

From Special and Differential Treatment to Graduation in WTO Law: A new Approach in Addressing the Status of Developing Countries

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Abstract

Squareing sovereign equality and vastly diverging levels of social and economic development of States is an unresolved problem in international law. The doctrine and practice of Special and Differential Treatment (S&D) of developing countries, introduced in the wake of the New International Economic Order, largely failed and existing benefits under the Enabling Clause of the WTO have been eroding. Moreover, the distinction of industrialised, developing and emerging economies is increasingly outdated. The paper offers a new approach in addressing the problem. The doctrine of progressive regulation and graduation seeks to capture levels of competitiveness of countries and sectors and looks for ways and means to address them within rights and obligations on the basis of economic factors and indicators, linking law and economics.