



Wolfgang Weiß, WTO Law and Domestic Regulation - Exploring the Determinants for the Impact of the WTO on Domestic Regulatory Autonomy, 2020, ca 460 pages

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Abstract

The research leading to this book was provoked by the far-spread perception that WTO rules in particular in their application by WTO dispute settlement practice has a profound impact on domestic regulation in a way which significantly reduces or even diminishes the domestic leeway in drafting domestic rules on goods and services. The constraining effect is particularly challenging against a backdrop of international trade rules that increasingly go beyond disciplines enforced at the border but that relate to the domestic regulation of how goods or services have to be produced or performed (the so-called behind the border issues). The transformation of WTO disciplines on goods and services beyond a border context into rules disciplining also domestic regulation of production processes, and domestic process or qualification requirements is a development that must be challenged from the perspective of domestic regulatory autonomy. For, domestic regulatory autonomy is protected in WTO rules. The respect for domestic regulatory choices must have an impact on the interpretation and application of WTO rules, and it appears that this has not yet been taken into account sufficiently when interpreting and applying WTO rules.

Based on this perception, the research presented in this book explores how WTO law, in particular its core principles, and the institutional dimensions of the functioning of WTO dispute settlement, have

been conceived in a way to severely impact domestic regulatory leeway. The analysis identifies the relevant determinants insofar, and proposes interpretive approaches of the existing WTO rules that if applied would allow for enlarging the domestic policy space of the WTO members. The research shows how stipulations for protection of domestic regulatory autonomy of the WTO members, which have a legitimate anchor in existing WTO rules, can be taken more serious and be implemented more comprehensively than done in the currently prevailing conception of WTO law by the WTO dispute settlement practice.

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