GATT/WTO A EVROPSKÝ SOUDNÍ DVŮR

GATT/WTO AND THE EUROPEAN COURT OF JUSTICE

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Abstrakt

Tento příspěvek se zabývá vývojem judikatury Evropského soudního dvora ve vztahu k právu Světové obchodní organizace. Už od 70. let 20. století zastává negativní názor na přímý účinek či dovolatelnost Všeobecné dohody o obchodu a clech, a to jak ze strany jednotlivců, tak ze strany členských států Evropské unie. Stejné stanovisko zaujal i k právu WTO, včetně dohody TRIPS. V poslední době se ale jako možnost jeví odpovědnost Evropské unie za nerespektování rozhodnutí Orgánu pro řešení sporů WTO.

Klíčová slova

Právo Světové obchodní organizace, právo Evropských společenství, přímý účinek práva WTO, GATT, dovolatelnost, přímý účinek mezinárodních smluv, Evropský soudní dvůr, neslučitelnost s právem WTO

Abstract

This contribution deals with the evolution of the ECJ´s case law on a relation between WTO law and Community law. Since 1970s the ECJ constantly refuses the direct effect of the General Agreement on Tariffs and Trade, as well as its invocability by both the individuals and the Member states of the European Union. The ECJ holds the same view towards the WTO law, including TRIPS Agreement. Nevertheless, recently a non-contractual liability of the EC for non-implementation of the Dispute Settlement Body’s decisions seems to be a possibility for the individuals to invoke the WTO law.

Key words
World Trade Organization law, Law of the European Communities, direct effect of the WTO law, GATT, invocability, direct effect of international treaties, European Court of Justice, incompatibility with the WTO law

The European Court's Treatment of the GATT

In the European Union, the doctrine of direct effect has been established by the European Court of Justice (the "ECJ") in cases concerning the application of Community law before national courts. The ECJ has ruled on this matter for the first time in the case ***Van Gend en Loos***[1], where it also determined general criteria for an application of the direct effect doctrine.

In following years the ECJ considered a question of direct effect of international treaties in European Communities (the "EC") legal order.

This question has been considered for the first time in ***International Fruit***[2]case**,** where a possible direct effect of the GATT[3] has been analyzed. It is important to emphasize that in those times the EC was not a GATT contracting party, nevertheless as the Common trade policy falls within exclusive competence of the EC, the international obligations of the Member States are considered to be obligations of the EC. In *International Fruit*, the Netherlands denied import certificates for apples from a non- Member States on the basis of Council regulations aimed at protecting the markets of Community apple producers. The importer challenged the denial and the regulations before the Dutch court for their conflict with Article XI of the GATT. In order to succeed, the importer had to show that the Article XI of the GATT was directly effective, creating rights that the individuals can enforce before the Community courts.

The ECJ ruled that the individual can invoke the invalidity of the EC act in light of an international treaty binding upon the EC, only if the treaty provisions confer these rights on the individuals. Without ever looking at the language of Article XI of the GATT, the ECJ first

[1] Case 26/62, N.V. Algemene Transport – en Expeditie Onderneming Van Gend en Loos v. Nederlandse Administratie den Belastingen, 1963 E.C.R. 1, (1963) 2 CMLR 105
[2] Joined cases 21 to 24/72, International Fruit Co. NV v. Produktscha voor Goenten en Fruit, 1972 E.C.R. 1219 (1975) 2 CMLR 1
[3] General Agreement on Tariffs and Trade

considered the "spirit, the general scheme and the terms of the General Agreement"[4]. Eventually, the ECJ took the view that by reason of great flexibility of its provisions[5] the Article XI of the GATT is not capable of conferring on the citizens of the Community rights which they can invoke before the courts.

Exceptions

The ***Fédiol***[6] and ***Nakajima***[7] judgments have a very special position among the ECJ´s rulings on the direct effect doctrine. Although they deal with the GATT, not yet the WTO law, they represent exceptions to the general rule of no-direct effect of the GATT[8].

In *Fédiol* the Council regulation 2641/84 expressly confers on undertakings and individuals the right to lodge a complaint about the commercial practices of third countries that, in their view, are incompatible with the GATT. *Fédiol* thus addressed the Commission with a complaint. The Commission then has a duty to decide on whether these commercial practices are compatible with GATT and, if necessary, initiate proceedings by the Dispute Settlement Body ("DSB"). The complainant then has a right to ask the ECJ to review this evaluation by the Commission. While reviewing the Commission's decision, the ECJ interprets and applies the GATT. In other words, the regulation refers to the GATT and therefore the ECJ can apply it.

In *Nakajima* case the Japanese manufacturer of printers challenged the Council anti-dumping regulation under which an anti-dumping duty was assessed against its products. Nakajima filed an action under Article 241 of the EC Treaty, with an allegation that the Council regulation was in breach of Anti-dumping Code of the GATT.

The ECJ ruled that the regulation on question was adopted in order to comply with the international obligations of the Community, e.g. with the Anti-dumping Code of the GATT. Thus the ECJ interpreted the provisions of the Anti-dumping Code to find out whether the EC

[4] International Fruit, 1972 E.C.R., 1227
[5] in particular those conferring the possibility of derogation and unilateral exceptions
[6] Case 70/87, Fédération de l´industrie de l´huilerie de la CEE (Fediol) v Commission of the European Communities, 1989 E.C.R. 1781, (1991) 2 CMLR 489
[7] Case C-69/89, Nakajima All Precision Co. v. Council of the European Communities, 1991 E.C.R. I-2069
[8] The exception established in *Fédiol* is referred to as a "clear reference exception" and the *Nakajima* exception as a "transposition exception".

regulation was in conformity with the Code. Finding the regulation to be in conformity with its provisions, the ECJ dismissed the invalidity argument.

The Direct Effect of International Treaties other than GATT

Whereas the ECJ constantly holds a negative opinion on the direct effect of the GATT, it has many times acknowledged direct effect of other international treaty provisions[9].

The fundamental case concerning direct effect of international treaties in EC legal order is ***Kupferberg***[10]. The case deals with tax discrimination on import of port wine to Germany. In that time, Portugal was not a member state of the EC and trade relations with the EC were governed by a free trade agreement, which contained analogical provisions on prohibition of tax discrimination to those of the EC Treaty[11]. The importer of port wine challenged German tax measure as being in violation of Article 95 of the EC Treaty and Article 21(1) of the free trade agreement with Portugal. The ECJ held that Article 21(1) of the free trade agreement was directly effective. In a first phase the ECJ analyzed the agreement as a whole and held that the nature and the purpose of the agreement do not impede direct effect. The ECJ went on and in a second phase analyzed the particular provision on question. Here again the ECJ found that the provision is sufficiently precise and unconditional to have direct. Thus the claimant could invoke international agreement for a protection of its rights.

In Kupfenberg the ECJ used a method for determination of direct effect, which it uses till today. The main rules are as follows:

- Community law is monistic and open to international law. This principle is embodied in Article 300 (7) EC Treaty, which states that "Agreements concluded under the conditions set out in this Article shall be binding on the institutions of the Community and on Member States". The EC institutions as well as Member States must ensure compliance

[9] e.g. Case 87/75, *Bresciani v. Amministrazione Italiana delle Finanze*, 1976 E.C.R. 129, (1976) 2 CMLR 62. This case was the first one in which the ECJ found a provision of a trade agreement to be directly effective. In this case an importer of raw cowhides from Senegal challenged an Italian public health inspection duties imposed on imports on the grounds that they presented charges with equivalent effect to customs duties. Therefore these duties were allegedly in violation of Article 2(1) of the Yaoundé Convention. The ECJ held that the Yaoundé Convention confers on Community citizens rights, which the national courts must protect. The reason why the Court treated the Yaoundé Convention differently from the GATT was the fact that the Yaoundé Convention was negotiated and concluded under Article 300 of the EC Treaty (former Article 288), expressly refers to Article 13 of the EC Treaty and because of its precise language. Neither the imbalance of the obligations assumed by the Community, as apposed to those assumed by the ACP States, nor the inclusion of specific dispute settlement measures prevented direct effect.

[10] Case 104/81, Hauptzollamt Mainz v. C.A. Kupferberg & Cie. KG, 1982 E.C.R. 3641 (1983) 1 CMLR 1

[11] Rozehnalová, N., Týč, V.Vnější obchodní vztahy Evropské unie. Brno: Masarykova univerzita, 2006, s. 80-81

with the obligations arising from such agreements. That is why the free trade agreement with Portugal, concluded on the basis of Article 300 EC Treaty, forms an integral part of and is directly effective in the EC law.

- The criteria for recognizing direct effect of treaty provisions are roughly the equivalent to those for the direct effect of provisions of Community law: direct, precise, no further implementation necessary, unconditional.
- The rules of the international law for interpretation of text, context, object and purpose play a part in determining the direct effect.

In Kupferberg, the ECJ also rejected arguments against direct effect:

- *The relations between Community institutions*. The fact that the executive or the legislative has certain notions about direct effect[12] is of no importance. The international treaty itself can provide for its direct effect. If not, the Court must do it by interpretation.
- *Lack of reciprocity*. The ECJ rejected a reciprocal acknowledgement of direct effect in legal orders of its trading partners as a condition for direct effect of an international treaty in EC law. Each contracting party has an obligation of bona fide performance of an international agreement. The implementation of such treaty then depends on its constitutional system, either monistic or dualistic.
- *The existence of provisions on dispute settlement mechanism*. ECJ held that the mere existence of a special institutional framework for consultations and negotiations is not in itself sufficient to exclude the direct effect.

Judgments 20 years after International Fruit

The *International Fruit* judgment, although 30 years old, is still the basis of the ECJ ´s denial of direct effect of the GATT, and later of WTO[13]. Twenty years later in ***Germany v. Council***[14], the invalidity of an EC measure in light of the GATT was claimed by a Member State. In 1993 the Council adopted a regulation 404/93, establishing a common organization of the Community market in bananas. Germany[15] brought an action against the Council under Article 230 of the EC Treaty (former Article 173), seeking the declaration of invalidity of this regulation because of its incompatibility with GATT. Germany's arguments were not based on direct effect, but rather on the fact that compliance with GATT was a condition of the

[12] E.g. in France the ministry of Foreigh Affairs gives certifications to the courts on question of direct effect
[13] Rozehnalová, N., Týč, V.Vnější obchodní vztahy Evropské unie. Brno: Masarykova univerzita, 2006, s. 82
[14] Case C-280/93, Germany v. Council, 1994 E.C.R. I- 4973
[15] which had previously benefited from the regime in operation before the adoption of the regulation

lawfulness of Community acts. Nevertheless, the ECJ refused to divert form its previous judgments, even in the situation when claimed by the privileged claimant, the Member State. Equalizing the Member State with a non-privileged claimant, i.e. an individual, the ECJ simply repeated the International Fruit arguments that the GATT is not capable of being directly effective because of vagueness of its obligations, lack of reciprocity and considerable flexibility of dispute settlement mechanism which enables the loosing party to the dispute to not to subject itself to the decision of the DSB[16].

The European Court's Treatment of the WTO law

In 1995 the World Trade Organization, a much less flexible and much more legal system, was established. For these reasons many expected that the ECJ would change its position towards the WTO law.

The first case on the direct effect of the WTO law was ***Portugal v. Council***[17]. In this case Portugal filed an action under Article 230 of the EC Treaty, in which it contested the legality of agreements concluded with India and Pakistan concerning market access for textiles. Portugal requested that the Decisions of the Council on the conclusion of these agreements[18] be declared null and void because of their incompatibility with the WTO Agreement on Textiles and Clothing. The ECJ dismissed the claim and held that "in consideration of their nature and structure, the WTO Agreements are not in principle among the rules in the light of

[16] In 1990s, similarly to *Germany v. Council* case, the ECJ had more opportunities to rule on compatibility of the Community banana regime with the WTO law in ***Atlanta***[16], ***Cordis***[16], ***Bocchi Food***[16] and ***Port***[16] cases. The facts of these cases are very similar. The applicants were not satisfied with the annual quantity of bananas allocated to them following the adoption of Regulation No. 2362/98. They asked for compensation for the loss suffered as a result of the adoption of this regulation, which, according to them, was in violation of WTO law. These cases were heard by the Court of First Instance ("CFI"). Using the same arguments as in *Portugal v. Council*, the CFI rejected all of these claims. Nevertheless these judgments have been criticized by many scholars as a deviation of the Court as regards a wrong application of Nakajima doctrine. According to some of them, the Regulation No. 2362/98 in fact amended the regulation No. 404/93, which was the WTO panel in 1994 found to be in conflict with WTO law. The panel decision of 1997, which was confirmed by the Appellate Body decision, found the incompatibility of the Community banana regime with the WTO law again. The regulation No. 2362/98 was allegedly adopted in order to meet the international obligations, i.e. to implement the WTO obligations. That is why the Nakajima doctrine should have been applied. The Court should have upheld the applicants´ claims and review the legality of the EC regulation in the light of WTO law.
For details see e.g. Zonnekeyn, G.A. The Latest on Indirect Effect of WTO Law in the ES Legal Order The Nakajima Case Law Misjudged? Journal of International Economic Law, 2001; O´Neill, M. On the Boundary Clash between ES Commercial Law and the WTO Law. Legal Issues of the Economic Integration, 32/1, 2005; Peers, S. WTO dispute Settlement and Community Law. European Law Review, 26, 2001

[17] Case C-149/96, Portugal vs. Council, (1999) ECR I-8395. Details in Griller, S. Judicial Enforceability of WTO Law in the European Union, Annotation of Case C- 149/96, Portugal v. Council. Journal of International Economic Law, 2000

[18] Council Decision of 26 February 1996 concerning the conclusion of Memoranda of Understanding between the European Community and the Islamic Republic of Pakistan and between the European Community and the Republic of India on arrangements in the area of market access for textile products, 1996 OJ No. L 153

which the Court is to review the legality of measures adopted by the Community institutions"[19].

Three aspects of the ruling are important[20]:

1) Although the ECJ conceded that the WTO Agreements differ significantly from the provisions of the GATT 1947, it was reluctant to fundamentally change its jurisprudence on this subject. The ECJ stressed that the system accords considerable importance to negotiation between parties. The ECJ acknowledged that the first aim of the DSU[21] is the withdrawal of the measure inconsistent with the WTO law, and that compensation should be resorted to only if the immediate withdrawal of the measure is impracticable and as a temporary measure. However, the ECJ then contends that Article 22 (2) DSU foresees negotiation on compensations in case of a failure to bring the contested measure in compliance with relevant WTO provisions. According to the ECJ, "to require the judicial organs to refrain from applying the rules of domestic law which are inconsistent with the WTO law would have the consequence of depriving the legislative or executive organs of the possibility afforded by Article 22 DSU".

2) The lack of reciprocity missing on the side of the Community's most important trading partners is a second argument against direct effect[22]. To accept that the Community courts are responsible for compliance of EC law with WTO law would deprive the legislative and executive organs of the EC of the scope for manoeuvre enjoyed by their counterparts in the Community's trading partners.

3) Portugal referred to *Nakajima* case law claiming that in this case the Council regulation was adopted in order to implement international treaty[23]. Important is the fact that the ECJ confirmed the *Fédiol* and *Nakajima* doctrines in relation to WTO law[24]. However, the ECJ dismissed Portuguese allegation holding that the purpose of this regulation is merely to approve the agreements with India and Pakistan, not the implementation of WTO obligations.

The ECJ´s judgement in *Portugal v. Council* is contrary to an opinion of Advocate General Saggio, who argued that there was no obstacle for the ECJ to review secondary EC law in the light of WTO law.

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[19] Portugal v. Council, para. 47
[20] compare the ECJ´s arguments in Kupferbeg
[21] Dispute Settlement Unit
[22] Here the ECJ means Japan and USA, where the WTO law does not have direct effect as well
[23] Rozehnalová, N., Týč, V.Vnější obchodní vztahy Evropské unie. Brno: Masarykova univerzita, 2006, p. 84
[24] Original rulings refer only to the GATT

In connection with the WTO creation, the ECJ ruled on possible direct effect of TRIPS. The ECJ expressly rejected the direct effect of TRIPS in ***Dior***[25] and ***Groeneveld***[26] cases, where it stated again that "the provisions of TRIPS are not such as to create rights upon which individuals may rely directly before the courts by virtue of Community law".

In contrast to the GATT, the TRIPS is a so-called mixed agreement, falling partly within Community competence and partly within that of Member States. For the first time, in *Dior* the ECJ held that "in a field in respect of which the Community has not yet legislated, the protection of intellectual property do not fall within the EC competence, but within the competence of the Member States. Thus the Community law neither requires nor forbids that the legal order of a Member State should accord to individuals the right to rely directly on the rule laid down by Article 50(6) TRIPS before the courts. In other words, the ECJ has opened the door for individuals to rely directly on any provision of WTO law that falls within the competence of a Member State when a domestic system allows for such direct effect. This would include large parts of TRIPS and GATS, but not the GATT. However, it is important to keep in mind that this opening for direct effect will gradually be closed again, whenever the Community extends its legislative activities to areas such as intellectual property rights and services. Moreover, national courts will still have to decide whether they will grant direct effect to a specific provision. In their assessment they could be limited by the obligation of all national authorities to cooperate closely with the EC. Direct effect granted by national courts only to certain provision could threaten uniform interpretation of TRIPS and uniform external commercial policy.

The ECJ has mitigated its negative approach to direct effect of WTO law, when it created a principle of consistent interpretation, or the principle of indirect effect, of the WTO law in ***Commission v. Germany***[27]***, Hermes***[28]***, Dior*** and ***Groeneveld.*** In *Commission v. Germany* the ECJ held that "the primacy of international agreements concluded by the Community over provisions of secondary Community legislation means that such provisions must, as far as possible, be interpreted in a manner that is consistent with those agreements". In *Hermes* the ECJ stated that even the national law must be interpreted consistently with the WTO law, because the WTO law is an integral part of the EC law and the Member states must interpret their national measures in

[25] Joined Cases C-300/98, *Parfums Christian Dior SA v. Tuk Consultancy BV* and C-392/98, *Assco Gerüste GmbH, Rob van Dijk v. Wilhelm Layher GmbH & Co KG, Layher BV*, (2000) ECR I-11307
[26] Case C-89/99, *Schieving-Nijstad vof and Others v. Robert Groeneveld* (2001) ECR I-5851
[27] Case C-61/94, Commission v. Germany (International Dairy Arrangement – the „IDA") (1996) ECR, I-3989
[28] Case C-53/96, *Hermes International v. FHT Marketing Choice BV* (1998) ECR I-3603-6

conformity with the EC law (and thus the WTO law). In Hermes the ECJ further ruled that "where a provision can apply both to situations falling within the scope of national law and to situations falling within the scope of the Community law, it is clearly in the Community interest that, in order to *forestall future differences of interpretation*, that provision should be interpreted uniformly"[29]. The ECJ meant that it has a competence to interpret TRIPS even in areas falling within the competence of the Member States. *Dior* and *Groeneveld* cases specified this principle even more deeply.

The most recent cases on relation of the EC and WTO law were ***Biret*** cases[30]**,** where the Biret Company claimed no-fault liability of the EC for not respecting the DSB decision. On April 1996, the Council adopted Directive 96/22/EC concerning the prohibition on the use of hormones in meat production, trade and imports[31]. This prohibition affected meat imported from the USA, which brought dispute settlement proceedings before DSB claiming that the EC was in breach of its international obligations under WTO[32]. In August 1997 the WTO panel concluded that the EC violated various provisions of the WTO Agreement on Sanitary and Phytosanitary Measures ("SPS")[33]. The EC appealed. Nevertheless the Appellate Body confirmed the breach of the SPS by the EC[34] and requested it to bring its measures into conformity with the EC obligations under SPS. The EC asked for a reasonable time to fulfill its obligations[35]. It was granted a period of 15 months for that purpose, which expired on 13 May 1999. The EC adopted an amended directive in 2003, i.e. four years after the expiration of reasonable time for the implementation of the DSB decision.

In June 2000, Biret brought an action before the Court of First instance ("CFI") seeking compensation for damages suffered as a result of the ban provided for in the Directive 96/22/EC. The CFI dismissed the claim for damages and referred to its previous case law according to which (i) the WTO Agreement are not the rules by which the Court reviews the legality of EC acts under Article 230 EC Treaty, (ii) individuals cannot rely on them before

[29] Hermes case, para 32
[30] Cases C-93/02, and case-94/02, Biret International SA v. Council of European Union, ECR 2003
[31] OJ 1996 L 125/3
[32] WT/DS26/1, EC – Measures Concerning Meat and Meat Products (Hormones), Request for Consultations by the United States of 31 January 1996; WT/DS26/13, EC – Measures Concerning Meat and Meat Products (Hormones), Request for Establishment of a Panel by the United States of 25 April 1996
[33] Agreement on Sanitary and Phytosanitary Measures; WT/DS26/R/USA, EC – Measures Concerning Meat and Meat Products (Hormones), report of the Panel of 18 August 1997
[34] WT/DS26/AB/R, EC – Measures Concerning Meat and Meat Products (Hormones), report of the Appellate Body of 16 January 1998
[35] Under Article 21(3) of the Understanding on Rules and Procedures Governing the Settlement of Disputes

the courts, (iii) that any infringement of them will not give rise to liability on the part of the EC and (iv) that the purpose of the WTO Agreements is not to protect individuals.

In March 2002 Biret appealed to ECJ requesting that the ECJ should acknowledge that at least part of the WTO Agreements has a direct effect. ECJ held that it had to consider the reasonable period for the implementation of the DSB decision and since no damage had been proved after the reasonable period lapsed, so it did not have to rule further on the matter.

The Advocate General Alber´s opinion cast a different light on the issues raised in Biret[36]. The AG is of the opinion that the WTO provisions invoked by the applicant should have a direct effect and should protect the individuals in damages claims in situations of the EC liability for violation of its international obligations.

Referring to relevant provisions of the DSU, Alber states that a ruling of the DSB removes the margin of manoeuvre of WTO contracting parties and that they must implement the findings of the DSB immediately and without condition. The DSB ruling alters the nature of the WTO obligation, as there is then an obligation sufficiently clear and precise. To meet this obligation the EC must, within a reasonable period of time, adopt a legislative measure compatible with the WTO law. The right of the free exercise of economic activities would be in favor of the recognition of direct effect of the DSB rulings after the expiration of a reasonable time for amending EC law. In such a situation, there would be possibility of bringing a case for compensation for the EC non-compliance with WTO law.

The question is, whether a DSB decision would have a direct effect and an individual could bring a damages claim, if the damage was proved after the expiration of a reasonable time. It is up to the ECJ, if it follows the AG´s opinion in future similar cases. Let's see. If this

[36] The AG starts his opinion with an analysis of the conditions required to trigger the liability of the EC under Article 288(2) EC Treaty. According to the former case law, the applicant must prove the unlawfulness of the alleged conduct of the EC institution, actual damage and an existence of causal link between that conduct and the alleged damage. In this case it also has to prove a sufficiently serious breach of a superior rule of law for the protection of the individuals (Schöppenstedt formula, established in case 5/71. Zuckerfabrik Schöppenstedt v. Council (1971) ECR 975). In this case the unlawful conduct consists in the adoption of the contested directives and the subsequent failure to withdraw or amend these WTO incompatible directives within a specified period of time.
Details in: Zonnekeyn, G.A. EC Liability for the Non-Implementation of WTO Dispute Settlement Decisions – Advocate General Alber Proposes a „Copernican Innovation" in the Case Law of the ECJ. Journal of International Economic Law 6(3) 2003; Zonnekeyn, G.A. EC Liability for Non-Implementation of WTO Dispute Settlement Decisions – Are the Dice Cast? Journal of International Economic Law 7(2) 2004; Mendez, M. The Impact of WTO Rulings in the Community Legal Order. European Law Review, 2004

happened the “Biret doctrine” would be the next possibility for the individual to invoke the WTO law before Community courts.

Literature:

[1] Brand, R.A.: *Direct Effect of International Economic Law in the United States and the European Union*. Northwestern Journal of International Law and Business, 17:556, 1996-1997

[2] Cottier, T., Oesch, M.: *International Trade Regulation: law and policy in the WTO, the European Union and Switzerland: cases, materials and comments*. Cameron May, 2005

[3] Griller, S.: *Judicial Enforceability of WTO Law in the European Union, Annotation of Case C- 149/96, Portugal v. Council*. Journal of International Economic Law, 2000

[4] Kuijper, P.J., Bronckers, M.: *WTO Law in the European Court of Justice*. Common Market Law Review, 42, 2005

[5] Mendez, M.: *The Impact of WTO Rulings in the Community Legal Order*. European Law Review, 2004

[6] O´Neill, M.: *On the Boundary Clash between ES Commercial Law and the WTO Law*. Legal Issues of the Economic Integration, 32/1, 2005

[7] Peers, S.: *WTO dispute Settlement and Community Law*. European Law Review, 26, 2001

[8] Rozehnalová, N.: *Právo mezinárodního obchodu*. Brno: Masarykova univerzita, 2001

[9] Rozehnalová, N., Týč, V.: *Vnější obchodní vztahy Evropské unie*. Brno: Masarykova univerzita, 2006

[10] Snyder, F.: *The Gatekeepers: The European Courts and the WTO Law*. CMLRev, 40, 2003

[11] Týč, V.: *Základy práva EU pro ekonomy*, 4. vyd. Praha: Linde, 2004

[12] Van den Broek, N.: *The Legal Persuasion, Political Realism and Legitimacy: The European Court´s Recent Treatment of the Effect of WTO Agreements in the EC Legal Order*. Journal of International Economic Law, 2001

[13] Zonnekeyn, G.A.: *EC Liability for Non-Implementation of WTO Dispute Settlement Decisions – Are the Dice Cast?* Journal of International Economic Law 7(2) 2004

[14] Zonnekeyn, G.A.: *EC Liability for the Non-Implementation of WTO Dispute Settlement Decisions – Advocate General Alber Proposes a „Copernican Innovation” in the Case Law of the ECJ*. Journal of International Economic Law 6(3) 2003

[15] Zonnekeyn, G.A.: *The Latest on Indirect Effect of WTO Law in the ES Legal Order The Nakajima Case Law Misjudged*? Journal of International Economic Law, 2001

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