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CASE STUDY NO. 4

TECHNOLOGY AGREEMENT IN THE FIELD OF FOOD INDUSTRIES (MEAT) 1/

by

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1/ The views and opinions expressed in this paper are those of the author and do not necessarily reflect the views of the secretariat of UNIDO. This document has been translated from an unedited original.

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This is the case study of Argentine enterprise C, which was set up in 1969 with a company capital of $US200,000 to manufacture cold cuts/sausages and canned meat-spread products.

French enterprise F holds 49 per cent of the company capital and, in addition, has signed with C a licensing contract relating to trademarks and the provision of technical assistance for an indefinite period of time.

This contract provides that the licensee shall undertake to use only the licenser's trademarks, which were unknown in the local market at the time of signature of the contract.

In exchange for the right to use the trademarks and for technical assistance, enterprise C agrees to pay a royalty of 4 per cent on the gross wholesale price of the products it sells (calculated before deduction of discounts).

At the time of signing the contract, the enterprise expected to achieve the following figures (in thousands of United States dollars) during the first five years of operation:

	Sales	Total profits	Royalties	Profits of national shareholders	Profits for enterprise F, plus royalties
1970	792	77	32	39	70
1971	864	102	35	52	85
1972	943	84	38	43	79
1973	1,100	98	44	50	92
1974	844	76	34	39	71
Total	4,543	437	183	223	397

The authority which evaluated this contract **expressed** a fundamental **objection** to it. The reason for this objection was the obligation it established for the licensee to use the licenser's trademarks, in the long term totally preventing the licensee from evolving an independent marketing policy, especially with regard to external markets.

In 1975, enterprise C is already in a disadvantageous position as regards its relationship with F. The disadvantage arises out of the fact that C operates exclusively using trademarks belonging to enterprise F. The prominence which F's

trademarks have gained in the course of time is attributable, not to investment made by F in the trademarks before the contract took effect, but, precisely, to the "investment" in advertising made by C after the contract took effect.

It is not clear what solution could be found to this, if indeed any is possible. It will be sufficient here to list the causes of this situation:

(1) The inclination of the local firm to acquire the right to use intangible assets which were non-existent in its territory, since they were unknown there;

(2) The acceptance by the licensee of the prohibition concerning the use of other trademarks;

(3) Its readiness to assume the full economic burden of developing a reputation for the trademark.

It should be pointed out here that the section on technical assistance in the contract was of very little significance, and was not even mentioned during the discussions.

Government technicians gave the impression that it would be easy to acquire the technology concerned in the international market.

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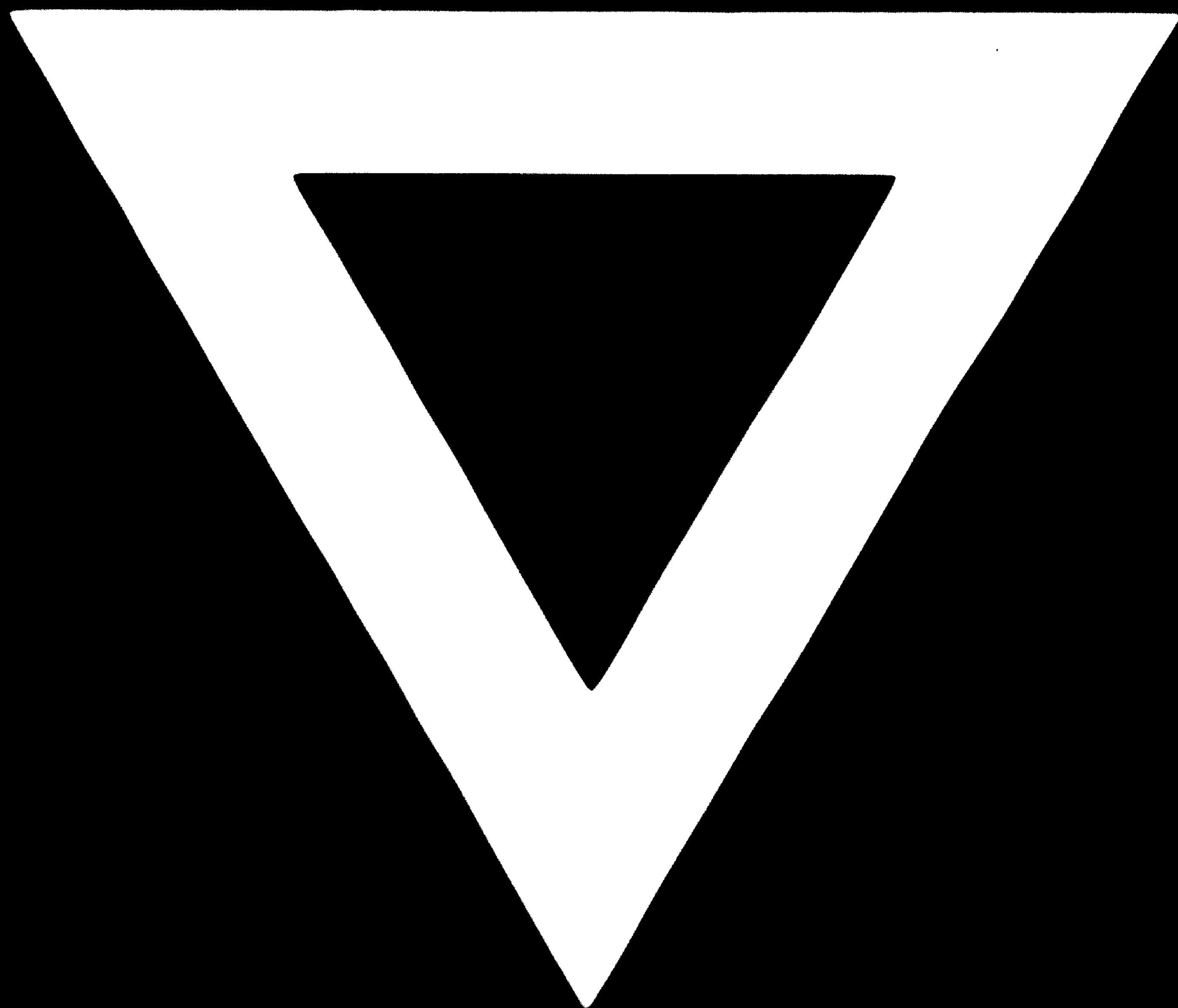

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