related dispute settlement mechanisms in the draft MTN agreement and the NAFTA. Any unilateral attempt by Canada or any other Party to introduce standards below this minimum would represent a breach of a binding obligation (potentially leading to trade retaliation sanctioned through these agreements), and would send a negative signal to innovators at home and abroad.

Second, certain narrowly cast limitations or exceptions circumscribe most IP rights (e.g., provision for compulsory licensing of patents without the authorization of the right holder in instances of non-working of a patent). Such exceptions should remain exceptional. Their too broad use will lessen the environment of stability required for long-term research and development activity, especially if other competing jurisdictions rarely invoke them.

A third example relates to the "exhaustion" of IP rights. This concept provides that the first sale of an article embodying intellectual property "exhausts" the right holder's entitlement to restrict subsequent sale. The doctrine of exhaustion applies within many jurisdictions (e.g., the U.S. and the EC, but not necessarily in Canada). It does not generally apply to the importation of patent-embodying or copyrighted goods traded across international boundaries. That is, under patent and copyright legislation, Canadian right holders have the right to exclude from import into Canada products manufactured abroad that embody IP rights that are held in Canada and have been, for example, licensed for use abroad only. Should Canada modify its approach to exhaustion in general, or at least in respect of intra-North American trade (analogous to the situation in the EC)? The need to strengthen in-house R&D at home, while continuing to rely on the purchase of off-shore research through licensing and other arrangements would argue that we should not. Wide-spread use of exhaustion related to patents in particular would undermine the financial incentive for original innovation in Canada and for the international transfer of technology into our market. In the latter case, transnational firms, with the value of the licensing of their technology to a Canada-based firm lessened, would be more inclined to simply export the relevant product to Canada from their home base. Thus, Canadians would retain the benefit of being able to buy the good in question, but at the expense of losing the invaluable in-house learning process of adapting to new technologies.[60]

Nonetheless, intellectual property rights, if excessive, can reduce competition through the unjustifiably extended entrenchment of monopoly proprietary rights. In this regard, it is useful to recall that the world's 700 largest technologically active

[60] For further background, see R.D. Anderson, P.J. Hughes, S.D. Khosla and M.F. Ronayne, "Intellectual Property Rights and International Market Segmentation: Implications of the Exhaustion Principle" (Ottawa: Consumer and Corporate Affairs Canada, October 1990).