International Transfer Technology Agreements: 
New Age of Negotiation

Ahmad Alkhamees∗

ABSTRACT

Over the past three decades, technology transformation to developing countries has become one of the most controversial issues in international economic relations. However, concerns have been raised by several hosting countries about the nature of transformation agreements. It has been asserted that developing countries were underprivileged in the technology market, as the conditions in transformation agreements were unfair and oversold. Hosting countries are keen to reform what they have considered as the main limitations during the 1970s and the 1980s. This article argues that although the position of developing countries was weaker in transfer technology negotiations in the past, this situation has changed due to several elements, such as changes in the nature of the technology required, the increase in the competitors’ numbers, the legislation development in hosting countries, the effect of the financial crises, the MNE’s needs to relocate its research and development centres, and the high possibility of acquiring technology without direct agreement. The article further addresses the primary clauses that should be included in a transfer technology contract.

KEYWORDS: technology transformation, international negotiation, developing countries.

<table>
<thead>
<tr>
<th>1. Date of Receipt</th>
<th>2. Date of Review(1)</th>
<th>3. Date of Approval</th>
<th>4. Date of Review(2)</th>
</tr>
</thead>
</table>

∗ Doctoral candidate, School of Law, University of Warwick, UK; LLB Islamic law; MA comparative jurisprudence; LLM Advanced Legal Studies. To whom correspondence should be addressed. E-mail: a.alkhamees@warwick.ac.uk; alkhamees.a@gmail.com.
I. INTRODUCTION

Over the past three decades, technology transformation to developing countries has become one of the most controversial issues in international economic relations. Transfer of technology has always been seen in the history of development economics as a major factor in closing the gap between rich and poor countries.¹

However, concerns have been raised by several hosting countries about the nature of transformation agreements. It has been asserted that developing countries were underprivileged in the technology market, as the conditions in transformation agreements were unfair and oversold. Hosting countries are keen to reform what they have considered as the main limitations during the 1970s and the 1980s.²

This article seeks to examine the change in hosting countries’ negotiation position in transfer technology contracts, and what are the primary clauses that should be included in a transfer technology contract to which a private investor is a party, in order to protect the interests of the host country.

The paper has been organised in the following way: First, it will examine the change in hosting countries’ position, and the reasons for establishing a new age of negotiation between hosting countries and transferors. Then a review of some of the primary clauses which should be considered follows, and finally the conclusion, along with policy implications is presented.

² Muchlinski, Multinational enterprises and the law, Oxford University Press (2007).