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AN INTRODUCTION

Patents are used to pursue the twin goals of encouraging production and the diffusion of innovations in the economy. A balanced patent law is a crucial instrument for encouraging the development of high-technology industries, such as biotechnology, semiconductors and computer software. The issue of patent term is becoming increasingly important in international trade negotiations.[1] The perceived failure to provide an "adequate" level of patent protection has led technology rich countries to complain of "piracy", because their firms have lost proprietary revenues. Consequently, since the 1980s the issue of patent protection has become a high profile trade policy issue.

This paper discusses what a socially optimal patent term might be in an economy engaged in international trade. In this regard, there emerge several policy, theoretical and methodological issues: (a) What is the optimal patent term? (b) Is it necessary to analyze patent policy from a trade policy perspective rather than in a non-trading domestic economy? (c) How useful is patent policy, and patent term in particular, in achieving its goals? (d) Are there other means, related to or independent of patent policy, by which those goals could be pursued?

This paper argues that trade issues in patent policy development are sufficiently important to warrant an extension of the non-trading economy model widely used in the economics literature. For example, an interesting policy question in a multilateral world characterized by harmonized intellectual property (IP) rights is: What is the effect of a free trade area on economic welfare in member countries characterized by innovation industries of different scope and scale? Patent analysis clearly requires an international trade perspective.

Innovations are achieved through investment in the production of new knowledge. If an innovation is made public knowledge, the innovator can hardly make a monetary profit. Even product-specific innovations that are kept as proprietary knowledge can be "reverse engineered" by imitators. Such imitation robs the innovator of monetary rewards and incentives to invest in the production of knowledge.

[1] Presently, in Canada the patent term is 20 years from the date of filing a patent application with the Patent Office. A patent is granted after the authorities have verified the innovator's claim that the invention is new, useful and a non-obvious production process, machine, manufacture, composition of matter, improved or new good.