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**Editor In chief – Assistant Professor Mr. Janmejy Singh**

**Publisher & Founder – Vaibhav Sangam Mishra**

**Frequency – Quarterly ( 4 Issue Per year )**

**ISSN: 2583-6323 (Online)**

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**The Function of TRIPS in Promoting Economic Growth and Innovation**

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**ABSTRACT:**

This research paper digs into how the Trade-Related Aspects of Intellectual Property Rights (TRIPS) help the world's economies grow and new ideas spread. It talks about how intellectual property rights (IPRs) have changed over time and how TRIPS has helped make a standard global framework for protecting them. The paper looks at case studies, theoretical models, and real-world evidence to figure out how TRIPS affects new ideas, economic growth, and the sharing of technology. It also talks about problems, complaints, and ways to enforce the law, which can help you see where improvements could be made.

**Keywords:** - TRIPS, Intellectual Property Rights, Economic Growth, Innovation TRIPS

**INTRODUCTION:**

Intellectual property rights give people control over the things they come up with in their thoughts. Intellectual property rights, or IPRs, are legal rights that keep these works safe. When people own intellectual property rights, they can stop other people from using their works for a certain amount of time. This is different from rights over physical property. People who own intellectual property rights can get a fee or some other kind of payment when someone else uses their work.

In the field of economic development theory, the question of how technology spreads over the world is among the most intriguing. There was no agreement on a global framework to regulate the protection of intellectual property rights (IPR) until well over 20 years ago. Greater innovation protection is a source of concern for developing nations, who worry that it may stifle their economic potential. Additionally, they are compelled to address the requirements of the present generation, which is unable to afford the monopoly costs of agricultural inputs and pharmaceuticals that are essential to the survival of the poor due to complete invention

protection. In 1994<sup>1</sup>, all of the countries that hold membership of the WTO (World Trade Organization) signed an agreement to ensure standard protection of intellectual property rights (IPR) across all economies, with the implicit goal of removing barriers to international commerce.

### **The Role of TRIPS in Encouraging Innovation and Economic Growth:**

For example, as a consequence of the TRIPS agreement, the UN and the World Bank have investigated the ethical dimensions of IP protection in poor countries. Several theoretical studies in economics literature have examined the impact of increasing intellectual property protection on international commerce and the distribution of income among trading nations. Even after this extensive theoretical work, the results of a stronger invention defense for poor nations are not apparent. As more and more countries tighten their intellectual property rights regimes, the benefits of more innovation due to stronger protection are becoming less apparent, mainly because the extra market protection and creativity that such safeguards may foster have diminished. In a country that doesn't invest much in research and development and can't benefit from foreign ideas, increasing protection for intellectual property rights (IPR) could lead to a decrease in welfare because monopolistic pricing distorts consumer choice<sup>2</sup>.

The impact of intellectual property rights (IPRs) protection on economic growth has been examined in many theoretical models in the literature, producing inconclusive findings. The outcomes heavily rely on the assumptions regarding imitation and innovation activity in both locations. Grossman and Helpman examined the effects of inadequate protection of intellectual property rights (IPRs) on technological advancement and economic growth using a North-South model.<sup>3</sup> They assumed that innovation occurs exclusively in the North, while imitation occurs exclusively in the South. These authors argue that inadequate protection of intellectual property rights (IPRs) promotes the occurrence of imitation activities in the Southern regions. The proliferation of counterfeit goods has led to a rise in the accumulation of information in the southern region. On the other hand, robust protection of intellectual property rights (IPRs) could decrease the frequency of imitation<sup>4</sup>. The northern innovator enjoys an extended length

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<sup>1</sup> Sonderholm, J. (2010). Intellectual property rights and the TRIPS agreement: an overview of ethical problems and some proposed solutions. *World Bank Policy Research Working Paper*, (5228).

<sup>2</sup> Falvey, R. E., Foster, N., & Memedovic, O. (2006). *The role of intellectual property rights in technology transfer and economic growth: theory and evidence*. Geneva: UNIDO.

<sup>3</sup> wipo, [https://www.wipo.int/edocs/pubdocs/en/economics/1012/wipo\\_pub\\_1012.pdf](https://www.wipo.int/edocs/pubdocs/en/economics/1012/wipo_pub_1012.pdf), (last visited Feb. 6, 2024).

<sup>4</sup> Willis, B. (2013). The arguments for and against the TRIPS Agreement. *E-International Relations*.



of monopoly profits because of the heightened challenge of replication, resulting in a prolonged monopoly position. The productivity of imitators in the southern region declines, resulting in a lack of stimulation to the country's knowledge stock. Conversely, the act of imitation produces two conflicting consequences for the North. The good impact lies in the stimulation of technical advancement, as the northern company is compelled to innovate in order to endure the competition from low-cost imitators in the south. The inventor loses out on rental money when their product's variety is copied, which has a negative impact. Given that developing countries experience both innovation and imitation at the same time, Hwang et al. (2016) show that the effect of protecting IPRs on the economy varies with the economic development level.<sup>5</sup> Less variety in intermediate products and higher manufacturing costs are the results of stronger protections for intellectual property rights (IPRs). These impacts increase and subsequently decrease as income levels change. Hence, there exists a U-shaped correlation between the level of intellectual property rights (IPRs) protection in less-developed countries and their economic development. It can be inferred that a country's inclination to enhance its protection of intellectual property rights (IPRs) initially declines and thereafter rises in tandem with its affluence. In summary, the theoretical forecasts on the impact of intellectual property rights (IPRs) protection on technological transfer and economic growth are inconclusive. An empirical investigation can yield a distinct image<sup>6</sup>. This research adopts an econometric methodology to address the subject at hand, namely by examining the impact of capital goods imports as a single avenue of technology transfer.

The evolution of TRIPS throughout the Uruguay Round is one of its most intriguing features. What started out as a worldwide pact to combat counterfeiting evolved into a thorough accord covering a broad range of IP regulations after years of discussions. As the material grew, so did the political battle lines. Once the "North-South" character of the disputes about whether to include IP on the agenda was overcome, subsequent discussions on substantive concerns also revealed "North-North" differences, even though this was not the case while the Uruguay Round was being initiated.<sup>7</sup> Northern innovators move manufacturing south when they see FDI

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<sup>5</sup> Theodore Levitt, Innovative Imitation, hbr, (Feb. 01, 2024, 4:19 PM), <https://hbr.org/1966/09/innovative-imitation>

<sup>6</sup> Behrendt, M., & Franklin, T. (2014). A review of research on school field trips and their value in education. *International Journal of Environmental and Science Education*, 9(3), 235-245.

<sup>7</sup> NISTULA HEBBAR, Analysis | Seeds of political battle lines drawn for 2024 in Cabinet overhaul, thehindu, (Feb. 01, 2024, 4:19 PM), <https://www.thehindu.com/news/national/analysis-seeds-of-political-battle-lines-drawn-for-2024-in-cabinet-overhaul/article35200643.ece>

as a source of knowledge transfer, which reduces competition for resources in the North. Therefore, more robust IP protection can boost innovation and entice foreign direct investment. However, if TNC items created in the South are easier to mimic than products made in the North, production may transfer back to the North, leaving fewer resources available for innovation in the South. TRIPS' function in encouraging economic growth and innovation is to create a coordinated worldwide framework for intellectual property protection, to stimulate innovation, to ease technology transfer, and to achieve a balance between protection as well as access to knowledge. TRIPS implementation and interpretation that is successful contribute considerably to the growth of a dynamic and innovative global economy.<sup>8</sup>

### **TRIPS Provisions and Their Impact on Innovation:**

There were big changes in IP rules around the world after the TRIPS Agreement, especially when it came to patents. Developing countries like India had more freedom to make their own property rules and give out patents before TRIPS. As a result, TRIPS set a minimum standard for patent protection. All member states had to cover any new idea for 20 years from the date of filing, and this included pharmaceuticals. As a result of TRIPS<sup>9</sup>, it became harder to get patents because of new requirements like novelty, creative step, and commercial application. India had a strong pharmaceutical business and a lot of people who needed cheap drugs, so the TRIPS Agreement caused them a lot of trouble. The Indian Patent Act of 1970 had a number of rules that let the country make cheaper versions of protected drugs and import more expensive ones. Some of these laws were Section 3(d),<sup>10</sup> which said that new types of known substances couldn't be patented unless they worked better<sup>11</sup>, and Section 84, which let the government give out mandatory licenses in some cases. However, TRIPS told India that it had to change its patent rules to meet the base bar for patentability and protection. India changed

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<sup>8</sup> Mukherjee, Arijit & Mathew, Anuj. (2009). Intellectual property rights, southern innovation and foreign direct investment. Working Papers ( Universidad de Navarra. Facultad de Ciencias Económicas y Empresariales ), N°. 15, 2009. 31. 10.1016/j.iref.2013.11.004.

<sup>9</sup> Shyam Parmar, "TRIPS Agreement and its Effect on Intellectual Property Laws in India: An Analysis" 1 Parker & Parker (2023).

<sup>10</sup> He, J. (2019). Indian Patent Law and Its Impact on the Pharmaceutical Industry: What Can China Learn from India?. In: Liu, KC., Racherla, U.S. (eds) Innovation, Economic Development, and Intellectual Property in India and China. ARCIALA Series on Intellectual Assets and Law in Asia. Springer, Singapore.  
[https://doi.org/10.1007/978-981-13-8102-7\\_11](https://doi.org/10.1007/978-981-13-8102-7_11)

<sup>11</sup> Malhotra and P., "TRIPS Agreement and its Effect on Intellectual Property Laws in India: An Analysis" 5 Parker & Parker 61-65 (2023).

its Patent Act in 2005 to be in line with TRIPS<sup>1213</sup>. To do this, it got rid of a number of rules that let the country make and import cheaper generic drugs. Product patents for medicines were added to the revised Patent Act. Inventors had to give full and complete information about their ideas and could stop others from making, using, selling, or importing them for 20 years.<sup>14</sup>

The TRIPS Agreement and India's adherence to it had a varied effect on innovation in the nation. Product patents for pharmaceuticals incentivized innovators to spend on research and development. Consequently, there was a surge in the number of patent applications submitted by global pharmaceutical corporations in India. The elimination of Section 3(d) and the narrow use of compulsory licensing, in contrast, stunted national innovation. The elimination of Section 3(d) hampered the ability of Indian generic medicine producers to create less expensive copies of copyrighted pharmaceuticals, hence reducing pharmaceutical industry competitiveness and innovation. The TRIPS Agreement additionally influenced India's patent system in a big way. Patents for novel applications or formulations of existing substances, as well as for therapeutic approaches, were previously available under India's more accommodating patent policy, which existed before the agreement. Nevertheless, patents can only be issued for innovative, non-obvious, and industrially applicable inventions according to TRIPS. Because of this, there has been a rise in the number of patent rejections in India, especially in the pharmaceutical industry, where firms have tried to secure patents for small changes to already-existing medications. Also, people in India are worried about their ability to pay for medications because TRIPS mandated that patent lengths be at least 20 years from the application date.<sup>15</sup> Many people in India are unable to afford the therapy they need due to the high cost of patented drugs, especially for serious illnesses like HIV/AIDS. India has attempted to strike a balance between its domestic policy objectives, especially in the field of public health, and its responsibilities under TRIPS, despite these hurdles. Compulsory licensing is one of several initiatives India has launched to increase the availability of low-cost

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<sup>12</sup> Kyle, Qian, Y., et.al., "Intellectual Property Rights and Access to Innovation: Evidence from TRIPS" 5 National Bureau of Economic Research. (2014).

<sup>13</sup> Mayank Rai, The Impact Of The TRIPS Agreement On Indian IP Laws And Their Implementation, legalserviceindia, (Feb. 01, 2024, 4:19 PM), <https://www.legalserviceindia.com/legal/article-10867-the-impact-of-the-trips-agreement-on-indian-ip-laws-and-their-implementation.html>

<sup>14</sup> *Id.*, at 1205.

<sup>15</sup> He, J. (2019). Indian Patent Law and Its Impact on the Pharmaceutical Industry: What Can China Learn from India?. In: Liu, KC., Racherla, U.S. (eds) Innovation, Economic Development, and Intellectual Property in India and China. ARCIALA Series on Intellectual Assets and Law in Asia. Springer, Singapore.

[https://doi.org/10.1007/978-981-13-8102-7\\_11](https://doi.org/10.1007/978-981-13-8102-7_11)



pharmaceuticals; under certain conditions, it permits generic producers to create copyrighted pharmaceuticals without the consent of the patent owners.<sup>16</sup>

The TRIPS Agreement has had a substantial influence on Indian intellectual property (IP) laws and their enforcement, particularly in the domains of patent law and availability of medications. While the agreement has facilitated enhanced safeguarding of IP rights in India<sup>17</sup>, it has also posed difficulties in terms of affordable access to medicines and the competitiveness of Indian firms in the global market. Consequently, continuous endeavors are necessary to strike a balance between India's obligations under TRIPS and its domestic policy objectives, particularly in the realm of public health.

### **Enforcement Mechanisms and Dispute Resolution:**

Enforcement Mechanisms and Dispute Resolution can be properly understood by the case study of *The United States vs. China*. According to the US complaint, international patent holders are unable to pursue their rights in China or negotiate licensing arrangements according to market circumstances due to China's regulations on intellectual transfer. Since the regulations in China grant the Chinese party additional rights and the foreign patent holders the ability to enforce their own patent rights as outlined in TRIPS article 28, they violate the national treatment obligation of TRIPS article 3. This is because these regulations allow the Chinese party to continue using the technology transferred under the agreement even after the agreement has ended.

The panel has been established and its members have been selected for this case. The European Union made a comparable approach to China on June 1, 2018, to discuss technology transfer. That case hasn't gone past the stage of review yet. The US case is typical of WTO dispute settlement cases; it claims that certain parts of the TRIPS agreement have been violated. If the US wins and China doesn't follow the rules, the US can act against China under WTO rules. China's new rule on foreign business, on the other hand, makes things more difficult. In March 2019, China made it illegal to force people to share information, which was what the US WTO case was about. On January 1, 2020, this new law will go into effect. We don't yet know how

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<sup>16</sup> Mayank Rai, *Supra note*, at 1206.

<sup>17</sup> Odman, N. A. (2000). Using TRIPS to make the innovation process work. *The Journal of World Intellectual Property*, 3(3), 343-371.

this will change the WTO conflict<sup>18</sup>. The case helped to clear up some important questions about how to understand TRIPS, GATT 1994, and the DSU. The result of their case may also make it easier to define areas that are not covered by the WTO Agreement. In these areas, one WTO member can take autonomous actions against another WTO member without being limited by WTO law. It is obviously important for WTO members and WTO law as a whole to find out how much self-help is still allowed, if at all.

### Challenges and Criticisms:

Taking the TRIPS agreement's foundational concept of intellectual property and applying it on a worldwide scale is no easy feat. One perspective holds that many communities prioritize the common good over individual interests on various matters. Secondly, the Western concept of individual and single ownership does not apply to all forms of indigenous "traditional knowledge" (TK). This distinction has become even more pronounced due to recent developments in biotechnology-based products. According to proponents in the West, present genetic research with the goal of enhancing human welfare is entirely legitimate "bioprospecting," a kind of intellectual property that is compatible with the TRIPS framework. It should be remembered that the concept of intellectual property in the TRIPS agreement is derived from a Western perspective on IPRs that has developed in recent decades.<sup>19</sup> In the 1960s and 1970s, the developing nations that made up the G77 group first brought the issue of intellectual property to the notice of international governments. They sought to catch up technologically to the developed world by trying to undermine current intellectual property rights protection as part of their drive for a New International Economic Order, but they were unsuccessful.<sup>20</sup> However, companies in the United States (and to a lesser degree, Europe and Japan) that were concerned about losing money due to the trade in counterfeit goods also took action in response to this argument.

The influence of developing nations was negligible, however. Although many were at first skeptical, they eventually came around to the notion of a TRIPS accord. Anxieties over possible

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<sup>18</sup> T. Zuijdewijk, "Understanding the Intellectual Property Disputes Between China and the United States" Centre for International Governance Innovation (2019).

<sup>19</sup> Ben Willis, The Arguments For and Against the TRIPS Agreement, e-ir.info, (Feb. 01, 2024, 4:19 PM), <https://www.e-ir.info/2013/12/23/the-arguments-for-and-against-the-trips-agreement/>

<sup>20</sup> Abdel-Fadil, M., et al. "A New International Economic Order?" *Cambridge Journal of Economics*, vol. 1, no. 2, 1977, pp. 205–13. *JSTOR*, <http://www.jstor.org/stable/23596567>. Accessed 22 Feb. 2024.



economic sanctions from the United States, a lack of information about the plans' contents, the prospect of limited bilateral intellectual property rights agreements, and the promise of easier access to agricultural and textile markets all had a role. It is necessary to acknowledge that TRIPS reflected the interests of specific multinational corporations in order to comprehend it completely. States and Western multinational corporations worked together to define intellectual property in a way that benefited them. We included this viewpoint in the contract. It is possible that the public good has been compromised in favor of private gain, which upsets the delicate balance between the two. This refers to the purpose and extent of intellectual property rights. We shall now discuss the impact of this on TRIPS's operation, notwithstanding its declared purposes.

### **CONCLUSION:**

Finally, the Trade-Related Aspects of Intellectual Property Rights are now an important part of protecting intellectual property around the world, encouraging new ideas, and growing the economy. TRIPS has had a big impact on international trade. It started out as an agreement to stop counterfeiting and has grown into a comprehensive framework. The study shows that TRIPS has a complicated effect on innovation. Theoretical models show that intellectual property rights (IPRs) and economic growth have complex relationships. The United States vs. China is a good example of how important strong enforcement mechanisms are for settling disagreements. Even though it has done a lot, TRIPS still has problems, especially when it comes to bringing together different global views on intellectual property. Finding a balance between private gain and the public good is still very important for TRIPS to continue to shape the path of global economic and technological progress.

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