



Technology assistance and transfers in international environmental law

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Abstract

Technology transfers play a critical role in assisting developing countries to achieve their development aspirations at a reduced environmental and social cost. Developing countries require equitable access to resources and less carbon intensive technology. Without effective cross-pollination of new technologies and practices with highly industrialised countries, these economies face a false dichotomy of needing to choose between economic development on one hand, or environmental conservation and social development on the other.

International environmental law has recognised the importance of technology assistance by creating a range of soft and hard law mechanisms. These mechanisms range from declaratory statements found in early legal instruments, to specific commitments requiring treating parties to ensure that technologies relevant to conservation are transferred to developing countries on a fair and equitable basis. The recognition of technology transfers in international environmental law can be attributed to, in part, by the mutual recognition that sustainable development and environmental issues are transboundary in nature, and a willingness for countries to abide by certain norms to address these issues.

Nevertheless, the progressive development of technology in developing countries and transfers from highly industrialised nations is by no means pervasive. Conflict with the intellectual property rights regime has long been recognised as a potential roadblock for increased adoption of green technology. This tension between equitable sharing of new environmental technologies with the protection of intellectual property is best reflected in instruments such as the Biodiversity Convention and the Nagoya Protocol, which recognises that parties must ensure that any transfer of technology is consistent with intellectual property rights (Biodiversity Convention, Article 16(2)). The Convention also mandates that parties create legislation which mutually supports both technological transfers with the protection of intellectual property rights (Article 16(5)). As this chapter will consider, effective technology assistance between developed and developing countries must adequately strike a balance between these two aims, and moreover, ensure that the latter have enough capacity to enforce intellectual property rights.

In addition, the fall of differential treatment in sustainable development discourse towards a stronger emphasis on wider governance issues has resulted has shifted attention to other non-regulatory tools to address equitable access to technology. This is primarily a push through which to enable developing countries to generate their own technological developments, and not just relying on transfers, to tackle their specific sustainable development aspirations.

Developing countries face a challenging task in creating sufficient market incentives and promoting joint implementation with the private sector to promote increased technology adoption. To this end, the state is an important actor in ensuring that there are policies in place which support technology transfers whilst reducing the risks associated for innovators. Other externalities, including the 'brain-drain', the current lack of scientific capacity and infrastructure, and investment in research and extension opportunities must also be implemented to complement regulatory reform in both domestic and international scales. By creating an ecosystem of laws, regulations, market incentives and policies, developing countries can achieve equitable access to new technology to address sustainable development challenges whilst realising the benefits associated with intellectual property rights protection.

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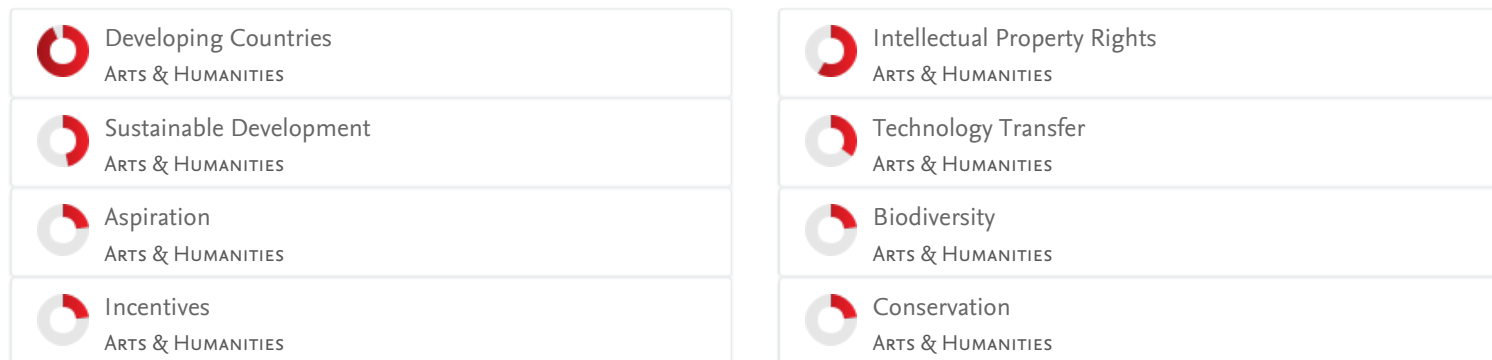
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International Environmental Law (IEL) is in relation of attempt to control pollution and. depletion of natural resources within the frameworks of sustainable development. It. Principle of Sustainable Development in International Environmental Law. Social Science. Research Network. Environmental Policy and Administration provided technical assistance in drafting the Agreement. 45 Section 34A of the Act. 46 Environmental Impact Assessment. International environmental law, like many national domestic environmental laws, is directed primarily to controlling pollution at the end of processes. A more comprehensive approach is needed to encourage systemwide changes in complex production and consumption practices. A wide range of regulatory approaches and devices could be incorporated to encourage systems approaches to addressing environmental concerns in international environmental law. A number of these approaches are discussed below; however, the list laid out here is in no way exhaustive. Moreover, the following approaches are not However, the relationship between environmental policy and technological innovation remains an area in which empirical evidence is scant. Increased attention should be paid to the design characteristics of public policies that are likely to affect the 'type' of innovation induced. Annex A. Methodological Issues in the Development of Indicators of Innovation and Transfer in Environmental Technologies. Annex B. Patent Search Strategies. Annex C. Glossary of Relevant Patent and Related Terms. International environmental law is considered in many quarters to suffer from major implementation deficits. Effective enforcement mechanisms in MEAs are therefore of central importance. These demonstrate that, all in all, non-confrontational compliance control in international environmental law offers better prospects of ensuring that contractual obligations are actually discharged than traditional dispute settlement methods which tend to be based on confrontation. The study also shows that the question of how the parties can best ensure compliance with the agreement depends to a large extent on the subject matter of the individual agreement, and above all on the formulation of the contractual obligations in the individual case. International Environmental Law, Disciplinary Bias, and Pareto Justice. *Leiden Journal of International Law*, Vol. 25, Issue. 2, p. 379. See also Art.4.9 1992 Climate Change Convention: "The Parties shall take full account of the specific needs and special situations of the least developed countries in their actions with regard to funding and transfer of technology". 52. Chowdhury, S., "Common but Differentiated Responsibility in International Environmental Law. from Stockholm (1972) to Rio (1992)" in Ginther, K. et al. (Eds), op. cit. supra nn. 11, 333. 53. Hurrell, A. and Kingsbury, B., "An Introduction" in Hurrell, A. and

