

particularly true with respect to the discussion on the applicable standard of review and its impact on the freedom enjoyed by WTO Members when assessing complex scientific problems. It is correctly noted that the Appellate Body in *Continued Suspension*⁷ proposed a rather deferential standard of review, thus expanding the regulatory space available to WTO Members (this was even labeled by Peel as a procedurally focused approach, *cf.* p. 215). This approach has been, however, modified by the *Australia – Apples* case. In that case the Appellate Body confirmed, on the one hand, its previous findings that a panel was only expected to determine whether the specific basis of a particular measure could be regarded as “legitimate” science. This implies a rather restrained level of scrutiny and corresponds with Peel’s call for deference in international risk governance structures. But on the other hand, the Appellate Body in *Australia – Apples* accepted an intrusive examination into the reasoning included in the domestic risk assessment, according to which it needs to be reviewed against some benchmark of correctness rather than mere reasonableness. This distinction between science as such and the reasoning included in domestic risk assessment indicates that WTO dispute settlement bodies are unwilling to resign from their investigative prerogatives when adjudicating on national SPS measures. This is a problematic approach, as panels generally lack epistemic competence to inquire into the details of the scientific justifications put forward by WTO Members. It should be noted however that Peel has extensively addressed the problem of the applicable standard of review, including the developments that have taken place as a result of *Australia – Apples*, in one of her more recent articles.⁸

Overall, the Jacqueline Peel’s monograph constitutes a very interesting and useful position for anyone confronted with the problems posed by international governance of risk and the interactions that take place between science and law. It is thought-provoking and transcends the narrow boundaries of the current scholarly discussion. This is a work definitely to be recommended.

7 Appellate Body Report, *United States – Continued Suspension of Obligations in the EC – Hormones Dispute*, WT/DS320/AB/R, adopted 14 November 2008.

8 See Jacqueline Peel, “Of Apples and Oranges (and Hormones in Beef): Science and the Standard of Review in WTO Disputes under the SPS Agreement”, 61 *International and Comparative Law Quarterly* (2012), pp. 427 *et seq.*

Roadmap to EU Food Law

Irene Scholten-Verheijen, Theo Appelhof, Ronald van den Heuvel and Bernd van der Meulen

The Hague: Eleven International Publishing, 2012
198 pp., € 49.00, Hardcover.

Margherita Poto*

The Roadmap to EU Food Law, structured in three parts, provides an overview of food safety regulation, dealing with the international and European dimensions of Food Law as well as the domain of private food law.

The food safety sector is one of the most densely regulated and most regularly updated sectors in the European Union. Complying with all the European legal provisions, regulations and directives presents an enormous challenge to the food industry. For the countries outside the European Union, it is essential to maintain an overview of the rapidly evolving regulatory framework.

Therefore, the authors have decided to provide an English translation to the *Landkaart Levensmiddelenrecht*, published in the series *WAAR&WET*.

This edition, updated with the most recent legal provisions on food safety, offers insight into the multiplicity and diversity of public and private rules, at both the global and European levels. In this English edition there are no references to the Dutch legislation, due to the peculiarities of the National legal provisions. A schematic overview additionally illustrates, at a glance, the large amount of European legislation that applies to the European Food Law.

In Part I, Bernd van der Meulen tackles the aspects of the global arena, first answering the question about who governs the food safety system. A pivotal role is played by the United Nations, the World Trade Organization and their specialised organisations and agencies, such as the Food and Agriculture Organization (FAO), the World Health Organization (WHO) and their joint programme. Secondly, the author focuses his attention on the human rights dimension of the right to safe food, the shift of the negotiation platforms as well as the trade and dispute settlements organizations. Thirdly, special attention is given to the sanitary measures set up at the international level to ensure that countries apply measures to protect only human, animal and plant health.

* University of Turin, Italy. Assistant Professor in Administrative Law.

When it comes to international standards, the Codex Alimentarius acts as the first reference point for establishing guidelines within the field of food safety. The author underlines that the Codex Alimentarius Commission plays a central role in developing international standards, guidelines and recommendations to reduce food safety risks. The Commission also developed risk analysis, the integrated food chain approach and HACCP. The risk analysis paradigm—including risk assessment, risk management and risk communication—have been incorporated as general principles in EU law and form the legal basis of the food safety systems throughout the Member States.

The author's analysis provides an overview of Codex's history as well as an interesting examination of the interrelation between the International and European levels, including a detailed description of Codex's impact on EU law.

The first part concludes with an overview of the crisis management and with some comments on the relevance of the international framework as the framework of frameworks, setting requirements applicable at the national level.

In Part II, Irene Scholten-Verheijen describes the European Union framework in relation to food law, generally. The umbrella of all the legal provisions in the European context is the General Food Law, which consists of three parts. The first part lays down the general principles and requirements of food legislation. The second part regulates the creation of the European Food Safety Authority, and the last part establishes procedures in matters of food safety.

One of the pillars of the General Food Law concerns the food and feed business operators' (FBOs) primary responsibility for food safety. Competent authorities monitor, enforce and verify this primary responsibility through the operation of national surveillance and control systems at all stages of production, processing and distribution. Member States carry the obligation to lay down rules on measures and penalties applicable to infringements of food and feed law. The European Commission performs audits and inspections at the national level to evaluate the ability of competent authorities to deliver these systems.

To provide a better understanding of the European rules, Irene Scholten-Verheijen explains the folded poster, by giving examples of different food safety categories, with the letter "P" in common. This way, the author structures her entire contribution around a few key words and, in particular, around

the following: Principles, Public Powers, Producer, Product, Process, Presentation. This approach yields an understanding of the regulatory requirements at the public and private levels. All the provisions, restrictions, rules and standards that can be grouped under the same category and have to be followed by the FBOs constitute the regulatory elements. The public authorities competent in the food sector ensure the FBOs' compliance with the regulatory requirements.

The development of general public food law principles has caused profound changes in the regulations at the international, national and regional levels. The creation of regulatory frameworks in food law has been accompanied by a progressive rise in the use of private standards. These standards, which may include rules on infrastructure, equipment, modalities of production, processing and quality management, are often based on more stringent requirements than the ones set up by law.

Part III, coauthored by Theo Appelhof and Ronald van den Heuvel, offers the food experts viewpoint on the world of private food law and, in particular, of the above mentioned standards. This final part has three sections including a general introduction with illustrative diagrams on the use of certification schemes in Europe and on the role of hygiene guides for food business operators, a detailed description of a sample standard, and a list of the most commonly used standards for food and feed productions. For this reason, the private sector has formulated schemes consisting of private standards that are embedded in certification procedures. As it has been observed in a FAO report:

"private standards have become increasingly important in global agri-food value chains, progressively pervading both domestic business and international trade. These standards may relate to food safety and the integrity of food safety systems, but can also refer to aspects of food such as provenance, environmental impact, animal welfare, etc. One of the defining characteristics of private standards, particularly as they relate to food safety, is an increasing focus on the processes by which food is produced. In this respect, they mirror the increasing importance of process standards in public regulations, as exemplified in the increasing use of HACCP in regulations relating to matters such as food hygiene". (See <<http://www.fao.org/docrep/012/i1132e/i1132e00.pdf>>).

The authors' contribution classifies and describes these standards to be useful to the food sector's op-

erators, by providing brief descriptions and schemes concerning the different types of standards.

In conclusion, the roadmap provides an overview of the structure and content of food law, clearly emphasizing the most applicable rules. The book's merit consists of giving a systematic and clear overview of food law regulation, in both the public and private domains. It targets beginning and mid-level professionals (practitioners, inspectors and administrators), policymakers, educators and trainers, as well as community college and undergraduate students in the field of food sciences and technologies.

About the authors

Irene Scholten-Verheijen works as an attorney at law and is partner at the law firm VMW Taxand in Amsterdam.

Theo Appelhof was employed as director at the Dutch Food Safety Authority. Since his retirement he serves Précon Food Management BV in Bunnik.

Ronald van den Heuvel graduated in food science and technology at Wageningen University, the Netherlands. He is currently self-employed and analyses food safety issues and international markets.

B.M.J. van der Meulen is Professor of Law and Governance at Wageningen University in the Netherlands.