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REPORT ON MISSION  
1 TO 10 DECEMBER 1989

I. BACKGROUND AND TERMS OF REFERENCE

1. This report covers a mission complementary to the first, undertaken 11 to 26 October, and should be read in conjunction with it. The same terms of reference apply to it, namely to establish contacts with the "Registros de Tecnología" (Registries of Technology Transfer Contracts), this time in Ecuador and Venezuela, and to collect sufficient information for an inventory and a "diagnosis" of these Registries, needed for drafting a project document for the Establishment of a Technological Information Network in Latin America (i.e. an exchange of technical information among the participating Registries).

2. As pointed out in the above mentioned first report, one of the main objectives of the envisaged regional projects is to promote communication links between the Registries of eight Latin American countries, tackling first the problem of inadequate tools at the disposal of some of them and of very unequal levels of operations, including varying volumes of work and different (legal) constraints. Thus the first immediate objective should be to put on a comparable footing, in every respect, all eight Registries.

3. Another objective will be ensuring a stronger management capability and a better operational functioning of all eight Registries, which would then have the time, the capacity and the means to dedicate some of it to the exchange of information and experiences regarding negotiating, formulating and monitoring technology transfer contracts.

4. As stated before, one important basis for the co-operation scheme is the common software, developed for UNIDO called CORIS and intended to facilitate and improve internal operations of the Registers, such as collecting, evaluating, classifying and processing data on technology transfer, thus freeing the Registers for external communication and exchange of information among themselves and with UNIDO.

5. The draft project document will be part of another report to which the present and the former mission reports will be attached as Annex.

## II. CONCLUSIONS

1. Conclusions drawn from the experience of the mission covered by the present report are supposed to complement, enlarge and add to the conclusions presented on page 3 and 4 of the first report.
2. The conclusions presented so far refer only to this mission and are necessarily not final nor complete, because inputs from Bolivia, Colombia and Peru are not yet available at the time of writing this report. The Registers in the above mentioned countries are to be visited and explored by two functionaries of JUNAC (SAIT: Sistema Andino de Información Tecnológica). Their information will be incorporated in the final report and/or, perhaps not explicitly, in the project document.
3. SAIT, the information system of JUNAC does not work satisfactorily.
4. Present budgets are very low. Basic elements and tools are lacking. Skills (computer operations; specific technical knowledge for maintaining hardware, for modifying software, for evaluation and classification of contracts) are insufficient. There is a shortage of manpower and of needed professional literature. Available equipment is inadequate, more so in Ecuador, and the level of computer operators needs up-grading.
5. There are no provisions made for operating - let alone investment - budgets after the conclusion of the project.
6. The knowledge of English is at best rudimentary (as it was found lacking in Brazil as well). The problem might become worse when additional TIES members from non-spanish speaking countries (e.g. Haiti, Jamaica...) and, later from other regions may like to join.
7. My former impression - that the project might be easier to formulate and to implement, if the number of participants were to be reduced from eight to four, namely: Argentina, Brazil, Mexico and JUNAC - does not seem opportune anymore, given the lack of effective exchange of information through SAIT (Lima) even at low levels (small number of contracts, manual processing of data).

8. Some quandaries, already discernible during the first mission, are now becoming more apparent. Why, for instance, is transfer of technology legally, organizationally and operationally linked to Brand names ("marcas") - although there may be historical reasons for that - and, more important, to Foreign Investment? Transfer of technology can be made without foreign investment and vice-versa. This linkage makes for more work and is of little use to other Registers. Provided, of course, that the subjects of the Registries are the contracts. Promotion of investment from abroad is a different matter altogether.

9. At the decision making and at the operational level too many changes occur over relatively short periods of time.

10. JUNAC rules, dating back to the early seventies (Decisión 24) and modified 1987 (Decisión 220 instead), while now giving more liberty to member countries are somewhat restrictive (in the name of "better defense against third parties") in the negotiation of contracts.

11. Terms of reference, policies and laws ruling the functions and the performance of Registries differ greatly from one to another. That may make it difficult to come to an agreement on the scope of (technical) information to be exchanged. The common denominator will be quite low, at least during the early stages.

12. There was a readiness in both Registr'es visited to share information, with UNIDO and with other participants (similar to Argentina, in principle; Mexico and Brazil have reservations).

13. It was believed initially that SAIT may be an advantage to the acceptance and to the implementation of the project. It appears now that the format TIES-SAIT is more complex and requires more data than the TIES format considered so far. In addition, the SAIT is not functioning very well. (Present arrangement requires listing of contracts with relevant data once a year. Most - not all - Registries send some information to JUNAC [Lima] but somehow it seldom reaches the other Registries.) SAIT's role will have to be reappraised and perhaps even ignored in the set-up of TIES.

14. CORIS is very slow, which is understandable, because it is a large package. Sometimes this is a bit exasperating. Several shortcomings and faults could be locally corrected by experienced staff. Conclusions from the report on the previous mission (II.5.) indicating a need for rewriting CORIS should be possible reconsidered and discussed with proper information specialists as well as with actual users and operators. But corrections and simplifications in the programmes seem unavoidable.

### III. RECOMMENDATIONS

1. Before continuing with plans and formulations of the project, its scope and its immediate objectives should be decided upon at UNIDO. My recommendation:

- a. For an initial period a regular supply of aggregate (statistical) information from each Registry should be accepted. It should conform to a (CORIS compatible) format (TIES I?) and be sent to UNIDO within established intervals, not less than three times a year.
- b. A direct consulting basis - as it exists already in some cases of personal friendship - should be promoted among the (heads of the) participating Registries through periodic meetings/workshops which will create and further mutual trust and confidence and facilitate co-operative attitudes and practices and common search for legal, organizational and professional improvements resulting in the exchange of more individual and detailed information.
- c. While aiming at an eventual, perhaps direct, access of all participants to all databases, a systematic, regular flow of any kind of relevant information in pre-established periods should be initiated, in order to start the communication-contents as well as channels and, above all, the action itself.

2. At UNIDO either a specialized unit (in co-operation with the Industrial and Technological Information Section, perhaps?) or a task force - in the latter case for a limited period until a permanent solution can be worked out - should be organized. Its function would be to observe trends and to monitor developments, but mostly to handle incoming (aggregate) information from Registries and to process it for systematic redistribution either by mail or by computer (when such a stage is eventually reached) or in a (special?) publication such as TIES Newsletter, which then should appear regularly at least three times a year. Without such a unit functioning, foregoing recommendation 1. would not be useful.

3. Promote the application of CORIS by participating Registries - even if only on a tentative and experimental basis - for

(a) evaluating, (b) registering and (c) retrieving transfer of technology contracts and detailed information contained therein, with the purpose of detecting and identifying trouble areas, inconveniences and faults, errors or shortcomings. These should be listed and explained in (simple!) questionnaires designed for that purpose.

4. The need, or the convenience, to introduce changes in the software and if so, which ones and how, should be discussed among the participating Registries and with UNIDO. There should be a meeting (or several, if warranted) of operators (technical and operational problems) and of chiefs of Registries (policy matters including constraints of legal or political nature, such as by agreements). The agenda should be prepared beforehand and distributed in time to obtain reactions before the meeting(s).

5. According to the results from recommendations 1. through 4. preceeding, CORIS could be modified, translated, simplified, adapted etc. with a view to up-date and to improve the whole package.

6. In this connection (III.5.) the recommendation of the first report (Mission 11 - 26 October 1989) to rewrite CORIS should be suspended for the time being. It may not be necessary once the concept and the usefulness and/or scope and applicability of "networking" is analyzed.

7. For the present leave SAIT out of functional, organizational and operational considerations in the preparation of the project. (It may be unavoidable or at least convenient to keep it officially mentioned.)



IV. OUTLINE OF THE MISSION

- A. 1. QUITO, ECUADOR, 4-5 December 1989: Meeting with Mr. José Villacis Paz y Miño, Director General de Inversiones Extranjeras, Ministerio de Industrias, Comercio, Integración y Pesca, and Mrs. Ing. Maria Eugenia Estrada, Chief of Departamento Transferencia de Tecnologia, of the same Ministry.
2. The "Dirección de Inversión Extranjera" covers two areas, Foreign Investment and Transfer of Technology; not, as in many other countries, Brandnames ("marcas") nor patents; these latter are registered at the Registro Nacional de Propiedad Industrial at the Undersecretariat ("Subsecretaría") of Industry. The Directorate (Dirección de Inversiones Extranjeras) is located in the Undersecretariat of Foreign Trade and Integration, which comprises 4 Direcciones: Dirección de Comercio Exterior, Dirección de Integración, Dirección de Promoción de Exportaciones, Dirección de Inversión Extranjera (y Tecnologia).
3. The D. of Industrial Property only administers and registers Brandnames and Patents and supervises their correctness and adherence to legal rules and regulations required for registering them. The D. of Foreign Investment has the obligation to evaluate contracts covering the transfer of technology and the power to approve them.
4. The evaluation comprises 3 stages or aspects which may be carried out simultaneously or consecutively:
- (a) Legal evaluation, made by the Department of Transfer of Technology itself.
  - (b) Economic evaluation.
  - (c) Financial evaluation, both (b) and (c) carried out by other internal departments. There are two persons for each of the three kind of evaluations.
5. Applicable rules are derived from "Decisión 220" of the Agreement of Cartagena, which substituted 1987 the Decisión 24. The present national guidelines and rules vary from one country to another but show common features. For instance, for the acquisition of brandnames 1%, maximum 2% are paid in all 5 countries. (Attempts are under way to eliminate payments for brandnames altogether.)

6. Regulations in Ecuador require each company from the private sector to sign a contract with a foreign enterprise from which it seeks to obtain technology. (The public sector, comprising Energy, Petroleum, Drinking water, Telephones... is exempt and is handled through competitive bidding. Its contracts are not evaluated nor authorized by the Registry.)

7. Contracts related to technical assistance, to the use of brandnames and of patents, to marketing, administrative services and training as well as all contracts covering international co-operation are forwarded to CONADE (Consejo Nacional de Desarrollo).

8. In 1977 registration of contracts began. From then to the end of 1988, 325 contracts have been registered and something like 50 contracts were not finalized for one reason or another.

9. Whoever wishes to acquire technology presents a formal request with a copy of the draft contract to the Ministry of Industries, Trade, Integration and Fishing. This draft contract is evaluated (see IV.A.4. above). In all cases the plant requesting contract approval is visited, if the contract is not rejected by the evaluation (e.g. restrictive clauses are not accepted).

10. If all 3 evaluations are in principle positive, the observations and requests for modifications are officially communicated to the interested party. Then the contract is renegotiated according to these observations. If the new contract is satisfactory it is certified by a Notary Public and registered. Each approved contract is kept in its own file, the rejected or unfinished contracts are put into archives. The whole process is manual. Generally contracts are made for 5 years (from the date of signature!) and may be renewed by a new request.

11. Attempts were made to apply CORIS but always stopped at "insufficient memory". Apparently the capacity of the equipment - IBM PC AT with 512 kB Memory (and an Epson Printer 500 LQ 1500) - might be sufficient for d Base III, but is not for d Base III Plus.

12. The Registry in Ecuador sends annually all the data demanded by the Agreement of Cartagena to SAIT in Lima (duration of contract, royalties etc.). They do not receive similar information from SAIT. (They don't know whether other Registries do not send this information or whether SAIT does not forward it. At every annual meeting of SAIT the matter is brought up.) Nevertheless, specific information requested on a personal basis is usually fully supplied.

13. Uncertainties in CORIS were mentioned, such as e.g. knowing the percentage of royalties to be paid according to the approved contract, but not the real volume. By and large they are willing to send to UNIDO all the information at their disposal, as they did up to now to JUNAC.

- B. 1. CARACAS, VENEZUELA, 7 December 1989: Meeting Mr. Jorge Osorio V. and Mr. Fabian Kaiser, both from SAIT, JUNAC, Lima at the S.I.E.X. office (Superintendencia de Inversiones Extranjeras) together with Ms. Miriam Nuñez, Jefe, División de Evaluación de Contratos of S.I.E.X. and Ms. Ibelice Rodriguez, while waiting for Mr. Edison Peros, Superintendente.
2. CORIS has been installed in July 1989, before the meeting in Lima. In spite of the initial problems such as having to enter all about 250 programmes contained in CORIS to change the names of archives, 27 contracts were entered into the computer. "Experiments" have been carried out and many difficulties for the operator, Ms. Rodriguez (an economist by training, "self-made" computer operator), became apparent.
3. Among the items discussed:
- (a) they have to go through all the screens (1-9) and would prefer a direct way.
  - (b) The CORIS versions in English, Spanish (and French?) are not connected and it cannot be marked in one language and obtained in another.
  - (c) Mr. Gsorio suggested that Mr. José Caldas-Lima should send him the whole package (?) in English and French, so they can arrange for inter-communication(?).

- (d) Mr. Kaiser stated that translating CORIS into d Base IV would not be convenient because of the many disquettes, at last 15 basic ones (while e.g. Foxbase could do with perhaps three). Of course d Base IV is multifunctional and it is not necessary to close one file in order to operate the next one. These matters should be discussed (see III.4., Recommendations of this report).
- (e) They have a code from UNIDO, UNCTC, 7 characters, date unknown. They need a more up-to-date code such as UNIDO UBQETO2P (?).

4. Meeting with Dr. Tomas Paez, Director General Sectorial de Planeamiento, Ministerio de Fomento. The Registry of Patents and Brandnames functions within his Directorate. It seems - as Dr. Paez told me - that the S.I.E.X. (and with the Registry of Technology Transfer) is going to be soon there as well.

5. The Law of Intellectual Property is being discussed and the Law of Brandnames and Patents is probably going to be modified. The Registry of Intellectual Property is based on a law of 1953-55. The (philosophical) tendency is: plenty of freedom and independence in the future, the minimum possible of restrictions. (It may be deduced, perhaps, that the Registry of Technology Transfer Contracts will also function with more liberty in the new environment.)

6. 8 December 1989. Discussions at S.I.E.X. were continued: The procedure: an enterprise presents a project of a contract with the appropriate documentation. The Registry evaluates, according to their own criteria, manually. Here, the applications and the discussions are conducted generally by legal agents.

7. Once a contract is approved, all the data are entered manually into a file. Actually, the Registry is a cupboard with files. The computer is - the experiments with CORIS aside - just a word processor for preparing the files and reports.

8. The general opinion: Registries within SAIT are ready to disclose all detailed information, except the name of the enterprise. All these

data and conditions of contracts could be transmitted to UNIDO and to other participants. The problem:

- (a) No political decisionmaker was present.
- (b) The Registries in Mexico and Brazil are not as ready to do the same.

9. Also by Mr. Osorio, as the opinion in B.8. above, was the fact (?) brought up, that there is in SAIT already an amount of information being exchanged (which might not be entirely correct considering certain indications at the two Registries visited). Also mentioned - correctly - that we shall have to think about forms and functions of the envisaged exchange: as a "spiderweb" or as a "bicycle wheel". Not mentioned was the problem whether the information flow should be institutional or (only?) upon request.

10. Connected with the problem of the amount of information to be given out is, in the present case, the format. Should it be TIES format for all participants? Or, perhaps SAIT-TIES format, which Mexico and Brazil may oppose, maybe for legal restrictions?

11. The equipment available is one IBM PS 30 made in USA (1987 or 1988), Printer IBM PRO PRINTER 2. More problems with CORIS were discussed:

- (a) Date remains the original and not the one given later.
- (b) In the key there are supposed to be levels (restrictive ones?), according to the manual, but all of them enter. CORIS should clarify the question of access levels.

12. The Superintendente, Mr. Edison Peros, came to the meeting for a few minutes, "blessing" our intentions and the project. At that opportunity, a possible project for the establishment of a technological information service in Caracas was discussed, in which he voiced his extreme interest.