

GATT, SPS and TBT Law on Internal Taxation and Regulation versus National Policy Space

WTO rules governing taxation and regulations can have enormous implications for the formulation of a WTO Member's national policies. They can affect a Member's policy space regarding public health, including food and beverage safety, the protection of consumers, and the protection of the environment. WTO rules allow a Member to develop taxation and regulatory policies to further its legitimate (WTO-legal) objectives, and they limit a Member's use of trade policy for protectionist purposes.

This module examines three important WTO Agreements affecting a Member's ability to apply taxation and regulatory policies. It looks (in detail) at Articles I, III, XI and XX of the General Agreement on Tariffs and Trade (GATT), and at the Agreements on Sanitary and Phytosanitary Measures (SPS) and Technical Barriers to Trade (TBT) which further develop these GATT provisions. The objective of this module is to enable participants to better understand the policy space that the Members enjoy, and the limits that these Agreements establish on a Member's taxation and regulatory power, thereby allowing policy makers to craft WTO-consistent national legislation that achieves their health, safety, environmental, and other policy objectives.

Readings, lectures, class discussions, and case studies will focus on how Members should implement the GATT, TBT and SPS Agreements, and the types of taxation and regulatory practices that would violate these agreements. Participants will gain a solid understanding of the operation of these Agreements, the relevant WTO case law applying these Agreements, and how WTO Members use taxation schemes, technical regulations, standards and testing programs as a means to further their objectives.