

*An Issue of Invocability of Provisions of the WTO
Covered Agreements Before Domestic Courts*

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Abstract of the presentation on “An Issue of Invocability of Provisions of the WTO Covered Agreements Before Domestic Courts”

Trade-Related Aspects of Intellectual Property Rights Agreement (TRIPS) is one of the major agreements of the WTO agreement. Article 27:1 of the TRIPS agreement states that patents shall be available for any inventions, whether products or processes, in all fields of technology, provided that they are new, involve an inventive step and are capable of industrial application. Can a citizen of the WTO Member state claim patent in the field of biotechnology in his home country based on Article 27:1 of the TRIPS agreement? A system of invoking provisions of the WTO Agreements before domestic courts may be a good starting point to the WTO Dispute Settlement System because it will help to reduce the burden of certain types of cases on the international plane. A study on whether provisions of the WTO Agreements are invocable to the court of Member States under the WTO Agreements and national laws is valuable and contributes to the WTO system. This presentation covers relevant provisions of the Uruguay Round Agreements including TRIPS agreement, provides arguments favoring and opposing invocability and non-invocability, the direct applicability of the Uruguay Round Agreements in domestic law, and the invocability of the provisions of the Uruguay Round Agreements before domestic courts, and finally draws conclusion on the issue.

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