Economics Class 15

8th August, 2023 at 9:00 AM

AGREEMENT ON TRADE-RELATED ASPECTS OF INTELLECTUAL PROPERTY RIGHTS (TRIPS) (09:05 AM)

- It pertains to the protection of IPR and was negotiated during the Uruguay round.
- Came into existence as a result of intense lobbying of the US supported by other developed countries.
- Under TRIPS, IPR owners are granted exclusive rights to a variety of intangible assets such as works of art, innovation, etc.
- The justification given for such rights is the monopoly profit that acts as an incentive for R and D.
- Prior to the TRIPS agreement, IPR-related trade was governed by the Paris Convention.
- Paris Convention was fairly liberal in giving the national government the right to decide on the subject matter of patents, trademarks, etc.
- **The 2 important agreements under TRIPS are:**
- 1)The agreement to shift from the necessity of process patents to product patents in the field of food, medicine, and chemicals i.e. in the new regime, the same product cannot be produced using a different process.
- Patents are valid for 20 years while copyrights are valid for 50 years and at times even after the lifetime of the author.
- 2)The scope of IPR is extended to cover patents, geographical indicators, industrial designs, layout designs of integrated circuits, and also protection of undisclosed information.
- The obligation is applicable equally to all member nations.
- However, the developing countries were allotted extra time to implement these changes to their national laws.
- The transition period for developing countries expired on 1st Jan 2005 and hence the regime of product patents has now been introduced in these countries.
- For LDCs, it is 2016 and currently extended to 2023 wrt certain aspects.

PATENTS AMENDMENT ACT 2005 (09:51 AM)

- India passed this act with a focus on product patents for food chemicals and drugs.
- India was required to introduce a product patent regime by the year 2005.
- Prior to 1970, 80 per cent of our pharma market was occupied by MNCs.
- 1970s patents act granted process patents i.e. India had permission to manufacture generic drugs beneficial not only for India but also for other third-world countries.
- **Highlights of the patents amendment act:**
- Introduction of provision for enabling the right of compulsory licensing and parallel imports.
- The Discovery of a new form of a known substance does not qualify a product for a patent nor a mere discovery of a new use will qualify the product for a patent.
- Product patent protection for Pharma, food, etc.
- **Safeguards:**
- **1) Compulsory Licensing:**
- Issued to a company for producing generic drugs when faced with a public health crisis.
- Some royalty is given to the patent holder.
- 2) **Parallel Imports:**
- There are drugs imported from other countries without the permission of the patent holder and they are sold at lower prices.
- These are allowed if there are no manufacturers in the country facing a public health crisis.
- **Favouring India:**
- In India, patents are issued after due process and not arbitrarily.

- There are very few instances of user flexibility.
- This clearly indicates that India uses these safeguards seriously.
- The government refused to give compulsory licenses for the production of Desatinium in India.
- Indicates that India did not misuse its safeguards.

TRIMS (TRADE-RELATED INVESTMENT MEASURES) (10:10 AM)

- During the Uruguay round, the US proposed an agreement not only focussing on investment but also on national treatment.
- The proposals were rejected by many different countries and the scope of TRIMS was thus restricted to 4 specific trade-related investment measures that should not be imposed on foreign investors:
- **Main features:**
- It only applied to investment measures related to goods.
- It does not regulate the entry of foreign industries or investment.
- It is about the discriminatory treatment of imported/exported goods.
- Members states were given a transition period during which these notified TRIMS have to be implemented.
- For developed countries, this period was 2 years and for developing and LDCs it was 5 years and 7 years respectively.
- **TRIMS agreement has restricted the following:**
- **1) Restriction on local content requirements** i.e. use of local inputs by the foreign investor. E.g. Suppose a mobile brand wants to sell its products in India however Indis agrees only if the brand uses a battery made in India. Such restrictions should not be imposed on foreign investors.
- **2) Trade balancing requirement-**
- It requires an enterprise to use and import goods that are equivalent to the quantity or worth of exported products.
- The foreign investor should not be forced wrt to balance trade i.e.forcing the foreign investor to produce for exports as a precondition to obtain imported goods as inputs.
- **3)Export restrictions-**
- By using domestic sell requirements many nations restricted the export of domestic products.
- Because of this, the value of those products gradually rises as a result production of those products rises in the domestic market.
- **4) Forex restriction**s - These restriction deal with limiting restrictions to foreign exchange.
- Developing countries are permitted to manage TRIMS by virtue of economic development i.e. some restrictions are overlooked for developing countries economic needs.

GENERAL AGREEMENT ON TRADE IN SERVICES (GATS) (10:38 AM)

- It is the first and only multilateral agreement that governs international trade.
- It was negotiated as part of the Uruguay round in response to the growing importance of services in global trade and the rise of the service sector.
- **Purpose-**
- Establishing a credible and reliable system of international trade rules.
- The GATS agreement is also based on the principle of non-discrimination.
- **Modes of services:**
- It divides services into 4 categories- Cross-border trade, international consumption, commercial presence, and movement of human capital.
- **Mode 1:**
- Includes cross-border supply of services where the commercial presence of the service provider is not required.
- Ex- Distance learning, BPO services, etc.
- **Mode 2:**

- Includes consumption abroad or services consumed abroad.
- Examples include tourism, education, medical treatment, etc.
- **Mode 3:**
- commercial presence of service providers.
- Hotels, banking, etc.
- **Mode 4:**
- Includes movement of natural persons.
- Examples include a foreign national who works as a consultant or employee in another country.
- Note- the developed countries are more inclined towards liberalizing norms wrt mode 3 and mode 2 but restricting services related to mode 4.

STRUCTURE OF WTO (11:20 AM)

- **Ministerial conference:**
- The highest decision-making body in WTO.
- It usually meets every 2 years.
- The ministerial conference can take decisions on all matters under any of the multilateral trade agreements.
- The first ministerial conference took place in 1996.
- **General Council:**
- Representatives are usually ambassadors from all member governments and it has the authority to act on behalf of the ministerial conference.
- It meets as a dispute settlement body, general council and trade policy review body.
- **Dispute Settlement Body:**
- The general council convenes as the dispute settlement body to deal with disputes between WTO members.
- Such disputes may arise wrt any agreements contained in the final act of the Uruguay round.
- **The dispute settlement body focuses on:**
- 1) Establishing dispute settlement panels.
- 2) Refer matters for arbitration.
- 3) Adopt panel, appellate body and arbitration reports.
- 4) Maintain surveillance over the implementation of recommendations and rulings contained in such reports and authorise the suspension of concessions in the event of non-compliance with these recommendations and rulings.
- **Appellate body:**
- Established in 1995.
- Dispute settlement bodies should appoint persons to serve on the appellate body for a 4-year term.
- Standing body of 7 persons.
- This body can uphold, modify or reverse the legal findings and conclusions of the panel and the Appellate body's report once adopted by the dispute settlement body must be accepted by the parties of the dispute.
- This body has its seat in Geneva.
- **Trade policy review body:**
- The general council meets as the trade policy review body to undertake trade policy reviews of members under the Trade Policy Review Mechanism and to consider the director general's direct reports on trade policy development.

TOPIC OF THE NEXT CLASS- DISCUSSION ON WTO AND TRADE-RELATED ASPECTS WILL CONTINUE