Preface

The international transfer of technology and its attendant issues have come under increasing scrutiny from various perspectives. Primarily focussed by the UN, UNCTAD and other international organizations the transfer of technology to developing countries has been heavily deliberated upon. The impact of technology transfer on economic interdependence of nations and international relations has been the prime factor for the growth of an overwhelming literature on transfer of technology. Moreover, these studies have also highlighted the transnational corporate behaviour of Multinational Corporations in the international exchange of technology.

Over the years, changes have occurred in the host, home and international environment within which technology transfer takes place. The modes and methods of technology transfer has sharply featured in the international literature concerning technology transfer. In recent years, a greater attention has been given to the problems and prospects of technology transfer, especially from the developing countries’ point of view. Of special significance has been the analysis of legal policies in technology transfer at national and international levels.

As interest in the international flow of technology across national boundaries has increased, so has the concern with regulating the transfer of technology increased. Of special significance has been to evolve out legal rules and norms which would curb the negative aspects of transfer of technology transactions. The demands for such a regulation has primarily come from developing countries who are at the receiving end of the bargain in transfer of technology. Being affected with the
adverse effects of present modes of technology transfer
the developing countries have espoused strongly for an
international Code of Conduct on transfer of technology at the
United Nations. The UN Declaration of New International Econo-
mic Order provided a justification for the demands of developing
countries. The Declaration impressed upon the states
to take every efforts to formulate Code of Conduct on Transfer
of Technology. A result of this is that UNCTAD is currently
deliberating upon an international Code of Conduct on Transfer
of technology. Moreover, attempts are being made to overhaul
rules of some international treaties pertaining to technology
transfer, notably the Paris Convention on Industrial Property
(1883). At the national level the countries have formulated
unilateral rules and regulations which regulate and control
diverse aspects of technology transfer.

Thus in recent years consistent efforts are undertaken
to create a legal framework within which technology transfer
should take place. The aim of these regulations is to both
facilitate the transfer of technology and to remove its adverse
effects.

The purpose of this study has been to undertake an
analysis of the emerging trends in regulating transfer of
technology at national and international level. This study has
therefore analysed the national regulations of the developing
countries (although advanced countries have also their national
regulations). It has also discussed the role of Patents and Paris
Convention in transfer of technology. Moreover, this study has
analysed the proposed Code of Conduct on transfer of technology.
The description of the Code cannot however, be claimed to be exhaustive, because the Code is yet neither adopted nor is there a unanimity on several texts.

The study contains seven chapters. Chapter 1 gives an introduction to the study. It discusses the major contours of the study, while at the same time focussing upon the scope and object of the study.

Chapter 2 discusses the major forms and mechanisms of the transfer of technology. The discussion of these forms has been necessitated because of the overall importance of these forms in transfer of technology.

Technology transfer has given rise to several issues especially concerning the developing countries. These issues constitute the very basis for arguments for regulating transfer of technology. Chapter 3 discusses the major issues arising in the present mechanism of transfer of technology. It also traces out the major initiatives towards the proposed international Code of Conduct on transfer of technology.

Chapter 4 discusses the role of patents in international transfer of technology. The chapter analyses the provisions of Paris Convention relating to transfer of technology. The analysis is primarily confined to the Paris Convention, although reference has been made to provisions of national patent laws at relevant places.

Being dissatisfied with the present mechanism of technology transfer, developing countries have resorted to unilateral rules, regulations and guidelines to regulate and control transfer of technology. Chapter 5 analyses major trends
in such regulations and their implications on transfer of technology. It gives a comparative analysis of national regulations of some of the developing countries. Although advanced countries have also legislations on technology transfer, however, we have dealt with the regulations of developing countries only.

Chapter 6 analyses the provisions of the proposed UNCTAD Draft Code of Conduct on international transfer of technology. The chapter reviews the implications of the provisions of the draft Code which has been agreed and those which are still under negotiations. The discussion relates to the provisions agreed at the end of sixth session of UN Conference on international Code of Conduct.

Chapter 7 summarizes the main discussions of the study along with suggestions.

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Despite many persons who have helped in the completion of this study, I retain the sole responsibility for the contents presented, including any errors of fact, judgement or analysis.

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