

Technology Consortia and R&D

Canada must continue to encourage the participation of our firms in cooperative research efforts undertaken by the private sector in countries accounting for most of the world's R&D: the U.S., the EC and Japan. Such technology consortia have become increasingly important and can eventually stimulate much broader cooperation through more comprehensive inter-firm alliances on production and marketing. One key policy issue in this regard is whether government involvement with technology consortia (e.g., through government funding, defence-related and other contracts, and anti-trust or other regulation) creates disguised and unfair discrimination among investors through a denial of national treatment. Analysis of U.S. technology consortia indicates that, in many cases, Canadian firms are excluded, either explicitly or implicitly.⁵⁸

In the NAFTA negotiations, Canada sought, for greater certainty and with some support from Mexico, explicit recognition of the applicability of the non-discrimination principle to government dealings with technology consortia that might include enterprises of another NAFTA Party that were prepared to bring their own funding and research capability to the consortia. The final NAFTA text does not include such an explicit provision. There are strong national treatment and MFN provisions in the chapter on investment, but these do not apply to procurement, subsidies or grants provided by a Party. This caveat could allow U.S. authorities to claim that a potential Canadian participant in a U.S. consortia that enjoys U.S. government funding or contracts would "inevitably" profit, even if only indirectly, from such benefits and, therefore, that the non-discrimination principle need not apply, even if discrimination could be proven. This approach can effectively block Canadian participation.

Currently in the EC, Canadian companies can participate as sub-contractors on projects enjoying Community funding and with an important R&D component. However, the Canadian firm has no proprietary rights to the intellectual property that may result from a project. Canada and the EC will soon engage in negotiations aimed at ensuring national treatment for Canadian firms that seek to participate as full partners in EC-funded projects, with rights to the intellectual property created. It is for consideration whether we should seek to expand this cooperation one stage further to so-called "programmes" covering designated sectors, although this would entail a larger government-level commitment to financing that may not be feasible into the foreseeable future.

⁵⁸ For an example, see Lipsey, "Economic Growth", pp. 211-2.