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Contributions to the Development Agenda  
on Intellectual Property Rights



# International Seminar – Contributions to the Development Agenda on Intellectual Property Rights<sup>1</sup>

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*TRIPS as it stands is against the interests of developing countries, and needs reform. In developing their own patent law, developing countries need to recognize that there is now near consensus among informed observers that patent law and practice have, in some cases, overshot, and need to be reformed. That is the burden of the recent NAS/NRC report on “A Patent System for the 21st Century.*

(Richard Nelson – George Blumenthal Professor of International and Public Affairs, Business, and Law, Columbia University and keynote speaker at the Maastricht Seminar)

## Executive Summary

As a result of an initiative of academic professors and researchers, the International Seminar – Contributions to the Development Agenda on Intellectual Property Rights – took place at the United Nations University (UNU-INTECH), in Maastricht, on September 23 and 24, 2005.

The main focus of the Seminar was to explore important issues raised in the realm of the proposal presented at the World Intellectual

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<sup>1</sup> By Ana Célia Castro and Beatriz Amorim-Boher who were the International Seminar coordinators.

Property Organization (WIPO) by a Group of developing countries – the Group of Friends of Development – centered on existing challenges to accommodate development goals with the generation of innovation and, more specifically, with IP use [www.wipo.org](http://www.wipo.org)

The document prepared by the Group of Friends of Development provokes important reflections on four main dimensions: norm setting on IP, technology transfer, WIPO's mandate, and technical cooperation. During the two days of the Maastricht Event discussions explored evidences from economics of innovation and different policy frameworks, borrowing from cases of specific technological areas in order to address the main points presented within the Development Agenda proposal.

Important papers were prepared to support the debates, covering the following topics: the structuring and the functioning of IP systems; IPRs and competition policies; IPRs and knowledge-intensive sectors – pharmaceutical, biotechnological, and IT alternatives for accessing knowledge; and IPRs, technology, and the challenges of development.

At the end of the Seminar, the group of academic, policy makers, diplomatic representatives, researchers, had agreed with the conclusions that emerged from the Seminar. They can be summarized as follows:

1. "IP rights are economic rights. They are granted not as an end in themselves, but only as a means to specific goals: the promotion of creativity and innovation, culture and science. However, IPRs can have a negative effect not only on economic and social welfare, but also on innovation itself.
2. Attribution of IPRs should be allowed only insofar as it does not undermine the basic principle of the open science system. Free and universal access to scientific knowledge is at the same time a fundamental engine of innovation and a constitutive principle of democracy.
3. The task of constructing better and more balanced IPR regimes which facilitate their role as instruments of innovation incentives is an issue for both developing and developed countries;

4. Any extension of IPRs, whether in terms of subject matter, length, type or jurisdiction of protection must be based on clear evidence of their net benefits.
5. The global framework for intellectual property laws must permit nations to experiment with different approaches. Excessive harmonization should be avoided, in order to protect the space for innovation in the mechanisms of supporting innovation and creativity.
6. Countries must also have the flexibility to adapt intellectual property rights, and exceptions and limitations to those rights, to their stage of development and local circumstances.
7. Bilateral trade agreements with TRIPS plus provisions undermine multilateralism and the existing flexibilities. The further expansion and strengthening of protection entails additional burdens and social costs, in particular for developing countries.
8. IPRs are among a range of inducement mechanisms for innovation. Several studies have shown that IPRs are important inducements in some sectors but not in others.
9. IP policy should be coherent with and complementary to innovation, competition, and regulatory policies.
10. Patents' ultimate goal should be to stimulate investment in inventive activity rather than serving as an asset for rent seeking and litigation".

Participants had also agreed on the following proposals:

To develop an international network of researcher's from both developing and developed countries to act as a locus for debates on IPR, contributing to policy making at both the national and international levels with the explicit aim of enhancing global creativity, inventive activity, and innovation and to signal where necessary the possible negative impacts of IPR on global economic welfare.

To reflect on alternative IPR models addressing current imbalances in the global IPR regime, as well as the implications for global welfare,

competition and access to knowledge of changes in IPR being negotiated at bilateral and multilateral levels

To broaden the scope of academic and policy research on IPR, so as to include fully the implications of IPR for creativity, inventive activity, innovation, and capacity development in developing countries. Such intellectual broadening will need to involve the integration of different actors, such as – academic researchers, policy makers, international negotiators, and civil society organizations, as well as the integration of different relevant disciplines for IPR: economy, law, management of technology, political science, and international relations

The Seminar, its conclusions and recommendations, held in September 2005, remained both at the center and the frontier of the international debate and justifies the present publication. Since then several initiatives followed, directly linked or not with the Seminar: two graduate programs in Brazil, one in France;<sup>2</sup> at least two research international networks and research projects;<sup>3</sup> better understanding of the role of governments, of the judiciary system, the diplomatic body, the national patent offices, and other non-governmental organizations. All these consequences aim to encourage better knowledge governance, more innovation friendly and mainly concerned with the public interest.

## Notes

- <sup>2</sup> Graduate Program in Public Policies, Strategies and Development, with a concentration field in Innovation, Intellectual Property and Development, Master and Doctorate degrees (Federal University of Rio de Janeiro, Institute of Economics, and FIOCRUZ); Master Program in Intellectual Property and Innovation (Brazilian IP Academy, INPI); Paris XIII, under the coordination of Benjamin Coriat.
- <sup>3</sup> Columbia University Earth Center, under the coordination of Prof. Richard Nelson – Catching up and Intellectual Property; Innovation, Intellectual Property and Development – MINDS ([www.minds.org.br](http://www.minds.org.br)); Research projects on national patent offices, under the sponsorship of Ford Foundation; Joseph Stiglitz' IPD in Intellectual Property (Initiative for Policy Dialogue), between many others.