

# WORLD TRADE ORGANIZATION

RESTRICTED

IP/C/W/332

13 December 2001

(01-6311)

---

**Council for Trade-Related Aspects  
of Intellectual Property Rights**

Original: English  
French  
Spanish

## **IMPLEMENTATION OF ARTICLE 66.2**

### Information from UNCTAD

As agreed at its meeting of 19 and 20 September 2001, the Council invited UNCTAD to submit information on the outcome of the UNCTAD Expert Meeting on International Arrangements for Transfer of Technology (June 2001) for distribution to WTO Members.

The present document reproduces the information that the Secretariat has received from UNCTAD, by means of a communication dated 23 November 2001.

---

### **NOTE BY THE UNCTAD SECRETARIAT ON OUTCOME OF THE EXPERT MEETING ON INTERNATIONAL ARRANGEMENTS FOR TRANSFER OF TECHNOLOGY**

The Expert Meeting on *International Arrangements for Transfer of Technology: Best Practices for Access to and Measures to Encourage Transfer of Technology with a view to Capacity Building in Developing Countries, Especially in Least Developed Countries* was held in Geneva from 27 to 29 June 2001. The present document reproduces the Outcome of the Expert Meeting (UNCTAD document TD/B/COM.2/EM.9/L.1, 4 July 2001).

The Outcome of the Meeting will be an input for policy considerations at the sixth session of the Commission on Investment, Technology and Related Financial Issues, Geneva, 21-25 January 2002.

## INTERNATIONAL ARRANGEMENTS FOR TRANSFER OF TECHNOLOGY

### Outcome of the Expert Meeting\*

1. The Expert Meeting on International Arrangements for Transfer of Technology examined a range of issues for consideration by the Commission on Investment, Technology and Related Financial Issues pursuant to paragraphs 117 and 128 of the Bangkok Plan of Action (TD/386)<sup>1</sup>. Experts made presentations and exchanged views on experiences and best practices at the international and national levels.
2. Experts noted that, in the knowledge-based global economy, technology plays an ever-important role in economic development. The concerns of the international community with respect to enhancing the transfer of technology to developing countries, in particular to the least developed countries, as well as their technological capabilities, are reflected in several dozen international instruments. These instruments express the willingness of development partners to cooperate multilaterally. There has been some success in implementation, but more needs to be done. The availability of information on arrangements for transfer of technology is an essential requirement for sustained multilateral cooperation. In this connection, the Compendium on transfer of technology-related provisions<sup>2</sup> is a welcome contribution and should be continuously updated, as necessary, and widely disseminated, including through electronic media.
3. Experts also noted that most technology-related provisions are of a "best-efforts" nature. Governments, as well as civil society and the private sector, have an important role to play in the implementation of commitments, *inter alia* through public and private partnerships. In this connection, experts emphasized the importance of adequate protection of intellectual property in providing incentives for investment and transfer of technology in all countries, including in developing countries, taking into account the interests of producers, users and consumers.
4. Experts examined a number of best practices that can contribute to generating favourable conditions and opportunities for transfer of technology and capacity building. Some of these practices include the following:
  - (a) International instruments with built-in implementation mechanisms, including financial provisions and monitoring arrangements, have a promising implementation record and should be emulated. These instruments are relatively few and mainly for purposes of the public good, such as environmental protection. Nevertheless they can serve as a model in other areas such as infrastructure, health, nutrition and telecommunication;
  - (b) Ensuring the access, in particular of developing countries, to technological information, including information on state-of-the-art technologies on a competitive basis and on fair and equitable terms and conditions, in addition to information available from the public sources;
  - (c) Taking measures to prevent anticompetitive practices by technology rights holders or the resort to practices which unduly impede the transfer and dissemination of technology. Control of such practices is quite common in developed countries, but

---

\* UNCTAD document TD/B/COM.2/EM.9/L.1, 4 July 2001.

<sup>1</sup> Paragraph 117: "UNCTAD should analyse all aspects of existing international agreements relevant to transfer of technology". Paragraph 128: "In the area of transfer of technology, UNCTAD should examine and disseminate widely information on best practices for access to technology".

<sup>2</sup> Compendium of International Arrangements on Transfer of Technology: Selected Instruments (UNCTAD/ITE/IPC/Misc.5).

there is a lack of legislative measures in this regard in many developing countries. In particular, the development of relevant legislation at either the national or regional level is considered to be a promising option;

- (d) Taking into account the possible short and medium-term costs, local working requirements, if applied in a manner that is consistent with the TRIPS Agreement and the Paris Convention, may be one way of enhancing transfer of technology;
- (e) Making the TRIPS Agreement more conducive to transfer of technology, in accordance with its Articles 7, 8 and 40, including by reviewing its impact on transfer of technology and capacity building;
- (f) Setting up of interministerial coordination committees at the national/regional level with regard to the interface between commitments in the TRIPS Agreement and national implementation requirements with a view to adjusting the TRIPS standards to local innovation needs and to favouring their pro-competitive implementation. UNCTAD should assist interested countries in establishing such committees by undertaking a needs assessment in the context of the ongoing programme of science, technology and innovation policy reviews;
- (g) Establishing a special trust fund, based on successful models, to promote research and development in developing countries and other activities in the area of technology with a view to assisting developing countries in benefiting from their various international commitments;
- (h) Designing measures and specific incentives for home-country enterprises, including fiscal and other incentives, to promote transfer of technology, especially through FDI in developing countries. In this connection, the monitoring of implementation of the commitments in Article 66.2 of the TRIPS Agreement could contribute to building a sound and viable technological base in LDCs. UNCTAD should compile an illustrative list of home-country measures that might fulfil the requirements of Article 66.2;
- (i) Supporting capacity building, in particular in LDCs, through specific projects and programmes and by establishing a scientific and technological infrastructure on a cooperative basis for both the public and private research facilities so to enable them to assess, adopt, manage, apply and improve technologies;
- (j) Creating a hospitable domestic regulatory environment for foreign investment, along with intellectual property protection, encourages access to the newest technology. It has been observed that the transfer of technology is often most successful when accomplished by means of investment, specially by FDI. In this connection, technical cooperation should focus on technological capacity building with a view to enabling beneficiary countries to use intellectual property rights properly in ways that advance their national systems of innovation;
- (k) Supporting transfer of technology and capacity building for enhancing the use of electronic commerce in developing countries, in particular by their small and medium sized enterprises, including enhancing the use of information and technologies in the public domain;
- (l) The provision by host countries of an enabling environment for transfer of technology, taking into account the following considerations:

- Vocational training and recruitment of technical staff;
- Relationships with local public or private research centres and consultancy firms;
- Joint efforts by enterprises and Governments;
- Encouraging capacity building for assessing, adopting, managing, and applying technologies through inter alia: human resources development, strengthening institutional capacities for research and development and programme implementation, assessments of technology needs, and long-term technological partnerships between holders of technologies and potential local users.

5. UNCTAD should provide assistance to developing countries, in particular least developed countries, to strengthen their capacity for discussing and for negotiating technology transfer provisions in international instruments. UNCTAD should further explore ways and means for effective implementation of international commitments in the area of transfer of technology and capacity building.

---