Trade-Related Aspects of Intellectual Property Rights (TRIPS) was an important component of the General Agreement on Tariffs and Trade (GATT) signed in Marakkesh by over 80 countries in April 2004. The TRIPS Agreement was the foundation for enforcing a harmonized system of intellectual property protection rights. Ensuring its implementation is the responsibility of the World Trade Organization (WTO), set up in 1995 in Geneva. Apart from enforcing all the existing commitments under GATT, the WTO has its mandate of initiation and management of new multilateral trade negotiations, ensuring that the basic principles of trading system and intellectual property protection be applied by all members; implementation of transitional provisions for countries of diverse economic development; admission of new members (current membership is 152 countries); dealing with global issues such as labour and environment and acting as the Dispute Settlement Authority for settling disputes among the members. Even after almost a decade and a half, it is debated whether functioning of the WTO in all these matters has been satisfactory to the member countries. The requirement of a consensual approach in all decision making has also been impeded for effective functioning of this world body.

The most important component of GATT as far as knowledge and innovation based industrial segments are concerned is the TRIPS Agreement. It was already recognized during the trade negotiations that countries of the world not only differ widely in their economic and developmental status but also in their capability to develop or even utilize modern technology.

That was the reason for providing transitional periods (Article 65) in the TRIPS Agreement whereby developing countries had a ten year period till 2005 and the least developed countries twenty one years till 2016 (original 16 years extended to 21 at the DOHA Summit in 2001) for implementation.

The question that begs an answer is whether these transitional periods are sufficient to bring the developing and least developed countries to levels of competence and capabilities required to compete in the global trade order professed under the new multilateral trade regime? Before we discard multilateralism and seek to replace it with regional, bilateralism or even unilateralism, it is prudent to see whether through a more liberal interpretation of the existing provisions under TRIPS, is it possible to have a more equitable and fairer interpretation of the existing provisions, which will benefit the developing countries? For example, through fresh interpretations under Articles 6, 7, 8, 27, 30, 31 and para 6 of the DOHA Declaration of 2001 (TRIPS and Public Health), can countries resort unilaterally to bring about appropriate legislations in their national laws to safeguard and protect domestic interests? If such an approach can be followed,
countries which are threatened by the onslaught of multilateral trade rules as currently interpreted can benefit from the system, without violating the TRIPS Agreement. What are some of these provisions which are amenable to a more liberal interpretation?

1. **Article 1**: Members shall be free to determine the appropriate method of implementing the provisions of this Agreement within their own legal system and practice.

2. **Article 6**: Permitting parallel imports (exhaustion of rights to be made part of National Legislation under Article 6).

3. **Article 7**: The protection and enforcement of IPR should contribute to the promotion of technological innovation and to the transfer and dissemination of technology.

4. **Article 8**: Appropriate measures (provided they are consistent with the provisions of this Agreement) may be needed to prevent IPR which lead to practices which unreasonably restrain trade or adversely affect transfer of technology.

5. **Article 27.2**: Option to exclude from patentability inventions, the prevention within their territory of the commercial exploitation of which is necessary to protect *ordre public* or morality, including to protect human, animal or plant life or health.

6. **Article 27.3**: Members may also exclude from patentability:
   - (a) Diagnostic, therapeutic or surgical methods.
   - (b) Plants and animals other than microorganisms.

7. **Article 30**: Exceptions to rights conferred.

8. **Article 31**: Other use without authorization of the rights holders.

9. **Para 6 of DOHA Declaration**: Public health interests: Reason for compulsory licenses.

It will be useful to look into possibilities of utilizing provisions already built into the TRIPS Agreement which can be suitably incorporated into national legislations in a manner which is beneficial to the developing countries.