In any event, it is clearly in Canada's interest to continue to seek to establish unambiguous and explicit ground rules based on national treatment that facilitate the participation of Canadian firms in international technology consortia. Moreover, Canada must continue to ensure that such consortia do not run afoul of evolving international competition policy practices. At present, most anti-trust statutes include export consortia and R&D joint venture exemptions to their conspiracy provisions, although inter-firm agreements in the U.S. are subject to a case-by-case rule of reason approach. Tolerance of technology cooperation favours Canada and should receive continuing support.[59]

Intellectual Property and R&D

During the 1980s, such intellectual property rights (IPR) as copyright, trademarks, patents, industrial designs and even layout designs for semiconductor integrated circuits became an integral part of the international trade agenda, as evidenced in the MTN process and the North American Free Trade Agreement. There is every likelihood that major intellectual property producers, led by the U.S., the EC and Japan, will ensure that this prominence continues. Consequently, the impact of international intellectual property disciplines on R&D in Canada requires careful review.

Strong IPR can help to create the environment required to attract and retain investment and to encourage domestic innovation. A weak intellectual property regime can only discourage R&D activity, especially in light of the growing competition for investment from the increasing number of countries (including LDCs) that are strengthening IPR standards and their enforcement. It is likely that Canada will remain a large net importer of technology into the foreseeable future. Clearly, Canada should encourage a proprietary system that does not obstruct the process of cross-border diffusion of technology, nor the further strengthening of in-house innovation by firms in Canada.

Three examples, should suffice to illustrate the nature of the issue. First, there is broad consensus internationally as to the minimum period of time during which an intellectual property right holder should normally enjoy the exclusive use of his right (e.g., 20 years from date of filing for patents, 10 years for layout designs for circuits, 10 years for industrial designs, etc.). Based on a web of specific international conventions, these obligations have been somewhat strengthened and brought together with stronger enforcement provisions and subject to well-defined trade-

[59] Derek Ireland, "Interactions Between Competition and Trade Policies: Challenges and Opportunities", (November 1992), Appendix, pp.52-3,87(fn.18); OECD, "Interrelationship Between Competition and Trade Policies", paragraphs 72-4; Jorde and Teece, Antitrust, pp.11-12, 15-16.