

## Abstract

### *International Law in a North-South Perspective: Technology Transfer*

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Technology transfer is on the one hand a well established term in social sciences and economics, and on the other hand has been a keyword of United Nations policies as regards economic development. In scientific language, technology transfer can be understood as a process of communication and learning and as a certain business transaction.

As regards economic development, technology transfer is a key factor. However, its suitable form and format may vary from case to case. Education and capacity building is important in earlier stages of economic development in order to prepare for the absorption of commercial technologies from abroad. Developing societies with more advanced technological capacities need to develop own activities in research and development.

Legally spoken, some – and especially the commercially relevant technologies – lie in the hands of privates which are often covered by intellectual property. Quite often, technology transfer forms part of a cooperation of States in areas of specific cooperation, as for instance, in development cooperation, cooperation for the peaceful use of atomic energy, outer space, the sea and marine resources and the protection of the environment.

Technology transfer is often provided for in relevant international instruments in order to promote the achievement of those objectives.

Such transfer may be called for to help States to implement their obligations – as is the case in environmental regimes - or to effectively participate in activities governed by those regimes, like, for instance, peaceful uses of atomic energy under the non-proliferation treaty, satellite communication or deep seabed mining in accordance with the UN convention on the law of the sea.

However, such technology transfer can hardly serve as a model for a more comprehensive and general rule on technology transfer. Provisions in those agreements are often narrowly tailored as regards the type of technology covered and the means of transfer, which often are confined to actions by governments, including the financing of transfer.

Technology transfer as a business transaction has been a key issue in international economic relations. It did form part of the New International Economic Order, which has been proclaimed by the UN General assembly in 1974.

In order to facilitate the transfer of technology to developing countries on favourable terms and conditions, a number of initiatives were taken by the United Nations Conference on Trade and Development. The two main projects: the

elaboration of a Code of Conduct on the Transfer of Technology and the revision of the Paris Convention did envisage rather rigid disciplines on businesses and industrialized countries. Those two projects did finally fail.

Such failure was not only due to the strong resistance of industrialized countries. To the more, the underlying rationale of those projects was put into question by the rapid development of industries in some Asian countries, which was achieved without the help of such regulatory system.

While technology transfer disappeared from the agenda of international economic relations for quite some time, the issue has been recently raised anew in the WTO.

As this may indicate, the transfer of technology still points to some unresolved questions. They relate to some still relevant but notoriously controversial issues, which include intellectual property rights, investment regulation, competition policies and the proper obligations of multinational enterprises.

Indeed, these issues merit a fresh look and some discussion. Rather than trying to force industries into a regulatory framework, which in the end may well discourage the transfer of technology, such discussion should have an eye on the different needs of societies with different stages of development, clearly define the areas, where intergovernmental development assistance is required and where new rules for businesses are required in a changing world economy, where a number of newly industrialized societies will soon reach a stage, where they do not only engage in manufacturing but also produce technology advances.