

## **TRIPS and TRIMS Agreement**

### **Trade Related Intellectual Property Rights (TRIPs)**

- TRIPs provide minimum standards in the form of common set of rules for the protection of intellectual property globally under WTO system.
- The TRIPs agreement gives set of provisions deals with domestic procedures and remedies for the enforcement of intellectual property rights.
- Member countries have to prepare necessary national laws to implement the TRIPs provisions.
- TRIPs cover eight areas for IPRs legislation including patent, copyright and geographical indications.
- The TRIPs regime

A breakthrough of the GATT signed in 1994 was that it brought TRIPs as a common standard for the protection of intellectual property globally. Implication of TRIPs is that member countries should design domestic intellectual property legislations on the basis of the TRIPs provisions.

### **TRIPs as WTO's IPR regime**

TRIPs is considered as a major achievement of the Uruguay Round as an international trade agreement. At the trade negotiations, the developed countries were succeeded in linking intellectual property rights with trade. Until then, the World Intellectual Property Organisation (WIPO) was the exclusive international institution dealing with intellectual property. With TRIPs, the WTO also emerged as the institution for the protection and promotion of intellectual property globally.

### **What TRIPs instructs to member countries?**

As per the TRIPs provisions, the member countries are required to prepare the necessary legal framework spelling out the scope and standards of protection for rights in regard to intellectual property. Or in other words, the member countries have to adopt TRIPs provisions in their domestic intellectual property legislations like Patent Act, Copyright Act etc.

WTO advocate necessary amendments to national IPR laws to accommodate the TRIPs provisions. TRIPs agreement is an effort to bring national legislations under common international rules. An important feature of TRIPs is that it is more specific and hard on 'patents' -the most important form of intellectual property. In the case of plant rights, geographical indications etc., members can adopt a sui-generis (own designed) IPR regime.

WTO gives following areas of intellectual property – copyright and related rights, trademarks, protection of undisclosed information (trade secrets), geographical indications, industrial designs, integrated circuits, patents, and control of anti-competitive practices in contractual licences. Signing TRIPs means countries have to modify their Patent Act, Copy Right Act, Trade Mark Act etc., in accordance with the provisions of the TRIPs. In India, the government has made a major amendment to the 1970 Patent Act in 2005 to accommodate the TRIPs provisions. In 2010, the Copyright Act was amended and enforced from 2012. Other legislations with respect to Industrial designs also have been made.

### **The rationale for WTO's effort to bring an intellectual property protection regime globally**

The WTO supports IPR regime under its leadership on the ground that intellectual property is a trade related asset. It asserts that an international attempt is needed because of the wide differences existing in the intellectual property regime across the world.

### **Trade Related Investment Measures (TRIMs)**

It is an agreement on Trade-Related Investment Measures which specifies the rules that are applicable to the domestic regulations a country applies to foreign investors. The agreement is applicable to all members of the World Trade Organization (WTO). The agreement was formalized in 1994 and came into effect in 1995.

The TRIMs Agreement prohibits certain trade-related investment measures that violate the general elimination of quantitative restrictions and national treatment requirements of GATT. It has put restrictions on some of the policies like local content requirements; trade balancing rules that have been used to both protect the interests of domestic industries. It refers to certain condition or restrictions imposed by a Government in respect of foreign investment in the country. The TRIM text provides that the foreign capital would not be discriminated by the member Governments.

### **Features of TRIMs**

- Abolition of restriction imposed on foreign capital
- Offering equal rights to the foreign investor on par with the domestic investor
- No restrictions on any area of investment
- No limitation or ceiling on the quantum of foreign investment
- Granting of permission of without restrictions to import raw material and other components
- No force on the foreign investors to use the total products and or materials
- Export of the part of the final product will not be mandatory
- Restriction on repatriation of dividend interest and royalty will be removed
- Phased manufacturing programming will be introduced to increase the domestic content of manufacturer.

### **World Trade Organization (WTO)**

The WTO's origins began with trade negotiations after World War II. In 1948, the General Agreement on Tariffs and Trade focused on reducing tariffs, anti-dumping, and non-tariff measures. From 1986 to 1994, the Uruguay round of negotiations led to the formal creation of the WTO.

In 1997, the WTO brokered agreements promoting trade in telecommunications services among 69 countries. It also removed tariffs on information technology products among 40 members. It improved trade of banking, insurance, securities, and financial information among 70 countries.

The Doha round began in 2000. It focused on improving trade in agriculture and services and expanded to include emerging markets, including countries at the fourth WTO Ministerial Conference in Doha, Qatar, in November 2001. Unfortunately, the Doha talks collapsed in Cancun, Mexico, in 2003. A second attempt also failed in 2008 at Geneva, Switzerland.

The World Trade Organization is a global membership group that promotes and manages free trade. It does this in three ways. First, it administers existing multilateral trade agreements. Every member receives Most Favored Nation Trading Status. That means they automatically receive lowered tariffs for their exports.

Second, it settles trade disputes. Most conflicts occur when one member accuses another of dumping. That's when it exports goods at a lower price than it costs to produce it. The WTO staff investigates, and if a violation has occurred, the WTO will levy sanctions. Third, it manages ongoing negotiations for new trade agreements. The biggest would have been the Doha round in 2006. That would have eased trade among all members. It emphasized expanding growth for developing countries. To sum up:

- The World Trade Organization is a global organization that manages commerce between its member nations.
- The WTO has 164 member countries and 23 observer governments.
- The WTO's primary function is to manage the smooth flow of global trade by ensuring countries abide by their signed trade agreements. As such, it also investigates and resolves trade disputes.
- The WTO was born out of GATT, an international trade agreement signed by 23 countries in 1947.