ambiguous, since neither the invention nor the protection to which it is entitled has been clearly defined. In Japan, a greater degree of certainty is associated with patent protection, for example, than with a confidentiality agreement.

If you are negotiating at the end of a joint venture and you are sitting down to decide who will have what rights to the jointly developed property, your Japanese partners may suggest that because they have more patents, they also have more rights, and should be appropriately compensated, either in the way world markets are divided or in the proportion of shared royalties they receive.

Example: A group of Canadian researchers comes to the bargaining table to negotiate a joint venture with a Japanese group. Although the Canadians have filed no patents, they have scientific information they have been developing for 10 years. The Japanese group comes to the table with 125 patents filed. Despite the fact that three quarters of these patents are for information the Canadians, and the Canadian patent system, would consider common knowledge, and therefore not patentable, the Canadians find themselves in an unequal bargaining position simply because of the difference in what the two sides value.

Through negotiation and contract, however, practices like patenting around and the Japanese propensity for prolific patent filing can be turned to the benefit of a foreign researcher. A Canadian researcher with limited resources who is co-operating with a Japanese entity can be reasonably sure the Japanese entity will file a large number of patent applications for the subject matter of the collaboration both at home and abroad, far more than one could expect a Canadian researcher to file. If the project agreement requires that each party disclose any patent applications it files in the subject area, and addresses the question of ownership and commercial exploitation of such patents, the Canadian researcher may actually reap benefits from the multiple patent filings.

CONTRACTS

In North America the terms of a contract are generally understood to be entirely contained within the written document. A typical Canadian contract will enumerate all possible eventualities and the responsibilities of the parties when such eventualities occur.

When two Japanese companies enter into a contract, however, the contract is likely to be short and flexible. It simply commits both sides to achieving mutual success and satisfaction regardless of changing circumstances during the life of the contract.

The contract itself is viewed more as a symbolic document. The parties have reached an agreement with respect to particular subject matter, but the exact terms of the agreement may be decided later and, more importantly, may be changed as circumstances require. This can be both to a North American's advantage and disadvantage.

To the North American and European way of thinking, a contract is a contract. If you sign a contract stating that you will deliver 20 000 parts at $2.95 per part, you are bound to deliver those parts at that price, even if the price of the steel in the parts quadruples between the time the contract is signed and the parts delivered. You either honour the contract or expect to be sued for breach of contract. In Western law, only extraordinary circumstances will allow you to be released from contracts. And although Canadians might not consider asking a partner to renegotiate a contract under the same circumstances at home, they should be aware that a Japanese partner might be open to this kind of renegotiation.

If the same situation occurs in Japan, where the supplier's raw materials become more expensive, the two sides would be likely to get together and agree that the terms of the contract are no longer mutually beneficial since the realities of the contract and the circumstances surrounding it have completely