

INDIAN PATENT SYSTEM & PARIS CONVENTION: LEGAL PERSPECTIVES (1987). By P.S. Sangal and Kishore Singh (ed.). Faculty of Law, University of Delhi. Pp. 191. Price Rs. 125.00

THIS BOOK under review¹ is the outcome of a seminar held in March, 1986 which was organised by the Faculty of Law, Delhi University in collaboration with the National Institute of Science, Technology and Development Studies, New Delhi.

Part I of the book relates to deliberations of the inaugural session. Part II contains nine papers on various facets of the Paris Convention as well as merits or demerits of India becoming a party to the Paris Convention for the protection of industrial property. Part III contains deliberations of the seminars including intervention by the participants, Veledictory address by K.V. Swaminathan, Adviser, Department of Science and Industrial Research, and conclusions/recommendations of the seminar. Part IV reproduces relevant provisions of the Indian Patents Act, 1970, text of the Paris Convention and Technology Policy Statement (1983) of the Government of India.

K. Ponnuswami in his paper expresses the view that India's fears in joining the Paris Convention are imaginary and pleads that it will be to our advantage to become a party to this Convention. P.S. Sangal observes that India's patent law already provides for national treatment (as no distinction is made between Indian nations and the foreigners) and right of priority (at least as far as Commonwealth countries are concerned). The principle of priority could be extended to countries which are parties to the Paris Convention. Hence, in his view, there would be no need to amend the Indian patent law if we become a party to the Paris Convention. Kishore Singh, N.R. Subbaram, Tabassum Iqbal and Pravin A. and also for various reasons favour India becoming a party to this Convention. However, S.K. Verma and A.K. Koul have reservations on this as, in their view, it would not serve the cause of a developing country like India. According to Koul, the developing countries should first seek establishment of new international economic order and then also ask for revision of the Paris Convention. M.P. Bhatnagar pleads for a strong patent system in India before it could consider becoming party to the Convention. Swaminathan is somewhat ambivalent in his approach and does not make any clear recommendation.

The discussion on the Paris Convention and its relevance to India has become even more pertinent in view of "Super 301" and "Special 301", two provisions of the United States Omnibus Trade and Competitiveness Act of 1988 under which the United States Trade Representative (USTR) will be identifying countries as priorities for unfair trade investigations. "Super 301" requires USTR to identify those countries that (a) deny fair and effective protection of intellectual property rights, or (b) deny fair and equitable

1. P.S. Sangal and Kishore Singh (ed.), *Indian Patent System and Paris Convention: Legal Perspectives* (1987).

market access to United States persons that rely on intellectual property protection. The USTR has unlimited discretion in deciding whether to retaliate for denial of protection of intellectual property rights.² The "Super 301" priority list includes India.³ The idea behind these measures is to induce the concerned countries to liberalize trade and investment and if necessary, to modify their laws including intellectual property regimes to accommodate U.S. national interests. Indian business community has viewed with concern unilateral steps or uniform and time-bound steps on the part of the United States without having regard to the differentiating factors between countries concerned.

Bilateral or multilateral regimes relating to intellectual property have to be based on mutual advantage to the participating countries in absence of which they will not be viable.

The present Patent Act in force in India is substantially based on the report of Justice N. Rajagopala Ayyangar Committee (1957-59) which was against India's entry into the Paris Club. The Act appears to reflect the domestic and international policy of the country on the issue under consideration.⁴ The country has to consider whether there is any substantial change of circumstances to warrant a new look at our policy relating to international patent regime.

The book under review contains good material to enable the readers to ponder over the various issues involved.

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2. United States Information Service, *Background* 4 (May 23, 1989).

3. *Ibid.* Ambassador Hubbard's remarks on Indo-U.S. Trade Relations, *Official Text* 4 (June 1, 1989).

4. For a very useful analysis of provisions of the Paris Convention and India's patent law see, K. Koteswara Rao, "A Case against India joining the Paris Convention and changing its patent law", (*Third World Science & Environmental Perspectives* (vol. 1, no. 1, 1989).

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