

Law on technology transfer

Pursuant to the 1992 Constitution of the Socialist Republic of Vietnam, which was amended and supplemented under Resolution No. 51/2001/QH10 of December 25, 2001, of the Xth National Assembly, the 10th session;

This Law provides for technology transfer activities.

Chapter I

GENERAL PROVISIONS

Article 1.- Governing scope

This Law provides for the transfer of technologies in Vietnam, from Vietnam to abroad and from abroad into Vietnam; rights and obligations of organizations and individuals engaged in technology transfer activities; competence of state management agencies; and measures to encourage and promote technology transfer.

Article 2.- Subjects of application

This Law applies to Vietnamese organizations and individuals, overseas Vietnamese, and foreign organizations and individuals that are engaged in technology transfer.

Article 3.- Interpretation of terms

In this Law, the terms below are construed as follows:

1. Technical know-how means information accumulated or discovered by a technology owner in the course of research, production or business, which is decisive to the quality and competitiveness of a technology or technological product.
2. Technology means a technical solution, process or know-how which is accompanied or not accompanied by a tool or means for turning resources into products.
3. High technology means a technology which has a high content in scientific research and technological development; creates products or services of high quality and added value; and is capable of forming new production lines or services or modernizing existing production lines or services.
4. New technology means a technology which is created for the first time in Vietnam.
5. Advanced technology means a leading technology of a technological level higher than that of

existing technologies of the same type.

6. Technology incubator or technology business incubator means a place that has favorable technical infrastructure and service provision conditions and necessary supports for the incubation of technologies or technology enterprises.

7. Technology marketplace, technology fair, technology exhibition or technology exchange center means a place for display, introduction, purchase and sale of technologies, promotion of technology transfer and provision of other technology transfer services.

8. Technology transfer means the transfer of right to own or the right to use a part or the whole of a technology from a party having the right to transfer the technology to a technology transferee.

9. Transfer of technology in Vietnam means the transfer of technologies between organizations and individuals operating in Vietnamese territory.

10. Transfer of technology from abroad into Vietnam means the transfer of technologies from organizations or individuals operating abroad to organizations or individuals operating in Vietnamese territory.

11. Transfer of technology from Vietnam to abroad means the transfer of technologies from organizations or individuals operating in Vietnamese territory to organizations or individuals operating abroad.

12. Technology transfer service means activities to support the seeking, entry into and performance of a technology transfer contract.

13. Technology evaluation means the determination of the level, value, economic benefits as well as socio-economic and environmental impacts of a technology.

14. Technology pricing means the determination of the price of a technology.

15. Technology appraisal means the inspection and determination of the criteria of a transferred technology against the criteria indicated in the technology transfer contract.

16. Technology transfer activities include technology transfer and technology transfer services.

17. Technology transfer brokerage means activities to assist involved parties that own technologies and parties that need technologies in seeking partners to sign technology transfer contracts.

18. Technology transfer consultancy means activities to assist involved parties in selecting technologies, and negotiating, signing and performing technology transfer contracts.

19. Technology incubation means activities to support the creation and perfection of a

technology which has prospects of practical application and commercialization from a technological idea or scientific research and technological development results.

20. Technology business incubation means activities to support organizations or individuals to perfect a technology, mobilize investment capital, organize production and business activities, conduct marketing, complete legal procedures and provide other necessary services for the establishment of an enterprise that will use the newly created technology.

21. Technology transfer promotion means activities to promote, create and seek opportunities for technology transfer; provide technology advertisement, display and introduction services; and organize technology marketplaces, fairs, exhibitions or exchanges.

Article 4.- Applicable laws

1. Technology transfer activities must comply with the provisions of this Law and relevant laws; when specific technology transfer activities are provided for in another law, the provisions of that law prevail.

2. When a treaty to which the Socialist Republic of Vietnam is a contracting party contains provisions different from those of this Law, the provisions of that treaty prevail.

3. When technology transfer activities involve foreign elements, the involved parties may agree in their contract on the application of a foreign law and international trade practice provided, that such foreign law and international practice do not contravene the basic principles of Vietnamese law.

Article 5.- State policies towards technology transfer activities

1. To ensure the lawful rights and interests of, and create favorable conditions for, organizations and individuals engaged in technology transfer activities in service of rapid and sustainable national socio-economic development.

2. To prioritize the development of high technologies and advanced technologies; to develop human resources in the technological domain simultaneously with making investment in technological renewal.

3. To strongly develop the technology market; to encourage and promote technology and technology business incubation; to step up the transfer of research results to production and business activities.

4. To attach importance to raising the quality and efficiency of technology transfer activities in rural and mountainous areas; to encourage, and create favorable conditions for, technology transfer activities in geographical areas stricken by socio-economic difficulties or exceptional socio-economic difficulties.

5. To improve international cooperation and create favorable conditions for organizations and

individuals to enter into international cooperation in technology transfer activities.

Article 6.- Contents of state management of technology transfer activities

1. Promulgating, organizing the implementation of, propagating, disseminating, and educating about, the law on technology transfer.
2. Formulating, and directing the implementation of, strategies, plans, programs, measures, mechanisms and policies to promote technology transfer and technological renewal.
3. Managing technology transfer activities in a unified manner.
4. Entering into international cooperation in technology transfer.
5. Inspecting and examining the observance of the law on technology transfer; to settle complaints and denunciations, and handle violations of the law on technology transfer.

Article 7.- Transferable subject matters of technology

1. Transferable subject matter of technology is part or the whole of a technology of the following types:

a/ Technical know-how;

b/ Technical knowledge about the transferred technology in the form of technological plan, technological process, technical solution, formula, technical parameter, drawing, technical diagram, computer program, or data information;

c/ Solution to rationalize production or renew a technology.

2. The transferable subject matter of technology may be accompanied or not accompanied by a subject matter of industrial property.

Article 8.- Right to transfer technologies

1. The owner of a technology may transfer the right to own or the right to use the technology.

2. An organization or individual that is allowed by the owner of a technology to transfer the right to use that technology is entitled to transfer such right.

3. An organization or individual that owns a technology which is an industrial property subject matter with the protection duration having expired or not protected in Vietnam may transfer the right to use that technology.

Article 9.- Technologies encouraged for transfer

Technologies encouraged for transfer include high technologies and advanced technologies, which meet one of the following requirements:

1. Creating new products of high competitiveness;
2. Creating a new industry or service;
3. Saving energy or raw materials;
4. Using new energy or renewable energy;
5. Protecting human health;
6. Preventing and controlling natural disasters and epidemics;
7. Facilitating clean and environmentally friendly production;
8. Developing traditional trades and occupations.

Article 10.- Technologies restricted from transfer

A number of technologies shall be restricted from transfer for the purposes of:

1. Protecting national interests;
2. Protecting human health;
3. Protecting values of national culture;
4. Protecting animals, plants, natural resources and the environment;
5. Observing the provisions of treaties to which the Socialist Republic of Vietnam is a contracting party.

Article 11.- Technologies banned from transfer

1. Technologies which do not comply with the law on labor safety, labor sanitation, assurance of human health, or protection of natural resources and the environment.
2. Technologies which create products causing adverse impacts on socio-economic development or badly affecting defense, security, or social order and safety.
3. Technologies banned from transfer under treaties to which the Socialist Republic of Vietnam is a contracting party.

4. Technologies listed as state secrets, unless otherwise provided for by law.

Article 12.- Forms of technology transfer

Technologies may be transferred in the following forms:

1. Independent technology transfer contract;
2. Technology transfer component in the following projects or contracts:
 - a/ Investment project;
 - b/ Franchise contract;
 - c/ Contract on assignment of industrial property rights;
 - d/ Contract on purchase and sale of machines and equipment accompanied by the transfer of a technology.
3. Other forms of technology transfer as provided for by law.

Article 13.- Prohibited acts in technology transfer

1. Abusing technology transfer activities to harm national defense or security interests or the lawful rights and interests of organizations or individuals.
2. Destroying natural resources and the environment; causing adverse impacts on human health, fine ethics, traditions and customs of the nation.
3. Transferring technologies on the list of those banned from transfer; illegally transferring technologies on the list of those restricted from transfer; or transferring technologies which are not allowed to be transferred to a third party as stated in technology transfer contracts.
4. Infringing upon technology transfer rights in technology ownership or use.
5. Committing deceits or frauds in making and performing technology transfer contracts, technology transfer service contracts or technology transfer statistical reports.
6. Obstructing the supply of, or refusing to supply information on technology transfer activities, which are inspected or examined by competent state agencies.
7. Abusing one's duties or powers to harass, trouble, or failing to respond in time to the requests of, organizations or individuals engaged in technology transfer activities in accordance with law.
8. Disclosing technological secrets or obstructing technology transfer activities.

9. Other acts as provided for by the law on technology transfer.

Chapter II

TECHNOLOGY TRANSFER CONTRACTS

Article 14.- Principles of entry into and performance of a technology transfer contract

1. A technology transfer contract shall be entered into in writing or in other equivalent forms, including telegram, telex, fax, data message or other forms as provided for by law.
2. Language used in a technology transfer contract shall be agreed by the contractual parties; a contract in Vietnamese is required for transactions conducted in Vietnam. The Vietnamese and foreign-language versions have the same validity.
3. A technology transfer contract shall be entered into and performed in accordance with this Law, the Civil Code, the Commercial Law and relevant laws.

Article 15.- Contents of a technology transfer contract

Parties to a technology transfer contract may reach agreement on the following:

1. Name of the contract, which clearly indicates the name of the transferred technology;
2. Transferred subject matters of technology, and products to be created by the technology;
3. Transfer of the right to own or the right to use a technology;
4. Mode of technology transfer;
5. Rights and obligations of the parties;
6. Payment price and mode;
7. Effective time and validity duration of the contract;
8. Definitions and terms referred to in the contract (if any);
9. Technology transfer plan and schedule, place where the technology transfer is effected;
10. Responsibility to warranty the transferred technology;
11. Fine for a breach of the contract;
12. Liability for a breach of the contract;

13. Applicable law in the settlement of disputes;
14. Dispute settlement body;
15. Other agreements which are not in contravention of Vietnamese law.

Article 16.- Transfer of the right to own a technology

1. Transfer of the right to own a technology means the full transfer by the owner of a technology of the right to possess, the right to use and the right to dispose of that technology to another organization or individual in accordance with Article 18 of this Law.
2. When a technology is a subject matter having its industrial property rights protected, the transfer of the right to own that technology shall be conducted simultaneously with the assignment of industrial property rights in accordance with the law on intellectual property.

Article 17.- Transfer of the right to use a technology

1. Transfer of the right to use a technology means the permission by an organization or individual defined in Article 8 of this Law for another organization or individual to use a technology in accordance with Clause 2 of this Article and Article 18 of this Law.
2. The parties shall agree on the scope of transfer of the right to use a technology, covering:
 - a/ Exclusive or non-exclusive use of the technology;
 - b/ Whether or not re-transfer of the right to use that technology to a third party is permitted;
 - c/ Domain in which the technology is used;
 - d/ The right to innovate that technology and the right to receive information on technology innovation;
 - e/ Exclusive or non-exclusive distribution or sale of products created by the transferred technology;
 - f/ Territories where products created by the transferred technology may be sold;
 - f/ Other rights related to the transferred technology.
3. When a technology is a subject matter having its industrial property rights protected, the transfer of the right to use that technology shall be conducted simultaneously with the assignment of industrial property rights in accordance with the law on intellectual property.

Article 18.- Modes of technology transfer

1. Transferring technology-related documents.
2. Providing training for the transferee of a technology to master the technology in the duration indicated in the technology transfer contract.
3. Sending specialists to provide technical assistance to the transferee of a technology in applying the technology to production, for the purpose of achieving the quality of the technology and products according to the criteria and schedule indicated in the technology transfer contract.
4. Other modes as agreed upon by the parties.

Article 19.- Effective time of a technology transfer contract

1. Except for the case specified in Clause 2 of this Article, the effective time of a technology transfer contract shall be agreed by the contractual parties; if the parties make no agreement on the effective time of the contract, it is the time the last party completes the contract-signing procedures.
2. A contract on the transfer of a technology on the list of those restricted from transfer becomes effective only after a competent state agency grants a technology transfer license.

Article 20.- Rights and obligations of the technology transferor

1. The technology transferor has the following rights:
 - a/ To request the technology transferee to strictly fulfill the commitments in the contract;
 - b/ To request a competent state agency to protect the lawful rights and interests relating to the transferred technology;
 - c/ To get full payments and enjoy other rights and interests as agreed in the contract; to enjoy the preferences provided for by this Law and relevant laws;
 - d/ Unless otherwise agreed upon by the parties, to request the technology transferee that fails to strictly perform the obligations defined in the contract to take remedial measures or pay damages;
 - e/ To lodge complaints about or initiate lawsuits against breaches of contract in accordance with law.
2. The technology transferor has the following obligations:
 - a/ Unless otherwise agreed upon by the parties, to ensure that the technology transfer right is lawful and not restricted by the right of a third party;

b/ To strictly fulfill the commitments in the contract; and pay damages to the technology transferee or a third party for the transferor's breach of contract;

c/ To keep information confidential in the course of negotiating and entering into a technology transfer contract at the request of the negotiating partner(s);

d/ When detecting technical problems which make technology transfer results unsatisfactory as prescribed in the contract, to notify the technology transferee thereof and take appropriate remedies and pay damages to the technology transferee or a third party for the transferor's failure to strictly fulfill the commitments in the contract;

e/ To apply for a technology transfer license in case of transfer from Vietnam to abroad technologies on the list of those restricted from transfer;

f/ Not to reach agreement on anti-competition clauses banned under the Competition Law;

g/ To perform the financial obligations and other obligations in accordance with law.

Article 21.- Rights and obligations of the technology transferee

1. The technology transferee has the following rights:

a/ To request the technology transferor to strictly fulfill the commitments in the contract;

b/ To request a competent state agency to protect the transferee's lawful rights and interests related to the transferred technology;

c/ To hire domestic or foreign organizations or individuals to provide technology transfer services in accordance with law;

d/ Unless otherwise agreed upon by the parties, to request the technology transferor to take remedial measures or pay damages in case of the technology transferor's failure to strictly perform the obligations defined in the contract;

e/ To lodge complaints about or initiate lawsuits against breaches of contract in accordance with law;

f/ To enjoy the preferences provided for by this Law and relevant laws.

2. The technology transferee has the following obligations:

a/ To strictly fulfill the commitments in the contract; to pay damages to the technology transferor or a third party for the transferee's breach of contract;

b/ To keep technology-related information and other information confidential in the course of negotiating and signing a technology transfer contract at the request of the negotiating partner(s);

c/ To apply for a technology transfer license in case of transfer from abroad into Vietnam technologies on the list of those restricted from transfer;

d/ To perform the financial obligations and other obligations in accordance with law.

Article 22.- Payment prices and modes in technology transfer

1. The payment prices in a technology transfer contract shall be agreed by the contractual parties.

2. Payment may be made by one or several of the following modes:

a/ Payment in a lump sum or installments in cash or in kind;

b/ Conversion of the technological value into capital contributed to an investment project or to capital of an enterprise in accordance with law;

c/ Other modes as agreed by the parties.

Article 23.- Procedures for licensing the transfer of technologies on the list of those restricted from transfer

1. Organizations or individuals that wish to receive or transfer technologies on the list of those restricted from transfer shall send their dossiers as specified in Clause 1, Article 24 of this Law to a state agency competent to license technology transfer.

2. Within thirty days after receiving a valid dossier, the state agency competent to license technology transfer shall make a written approval; in case of disapproval, it shall give a written reply, clearly stating the reason therefor.

3. After obtaining the written approval of the competent state agency, organizations or individuals that wish to receive or transfer technologies shall sign technology transfer contracts.

4. After signing a technology transfer contract, one of the signatories to the contract shall send the dossier specified in Clause 2, Article 24 of this Law to a state agency competent to license technology transfer.

5. Within ten days after receiving a valid dossier, the state agency competent to license technology transfer shall assess the technology transfer contract's conformity with the contents of the written approval in order to decide on the licensing; in case of refusal to license, it shall give a written reply, clearly stating the reason therefor.

6. In the course of performance of a technology transfer contract, if wishing to modify the contents in the technology transfer license, one of the signatories to the contract shall apply for a new license.

Article 24.- Dossiers of application for approval of, and dossiers of application for licensing of the transfer of technologies on the list of those restricted from transfer

1. A dossier of application for approval of the transfer of a technology on the list of those restricted from transfer comprises:

a/ An application for approval to sign a technology transfer contract;

b/ A document on the applicant's legal status;

c/ Explanatory documents on the technology as specified by the Ministry of Science and Technology.

2. A dossier of application for licensing of the transfer of a technology on the list of those restricted from transfer comprises:

a/ An application for a technology transfer license;

b/ A competent state agency's written approval of the technology transfer;

c/ Documents evidencing the legal status of the parties to the technology transfer contract;

d/ The original or a copy of the technology transfer contract;

e/ A list of technological documents or equipment (if any), enclosed with the technology transfer contract.

Article 25.- Right to, and procedures for, registration of a technology transfer contract

1. Parties to a technology transfer contract may register their contract at a competent state management agency in charge of science and technology in order to enjoy the preferences provided for by this Law and relevant laws.

2. A dossier of registration of a technology transfer contract comprises:

a/ An application for registration of the technology transfer contract;

b/ The original or a copy of the technology transfer contract.

3. Within fifteen days after receiving a valid dossier, the competent state management agency in charge of science and technology shall consider and decide to grant a technology transfer contract registration certificate.

Article 26.- Obligation to secure confidentiality in granting technology transfer licenses or technology transfer contract registration certificates

Agencies and individuals responsible for granting technology transfer licenses or technology transfer contract registration certificates shall keep confidential technological secrets or business secrets stated in dossiers of application for technology transfer licenses or dossiers of registration of technology transfer contracts.

Article 27.- Handling of breaches of a technology transfer contract

1. Sanctions imposed on organizations or individuals that breach technology transfer contracts include:

a/ Fine for breach;

b/ Payment of damages;

c/ Forced performance of the contract;

d/ Suspension of the performance of the contract;

e/ Termination of the performance of the contract;

f/ Cancellation of the contract;

g/ Other measures agreed by the parties which are not contrary to the basic principles of Vietnamese law, international trade practice, or treaties to which the Socialist Republic of Vietnam is a contracting party.

2. For immaterial breaches of a technology transfer contract, unless otherwise agreed upon by the parties, suspension of the performance of the contract, termination of the performance of the contract or cancellation of the contract may not be applied.

3. Unless otherwise provided for by law, the parties may reach agreement on limitations on the extent of the liability to pay damages for a breach of the technology transfer contract.

4. Sanctions specified in Clause 1 of this Article shall be applied in accordance with law.

Chapter III

TECHNOLOGY TRANSFER SERVICES

Article 28.- Technology transfer services

1. Technology transfer services include:

- a/ Technology transfer brokerage;
- b/ Technology transfer consultancy;
- c/ Technology evaluation;
- d/ Technology pricing;
- e/ Technology appraisal;
- f/ Technology transfer promotion.

2. Organizations and individuals providing technology transfer services must possess business registration certificates for the provision of technology transfer services.

Article 29.- Principles of entry into and performance of a technology transfer service contract

1. A technology transfer service contract shall be established in writing or in other forms provided for by law.
2. A technology transfer service contract shall be entered into and performed in accordance with this Law, the Civil Code, the Commercial Law and relevant laws.

Article 30.- Rights of organizations and individuals providing technology transfer services

Organizations and individuals providing technology transfer services have the following rights:

1. To provide technology transfer services stated in their business registrations;
2. To request service users to supply information or documents necessary for the provision of technology transfer services;
3. To employ domestic and foreign collaborators in the provision of technology transfer services;
4. To enjoy service charges and other benefits from the provision of technology transfer services as agreed;
5. To request service users to pay compensations for damage caused through the service users' fault;
6. To enter into cooperation or joint venture with domestic and foreign organizations and individuals in order to provide technology transfer services;
7. To join domestic, regional or international business associations in accordance with law.

Article 31.- Obligations of organizations and individuals providing technology transfer services

Organizations and individuals providing technology transfer services have the following obligations:

1. To provide technology transfer services strictly according to contents of their business registrations;
2. To strictly perform technology transfer service contracts already entered into;
3. To take responsibility to service users for the results of the provision of their technology transfer services;
4. To pay compensations for damage caused through their fault to service users;
5. To keep information confidential as agreed in technology transfer service contracts;
6. To fulfill the financial obligations and other obligations as provided for by law.

Article 32.- Technology appraisal services

1. Technology appraisal service means commercial or non-commercial technology appraisal activities to determine the actual state of transferred technologies and other technology transfer-related contents at the request of any or all of the parties to a technology transfer contract or of a competent state management agency.

2. Organizations or individuals providing technology appraisal services and technology appraisal requesters shall abide by the provisions of this Law and relevant laws.

Article 33.- Criteria of a technology appraiser

A technology appraiser must fully satisfy the following criteria:

1. Having a college, university or higher degree and the professional capacity relevant to the technology appraisal requirements and domain;
2. Having worked for at least three years in the domain of the appraised technology;
3. Possessing an appraisal certificate pertaining to the domain of the appraised technology when that certificate is required by law.

Chapter IV

MEASURES TO ENCOURAGE AND PROMOTE TECHNOLOGY TRANSFER

Article 34.- Development of the technology market

1. The State encourages organizations and individuals to participate in developing the technology market in the following forms:

a/ Investing in the building of technology market infrastructure, including technology marketplaces, technology fairs, technology exhibitions, technology exchanges, technology incubators, technology business incubators, and other forms;

b/ Publicizing, disseminating, demonstrating and introducing technologies and participating in domestic and overseas technology marketplaces, fairs or exhibitions.

2. The Ministry of Science and Technology shall coordinate with ministries, ministerial-level agencies, government-attached agencies and People's Committees of provinces or centrally run cities (below collectively referred to as provincial-level People's Committees) in taking measures to encourage, and create favorable conditions for, domestic and foreign organizations and individuals to invest in organizing technology marketplaces, fairs or exhibitions or conducting technology transfer in other forms, and attract various economic sectors to participate in the development of the technology market.

Article 35.- Technologies encouraged for transfer to rural, mountainous, socio-economic difficulty-stricken or exceptional socio-economic difficulty-stricken areas

1. Technologies in the domain of protection and development of gene sources; hybridization, revitalization, or raising the economic value, of plant varieties or animal breeds.

2. Technologies for planting, culturing, preserving or processing agricultural, forest or aquatic products.

3. Technologies for the prevention and control of natural disasters or epidemics or for the protection of the community health.

4. Technologies for epidemics prevention and control for plants or livestock.

5. Technologies using renewable energy sources.

6. Technologies for clean water supply or environmental protection.

7. Technologies for raising the productivity, quality and efficiency of traditional products of craft villages.

Article 36.- Responsibilities of organizations and individuals in technology transfer activities in rural, mountainous, socio-economic difficulty-stricken or exceptional socio-economic difficulty-stricken areas

1. Programs or projects on introduction of plant varieties or animal breeds or technologies for

planting, culturing, preserving or processing agricultural, forest or aquatic products must have technology transfer contents.

2. Organizations or individuals that introduce or transfer technologies for planting, culturing, preserving or processing agricultural, forest or aquatic products shall report their activities to state management agencies in charge of science and technology in localities where they conduct technology transfer.

3. Organizations or individuals that supply plant varieties or animal breeds or transfer technologies for planting, culturing, preserving or processing agricultural, forest or aquatic products shall provide users with guidance on planting, culturing, preserving or processing technologies and pay compensations for damage caused by such supply or transfer.

Article 37.- Responsibilities of state management agencies in technology transfer activities in rural, mountainous, socio-economic difficulty-stricken or exceptional socio-economic difficulty-stricken areas

1. Local state management agencies in charge of science and technology shall guide, and create favorable conditions for, the introduction and transfer of plant varieties or animal breeds or technologies for planting, culturing, preserving or processing agricultural, forest or aquatic products; promote transfer technology activities in localities, and inspect, detect and ban in time the introduction or supply of plant varieties, animal breeds or technologies which cause damage to users.

2. Annually, the Ministry of Science and Technology shall assume the prime responsibility for, and coordinate with concerned ministries, ministerial-level agencies and government-attached agencies in, evaluating transfer technology activities in rural, mountainous, socio-economic difficulty-stricken or exceptional socio-economic difficulty-stricken areas.

Article 38.- The national technological renewal program

The national technological renewal program has the following objectives:

a/ To raise the national technological capacity and transfer technology efficiency;

b/ To serve the national key economic programs;

c/ To create favorable conditions for medium- and small-sized enterprises to replace backward technologies, apply advanced technologies and master technologies transferred from abroad into Vietnam;

d/ To increase technological resources in rural, mountainous, socio-economic difficulty-stricken or exceptional socio-economic difficulty-stricken areas.

2. Based on national socio-economic development tasks in each period, the Ministry of Science and Technology shall assume the prime responsibility for, and coordinate with concerned

ministries, ministerial-level agencies and government-attached agencies in, formulating and submitting to the Government for approval the national technological renewal program.

3. Ministries, ministerial-level agencies, government-attached agencies and provincial-level People's Committees shall, within the ambit of their tasks and powers, organize the implementation of the national technological renewal program.

Article 39.- The national technological renewal fund

1. The national technological renewal fund is set up for the following purposes:

a/ To support medium- and small-sized enterprises in the transfer, renewal or perfection of technologies encouraged for transfer defined in Article 9 of this Law;

b/ To promote technology transfer in service of agricultural, forestry and fishery development in rural, mountainous, socio-economic difficulty-stricken or exceptional socio-economic difficulty-stricken areas;

c/ To support technology and technology business incubation;

d/ To support the training of human resources in the scientific and technological domains in service of technology transfer, renewal and perfection.

2. The national technological renewal fund shall give supports to technology transfer, renewal and perfection in the following forms:

a/ Providing preferential loans;

b/ Supporting loan interests;

c/ Granting guarantee for capital borrowing;

d/ Providing capital supports.

3. The national technological renewal fund is formed from the following sources:

a/ Voluntary contributions of domestic and foreign organizations and individuals;

b/ Loan interests;

c/ State budget allocations for scientific and technological development;

d/ Other sources.

4. The Government shall specify the setting up, management and use of the national technological renewal fund.

Article 40.- Transfer of technologies created from state budget-funded research and development

1. Unless otherwise provided for by law, the State shall transfer the right to own a technology created from state budget-funded research and development to the organization in charge of researching and developing that technology.
2. Owners of technologies created from state budget-funded research and development are obliged to use and transfer those technologies to meet the requirements of socio-economic development, defense and security maintenance, disease prevention and treatment, or other urgent demands of the society.
3. When an owner of a technology created through state budget-funded research and development fails to abide by the provisions of Clause 2 of this Article, a competent state management agency in charge of science and technology shall transfer the right to use the technology to another organization.

Article 41.- Mortgage of state-owned assets for conducting technology transfer activities

State-owned scientific and technological enterprises may mortgage their state-assigned assets to borrow capital for conducting technology transfer activities in accordance with law.

Article 42.- Sharing of incomes from the transfer of technologies created with state budget funds

Incomes from the transfer of technologies created with state budget funds shall be shared as follows:

1. Authors of inventions, industrial designs or layout designs of semiconductor integrated circuit that have been granted protection titles are entitled to royalties specified in the Law on Intellectual Property;
2. When a technology-creating collective or individual does not fall in the case defined in Clause 1 of this Article, the organization in charge of technological research and development which has been transferred the right to own the technology created with state budget funds shall specify and publicize benefit-sharing mechanisms and ratios on the following principles:
 - a/ The collective or individual that creates a technology is entitled to a certain percentage of the selling price of products created by the technology for 10 years at most if the organization in charge of technological research and development applies the technology to production;
 - b/ The collective or individual that creates a technology is entitled to between 20% and 35% of the proceeds from the contract on the transfer of the technology.
3. After paying a remuneration to the technology-creating collective or individual, the technology owner shall invest 50% of the remaining income in scientific research and

technological development and contribute another 50% to the welfare and reward fund.

4. When a technology is created with capital of different sources, including the state budget source, the portion of income from the state capital portion shall be shared in accordance with Clauses 2 and 3 of this Article.

Article 43.- Contribution of capital in the form of technology to investment projects

Organizations and individuals that have the right to transfer technologies as defined in Article 8 of this Law may contribute capital in the form of technology to investment projects. The value of such contributed capital is the technology price agreed in a technology transfer contract.

Article 44.- Tax policies to promote technology transfer activities

1. Income tax exemption shall be given to organizations and individuals that contribute capital in the form of patent or technology.

2. Import tax shall be exempted for goods imported for direct use in the research, development or renewal of technologies, including machines, equipment, spare parts, supplies and means of transport which cannot be produced at home yet, and technologies which cannot be created at home yet; scientific documents, books and newspapers.

3. Special-use machines, equipment and means of transport which cannot be produced at home yet are not liable to value-added tax if they are used for the performance of technology transfer contracts.

4. Production and business establishments that invest in the building of new production chains, expansion of the production scale, renewal of technologies, improvement of the ecological environment, or raising of the production capacity are entitled to enterprise income tax exemption for increased incomes for four years and a 50% reduction of payable tax amounts for seven subsequent years.

5. Enterprises that invest in technological renewal and receive technologies on the list of those encouraged for transfer are entitled to enterprise income tax exemption for four years with the total exempted tax amount not exceeding 50% of the total fund invested in technological renewal.

6. Enterprises in socio-economic difficulty-stricken or exceptional socio-economic difficulty-stricken areas which execute investment projects receiving technologies are entitled to the following preferences:

a/ Exemption from enterprise income tax for four years from the time taxable incomes are generated and a 50% reduction of payable tax amounts for nine subsequent years, with the total exempted tax amount not exceeding the total fund invested in technological renewal;

b/ Exemption from import tax on goods used for the replacement or renewal of technologies, and

raw materials, supplies and accessories used for production for five years from the time they commence production with new technologies.

7. Organizations or individuals that transfer technologies in the priority domains to rural, mountainous, socio-economic difficulty-stricken or exceptional socio-economic difficulty-stricken areas are entitled to a 50% reduction of income tax on incomes earned from the transfer of technologies or the supply of plant varieties or animal breeds.

8. Technology incubators or technology business incubators are entitled to income tax exemption for four years, a 50% reduction of payable income tax amounts for nine subsequent years, and land use tax exemption.

Article 45.- Incentives for enterprises to apply and renew technologies

An enterprise may deduct part of its annual pre-tax profit for setting up the scientific and technological development fund in order to carry out technological research, development and renewal activities. After five years, if that fund is not used or is used for improper purposes, the enterprise shall remit into the state budget the amount of enterprise income tax on the pre-tax profit which the State allows the enterprise to retain and the interest on that profit.

The Government shall submit to the National Assembly for decision the levels of deduction of pre-tax profit specified in this Article.

Article 46.- Incentives for foreigners and overseas Vietnamese transferring technologies into Vietnam

Foreigners and overseas Vietnamese who participate in the transfer of technologies on the list of those encouraged for transfer or in the transfer of technologies to socio-economic difficulty-stricken or exceptional socio-economic difficulty-stricken areas are entitled to the following preferences:

1. Preferences specified in Article 44 of this Law;
2. They and their family members are granted multiple visas of a validity duration suitable to the period of performance of technology transfer contracts;
3. Favorable conditions for residence and travel;
4. Other preferences as provided for by law.

Article 47.- Incentives for the development of technology transfer service organizations

The State shall encourage and create favorable conditions for domestic and foreign organizations and individuals to set up technology business incubators, technology exchanges, technology marketplaces, technology fairs and other technology-transfer service organizations; organize establishments for technology demonstration, introduction, application and transfer in rural and

mountainous areas in order to promote technology transfer activities.

Article 48.- Responsibilities of overseas Vietnamese diplomatic missions for technology transfer activities

Overseas Vietnamese diplomatic missions shall support and promote technology transfer activities and create favorable conditions for organizations and individuals to promote the transfer of technologies from abroad into Vietnam and from Vietnam to abroad.

The Government shall specify responsibilities of overseas Vietnamese diplomatic missions for technology transfer activities.

Article 49.- Publicization, demonstration and introduction of technologies

1. In publicizing, demonstrating and introducing technologies, competent state management agencies in charge of science and technology have the following responsibilities:

a/ To publicize an annual list of technologies created with the state budget, unless otherwise provided for by law;

b/ To encourage and support organizations and individuals to publicize new technologies created by themselves.

2. The State shall adopt measures to support organizations and individuals that possess new technologies created at home in publicizing, demonstrating and introducing those technologies, and participating in domestic and overseas technology marketplaces and fairs.

Article 50.- Technology transfer statistics

1. Technology transfer statistics include statistics of transferred technologies, new technologies or renewed technologies and constitute part of annual statistical reports of the state management agency in charge of statistics.

Technology transfer statistics shall be made in accordance with the law on statistics.

2. Annually, enterprises, scientific research and technological development organizations, universities, colleges and other training establishments shall report their technology transfer statistics to the state management agency in charge of science and technology.

3. The central statistical office shall assume the prime responsibility for, and coordinate with the Ministry of Science and Technology in, specifying the technology-transfer statistical reporting regime.

Chapter V

RESPONSIBILITIES OF STATE MANAGEMENT AGENCIES FOR TECHNOLOGY

TRANSFER ACTIVITIES

Article 51.- Responsibilities of the Government

In performing the state management of technology transfer activities, the Government has the following responsibilities:

1. To perform the unified state management of technology transfer activities;
2. To direct the formulation, promulgation, and organization of implementation of, strategies, plans, programs, mechanisms, policies and measures to promote technology transfer and renewal activities suitable to each period of national socio-economic development;
3. To direct and inspect the observance of the law on technology transfer; to communicate, disseminate and educate the law on technology transfer;
4. To assign and decentralize the state management of technology transfer activities;
5. To promulgate a list of technologies encouraged for transfer, a list of technologies restricted from transfer and a list of technologies banned from transfer;
6. To conduct examination and inspection, settle complaints and denunciations, and handle violations of law in technology transfer activities.

Article 52.- Responsibilities of the Ministry of Science and Technology

In performing the state management of technology transfer activities, the Ministry of Science and Technology has the following responsibilities:

1. To be answerable to the Government for the performance of state management of technology transfer activities; to promulgate legal documents on technology transfer according to its competence;
2. To assume the prime responsibility for, and coordinate with ministries, ministerial-level agencies and government-attached agencies in, formulating strategies, plans, measures, mechanisms and policies to promote technology transfer and renewal activities, then submit them to the Government for promulgation;
3. To draw up a list of technologies encouraged for transfer, a list of technologies restricted from transfer and a list of technologies banned from transfer, submit them to the Government for promulgation, and organize the implementation thereof;
4. To grant and revoke technology transfer licenses for technologies on the list of those restricted from transfer, and certificates of registration of technology transfer contracts;
5. To publicize the list of technologies created with the state budget in accordance with law;

6. To make technology transfer statistics in accordance with law;
7. To conduct inspection and examination; settle complaints and denunciations, and handle violations of the law on technology transfer;
8. To perform other tasks authorized or assigned by the Government.

Article 53.- Responsibilities of ministries and ministerial-level agencies

In performing the state management of technology transfer activities, ministries and ministerial-level agencies have the following responsibilities:

1. To coordinate with the Ministry of Science and Technology in drawing up a list of technologies encouraged for transfer, a list of technologies restricted from transfer and a list of technologies banned from transfer; to formulate strategies, plans, programs, measures, mechanisms and policies to promote technology transfer and renewal activities;
2. To organize the implementation of the national technology renewal program in their assigned domains;
3. To create favorable conditions for the transfer of technologies, especially those encouraged for transfer, and the transfer of technologies to regions and geographical areas where technology transfer is encouraged;
4. To communicate, disseminate and educate the law on technology transfer;
5. To perform other tasks authorized or assigned by the Government.

Article 54.- Responsibilities of People's Committees of all levels

In performing the state management of technology transfer activities, People's Committees of all levels have the following responsibilities:

1. Provincial-level People's Committees shall perform the state management of technology transfer activities in their localities according to the Government's decentralization;
2. People's Committees of all levels shall, within the ambit of their tasks and powers, create favorable conditions for technology transfer activities in their localities.

Chapter VI

SETTLEMENT OF DISPUTES, COMPLAINTS AND DENUNCIATIONS, AND HANDLING OF VIOLATIONS

Article 55.- Settlement of disputes in technology transfer activities

Disputes in technology transfer activities shall be settled:

1. Through negotiation among parties;
2. Through conciliation among parties conducted by an intermediary organization or individual as agreed by the parties;
3. At a domestic or overseas arbitration center or court.

Article 56.- Dispute settlement principles

1. Disputes arising in technology transfer activities between parties that are Vietnamese organizations or individuals shall be settled in accordance with this Law and relevant laws.
2. For disputes arising in technology transfer activities to which a party is a foreign organization or individual, the parties may agree to choose a dispute settlement body and the applicable law as specified in Article 4 of this Law for settlement.
3. Disputes arising in technology transfer activities shall be settled in accordance with Vietnamese law if the parties have no agreement on the applicable law.

Article 57.- Complaints and denunciations

1. Organizations and individuals may lodge their complaints about acts of infringing upon their lawful rights and interests in technology transfer activities with a competent state management agency or initiate lawsuits at court in accordance with law.
2. Individuals may denounce acts of violation of this Law to a competent state management agency.
3. Complaints and denunciations and settlement of complaints and denunciations in technology transfer activities must comply with the law on complaints and denunciations.
4. After lodging complaints or denunciations, or initiating lawsuits, organizations or individuals shall still abide by effective administrative decisions of competent state management agencies in charge of technology transfer. When a competent state management agency in charge of technology transfer issues a decision on the settlement of the complaint or denunciation or when a court makes a ruling, such decision or ruling shall be executed.
5. Competent state management agencies in charge of technology transfer at all levels shall settle organizations' and individuals' complaints and denunciations which fall under their competence.

Article 58.- Handling of violations of the law on technology transfer

1. Depending on the nature and severity of violations and the consequences caused to technology transfer activities, violating organizations or individuals shall be:

a/ Sanctioned in accordance with the law on handling of administrative violations in technology transfer activities; or,

b/ Examined for penal liability in accordance with law.

2. When an act of law violation in technology transfer activities causes damage to the interests of the State or the lawful rights and interests of organizations or individuals, compensations therefor shall be paid in accordance with law.

Chapter VII

IMPLEMENTATION PROVISIONS

Article 59.- Transitional provisions

1. Technology transfer contracts the registration of which was certified or which were approved by a competent state management agency before the effective date of this Law continue to be valid till the expiration of their validity duration.

2. Dossiers of application for registration of technology transfer contracts which were submitted to competent state management agencies before this Law takes effect but have not yet been processed shall be processed under the provisions of this Law.

3. Scientific and technological service organizations set up and operating before this Law takes effect and fully satisfying the operation conditions specified in this Law are not required to re-register their operation; those failing to meet the operation conditions specified in this Law shall, within twelve months after this Law takes effect, re-register their operation.

Article 60.- Implementation effect

This Law takes effect on July 1, 2007.

Article 61.- Implementation guidance

The Government shall detail and guide the implementation of this Law.

This Law was passed on November 29, 2006, by the XIth National Assembly of the Socialist Republic of Vietnam at its 10th session.

**THE NATIONAL
ASSEMBLY
PRESIDENT**
(signed)

Nguyen Phu Trong