

AN ABSTRACT

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The objective of this thesis is to study and analyze Precautionary Principle implicated in international trade in agriculture and food as appeared in EC Measures concerning Meat and Meat Products (Hormones) case between European Union and the United State of America and Japan Measures Affecting Agricultural Products case between Japan and the United States of America. In both cases, the principle is adopted as a ground for applying the sanitary measures in order to protect health or life of human, animal or plant. Two starting points of argument are whether the said principle is obtained the status as international customary or a general principle in international law pursuant to Article 38 of the International Court of Justice Statute and whether the said principle is consistent with the provision of the Agreement on the Application of Sanitary and Phytosanitary Measures.

The research finding shows that Precautionary Principle is neither international customary, nor a general principle in international law pursuant to Article 38 of the International Court of Justice Statute, but it is adopted in the sense of the Agreement on the Application of Sanitary and Phytosanitary Measures under the conditions specified in Article 5.7. Presently, there has been an attempt coming from European Union in making the said principle more commercially acceptable at the international level. In implementing sanitary measures, of which the principle are being supportive, it claims the reason for the protection of human animal or plant sanitary, but on the other hand, the hidden intention is to protect its national trade benefits.