

On the other hand, this Paper argues that the optimal term prediction of this economic model (i.e., less than six months) is faulty in practice. One major shortcoming of such modelling is that it ignores an essential feature: new knowledge and innovations confer considerable beneficial spillovers on other industries. Increased R&D in one industry in Canada, whether by foreign or domestic investors or through the transfer of foreign technology, and even in industries where only a 4-5 year term may be optimal, will nonetheless benefit firms and workers in many other industries. Clearly, in such a scenario a case for a longer patent term can be made.

This Paper also argues that the scope of patent protection is an important trade policy issue and is likely to take on increasing importance in future trade negotiations. The scope of a patent means patent coverage—the width or breadth. Because patent coverage is open to interpretation, it has the potential of being abused by some countries either to attract R&D investment or to encourage imitation. It is one of the major recommendations of this paper that *trade policy analysis and negotiations should take into consideration the scope of patents*, i.e., the product coverage embedded in each patent grant. In addition, if the patent scope is imprecisely defined, chances are that the patentee will have to incur high money and time costs related to litigation to enforce the patent. This burden could be particularly onerous for small and medium sized enterprises. This Paper suggests that cost minimizing dispute resolution mechanisms or cooperative institutional arrangements be more fully explored. Moreover, for industries where regulatory approval of a patent grant is required, policy makers should first explore whether the regulatory process might be speeded up, thereby increasing the effective commercial life of a given patent, before considering any extension of the legal patent term.

In an integrated world characterized by harmonized patent terms, if one advanced but only moderately successful innovator country, such as Canada, implements a nil or minimal patent term as some economic models suggest, it would be acting in a manner inconsistent with its international obligations and could become subject to retaliation from its major trading partners. Moreover, Canada's failure to follow the international norm in this area would weaken our case that Canada should be viewed as a preferred site for foreign and domestic investments. Although patents are not central to innovation investment decisions in most industries, it would not be a favourable trade-off for Canada to opt for international pariah status among advanced countries. This would send the wrong signals to potential investors in Canada and lead us to forgo technology inflows in the sectors where patent protection is vital.