

# Tech Transfer in the WTO— What’s in It for Africa? And for the Rest of the World?

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July 25, 2023

The “African Group” in the World Trade Organization (WTO) is pushing for discussions—and potentially renegotiation of international trading rules—on how developing countries do and can acquire technology to build resilience in the face of a “polycrisis”. This follows—and is emboldened by—the 2020-2022 WTO negotiations on a waiver of the WTO Agreement on Trade Related Intellectual Property Rights (the “TRIPS Agreement”) for COVID-19 vaccines, and the current efforts to expand this waiver to therapeutics and diagnostics.

Tech transfer is scarcely addressed by the WTO rules, as such rules would be binding upon governments. Instead, tech transfer is mostly seen as being in the hands of the private sector, done on a voluntary and mutually agreed basis. The efforts by the African Group, however, may be the beginning of a longer-term effort to change this traditional separation, and push the international trading system to govern tech transfer for medicines, green tech, digital and possibly beyond.

Recently, the issue of transfer of technology suddenly came to the spotlight in the world of international trade, and in the capital of multilateral policy-making: Geneva.

In early July, WTO members were on the receiving end of a package of six documents on this topic. The African Group, a group of 44 African countries, submitted this package as a follow-up to its March paper on the need for “policy space” for industrial development. Pursuant to the African Group’s commitment to transparency, all the papers have been made available to the public.

This package came, at least partly, as a reaction to a number of delegates and experts querying the African Group on the specifics of its “policy space” paper, what this term means, how other countries can help, and why the existing special and differential treatment and carve outs in the WTO rules for developing countries do not provide the necessary room for such countries to benefit from tech transfer.

With the publication of these papers, there seems to be a new front being opened to address how insufficient flow of technology may hamper industrial development, and how to build resilience in the face of a polycrisis.

## Recent WTO Meetings

On July 17, the WTO Working Group on Trade and Transfer of Technology (WGTTT) met. Egypt, on behalf of the African Group, introduced the overarching paper and suggested that the WGTTT be the key place for the above-mentioned efforts, while other relevant committees and councils deliberate on individual elements. Egypt also pushed for state-led and state-incentivized tech transfers. Others in the room seemed open to the discussion, but next steps are unclear. There will also likely be involvement of non-government stakeholders.

The proponents also brought the topic at the WTO General Council this week. At this last session before the organization’s summer recess, the African Group once again spoke about the current mechanisms not being fit-for-purpose and the need to reconsider them. They received a sizeable support and limited push back. Some

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delegations are asking for specific recommendations by the proponents, which means there is going to be a strong follow-up. In addition, there are other papers touching upon transfer of technology, in particular a **U.K. paper**. If anything, the General Council debate gave the topic legs, pointing to a retreat on trade and industrial property in September, the Director General being very positive about further discussion on the topic and delegations across the membership linking the topic to efforts reforming the WTO.

### **March Paper on Policy Space**

Specifically, in the March paper, the African Group sets out the various crises that developing and least developed countries (LDCs) are facing. It suggests how the current international trade rules are not fit for purpose, and that certain provisions need to change in several of the WTO's fundamental agreements in order to create policy space that could allow for more industrial development in the face of the growing number of unilateral trade restrictions.

### **July Papers on Tech Transfer**

In July, the African Group identified specific areas as being insufficiently flexible to benefit the developing countries and LDCs: Tech transfer as a concept on its own (**paper**); intellectual property (**paper**); agriculture (**paper**); climate change mitigation and adaptation (**paper**); trade facilitation (**paper**); and electronic commerce (**paper**).

Notable elements connecting the entire package are:

- The papers argue for taking up these tech transfer matters as part of the WTO reform discussions. This suggests an intention to raise the profile of these efforts and bring them into the tier 1 of issues to be tackled by WTO Members at the 13th Ministerial Conference in February 2024, in order to kick-start a long-term push for revamping the WTO rules.
- The papers also argue that the existing flexibilities, those that are generally in the WTO and those in the TRIPS Agreement in particular, are not real flexibilities as they have not worked to the benefit of developing countries, thus the desire to renegotiate or expand the existing flexibilities. In the intellectual property space, the papers focus mostly on elevating the use of compulsory licensing.
- The papers further suggest that tech transfer is needed to tackle multiple crises, particularly in light of the current dysfunction of the WTO dispute settlement mechanism, which is allowing industrialized countries to use industrial policies to create more favorable conditions for themselves.
- The papers talk not just about the African Group, but about developing countries in general, without differentiation. This is intended to gather support from many developing countries, including China.
- The papers take aim at the TRIPS Agreement and its alleged failure to support the fight against COVID-19. While also arguing on behalf of the LDCs, the papers omit the fact that LDCs currently are, and have been since the beginning of the WTO, exempt from all TRIPS obligations.

### **U.K. Paper**

In a related development, on July 19, the United Kingdom circulated its **paper** on intellectual property, voluntary licensing and technology transfer. The U.K. has been working on this paper for some time and it summarizes its position in support of mechanisms carried out on a voluntary and mutually agreed basis. It also points to tariffs and non-tariff barriers as affecting negatively voluntary partnerships. The U.K. offers a good summary of the benefits and examples of voluntary partnerships and proposes questions for discussion, also pointing to the WGTTT as a good home for it. At the same time, the U.K. points to transfer of technology as a needed policy area of interest for the WTO.

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## Key Takeaways

Going forward, discussions on lessons learned for tech transfer may be deemed as beneficial by delegations across the WTO. However, given the different angles WTO members approach the topic, the debates are likely to quickly turn into whether or not voluntary mechanisms are sufficient and how the governments should step in to correct it. This is likely to include discussions on intellectual property, along the lines of the TRIPS waiver negotiations, unhelpfully reinvigorating whether intellectual property is an enabler or a barrier to tackling various crises. It will be important to inject evidence into these discussions, not only from the perspective of the pharmaceutical industry, but also from green tech, digital, tech, agriculture and other innovative industries.

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