
**Working Group on Trade and Transfer of Technology
Sixth Session**

NOTE ON THE MEETING OF 13 AND 26 MAY 2003

Chairman: H.E. Mr. Stefán Jóhannesson (Iceland)

A. ADOPTION OF THE DRAFT AGENDA

1. The draft agenda, contained in Airgram WTO/AIR/2091 of 2 May 2003 was adopted.

B. SUBMISSIONS BY MEMBERS

2. The European Communities submission entitled "Reflection Paper on Transfer of Technology to Developing and Least Developed Countries" (IP/C/W/398 - WT/WGTTT/W/5), had been introduced at the fifth session of the Working Group. The representative of the European Communities, in reintroducing the paper said that it was an attempt to contribute to Members work of coming up with an appropriate definition of the concept of technology. The paper gave an illustration of the various channels by which transfer of technology takes place as well as the importance of absorptive capacity in the recipient country. Some delegations said that although the definitional aspect of technology was important and should be kept in mind, it should not be the focus of the work by Members. One delegation reiterated the importance of a country's absorptive capacity in acquiring technology from abroad. Another delegation, emphasized the efforts that developed countries should make to facilitate transfer of technology.

3. Switzerland's submission on "Creating Incentives for the Transfer of Environmentally Sound Technologies" (WT/WGTTT/W/7) examined the Swiss experience of transfer of technology to developing countries based on an hands-on experience with centres working in the field of transfer of Environmentally Sound Technologies (ESTs). The representative of Switzerland stated that technology was essentially in the hands of private actors and activities to improve technology transfer needed to either focus on improving conditions at the firm level or improving the regulatory framework. Technology transfer should be regarded like any other economic activity with agents on the demand and supply side. Various incentives to foster technology transfer needed to be supported by measures to reduce impediments on the demand and supply side. Those included a stable, clear and enforced enabling environment and, especially in the case of ESTs, the existence of a price regime including, as far as feasible, external environmental costs. Many delegations agreed that the enabling environment had a key role to play in the successful transfer of technology. One delegation believed that an open and transparent investment regime underpinned by rules in the WTO would complement successful development strategies that included technology transfer as one means to facilitate development. Another delegation noted that both the Swiss and European Communities submissions attempted to demonstrate that a strong IPR system was a fundamental element in facilitating technology transfer. This delegation stressed that studies carried out in that area indicated that under a strong IPR regime, some developing countries were actually able to emerge as newly industrialized countries. Other delegations felt that developing countries could reap long-term benefits from a strong application of IPRs only after they had reached a certain level of industrialization. The effects of IPRs also depended on the technological nature of a country's economic activities. It was only after a country had acquired a scientific and technological infrastructure that could carry forward creative imitation that IPR protection could become a

fundamental element for the transfer of technology. Any assessment that did not take that into consideration was incomplete.

4. One delegation stated that the notion that a strengthened IPR system, open trading regime and an open investment climate would lead to technology transfer was not entirely correct. In order to facilitate transfer of technology to developing countries, there needed to be a good policy mix from both the perspective of the host and home countries. As a stimulus to innovation, patents would be most relevant where a country possessed a solid knowledge base, a good enterprise structure and financing mechanism in order to sustain a process of innovation. However, those conditions did not exist in the majority of developing countries. However, another delegation stressed that an open-ended trading system was critical to fostering technology transfer. Technology was essentially in the hands of the private sector and therefore a lack of strong IP enforcement or the lack of a stable transparent investment climate would hinder the cross-border supply of technology. One delegation stated that TRIPS and TRIMS limited the transfer of technology and in many cases reduced the ability of countries to innovate. Some delegations agreed that focusing their discussions in one particular direction would not be helpful. One delegation pointed out that in addition to other factors, financial constraints faced by developing countries limited technology transfer. In that delegation's experience, a good investment climate and a strong IPR regime did not necessarily facilitate technology transfer. Another delegation mentioned its positive experience with transfer of technology through the establishment of an EST centre in its country. Some delegations sought clarification as to the incentives that would foster transfer of technology and asked what conditions they would have to meet in order to have centres established in their countries.

C. POSSIBLE RECOMMENDATIONS ON STEPS THAT MIGHT BE TAKEN WITHIN THE MANDATE OF THE WTO TO INCREASE FLOWS OF TECHNOLOGY TO DEVELOPING COUNTRIES

- COMMUNICATION FROM CUBA, INDIA, INDONESIA, KENYA, PAKISTAN, TANZANIA AND ZIMBABWE (WT/WGTTT/W/6)

5. The delegations of Nigeria and Venezuela associated themselves with the joint communication from the delegations of Cuba, India, Indonesia, Kenya, Pakistan, Tanzania and Zimbabwe (WT/WGTTT/W/6) on "Possible Recommendations on Steps That Might be Taken Within the Mandate of the WTO to Increase Flows of Technology to Developing Countries". A number of delegations welcomed the suggested recommendations in the paper which they believed could constitute a good basis for recommendations to the General Council. While introducing the paper, the representative of India said that although discussions in the Working Group had enabled Members to gain some understanding of technology transfer, there was a need to focus attention on concrete and practical steps that Members might take in line with the second part of the mandate dealing with possible recommendations to facilitate transfer of technology to developing countries. The issues highlighted in the paper were by no means exhaustive and the co-sponsors of the paper reserved the right to make additional suggestions if necessary. One delegation stated that the submission was a clear manifestation of the fact that developing country Members attached great importance to the Working Group. This delegation believed that the recommendations contained in the paper would go a long way in not only providing an impetus to the ongoing work of the Working Group at the conceptual level, but also provide a substantive input towards the realisation of technology transfer to developing countries. For developing country Members, transfer of technology was not an end in itself but a means to an end, the end being developmental objectives. Another delegation said that the recommendations in the paper were important with a view to ensuring that technology transfer serves as a means of promoting development as envisaged in the Doha Ministerial Declaration.

6. Some delegations were of the view that the Working Group was not in a position to make recommendations of the kind suggested in the paper and stated that they could not support those recommendations. They felt that Members had not yet sufficiently explored issues to make recommendations. Some delegations felt that there was no clear consensus on the future work of the

Working Group and that it would be inappropriate for the Working Group to assume that it would continue beyond Cancún. One delegation said that the spirit in which the recommendations had been made was for future work in the Working Group to be focused in certain areas. Some delegations believed that a number of the recommendations addressed elements that were within the jurisdiction of other WTO bodies and therefore felt that the Working Group should not duplicate that work. One delegation stated that if transfer of technology was regarded as a cross cutting issue that should be dealt with in other WTO bodies, then that rationale should be equally applicable to other Working Groups.

7. Some delegations stated that there was no evidence to support the presumption that WTO agreements hindered the transfer of technology and for that reason were not convinced of the merits of a review of those provisions as had been recommended in the paper. These delegations opposed any approach that would implicitly or explicitly endorse a coercive approach to technology transfer. That would have unintended effects, including potentially damaging decreases in investment flows in technologically-intensive goods and services. Some of these delegations also believed that several recommendations in the paper went beyond the competence of the WTO and believed that technology transfer could be improved through forms of cooperation outside the WTO. One delegation stated that the Working Group was not a forum to review the implementation of WTO agreements. Other delegations stated that developing countries had recommended a review of existing WTO agreements because they believed that some of the existing provisions had not adequately served developing country Members particularly in the area of technology transfer. They also said that although technology transfer was largely in the hands of the private sector, this did not undermine the role of the Working Group or governments in trying to influence increased technology transfer to developing countries.

D. ELEMENTS OF THE REPORT TO THE GENERAL COUNCIL

8. The Chairman had sent out an indicative guideline, prepared on his own responsibility, of the possible structure of the Working Group's report to the General Council. Members generally agreed with the Chairman's proposed structure of the report. However, there was divergence of views with respect to the last section of the report relating to recommendations. One delegation said that the report must be factual, balanced and needed to clearly reflect differences in Members views. Some delegations also stated that in their view the Working Group had only a mandate up to Cancún and recommendations would prejudice that work was to continue after Cancún. These delegations opposed any recommendations to be included in the report. Other delegations felt that while there was more work to be done Members were still in a position to make recommendations to the General Council. These could include recommendations about the focus of the future work in the Working Group, including the issues raised in the submission by a group of developing countries, as well as in other submissions that had been made in the Working Group. Another delegation, supported by a number of developing countries, stated that the last part of the mandate contained in paragraph 37 directing the Working Group to make recommendations was clear and was the operative part of the mandate. Accordingly, a report which did not include possible recommendations would not be acceptable.

E. OTHER BUSINESS

9. The Chairman informed Members that the last formal meeting of the Working Group would be held on 10 July in order to adopt the report to the General Council.
