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**CENTER FOR TRADE AND INVESTMENT LAW & THE INDIAN NATIONAL BAR ASSOCIATION**

**DISCUSSION SESSION  
NOVEMBER 27, 2018, 3:00 PM**

**8<sup>th</sup> Floor, Conference Hall, NAFED Building  
Siddharth Enclave, Ring Road, Ashram Chowk**

**REGULATION OF NON-LITIGIOUS SERVICES: BEST PRACTICES AND TRENDS IN THE STATE OF  
FLORIDA**

On 28 February 2018, the Union Cabinet chaired by the Prime Minister has approved the proposal of the Department of Commerce to give focused attention to twelve identified “Champion Services Sectors” for promoting their development, and realizing their potential. The legal services sector is one such Champion Services Sector. In this backdrop, the Centre for Trade and Investment Law (“CTIL”) was requested by the Department of Legal Affairs, Ministry of Law and Justice to prepare a comprehensive report on the reforms required in three key areas relating to Non-Litigious services:

- Regulatory model for non-litigious services;
- Reforms required to make India an ‘arbitration hub’; and
- Regulatory model for entry of foreign law firms into India.

As you may already know, a first draft of the report is being circulated in the conference organized by the Indian National Bar Association (“INBA”) to commemorate Constitution Day on 26<sup>th</sup> November 2018. CTIL intends to continue engaging with relevant stakeholders and experts to ensure that our policy recommendations are dynamic, holistic and benefit from experiences in other jurisdictions. In this light, the INBA and CTIL are hosting a discussion session with members of the Florida Bar Association, International Law Section. We envisage the discussion to be unstructured and free-flowing.

The discussion will first commence with a brief overview of the regulatory gaps and flaws in the rules of professional conduct governing non-litigious services in India. Members of the Florida Bar Association, International Law Section will be requested to share experiences in their jurisdiction in the context of such regulatory gaps and flaws. An illustrative list of gaps and flaws which will be discussed in this session are as follows:

- **In-house counsels:** They are not recognized as ‘advocates’ under Indian law. There is lack of clarity on whether attorney-client privilege is applicable to in-house counsels and there are no clear rules governing the conflict-of-interest.
- **Law firms:** There is no requirement to register law firms in India. While restricted forms of advertisement are permitted, solicitation is still prohibited under Indian law. Conflict of interest provisions do not cater to rendering of non-litigious services like the NY rules do. The prohibition on multi-disciplinary practices is not strictly enforced.



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- **LPOs:** Legal process outsourcing firms are operating in a legal vacuum. Academic and regulatory discourse has still not considered how outsourcing would impact various duties of attorney as well as other issues such as data protection.

CTIL welcomes views of the Florida Bar Association, International Law Section and the INBA on these regulatory issues. We look forward to a lively discussion on policy reforms in non-litigious services.

**ProgrammeChair:** Mr.Prakhar Bhardwaj, Senior Research Fellow, CTIL.

**Discussants:** Mr. KavirajSingh, Secretary General, Indian National Bar Association and members of the Florida Bar Association.

**Vote of Thanks:** Mr. Prakhar Bhardwaj

**Snacks and Tea**

**Location: -**



## ABOUT US

The **Center for Trade and Investment Law** was established in the year 2016 by the Ministry of Commerce and Industry, Government of India, at the Indian Institute of Foreign Trade. The Centre's primary objective is to provide sound and rigorous analysis of legal issues pertaining to international trade and investment law to the Government of India and other governmental agencies. The Centre is aiming to create a dedicated pool of legal experts who could provide technical inputs for enhancing India's participation in international trade and investment negotiations and dispute settlement.