



Science For A Better Life



# Doing (IP) Business in BRIC Countries

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# Agenda

- A Public Contract called Patent Law
- Brazil
- Russia
- India
- China
- BRIC Comparison
- Summary



# A Public Contract called Patent Law

## 1. The Contract

**Quid pro quo** Deal between the public and the innovator:

### **Quid:**

The inventor/patentee shares the invention with the public by disclosing it and therefore enabling and fostering further development and progress of humanity

### **Quo:**

The public grants the inventor/patentee a 20 year exclusivity/legal monopoly to recoup the investments and to earn the deserved fruits of his work



# A Public Contract called Patent Law

## 2. Effect of the Contract in the past

Innovators spent a lot of money and efforts to achieve new and inventive solutions for the worlds problems, i.e. :

- new materials to build things you couldn't build before – i.e. aircrafts, solar panels etc...
- New drugs to cure “uncurable” diseases, e. g. pneumonia, life threatening wound infections...and a lot more
- New pest controls and/or fertilizers to enhance farming productivity to help feeding people

Thereby building upon each others inventions.



# Brazil

- Double Examination of Patents in Pharma through ANVISA
- Political drift against Patents
- Protectionism
- Reliability/Speed of courts
- Thinking about CL (Compulsory Licenses) outside of TRIPS (not happened yet)
- Protection of Plant inventions difficult

# Russia



- Not a lot of experience yet
- Protectionism
- Reliability of courts
- „post communist“ heritage
- Difficult environment



# India

- Section 3 d
- Multiple revocation opportunities
- Political drift against Patents
- Protectionism – i.e. Generic industry
- Questionable use of CL Regime - outside of TRIPS?
- Slow and expensive court proceedings
- Reliability of courts
- Difficult environment



# China

- Biological examples
- Stuck with original examples
- Relative quick examination procedure
- Fair trial (from Bayer/German Perspective)
- Political drift pro Patents
- Protectionism
- Reliability of courts, structured and quick proceedings
- Administrative enforcement at trade fairs!





# BRIC Comparison

	Brazil	Russia	India	China
Patent Law				
Court Proceedings (Speed and Costs)				
Compulsory Licenses				
Reliability of Courts				
Protectionism				



# Summary and Conclusion

From Bayer's perspective all BRIC countries still have room for improvement in IP in different aspects while China for the time being seem to be ahead.

Too much protectionism still in place.

Cultural differences and different heritages still leave difficult environments also in IP.

Predictability of political decisions resp. their sustainability are also a bit of a concern.



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Thank you!