INTERNATIONAL PUBLIC GOODS AND TRANSFER OF TECHNOLOGY UNDER A GLOBALIZED INTELLECTUAL PROPERTY REGIME

In this collection, distinguished economists, political scientists, and legal experts discuss the implications of the ever more globalized protection of intellectual property rights for the ability of countries to provide their citizens with such important public goods as basic research, education, public health, and sound environmental policies. Such items increasingly depend on the exercise of private rights over technical inputs and information goods, which could usher in a brave new world of accelerating technological innovation. However, higher and more harmonized levels of international intellectual property rights could also throw up high roadblocks in the path of follow-on innovation, competition, and the attainment of other social objectives. It is at best unclear who represents the public interest in negotiating forums dominated by powerful knowledge cartels. This is the first book to assess the public processes and inputs that an emerging transnational system of innovation will need to promote technical progress, economic growth, and welfare for all participants.
INTERNATIONAL PUBLIC GOODS AND TRANSFER OF TECHNOLOGY UNDER A GLOBALIZED INTELLECTUAL PROPERTY REGIME

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In recent years the world has moved sharply toward successive strengthening—and harmonization—of intellectual property protection. There has emerged, at an unprecedented level, both a globalized regime of private rights in information and new foundations for a basic international system of innovation. This new system will have profound implications for the nature of such processes as innovation, technology transfer, market competition, and economic development. It also raises essential and sometimes disturbing questions about potential impacts on the ability of governments to provide critical public goods, both within and across countries. Such goods include public health, nutrition, education, environmental protection, cultural identity, and other elements of social importance that must rely increasingly on the exercise of private rights over technical inputs.

It is possible that the globalized intellectual property regime will improve markets for trading information internationally by encouraging invention and resolving inherent failures in technology transactions. It is also conceivable that the system will throw up high roadblocks in the path of follow-on innovation, competition, and the attainment of public goods. These questions are deep and complex and require sustained analysis.

The clear difficulties of this task constitute one of the main reasons that the editors of this volume decided to organize the Conference on International Public Goods and Transfer of Technology under a Globalized Intellectual Property Regime in April 2003 at Duke University.1 This was a major attempt to subject the complex conceptual foundations of the changing worldwide intellectual property regime to systematic legal and economic analysis.

The conference brought together a distinguished group of economists, political scientists, and legal experts to assess the public processes and inputs they deemed likely to become indispensable in a transnational system of innovation that, while still dependent on territorial law, must aim to promote technical progress, economic growth and welfare for all participants. The

contributors were also urged to think broadly and to propose means to minimize the social costs and enhance the benefits that might ensue from the TRIPS Agreement and related standard-setting initiatives by deliberately taking into account the promotion of public goods.

Their responses constitute the contributions to this volume. They have been organized under four major rubrics. Part I is entitled “International Provision of Public Goods under a Globalized Intellectual Property Regime.” In the first section of this part, framework papers and associated commentaries analyze the concept of public goods in the expanding knowledge economy. A second section turns directly to issues of preserving the public commons in the areas of science, access to information, and agricultural technologies.

Part II of the volume addresses the general theme of “Innovation and Technology Transfer in a Protectionist Environment.” In the first section of this part, framework papers focus on obstacles to the transfer of technology under international intellectual property standards and the impacts of those standards on the means of information transfer. Additional analysis focuses on implications of stronger private rights in information for moving technology into the public domain. A second section is aimed at understanding how the new system might affect incentives for local innovation in developing countries and how the system might be improved for that purpose.

Part III, entitled “Sectoral Issues: Essential Medicines and Traditional Knowledge,” first takes on the critical problem of ensuring that access to medicines is not worsened by the international intellectual property system via the exercise of patents and protection of clinical test data. Various contributors offer both positive and negative assessments of the potential for the new regime to improve innovation and distribution of medicines and to meet the needs of poor countries. The second task is to offer comprehensive analysis of basic problems of protecting traditional knowledge in the new environment of globalized intellectual property systems.

The volume turns last, in Part IV, to numerous contributions gathered under the general theme of “Reform and Regulation Issues.” A first section deals with balancing public and private interests in the specific intellectual property regimes, including reforms of the global patent regime. A second section fully explores the role of competition law in a worldwide market for knowledge goods. A final set of papers, dealing with dispute settlement at the WTO and intellectual property rights, emphasizes the need for WTO panels to take public goods into account.

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