

WTI Brown Bag Seminar



Title

Who Decides What? Judicial Deference in International Economic Adjudication

Speaker

Mr. Johannes Fahner

When

Thursday
1 February
2018

Where

Anna Nussbaum Auditorium
World Trade Institute
Hallerstrasse 6, 3012 Bern

Abstract

In the field of international economic law, international adjudicators are commonly asked to review the conduct of States against legal norms that leave a certain discretion to domestic institutions and whose interpretation allows for legitimate disagreement. In such cases, adjudicators are required to exercise review without imposing personal preferences as to which policy should be chosen from a range of legitimate alternatives. They need to exercise meaningful supervision while preserving the effectiveness of their judgments by giving due respect to the expertise and legitimacy of domestic decision makers.

In many national legal orders, judicial authorities do not exercise *de novo* review with regard to legislative and administrative decisions, as this would allow them to supplant the powers of other branches of government. Instead, courts exercise judicial restraint by applying a deferential standard of review. During the Brown Bag Seminar, we will discuss to what extent WTO adjudicators and investment treaty arbitration tribunals have adopted similar approaches and whether they are advised to do so.

Biography of the speaker

Johannes Hendrik Fahner holds degrees in History (B.A., 2009), Law (LL.B., 2011), and International Relations (M.A., 2013) from Utrecht University, as well as a Research Master degree in Public International Law (LL.M., 2014) from the University of Amsterdam. During his studies, he spent exchange semesters at Université Panthéon-Assas in Paris and Columbia University in New York.

Currently, Johannes Hendrik pursues a PhD in Public International Law under the supervision of Professor Matthew Happold (University of Luxembourg) and Professor Pieter Jan Kuijper (University of Amsterdam). His research project focuses on the applicability of principles of deference in the context of international adjudication in the fields of human rights, trade, and investment law.