

## Trade Related Aspects of Intellectual Property Rights (TRIPS)

The Trade-Related Aspects of Intellectual Property Rights (TRIPS) Agreement is in the news now because of the recent US decision to support the temporary waiver of patent rules for the coronavirus vaccines. This is an important topic from multiple perspectives for the [UPSC exam](#) including economy, international relations, current affairs, etc.

### TRIPS Agreement

Trade Related Aspects of Intellectual Property Right (TRIPS) is an agreement on international IP rights.

- TRIPS came into force in 1995, as part of the agreement that established the [World Trade Organisation \(WTO\)](#).
- TRIPS establishes minimum standards for the availability, scope, and use of seven forms of intellectual property namely, trademarks, copyrights, geographical indications, patents, industrial designs, layout designs for integrated circuits, and undisclosed information or trade secrets.
- It applies basic international trade principles regarding intellectual property to member states.
- It is applicable to all WTO members.
- TRIPS Agreement lays down the permissible exceptions and limitations for balancing the interests of intellectual property with the interests of public health and economic development.
- TRIPS is the most comprehensive international agreement on IP and it has a major role in enabling trade in creativity and knowledge, in resolving trade disputes over intellectual property, and in assuring WTO members the latitude to achieve their domestic policy objectives.
- It frames the IP system in terms of innovation, technology transfer and public welfare.
- The TRIPS Council is responsible for administering and monitoring the operation of the TRIPS Agreement.
- TRIPS was negotiated during the Uruguay Round of the General Agreement on Tariffs and Trade (GATT) in 1986–1994.
- The TRIPS Agreement is also described as a “Berne and Paris-plus” Agreement.

### What are Intellectual Property Rights?

Intellectual property rights are the rights given to persons over the creations of their minds. Intellectual property rights (IPRs) are legal rights that protect these creations. In contrast to rights over tangible property, IP rights give their owners rights to exclude others from making use of their creations only for a limited period. IP rights entitle the owners to receive a royalty or any sort of financial compensation or payment when another person uses their creations.

### What is Intellectual Property?

"Intellectual property" refers to creations of the mind. These creations can take many different forms, such as artistic expressions, signs, symbols and names used in commerce, designs and inventions.

IP rights are generally classified into two categories:

1. **Copyright and rights related to copyright:** These rights relate to rights protecting art works, literary works, computer programmes, films, musical compositions, sculptures, paintings, etc. Related rights also include rights of performers, broadcasting organisations, and producers of phonograms (sound recordings). The main purpose of protection of copyright and related rights is to encourage and reward creative work.
2. **Industrial property:** There are two main areas of rights under this head.
  - a) The protection of distinctive signs, especially trademarks (which differentiate the goods or services of one organisation/establishment from those of other undertakings) and geographical indications. These rights are aimed at protecting and ensuring fair competition consumer protection.
  - b) The second type of industrial property rights are protected primarily to stimulate innovation, design and the creation of technology. These rights protect innovations by patents, trade secrets and industrial designs.

Read more on [intellectual property rights](#) in the linked article.

### TRIPS Significance

The TRIPS Agreement makes protection of intellectual property rights an integral part of the multilateral trading system, as embodied in the WTO. The agreement is often termed one of the three “pillars” of the WTO, the other two being trade in goods (the traditional domain of the GATT) and trade in services.

Before TRIPS, the extent of protection and enforcement of IP rights varied widely across nations and as intellectual property became more important in trade, these differences became a source of tension in international economic relations. Therefore, it was considered prudent to have new trade rules for IP rights in order to have more order and predictability, and also to settle disputes in an orderly manner.

### TRIPS Agreement Latest News

In view of the COVID-19 pandemic, India and South Africa had proposed to the WTO in October 2020 that the TRIPS Agreement (that included patent protection to pharmaceutical products including COVID vaccines) be waived off for COVID vaccines, medicines and diagnostics for the time period of the pandemic in order to make vaccines and drugs for COVID available to a maximum number of people worldwide.

If the vaccines are patent protected, only a few pharmaceutical companies from developed western countries would be able to manufacture it, making such drugs unavailable or inaccessible due to the high costs to people of other countries, especially, developing and least developed countries.

The US, which was opposed to any TRIPS waiver, has backed this proposal, along with the EU. This move has been welcomed by many since it might lead to the manufacture of more volumes of COVID vaccines enabling the whole world to get rid of the coronavirus at the earliest. However, pharmaceutical companies have protested the move saying this would not necessarily ensure vaccine availability since developing countries did not have the capability to produce the vaccines.

### **Arguments in favour of relaxing TRIPS rules**

- This would make the vaccines more available to people of developing countries and also LCDs.
- Life-saving drugs and vaccines should be made available to everyone and pharmaceutical companies should not be looking to make profits out of these. There is an ethical and moral issue here.
- With particular reference to the COVID-19 pandemic, it is said that no one is safe unless everyone is safe. In this respect, it is imperative that vaccines are made available to everyone in countries affected since it can easily spread to all countries as seen in the first wave.
- Rules granting monopolies that place the right to access basic healthcare in a position of constant peril must end.

### **Arguments made by opponents of TRIPS waiver**

- Unless corporations are rewarded for their inventions, they would be unable to recoup amounts invested by them in research and development.
- Without the right to monopolise production there will be no incentive to innovate.
- They also claim that companies in the developing world do not have the capacity to manufacture vaccines or drugs on a large scale.

### **Concerns**

Just a waiver of the IP rights rules without further assistance such as technology transfer to generic pharmaceutical companies in developing countries would render the move useless. This is because there would also necessitate tech transfer for the pharmaceutical companies to start the production since vaccines like the mRNA vaccines require highly sophisticated manufacturing equipment. Not only technology and equipment, raw materials and probably personnel would also need to be transferred for developing countries to be able to produce vaccines on a large scale.

It could also take several years before the generic pharmaceutical companies' plants become operational at optimal capacity and produce vaccines, which is a problem because it is doubted whether vaccines produced today would be effective against any new strain of the virus.

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