The Linkage between International Economic Law and Access to Water and Water Scarcity

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Goals & Outline

Water

Water Scarcity

International trade law

Access to Water

International investment law

International Economic Law

Trade and Water Scarcity

Water export ban for environmental purposes

Legal analysis of WTO compatibility of the water export ban

GATT, art. XI and AoA, art. XI

GATT, art. XX

**Trade and Water Scarcity**

Bridging the gap between the WTO and international water law

- New institutional setting
  - Strengthening international water agreements
  - Reforming the WTO

- New normative paradigm
  - Link between GATT, art. XI and AoA, art. XI
  - Key is CESCR Comment 15
Overarching objective of the system: protecting foreign investments

Key factors affecting the balance:

- Investor-State Arbitration
- Uncertain definition of substantive standards

**Regulatory Expropriation vs Legitimate Regulation**

- How to draw a line? Effect-based approach + police power exception
- But: no consideration of State’s intent and lack of a definition of police power
- Toward more flexible approaches: the ECHR proportionality test?
Concluding Remarks

Increasing role of IEL in global water governance to fight water scarcity and to improve access to water

Increasing impact of IEL on the fight against water scarcity and on access to water services

Need for greater flexibility: water is not just a commodity