An Overview of Licensing Role

International licensing and technology transfer has widened beyond legal interest to commerce and politics

BY JOHN BIFFEN*

It is fitting that from time to time this conference on technology transfer and international licensing should be held in Britain, the first country to undergo an Industrial Revolution. Life has become infinitely more complex since the Industrial Revolution, but progress still depends on the successful development of our resources. At a time when inflation and unemployment are causing problems not only here but in many other countries, we remain strongly dependent on international trade and on the skills which enable us to produce high-quality goods and services.

Current international trade is a highly complex matter. All too often we are invited to think of trade in bilateral terms and particularly in relation to manufactured goods. The modern reality, however, is far different. There is substantially a multilateral exchange of manufactured goods and also services and a flow of capital and current account business which — the case of the United Kingdom — is reconciled and balanced by a flexible sterling exchange rate. It is within this changing commercial pattern that technology transfer takes its place alongside more traditional business activities.

The transfer of technology is only one aspect of international trade and can happen in a number of ways: through direct investment by foreign companies; through licensing agreements, where a firm in another country obtains machinery and technology from a foreign firm; through agreements to make available management consultancy and technical assistance and through industrial cooperation.

International licensing and technology transfer are only part of the picture, but the increasing importance of sales of technology can be judged from the fact that during the 10 years up to 1978, Britain's net income from transactions including technological royalties such as patents, licenses and the use of technical know-how and assistance rose from L17m to L96m.

By naming your Conference "The Worlds of Licensing" you have indicated how the subject has widened from the purely legal field into those of commerce and politics. Much of the political discussion about technology today naturally takes place in the context of its use by developing countries. The government recognizes the importance to developing countries of building up their own technological capability and I shall say something in a moment about the ways in which our programs of technical cooperation are contributing toward that objective.

It must, however, be realized that the development of technology by the more advanced countries has involved them in investment and labor costs. The terms on which this technology is transferred must reflect these costs. In other words, transfers of technology must take place on terms mutually beneficial to both parties. The British Government attaches great importance to transactions to which that criterion applies. We will continue to play an active role in the transfer of technology through our programs of technical cooperation. By sending experts to work in developing countries the potential for the transfer of British technology is increased, because technology is best transferred by those actually using it.

From LES International Conference, London

Communications Gap

Our experience suggests that there is often a communication gap between potential users in developing countries and those who can supply the information and services required. Knowledge of where to go and who to talk to is what many people in developing countries find most helpful. To attempt to overcome this problem the Overseas Development Administration published a directory with the title "British Science and Technology for Developing Countries", which was given to the delegations at the United Nations Conference on Science and Technology for Development held in Vienna in August 1979.

We see the role of governments in industrialized countries as one of complementing the valuable work of the Licensing Executive Societies. Technical cooperation at government level can help both to complete the work of the private sector in (say) some kinds of agriculture and to pave the way for it at a later stage of development. In a wider context, technical cooperation can often play an important role in helping to develop human resources in developing countries. This is essential if they are to absorb modern technology quickly. The British Government has emphasized the importance of this pragmatic response to individual country needs in meetings of international and United Nations bodies where general issues of science, technology and development are discussed.

Future speakers will no doubt tell you in greater depth about the importance of technology transfer to their own industries and countries. It is inevitable that the industrial advance of developing countries has become,

**Secretary of State for Trade; opening comments for conference.*

and remains, bound up with their political aspirations. This has meant in turn that it attracts the attention of international organizations and gives rise to a substantial flow of documents.

Without in any way questioning the value of the work done by these organizations, it seems to me that help for the developing countries can be viewed too much in terms of political aspirations and economic theory. The danger is that this will turn attention away from the area where action should be taken — that is, within industry and companies, where the ability to produce and use the technology lies.

Industry cannot offer its various forms of knowledge free, because, as I have said, these have cost money to develop. It can, however, help by doing what it is best at — investment. By setting up manufacturing capacity in developing countries, industry introduces new technology and provides a use for material resources and labor. Further benefits flow from the training of local people and the setting up of ancillary industries. Industry will also have regard to the needs of the area and will gear the type of investment it introduces to the availability of labor and standard of technical knowledge in different countries.

Uncertainty

In making their achievements available to others, industrialists naturally want governments to remove uncertainty as far as possible. We have tried to help with this in Britain. The 1977 Patents Act provides for early publication and search results to overcome the adverse effects of delays. The Act also enables an early view to be taken on whether an invention is obvious to a person skilled in that particular field. The European patent, which is now available as an alternative to the British one, provides a similar facility.

In the field of copyright, which covers the protection of industrial designs, we are nearing completion of a comprehensive review of the subject following the Whitford Report, and we shall in the near future be publishing a discussion paper covering the subjects of copyright and industrial design law. All interested parties will be invited to give their views.

We are taking part in international negotiations with a number of organizations including UNCTAD. At the recent fourth session of the conference on an International Code of Conduct on the transfer of technology, the progress made in the earlier sessions was unfortunately not maintained. Nevertheless, we hope to continue these negotiations in an effort to build on the earlier progress. We should like to see this lead to a Code of Conduct which will be of mutual benefit to the supplier and recipient of technology.

The needs of developing countries are also being borne in mind in the negotiations to revise the Paris Convention for the Protection of Industrial Property. It is hoped that the revision will help them to develop their own technology and will assist in the transfer of technology to them. The proper balance is between their need for economic and social development and the rights granted by patents.

In the European Community, negotiations on block patent licensing continue. Recent proposals by the Commission aim to bring greater legal certainty to the exercise of trademark rights throughout the community. While in principle we support a Community Trademark Law, and the need for corresponding alignment of national law, we will bear in mind in future negotiations the concern of British companies about a number of aspects.

I repeat, though, that the most fruitful place for action on the matters you will be considering here is within industry and companies. I will not therefore keep you waiting any longer to hear from those who spend their lives in these activities. It only remains for me, in declaring the conference open, to welcome our overseas guests and wish you all a rewarding and enjoyable few days.