

Thoughts on the Third World

An examination of views of 'developing nations' and owners of technologies; a search for common ground

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I should like first to reflect on the import of the stimulating title which has been chosen for this Congress promoted by LES International and LES Italy.

The question "Can licensing help this overcrowded planet to survive?" may well give rise to a degree of perplexity, in that the two terms which it places alongside one another — on the one hand, the very future of the human race, with the innumerable problems which condition it, and on the other licensing, which is after all only an "instrument" — may seem somewhat out of balance.

During the first few months of 1976, the population of the world topped four billion; by the year 2000 it should reach six and a half billion (according to the more "optimistic" projections) or over eight billion (according to the more "pessimistic" ones).

The problems of survival and progress for so enormous a number are unprecedented. Besides, the overall picture which is affected by them includes, as is well known, a marked imbalance in the distribution of the world production between the "rich" and the "poor" areas of the globe. And, what is even more alarming, the gap in absolute terms between rich nations and poor is widening rather than narrowing.

Inadequate Tool

So it is not, perhaps, so surprising that some should judge licensing an inadequate instrument with which to tackle a problem of such enormous proportions, if by licensing we mean what has often been meant in the past, namely those agreements and operations via which patented industrial property is transferred.

The problem and the proposed instrument appear better balanced. On the other hand, if one takes "licensing" to mean (as is becoming increasingly common) all the various kinds of operations and agreements which involve the transfer of technical and scientific know-how, the technologies (i.e. not only patents in the strict sense, but also agreements covering the assembly of products, joint ventures envisaging production and distribution, etc.). Moreover, if we think in more theoretical terms, we might well deter-

mine that in asking whether the transfer of technologies can help in solving the problems which beset the world of today, we are not taking for granted an affirmative answer to another question further back in the same line of reasoning: whether technology as such is able to solve these problems.

This type of question — which until a few years back would have seemed absurd — should perhaps no longer be laughed away *a priori*, especially since a number of

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"futurologists," in particular the authors of the well-known MIT report on the limits of development, have attempted to show that the large-scale application of new technologies in solving the problems of our planet would avoid neither the rapid exhaustion of natural resources nor a decline in the production of foodstuffs, not to mention the fact that it would undoubtedly lead to an uncheckable increase in environmental pollution.

If these forecasts throw the capacity of massive use of technology to solve the problems facing humanity, and in particular the imbalance between rich and poor nations, into a somewhat gloomy light, there are a number of rather more optimistic estimates.

For example, according to the projections published by the Hudson Institute, in 200 years a world population of 15 billion will be able to count on a total gross product of \$300,000 billion (as opposed to \$5,500 billion today), giving an income of no less than \$20,000 per head (as against \$1,300 today).

Whatever we feel about the role which technology can play in reducing the gap between rich and poor nations, the fact remains that those directly involved — i.e. the emerging nations — see development and technology as the sole solution to their problems: in the words of the President of Mexico, Luis Echeverria, "only the process of technological development can save us." This conviction finds support in the following consideration: that even within the category of countries which are called "developing" (or, perhaps more realistically, "under-developed") there are considerable gaps, so much so that some observers have postulated the existence of *two* distinct sub-categories: first, those countries which are characterized by "profound underdevelopment", and those which may be defined as merely "economically retarded" or "under-industrialized" (i.e. whose economy has reached an evolutionary threshold which makes it feasible to suppose that they will shortly emerge from the condition of "underdevelopment"). Examples of this latter category are Argentina, Mexico, Venezuela, and South Korea.

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It has been properly pointed out that the countries which make this latter group, though differing widely, have one factor in common: at a certain point in their history, they have all received a considerable technological contribution from an industrialized nation. In a word, then, it may safely be predicted that over the next few years we shall see an increase in technological exchange between the industrialized nations and the developing countries. And yet, if one looks closely at the current situation in the field of licensing agreements, it emerges that such exchanges occur mostly between the major industrialized nations, the proportion involving the developing countries being rather low. It has been calculated, for example (though one should bear in mind that this is only an estimate and should be taken with a pinch of salt), that some two-thirds of the exports of licenses on the part of the German Federal Republic, France, and the United Kingdom are to other western industrialized countries, while only one-third goes to developing nations (and among these are a number of countries, such as Spain, which have in fact already achieved an appreciable degree of industrialization). Indeed, taking the worldwide picture, it has been calculated that a mere 8% of the trade in licenses goes to developing countries.

If we are to estimate the demand for technology on the part of the developing countries over the next few years, we should perhaps take as our starting point (as is now usual in discussions on this topic) the objective set in March 1975 by the Lima conference of UNIDO: this states that by the end of the century the developing countries should reach one quarter of total world industrial production, as against 7% at present.

It is clear that the development of increased production capacity on the part of these countries — even if they do not reach the very ambitious 25% target fixed at Lima — takes for granted an increase in their technological powers for which there would seem to be only two possible origins: either the autonomous development of their own technological capacity, or the purchase of technologies from the industrialized nations. While the autonomous development of technological capacity is theoretically speaking the better way, in that it would contribute more to the prosperity and the autonomy of these countries, it must be recognized that it is also the longer and more arduous route.

Purchase Indispensable

As things stand, then, the purchase of technologies from the industrialized nations — and their adaptation, where necessary, to meet the needs of the purchaser — would appear to be indispensable; and from a number of angles it is probably the least costly and the most immediate solution to the problem.

In directing their attention toward the purchase of technologies from the industrialized nations, the countries of the Third World have for some time now, and with considerable energy, been asking for low prices and preferential conditions.

In practical terms, this attitude has been translated into the proposal for a "code of conduct" to regulate

the transfer of technologies, fixing favorable terms for the developing countries. It is worth stopping for a moment at this point to consider a question of principle.

According to a number of authorities in the Third World, and also certain sectors of opinion in the industrialized countries, there is a basic contrast, in the whole complex question of underdevelopment, patents, and know-how, between the Third World's need for patents and technologies and the fact that these patents and technologies are mostly in the hands of a certain number of industrial concerns whose operating principle is the profit factor. That is, there is said to be a fundamental contradiction between the private interests of the owners of patents and technologies and the general interest of the underdeveloped countries, which latter interest can no longer be considered separately from the interest of the world as a whole.

Different Planes

For my part, I am of the opinion that no such contradiction exists, for the two things are on two entirely different planes. Indeed, the private ownership of patents and technologies and the consequent search for a profit in related commercial operations are factors which must be considered on the plane of *economic activity*, as expressions of the commercial company ethos, which includes the right and the duty to strive after profitability as a condition for survival and efficiency. The need of the developing countries to be assisted in developing or acquiring the necessary technologies, on the other hand, must be seen as an aspect of the *political responsibilities* of nations and of supra-national bodies. It is on this latter plane, therefore, that one must work out and put into practice the appropriate forms of assistance and financing — as the European Community is planning to do on the basis of the Lomé Convention, signed by 46 emerging countries of Africa, the Caribbean, and the Pacific, which came into force in April 1976.

To turn to the request for a "code of conduct" to regulate the transfer of technologies, there is a deep divergence of views between the developing countries, who wish to make the observance of such a code obligatory, and the industrialized nations, who have refused to accept this coercive aspect. The fourth U.N. conference on trade and development, which ended in Nairobi in May 1976, and which was to have decided whether or not to make the application of such a code obligatory, did not in the event decide either way, and postponed consideration of the problem to a special U.N. conference to be convened at the end of 1977: meanwhile, an intergovernmental team of experts will continue work on the drawing up of a code.

The slow pace of the negotiations between the industrialized nations and the developing countries on this subject — as on other subjects, starting with the fundamental topic of the prices of raw materials and the indebtedness of the Third World — may well give rise to a degree of exasperation among the developing countries. However, at least as far as the problem of the so-called code of conduct for the transfer of technologies is concerned, it seems not unfair to say, in the context of the specific themes of this Congress, that

slowness is not necessarily inopportune, if it allows us to reach a realistic and reasonable result (i.e. more reasonable and realistic than are certain aspects of the codes so far presented for discussion).

Without going too deeply into the ins and outs, it is worthwhile recalling once again that the transfer of technologies is not, in general, an operation which can be carried through via the sale of whole "bundles" of know-how: rather, it involves a process of transmission of information and training of personnel, an osmosis between licensor and licensee in which the element of trust is dominant. In this connection it is worth pointing out that certain "guarantee clauses" requested by the developing countries do not exactly help to foster this atmosphere of trust: such clauses are seen by their proposers in a purely juridical light, whereas in such matters as the adaptation of technologies to the particular needs of the licensee or the training of personnel or the desired productivity targets, the best and perhaps the only real guarantee is wide-reaching long-term collaboration unhampered by excessively rigid legal formulas.

One of the topics of this congress is the "price" of technologies. Now when this question comes up for discussion there is usually a certain divergence of opinion, in that the developing countries declare their anxiety at price levels, while the representatives of the industrialized nations point out that these prices are in general reasonable enough. It seems hardly worth while going into a topic which will be examined in depth during this congress. But it is perhaps not out of place to formulate a number of brief observations:

—It is recognized, even by the representatives of the developing countries, that companies which possess technologies have a perfect right to ask a reasonable price for their transfer. It may be added that, should the transfer of technologies come about free of charge or on payment of a nominal fee, this could have a distorting effect on the choices made by the developing country concerned. In other words, it seems only right and proper, and moreover in line with a correct choice on the part of the "receiving" country, that this choice should be made on the basis of market prices and not of symbolic charges or artificially low prices.

—It goes without saying that this does *not* mean that the developing countries should not be able to ask (and obtain) grants and other forms of assistance at the ap-

propriate level (i.e. state or international bodies) to enable them to acquire the technologies which they feel it is proper to purchase. Once one has accepted the principle that technology should be paid for at normal market prices, there still remains the question of how to define a "normal market price" for the various types of technology and for the various situations.

A number of distinctions need to be drawn here: between conventional technologies and the more sophisticated forms; and between technologies which are transferred lock, stock, and barrel, exactly as used by the licensor, and those which have to be specially developed or adapted for the needs of the licensee.

In general, it seems reasonable to say that the price should be higher in the case of advanced technology and also in those cases where a considerable amount of work has to be carried out in order to meet the licensee's requirements.

I should like to conclude these observations on the transfer of technologies with one last consideration. It is widely recognized that one of the most important aspects in ensuring satisfactory transfer is efficient training of personnel in the country which is on the receiving end. And this aspect of the operation should not be neglected by those who are involved in discussing and negotiating the economic, legal, and financial conditions of the individual transfers. In other words, it should be borne in mind that not a few of the problems which crop up during negotiations over agreements to transfer technologies stem from the fact that those doing the negotiation, on both sides, have a vastly different approach to problems: this means that hours and even weeks of discussion may be necessary before an effective common denominator is reached permitting the talks to progress satisfactorily.

Meetings such as this congress — which comprises experts in licensing from the industrialized countries and from companies and government bodies in the developing countries — can, if the discussion is carried on in a sufficiently open manner, give a notable contribution toward a better understanding of the complex problems involved in the transfer of technologies, facilitating the definition of common objectives and jointly-agreed solutions. I very much hope that the debate which is to follow will enrich the experience of all the participants.