
The Role of The TRIPS Agreement in Protecting Confidential Information Related to Pharmaceutical, Chemical and Agricultural Products

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Abstract

What is meant by commercial and industrial secrets, is the information or data that are used in the fields of trade, industry or economics except for what is known to all or what workers in this field know or the legal holder who obtained the information and secret data, or became aware of it through employment and the contracting relationship which It must be confidential and of commercial value, and this information remains protected for an indefinite period as long as it remains confidential, and this information lacks the protection prescribed to it upon knowing it to all, or if it can be easily obtained by the persons concerned. Therefore, this condition is one of the most important conditions for deciding this protection. What is the role of the TRIPS Agreement in protecting confidential commercial and industrial information? What is the obligation of the competent government agencies to protect confidential information and data related to pharmaceutical, chemical and agricultural products when applying for a license to market it? Are there exceptional cases in which the competent authorities may disclose the confidentiality of this information regarding agricultural and chemical products?

Keywords: TRIPS Agreement- Confidential Information- Pharmaceutical, Chemical and Agricultural Products.

Introduction

The economic foundations of the state are among the basic principles of the state's existence and survival. Rather, the national economy of a country represents a deterrent force between them. Therefore, the elements of those ingredients are among the secrets that the state must maintain its secrecy and lack of publicity among people, such as the financial policies of the state, its economic resources, its directions, and programs to benefit. Including the state of food supplies and the strategic stockpile of each catering material and cash situation in addition to giant economic projects and their growth, Consequently, this information is very important in economic, commercial and monetary blockade, especially since these methods are one of the modern means of wars, as wars between countries are decided by the economic and commercial blockade and not only in the battlefields, and therefore the disclosure of this

information causes great harm to the affairs of the state and its individuals and companies The giant, which works to raise the national economy of the state, and if this information is broadcast and becomes known, it will lose its commercial value, which will lose it the condition of legal protection for it.

Accordingly, one of the most important conditions that must be met for a legal protection report for confidential information is that this information be confidential for all, and what is meant by confidentiality is the failure to disclose confidential, industrial, technical, or other information in the field of specialization to others in a manner that indicates that its holder is not keen to consider it as secrets It makes it a competitive center for it distinct from others, although he does not understand this strict secrecy from everyone.

This is because the nature of confidential information in the field of trade or industry and other requires disclosure to workers who possess

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this information for use and work with it in the various stages of production, sale, marketing, export and others imposed by the nature of trade or industry (Zikra Muhammad Abdul Razzaq, 2007, p. 66). This information remains protected for an indefinite period as long as it remains confidential, and this information lacks the protection prescribed to it when known to all, or if it can be easily obtained by the persons concerned, and therefore this condition is one of the most important conditions for deciding this protection.

It is noted that the commercial secret remains enjoying legal protection as one of the forms of intellectual property as long as the information under consideration is kept confidential by its owner and as long as it is not obtained independently or legally by others (Muhammad Kandil, 2010, p. 42).

And from it, if the truth of the information is released and spread among the people, it loses the status of confidentiality and therefore is not entrusted to protection by the state and international organizations, so it was not surprising that we find countries in a race to develop their scientific efforts in order to be familiar with conducting research related to scientific inventions and finding industrial innovations that contribute in the economic growth of countries.

The requirement of novelty in patents is also insufficient, but the new innovation must be unknown before its owner applied for a patent for it, and it is noted here that the TRIPS agreement was not taken with relative novelty, but it required the absolute novelty, either objectively or formally. Protect confidential information.

Objectives of the study

Our choice of the topic of the role of TRIPS in protecting confidential information related to pharmaceutical, chemical and agricultural products came to several objectives that we summarize in the following:

- An evaluation of the role of the TRIPS Agreement in protecting confidential information related to pharmaceutical, chemical and agricultural products and how it strengthens the obligations of government agencies with the protection of confidential information and data related to pharmaceutical, chemical and agricultural products when applying for a license to market it?
- Highlighting the interest of states in amending their national legislation in line with the agreements on the international protection of

rights related to intellectual property in all its aspects (literary and artistic), and includes (copyright and related rights), and industrial property information and includes (patents, trademarks, geographical indications and specialized designs for the departments Integrated) and protection of confidential information.

Research problem:

What is the role of the TRIPS Agreement in protecting confidential commercial and industrial information? What is the obligation of the competent government agencies to protect confidential information and data related to pharmaceutical, chemical and agricultural products when applying for a license to market it? Are there exceptional cases in which the competent authorities may disclose the confidentiality of this information regarding agricultural and chemical products?

Study methodology:

To answer the problem at hand we have adopted two approaches: the descriptive approach to give a description of the realities of the legal and doctrinal views, which addressed the subject of the development of the scientific article, which dealt with the subject by reference to a wide range of scientific references and modern specialized to draw international and national legislator's position on the matter is objective P study, in addition to employing the analytical method through consolidating and analyzing the texts of national and international legal organization to the subject of the study, and in this area because of the needs subject of detail and audit in order to reach in-depth analysis aims to clarify the protection course of legal and international endeavors decided upon by the legislature home International and to ensure the required protection of confidential information for the pharmaceutical, chemical and agricultural products.

The first topic: The concept of confidential commercial and industrial information according to the TRIPS agreement

The recent and increasing technological development in recent years has led to rapid changes in the production method, tools and products, and the role of information and inventions has begun to increase to develop and increase the efficiency of different economic systems, which has led to the existence of new

markets for exchanging and trading in intellectual products, as the countries of the world have become public and countries Especially advanced relies on these intellectual products to achieve economic development, It allocates a large proportion of the GDP, which may reach about 3%, to research and development in various fields with the aim of producing new goods and services or increasing production and quality in existing goods (Ibrahim Muhammad Al-Far, 1999, p. 178).

Trade is regulated through a binding international agreement within the scope of the provisions of the World Trade Organization (WTO) which is an international treaty in particular through the meaning of Article 38/1 / a: "It is a series of additional agreements attached and legal tools dealing with trade in goods and services beside Intellectual Property Rights (David Palmeter, 1998, p. 398).

The Uruguay Round of negotiations ended with the conclusion of a comprehensive agreement on aspects related to trade in intellectual property rights, and this agreement was termed (TRIPS). This agreement gives international protection to the rights related to intellectual property in all its aspects (literary and artistic), and includes (copyright) and related rights), and industrial property information, including "patents, trademarks, geographical indications, and integrated circuit design and protection of confidential information". From it it is clear that the confidential information of the business includes the trade and industrial secrets, which will be discussed in some detail, as follows:

The first requirement / trade secrets:

1- Definition of trade secrets

Commercial secrets are defined as all forms of confidential (undisclosed) information, including all innovations or combinations, forms, combinations, programs, machines, methods, methods, and industrial means that have economic value, as long as this information is known only to those who obtain Their economic value through knowing them and using them and it was not possible for other people to discover or obtain them by legitimate means, provided that this information is surrounded by reasonable means according to the circumstances of maintaining its confidentiality (Omar Muhammad Yunus, 2004, p. 677).

Trade secrets are also defined as any formula, adjective, model, machine, or characterization of information that is used in the economic movement to obtain an advantage in favor of a

competitor

among competitors in the same field of work. Also, trade secrets are defined as: "Any information, description, or A physical medium, idea, or set of information characterized by:

- It is confidential because it is unknown in its final form or in its precise components, or it is not easy to obtain it among its dealers.
- It is of commercial value.
- The right holder subjected them to reasonable measures to preserve them (Kais Governorate, 2004, p. 2).

There are those who consider commercial and industrial secrets as information or data that are used in the fields of trade, industry or economics except for what is known to all or what workers in this field know or the legal holder who obtained it or became aware of it through employment and the contracting relationship which must be Confidential and of commercial value, surrounded by means of preserving it.

Trade secrets are a form of intellectual property that receives constitutional protection by the government under the clause of appropriation, and this level of protection in the first place is determined by the nature of the union of joint opinion, namely that trade secrets and intangible property can only be subject to a union regulated (Richard. A. Epstein, 2003, p3).

2- Legal protection for trade secrets:

The issue of protecting trade secrets was not an issue recognized by the developing countries in the GATT negotiations in Uruguay. The United States of America proposed at the beginning of the negotiations on intellectual property to expand these negotiations to include the protection of trade secrets, as it strongly advocated the approval of this protection in order to Preserving the interests of its major technology-producing companies, given that these secrets are a type of ownership, and the United States in 1987 submitted a proposal to define trade secrets and their protection provisions in accordance with American law, and then made several amendments to this proposal, except Developing countries opposed to this proposal, including India, Peru, Brazil, and called for those excluded from the negotiations because it is no longer one of the intellectual property aspects (Sarah Riches, Vida Allen, 2009, p490).

These negotiations have ended with the

consideration of the views of both the United States of America and developing countries regarding the consideration of trade secrets as an aspect of intellectual property in its characterization of non-disclosed information and that it devotes its own section of this property, which is the seventh section of the agreement. It was agreed that international protection for it would be within the framework of responsibility for committing actions that contradict legitimate competition in accordance with the rules for the suppression of unfair competition stipulated in Article 10 of the Paris Agreement of 1967 and the TRIPS Agreement did not recognize the holder of this information the right to property its secrets. Therefore, the owner of this information will not have an exclusive right over it, as the United States was demanding at the beginning of these negotiations. Rather, it has established its protection on the basis of prohibiting the conduct of actions that contradict the right behavior in dealing in violation of honest commercial customs (Yuval Feldman, 2005, p. 8).

Therefore, the inclusion of trade secrets under the suppression of unfair competition came within the framework of responsibility for committing actions that contradict the legitimate competition, and was adopted by the TRIPS Agreement, which relates to aspects of trade-related intellectual property rights protection, as it obliged the states parties to the agreement with a set of obligations divided To two sects: first: general obligations related to intellectual property in general, and second: obligations for each branch of intellectual property, which are copyright and related rights, trademarks, geographical indications, industrial designs and models, patents, and Topographic fees for integrated circuits and undisclosed information (confidential information), and finally the practice of non-competitive licenses and Streptococcus. Thus, the TRIPS Agreement conducted the protection of trade secrets as it was demanding of the United States in these negotiations, prohibiting others from obtaining or exploiting them in a manner that violates the honorable commercial customs, and established its system of protection on the basis of unfair competition actions. This protection applies to facing people who obtain it in a way It is inconsistent with honest business practices, but those who get it without following the defective behavior or who get it accidentally do not apply in the face of them (Nasser Muhammad Abdullah Sultan, 2009, p. 245).

Since the beginning of the nineties, profound changes have occurred in the national legislation

of countries related to international trade, as a result of its position on the TRIPS Agreement, and has distinguished industrial property laws, and re-assigned patents in the field of pharmaceuticals, foodstuffs, chemical products, etc., and as a result it has given the TRIPS Agreement A grace period for developing countries, which is a five-year period for preparing internal laws to incorporate the provisions of the agreement in line with its provisions, and here are some examples:

- **European Union:** Delegate Regulation (European Union) No. 33/19/2019 issued by the European Commission on October 17, 2018 and supplementing Regulation (European Union) No. 1308/2013 issued by the European Parliament and Council on requests for protection of appellations of origin, geographical indications and traditional terms in the wine sector, Opposition procedures, restrictions on use, modifications to product specifications, cancellation of protection, labeling and display. Whereas, the European Commission (Commission) No. 33/19/2019 issued on October 17, 2018 supplementing European Union (European Union) Law No. 1308/2013 issued by the European Parliament and Council on applications for protection of appellations of origin, geographical indications and traditional terms in the wine sector, and objection procedures were published, Forms of use restriction, modifications to product specifications, cancellation of protection, labeling and display, in the Official Gazette of the European Union on January 11, 2019, and entered into force on January 14, 2019.

This regulation aims to:

- Setting rules to simplify the requirements of management and application with regard to quality plans and marketing standards in the wine sector within the European Union, based on the geographical location of production and the name of wine as a product, when quality, reputation or other specific characteristics are attributed to its geographical origin.
- Establish specific labeling arrangements that apply to wines marketed in the European Union.

- **Australia:** The Intellectual Property Act Amendment Act 2020 (Productivity Commission Response, Part 2 and other measures) was granted royal approval on February 26, 2020. 2021, and this law is in line

with the Intellectual Property Act Amendment Act 2018 (Productivity Commission Response Part 1 and measures) Others), and introduces amendments to the Designs Act 2003, the Patents Act 1990 and the Trademarks Act 1995, which includes elements including the following:

- The inclusion of the requirement of objectives (statement of objectives) in the patent law in order to provide additional clarity and guidance on the purpose and application of the law; The Australian patent system has been phased out, requiring that no new patent applications be filed as of August 26, 2021.
 - Introducing measures aimed at improving the provisions of the Crown Government's use of patents and designs, which allow the government to exploit some innovations or patent-protected designs in order to address an emergency or other issue of public interest without the permission of the patent owner or registered owner.
 - Changing the test applied by the courts in order to grant a compulsory license regarding a patent from a test of "reasonable conditions of public interest" to a test of "public interest".
 - Introducing a number of minor amendments to the patent law and the trademark law, including enabling the patent office and the trademark office to maintain and use the official stamp in electronic form when providing customers with certified electronic copies of documents, and extending the scope of consideration of restrictions imposed on "public claims" in respect of patent specifications to include Additional stages of the life of the patent, clarifying the authority of the Commissioner for Patent Affairs with regard to editing sensitive information present in patent documents, and eliminating the requirement to deposit a verification certificate in relation to documents translated into English unless required in Legal regulations.
- **Serbia:** The Trademarks Law (Official Gazette of the Republic of Serbia No. 6/2020) was adopted on January 24, 2020, and entered into force on February 1, 2020. This new law includes the following changes to the trademark system in Serbia, among which are the following:
 - Establishing a system for objecting to trademarks that allows trademark owners and interested third parties to object to the application of any published trademark within three months of the date of the trademark's publication in the Official Gazette. Once a notice of opposition to the trademark application is filed, the applicant must provide an answer within sixty days.
 - The former system of national exhaustion is replaced by the principle of international exhaustion, according to which the trademark owner cannot prevent the sale of goods when he has sold the product anywhere in the world.
 - Enabling the trademark owner to object to the use of a registered trademark by a representative or sales representative without permission from the trademark owner, or to request the transfer of that trademark.
 - Restricting the non-exclusive license holder's right to file infringement suits to the extent that permission is issued by the trademark owner and the non-exclusivity license holder is granted the right to file an infringement lawsuit if the trademark owner does not take any action within 30 days of notification.
 - Imposing the liability of the mediators on the service providers who were hired by the infringer during the act of infringement.
 - Stipulating that the use of trademarks in comparative advertising in a manner that violates the law constitutes an infringement of the trademark.
 - Extending the right of the trademark owner to restrict importing or exporting transitive goods to include transit cargo transport through Serbia.
 - To cancel the right to appeal decisions issued by the Intellectual Property Office, and to replace it with the possibility of initiating administrative cases before the Administrative Court.
 - **Spain:** Law No. 1/2019 of February 20, 2019 on Trade Secrets entered into force on March 13, 2019, the law incorporates into Spanish laws Directive 2016/943 of the European Parliament and European Council of June 8, 2016 on the protection of undisclosed trade experiences and information It (commercial secrets) from illegal acquisition, use and disclosure, and adds new rules on trade secrets to Law No. 1991/3

of January 10, 1991 on unfair competition.

- **Sweden:** The Trade Secrets Act (558: 2018), which entered into force on 1 July 2018, repealed the Law on the Protection of Trade Secrets (409: 1990), and implements the provisions of Directive 943/2016 / (EU) issued by the European Parliament and European Council on June 8, 2016 Concerning the protection of undisclosed commercial experiences and information (commercial secrets) from unlawful acquisition, use, and disclosure, and this law provides, among other things:
 - A new concept of "trade secret".
 - Expanding the scope of prohibited acts that constitute a "violation of trade secrets".
 - Inclusion of negligence as an essential element in the illegal acquisition, use, and disclosure of trade secrets.
 - Imposing measures and remedies such as restraining orders and compensation for damages and penalties.
 - Strengthening the protection of the confidentiality of trade secrets during court cases.
 - Increasing the penalty for economic espionage (from paying a fine to six months in prison).
- **Germany:** The President of the Federation issued the Law on Amendments to the Patent Law and Other Industrial Property Laws in the Federal Gazette on October 24, 2013, and it will enter into force in its entirety on April 1, 2014. Among the most important amendments are the following: Electronic inspection of patent files and utility models in the German Patent and Trademark Office (GPTO); Extending the deadline for depositing translations of applications filed in English or French into German; Working with a preliminary opinion on patentability to facilitate the search report for German patent applications; Making sessions mandatory in examination procedures at the request of the applicant; Holding public oral hearings on opposition procedures; Extension of the period for filing a notice of opposition to granted patents; Excluding plants and animals from patentability. The Amendments Act makes the procedures more efficient for both applicants and the German Patent and

Trademark Office and also aims to align the procedures of this office with the practice of the European Patent Office (EPO).

The second requirement / industrial secrets:

- 1- **The definition of industrial secrets, meaning industrial secrets in legal jurisprudence:** "All technical methods used secretly in industry, and these methods are only an element of technical knowledge in its broad concept." As for the judiciary, it defines industrial secrets as: "all industrial technical means whatever The degree of its practical importance is characterized by innovation, whether it is patentable or not, and it has an economic value in view of the ignorance of the makers or most of them, so disclosure of its secrecy, as an expression of breach of trust and espionage, and great harm

to its owner (Tariq Kazim Ajil, 2008), P. 124).

It is worth noting that this definition combines the identification of industrial secrets with an explanation of their distinctive characteristics, so the French Court of Cassation defined industrial secrets: "Every method of practical or commercial importance is hidden from competing projects" (Allison coleman, 1995, p. 590), and it is noted that the French Court of Cassation Industrial secrets were not required to be innovative, and if they were required to have practical or commercial significance, with the owner of the industrial secret keen to keep it hidden from competing projects.

- 2- **The elements of the industrial secret and its most important conditions:** It is clear to us in the light of the provisions of the French judiciary that the industrial secret has two elements: the first is that it is an industrial means, while the second is that this medium must be kept confidential, and it is clear from this that the French judiciary has made the secret of the factory stipulated in it The legislator is an industrial secret, and therefore criminal protection does not extend to commercial or information secrets, even though all of these secrets fall within the concept of the secrets of the project or establishment that must be legally protected (Salah Zain El Din, 2007, p. 18).

The condition of maintaining confidentiality is a matter of fact, so the method does not lose this confidentiality if it is commonly used within the project or if disclosure causes the use of the

invention, but the employer must take the necessary precautions to preserve the confidentiality of the method and he is not accepted to request the application of Article 418 of the French law in The right of one of its employees if he placed the machine in a hammered place for all, including the public (Divid D. fridman, 1991, p62).

- 3- **Legal protection of industrial secrets:** The French criminal law provided for industrial secrets through Article 418 of the French Legal Regulation, Criminal penalties for workers in industrial establishments in the event of disclosure or attempting to disclose an industrial secret to the facility, and these penalties are aimed at protecting the employers of industries from unfair competition as a result of treachery by technicians and others through the disclosure of industrial secrets grown to their knowledge according to their jobs, which justifies the employer to dismiss the worker from service, without the slightest obligation to pay the compensation set for the dismissal or not to notify the worker of the dismissal (the law of French Sanctions, Article 418).

It is worth noting that most countries have made profound changes in their national and private legislation related to international trade, as a result of their position on the TRIPS Agreement, and have focused on making amendments to industrial property laws. Examples include the following:

- **Canada:** The Industrial Design Regulations (SOR / 2018-120) were approved on June 12, 2018, and entered into force on November 5, 2018. This regulation repeals the Industrial Designs Regulations (SOR / 99-460) and introduces major changes to the industrial design system in Canada, to implement the Geneva Act of the Hague Convention, to which Canada became a party on November 5, 2018.

The new regulations provide for several points that may be mentioned as follows:

- Increasing the period of protecting industrial designs from 10 to 15 years.
- Simplifying the application filing requirements and the terms of the filing date
- Improving the electronic filing interface for applicants, this includes enhanced functionality and simplified operations.

- **France:** Decree No. 2016-504 of April 22, 2016 on the profession of industrial property agents that entered into force on April 25, 2016 and contains amendments to Articles R421-1, R421-1-1, R421-5, R421-7, R421-8 and R423-2 R422 -7-1 Of Chapter Two, Book Four, the organizational part of the Intellectual Property Code, these amendments refer to the conditions under which industrial property agents are permitted to use advertising and personalized appeals and indicate a change in the rules for accepting professional qualifications to act as an IP agent in implementation of the directive of the European Parliament 2013/55 / EU and Council on November 20, 2013.
- **Poland:** Law of July 24, 2015 amending the Law on Industrial Property and some other laws entered into force on December 1, 2015, and the law brings substantive amendments to the provisions related to industrial designs, patents and trademarks in the Law of June 30, 2000 on Industrial Property (consolidated version of November 29, 2013) to comply Polish intellectual property law is in line with European regulations and international agreements, and among the things that the law implies is:
 - Evaluates the international protection of industrial designs in accordance with the Geneva Act (1999) of the Hague Agreement Concerning the International Registration of Industrial Designs and grants copyright protection for industrial designs even after the expiration of the rights to designs
 - Ensures patent protection for medicinal preparations and plant variety protection, and requires the disclosure of the industrial application of a complete or partial genetic sequence in a patent application related to biotechnological inventions.
 - It guarantees the possibility of obtaining a trademark protection identical to a mark previously registered, subject to the approval of the owner of the previous mark.
- **Morocco:** Honorable Dahir No. 1.14.188 issued on 27 Muharram 1436 (November 21, 2014) implementing Law No. 23.13 changer and supplementing Law No. 17.97

related to the protection of industrial property entered into force on December 18, 2014. It comes with major amendments that include the following: Reform of the patent system Trademarks and industrial designs in connection with the introduction of substantive examination procedures and the filing of partial applications; Confirmation of European and European patent applications in Morocco; Promote the enforcement of industrial property rights and combat counterfeiting and piracy.

- **United Kingdom:** The Designs (International Registration Industrial Designs) Order 2018 entered into force on 13 June 2018. It allows the implementation of the Geneva Act of the Hague Agreement Concerning the International Registration of Industrial Designs and the Common Regulations under this document, and the order amends both the Registered Designs Act For the year 1949 and the registered design regulations for the year 2006, for the implementation of the Hague agreement and its joint executive regulations.
- **Argentina:** Resolution No. 288/2019 of October 21, 2019, issued by the National Institute of Industrial Property (INPI), entered into force on November 15, 2019, for the purposes of simplifying procedures for filing trademarks and improving the resources of the National Institute of Industrial Property, and the resolution states that:
 - Implementation of the International Classification Tool "TM Class" and the harmonized database of the European Union Intellectual Property Office (EUIPO).
 - Supplementary provisions for Resolution No. 123/2019 of May 23, 2019 of the National Institute of Industrial Property, which organizes Decree No. 242/2019 of April 1, 2019, approving the executive regulations of Law No. 22.362 of December 26, 1980, on trademarks and appointments that:
 - A- Authorizes trademark applicants to detail the distinctive characteristics of products and services in applications filed under the international trademark classification system (Nice Agreement), and

prohibits the use of the term "entire category" ((Nice Union), Status on January 15, 2020).

- B- It is required to complete the trademark application forms, renew trademarks and objections electronically through the electronic portal of the National Institute of Industrial Property.

The second topic: the commitment of the competent authorities to protect confidential information related to pharmaceutical and agricultural chemical products upon obtaining a license to market it

To determine the obligations of the competent authorities, the following elements should be highlighted:

- Conditions for the protection of this information in accordance with the provisions of the TRIPS Agreement as mentioned in the provisions of Article 39/3 of this Agreement.
- The commitment of the competent authorities to protect this information if the special conditions are met.
- The resulting effects on member states' protection of this information according to the TRIPS Agreement.

The first requirement: conditions for the protection of data and information submitted to government and marketing agencies pharmaceutical and agricultural chemical products in accordance with the provisions of TRIPS

In Article 39/3, the TRIPS Agreement dealt with the conditions for protecting data and information related to agricultural and chemical products when obtaining a license to market it. This article states that: "Member States are obligated, when they are required to agree to the marketing of drugs, agricultural products and agricultural chemical products that are used As new chemical data, such as submitting data on secret tests or other data, arriving at them makes great efforts to protect these data from illegal commercial use. Member States are also obliged to protect these data from disclosure, except when necessary.

According to the text of Article 39 of the TRIPS Agreement, three special conditions are required to protect these products, as follows:

- The use of these products for a new chemical in order to obtain a license to market these products.
- The request of the competent government to provide data on the tests or any other information

as a condition for obtaining marketing approval for these products (Richard A. Mann, 2011, p. 883).

- That there are considerable efforts made to obtain these confidential data.

In addition to the availability of these special conditions for the protection of these products, the general conditions stipulated in Article 39/2 of the TRIPS Agreement, which are the confidentiality clause and the commercial value clause of confidential information, must be met and the third condition is to take reasonable measures from the legal holder to maintain confidentiality. This information, and therefore it is indispensable for data and information to be provided to government agencies if the previous general conditions are not met, and if this information is known to specialists in the field of pharmaceutical and agrochemical industries, the competent government authority is not obligated to protect it.

The second requirement: the obligations of the government agencies competent to protect agricultural chemical products submitted to it

In the event that these conditions previously mentioned in Article 39 / 2-3 of the TRIPS Agreement are met, then the competent government agencies to which this data and information are provided have obligations and duties as follows:

- 1- **Protection of this data submitted to him from illegal commercial use:** This obligation imposed under Article 39/3 of the TRIPS Agreement on the relevant government agencies in the member states of the World Trade Organization (WTO) means that these governments cannot enable other companies to compete with the company that Provides data and information from obtaining that data and information for use for commercial purposes.
- 2- **Protecting this data and information from disclosing it to others:** In accordance with the provisions of the TRIPS Agreement, it obliges the member states of the World Trade Organization (WTO) to protect these data and information from disclosure and disclosure to others to benefit from them for commercial purposes, and this commitment is considered one of the constants. The internal affairs issued by the member states of the World Trade Organization (WTO) are not among the provisions 39/3 of the TRIPS Agreement, and

this obligation is to perform abstinence from work, which differs from the previous commitment in that the latter obliges countries to take action.

Third requirement: Cases in which confidentiality of these data, information, and data submitted to it pertaining to agricultural and chemical products

It is worth noting that Article 39/3 of the TRIPS Agreement allowed the competent authorities in any of the Member States to which these data and information are provided to disclose, in two cases:

- **First case:** If such disclosure is necessary to protect the public health of the public (Article 39/3 of the TRIPS Agreement), then the prohibition of disclosure of data and undisclosed information to the governmental authorities concerned with the license is not an absolute prohibition.

The commitment of these authorities to protecting this data and information is not expired if it is necessary to protect the public health of the public, and the public health is taken in its broadest sense so that the human health includes whatever its nationality, domicile, or place of residence, and if it appears that collateral damage occurs to its users, it warns the public and discloses the confidentiality of the results of the tests. The data are preserved for public health (Bassam Mostafa Abdel Rahman, 2010, p. 53).

- **The second case:** If this disclosure is associated with taking specific measures to ensure that this confidential data or information is protected

from illegal commercial use (Article 39/3 of the TRIPS Agreement). As government agencies may disclose the confidentiality of this data, provided that they take the necessary steps to ensure that such data or classified information is not used illegally.

Conclusions:

The most important conclusions that were reached can be summarized in the following points:

- 1- The keenness of the developed countries to achieve the maximum possible benefit from the liberalization of world trade, ignoring the interests of developing countries, and their lack of commitment to implementing the aid and financial pledges to enable the latter to integrate into the global trading system.

- 2- After studying the provisions and rules of the TRIPS Agreement governing the patent for the invention, it became clear to us that it exaggerated and went too far in protecting the inventor and his interests. The patent, and this broadens the scope of the exclusive right, and sought from another side to grant compulsory licenses by creating new restrictions and conditions for granting these licenses.
- 3- The pharmaceutical industries in general face serious challenges under the new economic system. As for the pharmaceutical industry, it faces an additional challenge, especially with the new legal system that the TRIPS agreement brought about, to protect the patent. Once foreign trade was liberalized, a sudden increase in the prices of medicines, whether imported or locally produced, was extended due to an increase in the period of patent protection for 20 years. This is what led to the restriction of the possibilities of pharmaceutical manufacturing in the Arab countries in light of the abuse of the owner of the pharmaceutical patent in the use of his full exclusive rights, which are applied to all aspects of industrialization and commercial independence, and this period also affected the process of technology transfer from developed to developing countries smoothly. Which led to a deepening of the technological gap, This is why the TRIPS Agreement is considered a tool for the depletion of the natural resources of developing countries by the major countries, in a way that ensures their permanent dependence by controlling all forms of technology by the issuance of the final product, which deprives countries of their right to transfer and simulate.
- 2- All countries should benefit as much as possible from the compulsory licensing system, to support the transfer of technology to them, as they make their national laws provide for the granting of such licenses, when the patent owner refuses to grant them on reasonable commercial terms, as well as for other reasons, such as: public health concerns Or the public interest in the broad sense.
- 3- Countries should raise the budget allocated for research and development and set up a strategy to ensure the proper investment of the qualified human element, by moving towards establishing scientific research laboratories at the level of universities and scientific centers, while providing a suitable environment for scientists and inventors in the form of administrative, financial, and legal facilities, and this is to the extent From the brain drain phenomenon.
- 4- Work to establish national institutes for drug research in cooperation with colleges of pharmacy and pharmaceutical factories, and to cooperate with pharmaceutical and foreign governmental organizations, to develop research and discoveries in the field of the pharmaceutical industry.

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Recommendations can be summarized in the following points:

- 1- The necessity of adopting an integrated national strategy, in line with the global economic endeavors, and adapting to the restrictions imposed by the agreements of the World Trade Organization, in order to enter and integrate into the global economy, depending on the comparative advantages of science and technology available to countries, especially developing countries.

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