

Analysis of Security Exception in GATT And WTO; Impact on World Trade

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Abstract

The work aims to examine the signatories of the General Agreement on Tariffs and Trade (GATT) recognized the potential need of implementing autonomous security and defense policies that would be free from the overarching legal responsibilities outlined in the GATT. The provision delineating an exception to the General Agreement on Tariffs and Trade (GATT) regulations is included under Article XXI, which is specifically designated as "Security Exceptions" ("Article XXI"). The primary emphasis of this research is Article XXI of the General Agreement on Tariffs and Trade (GATT). Article XXI of the General Agreement on Tariffs and Trade (GATT) pertains to security exclusions. This pertains to member states' measures in reaction to conditions constituting an exceptional emergency or a need. A considerable number of treaties have provisions that exclude national security considerations, which have the potential to impact these subject matters. However, in this article we will examine the security exemption has emerged as a central point of contention in other contentious conflicts, presenting a possible challenge in general but particularly in the context of South Asia. This study is based on qualitative research. we analyzing statutes, local and international laws, protocols, conventions, treaties and reports for the accomplishment of this work.

Key Words: WTO, UN Charter, GATT, Security Exception, National Security.

Introduction:

The working and historical context of security exemption demonstrate a longstanding acknowledgement among contracting parties of the General Agreement on Tariffs and Trade (GATT) and current members of the World Trade Organisation about the compassionate nature of this provision. By established norms, individuals have historically abstained. The ability to initiate judicial proceedings against security-based measures and to use the security exception is restricted.

Defence is a fundamental aspect within various fields of study and disciplines. It refers to the present conflicts, including the recent tariffs implemented by the United States and other trade-related matters. The cultural norm of moderation is challenged by the limits imposed by the United Arab Emirates (UAE) and Russia (van den Bossche., et al., 2021).

The goal of the (GATT), an international treaty that oversees international commerce and attempts to eliminate tariffs and other trade barriers among member nations, is to mitigate the cost of running business globally. Article XXIII of the GATT defines the processes for resolving disputes connected to agreement breaches. As per paragraph (a) of Article XXIII of the GATT, a contractual party has the right to register a complaint with the GATT Council if it thinks that another contracting party has breached its GATT obligations, which has resulted in the complaining party's advantages being nullified or impaired (Chang, Y. C. 2022).

Article XXIII (1) (b) deals with a different topic entirely, which is the "Avoidance of Unfair Competitive Conditions." This section acknowledges the possibility that some activities done by contracting parties might result in unfair competition circumstances, which could impede the GATT's efforts to achieve its goals. As a result, it offers a method for the contracting parties to use to resolve such circumstances.

Article XXIII (1) (b) and the "security exception" in GATT does not hold a direct link to one another. Article XXI of the GATT has a provision known as the security exception. This provision enables contracting parties to take activities needed to preserve their essential security interests. Some examples of these acts include those that pertain to the defence of a country or the protection of its national security. Under the GATT's structure, such measures are not subject to being challenged or settling disputes (Lapa, V. 2020).

In a nutshell, the dispute resolution for claimed breaches of GATT duties is addressed in Article

XXIII (1) (a). In contrast, the avoidance of unfair competitive circumstances is addressed in Article XXIII (1) (b) of the GATT. The security exception is a distinct provision that may exist in Article XXI of the GATT. This provision gives contracting parties the freedom to adopt specific actions without being susceptible to challenge via the dispute resolution processes of the GATT.

RESEARCH METHODOLOGY

The research used a qualitative approach and combined primary and secondary materials. The researcher looked at original materials, such as international conventions and treaties and broad principles of law acknowledged by developed countries. On the other hand, secondary sources encompassed judicial decisions, often considered influential evidence in establishing the substance and extent of international standards derived from primary sources. In addition, the research also drew from the decisions of the United Nations Security Council and the General Assembly. In addition, reports are disseminated by international entities. Therefore, the concept is either normative or entirely speculative.

WTO CONFLICT CONCERNING THE SECURITY EXCEPTION

There has been a notable emergence of conflicts within the World Trade Organisation about the security exception. One of the most sophisticated conflicts pertains to Ukraine's legal challenge against the limitations imposed by Russia on transit traffic from Ukraine to other nations via its territory. The Ukrainian government asserts that there have been violations of the regulations related to the "Freedom of Transit" outlined in Article V of the GATT. In response, the Russian Federation has claimed the security exemption stipulated in Article XXI (Ranjan, P. 2023).

GATT' STATE AND MEMBER STATES OF WTO:

A contentious provision of Article XXI of the GATT state that the regulations of the GATT do not bind member states of the World Trade Organization. Suppose they believe such actions are

necessary to safeguard their vital security interests. This provision was included in GATT because it was controversial at the time. There is a certain degree of reluctance on the part of states to reduce their autonomy in matters relating to national security. Despite this, the exception allows for a broad range of jurisdiction since the GATT does not provide exact definitions for crucial terms such as "considers necessary," "essential security interests," "time of war," and "emergency in international relations." (Wang, C. 2019).

It might be grim to ascertain the exact scope of the exemption for "war" and "emergency" as described in Article XXI. Similarly, uncertainty arises over the possible examination of the use of Article XXI by a WTO Panel since the provision allows WTO members to adopt whatever steps they deem suitable to preserve their "essential" interests. This needs to be clarified about the potential scrutiny of the use of Article XXI by a WTO Panel. The concept of "good faith" is recognized as a universal legal rule within the framework of international law, where it functions as one of the basic principles of the law and performs a similar purpose. As a result, a high degree of importance is assigned to it. In addition, Article XXI's last phrase establishes a connection between the Charter of the UN and the GATT. It states that a member of WTO can take whatever actions are essential to accomplish its duties as outlined in the Charter. This provision is included in the document (Bismono, R., et al., 2022). The Charter outlines all of these obligations in more detail. This provision would make it feasible to carry out trade restrictions sanctioned by the UN Security Council in Chapter VII of the Charter. To preserve international tranquility and safety, this provision would make it possible to do so. Therefore, to satisfy their duties as outlined in the UN Charter, members of the World Trade Organization can exempt themselves from their commitments as outlined in the GATT. This is feasible due to the WTO's capacity to negotiate its trade agreements, which makes this conceivable (Voon, T. 2019).

SECURITY EXCEPTION AND THE HISTORICAL CONTEXT

The wording of the security exception and the historical context in which it was written suggest that member states have, for a very long time, been cognizant of the very delicate nature of this provision. Throughout human history, people have historically refrained, to a large extent, from instigating disputes or employing this provision as a method of defense. The small amount of Panel law on Article XXI suggests that, up until 2016, members demonstrated caution in applying this provision. When it was deployed, they were reticent to fight its application. This was the case even though there is a limited body of Panel jurisprudence on Article XXI. On the other hand, some disagreements were productively resolved using methods other than resorting to the official dispute resolution systems (Haglund, L. 2020).

THEORETICAL FRAMEWORKS RELATED TO INTERNATIONAL TRADE AND SECURITY

Realism in international relations holds that governments prioritize survival and national security over all other considerations and act solely in their own interests. Realists contend that because there is no central authority to impose laws in the anarchic international system, nations must be ready to defend themselves, even by enacting trade laws that advance their security interests (Malikova, R. 2021).

Liberalism On the other hand, liberalism places more emphasis on the possibility of cooperation as well as the function of international organizations in preventing chaos and promoting cooperation. Liberals view the WTO and its regulations, which include security exclusions, as offering a framework that strikes a compromise between the advantages of free trade and worries about national security. Liberals are aware of the possibility of misuse with security exclusions, though,

and the necessity of safeguards to prevent protectionism behind them (Bacchus, J. 2022).

Constructivism theory is concerned with how norms, ideas, and beliefs influence how the state behaves. According to this viewpoint, nations' common understanding of what constitutes genuine security concerns and the norms that are emerging around them have an impact on when security exceptions are used in trade. Constructivists would look at how international standards have evolved over time and how this has affected how security exceptions are interpreted (Haglund, L. 2020).

CURRENT WTO CONFLICT LINK THE SECURITY EXCEPTION

The matter pertains to the interpretation of Article XXI, which has yet to get a definite elucidation. The central question is whether the subsections within the Article possess objective substance or instead include open-ended exceptions that may be unilaterally invoked. In 2016, Ukraine initiated a significant legal challenge against Russia's imposition of traffic restrictions on transit from Ukraine to other countries. This marked the initial occurrence of a World Trade Organization (WTO) tribunal rendering a decision on a dispute under Article XXI; a member nation has raised it before the Dispute Settlement Body (DSB) on a very seldom basis and which has never been interpreted by a panel or an appeal body. This is primarily due to the prevailing belief among member countries that this exception falls under self-judgment, meaning it is considered beyond the scope of the WTO's jurisdiction. There is still much uncertainty once the Appellate Body issues a judgement that can be considered final until the organization's long-term plans are mapped out (MISRA, K. V. 2022).

In 2017, Qatar submitted a formal request to establish a panel to review the acts undertaken by the United Arab Emirates (UAE) in its alleged endeavors to isolate Qatar economically. The United Arab Emirates argues that it was compelled to undertake measures in

reaction to Qatar's provision of financial support to terrorist organizations, citing the security provisions included in these three agreements. The United Arab Emirates justifies its argument by pointing out that Qatar has signed all three accords. The imposition of tariffs on steel and aluminum imports by the United States government has sparked several controversial disputes in recent times. In light of the tariffs above, it has come to attention that nine nations have lodged formal complaints with the World Trade Organization (WTO) against the United States of America. The alliance comprises China, India, Canada, the European Union, Mexico, Norway, Russia, Switzerland, and Turkey. Furthermore, the United States has initiated legal proceedings in six cases against retaliatory tariffs that have been imposed. The panels were constituted in late January, paving the way for the commencement of litigation soon (Miglani, A. S. 2022).

The adoption of a World Trade Organization (WTO) panel ruling has occurred within the Russia Traffic in Transit dispute framework, which pertains to a comparable issue associated with Article XXI. Nevertheless, the legal certainty of this judgement has been cast into doubt due to the prolonged process of appointing members to the appellate body, leading to its challenge and subsequent condition of indeterminate status. However, several individuals are characterizing this report as a pivotal point in the constitutional development of the World Trade Organization (Bacchus, J. 2022).

SECURITY EXEMPTION; CONTEXT OF SOUTH ASIA

Concerning a disagreement between Russia and Ukraine, the Panel's report was finally adopted. Notably, India took part in the proceedings as a third party. It is said that a party involved in a contract, who utilizes Article XXI (b) (iii), shall provide substantiating proof to establish a legitimate connection between their security interests and the trade measure being implemented. Furthermore, India emphasized that the use of the security exemption should not be employed

as a means to inflict fines that are unconnected to the economy. In the year 2018, the government of India commenced a legal dispute over the United States' imposition of tariffs on imported steel and aluminum originating from India. This challenge was similar to an earlier one that India had initiated against the US. On SEVERAL OCCASIONS, the USA has likewise relied on Article XXI as a defense mechanism for its actions (Baecke, T. 2021).

Furthermore, after the recent Pulwama terrorist incident, India imposed heightened duties on all goods from Pakistan. India used Article XXI in its diplomatic discourse to rationalize the withdrawal of the Most-Favored Nation Status from Pakistan. According to the 2002 Trade Policy Review of Pakistan, it was observed that Pakistan assessed the compliance of both India and Pakistan with Article XXI (b) (iii) by mutually granting each other exemption from the Most-Favored Nation (MFN) principle. This statement was made within the framework of the Trade Policy Review of Pakistan. As per the provisions outlined in Article XXI, it is noteworthy that neither party involved has taken any action to commence a dispute against the other party within the framework of the WTO (Franks, S. 2021).

Several nations have expressed apprehensions over Huawei, a Chinese telecommunications corporation, and have implemented measures to restrict Huawei's involvement in public activities due to allegations of the business engaging in espionage on behalf of the Chinese government. These nations have provided a rationale for their actions based on the alleged infringement of vital security interests as outlined in Article XXI (MISRA, K. V. 2022).

In addition, India and Sri Lanka have voiced concerns about the potential effects of China's One Belt, One Road (OBOR) plan on their respective countries' national security. It is feasible for countries to put their security interests ahead of their pledges to abide by the rules of the WTO. When there is history of war in South Asia and crises in international relations within the area,

this is because of the prevalence of wars in South Asia and the frequency of crises in international relations within the region. Nevertheless, it is necessary to investigate whether or not the governments of South Asian countries utilize this clause to obfuscate restrictions placed on free trade (Malikova, R. 2021).

CRITICAL EXAMINATION OF SECURITY EXCEPTION CLAUSES IN GATT AND WTO:

The GATT's Article XXI offers wide security exclusions that let member nations take whatever actions they deem appropriate to safeguard their vital security interests. In the pertinent passage, it is stated as follows:

This Agreement shall not be interpreted to compel any contracting party to provide information that it believes would conflict with its essential security interests, or prohibit any contracting party from taking any action that it deems necessary to preserve its essential security interests. Concerning the trafficking of weapons, ammunition, and other war implements, as well as other goods and materials that are traded directly or indirectly to supply a military establishment; during times of war or other crises involving international relations; or prohibiting any party to a contract from acting by its duties under the United Nations Charter to uphold international peace and security. Countries frequently use this clause to defend actions that would otherwise be at odds with their GATT trade responsibilities (Bacchus, J. 2022).

WTO DISPUTE SETTLEMENT AND SECURITY EXCEPTIONS

It has been controversial to interpret and apply Article XXI in WTO dispute settlement. Historically, Article XXI was seen as a "self-judging" clause, thus governments used it without any difficulty. Recent conflicts, including those between Russia and Ukraine, have put this clause

to the test, with panels looking into the legitimate application of security exclusions (MISRA, K. V. 2022).

BALANCING TRADE AND SECURITY

The difficulty in international trade law is striking a balance between the necessity of taking reasonable national security precautions and the risk that doing so will jeopardize the fundamentals of free and fair trade. The use of theoretical frameworks aids in comprehending the intentions of governments and the possible repercussions for the global trade system. Constructivism clarifies how security standards are dynamic, liberalism emphasizes the value of rules and collaboration, and realism emphasizes how security issues are unavoidable (Malikova, R. 2021).

Security exceptions under the WTO and GATT are essential for enabling governments to handle issues related to national security inside the framework of international commerce. The application and ramifications of these exclusions can be better understood through the lens of theoretical approaches to international commerce and security, which emphasize the intricate relationship between national interests and global economic integration (Franks, S. 2021).

IMPACT OF EXCEPTIONS (GATT) AND (WTO)

Both the World Trade Organization (WTO) and the General Agreement on Tariffs and Trade (GATT) have a number of exceptions that permit member nations to stray from their obligations to liberalize trade in certain situations. Understanding the balance between free trade and other significant policy goals, such as environmental preservation, public health, and national security, depends on these exceptions. Studies on these exclusions have looked at their effects on

international trade, practical uses, and legal interpretations. Here are some important conclusions from earlier studies:

PUBLIC MORALS, HEALTH, AND SAFETY:

Research indicates that actions intended to safeguard public morals, health, and safety are regularly justified by citing Article XX exceptions. The infamous GATT dispute, for instance, over the US's prohibition on shrimp imports in order to save sea turtles (US - Shrimp), brought attention to the application of the environmental protection exemption (Franks, S. 2021).

According to this opening clause, measures cannot be implemented in a way that would result in unfair or arbitrary discrimination between nations or a covert infringement on international commerce. According to research, this provision is essential to preventing the exclusions from being misused to support protectionist policies masquerading as public policy goals (Bacchus, J. 2022).

NATIONAL SECURITY:

There has been much discussion and analysis surrounding the application of Article XXI, which permits actions done to safeguard national security. Recent studies have looked at situations where national security was used as the basis, such as the U.S. tariffs on aluminum and steel. Although these exclusions are required, academics contend that their vague and expansive wording may be abused, weakening the multilateral trade system (MISRA, K. V. 2022).

TRADE-ENVIRONMENT NEXUS:

Environmental Protection: A major field of study is the interaction between trade and environmental laws. There are disagreements on how to strike a balance between trade liberalization and environmental protection despite the GATT/WTO framework allowing for

exceptions to address environmental issues. For example, the Brazil-Retreaded Tyres case demonstrated the difficulties in coordinating trade policies with environmental goals in accordance with GATT Article XX(b) (Voon, T. 2022).

Sustainable Development: Scholars point out that even while environmental preservation is acknowledged as a valid goal by the GATT/WTO system, there is always a need for precise rules to avoid trade and environmental policy disputes. This is especially pertinent in light of the objectives of sustainable development and climate change (Malikova, R. 2021).

ECONOMIC IMPACT OF EXCEPTIONS:

Trade Restrictions: The economic effects of relying on GATT/WTO exceptions have been assessed by empirical research. According to some research, these exclusions can result in trade distortions and retaliatory actions even while they are essential for protecting significant domestic interests. For example, trade restrictions imposed for health or environmental grounds may occasionally intensify into larger trade disputes.

Marketing: Using exceptions may limit a product or service's ability to enter markets, which may have an effect on international commerce. According to research, the international trade system has to apply exceptions in a clear and consistent manner in order to preserve predictability and confidence (MISRA, K. V. 2022).

DISPUTE SETTLEMENT AND JURISPRUDENCE:

Legal Interpretation: There has been a wealth of research on how dispute resolution organizations interpret and use GATT/WTO exceptions. Legal experts examine how panels and the Appellate Body strike a compromise between the necessity to stop protectionist misuse and

member states' rights to request exceptions. Important decisions like *US v. Gasoline* and *EC v. Asbestos* have greatly advanced the body of knowledge about exceptions. All things considered the study emphasizes how crucial GATT/WTO exemptions are for enabling nations to pursue justifiable policy goals in the midst of engaging in international trade. It also emphasizes the necessity of applying the exclusions carefully and consistently to avoid abuse and make sure the ideals of fair and unrestricted commerce are not compromised (Bacchus, J. 2022).

REVIEW OF LITERATURE

With respect to Security Exceptions,

According to Holger Hestermeyer, prioritizing security concerns has historically taken precedence over considerations of free trade. According to his statement, several treaties include the capacity to address issues about national security, including provisions that allow for national security exclusions. One of the critical issues surrounding Article XXI is the jurisdiction of WTO Tribunals in determining problems concerning the security interests of member states. Specifically, there is debate over whether the wording outlined in paragraphs (a) and (b) is inherently subjective and allows member states to make their determinations. According to Raj Bhala, the clause has inherent self-judging characteristics, granting members the ability to claim security exceptions without being subject to judicial scrutiny. In its statement as a third party during a recent disagreement involving a panel, the United States expressed agreement with the viewpoint that the national security exception is both self-judging and inadmissible to legal scrutiny. During the deliberations inside the GATT Council in 1949, participants expressed the viewpoint that each

nation should ultimately own the authority to choose matters about its national security (Franks, S. 2021).

WTO Tribunal Decide Disputes about Article XXI in Good Faith,

However, others like Akande and Williams believe that WTO Tribunal can decide disputes about Article XXI by applying for Good Faith review. Jaemin Lee thinks that even if it is determined that paragraph (b) has a component of self-judging, it is still open to the scrutiny of a WTO panel and should be treated as such. Similarly, Roger Alford argues for a balance by adapting a

However, Akande and Williams believe that the WTO Tribunal has authorization to resolve issues relating to Article XXI via a Good Faith review. Jaemin Lee believes that paragraph (b) is susceptible to examine by a World Trade Organization board, even if it is considered to have a self-judging component. Similarly, Roger Alford advocates for achieving equilibrium by adopting a well-established comprehension that using exceptions should be few, judicious, and undertaken with sincerity (Bismono, R., et al., 2022).

The panel in charge of adjudicating the Russia Traffic in Transit case concluded that its duty to honestly and fairly interpret and apply Article XXI (b) (iii) of the General Agreement on Tariffs and Trade (GATT) 1994 limits a member's ability to designate particular concerns as "essential security interests." The decision above was derived within the Russia Traffic in Transit case context. According to Helge Elisabeth Zeitler, the recognition of the dual nature of good faith by the Appellate Body is evident in its acknowledgement of its status as both a general basic principle and a norm of general international law (Voon, T. 2022).

War or Other Alternative Relations:

Matsushita et al. argue that "war or other emergency relations" should be construed objectively. The authors assert that the word "war" has recognition within the framework of general

international law and embraces circumstances characterized by armed conflict. The panel's most recent report, however, takes a different stance and claims that it might not be necessary for the panel to determine whether the situation qualifies as "war" or "other emergency relations" in the context of international law. This assumption is posited based on the report's suggestion that the panel may be able to use this option. Unexpectedly, the panel chose to base its determination of an armed conflict scenario on a General Assembly resolution.

In addition, Matsushita and colleagues believe that the axiom "other alternative in international relation" has a wider scope than the word "war." Despite the term's vagueness, its substance is objective, and it may be used to refer to various situations, including economic, social, or political circumstances. WTO tribunals need to examine each situation individually before making this conclusion. Jaemin Lee thinks that in sub-clause (iii), the terms "war" and another emergency" are connected with the disjunctive word "or" would support the proposition that the two terms would stand on a similar or equivalent footing of national importance. Otherwise, a single term of "emergency" would have been sufficient (Trihastuti, N. 2023).

According to Matsushita et al., the phrase "other emergency in international relations" is considered to have a more enormous scope than the word "war". Despite its ambiguous nature, the statement is objective and may include several aspects, such as the economic, social, or political environment. The World Trade Organization's (WTO) tribunals need to decide such issues using a methodology that is personalized and contextualized according to their unique circumstances. According to Jaemin Lee, the fact that the disjunctive word "or" is used to link the terms "war" and "other emergency" in subclause (iii) shows that these two ideas have a similar or equal degree of national importance. Alternatively, a solitary designation such as "emergency" would have been enough (Bismono, R., et al., 2022).

FINDINGS:

One solution for alleviating the volatility associated with security exceptions is for a member of the WTO to make non-violation complaint rather than pursue a complaint of violation. This is one of the recommended strategies. In the earliest requests for consultations about the tariffs imposed by the United States under Section 232, four complainants raised concerns pertaining to both non-violation and violation aspects. Nevertheless, the aforementioned references were omitted from their later suggestions for the creation of the panel. However, it is important to acknowledge that the consideration of the security exemption should not be disregarded when dealing with non-violation concerns. Additionally, it should be understood that non-violation complaints may not always be applicable when a member country invokes the security exception. Non-violation complaints have inherent challenges and need careful consideration when used.

One suggested solution to address the instability linked to the security exception is advocating for the pursuit of non-violation complaints under Article XXIII(1)(b) of the General Agreement on Tariffs and Trade (GATT) instead of violation complaints under Article XXIII(1)(a), by members of the World Trade Organization (WTO). In a complaint of non-violation, a participant of the World Trade Organization (WTO) alleges that a benefit acquired, either directly or indirectly, as a result of the WTO agreements is being made useless or reduced in its impact. Furthermore, it is said that the use of any measure by a different member of the World Trade Organization (WTO), irrespective of its conformity with WTO regulations, impedes the attainment of any goal delineated in the Agreement. Four individuals who filed the first requests for consultations about the U.S. Section 232 tariffs mentioned non-violation and violation aspects. However, the references above should have been included in their future suggestions for creating the panel.

ADVANTAGES & CONCLUSION:

One potential advantage of filing a non-violation complaint is that it allows for a panel ruling in favor of the complainant without explicitly finding that the respondent has violated any World Trade Organization (WTO) law provisions. In such cases, the respondent may be required to make a mutually agreeable modification to the measure in question rather than being compelled to withdraw it entirely. Nevertheless, it should be noted that non-violation complaints do not automatically eliminate the need to examine the security exception. Additionally, it is essential to recognize that non-violation complaints may not apply if a member country uses the security exception. The use of non-violation complaints has its challenges and needs careful consideration.

The prospects for significant and substantial improvements on any matter inside the World Trade Organization (WTO) are limited. It may be impractical to expect a textual revision or an authorized explanation of the security exception. The exemption, as now formulated, demonstrates a careful consideration of the members' need for autonomy in safeguarding their security while also considering the interests of the multilateral trading system in discouraging unilateral trade measures. If a panel adjudicates the security exception, its only viable course of action is a deferential approach. This entails evaluating the respondent's invocation of the exception by the customary principles of treaty interpretation to ascertain whether the respondent has acted in good faith.

In order to circumvent a panel's decision, the parties involved in the dispute must seek a mutually agreeable resolution outside the framework of the WTO dispute settlement system, with the assistance of relevant panels, the WTO Secretariat, and fellow WTO members. The likelihood of resolving disputes in the United States is contingent upon advancements in several

areas discussed in this symposium, including ongoing WTO deliberations over the appointment of Appellate Body members, the finalization of new or updated trade agreements involving the United States, and the resolution of conflicts between China and the United States. Restoring a more stable equilibrium regarding the WTO security exception can only be achieved by carefully considering and resolving these overarching issues.

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