

internationally standard manner is problematic on *a priori* grounds.¹³

Second, it has been argued that TRIPS was implemented without the type of understanding of its consequential effects that would be desirable in a public policy process. For example, critics now point to the fact that the availability of monopoly rents for certain approaches to problems (e.g., patentable drugs in the case of health problems) distorts the direction of research away from techniques that do not lead to patents, introducing spillover distortions into various areas of economic and social activity. As well, the ability to reap monopoly rents on research into diseases that afflict developed countries distorts research choices vis-à-vis diseases that afflict much larger number of people in the developing world where there is no effective demand to pay the monopoly rents. Doubts about over-emphasizing commercial approaches to research activity are also raised by the evidence of very good returns to non-commercial research and development in agriculture. Finally, there is the fact that sometimes patents are sought for traditional knowledge—i.e., in instances where there is no gain in research at all and the purpose of the patent is in effect to enclose an intellectual commons. Such considerations raise the question of what is a socially efficient research framework.

Third, like tariff changes, patent protection redistributes income. However, unlike tariffs cuts, which redistribute income amongst producers based on competitive grounds and more broadly from producers to consumers by reducing producer rents and enlarging consumer surplus, patent protection redistributes income from consumers to producers, enlarging producer rents and reducing consumer surplus. Accordingly, while the population at large (or at least consumer activists) may be willing to cut trade ministers considerable political economy slack for traditional trade policy, which has allowed the presentation of negotiated outcomes of trade rounds to national legislatures as untouchable *faits accomplis*, there is no

¹³ Notwithstanding this point, the Patent Harmonization Treaty, it was pointed out, is moving even faster in this same direction.