TRIPS UPSC Notes

What is TRIPS?

The Trade-Related Aspects of Intellectual Property Rights (TRIPS) adheres to member states' core trade principles concerning intellectual property; all WTO members must abide by it. The TRIPS Agreement stipulates reasonable exceptions and constraints to reconcile intellectual property rights with community health and economic progress objectives.

The most robust international IP agreement, TRIPS, tends to play an influential role in fostering commerce in creativity and knowledge, addressing trade disputes comprising intellectual property, and enabling WTO members with the autonomy to pursue their domestic policy goals. The agreement also shapes the intellectual property system regarding innovations, technology transmission, and public welfare.

The TRIPS Agreement must be assessed and implemented under the jurisdiction of the TRIPS Council. The TRIPS agreement was outlined at the time of the Uruguay Round that lasted from 1986 to 1994 for GATT. The terminology "Berne and Paris-plus" also refers to the TRIPS Agreement.

What is Intellectual Property Rights?

Intellectual property is an umbrella term for a collection of intangible or non-physical assets and is granted to individuals over their creative creations. Intellectual property is the right to use and control one's intellectual property. It is a legal right for anyone who owns or has an intellectual property right. Therefore, individuals, businesses, and governments must defend their intellectual property. To protect intellectual property rights, individuals and communities must comprehend how they work and the rights they grant to someone. The categories of intellectual property rights include

- industrial designs
- trade secrets
- exclusionary rights over new plant varieties
- geographical indications
- trademarks
- copyright
- patents

Significance of TRIPS

The TRIPS Agreement has its key focus on safeguarding intellectual properties in the World Trade Organization and the international trading system. The TRIPS agreement is often a pillar of the World Trade Organization. The remaining two are trading in services and commodities (the traditional competence of the GATT).

Before TRIPS, there were notable sectoral discrepancies in the range of IP protection and enforcement. However, as IP grew more crucial to commerce, these discrepancies became a focus of contention in international economic relations. To have more order and reliability and to adjudicate controversies in an orderly manner, it was therefore thought advisable to endorse new trade regulatory requirements for IP rights.

Relaxation Favoring TRIPS

The following are the favoring relaxations associated with the TRIPS agreement:

- This would increase access to immunizations for residents of LDCs and developing nations.
- Everybody must be exposed to life-saving medications, medical help, and vaccines. Thus, pharmaceutical enterprises shouldn't strive to make an extraordinary profit from them. It creates moral and ethical dilemmas at stake here.
- Individuals are not safe until everyone is safe, a saying that applies primarily to the COVID-19 outbreak. However, given that it can swiftly spread to all continents, as was the scenario with the first wave, vaccines must be made obtainable to everyone in the affected countries.
- Rules that award monopolies and insert the right to primary healthcare under serious jeopardy must be repealed.

Contradicting Relaxation of TRIPS

Let's discuss some of the contradicting relaxations associated with TRIPS:

- Corporations wouldn't be able to retrieve the funds they invested in R&D unless they were reimbursed for their invention.
- Without the potential to dominate output, there won't be any motivation to encourage innovation.
- They also assert that corporations in impoverished countries are unwilling to generate immunizations or pharmaceuticals on a large scale.

Data Exclusivity and TRIPS

Data exclusivity is the practice of excluding data from use in a research study. It is a form of data mining that allows researchers to access data without handing over the raw data. This can be used to examine the impact of a new research technique or find out what factors affect how well a product performs. Data exclusivity can be used by researchers who want to gain insight into their subject's performance or by those who want to understand the factors that influence how well a product performs.

Data exclusivity can also be used by researchers who want to understand how much data they need to make an informed decision about their research topic. It can also be used by those who want to learn more about the subject under study and how well it performs. Data with high commercial value needs to be well protected. The developed world has put forth the demand for such protection that is not part of the TRIPS Agreement.

TRIPS Agreement - TRIPS Plus

They are not officially associated with TRIPs, despite the moniker "TRIPS-Plus." Instead, the phrase emphasizes that these expectations go above and beyond the fundamental commitments set forth under TRIPs. There is pressure on many FTA-affiliated developing nations to embrace these harsher requirements in their patent legislation.

TRIPS Agreement - Doha Declaration

In 2001, the Doha Declaration was ratified by WTO members. It reiterated TRIPS' adaptability in situations incorporating patent rights. This was done to facilitate access to appropriate medications. According to the Doha Declaration, the TRIPS agreement will not preclude governments from undertaking initiatives to protect public health. This loosened TRIPS guidelines. Everyone has recourse to life-saving medicines and immunizations. Pharmaceutical firms must not benefit from these.

Fears Expressed over the Doha Declaration

Corporate entities contended that they would incur losses relative to the sums invested in the research and development of their inventions were not recognized and compensated. Additionally, removing the right to monopoly in the pharmaceutical industry will lessen the incentives for innovation. Finally, the businesses contended that developing-nation companies could not produce medications and vaccines on a significant scale.