



Centre for Trade and Investment Law (CTIL), New Delhi



DPIIT Chair on IPR, CIPRA, National Law School of India University, Bengaluru

invite you to attend the

Discussion on

SECURITY EXCEPTION AND THE WTO

4 PM (Indian Standard Time), 25th September 2021

The Event

The security exception provisions, provided in the GATT, GATS and TRIPS agreements, have become a subject of discussion in recent times. The United States invoked Article XXI of the GATT as a justification for its measures on steel and aluminium imports. Promoting a broad interpretation of the exception, the United States has argued in its ongoing cases that a WTO panel does not have the jurisdiction on security exception under Article XXI. It claimed that the security exception is self-judging, and each country has the right to determine what it considers 'essential security interests'.

For long, the GATT and WTO panels had not directly addressed the question of jurisdiction on the invocation of security exceptions. However, this practice changed with the dispute involving the invocation of security exception by Russia in *Russia – Measures Concerning Traffic in Transit* (DS512) case. As a result, a WTO panel for the first time critically evaluated the scope of security exception under GATT. It did not agree with the argument of complete non-justiciability of Article XXI and instead, considered the exception to be partially justiciable. The panel report of DS512 was followed by the *Saudi Arabia – Protection of IPRs* (DS567) case which re-affirmed the panel jurisdiction to evaluate the invocation of security exception.

The decisions by the WTO panels mean that the 'National Security' policy space is a bit narrower now than some WTO Members may have previously believed. This is of significance because the WTO Members need some margin in order to tackle problems such as the emergence of the COVID-19 or other security concerns. The question remains whether the national security exceptions, in light of DS512 and DS567, provide this much-needed policy space or not.

In this background, the '**Discussion on Security Exception and the WTO**' will be organised online by the *Centre for Trade and Investment Law (CTIL), Delhi* on **25 September 2021 at 4 PM** in collaboration with and under the chairmanship of **Professor T. Ramakrishna, DPIIT Chair on IPR, CIPRA, NLSIU, Bengaluru**. The discussion will scrutinize the interpretation of the two cases and their implication for the policy space of the WTO Members.



PROGRAMME SCHEDULE

4 PM – 5.30 PM (Indian Standard Time), 25th September 2021

Welcome Address

Prof. James Nedumpara

Head and Professor, CTIL, New Delhi

Inaugural Address

Prof. Sudhir Krishnaswamy

Vice-Chancellor, NLSIU, Bengaluru

Distinguished Remarks on Security Exceptions and WTO

Ambassador J.S. Deepak

Former Ambassador of India to the WTO

Session Remarks and Chair

Prof. T. Ramakrishna

DPIIT Chair on IPR & CIPRA, NLSIU, Bengaluru

Discussion on *Russia – Measures Concerning Traffic in Transit* (DS512)

Dr. Geraldo Vidigal

Assistant Professor, University of Amsterdam

Discussion on *Saudi Arabia – Protection of IPRs* (DS567)

Dr. Emmanuel Oke

Lecturer, Edinburgh Law School, University of Edinburgh

Closing Remarks

Ms. Apoorva Singh Vishnoi & **Ms. Jothsna Chikkodi**

Research Fellow, CTIL

Research Associate, DPIIT Chair on IPR, NLSIU



ABOUT THE ORGANIZERS

About the CTIL

The CTIL was established in the year 2016 by the Ministry of Commerce and Industry, Government of India, at the Indian Institute of Foreign Trade (IIFT). 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 that who could provide technical inputs for enhancing India's participation in international trade and investment negotiations and dispute settlement

About the CIPRA

The Centre for Intellectual Property Research and Advocacy (CIPRA) was established with the objective of enhancing the intellectual property knowledge base and research capabilities in general and NLSIU in particular. The Centre attempts to achieve these aims through a two-pronged strategy. Firstly, it attempts to disseminate information on intellectual property rights with a view to creating awareness amongst the public. Secondly, it initiates research into relatively unexplored and emerging areas of innovation. CIPRA as a Centre is committed to the promotion of IPR awareness, felicitation for creation, protection, enforcement, and commercial exploitation of IPR, and building an effective IPR law database for networking amongst all stakeholders and the IPR law community.

About the NLSIU

NLSIU was the first National Law University established in India in 1986. The premier law school was set up with a mission to pioneer legal education reforms, and to anchor the transformation of the Indian legal system through research and policy interventions. Consequently, the NLSIU was one of the first institutions in the country to introduce the five-year integrated law degree at the undergraduate level with the commencement of the first batch in 1988. And for over 30 years now, the University has irrefutably remained a leader in the field of legal education in the country. This long-standing record has been possible due to the strong collaborations between legal academics, the Bar, the Bench and the State Government of Karnataka.

RSVP:

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