**Risk Assessment, Science and Deliberation: Managing Regulatory Diversity under the SPS Agreement?**

**Abstract**

The adoption by WTO Members of measures relating to the protection of health and life of animals, plants and humans is regulated by the WTO Sanitary and Phytosanitary (SPS) Agreement. A fundamental question in the application of this agreement concerns the distinction to be drawn between legitimate regulation and unlawful restriction of trade. This distinction can be difficult to discern, particularly since different communities have different levels of tolerance for risk, which leads to varying national regulatory decisions. This paper critically examines the approach taken to this question in rulings of the WTO dispute settlement panels and Appellate Body, highlighting and analysing three emergent issues: the role attributed to science, the two stage review process adopted and the application of the principle of mutual recognition. The importance of deliberative decision-making in this context is emphasised, as is the need for recognition and acceptance of the regulatory diversity that this will bring.