

## Lecture 22: Trade-Related Aspects of Intellectual Property Rights (TRIPS) Agreement

Dear students, this week we are going to discuss one of the important aspects of the WTO Agreement that is Trade-Related Aspects of Intellectual Property Rights, which is popularly known as the TRIPS Agreement. So, when we talk about the TRIPS Agreement, it talks about intellectual property rights. Intellectual property rights came into the WTO system, or I would say the GATT system as an agreement for the first time in the Uruguay Round of negotiations. You can find certain provisions in the GATT, may be a single provision, but intellectual property was continuously pushed by the developed countries from time to time through different trade negotiations, including the Kennedy Round and the Tokyo Round of negotiations. But as a full Agreement, it came to the Uruguay Round of negotiations for discussions, and many countries submitted their views, and developing countries specifically opposed a full-fledged intellectual property regime within the WTO system. Because they argued that already the World Intellectual Property Organization (WIPO) is taking care of the intellectual property regime as such, and some of the countries are members in some of the Agreements like the Paris Convention and at the same time, some of them are not members to other conventions like the Berne Convention which talks about the protection of literary and artistic works like, the copyrights. They are not members because they do not want to become members to certain conventions.

### CONCEPTS COVERED

- Introduction
- Intellectual Property Philosophy
- Objectives of TRIPs Agreement
- Different Categories of IP



So we can see that this is what the class specifically focuses on. So, this entire week, will discuss the entire TRIPS Agreement, its basic obligations, different categories of intellectual property rights and the minimum protection provided to each category of intellectual property law. Also, we will see some of them, what can be patented, which is mentioned under the TRIPS Agreement, what cannot be patented, and even provisions for compulsory licensing. So, we will elaborately see in this particular Agreement. This Agreement is very important for any trade law student or anybody who wants to know about the WTO Agreements because intellectual property is exclusively dealt with by under this single Agreement. And in this class, we are going to see the philosophy of

intellectual property protection and what specifically is the objective of the TRIPS Agreement, and what are the previous Agreements which talk about different kinds of intellectual property protection.

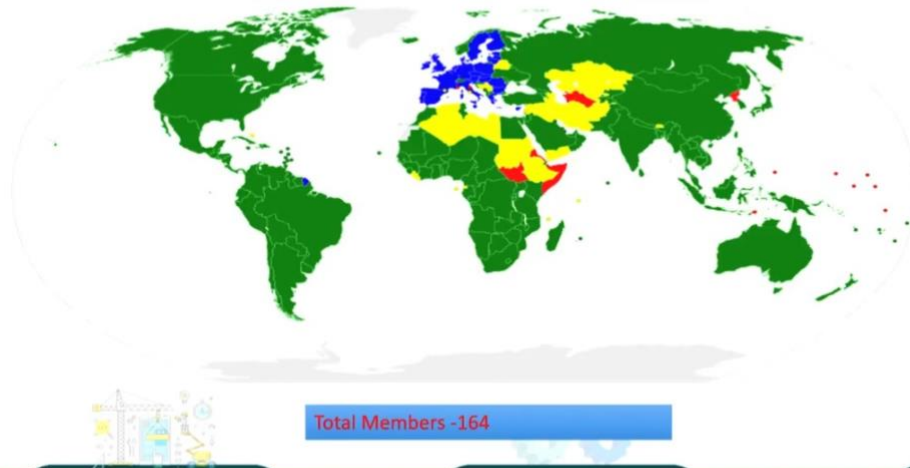
## Introduction

- **The WTO Agreement on Trade- Related Aspects of Intellectual Property Rights (TRIPs) is the most comprehensive multilateral agreement on intellectual property (IP).**
- **TRIPs plays a vital role in facilitating trade in:**
  - **Knowledge and creativity;**
  - **Resolving trade disputes over IP; and**
  - **Assuring WTO members the latitude to achieve their domestic policy objectives.**
- **This Agreement is the legal recognition of the significance of links between IP and trade as well as the need for a balanced IP system.**



And within the WTO, in the TRIPS Agreement, there are 7 categories of intellectual property law. So, in the coming classes, we will be discussing the specific sectors of intellectual property law. So, when we look into the WTO, I already said that intellectual property came into the negotiations and was completed as an agreement for the first time. So, the TRIPS Agreement says that it wants to facilitate trade. So, even though the developed countries wanted a full-fledged intellectual property agreement, the developing countries only agreed to something similar to the TRIMS Agreement: trade-related investment measures; here, it is Trade-Related Aspects of Intellectual Property Rights. So, only trade-related intellectual property is mentioned, not the whole intellectual property law involved in the TRIPS Agreement. So, basically, the Agreement wants to facilitate trade, knowledge and creativity because there must be innovation in the market if you want more and more trade. Then, in resolving trade disputes over IP, they found that the present dispute settlement system under the WIPO is not very effective. So, they want a solid dispute settlement system under the WTO. Then, this Agreement also wants to give leeway or gap or freedom to every individual country to set their own goals according to the domestic policy objectives. So, it means that the TRIPS Agreement provides only minimum standards of protection, and it never gives a uniform law. It gives minimum protection, and more protection can be given by the member countries in different areas: whether it is in patents or it is in trade mark or copyrights or it is in geographic indications or it is designs or it is in integrated circuits, etcetera. So, every country is free to adopt its own policies, but according to the TRIPS Agreement.

## WTO and World



So, one of the first cases was against India, when did not comply with the TRIPS Agreement. And finally, India was forced to amend its Patents law of 1970 in the year 1999, and in the same year, 1999 or 2000, you can see that India passed so many legislations to protect intellectual property. They amended the copyright law, they amended the trade mark law, and they came out with new legislation on the protection of geographical indications. They came out with new legislation of integrated circuits, and they completely revamped the intellectual property laws. Here, you can see that in red colour, very few countries are left to become WTO members. There are 164 member countries in the WTO. All of these 164 member countries have to implement the TRIPS Agreement at the domestic level. Whether it is a small country, like Sri Lanka or it is other countries like Nauru or whatever the size of your country is, is not a matter at all. Even small island countries also have to have an intellectual property law, and you also must have an intellectual property law. So, it does not matter if you can have a higher protection; you can have a lower protection, but over and above the TRIPS Agreement. You have to comply with the TRIPS Agreement. This is the importance. All over the world, which deals with 99.9 percent of the world trade, now have to comply with the TRIPS provisions on intellectual property law.

## Intellectual Property Philosophy

- IPR are the legal rights that given to persons over the creations of their minds.
- IPR usually give the creator an exclusive right over the use of his/her creation period of time.
- The concept of IPR are customarily divided into two broad areas, namely:
  - 1) **Copyright and the rights related to Copyright**
  - 2) **Industrial Property** – this is further divided into following categories:
    - a) Trademarks and Geographical Indications
    - b) Patents, Industrial Design and Trade Secrets



So, when you look into the philosophy of intellectual property protection, we can see many theories as well as forms of protection. So, earlier, you can see that customarily, it was protected under the industrial property. We will see the Paris Convention and then Copyright law protection. Copyright law protection is under the Berne Convention, as we can see. So, there are many categories, we will see all seven categories in detail, but these were the two main categories in the earlier times.

## Patent Philosophy

- The WTO's Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) attempts to strike a balance between the long term social objective of providing *incentives for future inventions* and creation, and the short term objective of allowing people to use existing inventions and creations.



And the WTO's patent philosophy says that, the TRIPS philosophy, I would say very clearly says, to strike a balance between the long-term social objective of providing incentives for future inventions and creations and the short-term objective of allowing people to use existing inventions and creations. The short-term objective, the short-term monopoly, is given to every inventor and every innovator for a period of 20 years in the

case of patents. This is the short term. And for this monopoly of 20 years in return you have to disclose the invention to the public from the very beginning. So, after 20 years the public can use this particular invention without any restrictions. At the same time, for a period of these 20 years, there is a monopoly right over the innovation, which will give more incentives for further innovation. The famous incentive theory or sweat of the brow theory is famous as an objective justification for protecting intellectual property. So, incentive theory is one of the prominent theories which surfaced in the TRIPS Agreement.

## Early Protection of IPRs

- **1331 – letters patent - England**
- **1474- Inventors rights in Venice, “Parte Ceneziana”.**
- **1474 – venetian statute**
- **1663- Patent in England, King James the First**
- **1760- Industrial Revolution in England, spread over Europe, Japan and USA.**
- **1790- United States through the Act dated 10 August.**
- **1790- France through the Decree adopted by the King, Louis XVI, on 31 December and on 7 January, 1791.**



Intellectual property protection is not new at all. I would say that before the 14th century, even much before the 14th century, intellectual property protection was present in other countries, especially in Europe. So, it was recorded that in 1331, Letters Patent were issued in England. And in 1474, inventors rights were recognised by Venetian statute. Then again, you can see that King James recognised intellectual property first time in 1663. In 1760, you can see that the Industrial Revolution and the connected intellectual property protection spread to other countries, such as Japan or the US and other countries. In 1790, the US Patents Act came out and started giving patents. In France and other countries we can find the intellectual property protection existed.

# Paris Convention to the TRIPs Agreement

- Paris Convention for the Protection of Industrial Property of 1883. (A.2.1).
- Berne Convention for the protection of Literary and Artistic works of 1886, (A.9.1).
- The culmination of a long maturation, roots go way back to GATT, 1947.



So, with the Paris Convention, the first intellectual property law, international law, was put in place. Much before that, the Paris Convention for the Protection of Industrial Property, 1883, was the first comprehensive international Agreement which protects intellectual property. The Berne Convention 1886: the Berne Convention for Protection of Literary and Artistic Works came in 1886. So after this, we go back to some of the provisions in the 1947 GATT Agreement.

## Agreement of WIPO and WTO

The World Intellectual Property Organization (WIPO) and the World Trade Organization (WTO), entered into agreement in Geneva on 22th December 1995:

➤ to establish a mutually supportive relationship between them, and with a view:

✓ to establishing appropriated arrangements for-cooperation between them.



So, I have already said that whether it is a Paris Agreement or Berne Agreement or it is Madrid Agreement, these Agreements were managed by the World Intellectual Property Organization (WIPO). WIPO is the specialised agency of the United Nations on intellectual property law. In 1995, the WIPO and WTO entered into a working arrangement and an agreement. They said that they would establish a mutually supportive

relationship with them, and with a view to establishing appropriate arrangements for cooperation between them. Now, most WIPO Agreements are a part of the TRIPS regime. So, I would say that the countries who do not want to ratify the WIPO conventions by signing the TRIPS Agreement, indirectly became members of those old Agreements and regimes.

## Agreement on Trade-related Aspects of Intellectual Property Rights (TRIPS)

- **Annex 1C of WTO Agreement**
- **Coverage**
  - **most comprehensive multilateral agreement on intellectual property to date**
  - **incorporating substantive provisions of:**
    - Paris Convention (1967) – Industrial Property
    - Berne Convention(1971) – Literary and Artistic works
    - Rome Convention (1961) – Protection of Performers etc.
    - Treaty on IP in Respect of Integrated Circuits (1989) - IC



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So, here you can see that the TRIPS Agreement is not a single Agreement. TRIPS Agreement is a package which covers annexure 1C, which covers the Paris Convention, the Berne Convention, the Rome Convention, the Protection of Performers and the broadcaster's other rights. So, the neighbouring rights, then treaty to protect the integrated circuits. So, all these international Agreements are now part of the TRIPS Agreement. That is why I said TRIPS is not a single agreement; rather, it is a package of its old agreements.

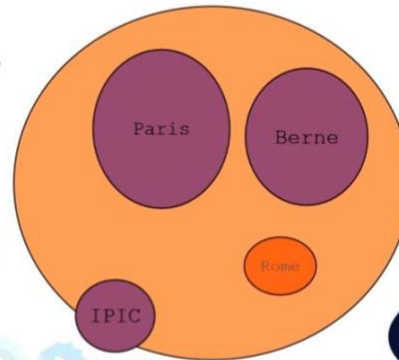
## "Incorporation" Technique

- Existing conventions
- To avoid re-opening of existing texts
- To negotiate the "plus" elements
- To have a short but comprehensive text

Conventions fully incorporated or almost fully incorporated

Plus elements

Conventions with very few elements incorporated



So, it is a package that includes; we talked about the Paris Convention, the Berne Convention, the Rome Convention and the Integrated Circuit Convention. So, the existing conventions and also existing conventions plus the TRIPS convention: TRIPS Agreement. This constitutes the present commitments or obligations.

## Objectives of TRIPs

- To reduce distortion and impediments to international trade
- To promote effective and adequate protection of intellectual property rights
- To ensure that measure and procedures to enforce intellectual property rights do not themselves become barrier to legitimate trade.



So, like any other WTO Agreement, the TRIPS Agreement says the objective is to reduce distortions and embodiments to international trade to promote effective adequate protection of intellectual property rights, and these measures and procedures to enforce intellectual property rights do not themselves become barriers to legitimate trade. So, if you look into these three objectives, it is very clear that other than the second one, others are general ones, that is, applicable to every WTO Agreement, which is to remove distortions and embodiments of international trade and help economic development in



developing countries. So, this is also the common objective incorporated in the TRIPS Agreement.

## IPs Covered by TRIPs

1. Patents
2. Copyright and Related Rights
3. Trademarks
4. Geographical Indications
5. Industrial Designs
6. Layout-Designs (Topographies) of Integrated Circuits
7. Undisclosed information or trade secrets



If you look into the TRIPS Agreement, TRIPS Agreement protects seven categories. It talks about seven categories of intellectual property law, and that includes patents, copyright and related rights, trademarks, geographical indications, industrial designs, layout designs of integrated circuits, undisclosed information or trade secrets. So, if you look into India other than the last category, undisclosed information or trade secrets, India has specific legislation on each topic or area. So, these are the seven categories of intellectual property which is protected under the TRIPS Agreement, and we are going to see all these categories separately in the coming classes.

## The Differences

- **There are long standing disagreements between developed and developing countries over the value of strict or high IP standards.**
- **Developed countries contend that weak laws facilitate piracy and cost the IP creator/holder the value of their efforts.**
- **The adoption of the TRIPs Agreement appears to have come down largely on one side of the dispute.**



So, if you look into the TRIPS Agreement, you can see that basically, IP is to be protected. The TRIPS Agreement very clearly says that intellectual property is to be protected, and what intellectual property is to be protected, all the intellectual property which is mentioned under the TRIPS Agreement's seven categories to be protected.

## Uruguay Round

- **History of TRIPS making it to the agenda of the Uruguay Round involves**
- **U.S. pressure — in the form of aggressive unilateralism.**
- **U.S. used its Sec. 301 statute (approx. 20 times) to pursue countries for the “unreasonable” practice of providing inadequate intellectual property protection.**
- **(Prior to 1995, Section 301 allowed the U.S. to investigate, to make findings of an unreasonable practice, and to threaten and ultimately sanction countries that did not adopt U.S.-level IP standards.)**



So, if we look into the Uruguay round of negotiations, what has happened during the Uruguay round of negotiations, we can see that the developed countries put a lot of pressure on the developing countries, including India, but India was also a part of the negotiating team of the TRIPS Agreement, which submitted representations, which submitted papers and its views. And here, the US has put a lot of pressure on the developing countries. So, the US practice was that, the US will put a set of countries those who are not complying with certain standards of intellectual property, under the section 301 of the US statute. So, it is section 301, and even the US can put sanctions on these countries under the section 301 provision, sanctions for not implementing intellectual property rights according to the US standards.

## Priority Watch List – 7 Countries – Special 301.

1. Argentina,
2. Chile,
3. China,
4. India,
5. Indonesia,
6. Russia, and
7. Venezuela.



So, we can see this list. It is the 2023 list. Every year we used to see this particular list very eagerly. Fortunately, we have been there from day one. India is there from day one. So, earlier, the countries list was very big list now I think 2023 is the shortest list which I saw and the number of countries is limited to 7. So, surprisingly China is not at the first place, Argentina, Chile are. This year, I do not know why Argentina and Chile are at the top, then China and then always India, Indonesia, Russia, and Venezuela. These are the 7 countries the US put under the special watch list under section 301. So, the effect is very clear under US law; you can even impose sanctions before the TRIPS Agreement. Now, you cannot impose sanctions, but still, the US continues with this particular provision 301 every year, they come out with a list of countries that do not implement intellectual property. So, the US still says that India is not implementing intellectual property properly, but India says that we complied with all the provisions by amending our law in 1999 and enacting new laws in 1999 and 2000. So, these countries are still on the US's priority watch list. So, the US can pressure other countries to adopt measures.

## Layout of the Agreement

- Part I – General Provisions and Basic Principles
- Part II – Scope, availability, and standards
  1. Copyright and Related Rights
  2. Trademarks
  3. Geographical Indications
  4. Industrial Designs
  5. Patents
  6. Layout-Designs (Topographies) of Integrated Circuits
  7. Protection of Undisclosed Information
  8. Control of Anti-Competitive Practices in Contractual Licences



So, this is continuing. So, we already said that the Agreement contains general provisions, then standards: it talks about standards on 7 categories of intellectual property plus it talks about anti-competitive practices and contractual licensing.

## The Agreement Covers Five Broad Issues

1. **how basic principles of the trading system and other international intellectual property agreements should be applied**
2. **how to give adequate protection to intellectual property rights**
3. **how countries should enforce those rights adequately in their own territories**
4. **how to settle disputes on intellectual property between members of the WTO**
5. **special transitional arrangements during the period when the new system is being introduced.**



And also, you can see the Agreement covers 5 broad areas. So, one: on the basic principles, and connection with other international intellectual property Agreements like the Paris Convention or Berne Convention and how it will be implemented. Then what kind of protection, and what is the minimum protection to be provided in each category of intellectual property law? Then, enforcement is very important in how the countries will implement it at the domestic level. Then settling disputes: the TRIPS Agreement is under the WTO disputes agreement system. And transitional arrangements every country got, developing countries got 10 years, developed countries got only 6 years and this

transitional period is over by 2005. So, India again amended its patent law in 2005 and introduced a process as well as a product patent system in the country. So, developing countries had a 10-year period for implementing these particular provisions, and I think that most of the countries have implemented them. This transitional arrangement is successfully implemented by 2005 by the countries.

## **Part III: Enforcement of IPRs**

- 1. General Obligations**
- 2. Civil and Administrative Procedures and Remedies**
- 3. Provisional Measures**
- 4. Special Requirements Related to Border Measures**
- 5. Criminal Procedures**



Enforcement mechanisms also you can see that every country has to arrange civil administrative and judicial measures. And in order to stop piracy at the border, you have to come out with special legislation or special rules with regard to border measures at the border. Then, in certain cases, criminal punishment. So, you have to amend your criminal laws, for example, copyright protection, geographical indication protection, and criminal punishment. So, you have to make judicial arrangements, the jurisdiction of your courts.

## **Other Provisions**

- Part IV: Acquisition and Maintenance of Intellectual Property Rights and Related Inter-Parties Procedures**
- Part V: Dispute Preservation and Settlement**
- Part VI: Transitional Arrangements**
- Part VII: Institutional Arrangements; Final Provisions**



So, you can see that other provisions can also be there in the Agreements, which provide for acquisition and maintenance of intellectual property rights and dispute settlement, which we already said. Then transitional arrangements are already over, then institutional arrangements which require specialised tribunals and courts and other administrative mechanisms for the implementation.

## Transition Period

- **All obligations have to be undertaken by certain dates — phase-in system**
  - **Developed countries — 1/96**
  - **Developing — 1/2000 and 1/2005 for categories considered unpatentable before)**
  - **Least Developed — 1/2006 — but extended under 2000 Doha Declaration until 1/2016.**



So, the transition period is already over. So, we do not have to discuss more about it.

## Objective, Art. 7

- **Objectives: the protection and enforcement of IPRs should contribute to**
  - **promotion of technological innovation**
  - **transfer and dissemination of technology**
  - **the mutual advantage of producers and users of technological knowledge and**
  - **in a manner conducive to social and economic welfare, and to a balance of rights and obligations.**



But Article 7 of the TRIPS Agreement very clearly talks about what is the objective of the TRIPS Agreement. The objective under Article 7 very clearly says the IPR should contribute to the promotion of intellectual innovation, promotion of technological innovation, transfer and dissemination of technology, mutual advantage of producers and uses of technological knowledge and also in a manner conducive to social and economic

welfare and to the balance of rights and obligations of developing countries. So, if you look into the specific objective of the TRIPS Agreement, it clearly says for the promotion of technological innovation. So, (1) inventions and innovations are given the prime priority then (2) transfer and dissemination of technology; the transfer of technology and (3) mutual advantage of producers and users for technological advancement, economic welfare. So, all these are the specific declared objectives of TRIPS Agreement.

## TRIPS covers 3 Main Areas

### • Standards

- **The Agreement sets out the minimum standards of protection to be provided by each Member.**
- **Subject matter**
- **Each of the main elements of protection is defined,**
- **Namely the subject-matter to be protected,**
- **The rights to be conferred and permissible exceptions to those rights,**
- **The minimum duration of protection.**



The main area of the TRIPS Agreement is that, you can see that, the Agreement sets minimum standards. Always remember that minimum standards of protection, not the maximum standard of protection, and the maximum standard can be determined by individual countries. Then, the subject matter of protection: the subject matter of protection is determined under the 7 categories of intellectual property law. The main elements of protection are what is to be protected and what is not to be protected, and what are the general exemptions which are mentioned under the TRIPS Agreement. Then, what are the rights conferred under each category of intellectual property law? Then the minimum duration of protection is also mentioned under the TRIPS Agreement.

## Compliance

- **The Agreement sets these standards by requiring, first, that the substantive obligations of the main conventions of the WIPO, the Paris Convention for the Protection of Industrial Property (Paris Convention) and the Berne Convention for the Protection of Literary and Artistic Works (Berne Convention) in their most recent versions, must be complied with.**
- **With the exception of the provisions of the Berne Convention on moral rights, all the main substantive provisions of these conventions are incorporated by reference and thus become obligations under the TRIPS Agreement between TRIPS Member countries.**



And under the compliance procedures, we can see that I already said that most of the countries or the countries who are not members of the old WIPO conventions automatically become members of the TRIPS Agreement, and they become members to the old Agreements, like the Paris convention for the protection of industrial property, Berne convention for the protection of literal and artistic works and also other Agreements. So, substantive provisions of the earlier conventions became part of the TRIPS Agreement. So, it is very simple that countries that are not members of the previous conventions automatically become members of the previous conventions of WIPO. So, all these conventions make a backdoor entry through the TRIPS Agreement to the domestic laws of every country.

## Enforcement

- **The second main set of provisions deals with domestic procedures and remedies for the enforcement of intellectual property rights.**
- **The Agreement lays down certain general principles applicable to all IPR enforcement procedures. In addition, it contains provisions on civil and administrative procedures and remedies,**
- **provisional measures, special requirements related to border measures and criminal procedures, which specify, in a certain amount of detail, the procedures and remedies that must be available so that right holders can effectively enforce their rights.**





Now, every country has to comply with the Paris Convention, the Berne Convention and other WIPO conventions. Intellectual property enforcement is very strict under domestic laws. And you, have to arrange civil and administrative procedures and remedies. The Controller General of Patents In India, the administrative mechanisms, the registration of trademarks, registration of geographic indications, and the registration of the IC integrated circuits, and registration of copyright - very important and then administrative tribunals and judicial systems to review the decisions. So, enforcement is very strict with regard to intellectual property rights or TRIPS Agreement.

## Dispute Settlement

- **The Agreement makes disputes between WTO Members about the respect of the TRIPS obligations subject to the WTO's dispute settlement procedures.**
- **44 disputes in WTO**



And then dispute settlement: so far, 44 disputes have come to the WTO relating to intellectual property. I already stated that this is one of the first cases against India for non-compliance with the TRIPS Agreement. So, so far, 44 cases have come to the WTO, a sizable number of cases. So, now non-compliance with the TRIPS Agreement is also within the purview of the WTO Agreement. So, it means that if any benefit accruing out of the TRIPS Agreement is impaired or affected by non-implementation of any of the WTO obligations, the members can approach the WTO dispute settlement system. If any legislation, domestic legislation of the country, violates the TRIPS Agreement, they can approach the WTO dispute settlement system, and the WTO can decide the case, non-compliance, violations, interpretations of the provisions, and actions. So, the WTO dispute settlement system is very comprehensive with regard to the implementation of the system, the complete system.

## Obligations

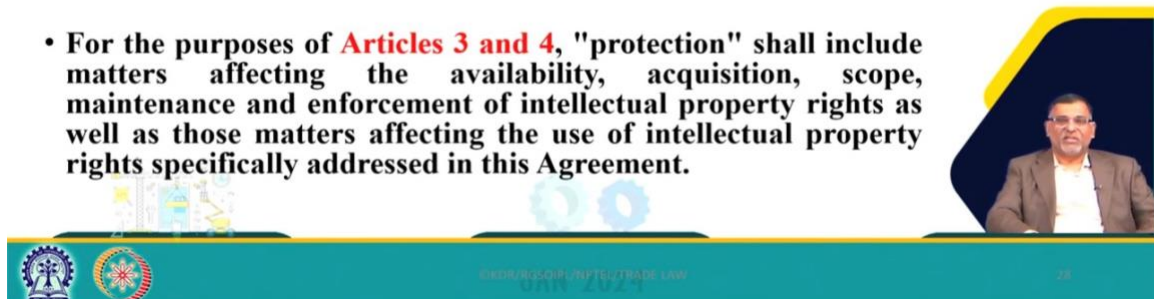
- **Article 1** - Members shall be free to determine the appropriate method of implementing the provisions of this Agreement within their own legal system and practice.



So, the obligations very clearly say that, remember, the TRIPS Agreement gives complete freedom to the member countries to adopt their own practice, their own legal system, their own legislation, and their own standards subject to the TRIPS Agreement, which provides for the minimum standards.

## National Treatment

- **Each Member shall accord to the nationals of other Members treatment no less favourable than that it accords to its own nationals with regard to the protection of intellectual property, subject to the exceptions already provided in, respectively, the Paris Convention (1967), the Berne Convention (1971), the Rome Convention or the Treaty on Intellectual Property in Respect of Integrated Circuits.**
- **For the purposes of Articles 3 and 4, "protection" shall include matters affecting the availability, acquisition, scope, maintenance and enforcement of intellectual property rights as well as those matters affecting the use of intellectual property rights specifically addressed in this Agreement.**



And the cardinal principle of the national treatment principle is applicable. The national treatment principle is applicable to the TRIPS Agreement as well. So, that means the country can no longer discriminate between the domestic industry and the foreigners or between foreign industries or collaborative industries. All these include the availability, acquisition, scope, maintenance, and enforcement of intellectual property rights. Now, there are so many intellectual property cases fought in Indian courts, especially the Delhi High Court. Even some competition-involved cases like the Micromax case are entangled

in the Competition Commission of India. Google faced a huge fine from the Competition Commission of India for violating the Indian Competition Act's provisions. So, there is a new branch of law, intellectual property versus competition law. So, there is a sizable jurisprudence is coming up. So, that is also one area of concern, a lot of the cases are also coming up.

## Art. 4 MFN (Members of Foreign National)

- With regard to the protection of intellectual property, any advantage, favour, privilege or immunity granted by a Member to the nationals of any other country shall be accorded immediately and unconditionally to the nationals of all other Members.



So, then the MFN principle: Most Favored Nation principle. So, if you give any kind of concessions to member countries, you have to give it to others as well. One is the Non-Discrimination principle, and the other one is the Most Favoured Nation Treatment principle. Both are applicable to the TRIPS Agreement as well.

## Art. 8(1): Public Health Protection

- Members may, in formulating or amending their laws and regulations, adopt measures **necessary to protect public health and nutrition**, and to promote the public interest in sectors of vital importance to their socio-economic and technological development, provided that such measures are consistent with the provisions of this Agreement.



Then, when it comes to public health protection, we will see the *Doha Declaration on Public Health*. The *Doha Declaration on Public Health* came out with certain

concessions to the TRIPS Agreement and the countries that do not have the manufacturing capacities, those who are facing the pandemic, and so and so forth. We will look into the decisions taken in the 2002 Doha declaration, Doha Ministerial Conference also. So, public health protection and also the socio-economic and technological development is also one of the objectives which is mentioned under the TRIPS Agreement.

## TRIPS Council: Regular Activities

- **Notifications by Members under various provisions**
- **Notifications under Article 63.2 (laws, regulations and practices)**
- **Review of national legislation (laws, regulations and practices), including process of questions-replies, presentations in the meeting, follow-up questions-replies**

**Merits of the process in general: transparency (dispute prevention effect); valuable source of information; right of all Members to pose questions**



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And the TRIPS council: the TRIPS council is in charge of the implementation of this Agreement, the TRIPS Agreement. So, all the member countries have to notify the TRIPS council about its laws, regulations and practices, review of legislations and also other activities relating to the intellectual property to be reported to the TRIPS council under the WTO.

## Conclusion

- **TRIPs Agreement is the dedicated international agreement to recognize, protect and secure the interest of the Intellectual Property Rights holders.**
- **As it was observed from the lecture that TRIPs was considered as the welcoming initiative at the international sphere, where it tries to attempt to balance the broader objective of social protection and the shorter goal of allowing public to utilize the existing IP products.**



WORLDWIDE INTELLECTUAL LAW

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And in conclusion, I would say that the implementation of TRIPS was not only path-breaking, but it was a historic decision through the Uruguay round of negotiations. Earlier, the developed countries were pushing for the implementation of intellectual property regimes, but the developed countries were very reluctant to implement them. But the countries that are not members of the international Agreements are indirectly or clandestinely made parties to all those international Agreements which was pushed by the developed countries. But the TRIPS Agreement objective very clearly says, the incentive to inventors and the technology transfer and dissemination and also the enforcement of minimum standards. Even though the TRIPS Agreement provides the minimum standards, they only provide minimum standards, but the member countries can adopt their own policy standards. But still, the developing countries blame the TRIPS Agreement for the failure of certain sectors, for example, providing accessible and affordable medicines sector, because of the intellectual property present, intellectual property regime and the protection of intellectual property in such cases, in cases of access to medicines. So, the TRIPS Agreement is, in total, the first time the Uruguay round of negotiations has been adopted. After the TRIPS Agreement so far, we are quarter of essentially a century, and the TRIPS Agreement is in letter and spirit implemented by the member countries. So, we will see in the next classes, the elaborate implementations and also the obligations under individual sectors.

Thank you.