

International Economic Law and the Pursuit of Core Societal Values and Interests

The most challenging rules of international economic law are those which aim to strike the appropriate balance between, on the one hand, free trade and the unhindered foreign investment, and, on the other hand, other core societal values and interests, such as public health, environmental protection, national security, consumer protection, public order and public morals, privacy, and cultural identity and diversity. Oftentimes, free trade and unhindered foreign investment significantly facilitate the protection and promotion of the societal values and interests referred to above. Sometimes, however, the protection or promotion of these values and interests is difficult, if not impossible, without limiting trade and/or restricting foreign investment. Recognizing that in such situations these values and interests must prevail over free trade and/or unhindered foreign direct investment, both international trade and international investment law allow – under certain conditions – national legislation and measures to impose limits on trade and restrict foreign investment. However, the conditions under which this is allowed are oftentimes criticised for leaving insufficient policy space to national governments to pursue the core societal values and interests referred to above.

This course aims at introducing students to the different rules in international economic law aimed at striking the appropriate balance between free trade and unrestricted foreign investment on the one hand, and other core societal values and interests on the other hand. This course seeks to make students reflect on whether the relevant rules of international economic law, as they currently exist, are interpreted and are applied, allow for an appropriate balance to be struck between conflicting societal values and interests. The course starts with an overview of the basic rules under both international trade and investment law providing governments policy space to pursue core societal values and interests. Subsequently the course addresses the policy space governments have to pursue specific core societal values and interests, including public health, consumer protection, a clean environment, minimum labour standards, animal welfare, cultural identity and diversity, national security, and 'full' employment.