

WHAT EXACTLY IS THE PANEL REVIEWING: THE FIRST STEP IN THE STANDARD OF REVIEW ANALYSIS IN THE WTO DISPUTE RESOLUTIONS

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ABSTRACT

This article analyzes the WTO jurisprudence and relevant theories regarding the applications of the standards of review in the WTO dispute resolutions. This article contends that the analyzing structure developed in the theories should be further refined in order to establish a more appropriate standard of panel review of Member's national measures. The first step in the analysis – the determination of the object of review, dictated by the relevant legal obligation encompassed in the treaty texts – should determine whether the exclusion of de novo review is called for. This should be distinguished from the other parts in the standard of review analysis. The Appellate Body Report of Hormones Suspension case seems to adopt this methodology implicitly.

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