



## 30 Years of TRIPS

**For Prelims:** [World Intellectual Property Organization's \(WIPO\)](#), Patent Criteria in India, [National IPR Policy](#), [TRIPS](#)

**For Mains:** [Issues relating to Intellectual Property Rights](#), Role and Importance of a Strong IPR Ecosystem, India's Current Scenario, Significance of TRIPS

**Source:** [WTO](#)

### Why in News?

Recently, [World Trade Organisation \(WTO\)](#) members commemorated the **30<sup>th</sup> anniversary** of the Agreement on [Trade-Related Aspects of Intellectual Property Rights \(TRIPS\)](#).

- In [Marrakesh](#), an important agreement was made that helped create the WTO in 1995. This agreement, called TRIPS, has had a long-lasting effect.

### How does the TRIPS Agreement Evolved?

- **The Venetian Patent Statute (1474):** It was the first codified patent system in Europe that granted inventors a temporary monopoly on "new and ingenious devices".
- **The Industrial Revolution and the Need for International Standards (19<sup>th</sup> Century):** Rapid technological advancements created a need for the harmonisation of patent laws.
  - The [Paris Convention \(1883\)](#) was the first step taken to protect intellectual work in other countries.
  - The [General Agreement on Tariffs and Trade \(GATT\)](#) addressed intellectual property in a limited way.
  - [The Uruguay Round](#), spanning from 1987 to 1994, led to the Marrakesh Agreement establishing the WTO, including the TRIPS Agreement.
    - The WTO Agreement on TRIPS is the most comprehensive multilateral agreement on intellectual property (IP).

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# INTELLECTUAL PROPERTY RIGHTS (IPRs)

**IP refers to intangible assets owned/legally protected by an individual/company from outside use or implementation without consent.**



## NEED FOR IPR

- Encourages Innovation
- Economic growth
- Safeguard rights of creators
- Enhances ease of doing business



## RELATED CONVENTIONS/TREATIES (INDIA SIGNATORY TO ALL)

- WIPO Administered (first recognised IPR under):
  - Paris Convention for the Protection of Industrial Property 1883 (**Patents, Industrial Designs**)
  - Berne Convention for the Protection of Literary and Artistic Works 1886 (**Copyrights**)
- WTO - TRIPS Agreement:
  - Ensures adequate standard of protection
  - Argues for incentives for technology transfer to developing countries
- Budapest Treaty 1977:
  - International recognition of the deposit of micro-organisms for the purposes of patent procedure
- Marrakesh VIP Treaty 2016:
  - Facilitate access to published works by visually impaired persons and persons with print disabilities
- IPR also outlined in Article 27 (Universal Declaration of Human Rights)



## INDIA AND IPRS - INITIATIVES

- National IPR Policy 2016:
  - Motto: "Creative India; Innovative India"
  - Compliant with TRIPS Agreement
  - Brings all IPRs to single platform
  - Nodal Dept - Department of Industrial Policy & Promotion (Ministry of Commerce)
- National (IP) Awareness Mission (NIPAM)
- Kalam Program for Intellectual Property Literacy and Awareness Campaign (KAPILA)

**World Intellectual Property Day: 26th April**

Intellectual Property	Protection	Law in India	Duration
Copyright	Expression of Ideas	Copyright Act 1957	Variable
Patent	Inventions- New Processes, Machines, etc.	Indian Patent Act 1970	20 years Generally
Trademarks	Sign to distinguish business goods or services	Trade Marks Act 1999	Can last Indefinitely
Trade Secrets	Confidential Business Information	Protected without Registration	Unlimited time
Geographical Indication (GI)	Sign used on specific geographical origin and possess qualities due to site of origin	Geographical Indications of Goods (R & P) Act, 1999	10 years (Renewable)
Industrial Design	Ornamental or aesthetic aspect of an article	Design Act, 2000	10 years

## What has been the TRIPS Agreement's Role in International Collaboration?

- Harmonisation of IP Laws:** TRIPS set minimum standards for IP protection across member countries.
  - This created a **more predictable legal environment** for international trade and

collaboration in research and development (R&D).

- **Increased Transparency:** TRIPS **obligated members to disclose their Intellectual Property (IP) laws** and regulations, fostering greater transparency in the global IP system.
- **Knowledge Sharing:** TRIPS provisions on **technology transfer** encourage collaboration between developed and developing countries.
  - Developed countries are obligated to provide mechanisms for **transferring technology** to developing countries under certain conditions.
- **Promotion of Social and Economic Welfare:** WTO highlighted TRIPS' role in **balancing rights with obligations** to promote social and economic welfare, aligning with the **SDGs'** objectives.
  - During the late 1990s crisis, TRIPS' flexibilities were crucial for access to **antiretroviral treatments**, illustrating its significance in public health emergencies.

## What are the Challenges Related to TRIPS?

- **Balance Between Rights and Access:** TRIPS' focus on strong IP rights can limit access to essential medicines, educational materials, and agricultural technologies in developing countries.
- **Biopiracy and Traditional Knowledge:** Concerns exist regarding the **patenting of genetic resources** and traditional knowledge from developing countries without fair compensation.
  - TRIPS' provisions on disclosure of the origin of genetic resources and traditional knowledge are seen as inadequate.
- **Enforcement Issues:** Enforcing IP rights, particularly in areas like **copyright infringement and counterfeiting**, remains a challenge for many developing countries.
  - Lack of resources and robust legal systems can hinder effective IP protection.
- **Data Privacy:** International discussions are needed to address data ownership, privacy, the issue of **e-commerce**, and the patentability of data-driven inventions in the context of **Artificial Intelligence (AI)** and **big data**.
- **Global Health Equity:** Amidst ongoing debate on flexibilities within the TRIPS agreement, like compulsory licensing, access to affordable medicines still remains a challenge, especially in the global south.

## Way Forward

- **Standardisation and Capacity Building:** Developing **common standards** and best practices for IP enforcement across countries, along with **capacity-building initiatives** for developing nations, can create a fairer global IP landscape.
- **Open Innovation and Knowledge Sharing:** Exploring models like **open-source collaboration** and **Creative Commons licenses** can promote innovation while ensuring knowledge accessibility.
- **Addressing Emerging Technologies:** Establishing **clear guidelines for IP ownership** and rights related to **artificial intelligence (AI)** and other emerging technologies will be crucial for fostering responsible innovation.

### **Drishti Mains Question:**

Q. Discuss the evolution and impact of the TRIPS Agreement on global intellectual property rights, trade, and development. How has TRIPS influenced access to medicines, technology transfer, and economic growth, especially in developing economies?

## UPSC Civil Services Examination, Previous Year Questions (PYQs)

### **Prelims:**

**Q1. With reference to the 'National Intellectual Property Rights Policy', consider the following statements: (2017)**

1. It reiterates India's commitment to the Doha Development Agenda and the TRIPS Agreement.

2. Department of Industrial Policy and Promotion is the nodal agency for regulating intellectual property rights in India.

**Which of the above statements is/are correct?**

- (a) 1 only
- (b) 2 only
- (c) Both 1 and 2
- (d) Neither 1 nor 2

**Ans: (c)**

**Q2. Consider the following statements: (2019)**

1. According to the Indian Patents Act, a biological process to create a seed can be patented in India.
2. In India, there is no Intellectual Property Appellate Board.
3. Plant varieties are not eligible to be patented in India.

**Which of the statements given above is/are correct?**

- (a) 1 and 3 only
- (b) 2 and 3 only
- (c) 3 only
- (d) 1, 2 and 3

**Ans: (c)**

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**Mains:**

**Q.** In a globalized world, Intellectual Property Rights assume significance and are a source of litigation. Broadly distinguish between the terms—Copyrights, Patents and Trade Secrets. **(2014)**