INTER-AMERICAN BAR ASSOCIATION
FEDERACION INTERAMERICANA DE ABOGADOS
FEDERAÇÃO INTERAMERICANA DE ADVOGADOS
FÉDÉRATION INTERAMÉRICAINE DES AVOCATS

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LETTER TO MEMBERS

June 1977

XX CONFERENCE — ATLANTA, GEORGIA

REPORT OF SECRETARY GENERAL
John O. Dahlgren

Our XX Conference was held in Atlanta, Georgia, from April 30 to May 6, 1977. The Committee sessions were held at the Atlanta Hilton Hotel and the Plenary Sessions at the World Congress Center. The Governor of Georgia, the Hon. George Busbee, was the principal speaker at the Opening Session on Sunday May 1, and the Hon. Terence A. Todman, Assistant Secretary of State for Inter-American Affairs, was the special representative of President Carter and the main speaker at the Closing Session on Friday evening. The Hon. Dean Rusk, former Secretary of State and now a Professor at the University of Georgia Law School, and the Hon. Victor C. Folsom, former IABA President, presided over a special Plenary Session on Thursday morning, on the Central Theme "Constitutional Development in the Countries of the Americas, beginning with the Constitution of Philadelphia". The Working Paper on the Central Theme was prepared by Victor C. Folsom. Panelists at this session were: Dr. Humberto J. La Roche, Rector of the University of Zulia, Venezuela; Dr. Jose Vicente Troya Jaramillo, Dean, Catholic University of Ecuador Law School; Dr. Carlos Jose Gutierrez, former Dean, University of Costa Rica Law School; Lic. Jose Luis Siqueiros, President, Federation of Mexican Bar Associations, and Dr. Jorge Reinaldo Vanossi, Professor of Constitutional Law, Argentina. Attendants at the Conference included delegates from more than 15 nations of the Western Hemisphere. The following international organizations were represented by observers: Organization of American States, by Dr. Francisco Garcia Amador and Dr. Isidoro Zanotti; the Inter-American Development Bank, by Dr. Jorge Lamas; the Inter-American Defense Board, by Col. Cecilio Dorce; the American Society of International Law, by Harry A. Inman, and the Inter-American Copyright Institute, by Dr. Natalio Chediak and Dr. Patrice Lyons.

Several Committees held special programs throughout the Conference. *Com. I. Public International Law* discussed matters dealing with immigration and nationality. Its Section A. considered major current problems on the law of the sea. A showing of movies "Ocean Frontiers" and "Windows to the Arctic" was presented by Rear Adm. J. Edward Snyder, Jr., Oceanographer of the US Navy and Capt. John Brock, USN (Ret.) *Sec. D. Inter-American Air Law* discussed unification of Inter-American air law and the Warsaw Convention. *Com. II and Com. III* held sessions jointly with their respective Sections to discuss various topics. *Com. IV. Sec. A. Housing and Urban Law* had as guest speakers Dr. Jorge E. Lamas, Counsel, Legal Department, Inter-American Development Bank, who spoke on the subject of housing development in Latin America, and E. Larry Fonts, of Central Atlanta Progress Inc. who dealt with the subject of urban planning in the Atlanta area. *Com. V* and its *Section C. Intellectual and Industrial Property* held several sessions to discuss matters dealing with the international transfer of technology, patents and trademarks, the Inter-American Copyright Institute and the enactment of new copyright laws. *Com. VII. Sec. F. Communications, and Com. XVI. Space Law*, met jointly to discuss technical and legal developments on telecommunications and the developing technology in the proposed use of solar energy. The sessions included a showing by Christian Paterman, Counselor of the Embassy of the Federal Republic of Germany, of the film "Helios". *Com. IX Labor Law* discussed matters pertaining to labor law and related subjects of particular interest to lawyers specializing in this field. Harmonization concepts for the codification of tax laws in the Americas was one of the subjects discussed by *Com. X. Fiscal Law*. This Committee was authorized by the Conference to prepare a comprehensive study on pertinent legal institutions for submission to the next Conference. *Com. XI. Legal Aspects of Development and Integration* held joint sessions with *Com. VII. Sec. G. Capital Markets* and *Com. V. Sec. C. Intellectual and Industrial Property* to discuss subjects dealing with foreign investments, transfer of technology and the European Common Market as background for Latin American integration. Its Section B. discussed legal problems relating to commercial boycotts and submitted a basic outline of principles for a draft model law on monopoly and restrictive commercial practices which was approved by the Conference. A special program for Deans of Law Schools from various Latin American countries was conducted by *Committee XII. Legal Education*. Guests included: Dean Jose Vicente Troya Jaramillo, Law School, Catholic University of Ecuador, Dean Ignacio L. Melo, Law School, Universidad La Salle, Mexico; Dean Alfredo Morles Hernandez, Law School, Catholic University Andres Bello, Venezuela; Dean Sergio Gaete, Law School, Catholic University of Chile; Dean Mario Lopez Escobar, Faculty of Law and Political Science, National University, Asuncion, Paraguay; and Assistant Dean Francisco Antonio Pacheco, Law School, University of Costa Rica. *Com. XIV. Activities of Lawyers* held several sessions jointly with Sections A and B and discussed subjects dealing with professional ethics, disciplinary authority and social security for lawyers. *Com. XV Natural Resources* met jointly with its Sections A, B and C. The Committee adopted a resolution on exchange between the American nations of information on environmental law developments, and encouraging its Section C. to make a) a survey of existing referral services and information exchanges to determine which are appropiate for use by IABA members; b) a survey of IABA members to determine the nature of specific environmental concerns; c) a bibliography identifying sources of information available to IABA members. By Council action, this resolution will be carried out under the direction of the Executive Headquarters. Similar action was taken by the Council with respect to certain resolutions adopted by other Committees also recommending the exchange of informaton and the undertaking of additional studies prior to the XXI Conference. *Com. XVII. Military Law* considered papers on a variety of subjects including proposed changes to the laws of war, combating drugs abuse in the armed forces and use of armed forces to maintain internal order. Particular attention was given to publicizing the work of the Committee as a means of encouraging the future participation of military lawyers from a greater number of countries. The Committee also co-sponsored a special presentation on terrorism. *Com. XVIII. Human Rights* and its *Sec. A. Legal Status of Women* held several sessions and joined in a Seminar on Human Rights organized and held on Wednesday by the Inter-American Bar Foundation. *Com. XIX. Food and Drug Laws* discussed recent developments in food and drug laws and made recommendations with respect to the chemical pharmaceutical industry and the Codex Alimentarius Commission. *Com. XX. Nuclear Law* submitted two suggested forms of national laws: "Basic law governing the peaceful uses of nuclear energy" and "Legislation concerning civil liability and financial protection for nuclear damages", both of which were approved by the Conference.

All Committees were in accord in recommending re-structuring of the Permanent Committees and Sections so as to coordinate their studies in line with the objectives of IABA. Our Council will consider the changes required and the Executive Headquarters will be most appreciative of suggestions from IABA members. Many constructive suggestions have already been submitted.

John L. Gornall, Jr., as Chairman of the Local Organizing Committee of our hosts in Atlanta, the State Bar of Georgia and the Atlanta Bar Association, most ably arranged for Conference facilities and social functions which included a welcoming reception on Sunday evening, sponsored by the American Bar Association, and a closing reception on Friday, offered by The Coca Cola Company.

We are indebted to our many patrons for their support to the XX Conference. Their names will be included in the Conference Proceedings.

Enclosed with this letter is a supplement containing the XX Conference Resolutions.

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(*) A Council member to be designated by the National Member Association and by the Executive Committee and Council in those countries marked with an asterisk.

PAPERS PRESENTED TO THE XX CONFERENCE — We are most appreciative of the excellent contribution by the authors.

Working Paper: "Constitutional Development in the Countries of the Americas, beginning with the Constitution of Philadelphia by Victor C. Folsom, U.S.A.

COM. I "Las Raices del Problema del Extranjero Ilegal y Recomendaciones para extirparlas", by: Antonio C. Martinez, USA

"Domestic Constitutional implications of the exchange of prisoners between the United States and Mexico" by: Pieter D. Speyer, USA

Sec. A "Mare Liberum of Mare Clausum: Which is the wave of the future?" by" Linda A. Caruso, USA

"The Seabed as Common heritage of Mankind — A Concept of International Law de Lege Ferenda" by: John A. Vosburgh, USA

"Informe sobre el Derecho Consuetudinario del Mar en el Estado actual de su Desarrollo" by: John G. Laylin, USA

COM. II "Procedimientos Judiciales Internacionales" by: P.A. Yurrebaso Viale and Jose M. Videla del Mazo, Argentina

Sec. A "The OAS Convention on taking evidence abroad and the Convention on Letters Rogatory: Do they harmonize our two disparate Systems of Procedure?" by: Harry LeRoy Jones, USA

COM. III "La influencia de la Constitucion de los Estados Unidos de Norteamerica en la Constitucion de la Republica Argentina" by: Jorge Reinaldo Vanossi, Argentina

"Libertad de trabajo y seguridad social en la problematica constitucional" by P.A. Yurrebaso Viale y Jose M. Videla del Mazo, Argentina

"La Nacionalidad Historica-Filial, ante el Derecho" by: Carlos La Rosa, Peru

Sec. A. "Defensa de la Independencia del Poder Judicial y el Principio de la Inamovilidad de los Jueces" by: Adhemar H. Bricchi, Agentina

Sec. B. "Demora y congestion en los tribunales" by: Adhemar H. Bricchi, Argentina

COM. V "Nueva Ley sobre operaciones de credito de dinero en Chile" by: Jose M. Eyzaguirre G.

Sec. C "Patent Problems in International Construction Contracts: Protecting the contractor and ensuring greater competition" by Eugene T. Holmes, USA

"How Importation of Technology Leads to exportation of the same' by: Karl F. Jorda, USA

"Activities the Inter-American Copyright Institute (ICI)" by Natalio Chediak, USA

COM. VI "International Commerical Arbitration in the Americas" by: David J. Padilla, USA

Sec. A. "International Commerical Arbitration in Mexico" by Humberto Briseno Sierra, Mexico

"Prospects for ratification by the United States of the Inter-american Convention on International Commerical Arbitration, and the role of lawyers" by Frank E. Nattier, USA

COM. VII Sec. A. "Fideicomiso de prestaciones sociales de los trabajadores venezolanos" by: Horacio G. Villalobos, Venezuela

Sec. F. "Telecommunications — Technical and Legal Developments with reference to the Americas — 1975-1977" by Katherine Drew Hallgarten, USA

"Ordenamiento Juridico de la Asociacion de Empresas Estatales de Telecomunicaciones del Acuerdo Subregional Andino - ASETA" by: Sergio Gonzalez Urzua, Chile

Sec. G "Investor protection aspects of Shareholder Information Systems" by James Boyde Page, USA

"Investors' remedies under the new Lei Das Sociedades Anonimas do Brasil" by: Antonio Carlos de Araujo Cintra, Brasil

COM. IX "Industrial Peace and Stability: A Problem with international Dimension by Betty Southard Murphy, USA

COM. X "Pautas aproximativas para la Codificacion fiscal americana" by Manuel de Juano, Argentina

COM. XI "Problemas Constitucionales de la Integracion Lationamericana' by Adehemar H. Bricchi, Argentina

Sec. B "Outline for the drafting of a model law on monopoly and restrictive commerical practices" by: Enrique Aftalion, Argentina

COM. XII Sec. B "The United States Magistrate System" by: Richard W. Peterson, USA

COM. XIV Sec. A. "Estudio de los progresos realizados respecto a la codificacion uniforme de reglas sobre Etica Profesional de los Abogados" by: Adhemar H. Bricchi, Argentina

COM. XV Sec. A "Juridical structure of Oil and Gas Joint Venture Operations in the Americas" by: Emory C. Smith, USA

"Current problems of crude oil and product marketing in the Americas" by: Peter M. Frank, USA

Sec. B "Current status of Agrarian Reform in Latin America" by: John L McGann, USA

Sec. C. "Proposal for compiling information on environmental law of the Americas for exchange between countries" by: Joseph Fleming, USA.

COM. XVI "Legal Procedures for International Cooperation in the production of electricity from Solar Energy through the use of Satellites in Geostationary

INTER-AMERICAN BAR ASSOCIATION

XX CONFERENCE

ATLANTA, GEORGIA

April 30 - May 7, 1977

COM. V - Sec. C - Topic 1

COM. XI - Topic 3

HOW IMPORTATION OF TECHNOLOGY LEADS TO EXPORTATION OF THE SAME

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Armonk, N.Y.

April 1977

"It was technology that eliminated pestilence, dramatically improved our health care, made our cities flourish, provided machines that freed humans from so much backbreaking toil, and made deserts bloom."

. . . . . .

"Science & Technology must answer our problems. If they do not, nothing else will."

William T. Ylvisaker, Nation's Business, December 1976, p. 43.

IMPORTANCE OF TECHNOLOGY

It is almost impossible nowadays to find a nation which does not resort to technology to help solve its problems. Technology can save man from desperation. There is sufficient technical knowledge to cure the major infectious diseases which affect millions around the globe. There is sufficient technical knowledge to produce enough food to do away with hunger and malnutrition which even today is still one of the principal causes of mortality. The technology of communication and transportation has brought together even the most distant villages of the globe. Due to technology man now enjoys a healthy environment with a good supply of pure water and protection by way of shelter and clothing. Day in and day out technology is improving the conditions of human life everywhere. There is no doubt whatsoever about the importance of technology for achieving progress.

Technology can be defined as the systematic application of knowledge to the production of goods and services, that is, technology is a kind of merchandise which often manifests itself in patents and which is subject to the laws of economics relative to the interchange of goods and services. This point must never be forgotten. This is not only true in the so-called capitalist world but also in the socialist, which nowadays also tries to protect, by way of industrial property rights, its technical and scientific innovations and offers them for sale to the international community.

To create and maintain a technological base has been a sine qua non for progress in any country. This technological base is not easily created; for to do so means to break a vicious circle. An undeveloped country has neither the educational nor material means to develop a program which bears technological fruits and these fruits can be only obtained by the use of technology. At the present time enduring wealth of a nation consists more in the accumulation of technology, as represented, for instance, by inventions and innovations, than in the potential of its soil or sub-soil or its manpower. The question is how can a nation share in this wealth which is the greatest wealth of mankind.

THE BEST ROAD TOWARDS PROGRESS

Today much is said about the dichotomy of developed countries, on the one hand, and third-world countries or

underdeveloped or developing countries, on the other hand, and the difference between these lies essentially in the unequal distribution of its scientific and technological capability. Thus, one speaks of the technology gap. Transfer of technology can bridge this gap and is destined to be a fundamental instrument in industrial development.

Current debates on national and international levels show that there is consensus on the urgent need to reduce the technological and socio-economic gap between countries with widely different stages of development. It is agreed that more balanced progress must be achieved, among other things, by an increased flow of suitable technology from industrial nations to less developed countries under fair and mutually acceptable terms. The complexity of the problem, the avalanche of international studies and reports, as well as the various interests involved and represented by private parties and by supplier and recipient countries, have inevitably led to certain controversies, above all in UN forums, on the adequacy of present and proposed measures for reducing this gap.

With respect to the development of the third-world, it would, of course, make no sense to follow the traditional pattern of technical progress, that is, first establish a scientific infrastructure of a high level which makes pure scientific research possible and then pass on to applied scientific research and only later to technological research as though this was the only manner in which a nation can reach technological independence.

Today the developing countries find themselves actually in a sea of scientific and technological knowledge of enormous proportions which has already been created by developed countries. To ignore this knowledge and know-how and to begin anew or "reinvent the wheel" would be ridiculous.

Generally speaking, research and development, the traditional medium to generate new products and services, is fraught with serious problems. There is a serious investment risk for one thing. Furthermore, a lot of other things have to be developed and done before a product or service can be brought to market. And all of this involves a high degree of uncertainty.

In contrast thereto, transfer of technology is without doubt a much more reliable way to develop a new product or service since it has the advantage that one knows that that which is to be produced can be produced within a reasonable time. Also the investment that is required before a product or service can be launched is rather small and quite often it can be made even after the product or service is already on sale and royalties are being paid.

BENEFITS TO THE RECEIVING COUNTRIES.

For these reasons it is easy to conclude that the advantages inherent in the purchase of technology outweigh the cost, risk and development time involved in the independent development. In other words, acquisition of technology under

favorable conditions is better than development of the same. Even if the technology has to be adapted as far as scale, quality, etc., is concerned it is still better to acquire it than develop it from scratch. Such technology is already proven and may already have been licensed in other countries where it has been adapted and has also proven itself.

Thus, from a practical point of view it is definitely more feasible on an industrial level to think in terms of an independence acquired in this way rather than by way of onerous and risky developments of the technology starting from a very low base or even a non-existent base. In the succeeding stage and after some use of the technology it is possible to improve it and modify it and, what's more, there is the distinct possibility of eventually sublicensing the technology to countries at a similar stage of development or lesser developed countries taking advantage of the process of adaptation and assimilation through which the technology has passed.

This emphasizes that the cost of importing the technology is money well spent because in time it will not only replace importation of products but increase exportation of products and eventually even exportation of the technology.

As is well known, investment in research and development is of high profitability because after a certain level is reached which of course is reached more rapidly if

technology is acquired, the productivity increases almost always more by virtue of the technological innovation than by virtue of additional work force or man power.

Technological development, therefore, brings about economic progress in a form which manifests itself in industrial and agricultural efficiency and generally also in a constant increase of production and productivity. Besides, technology can help fight under-employment and unemployment provided it is not the most advanced technology known which is employed but rather that which takes advantage of available man power which is in abundant supply in the third world. In this manner not only the problem of under-employment and unemployment is being resolved or helped but also a better distribution of income and other social and humanistic goals are achieved.

THE PROBLEM WITH TECHNOLOGY TRANSFER

Technology transfer has its problems and dilemmas. The principal problem lies in the fact that corporations in industrialized nations that have created a wealth of technical and scientific knowledge by virtue of great efforts and large investments, consider it their property and are not ready to give it away free. It is evident that a company will not transfer technical know-how which it took lots of money and time to acquire unless due compensation or remuneration can be expected.

There is quite a difference in the understanding and positions with respect to transfer-of-technology contracts. Developing countries consider such a contract a simple contract of the sale of technology and for this reason believe that as soon as royalties are paid up after a specified period they are free to do whatever they want with the technology including selling it to third parties. However, developed countries, on the contrary, consider such technology as intellectual property of which they merely license the use.

In the majority of cases the acquisition of technology revolves merely around the question of reasonable cost and acceptable legal conditions with the licensor and the licensee equally sharing in the benefits and the risks which utilization of the technology entails. Unfortunately, rather than look for practical ways in which technology could be acquired by developing countries other considerations of a political and ideological nature play a great role and have a tendency to thwart the progress that could be made.

As a general rule the developing countries sooner or later adopt control measures with respect to contracts entered into with foreigners which relate to licenses involving patents, trademarks, models and know-how and/or have changed their laws with respect to industrial property rights. The best known example in this respect is the Andean Pact which I discussed in greater detail at the last Conference of the Interamerican Bar Association in Cartagena, Columbia two years ago.

MEXICO AND BRAZIL AS TECHNOLOGY EXPORTERS

In the heated debates about technology transfer and the clamor on the part of the developing nations for getting a better deal, it has been overlooked it seems to me that a new stage has been reached where some developing nations have already become developed nations in the sense that they have become technology exporters. In some countries and notably Latinamerican countries, such as, in particular, Argentina, Brazil and Mexico this has already reached very pronounced proportions. In this connection, it is also interesting to note that issuance of patents to nationals in these countries has increased. This follows from the R&D activity carried out in connection with adaptation of imported technology as well as from the internal policy of promotion of independent R&D activity. But what is so noteworthy but little noticed is that export of technology as already stated is in progress in a systematic manner. Mexico is the best example that one can find in this respect.

Mexico is still being considered as a developing country. Insofar as the development of truly new products is concerned, e.g., synthesis of new chemicals, it certainly is not anywhere near the major European countries or the US or Japan. However, Mexico without a doubt has come a long way as regards technological progress. In this context the work carried out presently by the Consejo Nacional de Ciencia y Tecnologia (CONACYT) and the Centro Nacional de Ensenanza

Tecnica (CENETI) in the fields of technical education and selection and assimilation of imported technology must be recognized.

It is also very interesting to point out that Mexico has already sound technology of its own in such fields as agricultural infrastructure as well as such industries as petroleum, beer, cement, glass, steel and others including some in chemical areas. What is more, a full-fledged campaign is under way in Mexico to export homegrown know-how as an article in Business Week, dated August 30, 1977, page 40, describes.

In 1975 Argentina announced plans for the building of a 200 million dollar plant of newspaper pulp which utilizes Mexican technology and Venezuela inaugurated a steel making plant which also uses a Mexican process for direct reduction. And in 1976 the Mexicans were beginning to sell on a worldwide basis a special process for oil refining through UOP of Des Plains, Illinois appointed as their general sales agent.

These three cases indicate that Mexico is coming to the fore as an exporter of know-how which was produced internally. In comparison to the US, Japan and European countries the results are of course still small but since January 1973 until July 1975 which was the last period under investigation the Mexicans took in 137 million dollars by virtue of foreign sales of technology and specialized assistance which, of course, is less than the 500 million dollars which Mexico pays annually for importation of foreign technology. Nonetheless, the Mexicans do believe that they have special incentives to move ahead with their technology export sales campaign.

On the one hand, they want to make up for the expenditure of foreign reserves caused by the purchase of foreign know-how. On the other hand, they are nationalistic enough not to want to depend forever on US, European and Japanese companies for technology.

As the Mexicans see it, their traditional position as technology importers has now been turned into an advantage. "The most important thing which we have is the experience which we acquired by way of importing know-how from abroad". This is what Carlos Rincon the President of Tecnimexico said. Tecnimexico was formed two years ago under the aegis of the Government by 29 companies in order to coordinate the exportation of engineering services. Rincon indicated that it is quite difficult to simply transfer technology from a highly developed country to a poor country. It must be adapted and they have accomplished such adaptation to their needs which are quite similar to those of other Latinamerican countries.

For this reason and because of bonds of language Mexican technology has first been exported to their southern neighbors. The HYLSA process for direct reduction, for instance, which was developed by Hojalata y Lamina, the largest private steel company in Mexico with the collaboration of Kellog of Houston, was first sold to Brazil in 1969 and has since also been bought by Venezuela. The technology DEMEX, invented by the Mexican Petroleum Institute for Petroleos Mexicanos (Pemex),

the state oil monopoly, in order to extract metals from crude petroleum during the refining process, has been sold to ECOPETROL, the state petroleum company of Columbia as well as to Jamaica. The method CORTINA conceived by I. C. CONSTRUCCIONES to reinforce steel structures is used in Columbia and Venezuela. And Peru and Argentina have bought the CUSI process, a method developed by the Bufete Industrial for the manufacture of paper pulp. Lately, Mexican technology has also been found outside of Latin America. Steel plants which incorporate the HYLSA process are being planned or are being constructed in Iran, Irak, Indonesia and Zambia. The CORTINA technology has been bought by business men of Saudia Arabia to be used in projects of the Department of Housing, and the DEMEX process is even being used in the United States in an expansion of a 210 million dollar refinery in Corpus Christi, Texas.

It is not easy for Mexicans to sell technology abroad because the world still associates Mexico with tequila and tourism more than with technology. Nonetheless, the Mexicans believe that they are already number one in the export of know-how in Latin America and they are quite optimistic that they will be able to sell much more. As Rafael Paez, the President of Hojalata Lamina stated: "We have to exert ourselves more to sell technology abroad because we are not known as exporters of technology but technology which offers true advantages will sell itself on its own merits."

As far as Argentina is concerned I understand from Dr. Alfredo Cikato of Montevideo that all the technology that Uruguay is importing comes from Argentina and it is more than likely that not only Uruguay is importing technology from Argentina but other neighbors, too.

It is also very interesting to note that there is a drive on in Brazil not only to export goods but also, and more recently, to export less sophisticated technology or to re-export technology adapted to the conditions of a developing country to countries which have not yet reached the industrial level of Brazil, such as Arabic, African and some of the other Latinamerican countries. For example, INTERBRAS, which is a very active trading company controlled by PETROBRAS, is presently negotiating the transfer of technology involved in about 30 projects from Brazil to such other countries including, for instance, the building of two ceramics plants in Nigeria.

Brazil has concentrated on consolidating and developing basic industries in recent years with the expectation of becoming self-sufficient in the early 80's in such fields as petrochemicals, steel, cement, cellulose and fertilizers. In the process Brazil has adapted imported technologies to present Brazilian conditions and in these areas of technology as well as in the area of consumer goods Brazil expects that it will be ready for technology export to less developed countries which are too

far removed from the highly sophisticated level of the technology used in industrialized countries. These developments were mentioned at the recent John Marshall Law School Conference by Peter Dirk Siemsen of Rio de Janeiro who continued as follows:

> "This has been of concern to the industrialized countries when negotiating the transfer of technology to Brazil. However, if pragmatically analyzed, such concern is, generally speaking, unjustified because normally when Brazil has absorbed and adapted such technology, being ready to export the same, it can be safely expected that the original furnisher of the technology has already reached a much more advanced level of technology."

Will Mexico and Brazil be the next economic miracles? Mr. Kahn, the Director of the Hudson Institute, has answered that question. Already three or four years ago he predicted that Mexico and Brazil would indeed be world powers in the field of economy and industrial technology before the year 2000 by which time they would have surpassed such present world powers as Germany and Japan. With respect to Mexico and in spite of its classification which is still well accepted as a developing country Carlos Bermudez Limon, the President of the College of Economists of Mexico stated in a conference in Mexico City on August 17, 1973 which I also attended as a speaker that "at the present time there is a potential scientific capacity which could create in a fore-

seeable future scientific systems of a capacity which is comparable to those of certain industrialized countries of Western Europe."

In this context it is also of more than passing interest because it is a step in the right direction and shows the proper spirit that there exist agreements and pacts between companies of the various Latinamerican countries and that in fact there already exist truly multinational companies in Latinamerica as pointed out by the magazine "VISION", November 15, 1976, page 13, which facilitates the transfer of technology between developing countries and better development of technology in these countries. For example, by agreement of ALALC in the field of petrochemicals, pesticidal products have been assigned to Bolivia, and in pursuance of this assignment the firm Agrochimica Latinoamericana S.A. (AQUILA, S.A.) is already in operation. It was formed by Yacimientos Petroliferos Fiscales (YPF) of Argentina, Yacimientos Petroliferos Fiscales Bolivianos (YPFB) and Corporacion Boliviana de Fomento (CBF) and they have already plants on-stream to produce ethyl and methyl parathion and malathion. Other examples that can be cited are the cases of 1) Monomeros Colombo-Venezolanos established in Colombia in 1968 by Colombia through its Empresa Colombiana de Petroleos (ECOPETROL) and the Instituto de Fomento Industrial (IFI) and by Venezuela through its Instituto Venezolano de Petroquimica and 2) the Compania Ecuatoriana del Atun established

in 1968 by the Corporacion Financiera Nacional and the Comision de Valores de Ecuador and the Empresa Pesquera Parapaca of the Corporacion de Fomento Chilena.

A recent case is the Empresa Multinacional Naviera del Caribe established by Mexico and seven other countries of Central America and the Caribbean in 1975. Multinational projects such as international bridges, oil pipe lines and hydroelectric projects are also good examples.

THE IRONY OF IT ALL

In view of all this it is indeed very strange and almost unbelievable that Mexico would have so radically modified its patent and trademark laws which was also done perhaps to a lesser degree in Brazil and other countries at the threshold or past the threshold of technology export. The new Mexican law which was promulgated last year is so restrictive that it may harm the progress made so far and discourage further progress. It amounts to a policy of cutting the nose to spite the face and reveals short-sightedness and socialist tendencies.

This is indeed unfortunate because patents are an important element in stimulating the working of new and useful inventions and of complementary know-how, and consequently, facilitate and increase technology transfer. Therefore, strong rather than weak national patent laws in developing countries are, under cost/benefit evaluations, the best method of contributing to an increased inflow of desired and suitable

technology and know-how for the benefit of industrial and agricultural progress. It is recognized that national patent laws may have to be adjusted to the specific needs and priorities of each country in line with a domestic policy that favours a fair internal distribution of income, quality of life, and indigenous culture. Nevertheless, the essential exclusivity of patent rights must be preserved. The first consequence of such an adequate patent system is an improved access to international technology and valuable non-patented know-how. The inducement of protection for the benefit of local manufacture eases, as a second consequence and in the long run, balance and trade deficits by generating domestic 'added values', possibly coupled with some exports of quality-controlled products. The third consequence is, or at least may be, a spill-over effect on secondary industries and on the consumption of national resources, leading also to more employment, professional training, and autonomous improvements. These net benefits cannot, however, be achieved without mutual understanding among all private and official partners as regards the legitimate interests to be respected in support of any long-term co-operation for the exploitation of patented or confidential technology to the benefit of genuine economic and social progress. In these circumstances, the recognition of effective patent protection is, on balance, an important element in encouraging and facilitating the acquisition and exploitation of suitable technology in developing countries

and which brings about adaptation of the imported technology to local needs and in turn leads sooner or later and perhaps inevitably not only to export of products produced by this technology but also to export of the technology itself to lesser developed countries.

In this context and in conclusion it is highly appropriate and relevant to quote from a statement presented by Mr. S. Matsui of Osaka, Japan at the Third Session of Governmental Experts on the Revision of the Paris Convention at Lausanne in June of last year about the Japanese experience:

> "If the developing countries really want to encourage the flow of technology into their country, they must be careful not to inadvertently create artificial barriers to such flow.
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> . . . . . .
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> Japan has introduced a large number of useful technologies from advanced countries in these 30 years. According to statistics by the Japanese Government, the number of technologies introduced into Japan during the period of 24 years from 1950 to 1973 amounted to about 21,900, which served a great deal for the industrialization of Japan. It is quite natural that developing countries are desirous of introducing the technology useful for them. Due to the lack of natural resources, Japan introduced not only technology but also various kinds of raw materials. We think that technology is a sort of "raw material" which is not exhausted. The reason why a large number of technologies flowed into Japan is that Japan has sufficiently protected the technologies by means of national patent laws which were in accordance

with the principles of the Paris Convention. Fortunately, the Japanese patent system stimulated investment of foreign corporations which originally developed a new technology and they had little hesitation to license the same to the Japanese companies.

Another ingredient in the success of Japan to attract foreign technology was that Japan gave the opportunity for market share in Japan to the owners of the technology.

Consequently, the foreign corporations have enjoyed fair returns from their technology transfer on licensing in Japan.

For your better understanding we will mention some figures of royalty payments, Japan paid royalty of 1,894 U.S. million dollars to foreign countries for the ten years from 1960 to 1969, (for your reference, value of U.S. dollar relative to the Japanese Yen was much higher than that of today). However, the introduced technology brought to Japan not only its industrialization but also the increase of export from Japan.