AWARENESS OF INTELLECTUAL PROPERTY RIGHTS AMONG STUDENTS OF BANGLADESH – A PRE-TRIPS ADOPTION ANALYSIS

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Abstract - The TRIPS Agreement is the most contemporary and thorough multilateral agreement on intellectual property rights. This agreement came into effect back on 1st January 1995. After graduation from the LDC category, Bangladesh must comply with all the TRIPS provisions related to international trade. After the LDC graduation, Bangladesh will no longer have access to WTO benefits. According to a recent report by the WTO Secretariat, 71% of Bangladesh's total exports enter countries that provide quota-free &duty-free market access to LDCs. In terms of definition and use case, there are subtle differences between Patents, Copyright, trademarks, and other IP instruments. Moreover, given the contribution of agriculture to Bangladesh's economy, GI (Geographical Indication) can play a vital role in rural economic development. The study aims to examine the general knowledge gap among students about TRIPS and Intellectual Property rights. Assuming that current students will soon enter the job market, their knowledge about the TRIPS agreement and the various Intellectual Property instruments is vital. This study will help the policymakers and relevant stakeholders prepare for the readiness of future endeavors.

Keywords - Trade-Related Aspects of Intellectual Property Rights,(LDC) Least Developed Country, One-Size-Fit-All

I. INTRODUCTION

Intellectual Property refers to any creative creation. It can include symbols, names, artistic work, designs, images, literary work, etc. Trade secrets, trademarks, patents, copyright, industrial design, and geographical location are some instruments that fall under the umbrella term Intellectual Property. It can be argued that the need for Intellectual Property provisions was realized when the need to protect objects with commercial value was felt by the business & artistic community. When discussing Intellectual Property, one can't simply leave out TRIPS. The WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) is the most widely accepted international intellectual property agreement.(World Trade Organization, 2022)[1]During the 1986–1994 Uruguay Session, the WTO negotiated the Agreement TRIPS, which incorporated intellectual property regulations into world trade for the first time. The implications of TRIPS for Bangladesh will be no less than disruptive. Bangladesh will no longer be eligible for WTO benefits following the LDC graduation. Bangladesh will face additional expenses if the duty-free benefits are eliminated, which will raise the price of RMG exports overall. Bangladesh will consequently lose its competitive advantage of having low wages and find it difficult to compete with other rival nations (such as Indonesia, China, India, Vietnam, and Cambodia) for the same market.(United Nations, 2022)[2]

There have been two extensions to the General Transition period for adopting the TRIPS agreement. The transitional stage was renewed in 2005 to last until July of 2013. The timeline was extended by a further eight years to July 2021. The transition period was extended until July 2034 at WTO members' most recent triennial conference. Numerous studies have indicated that the Covid pandemic may induce many of the LDC nations' economic accomplishments to be reversed. Covid had weakened the inherent strength of the economy of LDC countries. LDCs that have recently graduated from the LDC status will therefore require more time to adopt this agreement sustainably.(Centre for Policy Dialogue, 2021)[3] Assessing the knowledge gap among the students of Bangladesh concerning TRIPS is of crucial importance. Even though Bangladesh still has significant time to prepare for TRIPS adoption, steps must be taken now. Otherwise, it will be too late.

II. PURPOSE OF THE STUDY

The adoption of TRIPS will significantly impact businesses in developing countries, and Bangladesh is no exception. (Saana Consulting, 2013)[4]There are national IP laws in place, but there are a few gaps that TRIPS will fulfill. The study aimed to assess the understanding of Intellectual Property among students. As they will be on the front lines when TRIPS is adopted, they must have a sound knowledge of the different IP instruments and their implications.

Bangladesh and other LDC nations recommended an additional 12-year extension at the 12th WTO ministerial meeting, which the TRIPS Council also approved. Bangladesh won't be eligible to receive the advantages of the pharmaceutical waiver after it leaves the LDC. Generic medication has a sizable

market in Bangladesh. It currently exports necessary medications to numerous other LDC countries at a reasonable cost. The pharmaceutical industry meets a further 97 percent of local drug demand, and over 30 companies export a sizable number of drugs to 107 nations. After graduating, the nation must abide by the TRIPS agreement and other international IPR agreements. The government shall comply with the provisions of the TRIPS Agreement in amending or adopting new IP laws. Without the practical application of current IP-related laws and the inclusion of various IP enforcement issues in the existing IP-related laws, it may be impossible to properly enforce many items with IP rights imported or exported across borders. Given the current scenario, knowledge, and awareness among the student community regarding IP is of utmost importance. Furthermore, Public ignorance is the main barrier to IPR implementation and enforcement in Bangladesh.

III. LITERATURE REVIEW

The leading international law governing the various types of intellectual property rights (IPRs), including trade secrets, patents, trademarks, industrial designs, copyright and related rights, layout designs for integrated circuits, geographical indications (GI), plant variety protection, is the WTO Agreement on Intellectual Property. Since TRIPS was adopted, the enforcement of intellectual property rights (IPRs) has recently been a significant concern for the global economy. (Chowdhury, 2018)[5]

The fact that the western-style IP regime (TRIPS) cannot fit the customs and cultures of the third-world countries and exposes them to a uniform and mandatory IP protection regime for all WTO members, regardless of their developed, developing, or LDC status, causes developing and LDCs to experience perpetual tension. Experts are concerned about whether or not TRIPS can fulfill the development needs of the country's agricultural and public health sectors. There appears to be a patent monopoly through control over pharmaceuticals, which secures royalties for patent rights therein due to the TRIPS patenting in pharmaceuticals and preventing compulsory licensing. TRIPS provides higher levels of intellectual property protection. Still, developing countries have expressed concern that this will require a significant commitment of essential government resources, result in a significant outflow of royalty payment to foreign entities, and raise the prices at home. Due to its wealth of cultural diversity and traditions, Bangladesh has several internationally renowned delicacies, handicrafts, agricultural goods, and cultural legacies that could be considered geographical markers. To enjoy the full benefits of TRIPS, future business leaders must have a firm understanding of GI and its applications.

IV. METHODOLOGY

For this qualitative study, an FGD was conducted.MBA students (Batch 64th) were randomly picked from the University of Dhaka – Institute of Business Administration (IBA). There was a total of 07 participants for the FGD. These participants were selected from different educational backgrounds. It was done to extract the maximum diversity in point-of-view on the subject matter of IP. Qualitative Research was considered the best fit as there was limited information available on this paper's chosen field of Research. As a pre-determined quantitative questionnaire did not bind the Research, the findings were more thorough & in-depth. FGD invitation was sent to students via the Class Representatives. Every student could sign-up for the FGD. The participant number for the FGD was kept at 07 so that everyone got a fair chance to share their opinions and contribute to the discussion. The final sample of 07 participants was selected by applying a simple random sampling method.

V. DATA ANALYSIS

The transcripts of the recordings were analyzed to find patterns in thought and attitude towards IP. The primary goal of this paper was to develop actionable insight into the area under scrutiny. Information was obtained from two FGD sessions conducted on the 20th& 21st of June. Written consent was collected from the FGD participants. The length for both of the FGDs was 2 hours. The entire FGD session was recorded and later transcribed into a written document. Professor Md Ridhwanul Haq, Ph.D., executed the FGD. And notes & recordings were made by Mr. Akash Kumar Biswas. After each FGD session, Mr. Haq and Mr. Biswas discussed the findings. Transcription was done anonymously. It was assumed that the participants had zero knowledge about IP. Each of the participants was assigned a random number. During both the FGD sessions, all the participants were referred to using their assigned numbers. To keep the findings of this paper neutral and as objective as possible, the topic of the FGD was kept a secret from the participants. A thorough thematic analysis was conducted on the transcripts. For a thematic analysis, nVivo 10 software was used. Each theme was assigned a code, and all the data was encoded using the codes. Codes for all the major themes were developed after a thorough literature review & analysis. The FGD did not deploy any pre-existing theme. Once the thematic structure was designed, it was applied for both the FGD sessions.

VI. FINDINGS

A total of 07 participants took part in the FGD. There was a total of 02 FGD sessions.

Characteristic	Number	Percentage (%)
Age (years)		
23-25	5	71.43
26-28	2	28.57
Gender		
Male	3	42.8%
Female	4	57.2%
Undergraduate Major		
Engineering	4	57.2%
Business	3	42.8%

When asked about the difference between product patent and process patent, participants could not give a definitive answer. After analyzing the transcripts, it was evident that participants had taken the low price of medicines for granted.(Centre for Policy Dialogue, 2018)[6] They expect that the prices of medicines will remain low for as long as they live. It only shows the lack of understanding of the dynamics that go into setting the price of essential drugs. Participants could not explain the use of Compulsory Licensing, theprovision of TRIPS that gives the government leverage in keeping the costs low for drugs for the mass. (Eduardo & Shyama, 2020)[7] Furthermore, there was a significant gap in understanding between Geographical Indication and Patent. Participants argued that they would use Patent for IP protecting Hilsha, Zamani, and other objects of heritage. However, to preserve such things, Geographical Indication is preferred in the real world.

All of them responded positively when asked if they would abide by the IP laws. However, when asked about the legal implications of failing to meet IP laws, most had a vague idea about it. Lack of understanding of IP enforcement indicates a lack of understanding of IP, its safeguarding mechanisms, and other relevant IP compliance issues.(Esrat & Md. , 2018)[8] Participants have an inflated belief that the national IP laws are not compliant with international practices. However, in reality, all the major national IP laws are compliant with WTO requirements. This shows the lack of faith in national policy-making. Participants think that the significant impact of TRIPS adoption will be on the RMG sector. However, they had a notion that this would happen as, after TRIPS adoption, producers will need to pay an additional sum for patents and trademarks. However, in reality, the most significant impact will come from high prices due to the expiration of GSP facilities. (Md. & Kamruddin, 2014)[9]

VII. CONCLUSION AND STRATEGIC DIRECTION

IPRs must be fundamentally protected by members by the TRIPs Agreement, regardless of their level of development or comparative advantage in IPRs product reverse engineering. Additionally, it calls for treating the unrestricted use of IPRs as a trade barrier due to piracy and counterfeiting.(European Commission, 2021)[10]The results show that the participants firmly believed that IPR protection seemed to foster monopolization and impose restrictions on free trade for developing and LDC countries. Such hostile thoughts will act as a barrier to the full utilization of TRIPS in favor of Bangladesh. Along with mitigating such hostility, Bangladesh should invest heavily to raise awareness of IP laws among the students. Policies that guarantee equitable financial and technical support, accountability, and openness should be implemented to strengthen the capability of regional IP offices, government representatives, and institutions.

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