

Food Safety and the WTO

The Interplay of Culture, Science
and Technology

by Marsha A. Echols

Kluwer Law International

Food Safety And The Wto The Interplay Of Culture Science And Technology

Michael T. Roberts



Food Safety And The Wto The Interplay Of Culture Science And Technology:

Food Safety and the WTO: The Interplay of Culture, Science and Technology Marsha Echols, 2001-11-16 Today's international trade regime explicitly rejects cultural perceptions of what is safe to eat overturning millennia of tradition. The World Trade Organization (WTO) Agreement on the Application of Sanitary and Phytosanitary Measures (SPS) enshrines science as the arbiter in resolving disputes involving this vital human need. This mandate, however, is under attack from many quarters. Critics cite environmental and ethical concerns, unpredictably changing technology, taste, food preferences, local culture, adequacy of governmental implementation of WTO standards, and the reliability of scientific opinion. A basic conflict has crystallized: food as culture versus food as commerce. The WTO SPS approach is increasingly challenged for its balance in favor of economic considerations and for its visible undermining of unique cultural identities. This important book explores the relationship between the SPS Agreement, food traditions, science, and technology. It deliberately confronts those trade experts who refuse to allow other social sciences to influence their economics-based trade theory. The author ably investigates the local perception of food and food safety from the anthropological and historical points of view, the evolution of food production technologies, and the medicinal, proscriptive, taboo, and security aspects of food that continue to prevail in nearly all cultures today. She succeeds in demonstrating that no matter how strong the faith in science and economics, it is unwise to flagrantly dismiss the deeply rooted beliefs of billions of people, a huge majority of the world's population. The Beef Hormones case, the remaining sovereignty related to food safety measures, the increasing significance of appropriate levels of protection, and the precautionary principle, the redefinition of food hazard to include production processes as well as food itself, genetically modified seeds, and food products, the concept of risk in the science-based context of the Codex Alimentarius, these are among the issues and topics covered in depth. The author concludes that although quick legal resolutions of trade disputes about what people should or should not eat might provide a win for open trade, support for the entire structure and rationale of the WTO is undermined unless at the least some flexibility of interpretation is introduced into the WTO Dispute Resolution System in order to recognize the weight and validity of public opinion. Food safety is arguably the most important issue affecting international commerce today, urgently demanding enlightened discussion and action based on global consensus. This well-researched and thoughtful contribution offers significant clarification and perspective to policymakers, lawyers, academics, and others engaged in this critical human drama in progress on the world stage.

The Power to Protect Catherine Button, 2004-12-06 This book examines the intersection of WTO trade liberalisation rules and domestic health protection, a subject that is of considerable interest to those concerned that the WTO impinges on national regulatory autonomy. In analysing the tension between health protection and trade liberalisation, the book focuses on the way in which this tension is or is not resolved through the dispute resolution process. It offers a detailed analysis of the relevant WTO rules and case law, identifying particular concerns relating to the ability of WTO Members to take protective action in

circumstances of scientific uncertainty and the role of social and cultural factors in the making of health related regulations The nature of scientific evidence and the extent to which the scientific process internalises uncertainty is further explored drawing on documentation relating to the theory and conduct of scientific risk assessment Despite the popularity of the precautionary principle in some quarters it is suggested that it may not be advisable for the WTO to adopt that principle Rather further attention should be paid to the role that the standard of review might play in easing the tensions that arise when a sovereign state s health regulations are reviewed by the WTO The origins of the WTO s objective assessment standard of review are explained but the standard itself is criticised Options for developing the standard of review are considered with a reasonable regulator standard based on the Asbestos case proposed The book takes a comparative approach drawing on ECJ cases reviewing Member State and Community health measures as well as US judicial review and commerce clause cases

Food Law in the United States Michael T. Roberts, 2016-01-08 This is the first comprehensive legal treatise on US food law for lawyers judges students and consumer advocates

Sustainable Development in International Law Making and Trade Elisabeth Bürgi Bonanomi, 2015-09-25 This timely book provides an accessible insight into how the concept of sustainable development can be made operational through its translation into legal terms Understood as a multidimensional legal principle sustainable development facilitates coherent international law making Using this notion as an analytical lens on the WTO Agreement on Agriculture the book considers the unresolved question of what a sustainable and coherent agricultural trade agreement could look like

Legal Thoughts between the East and the West in the Multilevel Legal Order Chang-fa Lo, Nigel N.T. Li, Tsai-yu Lin, 2016-11-11 This book focuses on the interaction and mutual influences between the East and the West in terms of their legal systems and practices In this regard it highlights Professor Herbert H P Ma s achievements and his efforts to bring Eastern and Western legal concepts and systems closer together The book shows that while there have been convergences between different legal regimes in many fields of law diverse legal practices and approaches rooted in differing cultural social political and philosophical backgrounds do remain and that these differences are not necessarily negative elements in the contemporary legal order By examining different levels of the legal order including domestic regional and multilateral it goes on to argue that identifying these diversities and addressing the interactions and mutual influences between different regimes is a worthwhile undertaking not only in terms of mutual enrichment but also with regard to intensifying the degree of desirable coordination between different legal systems All chapters were written by leading experts practitioners and scholars from different jurisdictions with expertise in various fields of law and different levels of the legal order and discuss a number of issues with particular focus on either one way or mutual influences between the Eastern and the Western legal systems practices and philosophies

European Food Regulation After Enlargement Karolina ?urek, 2011-11-11 Combining an empirical analysis of the evolution of EU food regulation with a theoretical study of selected mechanisms used in governing food this book provides a critical outlook on the

capacity of the regulatory system to accommodate increased post enlargement diversity of socio economic concerns

Conflicting Philosophies and International Trade Law Michael Burkard, 2017-10-17 This book reveals how conflicting worldviews are at the root of public controversies on policy and trade issues It highlights the particularly controversial disputes at the level of the World Trade Organization in the case of regulating beef hormones and GMOs aiming to show how negotiators of international agreements members of dispute settlement bodies and policy makers in general could have recourse to concepts of other disciplines such as epistemology and philosophy in order to address deadlocked legal disputes Ultimately the book is a manifesto for independent and critical research

The Cultural Dimension of Human Rights Ana Filipa Vrdoljak, 2013-12-05 The intersections between culture and human rights have engaged some of the most heated and controversial debates across international law and theory As understandings of culture have evolved in recent decades to encompass culture as ways of life there has been a shift in emphasis from national cultures to cultural diversity within and across states This has entailed a push to more fully articulate cultural rights within human rights law This volume analyses a range of responses by international law and particularly human rights law to some of the thorniest perennial and sometimes violent confrontations fuelled by culture in relations between individuals groups and the state in international society Across the different issues tackled the contributions are tied by one unifying thread that culture is understood protected and promoted not only for its physical manifestations Rather it is the relationship of culture to people individually or in groups and the diversity of these relationships which is being protected and promoted hence the fundamental overlap between culture and human rights

Food, Globalization and Sustainability Peter Oosterveer, David A. Sonnenfeld, 2012-06-25 Food is increasingly traded internationally thereby transforming the organization of food production and consumption globally and influencing most food related practices This transition is generating unfamiliar challenges related to sustainability of food provision the social impacts of international trade and global food governance Distance in time and space between food producers and consumers is increasing and new concerns are arising These include the environmental impact of food production and trade animal welfare the health and safety of food and the social and economic impact of international food trade This book provides an overview of the principal conceptual frameworks that have been developed for understanding these changes It shows how conventional regulation of food provision through sovereign national governments is becoming elusive as the distinctions between domestic and international and between public and private spheres disappear At the same time multi national companies and supranational institutions put serious limits to governmental interventions In this context other social actors including food retailers and NGOs are shown to take up innovative roles in governing food provision but their contribution to agro food sustainability is under continuous scrutiny The authors apply these themes in several detailed case studies including organic fair trade local food and fish On the basis of these cases future developments are explored with a focus on the respective roles of agricultural producers retailers and

consumers **International Trade and Health Protection** Tracey Epps, 2008-01-01 This detailed and fully referenced text is a valuable resource both for practitioners and academics Michael Blakeney International Trade Law and Regulation Interspersing law with societal context this volume by Dr Epps stands out among WTO analysis The author offers a delightfully balanced view on the nature and origin of SPS measures including references to history whilst at the same time mastering the hard law of the SPS Agreement in detail Practitioners will enjoy the detailed analysis of WTO dispute settlement A reference book for practice and academia and also a very very good read Geert Van Calster Katholieke Universiteit Leuven Belgium This book examines and critiques the WTO s Agreement on the Application of Sanitary and Phytosanitary Measures SPS Agreement asking whether it strikes an appropriate balance between conflicting domestic health protection and trade liberalization objectives It pays particular attention to situations likely to occur but not yet fully examined either in the literature or in WTO law most importantly where public opinion demands regulation in the face of scientific uncertainty as to the existence or otherwise of a health risk Tracey Epps concludes that the SPS Agreement s science based framework is capable of dealing with the differing objectives of health and trade and that it provides countries with more flexibility to respond to scientific uncertainties and public sentiment than many critics contend This conclusion is strongly influenced by a positive analysis of domestic regulatory decision making which finds potential for regulatory capture by domestic protectionist interests and thus emphasizes the importance of ensuring that decisions are made on a sound and principled basis Including a historical overview of disputes over trade and health since the 1800s this book provides a comprehensive analysis of and new perspective on an important area of intersection between international trade law and domestic policy It will be of interest to a wide ranging audience including legal and non legal academics policy makers and analysts in the field of risk regulation trade law practitioners in governments and lawyers and analysts in international institutions **Before Dinner** M. Korthals, 2008-11-09 This book is an extensive original and systematic treatment of many important philosophical and ethical aspects of food consumption and production May we eat just anything Can we do everything with animals even genetic modification If not how can we regulate those processes so that they lead to optimum animal welfare while at the same time producing optimum taste The production of food also causes environmental pollution does the fight against hunger have priority over the care of the environment The care of the environment animal welfare and the quality of food should be in a certain harmony but that is far from granted and hardly easy to achieve These factors are often in conflict with each other and a balance will thus need to be searched for Other factors to take into consideration are the issue of global famine the care for a farming class that is able to keep its head above water in a decent way and a fair trade system that does not throw up unnecessary barriers for newcomers or small market participants and that promotes good nutrition Famine continues to be a widespread phenomenon that violates human rights causing nearly a billion people to suffer from hunger or malnutrition At the same time deliberate hunger abundance and obesity are prevalent in the

Western world Both issues refer to the social and cultural aspects of food Scientific and technological developments like genetic modification and functional food also play an increasingly important role almost every bite that we take is determined by scientific developments An extra difficulty is that scientific information is often contradictory or that it relies on statistical probabilities that are difficult to translate into everyday certitudes All of these factors deserve attention but it is the mix that is most important In the land of food either or does not exist only both and The adequate measure of both and serves as the starting point for this philosophical reflection Before Dinner is a must read for all people interested in contemporary ethical issues of food such as university students and researchers of food agricultural and life sciences as well as policymakers in these fields such as members of professional organisations focusing on food and agriculture f e EURSAFE European Society for Agriculture and Food Ethics the Agriculture Food and Human Values Society USA and European Federation of Biotechnology

When Cooperation Fails Mark A. Pollack, Gregory C. Shaffer, 2009-05-21 The dispute over genetically modified organisms has brought the US and the EU into conflict This book examines the dynamic interactions of domestic law and politics transnational networks international regimes and global markets through a theoretically grounded and empirically comprehensive analysis of the governance of GM foods and crops

Science-Based Lawmaking Dionysia-Theodora Avgerinopoulou, 2019-08-31 The Book takes the approach of a critique of the prevailing international environmental law making processes and their systemic shortcomings It aims to partly redesign the current international environmental law making system in order to promote further legislation and more effectively protect the natural environment and public health Through case studies and doctrinal analyses an array of initial questions guides the reader through a variety of factors influencing the development of International Environmental Law After a historical analysis commencing from the Platonic philosophy up to present the Book holds that some of the most decisive factors that could create an optimized law making framework include among others progressive voting processes science based secondary international environmental legislation new procedural rules that enhance the participation in the law making process by both experts and the public and also review the implementation compliance and validity of the science base of the laws The international community should develop new law making procedures that include expert opinion Current scientific uncertainties can be resolved either by policy choices or by referring to the so called sound science In formulating a new framework for environmental lawmaking processes it is essential to re shape the rules of procedure so that experts have greater participation in those in order to improve the quality of International Environmental Law faster than the traditional processes that mainly embrace political priorities generated by the States Science serves as one of the main tools that will create the next generation of International Environmental Law and help the world transition to a smart inclusive sustainable future

Import Safety Cary Coglianese, Adam M. Finkel, David Zaring, 2011-09-28 On World Food Day in October 2008 former president Bill Clinton finally accepted decade old criticism directed at his administration s pursuit of free trade deals

with little regard for food safety child labor or workers rights We all blew it including me when I was president We blew it We were wrong to believe that food was like some other product in international trade Clinton s public admission came at a time when consumers in the United States were hearing unsettling stories about contaminated food toys and medical products from China and the first real calls were being made for more regulation of imported products Import Safety comes at a moment when public interest is engaged with the subject and the government is receptive to the idea of consumer protections that were not instituted when many of the Clinton era s free trade pacts were drafted Written by leading scholars and analysts the chapters in Import Safety provide background and policy guidance on improving consumer safety in imported food pharmaceuticals medical devices and toys and other products aimed at children Together they consider whether policymakers should approach import safety issues through better funding of traditional interventions such as regulatory oversight and product liability or whether this problem poses a different kind of governance challenge requiring wholly new methods

International Organizations in WTO Dispute Settlement Marina Foltea, 2012-11-08 This in depth analysis of the role of international organisations in WTO dispute settlement examines the level of institutional sensitivity of the WTO adjudicator to organisations including the IMF WIPO WCO and WHO It will appeal to international law scholars civil servants and law practitioners

The Misery of International Law John Linarelli, Margot E Salomon, Muthucumaraswamy Sornarajah, 2018-03-23 Poverty inequality and dispossession accompany economic globalization Bringing together three international law scholars this book addresses how international law and its regimes of trade investment finance as well as human rights are implicated in the construction of misery and how international law is producing reproducing and embedding injustice and narrowing the alternatives that might really serve humanity Adopting a pluralist approach the authors confront the unconscionable dimensions of the global economic order the false premises upon which they are built and the role of international law in constituting and sustaining them Combining insights from radical critiques political philosophy history and critical development studies the book explores the pathologies at work in international economic law today International law must abide by the requirements of justice if it is to make a call for compliance with it but this work claims it drastically fails to do so In a legal order structured around neoliberal ideologies rather than principles of justice every state can and does grab what it can in the economic sphere on the basis of power and interest legally so and under colour of law This book examines how international law on trade and foreign investment and the law and norms on global finance has been shaped to benefit the rich and powerful at the expense of others It studies how a set of principles in the form of a New International Economic Order NIEO that could have laid the groundwork for a more inclusive international law without even disrupting its market orientation were nonetheless undermined As for international human rights law it is under the terms of global capitalism that human rights operate Before we can understand how human rights can create more just societies we must first expose the ways in which they reflect capitalist society and how they assist in reproducing the underlying terms of

immiseration that will continue to create the need for human rights protection This book challenges conventional justifications of economic globalization and eschews false choices It is not about whether one is for or against international trade foreign investment or global finance The issue is to resolve how if we are to engage in trade investment and finance we do so in a manner that is accountable to persons whose lives are affected by international law The deployment of human rights for their part must be considered against the ubiquity of neoliberal globalization under law and not merely as a discrete benevolent response to it International Food Law and Policy Gabriela Steier,Kiran K. Patel,2017-08-08

International Food Law and Policy is the first interdisciplinary piece of academic literature of its kind with a comprehensive reader friendly approach to teaching the major aspects of food regulation law policy food safety and environmental sustainability in a global context The sections are grouped by continents and focus on a range of cross disciplinary subjects such as public health international food trade the right to food intellectual property and global regulatory aspects of food production With its systematic approach this book will be a valuable resource both for professionals working in food regulation and anyone interested in the subject It provides a solid foundation for courses and master s programs in environmental management food law policy and regulation and sustainable development around the world International Trade Rules and the Agriculture Sector Victor Mosoti,Ambra Gobena,2007-01-01

Since the establishment of the WTO there have been significant changes in the legal and institutional landscape of many developing countries Whatever the motivation for trade related legal reform our experience in the FAO Legal Office has been that besides the substantial costs involved there are many challenges to successful and meaningful legal and institutional reforms Legal drafters must therefore be well aware of the existing legal and administrative culture They must also have a realistic appreciation of the resource constraints in the country for inadequate resources certainly restrict the ability of implementing bodies to put new rules into practice This study is about the nature and extent of these trade related legal and institutional reforms with a particular focus on those of direct relevance to the agricultural sector In addition to the sectoral focus on agriculture the study places distinct emphasis on the challenges of developing countries in the implementation of trade related international obligations in the agricultural sector It derives from FAO s experience in advising countries on the implementation of agriculture related WTO agreements key elements of which are discussed and illustrated by three representative case studies The Development of World Trade Organization Law Gregory Messenger,2016-01-28

The World Trade Organization is a central player in international trade regulation The rights and duties that form WTO law are not created in a vacuum however and there exists a complex network of domestic regional and international influences on the development of WTO law that go beyond the disciplines found in the covered agreements or the interpretations given by panels and the Appellate Body As such understanding the development of WTO law in a wider institutional context is critical to comprehending WTO law in a new age of legal globalization The Development of World Trade Organization Law Examining Change in International Law

examines the development of WTO law through an analysis of competing global actors norms and institutions Taking a different approach to social scientific or traditional legal models this book argues that such globalized actors are the driving force behind the development of WTO law yet not in control of it Identifying causal language as key to understanding this development the volume examines three different causal influences instrumental systemic and constitutive It applies this causal methodology to three key areas of WTO law safeguard measures sanitary and phytosanitary measures and subsidies The volume provides detailed explanations of why the law has developed as it has and offers insights into the future functioning of the WTO system

Harmonization, Equivalence and Mutual Recognition of Standards in WTO Law

Humberto Zúñiga Schroder, 2011-01-01 Standards are a feature of virtually all areas of trade in products and services Yet although standards may achieve an efficient economic exchange they have discriminatory consequences for trading partners when governments formulate or apply them in such a way as to cause obstacles to trade thus enrolling standards among the increasingly significant non tariff barriers regulated by the WTO This unique and original study analyses the functions that standards fulfil in the market their effect on trade and the legal regime based on harmonization equivalence and mutual recognition developed by the WTO to deal with standards The author investigates the way in which both the WTO Technical Barriers to Trade TBT and the Sanitary and Phytosanitary SPS Measures Agreements regulate these three tools and discusses key topics including The definition of the concept International Standard in the TBT Agreement Guidelines on equivalence issued by organizations such as the Codex Alimentarius Commission the World Organization for Animal Health and the International Plant Protection Convention Parallels between the EC mutual recognition regime and the WTO system This is the first work on its subject With its detailed and practical analysis of WTO law on standards the book is a fundamental reference for practitioners academics and policy makers in international trade law

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