that has consequently saw a reduction in Fir trees. In this effort, Ecoland is trying to have eco-label to protect the environment.

Summary of Arguments

Claim 3: The Labelling Regulation

The Labelling Regulation is inconsistent with TBT Art 2. 1

Labelling regulation enacted by Ecoland falls under technical barrier of Trade regulation

ForestFuel and RecycloFuel are like product and there is no valid distinction.

While labeling ForestFuel products are treated less favorably (WTO, 2015).

The Labelling Regulation is inconsistent with TBT Art 2. 2

The marmot labeling is rather trade-restrictive than necessary to justify Ecoland's legitimate goal of cutting down on carbon emissions to save the environment.

The Labelling Regulation is inconsistent with TBT Art 2. 4

ISO 14020 international standard in the Labelling Regulation requires 5 principles of a life-cycle assessment. The criterion was not used as the basis for the Ecoland eco-labeling (WTO, 2015).

Identification of the WTO Measures at Issue

The Labelling Regulation of products under the Ecoland Protection Act that requires products to be labeled depending on the type of fuel used in their production.

<https://assignbuster.com/legal-memorandum/>

Legal Pleadings

Interpretation and Applicable Law

The panel has the powers to decide on this case pursuant to DSU Arts 1. 1, 7. 1 and 7. 2 and more importantly resolve the imminent dispute by applying set laws in WTO agreement (WTO, 2015).

Regulation under the Ecoland Protection Act

The Labelling Regulation is Inconsistent with TBT

Previous cases

Cf GPR, Thailand—Cigarettes, [73];

The Indonesia government brought the case forward to the panel in respect to clove cigarette labeling regulations. US in this case had prohibited production and sales of cigarette with cloves. The panel ruled out that the aimed at improving public health to smokers.

ABR, EC—Asbestos,

Canada and Mexico brought a case the TBT panel in regard to the action of US on labeling regulation. The US had listed the products from Canada and Mexico under COOL which is saw reduction in sales of agricultural products from these two countries.

The Labelling Regulation is a ‘ technical regulation’ under TBT

The Labelling as done by Ecoland is mandatory to all manufactured goods.

Therefore, it is a technical regulation. Nevertheless, the labeling does not fall under TBT since it is based on the choice of fuel which cannot be distinguished in the end product.

The Labelling Regulation is inconsistent with TBT Art 2. 1

Article 2. 1 deals with MFN principles and National Treatment. Though the provision is not examined, GATT Article I and III case laws are pertinent. The

<https://assignbuster.com/legal-memorandum/>

result is given weight by TBT Preamble. TBT furthers the goals of GATT.

The Labelling Regulation is inconsistent with TBT Art 2. 2

While the labeling done by Ecoland may pursue a legitimate goal of protecting the environment, it creates unnecessary impediments to international trade. It is rather trade-restrictive (WTO, 2015).

The Labelling Regulation is inconsistent with TBT Art 2. 4

ISO 14020 is pertinent to the Labelling Regulation. From the evidence tabled, ISO

14020 5 principles on 5 life-cycle assessment of a product was not used as the basis for labeling regulation.

Bibliography

Prezi. (2015, April 23). Case on the Negotiation: Ecoland and Forestland by daniel . Retrieved April 25, 2015, from Prezi: <https://prezi.com/wu7yx3jdgfnv/case-on-the-negotiation-ecoland-and-forestland/>

Prezi. (2015, April 23). ECOLABELING Case. Retrieved April 25, 2015, from Prezi: <https://prezi.com/8xvo18a4twb5/ecolabeling-case/>

Prezi. (2015, April 23). ECOLABELING Case. Retrieved April 25, 2015, from Prezi: <https://prezi.com/8xvo18a4twb5/ecolabeling-case/>

WTO. (2015, April 24). Agreement on Technical Barriers to Trade. Retrieved April 25, 2015, from World Trade Organization : https://www.wto.org/english/res_e/booksp_e/analytic_index_e/tbt_01_e.htm