

Equitable Principles a binding legal instrument run counter to fundamental notions of sovereign authority through territorial jurisdiction.

WIPO

The role played by intellectual property in the transfer of technology should not be underestimated. In the World Intellectual Property Organization (WIPO), developing countries are voicing increasing concern that the international patent system inhibits development. They point out that about five-sixths of the patents registered in developing countries are in foreign hands, and that over 90 per cent of those are never used or "worked" in their countries. In their view, intellectual property rights may serve to block domestic production while increasing the market power of foreign corporations. Developing countries therefore call for recognition within WIPO that countries with more limited technology infrastructures should not be subject to equal restraints under the Paris Convention for the Protection of Industrial Property. Exceptions and qualifications within the international patent system have been suggested.

For Canada, as I have suggested, it is clear that transfer of technology will not be enhanced unless it is in the interest of the supplier as well as the recipient to do so. Technology transfer must take fully into account the interests of technology suppliers and innovators. The transfer and licensing of technology is facilitated by the existence of industrial property rights — patents, trademarks, know-how, trade secrets — which protect the interests of the transferor of technology and ensure a financial return on the technology supplied. For this reason we have supported the positions generally taken by other Western, industrialized countries at the Conference to revise the Paris Convention.

Export controls and COCOM

Important restrictions on the transfer of technology may also be imposed by export controls. Under Canada's export control legislation, export permits are required for a wide range of strategic goods and technologies. There are over 160 main items controlled as well as hundreds of sub-items as defined in the Export Control List (ECL). In addition, most goods of US origin are controlled under the ECL. A person requires a permit to export goods identified on the ECL to all destinations, except the majority of exports to the United States. The Export and Import Permits Act creates a criminal offence for improper exports, and provides for fines up to \$25 000 and/or imprisonment for up to five years. The Department of External Affairs regularly distributes a notice to exporters, setting out in more detail requirements for obtaining an export licence.

The controls that apply to exports of strategic goods are based on national security considerations and are co-ordinated on an international basis. Canada, along with its NATO partners (except Ireland and Spain), as well as Japan, participates in an international arrangement known as the Co-ordinating Committee, or COCOM. The purpose of COCOM is to maintain multilaterally agreed on controls on the shipment of military and strategic goods and technologies to the Warsaw Pact countries and China.

Within the COCOM forum, International Control Lists are established that define goods and technologies considered to be strategic, including Industrial, Munitions and Atomic Energy Lists. These lists are used as the basis for the domestic national security controls maintained by each member country.