



Implementing Technology Transfer obligation from MEAs: The Bilateral Option

Life Sciences Symposium: Patent Landscaping and Transfer of
Technology under Multilateral Environmental Agreements

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Dalinyebo Shabalala
dshabalala@ciel.org

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The Bilateral Option

- Technology transfer provisions have proliferated in MEAs
- They are some of the least implemented provisions of MEAs
- The proliferation of bilateral FTAs may present an opportunity
- Technology transfer in environmental chapters of FTAs or other agreements

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Element I: Definitions

- **Environmentally Sound Technologies (ESTs)**
- **Modes of Technology Transfer include:**
 - **Transfer of Physical Capital and Goods**
 - **Transfer of Skills and Know How**
 - **Transfer of Information and Data**
 - **Facilitation of Investment and Joint Ventures**

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Element II: Procedures

- **Sectoral Identification of Environmentally Sound Technologies (ESTs):**
 - **Conducting TNAs**
- **The National Focal Institution (identified in Article IV of this Chapter) shall request the relevant national patent authority to carry out a patent status exercise to determine which technologies in the sectors identified by the Technology Needs Assessment of the other parties are patented and which are in the public domain**

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Element III. National Focal Institution (NFI)

- The parties shall identify a National Focal Institution (NFI) in each Party responsible for transfer of ESTs.
- The NFI shall take measures, taking into account the need to protect intellectual property, to acquire and transfer technology and scientific knowledge relating to industrial and technology sectors based on the TNAs provided by other Parties' on their EST needs.

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Element IV: Joint Transfer of Technology Committee (JTTC)

- The parties shall establish a Joint Transfer of Technology Committee (JTTC) composed of researchers, technologists, engineers, academics, and legal experts on technology transfer.
- The JTTC shall meet *twice a year*.
- The JTTC shall be responsible for:
 - Monitoring, assessing and evaluating implementation of the transfer of technology provisions of this Agreement

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Element V: Assessment and Evaluation

- Within the first 6 months from the date of the entry into force of this agreement, the JTTC will develop a questionnaire to be filled out by National Focal Institutions and returned as part of the annual progress report. The questionnaire shall be based on the obligations undertaken by parties in this agreement, in particular, the substantive measures in Element VI and the measures to be taken by the National Focal Institution in Element III. The questionnaire will include, but shall not be limited to:
 - Progress on identifying and making available information in the database of technologies in sectors identified by Parties' Technology Needs Assessments.
 - The number and nature of licenses or sub-licenses that the National Focal Institution has contracted out in sectors identified by partners' Priority Needs Assessment
 - On grant terms
 - On concessional or preferential terms
 - On commercial terms
 - The scope, nature and distribution of projects aimed at delivering technology transfer through the modes described in Element VI:
 - transfer of physical capital and goods
 - transfer of skills and know-how
 - transfer of information and data
 - investment and joint ventures

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Element VI: Substantive Obligations

- Physical Capital and Goods
 - INDUSTRIALIZED COUNTRIES parties shall provide financing assistance for institutions and enterprises from developing country partners to purchase more environmentally sound Capital Goods and Equipment from INDUSTRIALIZED COUNTRIES institutions and enterprises in sectors identified by the developing country Party's Technology Needs Assessment
 - INDUSTRIALIZED COUNTRIES parties shall provide financing assistance for environmentally sound upgrading of infrastructure in sectors identified by developing country Parties' Technology Needs Assessment.
 - INDUSTRIALIZED COUNTRIES parties shall provide financing to developing country partners and institutions to purchase scientific, engineering and laboratory equipment to enable research and development in sectors identified in the developing country Parties' Technology Needs Assessment.

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Element VI: Substantive Obligations

- Skills and Know How
 - The Parties public scientific and technological academic and research institutions shall exchange scientists and technological and other experts. Selection will be based on sectors as identified in the Technology Needs Assessment as carried out by the Parties. INDUSTRIALIZED COUNTRIES will make available formal funding mechanisms, coordinated by the National Focal Institution, to enable participation of developing country party scientists and technological and other experts.
 - Preference in INDUSTRIALIZED COUNTRIES Party funding for research and development shall be given to projects that have a majority of the research and development taking place in the territory of a developing country Party in sectors identified by the developing country or least developing country Party's Technology Needs Assessment. INDUSTRIALIZED COUNTRIES states shall make appropriate alterations to national legislation to enable the provisions in this article on developing country partner access to INDUSTRIALIZED COUNTRIES research and development funding programmes for environmentally sound technologies.
 - Parties shall hold sector-specific workshops, seminars and conferences aimed at training and communicating the best available knowledge and skills for the construction, operation and maintenance of technologies relevant to sectors identified by the respective Parties' Technology Needs Assessments. INDUSTRIALIZED COUNTRIES Parties shall provide technical assistance and financing for such workshops held in developing country and LDC partners.

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Element VI: Substantive Obligations

- Information and Data
 - INDUSTRIALIZED COUNTRIES shall provide financing for developing country Party libraries and educational and other public research institutions to access scientific and technical journals and publications. This shall include, but is not limited to:
 - The establishment of Academic and Institutional Library Consortia to enable developing country institutions access to electronic publications held in institutions in INDUSTRIALIZED COUNTRIES.

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Element VI: Substantive Obligations

- Investment and Joint Ventures
 - INDUSTRIALIZED COUNTRIES Investment support, guarantees, fiscal and other incentives shall give Technology to business ventures that are joint ventures or partnerships with institutions or enterprises in signatory partners and that contractually enable transfer of skills and know-how relevant to sectors identified by Technology Needs Assessment in the respective Parties. Priority shall be given such ventures with institutions and partners in developing country partners.
 - Parties will hold Sector-specific Missions and Fairs to enable business contacts between relevant private actors in sectors as identified by respective Parties' Technology Needs Assessments.