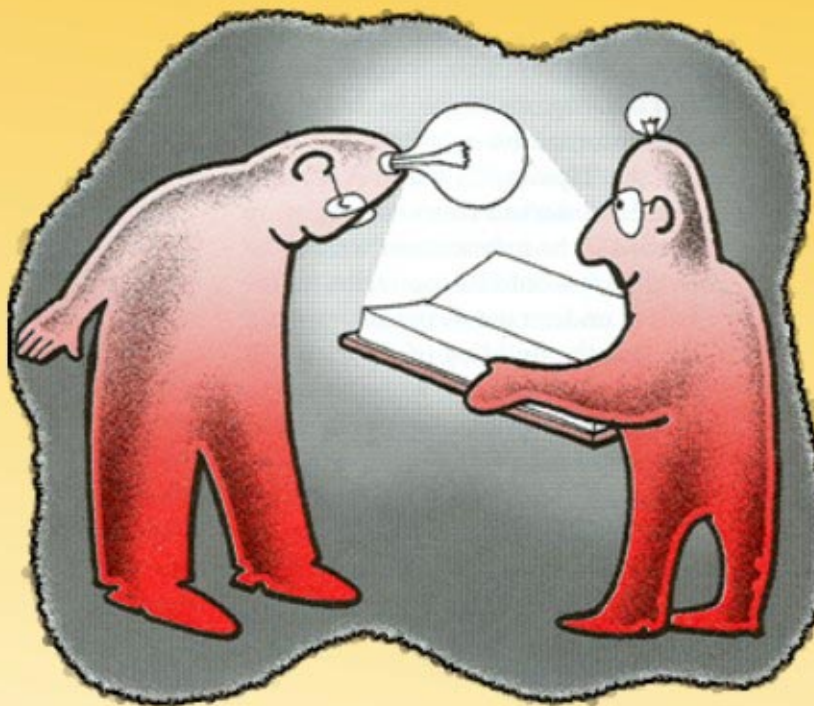


# ABC of TRIPs



Monographs on Globalisation and  
India – *Myths and Realities*, #5

# **ABC of TRIPs**

कट्स ✕ CUTS

# ABC of TRIPs

Monographs on Globalisation and India – *Myths and Realities*, #5

**Published by**

**कट्स ✕ CUTS**

CUTS Centre for International Trade, Economics & Environment  
D-217, Bhaskar Marg, Bani Park  
Jaipur 302 016, India  
Email: citee@cuts-international.org  
Website: www.cuts-international.org

**Researched and written by**

Aparna Shivpuri\*

**Cover Photo**

Courtesy - Down To Earth, Centre for Science and Environment,  
New Delhi

**Printed by**

Jaipur Printers P. Ltd.  
Jaipur 302 001

**ISBN 81-8257-026-3**

© CUTS, 2004

\* *Research Assistant at CUTS*

---

#0407, SUGGESTED CONTRIBUTION Rs.50/\$10

## CONTENTS

Preface .....	i
1. What are Intellectual Property Rights (IPRs)? .....	1
2. Before the TRIPs Agreement came into existence, what were the pre-existing conventions and treaties relating to IPRs? .....	4
3. How did the TRIPs Agreement come into being and what does it do? .....	6
4. How does TRIPs affect the agricultural sector of a country? .....	9
5. Does TRIPs protect biological diversity, traditional knowledge and geographical indications? .....	11
6. Are life forms a subject of TRIPs and should they be patented? What provisions does the TRIPs have for patenting life forms? .....	13
7. Will the implementation of TRIPs Agreement lead to an increase in the prices and reduction in accessibility of drugs/medicines? .....	15
8. Does TRIPs contain special provisions that safeguard needs of developing countries? .....	17
9. Does TRIPs facilitate technology transfer? .....	19
10. How has India incorporated the provisions of the TRIPs Agreement? Has India made changes in its existing laws to become TRIPs compliant? .....	21
11. What are the current negotiations in the TRIPs Agreement? .....	24

## Preface

This is the fifth monograph in the series titled “Globalisation and India – *Myths and Realities*” launched by CUTS in September 2001. This series is intended to serve the purpose of awareness generation among the civil society representatives, business community and government officials (especially at the sub-national level) on economic issues in general and World Trade Organisation (WTO) issues in particular.

This booklet is on the Agreement on Trade-Related Intellectual Property Rights (TRIPs), a new accord, which came along with the WTO 1995. Intellectual Property Rights (IPRs) were never a part of the General Agreement on Tariffs and Trade (GATT) and this agreement was pushed by business interests. As IPRs is as much a trade issue as human behaviour is. It is certainly the most heinous instrument, which we will have to live with. Why is it the most heinous? Because, as against the whole endeavour of WTO to liberalise trade, this agreement will be restrictive.

The noted trade economist and my guru: Jagdish Bhagwati has defined it as a royalty extracting agreement. It protects and promotes the rights of transnational corporations to extract profits from their goods and services under the protection of IPRs. It doesn't matter whether there is a balance between costs and benefits.

In fact, there is an international institution: World Intellectual Property Organisation (WIPO), which deals with all IPR issues. But because it doesn't have any teeth, IPRs was pushed into the WTO. And since IPRs are not really a trade issue, it was incorporated as “trade-related”.

TRIPs continues to remain the most controversial bit in the international trading system. The issue of AIDS drugs had brought the agreement into the limelight recently. A deal on relaxing the provisions of IPRs on medicines dealing with public health was made at the world trade talks over the Doha ministerial meeting in November 2000. This enabled developing countries to breath a sigh of relief.

However, the TRIPs agreement is here to stay (unless and until we are able to send it to WIPO, where it belongs). When it was introduced in the Uruguay Round talks of the WTO, it was settled only as a trade off with another agreement to liberalise trade in textiles and clothing. But the one on textiles did not get any meaningful situation until the very end of the 10 year period *i.e.* end of 2004. We have yet to see the real benefits, which may arise when the reprehensive quota system in textile and clothing trade actually ends.

TRIPs was introduced in the Uruguay Round as something to cope with increasing piracy and particularly counterfeit goods. The decade of 1980s was plagued by the predominance of cheap and simulated technology and counterfeit trademarks, which resulted in the need for a set of multilateral rules to protect and promote legitimate trade. Also the growth in knowledge-based trade brought to the fore the problems of pirated copyrights. This agreement covers the following seven broad categories of IPRs:

- patents,
- trademarks,
- copyrights,
- geographical indications (GIs),
- industrial designs,
- trade secrets, and
- layout designs of integrated circuits.

The agreement makes the protection of IPRs a fundamental part of the WTO acquis. It ensures through the principles of National Treatment (NT) and Most-Favoured Nation (MFN) that no discrimination is made between domestic and foreign parties. It provides to the creator or inventor of a product the right to prohibit others from imitating that particular product, thus allowing him to recover the expenditure incurred and also to motivate further innovation. This time period can be anywhere for 20 years to 50 years.

As per the agreement, a certain timeframe has been allotted to developing and least developed countries (LDCs) for becoming TRIPs-compliant. Much debate has been going on about the effect of this agreement on the economy and society of developing countries.

This inability to imitate technology and products adversely affects developing countries that do not have the resources to develop their indigenous technologies. Whether it is the pharmaceuticals sector or agriculture, possible negative impact of the agreement have generated genuine concerns among the development community. For example, agriculture is the mainstay of most

developing countries and supports a major portion of their population, but poor farmers have started facing problems in accessing good quality seeds at reasonable and just prices. By and by large agro-businesses have started creating new types of seeds and protecting their interest by obtaining patents on them.

During the Uruguay Round negotiations, industrialised countries, led by the US argued for the inclusion of IPRs in the multilateral trading system. It is another matter that many of the same countries owe their development much to their ability to access and imitate cheap technologies during formative years.

As India and other developing countries move closer to the January 2005 deadline for product patents, there is much tension in the air regarding the future of the prices and accessibility of medicines, for example.

On other issues, a conflict between the Convention on Biological Diversity (CBD) and TRIPs continues till date and so does the suspension on talks regarding extension of Geographical Indications to products other than wines and spirits.

This monograph gives a brief history of the TRIPs Agreement and also outlines the conventions and treaties that are in place. The aim of this monograph is to explain in simplest of words the structure and implications of the TRIPs agreement, especially for developing countries.

It also addresses the question of patenting of life forms. Examples from India have been used to understand the issues of traditional knowledge and geographical indications.

Finally, it can best be seen as a starting point to guide the reader and build the fundamental foundation for the understanding of basic issues surrounding the TRIPs agreement and various concerns.

**Jaipur**  
**April 2004**

**Pradeep S. Mehta**  
**Secretary General**



The Economic Times

## What are Intellectual Property Rights (IPRs)?

---

Intellectual property (IP) is a type of “intangible” property comprising of rights in inventive and creative work, traditional knowledge (such as music, dance, medicinal properties of plants) and words that are used to distinguish goods and services in the market place. Intellectual Property Rights (IPRs) are rights awarded by society to individuals or organisations over these creative and inventive works. They specify a time period during which others may not copy the innovator’s idea, allowing him or her to commercialise it and recover any investment on research and development.

IPRs include the following categories:

**Copyright and related rights:** copyright grants exclusive rights to the creators of original scientific, artistic and literary works. The word “original” is key in defining a work that qualifies for copyright protection. Books, poems, films, plays, musical works (compositions), paintings, can have a copyright.

**Trademarks:** trademarks ensure exclusive rights to use characteristic signs, such as letters, symbols, and shapes to identify the particular goods and services. For instance, Apple Computer Corporation uses the trade name Apple as a trademark on its line of products.

**Geographical Indications (GIs):** GIs aim at identifying and protecting products on the basis of their geographical location. They usually consist of the name of the place of origin. For instance, ‘Tuscany’ for olive oil produced in a specific area of Italy, ‘Darjeeling Tea’ for tea produced in the Darjeeling region of India.



Industrial design: industrial designs protect the artistic aspects (texture, pattern, shape) of an object instead of the technical features. This intellectual property right is applied to a wide variety of products of industry and handicrafts, for instance jewelry, watches.

Patents: a patent prevents others from making, selling, and distributing a particular product by awarding exclusive rights to the inventor. Both the product as well as the process of creating the product can be patented. For instance, if a person has invented an electric door lock, which is a new innovation, is functional and shows inventive skills, then it can be patented. If the product (lock) is patented, it is a product patent. If the process by which it was created is patented, it is a process patent.

Layout designs of integrated circuits: a *sui generis* (of its own kind) or unique form of protection for design of integrated computer circuits (topographies).

Trade secrets: this includes commercially valuable information about production, which remains secret by laws, thus prohibiting unauthorised disclosure. Trade secrets consist of formulae, patterns, process or compilation of information. For instance the formula for a sports drink.

The argument for IPR protection is that without such protection there would be less innovation. If the new products developed can be easily copied and sold cheaply by others the incentive to put in the time, money and effort for the new product will be stumped. Therefore IP protection is necessary to promote innovation and creation of new products.

Before the conclusion of the Uruguay Round of the General Agreement on Tariffs and Trade (GATT) in 1994, the IPR laws came under the national domain. Countries used the IP regime to forward their economic interest. India for example, denied product patents on agriculture and pharmaceuticals products, on grounds that they were essential for public welfare-although it did allow patents on the formulae and mechanics of food processing. The East Asian countries, Like Korea and Taiwan also used weak forms of IP protection between 1960 and 1980 to imitate technology from developed nations to develop their indigenous technology.

In order to promote the protection of IP a convention establishing the World Intellectual Property Organisation (WIPO) was signed at Stockholm on July 14, 1967 and amended on September 28, 1979. WIPO was formed to promote the protection of IP throughout the world through cooperation among states. Under the WIPO special emphasis has been given to developing countries to build their capacities.

But it was only at the conclusion of the Uruguay Round negotiations, that the Trade-related Aspects of Intellectual Property Rights (TRIPs) became an international treaty.



The Hindu Business Line

## **Before the TRIPs Agreement came into existence, what were the pre-existing conventions and treaties relating to IPRs?**

---

Prior to TRIPs Agreement, there have been a number of international treaties and conventions covering various Intellectual Property Rights.

Three important conventions covering Geographical Indications (which as stated earlier are any signs or expressions that indicate the place of origin of the product,) are the Paris Convention (1883), the Madrid Agreement (1891) and the Lisbon Agreement (1958). These treaties however failed to exert much influence and could not become competent international instruments because of either limited membership or existence of only general provisions.

The Berne Convention for the Protection of Literary and Artistic Works (1886) is one of the oldest international treaties in the field of copyrights. The aim of the Berne Convention as indicated in the preamble, is to “protect, in as effective and uniform manner as possible, the rights of authors in their literary and artistic works.”

The Hague Agreement concerning the International Deposits of Industrial Designs (1925) comes under the Paris Convention. Its main aim is to facilitate protection to be obtained for one or more industrial designs in a number of states, through a single deposit, filed with the international bureau of WIPO.

The Rome Convention (1928) defined the standards of protection of related rights (offshoots of technological development) at the time when few countries had any rules enacted to protect performing artists and broadcasting organisations.

The Patent Cooperation Treaty (PCT, 1978) is a treaty for international cooperation in the field of patents. The simple objective of the PCT is to bring about effectiveness and economy by simplifying the patent process. It also aims at providing easy access to technological information related to inventions to industrial sectors as well as developing countries.

International Convention for Protection of New Varieties of Plants covers the 1991 amendment of the UPOV (Union for the Protection of new varieties of plants). Developing new varieties require lot of investment of time, money and effort and therefore granting the breeders the rights for exclusive exploitation of their variety is essential.

The Trademark Law Treaty (TLT, 1994) aims to simplify and harmonise the administrative procedures in respect of national applications and the protection of marks. Individual countries as well as inter-governmental organisations can become party to the treaty.



### 3

## How did the TRIPs Agreement come into being and what does it do?

---

---

The 1980's saw an increased predominance of trade in counterfeit trademark and pirated copyright goods because of increased international trade and greater availability of cheap and replicated technology, which lead to disagreements between countries. Also, the growth of electronic commerce shed light on the "trade related" quality of IP, as knowledge became an increasingly important part of international trade. For instance, films, music, computer software and on-line services are bought because of the information and creativity they contain and not because of the plastic or paper that they are made of. Here, the essence of the transaction is the transfer of certain rights to use the copyright product.

Therefore IPRs are closely related to trade and a right balance was needed to be achieved to promote legitimate trade without the misuse of protection and enforcement by large countries and organisations. Also protection of IPRs benefits creators, artists and inventors as this makes it possible for them to recover their investments and in the process encouraging them to devote their time and efforts to developing new products and services.

One of the fundamental characteristics of the TRIPs Agreement is, that it makes the protection of IPRs an integral part of the multilateral trading system. It brings the process by which the IPRs are protected under one common international rule and also establishes the minimum levels of protection that each government has to give to Intellectual Property of the fellow World Trade Organisation (WTO) member.

The WTO Council for TRIPs looks into the working of the Agreement and is responsible for keeping track of the various aspects of TRIPs. In case of any disputes over the interpretation or implementation of TRIPs, the members can bring the case to the WTO's Dispute Settlement Body (DSB) to resolve. There have been complex and diverse views about the impact of the implementation of the TRIPs Agreement.

#### **Box 1: Objectives and Principles of the TRIPs Agreement**

TRIPs Agreement of WTO that came into existence in 1995 has the following objectives:

- To reduce distortions and impediments to international trade and take into account the need to promote competent as well as adequate protection of IPRs
- To ensure that measures and procedures to enforce IPRs do not themselves become barriers to legitimate trade
- To reduce tensions by reaching strengthened commitment to resolve disputes on trade-related IP issues through multilateral procedures
- To establish a mutually supportive relationship between the WTO and WIPO

The Agreement contains three principles and obligations:

- National Treatment (Article 3): equal treatment for foreign and domestic individuals and companies
- Most Favoured Nation (MFN), Article 4: equal treatment for nationals of all trading partners in the WTO
- The Agreement has an additional important principle: intellectual property protection should contribute to technical innovation and transfer of technology. Both producers and users should benefit and economic and social welfare should be enhanced.

*Source: The Legal Texts - The Results of the Uruguay Round of Multilateral Trade Negotiations, World Trade Organisation, 2002*

**Box 2: Transition Arrangements**

The TRIPs Agreement allows the member countries a certain timeframe to adopt and apply its provisions based on the different development stages of different countries,; thus allowing additional time for compliance to the TRIPs Agreement since 1995.

Developed	1 Year	1996
Developing	5 Years	2000
Least Developed & Transition Economies	11 Years	2006*

\* Extended to 2016 for pharmaceutical patents  
Countries granting Exclusive Marketing Rights (EMRs), for instance India, can delay the implementation of TRIPs till 2005.

Source: [http://www.wto.org/english/tratop\\_e/trips\\_e/tripfq\\_e.htm#Transition](http://www.wto.org/english/tratop_e/trips_e/tripfq_e.htm#Transition)

## 4



### **How does TRIPs affect the agricultural sector of a country?**

---

---

Agriculture plays a very important role in sustaining incomes and employment as well as bringing about economic growth in developing and least developed nations. Until recently, most developing countries did not recognise IPRs in agriculture. However the situation changed after 1995 with the inclusion of TRIPs in the WTO Agreement.

Under the TRIPs agreement, countries can exclude plants and animals from patenting but not plant varieties. They can either adopt the international system or develop a *sui generis* (of its own kind) system.

Under the international system we have the International Convention for the Protection of New Varieties of Plants (UPOV). The UPOV convention dates back to 1961 and has been revised thrice. The purpose of the UPOV Convention is to ensure that the member states acknowledge the achievements of the breeders of new plants varieties by granting them exclusive IPRs.

The UPOV has been revised successively in (1978 and 1991) and the scope and length of protection has been extended ( least 15 years to a maximum of 20 years). The UPOV 1978 Amendment allowed the breeders to use protected varieties as a source for new varieties and these new varieties could then be protected as well as marketed. Under the 1991 Act, the new varieties developed from the protected variety cannot be marketed without the permission of the holder of the original variety.



The UPOV 1991 Amendment is more restrictive for the farmers because under this they do not have the right to replant and exchange seeds since the right of the original breeder now extends to production or reproduction of the seeds plus the marketing.

On the other hand if the country adopts a *sui generis* system, it generally permits farmers to reuse on their own holding, harvested seeds without the permission of the rights holder. It is this *sui generis* system (where in the absence of legal rules farmers exchange and sell their seeds informally), which is prevalent in the developing countries.

It is generally agreed that developing countries should not introduce Plant Breeders Rights because the circumstances in developing countries are very much different from those in developed countries. While in developed countries, agriculture is mainly for commercial purposes, it is the main source of livelihood in developing countries. Most of the farmers in developing countries are poor and have limited financial means, which curtails their ability to purchase seeds. It is therefore important that the farmers in these countries have the freedom to exchange and sell seeds.



## Does TRIPs protect biological diversity, traditional knowledge and geographical indications?

---

The TRIPs Agreement does little to protect the biological diversity (which encompasses all species of plants, animals and micro: organisms) of a country by:

- 1) Granting private intellectual property rights which restrict national interest and sovereignty; and
- 2) Having no mechanism for benefit sharing between the patent holder and the donor country from which the invention has been derived.

India is a party to the Convention on Biological Diversity (CBD), which came into force in 1992. It is a global treaty, which aims to conserve biological diversity, make sustainable use of its components and ensure fair and equitable sharing of the benefits arising out of the utilisation of genetic resources. The TRIPs Agreement comes in total conflict with the CBD as the former grants private rights whereas the latter believes in sovereign rights over Biological resources.

The TRIPs Agreement does not extend any protection to the traditional knowledge of indigenous people. It can lead to bio-piracy and denial of access to traditional knowledge and medicines

### Box 3: The Turmeric Case

Turmeric (haldi) is a plant used both as a medicine as well as a spice in cooking. As a medicine, it is traditionally used to heal wounds and rashes. In 1995, two US based Indians patented the “use of turmeric in wound healing”. The Indian Council of Scientific and Industrial Research (CSIR) requested the US Patent and Trademark Office (USPTO) to re-examine the patent. CSIR argued that turmeric has been used since thousands of years for healing wounds and therefore its medicinal value is not new. Their claim was supported by documentary evidence of traditional knowledge. As a result USPTO upheld the CSIR objections and revoked the patent.

*Source: Integrating Intellectual Property Rights and Development Policy, Commission on Intellectual Property Rights, September 2003, London*

Bio-piracy leads to use of resources indigenous to another country, without obtaining Prior Informed Consent (PIC) or awarding compensation to the native people. This might cause loss of employment and natural wealth and loss of cultural value.

The example of patenting of use of neem oil, use of karela (bitter gourd) for curing diabetes and use of haldi (turmeric) for wound healing prove this.

Another issue on which the developed and developing countries stand divided is that of GIs. Addition protection has been given to wine and spirits that the developing countries believe should be extended to their products also. It is suggested that GIs may be of particular interest to a number of developing countries that might have a comparative advantage in agricultural products. For instance, Darjeeling Tea and Basmati Rice are two examples of agricultural products, which come under GIs.

The implication of GIs as an IPR instrument is that it gives rights to people who produce these products in a specified region to stop others from using the geographical name in marketing the produce which does not originate from that defined area. This added protection has been given to wines, champagne, cognac, sherry etc. but is yet to be put in practice in developing countries where traditional goods have been in existence for centuries. In India, this area of IPR is yet to be developed and exploited. We should be able to protect our traditional goods, knowledge and biological resources and distinctively produce them, such as Darjeeling tea, cashmere shawls, basmati rice etc to maximise the value of these products and derive appropriate returns in the global market.

## 6



### **Are life forms a subject of TRIPs and should they be patented? What provisions does the TRIPs have for patenting of life forms?**

---

Yes. Article 27.3(b) of the TRIPs Agreement deals with the option to exclude from patentability certain living organisms (plants and animals) but not others (microorganisms). With advances in biotechnology and genomics a very large number of patents are being applied for genes, cells and DNA sequence of plants, animals and even humans. Most of these patents are by private corporations in developed countries.

The granting of these patents is argued on ethical and philosophical grounds as some experts argue that life forms are creation of nature and are not innovations. Granting patents on life can encourage bio-piracy and the theft of traditional knowledge and genetic resources. However countries such as USA and Japan have pioneered the extension of patents to cover life forms. In order to prevent patenting of life forms, countries can ban certain life forms and processes such as: patents on nuclear plant cloning (techniques that produced Dolly, the sheep), patents based on discoveries, e.g. genomes and genes.

<b>Box 4: Examples of broad Patent Claims</b>		
Patent Holder	Patent Number	Claim
W.R Grace &Co.	US 5,159,135 (withdrawn)	Species – wide patent on all Transgenic cotton
W.R. Grace &Co.	EPO 0301749 (US-applied for)	Species – wide patent on all Transgenic soybeans
Calgene, Inc	US 5,188,958	Brassica transformation Patent-covering any plant in the Brassica family, (rapeseed, broccoli, cauliflower, cabbage and Brussels sprouts) engineered using the Agrobacterium method.
Plant Genetic Systems	US 5,254,799	All plants genetically Engineered to contain Bacillus thuringiensis (Bt) Genes using Agrobacterium Techniques of transformation
DNA Plant Technology	US 5,290,687	All plants genetically Genetically engineered to express higher levels of chitinase. Chitinase is a natural enzyme in plants that wards off fungal diseases.
Lucky Biotech Corp. University of California	US 5,234,834	All plants engineered to express super sweet thaumatin genes.
<i>Source: Multinational Monitor, June 1994</i>		



## **Will the implementation of TRIPs Agreement lead to an increase in the prices and reduction in accessibility of drugs/medicines?**

---

Yes, Implementation of the TRIPs Agreement will lead to an increase in the prices of medicines, depriving more people to regular access to drugs. Patent system is a trade off: it encourages innovation but it pushes up the prices of the medicines, thus restricting the number of people who benefit from it.

However the effect of the TRIPs Agreement on developing countries will vary in part with the degree to which these countries had established a domestic system of IPR protection prior to becoming WTO members. For example, many developing countries, such as Hong Kong, Indonesia were parties neither to the Berne Convention nor the Paris, while countries like India and Bangladesh have ratified either the Berne or Paris Convention.

Developing countries like India have to implement product patent by 2005 while least developed countries have until January 2006 to provide patent protection. A comparison of prices between India and countries that have product patent shows those medicines are many times costlier in countries with patent protection. For example the retail prices in US\$ of 100 tablets of 150 mg Zantac in Australia is US\$23 as compared to US\$1.50 in India.

TRIPs require that all its member countries including developing countries have to allow 20 year patent protection for pharmaceutical products. This 20 year patent protection for new medicines delays production of inexpensive generic substitutes upon which a developing country's health services and poor people depend.

The Doha Declaration on TRIPs and Public Health, adopted by the WTO ministerial conference at Doha, Qatar on 14 November 2001 makes provision for generic production of drugs for HIV/AIDS and other essential drugs. Measures like compulsory licensing, parallel imports and differential pricing ensure that the government has the power to use IPRs to achieve its policy/national objectives.

In countries like India, there is a thriving generic drugs industry because patent protection applies only to the pharmaceutical process. India has until 2005 to become fully TRIPs compliant and implement product patents.

The process patent allows companies to produce the same medicine through a different process, but the product patent will lead to the monopoly of one company in one particular pharmaceutical treatment, leading to an increase in prices.



## Does TRIPs contain special provisions that safeguard needs of developing countries?

Yes. There are safeguards in the TRIPs Agreement to ensure that there is no misuse of Intellectual Property Rights. They can be divided into:

A) Compulsory License (CL): it is the license granted by the state upon request by a third party, to export a patented invention. It can be issued by members of the WTO, to allow third parties to make a patented product or use a patented process under license, without the consent of the original patent holder but only under certain conditions aimed at safeguarding the legitimate interests of the patent holder. Compulsory license has not been used much by developing countries because they do not have the necessary legal and administrative infrastructure or because they might feel threatened by sanctions issued against them bilaterally or multi-laterally.

Compulsory license needs to be viewed as a means to an end and the end for instance may be to achieve the lowest possible cost of medicines in developing countries in order to promote access to medicine. The threat of compulsory license may induce a patent holder to reduce the price of his product. The TRIPs Agreement specifically refers to various grounds for the granting of compulsory licenses in the field of:

- Extreme emergency: including public health emergencies
- Anticompetitive practices: meaning high prices due to exercise of monopoly power



- Public non-commercial use: a country may use or authorise a third party to use a patent without negotiations or without a license, the only obligation being “adequate” compensation.
- Dependent patents: when a patent (dependent) cannot be exploited without infringing upon another patent (dominant), a compulsory license can be granted provided that the invention claimed in the dependent patent does make some advancement of considerable economic significance.

CL is used for promoting competition and increasing the affordability of products while ensuring that the patent owner obtains compensation for the use of the invention.

B) Parallel imports: parallel imports are legitimately produced goods imported legally into a country without the authorisation of the trademark, copyright or patent holder. The term parallel is used to stress the fact that a parallel channel of unauthorised goods is created to rival authorised goods. There is trade in parallel imports in a wide variety of goods such as pianos, automobiles. Motorcycles etc. Parallel importation is usually done at a lower cost and these lower costs get transferred to the consumers, as lower prices.

Parallel imports happen because prices for the same product can vary between countries due to, difference in local incomes and degree of competition among the producers. For instance for many countries particularly in Africa, parallel imports may be the best way to improve access to essential medicines because of limited local capacity to produce raw materials and undertake manufacturing.



## Does TRIPs facilitate technology transfer?

Article 66.2 of the TRIPs Agreement obliges developed countries to provide incentives to their enterprises and institutions to promote technology transfer to developing and Least Developed Countries (LDCs) in order to “enable them to create a sound and valuable economic base”. Also Article 7 states that “IPRs should contribute to spreading of technology”.

Two essential incentives for IPRs are:

- IPRs are supposed to provide incentives for investing in Research and Development (R&D).
- Extend markets for technology and products.

However developing countries also need to have the capacity to absorb and sustain the technologies by developing their R&D, appropriate institutions and education. There has been a growth in knowledge-based industries and importance of R&D has increased. Effects of IPRs on technology transfer and local innovation in developing countries will vary according to the country’s level of economic development and on the technological nature of its economic activities and countries can reap long term benefits only when they reach a certain level of industrial threshold.

The practice of ‘second-tier’ patents or utility models has come up wherein rights are given to inventions, which show regional novelty.

In the early stages of industrialisation strong IPRs hinder rather than facilitate transfer of technology, because learning takes place by duplicating the foreign technologies. For instance, countries like Taiwan and Korea would not have achieved their current level of development if strong IPR regimes were in place.

Hence, even though the evidence is not conclusive, we can deduce that in the initial stages of development a lax IPR regime would be beneficial for the developing country to import foreign technology and duplicate it. However with technological advancement, the IPR regime can be strengthened to promote innovation and induce foreign direct investment. Developing countries like India have been making efforts meet the commitments under the TRIPs Agreement.

**Box 5: Petty Patents**

Australia in 1979 introduced a “petty patents” system in order to encourage local innovation in small business. This was in turn due to the nature of the Australian economic structure: it was a net importer of technology and much innovation was based on improvements rather than a major breakthrough of technology.

*Source: www.ictsd.org*



## **How has India incorporated the provisions of the TRIPs Agreement? Has India made changes in its existing laws to become TRIPs compliant?**

Over the years India has made certain amendments in the already existing Acts to become TRIPs compliant.

- 1) Copyright Act (1957): the first Copyright Act was passed in 1957 and has been amended twice (in 1994 and 1999). The amendment of 1994 was a response to the technological changes in the means of communications like broadcasting and telecasting. The 1999 amendment resulted in making the Copyright Act fully compatible with TRIPs. India is also a signatory to the Berne convention of 1886 and the Universal Copyright Commission of 1952. Literary work now also include computer programmes, table and compilations including computer database.

During the last two decades a number of measures have been taken by the Government of India, towards the implementation and enforcement of copyright law. Under the Ministry of Human Resource Development a special Copyright Enforcement Advisory Council has been set up in which the heads of police from all states work jointly. Also the federation of Indian publishers has a council for the benefit of publishers and authors all over the country.

- 2) Patent Act (1970): India has amended its law through the Patents Amendment Acts of 1999, 2002 and 2003. While the 2002 Act came into force in May 2003, the 2003 Act is still to be enforced. India has made these

amendments in order to comply with the obligations under the TRIPs Agreement. After the enforcement of the 2002 Act, the term of patents has been increased from 14 years to 20 years, from the date of filing. Also considerable changes have been made in the procedural aspects to simplify the patent filing and registration system and bring it in line with the international patent law.

- 3) The Indian Geographical Indications of Goods (Registration and Protection) Act, 1999: This Act together with Lisbon Agreement, prevents unauthorised persons from misusing geographical indications and appellations of origin in respect to any agricultural goods, natural goods, manufactured goods and any goods of handicrafts or manufacturing industry including food stuff etc. The Act has the following features:
- By imposing penalty (Imprisonment of not less than six months extend to 3 years and with fine) for applying, selling and representing false geographical indications;
  - Action for infringement of registered geographical indication;
  - Exclusive right to use the registered geographical indication;

The legislation will be administered through the Geographical Indications Registry under the overall charge of the Controller General of Patents, Designs and Trademarks.

- 4) Design Act 2000: This Act replaced the Indian Design Act of 1911. Under this Act, “design” has been defined as only the features of shape, configuration, pattern, ornament or composition. The design should be new and original and should not have been disclosed to the public in India or any other country. The proprietor has the copyright for the design for duration of 10 years. This period can be extended for another 5 years if application is made before the expiry of the 10 year term. Here “copyright” means the exclusive right to apply a design to any article in any class in which the design is registered.
- 5) Trademarks Act 1999: This Act came into force on September 15, 2003. It aims to amend and consolidate the laws relating to trade marks, to provide for registration and better protection of trademarks for goods and services and for the prevention of the use of fraudulent marks. It also deals with the provision for an Appellate Board for speedy disposal of appeals and for rectification of applications and simplification of procedures for registration.

India has also made use of the already existing TRIPs provisions to safeguard its Intellectual Property. The Protection of Plant Varieties and Farmers Rights Act 2001 is based on the protection of rights of farmers for their contribution made at conserving, improving and making available plant genetic resources for the development of new plant varieties. This Act essentially gives effect to Article 27.3(b) of the TRIPs Agreement. This Act provides for both breeders and farmers rights. Breeders can exercise their rights over any variety that is essentially derived from a protected variety, only after the permission/authorisation by the breeder of the initial variety. The breeder has complete rights of commercialisation for the registered variety.

The conditions for qualifying a variety as 'protected' is similar to that of UPOV and based on the criteria of novelty, distinctiveness, uniformity and stability. The farmers are also entitled to save, use, sow, re-sow, exchange, share or sell their farm produce.

The Act also talks of benefit sharing and has the provision of compulsory licensing to ensure availability of seed/planting materials of the protected variety at a reasonable price.

The Biological Diversity Act of 2002 provides for the conservation of biodiversity, sustainable use of its components and fair and equitable sharing of the benefits arising out of the use of the biological resources and knowledge. Under this Act, a foreign individual or company can use a biological resource of India without the prior permission of the National Biodiversity Authority. On the other hand, an Indian citizen has to only intimate the authority and ensure them that the commercialisation will not harm the local community.



Business Standard

## What are the current negotiations in the TRIPs Agreement?

---

Under the Doha Development Agenda (November 2001) emphasis has been given on the implementation and interpretation of TRIPs in a manner that would be supportive of public health, lead to the establishment of a multilateral system of notification and registration of geographical indications for wines and spirits by the fifth ministerial conference and also examine the relationship between CBD and TRIPs. However, no such decision was taken at Cancun, in September 2003.

**TRIPs and Public Health:** To promote access to existing medicines and research and development (R&D) into new medicines. As on 30 August 2003, the WTO member countries agreed on legal changes that will make access to cheaper generic medicines easier for developing countries, through Compulsory Licensing. However in the discussions held in November 2003 it was evident that WTO member countries have given little thought to convert the 30 August decision into an amendment of the TRIPs Agreement

**Geographical Indications:** To extend the added protection given to wine and spirits to other products from developing countries. There have been discussions about providing additional protection to products from developing countries but as of November 2003, negotiations on the multilateral system for GIs have been temporarily suspended.

Biodiversity: To examine the relationship between TRIPS Agreement and the CBD, on the protection of folklore and traditional knowledge. There has been no progress on the Biodiversity issue also, although there has been much discussion over the respective roles of the CBD and WIPO in the conservation, sustainable use and sharing of benefits related to biological resources and traditional knowledge.



## **‘CUTS’ PUBLICATIONS TRADE AND DEVELOPMENT**

---

### **STUDIES**

**1. Policy Shift in Indian Economy**

A survey on the public perceptions of the New Economic Policy in the states of Maharashtra, Rajasthan, Tamil Nadu and West Bengal in India conducted during June/July 1995 and recommendations to the government which were discussed at the above mentioned India-Nepal Training Seminar. (100pp, #9512, Rs.100/US\$25)

**2. Policy Shift in Nepal Economy**

A survey on the public perceptions of New Economic Policy in Nepal conducted during June/July 1995 and recommendations to the government which were discussed at the above mentioned India-Nepal Training Seminar. (80pp, #9513, Rs.30/US\$15)

**3. Environmental Conditions in International Trade**

A study on the impact on India's exports in the area of Textiles and Garments including Carpets, Leather and Leather Goods, Agricultural and Food Products including Tea and Packaging, for the Central Pollution Control Board, Ministry of Environment & Forests, Government of India. (39pp, #9508, Rs.200/US\$50)

**4. Costs on Consumers due to Non-Cooperation Among SAARC Countries**

A study by noted scholars on the costs on consumers of the countries in South Asia due to economic non-cooperation among them. (#9605, Rs.50/US\$25)

**5. Tariff Escalation – A Tax on Sustainability**

The study finds that the existence of escalating tariff structure, particularly in developed countries, results in “third-best” allocation of resources. It also harms both environment and development, and crucially the balance of trade. (Rs.100/US\$25) ISBN 81-87222-00-X

**6. Trade, Labour, Global Competition and the Social Clause**

The social clause issue has remained one of the most heated areas of international debate for a number of years. The study says that the quality

of that debate has not met its volume and the real issues underlying the issue have rarely been analysed as a whole. It attempts to string the various debates together. (Rs.100/US\$25) ISBN 81-87222-01-8

**7. TRIPs, Biotechnology and Global Competition**

The study shows, with some evidence, that the provisions in the TRIPs agreement concerning biotechnology are of great concern to the developing world. According to the new GATT agreement, all biotechnology products may be patented. Nearly 80 percent of all biotechnology patents are currently held by large multinationals. (Rs.100/US\$25) ISBN 81-87222-02-6

**8. Eradicating Child Labour While Saving the Child**

In the scenario of a growing interest in banning child labour this research report argues that trade restricting measures have every potential of eliminating the child itself. The report provides logical arguments and a case study for those groups who are against the use of trade bans for the solution of this social malaise. It also makes certain recommendations for the *effective* solution of the problem. (Rs.100/US\$25) ISBN 81-87222-23-9

**9. Non-trade Concerns in the WTO Agreement on Agriculture**

This research report written by Dr. Biswajit Dhar and Dr. Sachin Chaturvedi of the Research and Information System for the Non-aligned and Other Developing Countries, New Delhi, provides a detailed analysis of non-trade concerns, covering the various dimensions indicated by the Agreement on Agriculture of the World Trade Organisation. (Rs.50/US\$10) ISBN 81-87222-30-1

**10. Liberalisation and Poverty: Is There a Virtuous Circle?**

This is the report of a project: "Conditions Necessary for the Liberalisation of Trade and Investment to Reduce Poverty", which was carried out by the Consumer Unity & Trust Society (CUTS) in association with the Indira Gandhi Institute for Development Research, Mumbai; the Sustainable Development Policy Institute, Islamabad, Pakistan; and the Centre for Policy Dialogue, Dhaka, Bangladesh, with the support of the Department for International Development, Government of the UK. (Rs.100/US\$25) ISBN 81-87222-29-8

**11. The Functioning of Patent Monopoly Rights in Developing Economies: In Whose Interest?**

Advocates of strong international protection for patents argue that developing countries would gain from increased flows of trade, investment

and technology transfer. The paper questions this view by examining both the functioning of patents in developing economies in the past and current structural trends in the world economy in these areas. The historical research revealed no positive links between a strong patent regime and FDI and technology transfer. Current trends are largely limited to exchanges amongst the industrialised countries and to some extent, the newly industrialising countries. While increased North/South trade flows are expected, negative consequences are possible.

*(Rs.100/US\$25) ISBN 81-87222-36-0*

## **12. Negotiating the TRIPs Agreement: India's Experience and Some Domestic Policy Issues**

This report shows particularities about the subject that distinguished the TRIPs (Trade Related Aspects of Intellectual Property Rights) negotiations from other agreements that make up the Uruguay Round results. It also analyses the way in which the TRIPs Agreement was actually negotiated and handled.

The author finds that many of the lessons that can be drawn from India's experience with the TRIPs negotiations are the same as those that can be drawn from the negotiations more generally and true for many other countries. It goes beyond a narrow analysis of events relating strictly to the negotiations during the Uruguay Round and looks at the negotiating context in which these negotiations took place.

The research findings draw lessons from what actually happened and suggest how policy processes can be reformed and reorganised to address the negotiating requirements in dealing with such issues in the future.

*(Rs.100/US\$25) ISBN 81-87222-50-6*

## **13. Multilateral Environmental Agreements, Trade and Development: Issues and Policy Options Concerning Compliance and Enforcement**

The latest report of CUTS on Multilateral Environmental Agreement, Trade and Development, examines the role of provisions for technology and financial transfer as well as capacity building as an alternative to trade measures for improving compliance and enforcement. It acquires specific significance in the light of the fact that the WTO members for the first time, in the trade body's history, agreed to negotiate on environmental issues at the Fourth Ministerial Conference of the WTO at Doha.

This study also examines pros and cons of Carrots and Sticks approaches, and analyses incorporation of these approaches in three major MEAs, the Montreal Protocol, The Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) and the Basel

Convention, to find out which approach has been more successful in ensuring enforcement and compliance.

A must read for different stakeholders involved in this process, as this study would provide useful inputs towards trade and environment negotiations. (Rs.100/US\$25) ISBN 81-87222-58-1

#### **14. Market Access Implications of SPS and TBT: Bangladesh Perspective**

As both tariffs and other traditional trade barriers are being progressively lowered, there are growing concerns about the fact that new technical non-tariff barriers are taking their place, such as sanitary and phytosanitary measures (SPS) and technical regulations and standards.

The poor countries have been denied market access on quite a number of occasions when they failed to comply with a developed country's SPS or TBT requirements or both. The seriousness of this denial of market access is often not realised unless their impact on exports, income and employment is quantified.

In this paper, the author focuses on the findings of a 1998 case study into the European Commission's ban of fishery products from Bangladesh into the EU, imposed in July 1997.

This research report intends to increase awareness in the North about the ground-level situation in poor and developing countries. At the same time, it makes some useful suggestions on how the concerns of LDCs can be addressed best within the multilateral framework. The suggestions are equally applicable to the developing countries.

(Rs.100/US\$10) ISBN 81-87222-69-7

#### **15. Voluntary Self-regulation versus Mandatory Legislative Schemes for Implementing Labour Standards**

Since the early 1990s, globally there has been a proliferation of corporate codes of conduct and an increased emphasis on corporate responsibility. The idea is that companies voluntarily adopt codes of conduct to fulfil their social obligations and although these companies are responsible only for a fraction of the total labour force, they set the standards that can potentially lead to an overall improvement in the working conditions of labour.

These voluntary approaches are seen as a way forward in a situation where state institutions are weakened with the rise to dominance of the policies of neo-liberalism, and failure of the state-based and international regulatory initiatives.

Given this background, this paper examines how the failure of 1980s codes, regulated by international bodies, resulted in the proliferation of corporate codes of conduct and an increased emphasis on corporate social responsibility.

This paper further tries to explore whether voluntary codes of conduct can ensure workers' rights in a developing country like India. (Rs.100/US\$25) ISBN 81-87222-76-X

#### **16. Child Labour in South Asia Are Trade Sanctions the Answer?**

South Asian Countries have the highest rates of child labour practices in the world.

As a result of the advocacy by powerful political lobbying groups supported by Europe and the US, the trade sanction approach to encounter the issue of child labour has gained influence since the nineties.

These sanctions were exercised to alleviate the problem of child labour by US policy-makers and also by some countries in the EU. But, the question arises – have the trade sanctions imposed by these countries in any way helped eliminate this problem? This research report of CUTS Centre for International Trade, Economics & Environment tries to address this question.

It has explored the impact of these trade sanctions and finds that these sanctions resulted in the contradiction of the basic objective, i.e., elimination of child labour. By banning the import of those goods in the production process of which child labour was used wholly or partly, the developed countries have aggravated the sufferings of child labour and their families.

Besides highlighting the causes of child labour, the report makes some very useful recommendations on how the issue of child labour can be addressed best at the domestic as well as international level.

(Rs.100/US\$25) ISBN 81-87222-82-4

#### **17. TRIPs and Public Health: Ways Forward for South Asia**

Trade Related Aspects of Intellectual Property Rights – or TRIPs – has always been one of the most contentious issues in the WTO. Several studies have been conducted on the political economy of TRIPs *vis-à-vis* WTO, the outcome of which are crucial to the policymakers of the developing economies more than those in the rich countries. Increasing realisation of the poor countries' suffering at the hands of the patent holders is yet another cause of worry in the developing and poor countries.

This research document tries to reach the answer to one specific question: what genuine choices do policymakers in South Asian developing nations now have, more so after the linkage between the trade regime and pharmaceuticals? Starting with a brief overview of the key features of the corporate model of pharmaceuticals, the paper provides some insight into the challenges faced by the governments in South Asian

countries. The aim is to anchor the present discussion of public health and the impact of TRIPs in the socio-cultural environment of this region.  
(Rs.100/US\$25) ISBN 81-87222-83-2

**18. Bridging the Differences Analyses of Five Issues of the WTO Agenda**

This book is a product of the project, EU-India Network on Trade and Development (EINTAD), launched about a year back at Brussels. CUTS and University of Sussex are the lead partners in this project, implemented with financial support from the European Commission (EC). The CUTS-Sussex University study has been jointly edited by Prof. L. Alan Winters of the University of Sussex and Pradeep S. Mehta, Secretary-General of CUTS, India.

The five issues discussed in the book are Investment, Competition Policy, Anti-dumping, Textiles & Clothing, and Movement of Natural Persons. Each of these papers has been co-authored by eminent researchers from Europe and India. (Rs.350/US\$50) ISBN 81-87222-92-1

**19. Dealing with Protectionist Standard Setting: *Effectiveness of WTO Agreements on TBT and SPS***

Sanitary and Phytosanitary Safeguards (SPS) and Technical Barriers to Trade (TBT) Agreements — enshrined in the WTO — are meant to keep undesirable trade practices at bay. These Agreements try to ensure adherence to standards, certification and testing procedures, apart from technical protection to the people, by countries while trading in the international arena.

This research report is a sincere attempt to fathom the relevance of SPS and TBT Agreements, their necessity in the present global economic scenario and, of course, the development of case law related to the Agreements, along with a brief description of the impact of this case law on developing countries. (Rs.100/US\$25) ISBN 81-87222-68-9

**20. Competitiveness of Service Sectors in South Asia: *Role and Implications of GATS***

This research report attempts to emphasise on the relevance of GATS for developing economies, particularly in South Asia. It also examines the potential gains from trade liberalisation in services, with a specific focus on hospital services, and raises legitimate concerns about increases in exports affecting adversely the domestic availability of such services. It highlights how the ongoing GATS negotiations can be used to generate a stronger liberalising momentum in the health sector.

(Rs.100/US\$25) ISBN 81-8257-000-X

## DISCUSSION PAPERS

### 1. Existing Inequities in Trade - A Challenge to GATT

A much appreciated paper written by Pradeep S Mehta and presented at the GATT Symposium on Trade, Environment & sustainable Development, Geneva, 10-11 June, 1994 which highlights the inconsistencies in the contentious debates around trade and environment.

*(10pp, #9406, Rs.30/US\$5)*

### 2. Ratchetting Market Access

Bipul Chatterjee and Raghav Narsalay analyse the impact of the GATT Agreements on developing countries. The analyses takes stock of what has happened at the WTO until now, and flags issues for comments.

*(#9810, Rs.100/US\$25)*

### 3. Domestically Prohibited Goods, Trade in Toxic Waste and Technology Transfer: Issues and Developments

This study by CUTS Centre for International Trade, Economics & Environment attempts to highlight concerns about the industrialised countries exporting domestically prohibited goods (DPGs) and technologies to the developing countries that are not capable of disposing off these substances safely, and protecting their people from health and environmental hazards. (ISBN 81-87222-40-9)

## MONOGRAPHS

### 1. Role and the Impact of Advertising in Promoting Sustainable Consumption in India

Economic liberalisation in India witnessed the arrival of marketing and advertisement gimmicks, which had not existed before. This monograph traces the the impact of advertising on consumption in India since 1991.

*(25pp, #9803, Rs.15/US\$5)*

### 2. Social Clause as an Element of the WTO Process

The central question is whether poor labour standards result in comparative advantage for a country or not. The document analyses the political economy of the debate on trade and labour standards.

*(14pp, #9804, Rs.15/US\$5)*

### 3. Is Trade Liberalisation Sustainable Over Time?

Economic policy is not an easy area for either the laity or social activist to comprehend. To understand the process of reforms, Dr. Kalyan Raipuria,

Adviser, Ministry of Commerce, Government of India, wrote a reader-friendly guide by using question-answer format.  
(29pp, #9805, Rs.15/US\$5)

**4. Impact of the Economic Reforms in India on the Poor**

The question is whether benefits of the reforms are reaching the poor or not. This study aims to draw attention to this factor by taking into account inter-state investment pattern, employment and income generation, the social and human development indicators, the state of specific poverty alleviation programmes as well as the impact on the poor in selected occupations where they are concentrated. (15pp, #9806, Rs.15/US\$5)

**5. Regulation: Why and How**

From consumer's viewpoint, markets and regulators are complementary instruments. The role of the latter is to compensate in some way the failings of the former. The goal of this monograph is to provide a general picture of the whys of regulation in a market economy.  
(34pp, #9814, Rs.15/US\$5)

**6. Snapshots from the Sustainability Route — A Sample Profile from India**

Consumption is an indicator of both economic development and also social habits. The disparity in consumption pattern has always been explained in the context of the rural urban divide in India. The monograph analyses the consumption pattern of India from the point of view of the global trend towards sustainable consumption.  
(16pp, #9903, Rs.15/US\$5)

**7. Consumer Protection in the Global Economy**

This monograph outlines the goals of a consumer protection policy and also speaks about the interaction between consumer protection laws and competition laws. It also highlights the new dimensions about delivering consumer redress in a globalising world economy, which raises jurisdictional issues and the sheer size of the market.  
(38pp, #0101, Rs.20/US\$5).

**8. Globalisation and India – Myths and Realities**

This monograph is an attempt to examine the myths and realities so as to address some common fallacies about globalisation and raise peoples' awareness on the potential benefits globalisation has to offer.  
(40pp, #0105, Rs.30/US\$5)



**9. ABC of the WTO**

We launched a series of monographs on Globalisation and India – Myths and Realities in September 2001. The first one was a big success, as was evident by the accolades and demands that we have been receiving from several quarters.

This second monograph – and more – is about the World Trade Organisation (WTO) which has become the tool for globalisation. This monograph is an attempt to inform the layperson about the WTO in a simple question-answer format. It is the first in our series of monographs covering WTO-related issues and their implications for India. Its aim is to create an informed society through better public knowledge, and thus enhance transparency and accountability in the system of economic governance. (36pp, #0213, Rs.30/US\$5)

**10. ABC of FDI**

FDI — a term heard by many but understood by few. In the present times of liberalisation and integration of world economy, the phenomenon of Foreign Direct Investment or FDI is fast becoming a favourite jargon, though without much knowledge about it. That is why CUTS decided to come out with a handy, yet easy-to-afford monograph, dwelling upon the “hows” and “whys” of FDI. This monograph is third in the series of “Globalisation and India – Myths and Realities”, launched by CUTS in September 2001. “How is FDI defined?” “What does it constitute?” “Does it increase jobs, exports and economic growth?” Or, “Does it drive out domestic investment or enhance it?” are only some of the topics addressed to in a lay man’s language in this monograph. (48pp, #0306, Rs.30/US\$5)

**11. WTO Agreement on Agriculture Frequently Asked Questions**

As a befitting reply to the overwhelming response to our earlier three monographs, we decided to come out with a monograph on *WTO Agreement on Agriculture* in a simple Q&A format. This is the fourth one in our series of monographs on *Globalisation and India – Myths and Realities*, started in September 2001.

This monograph of CUTS Centre for International Trade, Economics & Environment (CUTS-CITEE) is meant to inform people on the basics of the WTO Agreement on Agriculture and its likely impact on India. (48pp, #0314, Rs.50/US\$10)

**12. Globalisation, Economic Liberalisation and the Indian Informal Sector – A Roadmap for Advocacy**

The process of economic liberalisation and the pursuit of market-driven economic policies are having a significant impact on the economic landscape

of the country. The role of the state is undergoing a paradigm shift from being a producer to a regulator and facilitator. A constant removal of restrictions on economic activities and fostering private participation is becoming the order of the day.

Keeping these issues in mind, CUTS with the support of Oxfam GB in India, had undertaken a project on globalisation and the Indian Informal sector. The selected sectors were non-timber forest products, handloom and handicraft. The rationale was based on the premise that globalisation and economic liberalisation can result in potential gains, even for the poor, but there is the need for safety measures as well. This is mainly because unhindered globalisation can lead to lopsided growth, where some sectors may prosper, leaving the vulnerable ones lagging behind. (ISBN 81-8257-017-4)

## GUIDES

### 1. **Unpacking the GATT**

This book provides an easy guide to the main aspects of the Uruguay Round agreements in a way that is understandable for non-trade experts, and also contains enough detail to make it a working document for academics and activists. (Rs.60/US\$5)

### 2. **Consumer Agenda and the WTO—An Indian Viewpoint**

Analyses of strategic and WTO-related issues under two broad heads, international agenda and domestic agenda. (#9907)

## NEWSLETTERS

### **Economiquity**

A quarterly newsletter of the CUTS Centre for International Trade, Economics & Environment for private circulation among interested persons/networks. Contributions are welcome: Rs.50/US\$15 p.a.

## BRIEFING PAPERS

Our Briefing Papers inform the layperson and raise issues for further debate. These have been written by several persons, with comments from others. Re-publication, circulation etc. are encouraged for wider education. They are available for free, but contributions towards postage (Rs.5/\$5) are welcome.

### **1995**

1. GATT, Patent Laws and Implications for India
2. Social Clause in the GATT - A Boon or Bane for India
3. Greening Consumer Choice? - Environmental Labelling and the Consumer
4. Trade & Environment: the Inequitable Connection
5. Anti-Dumping Measures under GATT and Indian Law
6. Rational Drug Policy in South Asia - The Way Ahead
7. No Patents on Life Forms!
8. Legislative Reforms in a Liberalising Economy

### **1996**

1. The Freezing Effect - Lack of Coherence in the New World Trade Order
2. Curbing Inflation and Rising Prices - The Need for Price Monitoring
3. The Circle of Poison - Unholy Trade in Domestically Prohibited Goods
4. Swim Together or Sink – Costs of Economic Non-Cooperation in South Asia (revised in Sept. 1998)
5. Carrying the SAARC Flag - Moving towards Regional Economic Cooperation (Revised in Oct. 1998)
6. DPGs, Toxic Waste and Dirty Industries—Partners in Flight
7. WTO: Beyond Singapore - The Need for Equity and Coherence

### **1997**

1. The Uruguay Round, and Going Beyond Singapore
2. Non-Tariff Barriers or Disguised Protectionism
3. Anti-Dumping Under the GATT - The Need for Vigilance by Exporters
4. Subsidies & Countervailing Measures
5. Textiles & Clothing - Who Gains, Who Loses and Why?
6. Trade in Agriculture—Quest for Equality
7. Trade in Services-Cul de Sac or the Road Ahead!
8. TRIPs and Pharmaceuticals: Implications for India
9. Movement of Natural Persons Under GATS: Problems and Prospects

### **1998**

1. TRIPs, Biotechnology and Global Competition
2. Tariff Escalation—A Tax on Sustainability
3. Trade Liberalisation, Market Access and Non-tariff Barriers
4. Trade, Labour, Global Competition and the Social Clause
5. Trade Liberalisation and Food Security

## 1999

1. The Linkages: Will it Escalate?
2. Trade and Environment—An Agenda for Developing Countries
3. Dispute Settlement at WTO—From Politics to Legality?
4. TRIPs and Biodiversity
5. Eradicating Child Labour While Saving the Child—Who Will Pay the Costs?
6. Overdue Reforms in European Agriculture—Implications for Southern Consumers
7. Liberalisation and Poverty: Is There a Virtuous Circle for India?
8. The Non-trade Concerns in the WTO Agreement on Agriculture
9. Negotiating History of the Uruguay Round
10. Professional Services under the GATS—Implication for the Accountancy Sector in India

## 2000

1. Implementation of the WTO Agreements: Coping with the Problems
2. Trade and Environment: Seattle and Beyond
3. WTO and the Poor Countries
4. Dispute Settlement under the GATT/WTO: The Experience of Developing Nations
5. Biosafety Protocol: Sweet 'N' Sour
6. Process and Production Methods (PPMs)—Implications for Developing Countries
7. The Functioning of Patent Monopoly Rights in Developing Countries: In Whose Interest?

## 2001

1. Trade and Sustainable Development: An Outline of a Southern Agenda
2. Human Rights and International Trade: Right Cause with Wrong Intentions
3. Framework for Fair Trade and Poverty Eradication
4. Implementation of the Uruguay Round Agreements  
*Need for a Frontloaded Agenda*
5. Proactive Agenda for Trade and Poverty Reduction
6. WTO Transparency and Accountability: *The Need for Reforms*
7. EU's Environmental Agenda: *Genuine Concern or Pitching for Protectionism?*

## 2002

1. *Amicus Curiae* Brief: Should the WTO Remain Friendless?
2. Market Access: The Major Roadblocks
3. Negotiating the TRIPs Agreement: *India's Experience and Some Domestic Policy Issues*
4. Market Access Implications of SPS and TBT  
*A Bangladesh Perspective*
5. Multilateral Environmental Agreements, Trade and Development: *Issues and Policy Options Concerning Compliance and Enforcement*

## 2003

1. Labour Standards: Voluntary Self-regulation vs. Mandatory Legislative Schemes
2. Child Labour in South Asia Are Trade Sanctions the Answer?
3. India Must Stop Being Purely Defensive in WTO
4. IPRs, Access to Seed and Related Issues
5. TRIPs and Public Health: Ways Forward for South Asia

*For more details, visit our website at  
[www.cuts-international.org](http://www.cuts-international.org)*