

● Systems Affecting Technology Flow

A report by UNIDO of systems regulating technology inflows in selected developing countries

BY SECRETARIAT OF UNIDO

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PREFACE

In the age of science and technology the development, transfer and regulation and control of technology are crucial issues of national policy in both the developing and the developed economies. The importance of science and technology for social and economic development was stressed at the United Nations Conference on Science and Technology for Development held at Vienna in 1979.

Since developing countries acquire a major part of their technology from abroad, policy makers in these countries are increasingly interested in various aspects of technology transfer, particularly in its regulation and control. A steadily growing number of governments of developing countries have adopted a policy of controlling the inflow of foreign technology and have taken steps to set up regulatory agencies.

The expanding role of governments with respect to technology development and transfer is particularly marked in Latin America and to a lesser degree in certain Asian, African and Arab States. This trend is expected also to continue in the future. One may expect also that some international or regional measures will be formulated particularly in a view of current discussions on relations between the industrialized countries of the North and the developing countries of the South.

The regulation of technology inflow may embrace two distinct but closely interrelated goals. On the one hand, it may concentrate on obtaining the most favorable commercial conditions in technological agreements with an emphasis on eliminating restrictive provisions, such as tied-in clauses and overpricing. This could be called a "negative approach" since the government assumes the function of a guardian against infringement of the national interest.

On the other hand, government action may concentrate on promoting, through legislation and other measures the inflow of appropriate industrial technology in order to bridge major technological and production gaps. This "positive approach" lays the basis for more efficient use of imported technology to accomplish accepted national goals.

In practical terms both positive and negative

aspects of a policy on technology inflow should be carried out simultaneously, only when a judicious balance has been reached between these two approaches can the inflow of foreign technology serve as an effective instrument for technological growth in developing countries.

At present the policies of developing countries stress the negative aspects of technology inflow policy. There is, however, a growing awareness in these countries of the need to complement negative measures with positive ones.

The present volume in the *Development and Transfer of Technology Series* represents a collection of data on government regulations of technology transfer. With the cooperation of the government institutions in the countries selected for this study the secretariat of the United Nations Industrial Development Organization collected and published the most recent information on the regulation of inflow of foreign technologies in these countries and its effects.

The material on the situation in some of the Arab countries (unfortunately data were not available on all of them) was compiled in response to the recommendation of the UNIDO-WIPO Conference on Industrial Property and Transfer of Technology for Arab States, organized by the United Nations Industrial Development Organization and the World Intellectual Property Organization and held at Baghdad from 5 to 10 March 1977, that the Industrial Development Centre for Arab States (IDCAS), in cooperation with WIPO and UNIDO, undertake a survey of the situation of industrial property and transfer of technology in the Arab countries. It discusses recent trends in legal and institutional measures related to technology inflow in selected developing countries of Latin America, Asia and the Far East, the Arab world, Africa and Europe. It also evaluates the existing legal and institutional arrangements.

The first chapter reviews recent legislative measures undertaken in selected developing countries to regulate the growing technology inflow. It begins with the Andean Pact—historically the first example of such complex legal regulation of technology import and ends with Nigeria which only approved regulatory measures in June 1979.

The second chapter describes the organization and functions of agencies regulating technology transfer that are operating in some developing countries.

The third chapter analyses the effectiveness of selected regulatory agencies.

Materials on the Arab countries were collected by Selim Kerollos of the Suez Oil Company, Cairo, Egypt, and complemented by a UNIDO fact-finding mission.

This study has been prepared by Jan Monkiewicz of Warsaw Polytechnics, Warsaw, Poland, in cooperation with the secretariat of UNIDO.

It is expected that in the future UNIDO will issue a revised and updated version of the present document.

LEGISLATION CONCERNING AGENCIES REGULATING THE INFLOW OF TECHNOLOGY

Generally speaking, three closely interrelated aspects of the import of technology can be distinguished in the laws and regulations of developing countries—industrial property regulations, foreign investment laws and licensing arrangements. Historically, industrial property regulations were the first to emerge, forming the basis of technological policy in developing countries for a long time, particularly before they became independent. Next, attention was given to foreign investment laws. These seem at present to be the most thoroughly developed in terms of legislation on technology transfer and particularly on licensing are of much later origin and subsequently less widespread and refined.

Industrial property regulations *per se* do not influence particular contracts concerning the inflow of technology—they create the framework for the development and transfer of technology. Such regulations usually include patent arrangements, trademarks, utility models and industrial design.

Foreign investment laws govern the inflow of technology through direct foreign investment. They usually regulate the registration and approval of foreign investment cases. They establish rules relating to ownership and establish principles governing repatriation of profits, fiscal and tariff treatment and various guarantees to foreign investors.

Recently, the regulation of technology transfer arrangements, especially licensing, has increased, evidence of the growing role of licenses in technology transfer to developing countries. Such regulation usually covers the registration and approval of licensing contracts (both patent and know-how) transfer, service agreements etc.; fees and royalties; and fiscal and tariff treatment of licensors with respect to payments derived from such operations. All these aspects of technology transfer regulations are discussed below.

LATIN AMERICA

Andean Group

One of the earliest and most important decisions concerning the regulation of the inflow of technology and the treatment of foreign investment by developing countries was taken by the Andean Group.¹

The historic Decision 24 of the Commission of the Cartagena Agreement, together with Decisions 84 and 85, set a precedent for treating the flow of technology and established a basis for a direct government role in the acquisition of foreign technology. These decisions influenced legislation both in and outside Latin America. Extracts from Decision 24 legislation are reproduced below:

Members of the Andean Pact include Bolivia, Chile, Colombia, Ecuador, Peru and Venezuela.

Article 6. Control of fulfilment of the obligations contracted by foreign investors shall be the duty of the organization which registers the investment, in coordination with the proper government divisions and

agencies in each case.

In addition to the functions indicated in other provisions of the present regime and of those established in the respective regulations, the competent national body shall:

Control fulfilment of the commitments of national participation in the technical, administrative, financial and commercial management, and in the capital, of the company;

Authorize in an exceptional way the purchase of shares, participations or rights of national or mixed companies by foreign investors, in accordance with the provisions contained in Articles 3 and 4 of the present regime;

Establish a system of information and control of the prices of the intermediate products which may be furnished by suppliers of foreign technology or capital;

Authorize the remittance abroad, in freely convertible currency, of every amount which the companies or investors may be entitled to remit in accordance with the present regime and with the national laws of the respective country;

Centralize the statistical, accounting, information and control registrations connected with direct foreign investments, and

Authorize licensing contracts for the use of imported technology and for the exploitation of trademarks and patents.

Article 18. Every contract on importation of technology and on patents and trademarks must be examined and submitted for the approval of the competent body of the respective member country, which must appraise the effective contribution of the imported technology, by means of an estimate of probable profits, the price of goods containing technology, or other specific forms of measuring the effects of the imported technology.

Temporary Provisions:

Article A. The present regime will become valid when all the member countries have deposited in the Office of the Secretary of the Board the Instruments by which it is put into practice in their respective territories in accordance with the provisions of the second paragraph of Article 27 of the Cartagena Agreement.

Article B. Foreign investment, which exists in the territory of the member countries at the time in which the present regime becomes valid, must be registered before the respective competent national body within the following six months. These investments will continue to enjoy the benefits granted by current provisions in every respect which is not contrary to the present regime.

Article C. While the regulations established in Temporary Article G of the present regime have not become valid, the member countries will abstain from signing unilateral agreements on industrial property (trademarks and patents) with third countries.

Article D. Within the three months following the date on which the present regime becomes valid, each member country will designate the organization or organizations which are competent for the authorization, registration and control of foreign investments and for the transfer of technology, and will inform the other member countries and the board regarding that designation.

Article E. All contracts on the importation of technology and on licenses for the exploitation of trademarks and patents of foreign origin signed prior to the date on which the present regime becomes valid must be registered before the competent national body within the six months following that date.

Article F. Within the six months following the date on which the present regime becomes valid, the committee, upon request of the board, will approve the regulations of the Subregional Office of Industrial Property (Trademarks and Patents).

Article G. Within the six months following the date on which the present regime becomes valid, the committee, upon request of the board, will adopt regula-

tions for applying the provisions on industrial property (trademarks and patents) which will comprise, among others, the subjects which appear in Annex No. 2.

Article H. Member Countries commit themselves not to establish incentives for foreign investment other than those contemplated in their industrial development legislation at the time that the present regime becomes valid, as long as the obligation referred to in Article 28, second paragraph, of the Cartagena Agreement, on harmonizing industrial development legislation, has not been fulfilled.

Likewise, before November 30, 1972, the committee, upon request of the board, will adopt the necessary measures to harmonize the regime of incentives applicable to the other sectors.

Article I. Within the three months following the date on which the present regime becomes valid, the committee, upon request of the board, will determine the treatment applicable to capital belonging to national investors of any member country other than the recipient country."

Within the same period of time, the committee, upon request of the board, will determine the rules which are applicable to the investments that the Corporacion Andina de Fomento (Andean Corporation of Development) may make in any of the member countries.

Argentina

Two laws concerning transfer of technology were enacted in Argentina in 1971. Law No. 19135, which prohibited the imposition of certain restrictive conditions on the automobile industry, and Law No. 19231, which prescribed the regulation of agreements for foreign technology and patents and created a National Registry for License Contracts and Transfer of Technology. These laws stipulated that contracts would not be approved if they contained clauses that required equipment, raw materials or components to be purchased from certain sources; restricted exports, included unreasonable grant-back provisions, provided trademark licensing without know-how, imposed jurisdiction of foreign courts or required unreasonably high payments.

A new law, Law No. 20794, was enacted in late 1974, replacing the earlier ones, the main provisions of which are contained in Article 5 (stipulating which contract proposals will be rejected), and Article 6 (enumerating restricted clauses that will not be permitted in contracts).

An interesting novelty in this law is Article 33, which made it possible to obtain advice from the National Registry on the terms of an agreement before officially submitting it for approval and registration. In this way, the law gives local entrepreneurs the opportunity to carry on extra negotiations with foreign partners.

Revise

In August 1977, the government again revised its transfer of technology policy, liberalizing in particular screening and approval procedures by enacting Law No. 21.617.²

Contrary to what was provided in Law 19.231 and in conformity with Law 20.794, contracts of a gratuitous nature are included within the scope of this law. The reason for their inclusion is to obtain for the national government a full knowledge of all technological actions and at the same time to give

greater security to the local recipient with regard to his rights under the licensing instrument in the event of third-party infringement.

Excerpts from Law No. 21.617 are given below:

Article 1. Any voluntary act of legal consequences having as its principal or accessory object the transfer, assignment or licensing of technology or trademarks by persons domiciled abroad, for a price or free of charge, to physical or corporate persons, whether public or private, domiciled in this country, must be registered in the National Register of License Contracts and Transfers of Technology established by Law No. 19.231 and confirmed by Law No. 20.794 and always provided such acts produce effects in this country.

Article 2. The following voluntary acts of legal consequences are included in the preceding article, their enumeration being merely illustrative:

(a) The acquisition of rights or the grant of licenses for the use of patents, industrial designs and models, trademarks or any other industrial property right that may be established in the future;

(b) The supply of technical knowledge by means of the description of processes, formulae, specifications, or other means, for the manufacture of products or the rendering of services;

(c) Technical consultancy, assistance and services;

(d) The supply of basic and detail engineering.

Article 3. The voluntary acts of legal consequences included in the preceding articles, whereby technology or trademarks originating from abroad are transferred to another person also domiciled in this country, must be registered even though the supplier is domiciled in this country. The local supplier of such technology or trademarks shall be liable for the damages that may be suffered by the recipient because of failure to register an act included in this article when he does not notify such recipient of the existence of the conditions stated therein.

The law, however, in Article 4 excludes expressly certain technology transactions from this obligation:

(a) Acts executed by the armed or security forces or by agencies related to national defense, whenever the national executive power decrees that they qualify as military secrets.

(b) The supply of technology, in work-lease contracts, provided by the owner of the construction to the contractor to enable him to execute the work.

(c) License agreements for use or reproduction of copyrights or selected rights even when they include the use of a name, pseudonym, trademark, sign, logo or any other particular sign that serves to identify the holders of said rights and to permit the necessary control of their reproductions.

Brazil

The flow of technology into Brazil is at present regulated by Normative Act No. 015, Registration of Contracts Providing for the Transfer of Technology and Related Agreements, of 11 September 1975. It gives authority to the National Industrial Property Institute (INPI) to evaluate and approve technology agreements.³ INPI was created in 1970 and at present its authority over transfer of technology includes all types of agreements as described in the extracts given below.

2. Concept and Basic Conditions of a License Contract for the Working of a Patent: Objective. A "license" contract shall be deemed to be a contract specifically designed to authorize the actual working by third parties of the subject of a patent regularly filed or granted in Brazil, where an industrial property right has been duly established in terms of Law No. 5.772/71 (Industrial Property Code).

—Concept and Basic Conditions of a License Con-

tract for the Use of a Trademark or Publicity Slogan: Purpose. A "license" contract shall be deemed to be a contract specifically designed to authorize the effective use, by third parties, of a mark or publicity slogan that has been properly filed or registered in the country, where an industrial property right has been duly established in terms of Law No. 5.772/71 (Industrial Property Code).

—Concept and Basic Conditions of a Contract for Technical-Industrial Cooperation: A contract for "technical-industrial cooperation" shall be deemed to be a contract for the specific purpose of acquiring knowledge, techniques and services required for the manufacture of industrial units and submits machinery, equipment, components thereof and other capital goods, upon order.

6. Concept and Basic Conditions of a Specialized Technical Services Contract: Subject. A "technical services" contract shall be deemed to be a contract for the specific purpose of planning, programming and formulating studies and projects, and likewise for the performance or furnishing of services of a specialized kind that are needed by the country's production system.

Note: In cases where urgent technical services are furnished individually by foreign technicians and the total amount of remuneration does not exceed \$20,000, or the equivalent amount in some other currency, the contract formality may be waived; and registration may be made directly on the basis of the invoice, in which the services must be duly specified.

On January 12, 1978, a new law Normatic Act 30, reflecting Brazilian striving for technological independence, was issued.⁴ According to this act, Brazil will no longer approve technology transfer agreements in the automobile industry except those relating to specialized technical services when it is found necessary.

A further step in establishing stricter regulation of technology inflow was the enactment of Normative Act 32 of May 5, 1978.⁵ It establishes a system of compulsory prior examination for patent and trademark license agreements that call for royalty payments and for all agreements involving technology (technical-industrial cooperation, specialized technical services, etc.) with the exception of technical services up to \$20,000 and contracts related to the inspection or supervision of services connected with the assembly of imported equipment.⁶

Mexico

Mexico's law on the Transfer of Technology and the Use of Exploitation of Patents and Trademarks which came into force on January 1, 1973, established a national registry of technology transfer.⁷ The Law was prepared after extensive assessment of the experience of Argentina, Japan and other countries in this field.

Mexico's policy toward technology transfer assumes a close relation between the flow of technology from abroad and the flow of foreign capital. Thus, it was considered necessary to adopt an integrated approach in formulating policy on foreign investment, trade and technology transfer. The Mexican legislation in this field is oriented toward the development of an efficient procedure for importing technology. Although the country's dependence on foreign technology is recognized an important objective of the legislation is to gain a degree of control over this major import, both in terms of cost and technological impact. Emphasis is placed on evaluating the effect that a technology contract can have on the balance payment, the creation of

jobs, and the improvement of national technological capabilities. The law requires that all agreements concerned with transfer of technology be examined by the National Registry of Technology Transfer. It goes into considerable detail in enumerating the kind of restrictive practices that must be eliminated from contracts.

Peru

The legal framework for technology inflow in Peru consists of three sets of rules:⁸

- Industrial property regulations⁹
- Rules on technology transfer and patent and trademark licensing¹⁰
- Regulations on taxation and remittance of royalties.¹¹

According to these rules ITINTEC, the authority administering industrial property regulations, is the Institute for Industrial Technological Investigation and Technical Norms. The National Commission of Foreign Investments and Technology (CONITE) is in charge of registration and approval of technology import arrangements. CONITE assumed its functions only in 1977, according to Decree-Law 215/1, thus replacing ITINTEC in this area.

Technology transfer regulations require that all contracts related to the importation of technology, patents and trademarks must be examined and approved by CONITE. Currency control is exercised by the Ministry of Economic Affairs and Finance and the Central Bank of the Nation, the competent agencies named by Decree-Law 18.275.

Venezuela

The legal framework for regulating the flow of technology is based on Decisions 24, 37, 84 and 85 of the Commission of the Cartagena Agreement.¹² The regulatory agency competent to deal with the flow of technology is the Superintendency of Foreign Investments (SIEX) in the Ministry of Development.

An extract from Decree No. 63 of April 29, 1974 describing the duties, is given below:

Chapter VII Importation of Technology and Use and Exploitation of Patents and Trademarks:

54. Any contract concluded by foreign, national or joint enterprises relating to the importation of technology and the use and exploitation of patents and trademarks shall be approved and registered by the Superintendency of Foreign Investments within 30 working days from the date of its conclusion.

55. The following documents shall likewise be subject to registration under the foregoing article: deeds, contracts and agreements of any kind liable to have effects on national territory, irrespective of whether or not such documents involve payment or any consideration, and which have been concluded for the following purposes:

1. License to use or authorization to exploit trademarks;
2. License to use or authorization to exploit patents for inventions, improvements and industrial designs;
3. The supply of technical know-how in the form of plans, diagrams, models, instructions, formulae, specifications, and training or preparation of personnel and other forms;
4. The supply of basic or specific engineering in connection with the installation of plant or the manufacture of goods;
5. Technical assistance in whatever form it is pro-

vided;

6. Administrative and management services.

56. The contracts referred to in the preceding articles shall, as a minimum, contain relevant and detailed information on the following matters:

(a) The identity of the contracting parties together with express indication of their nationality and domicile, as well as of any intermediaries;

(b) A description of the technological contribution and identification of the patents or trademarks which are the subject of the contract;

(c) Details of terms and conditions for the transfer of technology;

(d) The contractual value of all the elements involved in the transfer of technology expressed in a form similar to that provided for registration of direct foreign investment in Decision No. 24 of the Cartagena Agreement and in these rules;

(e) The duration of validity which, in the case of technological contracts concluded after the entry into force of these rules, shall not exceed five years;

(f) The mode of payment and the recipient country.

57. In accordance with its duties as laid down in Articles 20 and 25 of Decision No. 24 of the Cartagena Agreement the Superintendency of Foreign Investments shall be empowered to define, after consultation with the Minister of Development, those restrictive trade and other clauses which, if contained in the contracts referred to in Articles 54 and 55 of these rules, would preclude their registration.

58. Technological contracts signed after the entry into force of these rules shall contain a clause requiring the supplier to train national personnel with a view to making the best possible use of the technology provided under the contract and to promote development and technological research activities in the country.

59. Technological contributions made under the deeds, contracts and agreements referred to in Articles 56 and 58 above shall entitle the supplier to the payment of royalties, subject to the approval of the Superintendency of Foreign Investments, but shall not, however, be deemed a contribution by the owner or supplier of the technology to the capital of the recipient undertaking, whether national or joint.

When technology is supplied to a foreign enterprise by its parent company or by another branch or subsidiary of the same parent company, the payment of royalties shall not be authorized and no deduction for the purposes of tax shall be admissible under this heading.

First paragraph: The following shall be deemed to be technological contributions: any supply, sale, lease or assignment relating to trademarks, patents or industrial designs; assistance with technical processes and administrative procedures through the provision of qualified personnel; instruments, models, documents or instructions concerning manufacturing processes and techniques; and any other article or service of a similar nature which the Superintendency of Foreign Investments deems should be classed as such.

Second paragraph: This provision shall not apply to personal services which are occasional or which represent an amount below the relevant ceiling fixed by the Superintendency of Foreign Investments. The duty to inform the Superintendency of Foreign Investments in advance shall be applicable in all cases.

60. The Superintendency of Foreign Investments may at any time verify that contracts are carried out in accordance with the approved terms and, in this connection, the contracting parties shall, if so requested, report on the activities performed under the contracts and, in particular, on whether the process, patent or trademark is being effectively exploited in satisfactory economic conditions.

In the event of a breach of the terms of an approved contract, the Superintendency may, according to the gravity of the breach, suspend or revoke the registration of the contract, stating its reasons for so doing.

61. Contracts relating to the importation of technology and to patents and trademarks, which were concluded before January 1, 1974, and are still in force, shall be submitted to the Superintendency of Foreign Investments for registration within six months from the date of entry into force of these rules.

62. Payments of royalties and other fees for the use of trademarks, patents or industrial designs shall not be permitted beyond the period of validity of the industrial property titles granted under the Industrial Property Law.

63. The deeds, agreements or contracts, as well as amendments thereto, referred to in Articles 56 and 58, which have not been registered with the Superintendency of Foreign Investments, shall have no legal effect and accordingly shall have no effect either as between the parties or as against third persons.

ASIA AND THE FAR EAST

India

In India, for several years both import of technology and foreign capital investment have been subject to considerable regulation.¹³ The process of approving a foreign collaboration agreement¹⁴ is part of the process of industrial approvals. For industry covered by the Industries (Development and Regulations Act of 1951) the entrepreneur is first given a letter of intent, which stipulates whether or not foreign collaboration will be considered for the project. Thereafter, he goes ahead with other negotiations, including those for foreign collaboration, if permitted. An industrial license is issued only after such negotiations receive the approval of the government.

Although foreign-exchange regulations do not refer specifically to technology license agreements, the power under these regulations to refuse remittances of foreign exchange makes the regulation of technology licensing possible. The policy is to permit sophisticated foreign technology having high priority to be imported that the country could not otherwise acquire.

The Foreign Investment Board (FIB) is authorized to evaluate and approve agreements pertaining to foreign collaboration and which include, *inter alia*, transfer of foreign technology.

According to the Statement on Industrial Policy laid before Parliament on December 23, 1977, foreign collaboration is permitted in fields of high priority, particularly in industries requiring sophisticated technology and/or offering significant export potential. In such areas preference would be for outright purchase of the best available technology and then adapting such technology to the country's needs. The Indian firms permitted to import foreign technology are required in appropriate cases to set up adequate research and development facilities so that imported technology will be properly adapted and assimilated.

Low Priority

The government does not encourage the inflow of foreign technology into areas of low priority and where adequate domestic capacity exists.

In the above-mentioned Industrial Policy Statement the government proposed establishment of a national registry of foreign collaboration in the Secretariat for

Industrial Approvals to monitor the progress of the various proposals of foreign collaboration approved by the government and to determine whether the Indian firms that permitted to import foreign technology have been able to set up adequate research and development facilities so that the imported technology will be properly adapted and assimilated.

Foreign investment and acquisition of technology are allowed only when the terms agreed upon by the government are observed. Where foreign technology is not needed, existing collaboration is not renewed.

For all cases of foreign investment approved, profits, royalties, dividends, etc. may be freely repatriated.

Republic of Korea

The Republic of Korea has adopted over a period of years various laws pertaining to the regulation of flow of foreign technology and development of indigenous technological capabilities.¹⁵ The basic provisions of this legislation are discussed below.

The purpose of the Foreign Capital Inducement Law enacted in 1966 and revised in 1973 and 1976, is to promote the inflow of technology for which the period of royalty payment exceeds one year, together with foreign investment and loans, by allowing tax privileges for royalty payments. The law stipulates the criteria for judging technology to be acquired and sets priorities and procedures for acquiring it. The Economic Planning Board assumes the primary role in approving foreign technology contracts, in cooperation with the Ministry of Commerce and Industry, the Ministry of Science and Technology and other agencies. When an application to acquire foreign technology is considered the need for technology, its content, the method of supply, amount and method of payment, terms and conditions of the contract and economic and technological feasibility in general are reviewed.

The purpose of the Technology Development Promotion Law enacted in 1967 and revised in 1972, is to build up the country's technology capabilities and also to expedite the modifications and adaptations of acquired technology through various incentives, including tax exemptions and financial support. These benefits can be secured by those who acquire advanced foreign technology and incur research and development expenditures to assimilate and improve that technology.

The Engineering Service Promotion Law of 1973 deals with technology contracts for which royalties must be paid for less than one year. The Ministry of Science and Technology holds the primary responsibility for administering the law in cooperation with the Ministry of Finance and other agencies concerned.

In 1976, as a result of the above-mentioned acts, the government decided to centralize its control over technology inflow by establishing the Technology Transfer Center, whose main functions are:

(a) to review and check adequacy of technology and eliminating unfavorable terms of licensing agreements;

(b) To collect and distribute overseas technical information for industry;

(c) To assist industry in identifying and evaluating

relevant technologies, unpackaging technologies, and negotiating for the best terms;

(d) to review technoeconomic feasibility of the project for which foreign technology is proposed;

(e) To arrange for research and development to be carried out to accelerate the digestion and adaptation of foreign technology.

The essential activities of the Center are further refined in order to cut red tape to facilitate the introduction of required foreign technologies. Up to now, technology has been acquired using the same procedures as for capital goods. As a result, many ministries and agencies take part in deliberating on technology-transfer proposals. The procedures for government approval are complicated and time-consuming, making it difficult to cope effectively with the rapidly changing technology market. To remedy this situation and meet mounting needs for technology, technology transfer procedures are to be simplified and the criteria for government reviewing less stringent. According to the revised Presidential Decree for the Foreign Capital Inducement Law, projects involving comparatively small charges and short periods—with advance payment of up to \$30,000 and royalty payment of up to 3% of net sales for up to three years—will be automatically approved with screening procedures hitherto used. Projects with high royalties and those concerned with the defense, nuclear power and computers will continue to be screened by the government as before.

The Philippines

In 1978, by Presidential Decree 1520 a Technology Transfer Board was set up within the Ministry of Industry to perform the central coordinating functions in technology inflow to the Philippines.¹⁶

The Board is composed of representatives from the National Economic and Development Authority, Central Bank of the Philippines, National Science Development Board, Technology Resource Center, Board of Investments and Philippines Patent Office and is chaired by the Minister of Industry or his representative.

All cases of technology transfer arrangements must be registered with the board after due evaluation and in the light of the technology transfer policy promulgated by the board.

Rule I, Sec. 1 of the Decree states: "Technology Transfer Arrangements" shall refer to contracts or agreements entered into directly or indirectly with foreign companies and/or foreign-owned companies having as their principal or accessory objective the transfer, assignment or licensing of technology or trademarks in the following manner:

(1) The transfer, assignment or licensing of the use or exploitation of patents (whether registered with the Philippine Patent Office or not) for inventions, improvements, industrial models and drawings;

(2) The licensing of the use or exploitation of trademarks;

(3) The furnishing of technical know-how and information by plans, diagrams, models, instruction sheets, instructions, formulae, specifications, and training of personnel;

(4) Technical consultancy, services and assistance in whatever form it may be furnished.

Turkey

The inflow of technology into Turkey is regulated by Foreign Investment Encouragement Law No. 6224 of 1954, Petroleum Laws No. 6286 and No. 6987 and Decree No. 17 relating to invisible transactions notifications. The employment of foreign specialists is regulated by Laws No. 2707 and No. 2880.

The aim of Turkey's technological policy is to increase gradually indigenous technological capacities and lesser dependence on foreign technology.

The Foreign Investment Encouragement Law plays a decisive role in technology transfer regulation, covering all cases of transfer within the framework of foreign investment. Excerpts of the law are reproduced below.¹⁷

Subject of the Law

Article 1. This law shall apply to the foreign capital imported into Turkey and to loans made from abroad by the decision of the Foreign Investment Encouragement Committee and the approval of the Council of Ministers provided that the enterprise in which the investment shall be made:

(a) Will tend to promote the economic development of the country;

(b) Will operate in a field of activity open to Turkish private enterprises;

(c) Will entail no monopoly or a special privilege.

The Foreign Investment Encouragement Committee referred to in this article and established according to Article 8, will hereinafter be referred to as "The Committee".

Foreign Capital Base

Article 2. For the purpose of the application of this law, the term "Foreign Capital Base" shall mean the sum of the values assessed and fixed in the manner described hereunder:

(a) The following items imported from abroad for the efficient establishment, expansion or reactivation of an enterprise as envisaged by this law:

(i) Capital in the form of foreign exchange;

(ii) Machinery, equipment, instruments and the like, machinery components, spare parts and materials and other necessary goods approved by the Committee;

(iii) Intangible rights such as licenses, patent rights and trademark and services.

(b) The experts selected by the committee will assess the value of the imported capital in the form of goods, services and intangible rights and will determine whether these are good and values imported for the purpose of the enterprise approved by the Committee.

The assessment made by the experts may be reviewed and modified by the committee.

Simple licensing and know-how agreements are subject to approval procedure in accordance with the Decree on Invisible Transaction Notifications.

The screening and evaluation of technology transfer arrangements is based on three main criteria:

- The novelty of the transferred technology,
- Its impact on production capacity,
- Its impact on export performance.

ARAB COUNTRIES*Iraq*

The legislative framework for technology transfer in Iraq consists of the following laws:¹⁸

Law 21 of 1957 for trademarks (amended in 1962 and 1968),

Law 25 of 1959 on regulation of trademarks,

Law 65 of 1970 on patents and industrial design, Law 22 of 1973 for foreign investment.

Registration of trademarks is assigned to the Office of Registration of Trademarks in the Ministry of Economics. All trademarks together with the names and addresses of their proprietors, description of their goods, declaration of assignments, transfers and cessations affecting them, must be recorded in a register in the custody of the registrar.

Patents and industrial designs are recorded in one Patent Register in the Directorate General of Registration and Supervision of Companies in the Ministry of Economics. The most important statements on technology transfer stipulated in the patent Law 65 of 1970 are given in Articles 27 and 28, which are reproduced below.

Article 27

(1) The patentee shall notify the Registrar of the date of exploitation of the invention within 30 days from the date of initiating the exploitation.

(2) If the invention is not exploited in Iraq within three days from the date of granting the patent or where the exploitation is not commensurate with that country's need and if exploitation of the invention is suspended for at least two years, the Registrar may grant a compulsory license for exploitation of the invention to whoever applies for it. In granting the compulsory license, it is stipulated that the applicant shall be capable of exploiting the invention seriously. The patentee shall be entitled to apply to the Registrar claiming a fair compensation within 90 days from the date of making public the decision to grant the compulsory license; the Registrar's decision to that effect shall be liable to opposition with the Minister within 30 days from the date on which the decision is served on the patentee. The Minister's decision in that behalf shall be conclusive.

Article 28

If the exploitation of the invention is of great importance to the industry and if such exploitation necessitates the use of another invention in respect of which a patent has already been granted, the Registrar may grant the patentee a compulsory license to exploit the former invention in case the proprietor thereof refuses to agree to such exploitation on reasonable terms estimated by the Registrar. And contrary to the foregoing, the proprietor of the former invention may be granted a compulsory license to exploit the subsequent invention if his invention is of greater importance. In granting the license, due regard shall be had to assessing the compensation due to either party against the other in accordance with the terms and conditions referred to in Article 27 of this law.

Technology transfer occurring by virtue of foreign investment is regulated by Law 22 of 1973. According to this law, all investments are classified into three groups and subject to approval:

(a) Investment projects up to \$15 million are the responsibility of the appropriate minister;

(b) Investment projects from \$15 to \$60 million are approved by a steering committee of planning, consisting of the planning minister and representatives from industry, agriculture, transport, building and services;

(c) Investment projects of over \$60 million are approved by the National Planning Board.

Kuwait

The legislative and administrative framework for technology inflow is determined by Decree 2/1961, Decree 4/1962 and Decree 6/1965 promulgating the industrial law.¹⁹

The industrial law established the Industrial

Development Committee, which is responsible among other things for evaluating and approving technology transfer projects. The basic principles of industrial policy of Kuwait are set forth in articles 7-15 of this law. The articles creating legislative and administrative framework are reproduced below.

Article 7. No new industrial firms may be set up or any alteration, whether in their capacity, size, location or industrial purpose may be introduced, unless a permit to this effect has been obtained in advance from the Minister of Commerce and Industry.

Article 8. As from the date of the enforcement of this law, the permit specified under Article 7 may not be granted except to Kuwaiti nationals, whether these be individuals or companies established in accordance with the provisions of the law of commercial companies, and provided that the responsible manager shall be a Kuwaiti national or the majority of the members of the Board of Directors be Kuwaiti nationals.

Non-Kuwaiti nationals owning any existing industrial firms at the time of the enforcement of this law and having no Kuwaiti partners in possession of 51% of the capital of the industrial firm shall complete liquidation of their works within two years from the date of enforcement unless they satisfy the provisions of this article within the registration period provided for under Article 6 hereof.

Article 9. Granting or refusal to grant the permit shall be subject to the recommendations of the Industrial Development Committee, which will be issued within 60 days from the date of application.

In case it was recommended not to grant the permit reasons are required to be stated. In case the application was approved the Minister of Commerce and Industry shall issue a resolution specifying the conditions according to which the permit shall be granted; and these conditions shall be recorded in the permit certificate and shall cover the following points, in particular:

(A) The industrial firm to join Kuwait Chamber of Commerce and Industry;

(B) The firm to adhere in production to the measurements and specifications defined by laws and resolutions issued in this respect;

(C) The firm to observe the conditions laid down by any other government authority for the purpose of maintaining general security and public health.

Morocco

Technology transfer to Morocco is regulated only in the context of the foreign investment policy. The basic stipulations are contained in Decree 2-76-479 issued on October 14, 1976, and a series of laws enacted in 1973 that provided for some privileges for investors in Morocco.

Decree 2-76-479, relating to contractual works, supply or services for the state established the institutional procedures for technology inflow; technology transfer projects are approved by responsible ministers on the recommendation of their departments.

Saudi Arabia

The flow of technology from abroad is governed by Foreign Capital Investments Regulation Decree No. 35 of 1964.²⁰

According to Article 1, foreign capital is defined as any coin, currency notes, securities, machinery, equipment, spare parts, raw materials, products, transportation facilities and intangible rights, such as invention rights, trademarks and similar assets, where such capital is owned by a natural or corporate person who is not of Saudi Arabian nationality.

Article 2 spells out that:

"Foreign capital shall be entitled to benefit from the terms hereof where the following two (2) conditions have been fulfilled:

(a) That the capital shall be invested in economic development projects not including, for the purposes hereof, projects of the petroleum or mining industry;

(b) That such investment shall be licensed by the Minister of Commerce and Industry acting on the recommendation of the committee provided for in Article 5 hereof."

According to Article 3, "All applications for license to invest foreign capital must be submitted to the Foreign Capital Investments Bureau of the Ministry of Commerce and Industry on the form prescribed, for the purpose of supplying such information as may be required by the Minister of Commerce and Industry. The applicant should submit written evidence in support of the information contained in his application."

According to Article 4: "The Foreign Capital Investments Bureau shall transmit to the Chairman of the committee, provided for in Article 5 hereof, the applications received by the Bureau and any information and documents submitted therewith, together with a detailed memorandum concerning each such application. The chairman shall call a meeting of the committee whenever the need arises.

"Article 5: A committee for foreign capital investments shall be set up at the Ministry of Commerce and Industry and shall be composed as follows:

"The Deputy Minister of Commerce and Industry or his substitute in the event of his absence to act as chairman

"A representative from the Ministry of Finance and National Economy

"A representative from the Ministry of Agriculture

"A representative from the Ministry of Petroleum and Mineral Resources

"A representative from the Supreme Planning Board and

"The Director-General of Industrial Affairs at the Ministry of Commerce and Industry."

Sudan

Technology inflow in the Sudan is regulated primarily by the Trademarks Act of 1969, the Trademarks Rules of 1969, and the Patent Bill of 1971, excerpts of which are reproduced below. Some other issues are dealt with in the Development and Encouragement of Industrial Investment Act of 1974 and the Promotion of Agricultural Investment Bill of 1976.²¹

The Trademarks Act of 1969—Section 22 Licensing

Article 2: Arrangements relating to the use of a registered trademark by related persons must be recorded, at the instance of either party, within a period of six months from the date of the instrument and upon payment of the prescribed fee and the Registrar shall issue a certificate of registration under his hand in the prescribed form. The registration shall be as from the date of application and its duration shall not in any case exceed that of the mark itself. On failure of such recordal, the license shall be null and void.

Article 3:

(a) The minister may, by order, provide that

agreements concerning the use of trademarks by related persons, and amendments or renewals of such agreements, which involve the payment of royalties abroad shall require his approval, taking into account the needs of the country and its economic development;

(b) The transfer of royalties abroad shall be subject to existing currency regulations.

The Patent Bill of 1971

Provisions of the Patent Bill related to technology transfer are mainly contained in Part I, Chapters VIII and IX, which settle the rules for patent licensing and Part II, which relates to technical know-how contracts. Basic stipulations are reproduced below.

Part I. Chapter VIII Contractual Licenses

Section 28. License contracts

(1) The applicant for or owner of a patent may, by contract, grant to some other person or undertaking a license to exploit his invention.

(2) The license contract shall be in writing and shall require the signatures of the contracting parties.

(3) Every license contract shall be registered in the Patent Office, on payment of a fee prescribed by the regulations the license shall have no effect against third parties until such registration.

Section 32. License contracts involving payments abroad

The Minister may, having regard to the need of the country and its economic development, by order, provide that, on pain of invalidity, license contracts or certain categories thereof, and amendments or renewals of such contracts, which involve the remittance of money abroad, shall require the prior approval of the Minister.

Section 33. Invalid clauses in license contracts

(1) Clauses in license contracts or relating to such contracts shall be null and void in so far as they impose upon the licensee, in the industrial or commercial field, restrictions not deriving from the rights conferred by the patent.

Part I. Chapter IX Compulsory Licenses

Section 34. Compulsory license for nonworking and similar reasons

(1) At any time after the expiration of a period of four years from the date of the filing of an application for a patent, or three years from the date of the grant of a patent, whichever period last expires, any person interested may, in accordance with the conditions specified in Section 44, apply for the grant of a compulsory license upon one or more of the following grounds:

(a) That the patented invention, capable of being worked within the country, has not been so worked within the terms of subsection (3);

(b) That the working of the patented invention within the country does not meet on reasonable terms the demand for the product;

(c) That the working of the invention within the country is being prevented or hindered by the importation of the patented article;

(d) That, by reason of the refusal of the registered owner of the patent to grant licenses on reasonable terms, the establishment or development of industrial or commercial activities in the country is unfairly and substantially prejudiced.

(2) In all the above cases, a compulsory license shall not be granted if the owner of the patent justifies himself by legitimate reasons but importation shall not constitute a legitimate reason.

Tunisia

Technology transfer from abroad is regulated by Law 69-35 of 1969 relating to the creation of an investment code and Law 74-74 of 1974 relating to investments in the manufacturing industries for domestic market and Law 69-35 requires prospective investors to obtain approval for their investments from the State Secretariat of Planning and National Economy.

All investments are classified into three categories with different tax treatment:

(a) Category A covers all investments up to D50,000.

(b) Category B covers all investments that create at least 10 permanent working places with capital of D50,000-D250,000.

(c) Category C is reserved for investment projects creating more than 50 permanent jobs with capital of over D250,000.

According to Article 4 of Law 74-74, all cases of investment for the purpose of reconverting, expanding, re-equipping or transferring a manufacturing enterprise, are subject to the license or to the declaration requirement.

Article 5 spells out the types of investment subject to the license requirement. These are:

—“Direct or indirect investment made by nonresidents or foreign nationals.

—“Investment made through importation of used capital goods.

—“Investment totalling D250,000 or more, exclusive of working capital; this amount may be modified by decree.

—Investment in certain activities whose list is set up by decree.”

The license is issued by the Minister of National Economy, on the advice of the Investment Promotion Agency. Failure to start the implementation of a licensed or an approved project within a year from the receipt of the license or the approval, will cause the license or approval to be withdrawn on the advice of the Investment Promotion Agency.

Algeria

The legislative framework for technology inflow in Algeria is in its early stage. The basic law regulating technology transfer is Avis 72 of February 1, 1973, of the Ministry of Finance dealing with the financial aspect of technological arrangements.²² According to this law all contracts are submitted for registration. During the First Plan they were followed by the Central Bank. Later, when a decentralization took place, the task of controlling the contracts were coordinated between the Central Bank and the Planning Secretariat. The lack of trained professionals, however, did not allow deep analysis of the contracts, and the task was left to relevant directors in the Ministries. Contracts referred explicitly to industrial property, are scrutinized at INAPI (Institut Nationale Algerien pour Propriete Industrielle).

EUROPE

Portugal

Decree-Law No. 239/76 of April 6, 1976, defined a code for direct foreign investment in Portugal and laid

down general conditions for this kind of investment and fixed the rights and guarantees inherent in accepting it.

Among the principles underlying this code was the recognition of the value of foreign investment for national economic development provided that it was harmonized with national economic policy. Thus, the Decree-Law attempted to establish balance between safeguarding the interests of the country and encouraging the foreign investor.

In these circumstances, it has become necessary to revise the provisions of Decree Law No. 239/76²³ and to publish a new code of foreign investment which should take into account the system of selectivity and control which is necessary in the national interest, and at the same time contribute toward the promotion of investment.²⁴

As regards transfers of technology, the system of case-by-case authorization has also been maintained in view of the importance which such transfers may assume in the development of a national technological capacity within the scope of the plan and their possible contribution toward this objective within the framework of an overall policy; furthermore, existing agreements for the transfer of technology which have not already been appraised by the Bank of Portugal shall be submitted to the institute for registration purposes, since this will better safeguard not only the national interest but also of the bodies supplying the receiving the technology.

The Institute of Foreign Investment has maintained its responsibility for the evaluation of investment projects and for the granting of the respective authorizations as well as for the presentation for approval to a higher authority of applications for investment under the contractual regime.

The said institute works closely with the Bank of Portugal and with all State organizations which are required to give an opinion on such projects and will, for all purposes, be the only body with which the investor has to deal.

The Bank of Portugal as the central bank and under the guidance of the government kept its responsibility for monetary and exchange matters and especially for the control of exchange operations. The excerpts of the law are reproduced below.

Chapter V Transfer of Technology

Article 25

(1) Joint agreements for the transfer of technology between residents in Portugal and residents abroad shall in all cases depend on special and prior authorization being granted by the competent authority.

(2) Appeals against decisions taken by the competent authority may be made to the Minister of Planning and Economic Co-ordination.

Article 26

(1) Agreements for the transfer of technology are deemed to cover all acts and transactions in connection with:

(a) The sale of or the granting of rights for the use of patents, trade names, models, drawings or inventions as well as the transfer of other non-patented know-how;

(b) The rendering of technical assistance in the field of company management, the production or marketing of any goods or services which entail expen-

diture arising from consultation with or the movement of experts, the drawing up of plans, the supervision of production, market studies or personnel training;

(c) Agreements with specialized companies for the construction or maintenance of industrial units, roads, bridges and ports;

(d) Any other form of technical assistance.

(2) Even when connected with direct foreign investment or with investment in branches of foreign companies, transfer of technology is deemed to be covered by the provisions of this chapter.

Decree 53/77

Regulations Governing Transfer of Technology, August 24, 1977

Having regard to the provisions governing agreements for the transfer of technology as contained in Articles 25 to 28 of Decree-Law No. 348/77 of August 24, the government decrees, under the terms of subparagraph (c) of Article 202 of the Constitution, the following:

Article 1

The drawing up of agreements for the transfer of technology between residents in Portugal and residents abroad, as well as the alterations or renewal thereof, shall in all cases depend on special prior authorization being granted by the Institute of Foreign Investment, hereinafter referred to as the Institute.

Article 2

(1) The provisions of this decree shall apply to all agreements for the transfer of technology, whether or not they involve industrial property rights, whether or not private or public bodies or international organizations are parties thereto and whether or not they are drawn up individually or in conjunction with direct foreign investments.

(2) Also covered by the provisions of this decree are transfers of technology in which the recipients are associate companies, branches or any other form of representation of foreign companies.

Article 3

Agreements for the transfer of technology are deemed to cover all acts or contracts in connection with:

(a) The granting or licensing of rights for the use of patents, trade names or marks, models, drawings or inventions as well as the transfer of other non-patented know-how;

(b) The rendering of technical assistance for company management and for the production or marketing of any goods or services entailing expenditure arising from consultation with or the movement of experts, the drawing up of plans, supervision of production, market studies or personnel training;

(c) Agreements with companies specialized in the construction and maintenance particularly of industrial units, roads, bridges and ports;

(d) Any other form of technical assistance.

Article 4

(1) Agreements for the transfer of technology as well as all or any alteration thereto shall be deemed legal, especially for payment purposes, only when duly appraised, authorized and registered by the institute.

(2) The full text of draft agreements for the transfer of technology is to be submitted in triplicate to the institute, which may request any clarification necessary for the appraisal thereof and which will give its decision thereon within a period of 90 days renewable for one further period of 90 days by order of the Minister of Planning and Economic Coordination.

Spain

Dramatic changes in the treatment of the flow of technology into Spain were introduced by Decree 2343 of September 21, 1973, which established a register for

technology transfer contracts, followed by the Ministry of Industry Order of December 5 of the same year. Excerpts of both acts are given below.²⁵

**Decree 2343 of September 21, 1973,
Regulating the Transfer of Technology**

Article 1

The transfer from abroad of technology set out in documented contracts, covenants and agreements, the regulation of which is the purpose of this Decree, may take one or more of the following forms:

- (a) Transfer of patent rights and other types of industrial property;
- (b) Transmission of non-patented knowledge, of plans, magnetic tapes carrying digital information, diagrams, specifications and instructions and, in general, the transfer of confidential information applicable to productive activities that has been accumulated by and is the property of the enterprises controlling it;
- (c) Project study and development, preparation of preliminary or feasibility studies and technical plans for the execution of projects; services connected with the assembly, construction and operation of plants and their maintenance and repair;
- (d) Any aspect of research, analysis, programming, consultative and advisory services for management and administration;
- (e) Staff training and re-training, whether or not connected with those services;
- (f) Technical or economic documentation and information services;
- (g) Other forms of technical assistance.

**Ministry of Industry Order of December 5, 1973,
Regulating the Entry of Contracts for the Transfer
of Technology in the Register Established by
Decree No. 2343 of September 21, 1973**

Section 1

1.1 The duty to apply for entry of documented contracts, covenants and agreements in the Register established by Decree No. 2343 of September 21, 1973, shall relate to all contracts, covenants and agreements under which foreign technology is acquired directly or indirectly through the agency of a Spanish national, regardless of the nature of the consideration given by the recipient of the technology; that is to say, in a tangible form, monetary or otherwise, or in an intangible form.

1.2 Such application shall be made by any individual or corporation domiciled, resident or legally established in Spain who is a recipient of technology.

OTHER COUNTRIES

Nigeria

There is very little legislation in Africa concerned directly with the transfer of technology²⁶ except in Nigeria. In 1970 Nigeria issued a Patents Act (Decree No. 60) and in 1979 the National Office of Industrial Property (NOIP) was established. Its tasks cover among others the approval and registration of all contracts related to technology transfer. In connection with this aspect of technology regulation the Decree spells out:

Section 5

(1) Every contract or agreement which on the date of the coming into force of this decree had been entered into by any person in Nigeria and which still has effect on the commencement of this decree in relation to any matter referred to in Section 4(d) of this decree shall be registered with the National Office in the prescribed manner not later than six months after the commence-

ment of this decree.

(2) As from the commencement of this decree, every contract or agreement entered into by any person in Nigeria with another person outside Nigeria in relation to any matter referred to in Sec. 4(d) of this decree shall be registered with the National Office in the prescribed manner not later than 60 days from the execution or conclusion thereof.

(3) Every application for the registration of a contract or agreement under this section shall be addressed to the director and shall be accompanied by such number of certified true copies of such contract and agreement and by all other related documents and information as may be specified in any particular case by the director.

NOTES

1. Decision No. 24 of December 1970 of the Commission of the Cartagena Agreement "Common Rule of Treatment for Foreign Capitals and on Trademarks, Patents, Licenses and Royalties". English translation of the law was provided in "Key Legislative and Administrative Acts and Measures Affecting and Regulating the Flow of Foreign Technology in Selected Developing Countries" — ID/WG.275/2, April 11, 1978.
2. Transfer of Technology Law; Law No. 21.617, Buenos Aires, August 12, 1977. English translation was provided in "Key Legislative and Administrative Acts", op. cit. ID/WG/275/2 p. 76, April 11, 1978. See also J. Otamendi - Update on Licensing in Argentina, *Les Nouvelles*, Journal of the Licensing Executives Society, September 1979, Vol. XIV, No. 3, pp. 194-198.
3. Ato. normativo No. 015 de 11 de setembro de 1975, Revista de propriedade industrial Brazil, No. 256 setembro 16, 1975.
4. Act 30, Official Bulletin, Brazilian Patent Office, January 30, 1978.
5. Act 32, Official Bulletin, Brazilian Patent Office, May 9, 1978.
6. See D. A. Daniell—The Pulse of Brazil's INPI, *Les Nouvelles*, Journal of the Licensing Executive Society, March 1979, Vol. XIV, No. 1 pp. 44-55.
7. Law for the registration of the transfer of technology and the use and exploitation of patents and trademarks, December 28, 1972, Official Bulletin, December 30, 1972 - for a detailed analysis of this Law.
8. See R. Domino - Environment for Licensing in Peru, *Les Nouvelles*, Journal of the Licensing Executives Society, March 1979, Vol. XIV, No. 1 pp. 39-43.
9. Supreme Decree No. 001-71-IC/DS, Normes Legales, Argentina, Vol. 59 at 1971.
10. Decree Law 18900, Decree Law 21826, Normes Legales, Argentinian, Vol. 60 at 321 (1971) and Vol. 83 at 334 (1977).
11. Supreme Decree 287-68-HC; Decree Law 21953, Normes Legales, Vol. 61 at 404 (1968); and Vol. 86 at 249 (1977).
12. See Decree No. 63 of April 23, 1974, "Regulations under the Common Regime for the Treatment of Foreign Capital on Trademarks, Patents, Licenses and Royalties"; Decree No. 746, February 11, 1975, "Technology Contract Registration"; Decree No. 2.442, November 8, 1977, "Regulation governing common treatment of foreign capital, trademarks, patents, licenses and royalties". English translation of said laws is given in "Key legislative and administrative acts. . ." op. cit., ID/WG/275/2; April 11, 1978.
13. See: National Approaches to the Acquisition of Technology, UNIDO, Development and Transfer of Technology Series, New York 1977.
14. In India, the term "foreign collaboration agreement" is widely used and also covers in principle direct foreign investment; joint-venture agreements and technology-transfer agreements such as licensing agreements and service contracts.
15. See: Bak-Kwong Keng—National Approach to the Acquisition and Adoption of Technology—in the Case of Korea, Ministry of Science and Technology, Republic of Korea, September 11, 1978.
16. Provided to UNIDO by the Ministry of Industry of the Government of the Republic of the Philippines.
17. English translation of the law is given in "Key Legislative and Administrative Acts." op. cit., ID/WG.275/2, April 11, 1978.
18. See: Situation of Industrial Property in the Arab States, WIPO, Geneva 1978, pp. 45-50.
19. Law No. 2 of 1961 on Trademarks, Tradenames and Protection Against Unfair Competition; Law No. 4 of 1962 on Patents and Industrial Designs, in: Situation of Industrial Property . . . op. cit. pp. 57-62.
20. Decree No. 35 of 1964 on Foreign Capital Investments Regulation, Official Gazette, January 1964.
21. See: Situation of Industrial Property . . . op. cit. pp. 97-100.
22. Avis No. 72 du Ministere des Finances fixant le procedure et

les modalites de transfert de fonds au titre des contrats conclus par les entreprises publiques nationales avec les entreprises etrangeres, Ministere des Finances, Direction des Finances Exterieures, Republique Algerienne Democratique et Populaire, 1er Fevrier 1973.

23. Detailed description of regulation system of technology transfer may be found in an article by H. A. Janiszewski, F. Bello, E. Ferreira, "Licensing in Portugal" in *Les Nouvelles* of

March 1979, Volume XIV No. 1 pp. 36-38.

24. Foreign investment code, Institute of Foreign Investment, Lisboa 1977, Decree Law No. 348/77.
25. Key legislative and administrative acts. . . op. cit. ID/WG.275/2, April 11, 1978.
26. See: National Approaches to the Acquisition of Technology, Development and Transfer of Technology Series No. 1; UNIDO, New York 1977.