

The Use of IP Rights in the Transfer of Technology Under Multilateral Environmental Agreements (MEAs)

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THE USE OF IP RIGHTS IN THE TRANSFER OF TECHNOLOGY UNDER MULTILATERAL ENVIRONMENTAL AGREEMENTS (MEAs)

- **Publication:**
- Audience: MEAs negotiators, policy makers at national level, WIPO negotiators and IP practitioners
- Objective: explain the technological needs under MEAs and the opportunity IP system may offer

THE USE OF IP RIGHTS IN THE TRANSFER OF TECHNOLOGY UNDER MULTILATERAL ENVIRONMENTAL AGREEMENTS (MEAs)

Part I – MEAs, Technology Transfer and IP

1 – Introduction

2 -The Role of Technology in Implementing MEAs

2.1 - Technology and the Environment

2.2 - An Overview of Technology-related Provisions under MEAs

2.3 - Conclusion: MEAs, technology and IP issues

3. IP System and Transfer of Technology

3.1 Introduction to the IP system and transfer of technology

3.2 The Transfer of Technology and IPRs

3.3 Conclusions on IP and Technology Transfer

4 The possible uses of IPRs in the transfer of technology under MEAs

Part II – case studies

Sovlux Photovoltaics and Sovlux Batteries

Brazilian Biomass Power Demonstration Project

In-well volatile organic compound removal

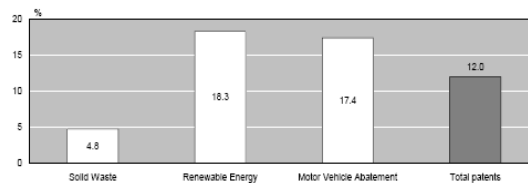
HFC-134a technology

Part III – observations and recommendations

Technology and environment

- Increasing use of technology (increasing patent filing)

3.7.1. Trends in patents filed under PCT in selected environmental technologies¹
Average annual growth rate, 1995-2004



- 1. Patent applications filed under the PCT, at international phase, designating the EPO.
- *Source:* OECD, Patent Office Japan and European Patent Office, "Compendium of Patent Statistics 2007." p. 26-27

MEAs and identification of appropriate technology

- Different process in each MEAs
- SBSTTA: scientific subsidiary body
- Panel of experts
- Tools for implementation: Technical Guidelines:
 - Technologies for the destruction and decontamination of POPs
 - matrix on adaptation to climate change technologies)

IP in Agenda 21

- Chapter 34 - one of the objectives:
 - « to promote, facilitate and finance, as appropriate, the access to and transfer of EST and corresponding know-how, in particular to developing countries, on favorable terms, including on concessional and preferential terms, as mutually agreed, taking into account the need to protect IP rights as well as the special needs of developing countries... »

Transfer of Technology in MEAs

- Provisions on transfer of technology in MEAs –
 - some MEAs more technology intensive than others
 - Some MEAs separate process in place (CBD and CC)
- Implementation of transfer of technology provisions:
 - Politicized discussions at global level
 - Not sufficient treatment as a stand-alone issue
 - Little or no capacity of delegation on TT

IP in MEAs

- Not covered consistently
- Indirect reference: in fair and most favorable conditions or terms », including on « concessional and preferential terms where mutually agreed. »
- CBD and CCD only texts that refer to IP explicitly: TT need to be undertaken taking into account IP regulations.
- IP in Technical Guidelines (POPs)

Perception of IP in MEAs

- IP as an obstacle to technology transfer?
 - UN Forum on Forest secretariat: IP is an obstacle to TT
 - Human Development Report 2007/2008 on climate change: not clear if IP is an obstacle
 - Technical Guidelines for POPs
 - Limited knowledge on IP issues

What we do not know

- Case studies of TT with schemes of « concessional and favorable terms »
- Case studies and trends of TT with “concessional and favorable terms” in other sectors
- Case studies on IP as an opportunity, not as an obstacle (source of information, market, tools)

Some conclusions

- Need for a case-by-case approach
- Need for a thorough assessment of technology needs – TNAs (demand for technology)
- Need for a proper clearing house or « market place »
- Need for a practical approach: different « contract schemes »

Some recommendations

- WIPO and IP organizations presence at MEAs COP and other meetings
- Make the CBD-WIPO-UNCTAD work known to other MEAs
- WIPO playing facilitative role in discussions on TT under MEAs
- Studies – IP by MEA
- Tools such as PATENT SCOPE
- Capacity building