

argument that it is neither desirable nor feasible for states to undertake legal obligations that would require wholesale government supervision and control of the activities of their nationals. The developing countries have argued that these Codes must be legally binding in order to be effective. To date only the Principles and Rules on RBP's have been completed and they are voluntary. While the developing states eventually agreed to a legally non-binding RBP instrument, the group would not accept any direct reference to its voluntary nature. The point was sidestepped by stating in the resolution of the Conference submitting the set of Principles and Rules to the United Nations General Assembly for its final adoption that all decisions have been taken necessary "for its adoption as a resolution". Resolutions of the United Nations General Assembly are not considered as legally binding. It is generally accepted, although not finally agreed upon, that the Transfer of Technology code will be voluntary and probably the TNC code will also be of a non-binding character. Both these exercises may adopt the procedure devised during the RBP negotiations to resolve this delicate issue.

Another thorny problem resolved at the RBP negotiations and which may have implications for both the other two negotiations is the scope of application as to whether state enterprises would be included. This was strongly opposed by the socialist states of Eastern Europe, although they gave way during the final round of negotiations and the state-owned company is included under the definition of "enterprises".

In the Transfer of Technology code itself, in addition to its legal character, the question of applicable law is one of the most controversial unresolved issues. Canada, along with the other developed countries, has proposed maintenance of the freedom of the parties to transfer of technology agreements to choose the law applicable to their contracts and the fora for the settlement of disputes arising therefrom. Developing countries insist that the laws of the host state, usually a developing one, should apply, including the referral of disputes arising out of such transactions, to fora in the host state. On the question of arbitration, the developed countries would favour the identification or establishment of some kind of procedure while the developing countries are extremely reluctant to consider recourse to third parties.