INTERNATIONAL CENTER OF NEW ENGLAND

LICENSING WITH USSR AND EASTERN EUROPEAN PLANNED ECONOMY COUNTRIES

. WHY LICENSE?

A. IN EASTERN EUROPE, OFTEN ARE LICENSING WHOLE COUNTRY RATHER THAN ONE COMPANY AS IN WESTERN EUROPE – THUS, GET LARGER FEES

1. AS EASTERN EUROPE COUNTRIES BUY ALL EQUIPMENT AVAILABLE FROM EACH OTHER, E. EUROPE LICENSEE IS IN PREFERRED POSITION TO SELL TO ENTIRE E. EUROPE COMMUNITY
   – CONSIDER ENTIRE E. EUROPE WHEN CALCULATING POTENTIAL VOLUME TO BE PRODUCED

B. OFTEN GET SUBSTANTIAL BUSINESS IN ALSO SELLING COMPONENTS OF PRODUCT LICENSED (SUCH AS EQUIPMENT) TO LICENSEE – AS MUCH AS 50% OF TOTAL PRODUCT IN FIRST FEW YEARS AND THEN 15-20% FOR LIFE OF LICENSE. E. EUROPE MFG. GOALS OFTEN SET AS FINISHED PRODUCT – NOT COMPONENTS

C. IN ADDITION TO LICENSOR HAVING EXCLUSIVE POSITION IN SELLING COMPONENTS, ALSO GET PREFERRED POSITION FOR SELLING OTHER PRODUCTS, BECAUSE OF LICENSE RELATIONSHIP

D. E. EUROPE LICENSE OFTEN GOOD SOURCE OF SUPPLY FOR W. EUROPE OR MIDDLE EAST OF LICENSED PRODUCT, WHICH E. EUROPE LICENSEE WILL SELL TO LICENSOR

E. AS EASTERN EUROPE LICENSEE UNDERTAKES ALL CAPITAL COSTS OF MFG. PLANT, LICENSOR NEED NOT BUILD NEW PLANT IN W. EUROPE

F. WAY OF ENTERING A MARKET THAT IS OTHERWISE CLOSED

1. LACK OF HARD CURRENCY
2. LACK OF FAMILIARITY WITH U.S. COMPANIES
3. DISTANCE COMPARED TO MORE FAMILIAR W. EUROPE VENDORS

II. DIFFERENCES BETWEEN DEALING WITH PLANNED ECONOMY COUNTRIES AND OTHER COUNTRIES

A. LICENSING TO PLANNED COUNTRIES

1. DEALING WITH A GOVERNMENT, NOT WITH INDEPENDENT COMPANY
2. MUST UNCOVER AND DEVELOP APPROPRIATE CHANNELS TO PROSPECTIVE LICENSEE
3. OFTEN CANNOT USE LICENSING INVESTIGATION TECHNIQUES TO LOCATE LICENSEE

(DIRECTORY LISTINGS OF PRODUCTS, TECHNICAL SOCIETY MEMBERSHIP LIST, INDUSTRY REPORTS, ETC.)

4. NEGOTIATIONS MAY BE LENGTHIER (TWO-YEAR AVERAGE)
5. NEGOTIATIONS NEARLY ALWAYS TAKE PLACE IN THEIR COUNTRY
6. STRUCTURE OF BUSINESS ARRANGEMENT IS USUALLY DIFFERENT FROM THOSE NEGOTIATED WITH WESTERN COMPANIES

A. USSR (PRESENT) AND E. EUROPE (IN PAST) USUALLY PREFER

1. LUMP SUM PAYMENTS (POSSIBLY SPREAD OVER A PERIOD OF TIME)
2. TURNKEY PLANTS
3. STRICT PERFORMANCE GUARANTEES
4. BUYING COMPLETELY DEVELOPED TECHNOLOGY

B. HOWEVER, E. EUROPE NOW LOOKS AT BUSINESS ARRANGEMENTS DIFFERENTLY FROM USSR

1. E. EUROPE IS MORE FLEXIBLE IN STRUCTURING BUSINESS ARRANGEMENTS THAN USSR, AND
2. E. EUROPE IS MORE INTERESTED IN LONG-TERM INVOLVEMENT THAN USSR,

(LONG-TERM INVOLVEMENT IS ESTABLISHED THROUGH A COMMITMENT TO PROVIDE CURRENT TECHNOLOGY PLUS IMPROVEMENTS THROUGH COURSE OF AGREEMENT (5-15 YEARS)

C. BECAUSE

1. E. EUROPE DOES NOT HAVE THE RAW MATERIAL WEALTH OR GOLD RESERVES OF USSR TO PAY FOR WESTERN TECHNOLOGY
2. FOREIGN TRADE IS MORE IMPORTANT TO E. EUROPE THAN IT IS TO USSR (1970 - 4% OF USSR NATIONAL INCOME, 35% HUNGARY, 30% CZECH., 28% BULGARIA, ETC)
3. THUS, NEED TO GET WESTERN PRODUCTION TECHNOLOGY ON A CONTINUING BASIS TO COMPETE IN INT'L. MARKETS IS MORE IMPORTANT TO E. EUROPE THAN TO USSR

D. E. EUROPE NOW LIKES

1. LICENSOR TO TAKE PART OF LICENSEE'S PRODUCTION OF LICENSED PRODUCTS IN PLACE OF FEES, BECAUSE
   A. IMPROVES BALANCE OF TRADE
   B. LICENSEE DOESN'T HAVE TO ASK ITS GOVERNMENT FOR HARD CURRENCY WHICH IS IN SHORT SUPPLY
   C. FOREIGN TRADE ORGANIZATION EMPLOYEES, (WHO NEGOTIATE DEAL) GET BONUSES BASED ON VOLUME OF SALES TO HARD-CURRENCY COUNTRIES – THUS, CAPITALIST INCENTIVE
2. LICENSEE WILL AGREE TO BUY A PREDETERMINED QUANTITY OF PRODUCTS FROM LICENSOR, IF PRODUCTS HAVE A DEFINITE INTERNATIONAL PRICE, BASED ON LICENSOR MAKING A 10% PROFIT – THUS, RATHER THAN PAY 1 MILLION DOLLARS LICENSE FEE, BUY 10 MILLION DOLLARS OF PRODUCTS
3. BARTER DEALS

4. OFTEN LICENSEE WANTS PRESENT BEST TECHNOLOGY PLUS ALL IMPROVEMENTS WHICH ARE COMMERCIALIZED OVER NEXT 8-12 YEARS – WILL PAY INITIAL DISCLOSURE PLUS ADDITIONAL PAYMENTS OVER LIFE OF LICENSE

E. NOTHING PREVENTING JOINT VENTURES OR ANY OTHER BUSINESS ARRANGEMENT. THESE ARE RARE IN USSR TODAY, BUT ARE HAPPENING WITH MORE FREQUENCY IN EASTERN EUROPEAN COUNTRIES

III. WHO DO YOU DEAL WITH?

A. IF BARE LICENSE (ONLY PATENTS OR ONLY BARE RIGHT TO MAKE PRODUCT) DEAL WITH LICENSING FOREIGN TRADE ORGANIZATION, SUCH AS LICENSINTORG (USSR), POLSERVICE (POLAND), ETC.

B. IF LICENSE INCLUDES KNOW-HOW AND OTHER AID, OR INCLUDES COMMERCIAL COOPERATION, PRIMARY RESPONSIBILITY IS WITH FOREIGN TRADE ORGANIZATION WHICH RELATES TO LICENSEE'S INDUSTRIAL ACTIVITY

IV. LICENSING FROM PLANNED ECONOMY COUNTRIES

A. USSR USUALLY LICENSES OTHERS UNDER ITS FOREIGN PATENTS ONLY AFTER THEY ISSUE

B. DEAL ONLY WITH LICENSINTORG OR ITS AGENTS-DEVELOPER OF TECHNOLOGY IS NOT USUALLY INVOLVED IN SELLING EFFORT

C. DIFFICULT TO GET ADEQUATE TECHNICAL INFORMATION TO EVALUATE TECHNOLOGY

D. COST INFORMATION ON PRACTICING TECHNOLOGY NON-EXISTENT

V. USSR GOVERNMENT VIEW OF PATENTS

A. USSR GOVERNMENT WILL NOT PERMIT UNLICENSED USE OF INVENTIONS COVERED BY SOVIET PATENTS

B. SOVIET PATENTS HAVE BEEN GRANTED ONLY AFTER THOROUGH REVIEW OF PRIOR ART AND ARE VALID

C. ISSUANCE OF A PATENT INDICATES THAT INVENTION IS NOVEL, USEFUL AND THAT VALUABLE AND COSTLY RESEARCH MUST HAVE GENERATED THE INVENTION