



FACULTY OF JURIDICAL SCIENCES

COURSE: BALLB/BBALLB/LLB

SEMESTER SUBJECT:

INTELLECTUAL PROPERTY RIGHTS

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Lecture- 11



LECTURE 11: TRIPs AGREEMENT: SCOPE AND OBJECTIVE

TRIPs agreement is concerned with trade and not with competition. As per the Preamble of the TRIPs effective and adequate promotion and protection of intellectual property rights is most desirable to reduce distortions and impediments to the international trade. It also aimed at ensuring measures and procedures to enforce intellectual property rights so that it does not become a barrier to the legitimate trade. Though it is recognized that IPRs are “private rights”, the underlying public policy objectives of national systems for the protection of intellectual property, including “developmental and technological objectives” are also recognized in the preamble. It further prescribes for the provisions of adequate standards and principles concerning the availability, scope and use of intellectual property rights. By taking into account the diversity in the national legal systems the agreement aims at providing effective and appropriate means for the enforcement of the intellectual property rights. The provisions of the agreement are prescribed further with a view to provide for effective and expeditious procedures for the multilateral prevention and settlement of disputes between governments. In nutshell the TRIPs agreement reflects twofold objectives which are completely consistent with the rationale of the WTO.¹⁴ Firstly to provide for new and improved rules establishing minimum standards of protection for various forms of intellectual property to reduce distortions and impediments to international trade. Secondly, to recognize intellectual property as private rights. It is noteworthy that the WTO members cannot provide for lesser protection in their domestic legal framework than what is prescribed in the TRIPs. TRIPs, one of the next comprehensive agreements on protection and enforcement of IPRs consists of 73 articles divided into seven parts. The main provisions can be divided into the following three aspects groups.

- The agreement prescribes minimum standards of protection for each type of intellectual property covered by it.
 - The agreement further provides for domestic procedures and remedies for the enforcement of intellectual property rights.
 - The Agreement makes disputes between WTO Members in respect of the TRIPS obligations subject to the WTO’s dispute settlement procedures. It is noteworthy that TRIPS refers to the substantive provisions of the Paris convention for the protection of industrial property. TRIPS through this reference makes it obligatory for its members that the member country must comply with the provisions of the Paris convention even though they are not members of that convention. TRIPS is the first international treaty to introduce a system of sanctions against members who do not enforce the minimum protection of intellectual property rights.