

TRIPS Agreement

Implications on Intellectual Property Law and Administration

by Prof M Nurul Islam

Effective enforcement of IP-Laws will encourage Foreign Direct Investment, which in turn will help technology transfer, industrialisation and employment generation. On the other hand increasing investment in R&D would gradually help in reducing dependence on foreign technology and allocation of funds for technology acquisition.

BA NGLADESH as a signatory to the Uruguay Round Agreement is obliged to follow different provisions of the agreement including the agreement on Trade Related Aspects of Intellectual Property Rights (TRIPS).

In Bangladesh, however, the importance of Intellectual Property Rights (IPRs) in socio-economic development and trade are not well understood at different levels, in both government and private sectors. When one could see that different countries of the region had undertaken open public discussions on the implications of TRIPS Agreement long before the signing of Uruguay Round Agreement, in Bangladesh such discussions have been taking place only after signing of the Agreement.

It had been opined (The Daily Star 12-13 October, 1996) that the developed countries would be the biggest gainers followed by the relatively advanced developing countries. For the LDCs, some may gain or lose a little more than the other depending on the relative change in opportunities for them in the wake of the Uruguay Round (UR). It was further opined that the post-UR life may be very different for the people of the LDCs. The full implementation of UR will have profound influence on their lives, their thinking pattern and their ways of doing things. For better or worse the UR is going to expose the LDCs to a more difficult and challenging life.

It is, however, envisaged that the policy planners and decision makers (politicians, bureaucrats) of Bangladesh will pay serious attention to above observations and act accordingly to face the challenge, so that we can live with dignity and honour.

Ministry of Commerce, Government of Bangladesh has undertaken Uruguay Round Study Project (URSP) and appointed consultants to advise the Government in deciding appropriate strategies to face the challenge under UR Agreement including TRIPS. A comprehensive document on TRIPS was prepared by consultants and discussed in a National Workshop in August 1996. I sincerely hope that decision makers concerned will undertake appropriate measures to implement the recommendations. In this respect it may be stressed to draw the attention of the policy planners and decision makers that technologically advanced and alert countries of the Asian region have already brought necessary changes in their respective national laws, institutional and administrative systems to comply with TRIPS Agreement.

Current Status of IP in Bangladesh
In Bangladesh, except in the agriculture sector R&D capabilities for technology development in other sectors of development are weak. The Government of

Bangladesh declared the National Science and Technology Policy in 1986 in order to encourage and enhance R&D capabilities to develop technology for development. Nothing has been mentioned in the document about Industrial Property Rights (patents, designs) and effective measures for commercialization of patented technologies.

In Bangladesh traditional government supports to R&D activities have been limited to public sector organisations. In public sector organisations the main objective for patenting technologies by the researchers is to fulfil the requirement for promotion rather than achieving commercial success. Moreover, due to the absence of necessary government supports (in the form of venture capital) very small number of technologies patented by local inventors have been commercialised.

Considering the importance of technology transfer in industrial development it has been mentioned in all the declared industrial policies of the government (IP-1986, IP-1990, IP-1991, IP-1996 (Draft) and the National Science and Technology Policy (NSTP 1986) that a National Centre for Technology Development and Transfer would be established in the country. During the last 10 years the Ministry of Science and Technology has formed many committees and sub-committees to establish this important centre to help technology transfer. Unfortunately due to lack of understanding about the importance of technology transfer in industrial development nothing fruitful has taken place in this respect.

Encouraging statements have been made in both Industrial Policy and National Science and Technology Policy to increase investment in R&D and to provide incentives to private sectors in the form of tax relief. Such good statements have not been put to practice. The existing IP Acts of the country on patents, industrial designs, trademarks, copyright related rights are old and outdated to meet the current needs. They need revisions. Two drafts, one to amend the Patent and Design Act and the other to amend the Trademarks Act, have been initiated at the beginning of 1990s, it is still in the process to approval. Serious modifications of the IP laws would be necessary in the light of TRIPS Agreement.

In Bangladesh the National Patent Office is manned by inadequate number of professionals. As a result they are unable to undertake promotional activities to create awareness among the prospective inventors and innovators. The usefulness of Patents Office of any country depends on the capability of gathering cumulative ex-

periences for the benefit of the country. In Bangladesh, traditionally, top positions of the Patent and Trademark offices are headed by transferable civil servants. Whatever specialised experiences they gather during their tenure in IP Office get lost when they are transferred to different offices. The capability of existing institutions to enforce IP laws are also weak. Moreover, there is no systematic effort to develop capable manpower to meet the growing challenges of policies and programmes related to TRIPS.

Follow-up Actions for the Implementation of TRIPS Agreement

The TRIPS Agreement became effective in January 1995. The agreement has already been implemented by industrialised countries from January, 1996. The agreement is scheduled to be put into practice by developing countries by the year 2000. Least Developed Countries (LDCs) like Bangladesh shall enjoy a period of 10 years of delay (up to the year 2006) in implementation of TRIPS Agreement from the date of application.

It is undeniable that the implementation of TRIPS Agreement has many concerns as well as opportunities. Government of Bangladesh should try to maximise the opportunities of TRIPS Agreement for the socio-economic development of the country. In order to achieve the goal simultaneous actions will have to be taken to comply with the conditionalities of the Agreement as well as to develop national capabilities to face the challenge and use them for the benefit of the country.

It is envisaged that if taken seriously the allowable transition period up to the year 2006 may be sufficient to meet the international obligations. However it may take longer period to achieve reasonable level of national capabilities to avail the opportunities. Various legal, institutional, administrative and policy measures should be considered by the government as presented in the following paragraphs. The government should notify in the country and inform the Council for TRIPS about the country's commitment to implement the substantive provisions of the Agreement in the transition period.

A permanent (not a temporary project) Co-ordination Cell should be established at the Ministry of Commerce to deal with various issues related to Uruguay Round Agreement. The cell should be manned by professional experts. The cell should have the overall responsibility for implementation of the UR Agreement and coordination of all IPRs-related activities. The cell will constantly monitor country's position and the global development with regard to TRIPS/IPRs.

The issues related to Industrial Property Rights fall under the administrative authority of the Ministry of Industry (MOI). An Advisory Committee should be established to advise the government (MOI) on strengthening, restructuring and enhancing the capabilities of the Patent and Trademark Office in line with the requirements of TRIPS Agreement.

The issues related to copyright fall under the administrative authority of Ministry of

Culture Youth and Sport. Here also an Advisory Committee should be established to advise the government on matters related to TRIPS Agreements.

All over the world universities maintain a pool of highly trained manpower (e.g. technicians, researchers etc). It has been reported that in recent years in developed countries and in some advanced developing countries appropriate institutional arrangements have been made to use the highly trained manpower in IPR activities. In many cases this action has helped in achieving notable success by providing substantial earnings to individual inventors.

In Bangladesh, university systems should also be activated in IPR activities. The universities can contribute in the following areas:

- Generate Intellectual Property (e.g. patent, design etc)
 - Undertake Human Resources Development Programmes (e.g. short courses, workshops, seminars etc) for different target groups (e.g. entrepreneurs, government officials, law enforcing agencies etc)
 - Undertake policy research on technology and trade related issues and advise policy planners, decision makers, government officials, entrepreneurs, bank officials etc.
- As per TRIPS Agreement necessary amendment and formulation of IP laws are to be made to cover high level of protection. They include: (a) Amendment of the existing IP laws with regard to copyright, trademarks, patents and designs. Two drafts prepared by MOI may be considered as the initial steps, in this regard: (b)

Formulation of necessary IP laws to cover protection of new IPRs such as geographical indications, layout designs of ICs, trade secrets, and contractual licenses is to be undertaken.

The Co-ordination Cell and the relevant authorities should collect samples of laws and relevant documents applicable to the new IPRs and other provisions from the countries which have already enacted the laws in their respective countries. In this respect WIPO assistance may also be sought to prepare draft laws as per TRIPS Agreement. Relevant IP authorities should draw the attention of the Law Commission to help in formulation and enactment of these commercially important laws on a priority basis.

Ministry of Industries (MOI) and Ministry of Cultural Affairs should allocate sufficient funds to create awareness about the importance of IP in socio-economic development and the need for effective enforcement of IP laws under TRIPS Agreement. Specific training programmes (seminars/workshops) should also be organised to train the personnel of the law enforcing agencies (e.g. Judiciary, Custom, Police etc).

In the light of TRIPS Agreement it is necessary to modify the National Science and Technology Policy declared by the Ministry of Science and Technology. Sufficient stress should be given to patent the R&D results and to their commercial applications. During inauguration of the 20th National Science and Technology Week, President Justice Shahabuddin Ahmed has stressed that National Science and Technology Policy should be revised keep-

ing eyes on the next century for creating new strategy (The Daily Star, 6 June, 1997).

Necessary attention should be given to the Industrial Policy for successful transfer of technology. Establishment of National Centre for Technology Transfer as identified in the past Industrial Policy of the government should be implemented to support the private entrepreneurs on issues related to technology transfer.

In Bangladesh, research and development in industrial sector had been neglected in the past. There is a need for increasing investment for industrial R&D. At the initial phase, private entrepreneurs may not be keen to make R&D investment from their own resources. Government (Ministry of Science and Technology/Ministry of Industry/Ministry of Finance) should create a special fund for sponsoring industrial R&D projects. Gradually private sector may be motivated to invest in industrial R&D through appropriate fiscal incentives.

Ministry of Finance (Banking Division) should make provision of venture capital for commercialisation of indigenous technology and funding projects with emerging technologies and innovative ideas. A certain portion of industrial financing fund should be set aside for venture capital. Development financing institutions and commercial banks should be advised to act accordingly.

At present industrial units incurring expenditure (e.g. capital investment, running expenses) for scientific and technological research are allowed (by National Board of Revenue/Income Tax authorities) to claim deduction of the amount actually spent in this respect. Existing provision of tax deduction has not been attractive to make investment in industrial R&D. Considering the potential contribution of

industrial R&D in increasing industrial productivity and making new inventions, NBR should allow industrial units to claim tax deductions for a value of 200 per cent of the amount spent on R&D (similar provision has been made in other countries of the region).

At present industrial units investing fund in the research activities of universities and R&D institutions with the approval of National Board of Revenue are allowed to claim tax deduction on actual expenditure. Establishment and strengthening of university-industry-R&D institutions linkages is necessary for generation of local technologies and also to increase national income by increasing industrial productivity. In order to support these linkage programme National Board of Revenue should allow to claim a tax deduction for a value of 200 per cent of the actual amount invested in universities and/or R&D institutions.

At present tax exemption is given to foreigners on earnings from royalties and know-how fees (SRO 227-L/82 dated 20.6.82). In order to encourage local invention Ministry of Finance (National Board of Revenue) should provide tax exemption to Bangladeshi nationals on earnings from royalties and know-how fees.

Effective enforcement of IP-Laws will encourage Foreign Direct Investment, which in turn will help technology transfer, industrialisation and employment generation. On the other hand increasing investment in R&D would gradually help in reducing dependence on foreign technology and allocation of funds for technology acquisition. During the post Uruguay Round era a developing country like Bangladesh will have to decide its strategies for organising legal and administrative systems, formulate favourable policies etc in such a way that it can enjoy benefit on both the accounts.

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Hang on to Your Hats as History Soars into Future

The handover of Hong Kong marks the virtual end of British decolonisation, while this year's 50th anniversary of Indian independence recalls the beginning of the process. Gemini News Service reports on two new enterprises in Britain that tell the story of today's Commonwealth and yesterday's Empire. Nicola Cole and Derek Ingram write from London

ONCE upon a time you padded around a stately Victorian building that had a 300ft, 10-peal bell tower and galleries full of stuffed animals and miniature three-dimensional scenes in glass cases called dioramas. Today you strap yourself in a helicopter seat and hang on while you are whirled hair-raisingly between the twin towers of the highest building in the world in Kuala Lumpur, then across Malaysian rain forests and paddy fields.

Part of the change has been to discard the fusty word "institute" and to call the place instead The Commonwealth Experience. A few years ago the British Conservative government said it would withdraw its £2.5 million grant unless private money could be found.

about the Commonwealth of 1997, with modern resource facilities and seminar rooms. It is to be joined in August by another centre in the English city of Bristol — a long-mooted Empire and Commonwealth Museum. The case for such an institution is powerful. The British Empire was, after all, the world's biggest, and the wealth of three centuries of historical materials is limitless.

Garfield by Jim Davis

ONE LAST COOKIE
I SAW IT FIRST
YOU ALSO SAW IT LAST

LIST BY ABIA FEATURES
IAN FLEMING'S
DRAWN BY JOHN MCLUSKY

James Bond

FOR YOU, COMMANDER BOND!
WORD ON THE WOMAN WHO WENT ASHORE FROM THE NOBE?
I'VE A FEELING THEY'LL WAIT TILL DARK BEFORE ATTEMPTING TO BOARD THE YACHT!
RIGHT! SHE'S NOW IN THE HANDS OF CARNAUD'S GANG!

How they packed in the slaves

In 1788 a Captain Parrey of the Royal Navy was sent by the Government to measure slave ships lying at Liverpool. This is what he reported on one such ship - the Brookes:

He measured it thus:

DIMENSIONS OF THE SHIP		Feet Inches
Length of the Lower Deck, gratings and bulk- heads included at AA	100	0
Breadth of Beam on the Lower Deck infide BB	25	4
Depth of Hold, OOO from ceiling to ceiling	10	0
Height between decks from deck to deck	5	8

This meant:

man slave is to be allowed six feet by one foot four inches for room, every woman five feet ten by one foot four, every boy five feet by one foot two, and every girl four feet six by one foot

And these were his drawings:

was 200 years ago. When a girl was sold into perpetual bondage, said one contemporary account, "The tears ran down her face like a shower of rain."

Local groups have urged that Bristol's shameful part in slavery needs to be recognized and remembered. That is one side of the picture. The other is the fight by Quakers and other religious groups which lasted more than 20 years and led to the 1807 Act barring "commerce in human cargoes." Slaves were not actually freed until 1833. The centre in Bristol —

housed in the Great Railway Passenger Shed built in 1840 by the Anglo-French engineer Marc Isambard Brunel — will also have a modern role.

Dr Griffiths points out that there is a "huge knowledge gap to fill" about the Commonwealth today. Recent research shows that a quarter of Britons have no idea what it stands for. This ignorance is most apparent among the young. More than two-fifths of 15 to 20-year-olds are unaware of the Commonwealth's importance. The museum will help to "plug this hole" in Bristol.

Weather

Temperature may rise

Moderately heavy to heavy falls may occur at places over Chittagong, Barisal and Sylhet divisions and the regions of Mymensingh during the next 12 hours till 6 pm today. Met Office forecast, reports UNB.

Moderate rain or thundershowers accompanied by temporary gusty or squally wind is likely at most places over Dhaka, Rajshahi, Chittagong and Sylhet divisions and at many places over Khulna and Barisal divisions during the period.

Slight rise in day temperature is expected over the country. Country's highest temperature was recorded 34.7 degree Celsius at Jessore and the lowest 24.2 degrees at Rangpur and Kutubdia.

Meantime, Mymensingh experienced country's highest 108 mm rainfall followed by Cox's Bazar with 93 mm rain. The sun sets today at 6:30 pm and rises tomorrow at 5:15 am. Maximum and minimum temperature and humidity recorded in some major cities and towns yesterday were:

City/Town	Temperature in Celsius	Humidity in percentage
	Max	Min
Dhaka	32.8	25.7
Chittagong	31.6	25.2
Rajshahi	31.6	25.5
Khulna	33.8	25.0
Barisal	32.8	27.0
Sylhet	31.2	25.0
Cox's Bazar	28.0	22.0

Metropolitan

HERE and THERE

Dhaka Mid-City Rotary Club

Speaker Humayun Rasheed Chowdhury yesterday stressed on a massive mass-awareness programme to eradicate poverty, hunger and environmental pollution, reports UNB.

"Success of a social programme largely depends on active participation of the people," Humayun Rasheed said while speaking at the inaugural ceremony of a procession in the city organised by Dhaka Mid-city Rotary Club.

Rasheed also lauded the programmes taken by the Rotary Club with a view to eradicating poverty, hunger, environmental pollution, illiteracy and diseases like Polio.

Nutrition Society of Bangladesh

Election for a new executive council of the Nutrition Society of Bangladesh for 1997-98 was held in the city recently, says a press release.

The new council members are: President — Md Abdul Mannan, Vice-Presidents — M A Wahed and Shaheen Ahmed, general secretary — Dr S K Roy, Associate general secretaries — Majeda Begum and Md Nazrul Islam Khan, treasurer — Abu Zafar Amanatullah.

One commits suicide

By Staff Correspondent

One person committed suicide yesterday in the city's Palabi area.

According to police source the victim identified as Khan-dakar Mia, 18, hanged himself yesterday morning at his residence in 12/E Balurmath slum No.-4. The reason of the suicide could not be known.

Police recovered the body and sent it to Dhaka Medical College Hospital for autopsy.

Tree plantation programme begins at BUET

By BUET Correspondent

A tree plantation programme was inaugurated at the EME building premises of BUET yesterday. Organised by the Rotary Club of Dharamdih, it was attended by the deans and high officials of BUET and a number of Rotarians.

One thousand saplings, including hundred coconut saplings, were donated by the Rotary Club this year. Speaking on the occasion, Prof Iqbal Mahmud, Vice-Chancellor of BUET, emphasised the need of planting more trees for maintaining the ecological balance of our environment.

Manual on pisciculture published

By Staff Correspondent

The publication ceremony of a manual on 'Pisciculture in Ponds', co-authored by Dr Kamal Siddiqui, was held in the city on Monday.

The 600-page manual, compiled with contributions by experts from Fisheries Department, Local Government and NGOs, includes pictures and illustrations.

Dr Siddiqui, a Secretary of the Government, currently an OSD at Establishment Ministry, earlier prepared a similar manual on 'Tree Planting and Care'.

The ceremony was addressed by Prof Aminul Haq, former VC of Agricultural University, Narayanganj. Present, Director, Fisheries, Dr Mahmudul Karim, an international expert on fisheries, Zainal Abedin, an UP chairman and Mokarram Hossain of BRAC, among others.

Speaker greets Chinese people

Speaker Humayun Rasheed Chowdhury has congratulated the Chinese people on the restoration of China's sovereignty over Hong Kong, reports UNB.

The Speaker extended his greetings when China's ambas-

sador in Dhaka Wang Chungui called on him at his parliament office yesterday.

They discussed issues of bilateral interest including the proposed visit of a Bangladesh parliamentary delegation to China.

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