

Linking Partnership with Technology Transfer in Algerian Legislation-The Technical Partnership Contract as a Model-

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Abstract

Partnerships are regarded as one of the most significant forms of international investment, including investment in technology, which currently represents one of the most important international economic arrangements contributing to the realization of economic development. This is clearly reflected in the efforts undertaken by the Algerian State to transform the outcomes of scientific research, innovations, and inventions from the sphere of theoretical abstraction into the domain of applied economic activity, as well as through the transfer of technology from technologically advanced countries to developing countries that lack such capabilities, achieved through technical partnership contracts. Technology transfer enables states to make effective use of their natural resources and to develop their infrastructure, in addition to training the local workforce, advancing various industries, and strengthening the capacities required for production and innovation.

Keywords: Partnership, investment, Technology transfer, Technical partnership contracts, Economic development.

Introduction

Technological development is considered a fundamental factor in the advancement of economic enterprises, the promotion of their products, and their access to foreign markets. Given that technological development is a continuous and rapidly evolving process, economic enterprises often find it difficult to keep pace with it on a sustained basis due to its high costs, which frequently constitute a major constraint. This reality necessitates the adoption of a strategic partnership policy aimed at reducing the financial burden associated with technological research.

In view of the economic and technological disparities that characterize states and distinguish enterprises from one another, and within the framework of a market economy marked by the expansion of investments and the intensification of economic competition among enterprises, many entities have turned to cooperation as a means of confronting global competition through the adoption of a strategic partnership policy.

The concept of cooperation is not a recent phenomenon; rather, it is deeply rooted, as it is founded on the principle of shared and mutual interests among states. However, the notion of partnership among economic enterprises as a strategy for development and growth did not receive substantial attention until recent years, when it came to be recognized as a key factor in the advancement of economic enterprises.

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Furthermore, cooperation does not imply a relationship of dependency between states; instead, it reflects an acknowledgment by the parties of existing economic disparities, which makes it necessary to conclude a cooperation agreement whereby the host state, in need of such cooperation, undertakes to provide the legal instruments required to implement it, while the donor state assumes a technical obligation in the form of “technical assistance.”

The importance of the subject under examination is demonstrated by the significance of foreign investment, embodied in partnership contracts as one of the mechanisms used to achieve the process of technology transfer, which constitutes the essential foundation upon which the economic structures of host states for investment are built, as well as by the extent to which partnership contributes to technology transfer in order to realize the economic development plans adopted by the state.

On this basis, the following problematique is raised:

How can a partnership contract contribute to the effective and genuine transfer of technology to the receiving party?

Section One: The Partnership Contract from Context to Innovation

The term “partnership” was first employed in the field of international relations by the United Nations Conference on Trade and Development (UNCTAD) toward the end of the 1980s. As for the concept of partnership, it appeared in the Larousse dictionary in 1987 in the following formulation: “a system that brings together economic and social actors.”

Partnership contracts have come to occupy a dominant position within the economic sphere due to their contribution to development through the provision of foreign investments that complement domestic investments. These contracts have extended to the design, construction, and operation of projects across a wide range of sectors, whether industrial, commercial, or service-related.

First Requirement: The General Framework of the Partnership Contract

Many economic enterprises and leading companies have adopted the partnership strategy as a mechanism for growth, external expansion, the achievement of integration, the strengthening of competitiveness, and the reduction of monopolistic practices that often lead to their decline. Foreign partnership represents a significant opportunity that facilitates access to new sources of profit and development, through which economic enterprises acquire technological expertise that can be practically applied.

First Subsection: The General Framework of the Partnership Contract

In light of the developments experienced by the international economic environment, which have, in turn, influenced management strategies—particularly within economic enterprises that have found themselves compelled to adapt to these new challenges and to operate within a partnership-based approach—the concept of partnership varies according to the sectors that may constitute the subject of cooperation among enterprises, as well as the objectives that such partnership seeks to achieve.

First Subsection: The Partnership Contract in Algerian Legislation

Before addressing a definition of the technical partnership contract, which constitutes an important component of the present study, it is first necessary to clarify the general concept of partnership. Several definitions have emerged due to the relative novelty of the concept, which is multidimensional and encompasses a range of aspects, including legal, administrative, economic, and social dimensions. As a result, the concept does not enjoy a unified definition among legal scholars. Accordingly, the most significant legislative and doctrinal definitions proposed by jurists and legal scholars in this field will be presented.

– The Concept of the Partnership Contract

1 – Legislative Definition:

Several countries around the world have addressed partnership contracts, with some enacting specific legislation to regulate them, including France, Egypt, and Tunisia, among others, while other countries, such as Algeria, have not yet done so. In this regard, the Algerian legislator has relied, in certain respects, on provisions contained in other legal texts to regulate aspects of the partnership contract.

The Algerian legislator has not enacted a specific law governing partnership contracts, despite the fact that the Algerian government has concluded numerous contracts in the form of partnership agreements with operators active in the sphere of private law, whether foreign or national. These

contracts were primarily associated with the energy sector, in which foreign companies concluded concession contracts with the Algerian government for periods of no less than fifty years. This situation resulted, on the one hand, from the legal vacuum that prevailed at the time and, on the other hand, from the strong negotiating power enjoyed by those companies.

With changing circumstances, it became necessary for states to adopt a new system that would be consistent with their economic aspirations. Consequently, concession contracts were replaced by mixed company contracts or joint ventures as a mechanism enabling the state to exercise control over foreign economic activity conducted within its territory. This approach was established by Order No. 71-22 of 12/04/1971, relating to the determination of the framework within which foreign companies operate in the field of liquid fuel exploration and exploitation. This Order was founded on two fundamental principles: the first concerns majority participation by the public enterprise, represented by Sonatrach, at a minimum rate of 51%, while the second principle provides for the attribution of control and management authority to Sonatrach.

The Algerian government has undertaken numerous administrative, financial, and economic reforms through the adoption of the market economy system, with the objective of encouraging private investors, whether national or foreign, to enter and invest in the national market. In order to ensure the success of this process and to achieve this objective, a series of legal texts were issued in the form of decrees and orders.

Although the Algerian legislator did not enact a specific law governing partnership contracts, such contracts were addressed in certain subsidiary legal texts. By way of illustration, reference may be made to Executive Decree No. 13-320 of 26 September 2013, which determines the modalities for resorting to the financing necessary for the realization of direct foreign investments or investments carried out within the framework of partnership. This decree specifies the methods for financing various investment projects, whether through direct investment or through partnership where necessity so requires.

Similarly, Executive Decree No. 06-355 relating to the powers, composition, organization, and functioning of the National Investment Council refers, in paragraph six of Article 03, to the Council's role in examining and approving the criteria for determining projects of significance to the national economy, among which partnership projects are included. In addition, Executive Decree No. 06-356, which defines the powers, organization, and functioning of the National Agency for Investment Development, provides in paragraph 04 of Article 03 that one of the tasks entrusted to this agency is the establishment of databases relating to business opportunities, partnerships, projects, as well as the resources and capacities of local and regional territories.

The Algerian legislator also addressed partnership contracts through Order No. 09-01 containing the Supplementary Finance Law for the year 2009, specifically in Article 53, paragraph 03, which stipulates that foreign investments may only be carried out within the framework of a partnership in which national participation represents at least 51% of the share capital. National participation is understood to include the aggregation of several partners. Accordingly, this provision clarifies the share of the Algerian partner within the framework of the partnership, which the legislator has set at 51%.

Since the Algerian legislator has not enacted an independent law specifically governing the partnership contract, the legal provisions applicable to this contract were previously subject to Law No. 16-09 relating to the promotion of investment and are currently governed by Law No. 22-18, particularly through Article 04 thereof, with regard to the manner of defining the objectives to be achieved and the guarantees granted to the private partner. This approach is based on the consideration that the partnership contract falls within the category of investment contracts and therefore constitutes part of the general legal framework governing investment in Algeria.

2 – Doctrinal Definition:

Given that these contracts are the product of international practitioners who are not, in all cases, legal specialists and whose expertise is often limited to the specific field of activity of their institutions, difficulties frequently arise in assessing whether the contractual clauses adopted are capable of integration into other legal domains. This situation renders the extraction of general legal rules governing such contracts particularly complex. These contracts are intended to ensure the effective implementation of agreed-upon activities and are characterized by two principal features:

– A technical feature: whereby the agreed activities are directed toward the performance of specific tasks related to the various functions inherent in the operation of enterprises, such as marketing, production, research, and general management.

– A psychological feature: whereby the parties to the partnership contract interact on the basis of legal equality, without either being subject to the authority of the other, owing to the mutual trust that motivates them and underpins their cooperation on the basis of personal consideration. Each party is viewed as an ally rather than an adversary. Practice has reflected this reality through the replacement of the term “contracting party” with expressions such as “operator” or “ally.”

This definition is supported by the jurist DUBISSON M., who considers partnership to be “the joint action of parties on the basis of equality in order to achieve a specific objective, by restricting their freedom with respect to that objective without any intention of relinquishing it.”

Some French legal scholars have defined the partnership contract on the basis of two essential characteristics. The first relates to the comprehensive support and sponsorship provided by the private sector at the various stages of a project relating to infrastructure or services, which generally include design, financing, maintenance, and operation. The second characteristic lies in the fact that the private sector derives its funds and profits not from the final user of the facility, but from the public authority that owns the project or the facility. According to these scholars, any joint project between the public sector and the private sector that does not, in substance, rely on these two characteristics cannot be regarded as falling within the category of partnership contracts.

The World Bank has also defined partnership as “any contractual or legal relationship between public and private entities for the purpose of improving or expanding infrastructure services.”

After presenting a range of definitions proposed by certain legal scholars and within various comparative legal systems, it becomes evident that no unified definition of the partnership contract has been established. This is attributable to the diversity of the subject matters that constitute the object of cooperation between partners at both the national and international levels, as well as to the differences in the objectives pursued by such partnerships.

Consequently, it is difficult to formulate a single, unified definition of partnership, as each specialist articulates a definition according to their field of expertise and analytical perspective. Nevertheless, the majority of definitions converge around a central idea, namely that a public legal person enters into a contractual relationship with a private legal person for the realization of a specific project, with the latter providing the financing necessary for its execution. It is therefore a legal contract that brings together the public and private sectors with the aim of securing capital, expertise, and more advanced technologies.

Second Subsection: The Specific Nature of Partnership Contracts

The legal characterization of the partnership contract is not an easy task, due to the multiplicity of performances involved and the diversity of their nature. This contract comprises obligations whose legal nature is well established, such as those arising from contracts of sale and contracts for works. These obligations may be merely combined, or they may be so closely integrated as to give rise to an unnamed contract. In this context, the situation may involve either a composite contract—namely, an unnamed agreement deriving its legal regime from several named contracts—or an unnamed contract resulting from the complete integration of the contractual elements.

Given that partnership contracts are modern contractual instruments designed to respond to the requirements of complex economic operations, they cannot be assimilated to traditional categories of composite contracts. This has led to the search for a new legal characterization of the partnership contract, which will be addressed through the following two cases:

1 – The Partnership Contract as a Composite Contract:

Some legal scholars have characterized the partnership contract as a composite contract whose subject matter encompasses several elements, as it has at times been regarded as a contract of sale and, at other times, as a contract for works. This characterization clearly reflects the reality that the partnership contract is a mixed contract, combining multiple performances within a single contractual framework, and that the element of composition constitutes one of its most significant defining features.

An unnamed contract is defined as “a contract that falls outside the model regulations exhaustively determined by law.” The concept of the unnamed contract follows three principal directions, as

outlined below:

- a) A contract whose legal regime is not determined by the legislator and which is identified through an analytical decomposition into its constituent elements.
- b) A contract that is difficult to identify by any conventional method and is distinguished by the combination of existing contracts incorporated within its structure.
- c) A contract that lacks a specific designation, to the extent that even the contracting parties themselves encounter difficulty in identifying it.

The partnership contract is regarded as an unnamed contract, as it encompasses a range of performances and obligations that reflect the presence of several contractual forms, while at the same time leaving scope for the parties and granting them the freedom to create additional contractual arrangements. Accordingly, the meaning of unnamed contracts becomes clear, as they are contracts that fall outside the standard regulatory frameworks established by civil law. The legislator has provided predefined models for certain contracts, while leaving it to the contracting parties to determine the nature of their agreement, in accordance with the principle of freedom of contract. The concept of the unnamed contract is further clarified through the three notions previously mentioned, since the partnership contract incorporates several contracts that possess a legal basis within statutory legislation.

The partnership contract typically consists of a principal agreement followed by complementary agreements intended to achieve the final objective. An illustration of this can be found in industrial cooperation contracts, which are based on an initial and fundamental agreement, under which subsidiary agreements are incorporated. Each of these agreements constitutes an independent contractual document that remains subject to the main and foundational contract, and all of them collectively aim at the realization of the final objective.

From the foregoing, it may be concluded that although certain scholars classify the partnership contract within the category of unnamed contracts, the majority of the performances governed by such contracts largely fall within the scope of technology transfer contracts, which the legislator has categorized as named contracts.

2 – The Partnership Contract as a Named Contract:

Legal practitioners and some scholars have tended toward the possibility of classifying partnership contracts within the category of named contracts by applying the rule that the accessory follows the principal, thereby incorporating the partnership contract into the framework of named contracts. Another doctrinal view, however, has inclined toward identifying the principal obligation within the contract and characterizing it accordingly.

– The rule that the accessory follows the principal:

This rule signifies that the accessory element cannot independently constitute the subject matter of the contract and cannot exist on its own; rather, it follows the principal element, as an attached component to which the same legal regime applies. This approach has, however, been subject to criticism by legal scholars. This is because, if the contract is considered to concern the construction of an industrial complex, the transfer of ownership plays a significant role in the contractual relationship, yet it is linked to the sale of equipment. Conversely, if the contract is regarded as a sale of real estate under construction, then in contracts whose object is the creation or construction of an industrial unit, ownership of the land belongs to the importer. Under this interpretation, the supplier would be presumed to own the land, which does not correspond to practical reality.

Accordingly, reliance on the rule that the accessory follows or results from the principal can only be justified when a relationship of dependency or a relationship of production exists between the accessory and the principal. In practical reality, however, it is not possible to confirm the simultaneous existence of such relationships within partnership contracts.

– The rule of determining the principal obligation of the partnership contract:

Since the partnership contract is a composite contract that frequently includes several interconnected obligations and performances, identifying the principal obligation within the contract becomes a complex task. Nevertheless, determining this principal obligation remains necessary in order to facilitate legal characterization. For instance, where a contract concerns the sale of an industrial facility and the sale of machinery and equipment is considered the principal obligation, while other obligations such as technical assistance are merely ancillary, the contract is characterized as a simple

sale contract.

Conversely, where technical assistance is regarded as the principal obligation and the provision of machinery is treated as ancillary, the contract is characterized as a works contract. This illustrates the contradiction that may arise within the same type of contract, which may at times be classified as a sale contract and, at other times, otherwise. What may be inferred from the foregoing is that partnership contracts encompass multiple obligations within a single contractual framework, as they are composite contracts consisting of a set of agreements, each possessing its own principal obligation.

Second Requirement: Forms of the Partnership Contract

The partnership contract is characterized by the extended duration of its implementation, which is primarily linked to the scale and complexity of the works undertaken. It encompasses numerous operations, including financing, construction, the supply of equipment, maintenance, and management. It is also distinguished by its investment-oriented nature, as it contributes to the development of the national economy of the contracting state, serving as a mechanism for economic development, external expansion, and the transformation of competitive relationships through cooperation and integration among economic enterprises.

In view of the particular nature of the partnership contract in terms of its structure, nature, and characteristics, as well as the diversity of the parties involved—which vary from one contract to another—it may be concluded either between states in their legal capacity or through one of their public institutions. This aspect constitutes the focus of the present subsection.

First Subsection: With Respect to the Parties to the Partnership Contract

1 – Partnership Contracts Between States

The technological, economic, and industrial development occurring in the contemporary period has compelled developing countries to establish cooperation and partnership relations with major states that dominate the economic, technological, and technical fields. This approach represents an effort to reduce the existing gap between developed and developing countries, a gap that continues to widen over time, particularly with the emergence of a new international economic system based on international investment and partnerships across various sectors and fields. These partnerships take the following forms:

2 – Industrial Cooperation Contracts:

These contracts have been defined in legal doctrine as “an enterprise in which national investors own less than 50% of the capital, or own a higher percentage, yet such ownership is not considered decisive in the technical, financial, administrative, and commercial management of the company.”

These contracts assume several forms, including the following:

a – Technical Assistance Contracts:

Professor Ammar Maâchou defined these contracts as “intangible and tangible techniques that are primarily embodied in means, methods of use, and expertise possessed by a person or a group of persons, which are employed when contracting with other parties, whether through training or through actual practice, in order to place this information into practical application, with the participation of the managerial staff and workers of the receiving party.” Technical assistance may appear as a clause incorporated within a composite industrial contract, or it may be included in an independent contract, in which case it is provided as a principal obligation.

b – Partnership Contracts Relating to the Establishment of Industrial Facilities:

These contracts are of particular importance for developing countries due to their contribution to the achievement of economic development through technology transfer, by enabling the acquisition of manufacturing methods and the installation of equipment. Developing countries must possess the capacity to coordinate the numerous activities involved in the realization of an industrial complex. These contracts may be classified into three types: turnkey contracts, production handover contracts, and production and marketing handover contracts.

c – Technology Transfer Contracts:

These contracts are considered among the most important international agreements contributing to the introduction of modern technology into host countries. From an economic perspective, they are defined as “the methods and means used in production processes that lead to the reduction of costs,

the production of a new good or service, or the improvement of work methods through the use of more efficient techniques.”

Secondly: Partnership Contracts Between Enterprises

The process of technology transfer does not merely aim at the acquisition and localization of transferred technology or reliance on technical methods; rather, it constitutes an intellectual process that takes place between the technology supplier and the receiving party. Partnership may therefore take several forms according to this criterion, including partnerships concluded between competing enterprises and those concluded between non-competing enterprises.

Second Subsection: With Respect to the Sectors of Partnership Activity

The forms of partnership vary depending on the nature of the relationship between the partners and the type of partnership agreed upon. The most significant partnership arrangements may be identified according to their respective fields of activity as follows:

1 – Industrial Partnership:

This type of partnership emerged as a result of the evolution and increasing complexity of the industrialization process, owing to the difficulty of keeping pace with modern production methods alongside the accompanying technological advancements, which often take the form of operational systems. The need to establish what is commonly referred to as technical cooperation becomes apparent in light of the scale of costs allocated to industrial projects on the one hand, and the advanced level of technology required on the other.

Within this framework, certain global companies resort to closer forms of cooperation and to the formation of teams or specialized groups dedicated to advanced technological and industrial projects.

Industrial partnership encompasses all forms of cooperation between two or more enterprises, whereby each enterprise contributes a specific share of capital to the production of a particular product. This is attributable to the high costs associated with industrial projects, which necessitate the use of advanced and sophisticated technologies³. Consequently, enterprises engage in industrial partnerships in order to develop industrial standards in line with modern technological requirements.

An illustration of this can be found in the collaboration of the company American Telephone & Telegraph (AT&T) in the Zénith project for the design and production of digital-based television (Digital-Based HDTV), which represents a form of industrial cooperation between companies aimed at producing electronic products that comply with international standards.

Accordingly, industrial partnership has been defined as “the development of subcontracting relationships or industrial contracting in such a manner that a partnership is established between two or more parties to cooperate in serving shared and mutual interests.”

2 – Commercial Partnership:

Commercial partnership is regarded as an effective means of securing substantial shares in international commercial markets, whereby the host partner, through such arrangements, undertakes the purchase, sale, or marketing of the foreign partner’s products.

This form of partnership is manifested through joint cooperation between two or more enterprises, particularly in cases where the original enterprise suffers from limited commercial activity. As a result, it resorts to partnership arrangements that enable the parties involved to obtain certain advantages, such as reducing transaction costs in commercial operations and opening new distribution networks, which, in turn, has a positive impact on turnover.

Commercial partnership constitutes a model of cooperation among economic enterprises and contributes to strengthening their position in both international and domestic commercial markets, thereby creating broader opportunities for expansion. It is considered one of the appropriate options for advancing the productive sector, achieved through the exploitation of trademarks or the optimal marketing of products. Commercial partnership takes several forms, including the following:

a) Distribution Agreement:

The content of this agreement consists of a company concluding a partnership arrangement with other enterprises for the purpose of exporting its products to international markets or marketing the products of the host company in local and foreign markets.

b) Supply Agreement:

This form occurs through licensing, which a company may resort to either due to its lack of high-level competencies related to the product or because of the distinguished global commercial reputation

enjoyed by the product of the main exporter, with the objective of expanding supply opportunities.

c) Cooperation Agreement:

This form is based on commercial intermediation between the producing enterprise and the customer, whereby enterprises seeking to market their products conclude contracts with an enterprise established in the host market for the purpose of marketing those products. Cooperation represents an exchange of assistance and does not aim at the creation of permanent enterprises; it is temporary in nature, and its objectives are abstract and not necessarily shared. It involves participation in various activities among states with differing levels of development.

3 – Financial Partnership:

This form of partnership relates to the extent of a partner's contribution to the capital of another partner through direct investment. Such partnership assumes a financial character within the field of investment. It differs from other forms in terms of the relative weight of each partner, the duration of the partnership, and the evolution of the partners' interests. Two principal forms of this partnership may be identified:

- Equal or unequal partnership: in which the proportion of participation between enterprises differs with respect to the invested capital.
- Merger: which occurs between two or more enterprises and is resorted to when their competitive position becomes difficult. Such mergers aim to achieve economies of scale, in addition to securing sufficient financial resources for research and development activities.

4 – Service Partnership:

This form consists of concluding partnership agreements related to the management and operation of facilities between a foreign partner and a local partner, with the objective of benefiting from the expertise of the former. It falls within the framework of developing the service sector, such as the management of transport or telecommunications, the operation of hotels and restaurants, tourism-related activities, and other services, in addition to technical or technological partnership.

Second Section: The Use of the Technical Partnership Contract in Technology Transfer

The partnership contract is distinguished from other contractual forms by a set of diverse characteristics, owing to its particular and exceptional nature. Despite the multiplicity of forms and the diversity of subject matters associated with partnership contracts, they all share fundamental and essential characteristics.

First Requirement: The Technical Partnership Contract as a Mechanism for Technology Transfer

This type of partnership contract is concluded between enterprises seeking to develop their capacities and generally takes place in fields where such development is required, whether through the establishment of joint research laboratories or through the exchange of technical information. It may also be concluded between countries of the North and countries of the South, with the objective of transferring technology to the latter, which constitutes the focus of the present study. Among the most significant forms of technical partnership are the following:

First Subsection: Cooperation Agreements in the Field of Research and Development

Among the conditions that must be incorporated into the contract are the following:

– The contracting parties must clearly and precisely determine the subject matter of the agreement and the objective to be achieved.

– Determining the contractual duration between the partners, which may not exceed ten (10) years. The more effective and efficient the partnership, the shorter the duration required to complete the project, depending on the level of institutional efficiency. Moreover, the international environment is characterized by constant change and ongoing developments, which requires enterprises to remain continuously prepared to establish such technological agreements within shorter timeframes in order to save time, while accurately identifying the resources necessary for the completion of the project and the fulfillment of its obligations.

– Determining the methods for terminating the agreement between the contracting parties and the conditions governing the revision of certain contractual clauses.

Second Subsection: Knowledge Transfer Agreements

These are bilateral agreements under which a foreign enterprise grants a license or authorization to a local enterprise for the transfer of specific technologies or technological know-how for a long but defined period, such as trademark rights. Through such arrangements, the local enterprise benefits

from technological developments in return for the payment of licensing fees, the allocation of an agreed percentage of sales, or the receipt of a share of locally manufactured products.

Accordingly, a comprehensive definition of the partnership contract may be adopted, encompassing all of its elements, as follows: “It is a contract or agreement between two or more projects based on cooperation among partners, relating to a productive activity (technological and industrial projects), or a service or commercial activity, on a stable and permanent basis and involving joint ownership. This cooperation is not limited solely to each party’s contribution to capital, but also includes technical contributions related to the production process, the use of patents, commercial relations, technological know-how, as well as participation in all operations and stages of production and marketing.”

Second Requirement: Reasons for Resorting to the Technical Partnership Contract

The reasons for resorting to partnership are numerous and vary in accordance with the transformations occurring within the economic sphere, particularly in light of the technological and technical development currently underway. These changes exert a direct influence on enterprises, prompting them to opt for appropriate partnership arrangements in order to enhance their contribution to the development of the national economy of the state concerned.

First Subsection: Economic and Technological Reasons

In this context, the reasons and motivations for entering into partnerships as a strategy for economic development are numerous, including the following:

1 – Internationalization of Markets:

The internationalization of markets in light of technological development compels enterprises to keep pace with such progress and to open widely to all markets for the purpose of marketing and promoting their products, in addition to developing the skills of their workforce. Any delay by enterprises in entering the global market may negatively affect the stability of their presence. International exchanges play a vital role in increasing societal welfare; therefore, enterprises must identify effective means to monitor and follow various technologies and modern management techniques that enable control over product quality and costs. Partnership constitutes an appropriate means for entering global markets and acquiring advanced technologies and techniques.

2 – Technological Development:

Technological development is considered a fundamental factor in the advancement of economic enterprises, the marketing of their products, and their openness to foreign markets. Given that technological development is characterized by rapid renewal and continuity, it has become difficult for economic enterprises to keep pace with it, in addition to the high costs it entails, which may constitute an obstacle. Enterprises are often unable to bear these costs alone, particularly in sectors where technology represents a primary source of competitive advantage. This situation has necessitated resorting to partnership policies in order to reduce the costs associated with technological research.

3 – Competition Among Economic Enterprises:

Partnership is regarded as a means of cooperation and union among economic enterprises, enabling them to confront the phenomenon of competition by exploiting their various capabilities, such as technological advancement, innovation, and market penetration. The market system drives economic enterprises to mobilize all their resources in order to face competition at both the local and international levels.

4 – The Search for Cooperation:

The idea of synergy stems from the notion that an enterprise of significant size will perform better than a group of independent enterprises of the same size. This is due to reduced operating costs and increased profit margins for allied enterprises, in addition to the exchange of skills among them.

Accordingly, partnership constitutes a form of cooperation and rapprochement between states and their economic enterprises operating within the same field or sector, despite differences in nationality. It is essentially based on mutual trust among the parties and is embodied in a specific agreement aimed at strengthening their mutual presence in new markets through the implementation of a particular project or activity, with the equitable sharing of all burdens, risks, and profits among the partners.

Second Subsection: The Principle of Technological Asymmetry in Technical Partnership

The tendency of most states to establish joint economic groupings and entities that benefit from one

another's expertise through partnership, with the aim of achieving integrated economic growth at various levels, has rendered partnership a widespread phenomenon within national economies. Partnership has become one of the mechanisms capable of enhancing the competitiveness of enterprises through the development of scientific knowledge and the acquisition of modern technology.

One of the most important conditions that must be fulfilled in partnership contracts involving technology transfer is the existence of technological asymmetry between the parties to the contractual relationship. For a genuine process of technology transfer to occur, one of the parties must belong to technologically advanced and developed countries, possessing high technical and technological capabilities and expertise that can be transferred to the party in need of such technology, which is generally a developing country and a consumer of technology.

Accordingly, countries of the world may be classified, in terms of industrialization and technological advancement, into a first category represented by the industrialized countries of the North, which are regarded as producers and controllers of technology. These countries allocate substantial financial resources to the renewal of technical knowledge and frequently monopolize the international technology market. The second category consists of the countries of the South, which are consumers of technology. A common feature of these countries is their relatively recent independence and the economic devastation they experienced as a result of colonialism. Achieving economic development for these countries remains particularly challenging, especially with regard to narrowing the gap separating them from developed countries.

The economic, industrial, and technical progress attained by developed countries on the one hand, and the corresponding deficiencies observed in developing countries on the other, have compelled the latter to establish relations with technologically advanced states in order to transfer technology and benefit from it in reducing the disparity between them and developed countries. This objective cannot be realized except through strong industrial cooperation between major industrialized countries and developing countries.

Accordingly, a definition of the partnership contract may be adopted that appears comprehensive and inclusive of all its elements: "It is a contract or agreement between two or more projects based on cooperation among partners, relating to a productive activity (technological and industrial projects), or a service or commercial activity, on a stable and permanent basis and involving joint ownership. This cooperation is not limited solely to each party's contribution to capital, but also includes technical contributions related to the production process, the use of patents, commercial relations, technological know-how, as well as participation in all operations and stages of production and marketing."

Partnership is considered the most effective means for transferring and exchanging knowledge through the transfer of technology and expertise, whereby new knowledge and modern techniques are introduced into various fields of production. Such knowledge is transferred only through the will of its owner and cannot be conveyed solely through traditional means such as training, research, or education. Rather, it is preferable that direct interaction exist between the organizational structures of the two enterprises for a sufficient period of time. The most effective means of achieving such interaction is through partnership between enterprises, provided that trust and cooperation are established between them.

From the foregoing, it may be concluded that partnership constitutes an effective mechanism for strengthening mutual economic interests between states or participating entities, through the joint exploitation of their available capabilities and the creation of integration among them in order to achieve specific objectives.

Conclusion

Accordingly, the partnership contract contributes to the transfer of technology, albeit to varying degrees depending on the nature and type of contracts concluded between the parties. This conclusion has been reached through our study of different types of contracts, which are characterized by a diversity of forms corresponding to the diversity of their subject matter. Some contracts focus on the transfer of technology in all its elements, while others concentrate on one or more of its components, or have as their subject the provision of expertise or consultancy services.

This is particularly the case when the receiving party lacks the capacity to absorb and develop the

transferred technology, since the process of technology transfer entails acquiring advanced technical methods from those who possess them for use in a specific project, through an agreement with the owner to apply these methods in the project and to provide assistance in order to facilitate the transfer and acquisition of technology.

Based on the foregoing, we arrive at the following results:

- The concept of partnership varies according to the sectors that may constitute the subject of cooperation and rapprochement between states and institutions, as well as according to the objectives that the partnership seeks to achieve.
- Highlighting the importance of the various forms that partnership contracts may take when transferring technology, and the extent to which each type contributes to assisting developing countries in technology transfer.
- The subject matter of technology transfer contracts is often embodied in technical know-how, both theoretical and practical, in addition to other elements such as technical assistance or licensing for the use of a patent.

Accordingly, we put forward the following proposals, which we consider appropriate:

- The necessity of seeking suitable models that enable developing countries to achieve technological empowerment, as well as legal mechanisms that prevent technology-owning companies from obstructing technology transfer or limiting the benefits derived therefrom.
- Calling upon the Algerian legislator to enact specific legislative texts regulating technology transfer operations, ensuring that they include all elements necessary for the national recipient to absorb and master technological knowledge, in a manner consistent with the nature of the country's legal system and conducive to achieving the desired economic and technological interests.
- The necessity, when codifying the technical partnership contract, of stipulating the absolute nullity of the contract if it contains any restrictive clauses that would limit the importer's freedom to use the technology or otherwise affect, in any manner, the importer's ability to acquire the transferred technology.

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