

Protection of industrial property rights and its impact on foreign investment and technology transfer

حماية حقوق الملكية الصناعية وانعكاساتها على الاستثمار الأجنبي ونقل التكنولوجيا

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Abstract:

During the last three decades. The world has known on important and crucial change indifferent fields (politician .economical .social and cultural) as direct result and consequence of the so called globalization phenomenon and its new rules and condition that caused the growth of a new economical climate which is distinguished by its opened and high competition free of limits and protecting barriers .this obliged nation mainly developing ones too review old economical policies and to follow new plans and styles so that they can get involved in this new globalized economy in economy in order that they can provide good circumstances and good natives . They have to offer different concessions and temptation sand incentives in order to bring more and more foreign investments and gain highly developed technology and localize it so that nations can raise competition and commercial capabilities. In this content many studies try to consider that the system of industrial property rights are the most important and mort significant tools that the nation may rely on in setting up its economical policy . The question in which this paper seeks an answer could be to what extent loyalty rules may affect in order to protect these rights so that the process of bringing foreign investments could work and all what is linked to as transfer and localization of technology . and is the high degree of protection given by the nation to these rights considered an active element and a good native for the success of the operation?

key words: Multinational companies, foreign investment, technology transfer contracts, industrial property rights, global markets.

المخلص :

شهد العالم خلال العقود الثلاثة الأخيرة تحولات وتغيرات هامة وجذرية على مختلف الأصعدة كنتيجة مباشرة لما عرف بظاهرة العولمة وما فرضته من قواعد وشروط نجم عنها بروز مناخ اقتصادي جديد تميز بالانفتاح والمنافسة الشديدة والتحرر من القيود والحواجز الحمائية، الأمر الذي أجبر الدول خاصة النامية منها على مراجعة سياساتها الاقتصادية السابقة واعتماد خطط وأساليب جديدة من أجل الانخراط في هذا النظام الاقتصادي المعولم. وهي في سبيل ذلك تراهن على توفير الظروف المناسبة والأسباب المشجعة، وتقديم التنازلات والحوافز المختلفة من أجل جلب أكبر قدر ممكن من الاستثمارات الأجنبية، والظفر بالتكنولوجيا المتطورة، وتوطينها لديها حتى تتمكن من رفع قدراتها التجارية والتنافسية. وتشير العديد من الدراسات الى أن نظام حقوق الملكية الصناعية يعد من أبرز وأهم الأدوات التي قد تعتمدها الدولة في تنفيذ سياستها الاقتصادية، والسؤال الذي تحاول هذه الورقة الاجابة عليه يدور حول مدى تأثيرالقواعد القانونية لحماية تلك الحقوق على عملية جذب وحجم تدفق الاستثمارات الاجنبية وما يرتبط بها من نقل وتوطين للتكنولوجيا، وهل تعتبر درجة الحماية القوية والعالية- التي تعطيها الدولة لتلك الحقوق- عنصرا فعالا، وعاملا محفزا في انجاح العملية؟

الكلمات المفتاحية : الشركات المتعددة الجنسية، الاستثمار الاجنبي، عقود نقل التكنولوجيا، حقوق

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Introduction:

Investments is currently one of the most important factors that influence the economic and social development process, It is in addition to being an important means of financing that allows securing the production of goods and services and providing job positions, it also constitutes an important channel of technology . Most development and developing countries alike see FDI accompany resettlement of technology that has the savior of economic underdevelopment, with its poverty, unemployment, ignorance and disease, adopted economic policies based on openness and the provision of various facilities and incentives, which led to the emergence of strong competition between countries in order to win as much foreign investment as possible on their land, and bet in order to succeed in

Implementing their investment plans on many different factors of stability. Political, liberalization of private initiatives, promotion of the labour market, qualification of professional competencies, upgrading of the competitiveness of enterprises and projects, and the development of appropriate legal systems to encourage the business climate, support investment and protect intellectual property.

There is no doubt that each of these factors has some part of the impact on the process of attracting investment and technology transfer, but we will not be analyzed for all these complex and interrelated issues and we will only look at the relationship of industrial property rights to FDI and technology transfer and the extent to which that relationship may have an impact, because of the global trend towards the primacy of commercial aspects of intellectual property rights as an important element in the knowledge and technology economy, which has made it on **first hand**. With the attention of the various authorities in countries that wish to achieve balanced economic development, on the **second hand**, it provokes a wide-ranging doctrinal debate, both among economists and jurists The problem that this paper is trying to answer is the nature of the relationship between investment and technology transfer, and then the extent to which tighter rules for the protection of industrial property rights may have an impact on attracting foreign investment and technology transfer

Addressing these problems requires us to divide the subject into two main points, first, the concept of investment and its role in technology transfer (first topic), and in the second we address the impact of the rules of protection of industrial property rights on foreign investment flows (second topic) and

conclude with a conclusion with a conclusion reflecting the results and related recommendations

I - concept of investment and its role in the f technology transfer

Investment plays a significant role in boosting economic capabilities and reducing disparities and differences in levels of technology which makes the intense competition among states to attract investors and a greater investment through the development of its financial incentives , economic legal ; then investment became accordingly bet all nations , developing and developed, rich or poor , compete each other .

A- definition and types of investment:

Investment is one of concepts that occupy an important space at the local (national) and international toward under given its economic and legal consequences and even political, particularly as a tool of international relations, while the subject of investment matters not very much in this study only in terms of its relationship with the industrial property rights protection however , we will return to its definition and statement of sorts commensurate with the need for it as one way prominent in the transfer of technology and development.

1- Definition of investment and indicators:

, investment in general is a process that aims to move capitals and use it to generate new productive capacity that contribute to the development of such funds and greater economic return from it , as can be defined in other words more specific and more concrete that the process by which capitals owned by individuals or companies left in certain moment for a period of time in order to obtain financial return and receive back in future more, that may compensates and also the possible loss of the purchase value caused by inflation factor in addition to providing a good profit as a result of bearing risk factors that represent the possibility of not realizing these incomes ¹.

Although this definition seems to be general and holistic investments have different types according lead us to its fields and media which means that each type of investment has a particular and specific definition.

if we take into consideration the control index and the management of the project invested , we will encounter two types of investment . the first one is called the direct investment which have invested a certain amount of control in the project and participation in management and not be limited to export capital in the form of finance but play a role in preparing a package that includes the

creation of the project and the supply of technology and expertise and administrative regulation and rehabilitation of workers and the staff training ²

the second type of investment is called the indirect investment in which the role of the investor will be only offering capitals as official holdings and stocks and bonds, loan guarantees for the capital invested, it does not have any role in command or control or participating in project management this type of investment is known as investment in portfolio.

However, if we take into consideration the geographical index, we will encounter also two types of investments there is the local (national) investment in which the capitals are invested in the national country of the investor ³

There is also the external (foreign) investment where the investor's capital are directed to a different foreign nation.

It should be noted that many indexes most contribute in the same time to give complex figures of this and that perhaps ⁴.

most important types of investment that is highly connected to technology transfer so as to industrial propriety right is the foreign direct investment which is currently analyzed and ranging doctrinal debate (economists and jurist) since it is linked to and affect international relations economically and often politically.

2- Foreign investments and its importance in boosting development:

It is clear through the extrapolation of the development in the world economy during the eighties of the last century increased role and importance of foreign investment to stimulate and support the development process. foreign investment becomes one of the most important financial sources mainly after the increase in external debts and the decrease of international debt movement. This role grows more and more after the establishment of the world trade organization (WTO) in 1995 consequently, the phenomenon of internationalization of production process and the globalization of capitals by increasing economic liberalization that relies on trade on market mechanism and the movement of capital across multinational corporation (MNC). In this new trend, foreign investment has become prominent as an important medium to boost and accelerate economic growth and realized economic and social development especially in developing countries.

Foreign investment whether direct or indirect is based on the fact that the foreign investor how to own all or part of the financial sources invested in the targeted project ⁵.

The importance of foreign investment for his services to economic development and reduce their burden and its contribution to generate savings with

the flow, in addition to the size of real resource available for use and also include the possibility of increasing the efficiency of local resources. its can more over result in activating unused resources and contributes to the transfer of modern technology in the fields of production , marketing and practice management activities .

The foreign investor and the intended investment may reveal the targeted aims and results after the investment process. that foreign investment can be done through a joint project between two parties is one of national and the other foreigner , , the two parties cloud be the local government of each one or via personalities related to them . in this way, targets can be defined in order to rise investment to the level of contribution and perfection not only the economic aspect but also the political one⁶ . the two parties may be different one part represented by his local government or a general personality related to it or international organization while the second party can be a particular personality (an individual or an private company)⁷

However, the two parties are often private person, as foreign investors prefer that their local partners be individual or private company because they believe that private local party is more willing than government employees to provide the necessary local work, expertise and services that the project requires for its production operations

Now a days, multinational companies are considered the most important part in direct foreign investment particularly when he notice this increase of their influence and domination on the world economic branches in addition the growing of the contemporary technological revolution outputs that are dominated by the multinational companies⁸ dominate more and more on the available economical capacities among which foreign investments multinational companies rely mainly on the diversity in economic activities until the last two decades of the previous century , multinational companies relied on industrial investments in the industrial developed countries in CDEO and they relied also on the extraction investment such as oil extraction in less developed countries . but in the two last decades of the previous century and the beginning of the this century the domination of multinational countries grows more on the domain of services in a magnificent way like media and communication , insurance , financial and banking services.⁹

foreign investment of the multinational companies takes the following forms :

* The foreign investor (often a multinational company) would found a company that is owned by him in full of its assets and is not shared by any local party; this form of investment is most preferred by multinational companies because it offers more domination of the parent company over the affiliated company or branch .

* The foreign investor (the multinational company) may join a local company by possessing a part of its capital

* The establishment a new company between the foreign investor (the multinational company) and local party through which they can make use of corporate project (a joint-venture project) managed and administrated subject to the agreement of the two parties .¹⁰ Multinational companies are currently playing a major role in the implementation of investment project in various forms and types, mainly with the trend towards globalization of the economy. What matters in this discussion is related mainly to the big role of these companies in enriching the technological ac inventory by transferring the technology they possess to serve the development path of host countries...would. foreign investment achieve such this goal ?

B - foreign in investment role in technology transfer:

It's right that the main goal of the foreign investor (the multinational company) when moving to another country is profit and not otherwise, but achieving these desired profits often based on the competitive advantages of that investor and it has already been pointed out that maintaining competitive position and superiority in any market is due to the knowledge and technological balance of economic actors and as an arrangement,

Consequently the investment project directly or indirectly will give the host country the opportunity to benefit of that technological support which means that the foreign investment from this point is considered an important channel for technology transfer¹¹

this can be done by the benefiting of the local companies in the host country from the channels of communication that are available to them or these recognized in the process of participating in joint venture projects or through having contact with the foreign projects by adopting reverse engineer style or by imitation style or by using many other methods such as benefiting from the experience and skills of the workers moved from the investing companies .In all ways , the foreign investment will be a motivating and contributing factor for the host countries to increase them production through the modern technology related the joint venture .This can't be done without that process because is not available

in the market or highly expensive since to abandon their technology through direct licensing . Furthermore, the technology gained by the host country is often more sophisticated than that one gained through licensing or abandoning¹².

the foreign investment also motivates the local companies to step forward after the joint venture in expenditure on research and development so that technological bare may grow and have a place in the market if they are eager to stay there and continue they can beneficie¹³, through imitation of the skills and competencies of production and marketing and management types that can be gained from the joint venture .this will be a crucial factor to increase the competition level that will motivate the local companies to increase the quality and diversity of their production .

however , despite all these information and data , the subject is not so easy because the multinational companies are too discreet and prudent to maintain its technological power and distinction and their economic domination therefor they exert the utmost care and caution in revealing their technological stocks, and this is evident, especially in the way they deal with local companies and access in technology, it is not available in the simplified from that we might imagine, therefor, the multinational companies' methodds of dealing with this issue are numerous according to several considerations such as the type of technology, and level of development of the host country , the ability of assimilation technology in the host country , the volume of the market targeted and monopoly advantages that can be gained . the multinational companies always favors from options and styles when dealing with technology seeker they may prefer the cession option or licensing and may deliberate on the path of joint- venture or other¹⁴ .

The dominating factor in technology transfer process through the foreign investment will always be the man production and expansion achieving more and more profits , therefor , multinational companies will allow technology transfer that allow them more and more profits¹⁵.

II - The impact of industrial property rights protection rules on foreign investment flows

Empirical economic research and studies notice that any economical projects (most often a multinational company) when they decide to invest in another country, they always have intention of expansion in the market more than other competition , they have the desire to achieve more profits , consequently , the foreign investor never actor move outside his country only if he has the capabilities and advantages that will guarantee his persistence In facing the risk

of the other competitive projects in order to win the competition and to gain all the profits targeted in the host countries¹⁶

these studies achieved these results : the advantages that influence the behavior of the investor and encourage him to move and invest in foreign country are various some have relation with competition ability and monopoly advantages , others have relation with technological and marketing excellence ¹⁷ another one has relation with the personal concern from all that advantages in this study , combine the importance of technological excellence and the big part of the technological resources the project must have in order to be able that to in a foreign country

This technological resources will be used by the project in external markets through different tools ¹⁸ and means among which the direct foreign investment.

The question that imposes itself here is about relationship between the protection of industrial property and foreign direct investment, so is it possible to consider that the level of protection in the host country may affect in the attraction of investment? Is this protection a necessary and important condition so that investors decide to invest with confidence and peace of mind?

in fact , the answer of such question is not simple or easy as it appears, jurists who dealt with this issue were divided between supporter of the role of protection as an important and principal motives in the process of direct foreign investment . other deny and refuse this role at all .

A - Advocate the role of the protection to attract investment:

Some claim that the strong protection of industrial rights would support and encourage, in general, the motives for direct foreign investment mainly the one directed to the developing countries¹⁹ . These rely on the fact that the high protection of industrial property rights will certainly increase the profits from the invested projects since it leads the expansion of the market by opposing and fighting counterfeiting and imitation internal and external ²⁰ ; this gives a safety valve and highly good guarantee to the foreign investor (multinational companies) in the host country , however despite the clear reason of this branch of always is theoretically , reality asks another important debating question: what is suitable manner and the best means to exploit the resources the industrial property right , is it by licensing or the direct investment ?

Here supporter of this trend claim that the level of protection determined the suitable means. The high protection lead to using licensing means since the foreign investor feels peace in mind and secure in exploiting his resources which

encourages him to licensing to other abroad²¹. However, the weak protection may lead to preferring the direct foreign investment.

In support of this attitude, jurists followed same empirical studies and real experiences done by economical jurists and scalars in order to know the defined option that encouraged the American companies to invest outside the USA. According to the study held by the scalars Mansfield and Tee, it was clear that the low protection of industrial property rights greatly affected in allowing direct American investment in foreign countries²².

Another study by Muskusk revealed that multinational companies prefer to import and increase sales and investment or technology transfer as a response to the high protection of the industrial property rights.²³

supporters of this opinion see that the weak protection gives way to the direct foreign investment because of the advantage linked to the cost of technology transfer from the mother company to its affiliates or among affiliates themselves in comparison to the general costs of licensing or because of the supervising and performance monitoring to whom they give the license.

others see that the influence of the protection even if it is expected but it differs from an economical area to another depending on the technological and date accumulation used in the project if the economic area relies on technological resources or huge date, it will be affected more and more by the strength and the weakness of the industrial property protection which is the case for drugs and chemical industrial area, biotechnology, genetic engineering and informatics.

things differ for areas that rely less on technological knowledge in which the direct foreign investment is less affected it is the case for mining industry and metallurgy and activities of purchase and distribution.²⁴ the decision to invest or not depends greatly on the idea of easiness and tendency to industrial imitation. when even the industry tends to be easy in imitation, the investing companies prefer to protect it through the direct production, but the opposite will happen whenever the industry is very sophisticated and very difficult to be imitated, licensing will be the best option and here they must take into consideration the status of the host countries in terms of technological and scientific welfare and growth²⁵.

the summary from all this explanation of the opinions of supporters is that multinational companies are not inclined to investment in countries that have weak protection to industrial property rights in case they decided to invest in countries that have weak protection they chose the projects totally owned by them and never prefer corporate projects with local parts, furthermore, they never take

the risk of modern technology transfer and chose only secondary steps of production²⁶.

B - The denial trend of any role of protection in attracting DFI:

opposing the previous opinion that links the level of protection of industrial property rights to the flux of investment many other economist see that there is no link nor influence that can be expected from the good or weak protection at all multinational companies never consider any into consideration other factors and natives that have no relation with industrial protection rights at all . This is proved by some statistics done on same countries that have a big flow of investment even if they don't have any system of protection or have only weak protection level²⁷.

Supporters of this opinion see that companies particularly from industrial countries invest abroad in order to increase their profits and maximize their scientific and technological powers and administrative skills. this decision is most often, based on the purpose to block the way against expected competitors particularly when the risk to lose the market seems to be obvious.

On the other hand, encouragements and natives presented by the host countries play a vital role in attracting foreign investment regardless of the protection of the industrial property rights matters . Countries (mainly developing ones) might compete in presenting an differing legal, economic and financial temptation to gain a porting investment from multinational companies²⁸. Other considerations related to the size of the host market in matters of population or per capital or income or the both (can be added) in addition to new material stocks , skilled staff and labour wit mow wages if possible as well as the excellent geographical situation and its relation with the neighboring countries markets ²⁹.

Supporters of this opinion prove their point of view by the experience of the some undeveloped countries that made up their rules and lows and created new ones in matters of protection of industrial property rights to be in agreement with the Trips accord. This action didn't lead to any increase in attracting foreign investment but on the contrary, foreign investment decreased a lot in these countries more than before³⁰.

Supports off this opinion add that industrial property rights seem to create monopoly status that may affect negatively the flow of direct foreign investments³¹.

either fir these having the property of these rights (multinational companies) since their monopoly status allow them to achieve many profits without the need to move their projects outside their native countries which is the case also for their competition, since the monopoly fact among them prevent

them from the monopolies market this is proved by the study done by the united nations that achieved the conclusion that invented companies in the developed countries may possibly, according to the current economic system particularly after the trips agreement, go directly to sell productions and services that include inventions instead of technology transfer via direct foreign investment or licensing³².

Conclusion:

the truth that can be concluded after this juristic debate about the impact of the protection of industrial property rights on FDI flows is that there is no clear and crucial practical proof in this matter. Most practical studies find out many different results most often not proved because of the different information and considerations that interfered with the nation of the protection of industrial property rights that affected the foreign investors (multinational companies) when they decide to invest abroad to prove such conclusion, we can see back the progress of the foreign investments movement from the sixties of the last century until the beginning of the nineties when the protection of industrial property rights was not one of the motives for the foreign investment flow³³. Things changed after that mainly in the composition of modern goods and services in which technological knowledge has become the decisive factor and the crucial motive in the competition this affected the state of foreign investment flow with the consideration of sectors and fields of investments and their sensitiveness to imitation in addition to considering other facts and motivating factors. consequently³⁴, the flow of direct foreign investment in a particular country nowadays is based on different factors among which there is the protection of industrial property rights which does not greatly so affect. its influence if found, differs from one sector to another from one fields to another according to the amount of scientific research and technological development and progress as well as the possibility to imitation and so forth³⁵.

At the end of this study, we review some of the results and recommendations that could be found successively:

Results:

A- There is no dispute that intellectual property rights in general and industrial property rights in particular have become, at least since the last decade of the last century, a serious consideration and one of the most prominent bets on which most countries, developed and developing alike, depend, so there is a tendency towards strengthening and tightening their protection systems in line with the phenomenon of economic globalization and subsequent integration in

national, regional and international markets as a result of the removal or easing of barriers to trade, investment and technology transfer.

B- Foreign direct investment in particular is becoming increasingly important and its role, since it is not only a source of financing but also an important tool in the transfer of technology to states and supplying them with production and marketing techniques

C- The means and methods by which industrial property rights can affect investment and technology transfer are so numerous and complex that it is difficult to say that strong protection rules are the only factor that increases foreign investment flows, as evidenced by the fact that countries such as China and Brazil are often accused of weak IP protection systems, yet they are among the most attractive and attractive countries for foreign investment

D- Foreign institutions and companies, when they decide to invest in a country whose main objective is to obtain profits, which are usually interfered with by a range of elements, factors and options that are differentiated between them (such as simply exporting their products, granting a license or entering into a joint venture with a local party or establishing a branch in the country concerned), the result is that the choice of the investing institution with industrial property rights is influenced as much as its profits.

Recommendations:

A- Since globalization in all its manifestations has become an imposition, developing countries, including Algeria, must accelerate their involvement in international and regional economic regulations (e.g. World Trade Organization, OECD, World Intellectual Organization etc.) and take advantage of the advantages and opportunities available so that they are not vulnerable to isolation, marginalization and inability to confront different blocs

B- Developing countries and Algeria must be one of them, and in order to attract investment sought and to attract technology, it does not go far in granting concessions and facilities that may have negative repercussions on the economic, social and cultural interests of their peoples, especially since the developed countries and their capital companies have the aim of obtaining maximum profits, even at the expense of legal rules and moral values. Many of the experiences of some developing countries have shown the extent of the damage done to them as a result of excessive concessions and non-incentives. Justified under the guise of attracting foreign investment and promoting the transfer of technology, it has only been exploited and depleted by its natural resources and capabilities

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- ⁴ - فقد يتظاهر المؤشر الجغرافي مع مؤشر التحكم والسيطرة فتتشأ عدو صور مركبة من الاستثمارات مثل الاستثمار المحلي المباشر وغير المباشر، ويقابله الاستثمار الأجنبي المباشر وغير المباشر حول هذه التقسيمات، <Http://melouza.ahlamountada.net>.
- ⁵ - يعرف كل من صندوق النقد الدولي FMI ومنظمة التنمية والتعاون الاقتصادي OCDE الاستثمارات الأجنبية المباشرة بأنها استثمارات في مشروعات داخل دولة ما ويسيطر عليها المقيمون في دولة أخرى بما يفوق 10 % من رأس المال أو قوة التصويت بينما تصل هذه النسبة في استراليا إلى 25% وفي فرنسا إلى 20% وفي كل من الولايات المتحدة الأمريكية والسويد وألمانيا أنظر في هذا الصدد، الاستثمار الأجنبي المباشر في الجزائر منتديات أولاد الجزائر. <http://awladdz.info>. بينما تعرف اتفاقية الاستثمار الثنائي بين ألمانيا وباكستان لسنة 1959 بأنه إدخال رأس المال إلى اقليم الدولة الأخرى لاستثماره في مختلف الصور مثل العملات والأموال وحقوق الملكية الصناعية وغيرها.
- ⁶ - وقد عرف العالم الاقتصادي المعاصر عدو تجارب من هذا القبيل خاصة بعد الحرب العالمية الثانية وانقسام العالم إلى معسكر غربي تتزعمه الولايات المتحدة الأمريكية ومعسكر شرقي بقيادة الاتحاد السوفيتي.
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- ⁸ - فقد ارتفع عدد هذه الشركات بشكل واضح ومطرد كان عددها 33600 شركة أم لها 174900 فرع سنة 1990 ليرتفع إلى 65000 شركة أم لها 850000 فرع سنة 2001 وقد ساهمت هذه الشركات في زيادة تدفق الاستثمار الأجنبي المباشر عالميا من 203.8 مليار دولار سنة 1990 إلى 865 مليار سنة 1999. حول هذا أنظر: تقرير الأمم المتحدة الخاص بالاستثمار العالمي 2002، الشركات عبر الوطنية والقدرة التنافسية التصديرية، عرض سنة 2002.
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- ¹² - أحمد السيد كردي، مرجع سابق، ص 09. وانظر أيضا unctad.wordinvestmentreport2000Geneve.
- ¹³ - فقد استفادت الشركات المحلية في كل من البرازيل وكوريا الجنوبية وغيرها وفي وقت سابق اليابان من الفرص التي أنتجت لها نتيجة الاحتكاك بالمشروعات الاستثمارية الأجنبية. وانظر حسين صبري أحمد صبري، عالم

الابتكار، وزارة البحث العلمي أكاديمية البحث العلمي والتكنولوجيا - القاهرة، بدون تاريخ، ص 190 وما بعدها. و على وجه الخصوص التجربة الكورية الجنوبية :

Seoul, l'innovation fait la richesse. Alternatives internationales. n° 04 hors série. Novembre, 2006-2007. p.46

¹⁴ - حسين صبري أحمد صبري، مرجع سابق، ص 174.

-Mahfoud Bouhacene ,droit de la coopération industrielle.opu.1982. p141 et s. - Alfred chaoue, op.ci p.71

-Jean François bloc, le brevet une arme pour une stratégie de transfert de technologie ; management de transfert de technologie collection gestion. p.u.f 1999.p 131 ets.

¹⁵ - وليد المزرعاوي، الاستثمار الأجنبي المباشر ونقل التكنولوجيا، مقال منشور على الموقع :

www.dirtanews.com وانظر أيضاً El MouhoubMouhoub. op.cit., p 96

فنيان محمد طاهر، مشكلة نقل التكنولوجيا، دراسة لبعض الأبعاد السياسية والاجتماعية، الهيئة المصرية العامة للكتاب ; القاهرة، 1986 ص 63 وما بعدها.

¹⁶ - محمود الطنطاوي الباز، تفسير السلوك الاقتصادي للمشروع دولي النشاط، مجلة مصر المعاصرة، العددان 411 و412، جانفي-أفريل 1991، ص 121.

¹⁷ - Dennis w.carlto, Jeffrey m.perloff, traduction de la 2^{eme} édition américaine par Fabrice Mazerolle. Groupe de Boeck ; Bruxelles. 2008.p74, etaussi -Marie pierre thivierge. Etude de l'impact des droits de propriété intellectuelle sur les investissements directs étrangers. Le cas des multinationales américaines. université de Montréal. Juillets 2006. p 10 ets. Sur le site http/papyrus.bib.univ-montreal.canada ...

وأنظر أيضا خليل محمد خليل عطية، الاستثمارات الأجنبية المباشرة والتنمية، بحث في النظرية، مجلة مصر المعاصرة، العددان 437-438.

وانظر على وجه الخصوص دراسة Dunning في مقارنته الانتقائية المذكورة في نفس المرجع.

¹⁸ - تتعدد الآليات القانونية المستخدمة في الدخول إلى الأسواق الخارجية والتي من بينها، التصدير، واتفاقيات التراخيص واتفاقيات الشراكة، والترتيبات التعاقدية المختلفة حول هذا الموضوع، Mahfoud. Bouhacene,op.cit, p 139, et s

عبد اللطيف بن اشهنو، المؤسسات الأجنبية ونقل التكنولوجيا إلى الاقتصاد الجزائري- مركز دراسات الوحدة العربية، الطبعة الأولى، بيروت سبتمبر، 1985، ص 139 وما بعدها.

¹⁹ - جلال أحمد خليل، مرجع سابق، ص 255-256.

كنعان الأحمر، دور حق المؤلف والحقوق المجاورة في النهوض بالإبداع والاستثمار، ندوة wipo -دمشق 27 و28/04/2005.

²⁰ - Sacha. Fischer, Rafael prébendier, Simon veuille, et le professeur J.H Lambelet ; la propriété intellectuelle, université de Lausanne. E.H.E.C 2002 p,10,voir sur le site. www.hec.unil.ch/J.Lambelet

²¹ - السيد أحمد عبد الخالق، مرجع سابق، ص 177.

Emanuel combe. Etienne Pfister, Le renforcement international des droits de propriété intellectuelle économie internationale. La revue du Ceph n° 85. 1^{er} terme 2001

²² - Mansfield et Lee.j.y. intellectual protection and us foreign direct investment review of economics and statistics. vol 78 N 02 1992 P.P 181.186.

²³ - Maskus.k - patents trade and foreign direct investment, university of Colorado 1997.

-The role of intellectual property right in encouraging foreign investment and technology transfers. Dure journal of comparative and international law. 1998.p6.

في عرض مختلف هذه الدراسات - حازم حلمي عطوف، مرجع سابق، ص 157 وما بعدها.

²⁴ - كارلوس كوريا، حقوق الملكية الفكرية، منظمة التجارة العالمية والدول النامية، اتفاقية تريبس (trips) وانحياز السياسات، ترجمة السيد أحمد عبد الخالق، دار المريح، الرياض، 2002، ص 45 وما بعدها.

²⁵ - Bureau international de l'ompi, la propriété industrielle comme facteur de progrès technique et de développement économique, Niamey, Niger 27-29 octobre 1998. Voir dans le même sens :

السيد أحمد عبد الخالق، مرجع سابق، ص 119.

²⁶ - حازم حلمي عطوف، مرجع سابق، ص 156 و ص 161.

²⁷ - فقد عرفت البرازيل زياداً تدفق الاستثمارات الأجنبية خلال الفترة 1970-1985، ونفس الشيء عرفتته تايلند خلال فترة الثمانيات، وهو ما ينطبق على كثير من الدول الأخرى مثل المكسيك والأرجنتين وتركيا والصين ودول شرق آسيا عموماً وهذا رغم عدم توفر هذه الدول في تلك الفترة على أنظمة حماية قوية لحقوق الملكية الصناعية. انظر في هذه الحالات على سبيل المثال،

تقرير منظمة الأمم المتحدة - دائرة التنمية الاقتصادية والاجتماعية . حول حقوق الملكية الفكرية والاستثمارات الأجنبية المباشرة، نيويورك 1993.

²⁸ - ويندرج في هذا السياق تحول الجزائر بداية من تسعينيات القرن الماضي حيث ما فتئت تقدم الحوافز والمزايا من مختلف الأنواع .. قانونية وجبائيه ومالية وغيرها انظر في هذا الصدد:

- المرسوم التشريعي 39-12 المؤرخ في 05/20/1993 المتعلق بترقية الاستثمار خاصة المواد: 20، 21، 22، 35، 36، 37، 38، 39، 40.

- الأمر 01-03 المؤرخ في 20/08/2001 المتعلق بتطوير الاستثمار خاصة المواد 10.11.12. مكرر والمراد 14.17.16.15.

- الأمر 06-08 المؤرخ في 15/07/2006 المعدل والمتمم للأمر 01-03 خاصة في مواد 8.9.10.11.

²⁹ - فالشركات اليابانية مثلاً تفضل الاستثمار في البلدان ذات الإمكانيات العلمية الجيدة، والأسواق الواسعة، ومصادر الطاقة والمراد الأولية الوفيرة، انظر في هذا المعنى: السيد عبد الخالق في رسالته بالإنكليزية:

T.N.C.S and transfer of technology to Egypt. Keel university. UK 1986.

ومشار إليها في مؤلفه السابق الإشارة إليه الهامش 1 ص 123. وأيضاً، جلال أحمد خليل، مرجع سابق، ص 257.

³⁰ - وهذا ما ينطبق على ما عرفتته جمهورية مصر العربية بعد انضمامها لاتفاقية TRIPS، انظر السيد عبد الخالق، مرجع سابق، ص 124.

³¹ - من ذلك دراسة 1991 -NOGUES-، ودراسة 1996 UNCTAD -وانظر في مختلف الدراسات التي تناولت الموضوع ثيلي شيخة، تأثير حماية براءات الاختراع على نقل التكنولوجيا عن طريق الاستثمار الأجنبي المباشر،

كلية العلوم الاقتصادية وعلوم التسيير، جامعة باتنة مقال بدون تاريخ. وايضا . Marie, Pierre, Thivierge, op, cit. p03, et

³² - United nation, department of economic and social development. *Intellectual propriety rights and foreign direct investment*, New York, 1993. p.p. 4..5..6.

³³ - السيد أحمد عبد الخالق، مرجع سابق، ص 125.

³⁴ - عبد الرحيم عنتر عبد الرحمن، مرجع سابق، ص 437 وما بعدها.

³⁵ - حازم حلمي عطوة، مرجع سابق، ص 162.