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Intensity of review in international courts and tribunals

A comparative analysis of deference

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INTENSITY OF REVIEW IN INTERNATIONAL COURTS AND TRIBUNALS:

A COMPARATIVE ANALYSIS OF DEFERENCE

ACADEMISCH PROEFSCHRIFT

ter verkrijging van de graad van doctor

aan de Universiteit van Amsterdam

op gezag van de Rector Magnificus

prof. dr. ir. K.I.J. Maex

ten overstaan van een door het College voor Promoties ingestelde commissie,

in het openbaar te verdedigen in de Aula der Universiteit

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geboren te Ede

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Dit proefschrift is tot stand gekomen binnen een samenwerkingsverband tussen de Universiteit van Amsterdam en de Université du Luxembourg met als doel het behalen van een gezamenlijk doctoraat. Het proefschrift is voorbereid in de Faculteit der Rechtsgeleerdheid van de Universiteit van Amsterdam en de Faculté de droit, économie et finances van de Université du Luxembourg.

This thesis was prepared within the partnership between the University of Amsterdam and the University of Luxembourg with the purpose of obtaining a joint doctorate degree. The thesis was prepared in the Faculty of Law at the University of Amsterdam and in the Faculty of Law, Economics and Finance at the University of Luxembourg.



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by

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**INTENSITY OF REVIEW IN INTERNATIONAL COURTS AND
TRIBUNALS: A COMPARATIVE ANALYSIS OF DEFERENCE**

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List of Abbreviations

AB	Appellate Body
ACHR	American Commission on Human Rights
ACtHR	African Court of Human Rights
AJIL	American Journal of International Law
ADA	Agreement on Implementation of Article VI of GATT 1994 (WTO Antidumping Agreement)
ATC	Agreement on Textiles and Clothing (WTO)
BIT	bilateral investment treaty
CJEU	Court of Justice of the European Union
CUP	Cambridge University Press
DSU	Understanding on Rules and Procedures Governing the Settlement of Disputes (WTO Dispute Settlement Understanding)
ECHR	European Commission on Human Rights
ECtHR	European Court of Human Rights
EJIL	European Journal of International Law
FET	fair and equitable treatment
FTC	Federal Trade Commission (NAFTA)
GATT	General Agreement on Tariffs and Trade
GATS	General Agreement on Trade in Services
IACHR	Inter-American Commission on Human Rights

IACtHR	Inter-American Court of Human Rights
ICJ	International Court of Justice
ICON	International Journal of Constitutional Law
ICLQ	International & Comparative Law Quarterly
ICSID	International Centre for the Settlement of Investment Disputes
IIDH	<i>Instituto Interamericano de Derechos Humanos</i>
ISDS	investor-State dispute settlement
ITLOS	International Tribunal for the Law of the Sea
JIEL	Journal of International Economic Law
NAFTA	North American Free Trade Agreement
OUP	Oxford University Press
PCA	Permanent Court of Arbitration
PCIJ	Permanent Court of International Justice
SCC	Stockholm Chamber of Commerce
SCM Agreement	Agreement on Subsidies and Countervailing Measures (WTO)
SPS Agreement	Agreement on the Application of Sanitary and Phytosanitary Measures (WTO)
TBT Agreement	Agreement on Technical Barriers to Trade (WTO)
UK	United Kingdom
UN	United Nations
UNCITRAL	United Nations Commission on International Trade Law
UNCLOS	United Nations Convention on the Law of the Sea

US

United States

VCLT

Vienna Convention on the Law of Treaties

WTO

World Trade Organization