

LAW ON TECHNOLOGY TRANSFER

May 7, 1998

Ulaanbaatar city

CHAPTER ONE

COMMON PROVISIONS

Article 1. Purpose of the law

The purpose of this law is to regulate relationships that occurred in identification of operational principles for technology transfer, assessment of the technology level, and identification of requirements for the technology transfer process.

Article 2. Legislation on technology transfer

2.1 Legislation on technology transfer shall compose of the Constitution, Law on Patents, this Law and other legal acts enacted in compliance with aforementioned legislation.

2.2 If the provision of the Law on International Treaties of Mongolia states otherwise than in this law, the provision of the International Treaties law shall prevail.

Article 3. Terminology of the law

3.1 The terminology used in this law shall be interpreted as follows:

3.1.1 “technology” shall be interpreted as a comprehensive set of methods of interrelated human resource, facilities, information, and organizational actions to convert the intellectual work into the applied product.

3.1.2 “technology transfer” is a comprehensive set of activities where a technology owner may on a basis of a concluded agreement transfer rights for the use of given technology to other citizens, legal persons.

3.1.3 “technology regime” is a set of comprehensive actions based on human activities and scientifically justified physical, chemical and biological processes aimed to regulate the purposeful actions of humans.

3.1.4 “know how” valuable in terms of manufacturing, management, trade and finance expertise and knowledge that is not provided by a legal protection and require specific skills for ownership and use.

Article 4. Principles for technology transfer process:

4.1 The following principles shall be applied in technology transfer process:

4.1.1 the technology transfer process shall be in compliance with the state policy on science and technology;

4.1.2 combination of the state regulation with free competition in technology transfer process;

4.1.3 technology to be transferred shall not negatively affect environment, human health, flora and fauna;

4.1.4 technology shall apply up-to-date technology and techniques;

4.1.5 increased efficiency in technology transfer that use economic incentives;

4.1.6 open participation of citizens, economic entities and institutions in technology transfer process.

Article 5. The Government mandate in technology transfer

5.1. The Government shall enjoy the following mandate in technology transfer:

5.1.1 enable enforcement of the policies, laws and legislation of the state toward technology transfer process;

5.1.2 provide economic guarantee for technology advancement of the state owned economic entities and enterprises;

5.1.3 determine amount and type of incentives and discounts for parties in technology transfer process;

5.1.4 other mandates entitled in the law.

Article 6. The mandate of the central government agency responsible for the technology transfer

6.1 The central government agency responsible for the technology transfer shall have the following mandate:

6.1.1 to interlink the state policy toward the promotion of science and technology manufacturing with the enforcement, oversight legislation on technology transfer;

6.1.2 issuance of permits for agencies to conduct the evaluation to the technology level, development and enforcement of relevant procedures;

6.1.3 distribution of information related to technology transfer;

6.1.4 announcement and selection of a project proposal to introduce the advanced technology, promotion of initiatives from citizens, economic entities, institutions on introduction and application of advanced technology;

6.1.5 regulation of protection of rights of a technology owner

6.1.6 other mandates entitled in the law

CHAPTER TWO

EVALUATION OF TECHNOLOGY LEVEL

Article 7. Evaluation of technology level

7.1 An evaluation shall be conducted by the academic institution authorized by the central government agency responsible for technology transfer if the technology applied by citizens, economic entities and institutions causes damage to human health, animals and environment or requires to ensure oversight as it is provided by the intergovernmental agreements or international conventions joined by Mongolia.

7.2 Citizens, economic entities and institutions that introduce new technologies may be evaluated by the institution referred in 7.1.

7.3 Authorized academic institution shall determine the following indicators in the course of the evaluation:

7.3.1. Availability of the comparative evaluation of the technical key indicators of the given technology with the similar indicators of other technologies;

7.3.2 Availability of recommendations considering the possible positive and negative effects and ways for minimizing those risks on environment, human health, animals and production process;

7.3.3 Availability of cost and benefit analysis in case of application of a given technology;

7.3.4 Indicators for a product standard, quality and safety;

7.3.5 Availability of qualified experts required for use of technology;

7.3.6 Other indicators relevant to a specific technology;

7.4 Academic institution conducting an evaluation shall strictly contain the confidentiality of a given technology.

7.5 Relevant citizens, economic entities, institutions shall compile necessary documentations and other required information without delay and shall bear costs in case of conducting evaluation.

7.6. Central government agency responsible for technology matters may prohibit further application of a given technology upon completion of an evaluation.

7.7. Central government agency shall develop guidelines and procedures for conducting evaluation and determine methodology to be applied.

CHAPTER THREE

TECHNOLOGY TRANSFER

Article 8. Subject of technology transfer

8.1 The following shall refer to subject for technology transfer:

8.1.1 technological process, terms of functioning;

8.1.2 sequence, process of technology, advise and services of components;

8.1.3 equipment and facilities necessary in introduction of technology;

8.1.4 conclusions of academic research and studies;

8.1.5 patents, licenses, product samples;

8.1.6 know how.

Article 9. Requirements to transferred technology

9.1 Transferred technology shall meet the following requirements:

9.1.1 Compliance with international and national standards and requirements;

9.1.2 Cost efficiency of energy, materials, raw materials and an ultimate product;

9.1.3 Maximum utilization and processing of raw materials, enabling processing of secondary raw materials;

9.1.4 Manufacturing process and produced products shall not have negative effect on environment, human health and animals;

9.1.5 Justified determination of required investments at each stage of application of technology;

9.1.6 Appropriate balance of human, facilities, information and organizational components of technology and consideration of conditions and terms for further optimization of this balance.

Article 10. Technology prohibited for transfer

Technology that exceeds the maximum degree of possible negative effect on environment, human being shall be prohibited for transfer.

Article 11. Rights of a party involved in a technology transfer process

11.1 Party involved in a technology transfer shall enjoy the following rights:

11.1.1 Freely participate in any technology transfer processes except those prohibited by the legislation;

11.1.2 Collect information related to technology transfer;

11.1.3 Intermediate and being intermediated in the framework of technology transfer process;

11.1.4 Collaborate with national and international institutions, citizens, exchange experience, participate in seminars and related events;

Article 12. Technology transfer agreement

12.1 Technology transfer process shall be completed based on a license agreement.

12.2 Technology transfer agreement shall cover the following issues:

12.2.1 Scope and volume of know how, procured materials, facilities, raw materials and services related to manufacturing technology;

12.2.2 Terms and conditions for application of patent and goods labels;

12.2.3 Issue of comparative advantage occurred in the course of technology use and application and its further optimization;

12.2.4 Training and re-training of professional staff and mutual responsibilities beard in this regard;

12.2.5 Terms and conditions for supply of technology, installation and handover and maintenance of equipment;

12.2.6 Guarantee of a seller indicating validity terms for technology, equipment and related maintenance and other services;

12.2.7 Information on transferred technology and its further optimization;

12.2.8 Liabilities of counterparts to meet terms and conditions of an agreement and issues of compensation of caused damage;

12.2.9 terms and conditions for technology confidentiality;

12.2.10 procedure for a dispute settlement;

12.2.11 price for technology procurement, license fee, payment terms;

12.2.12 location for selling and service sites of products manufactured by transferred technology;

12.2.13 Terms of validity of an agreement;

12.2.14 other.

12.3 Counterparts shall take liabilities on retaining the confidentiality of technology and clearly reflect the settlements for compensation of caused losses.

Article 13. Prohibition of imposing restrictions on technology transfer agreement

13.1 Counterparts shall be prohibited to impose restrictions on conclusion of a technology transfer agreement:

13.1.1 export to a third party of manufactured products applying transferred technology;

13.1.2 determination of quantity of products and adjustments in production technology;

13.1.3 procurement of competitive technology from the third countries;

13.1.4 in case inability of a technology transferring party is proved, materials, raw materials, equipment and semi-processed products may be procured from other bodies;

13.1.5 Freely use technology upon agreement validity terms expire, if not provided otherwise in an agreement.

Article 14. Registration of technology transfer agreement

14.1 Technology transfer agreement shall be registered by the intellectual property institution.

14.2 Intellectual property institution shall justify a registration based on the following evaluation, in case of import of a technology that does not meet international or national standards or newly introduced technology:

14.2.1 conclusion from the central government health agency on possible effects on human health;

14.2.2 conclusion from the central government agriculture agency in case transferred technology is in veterinary, plants and arable sectors;

14.2.3 evaluation of environmental effects in cases provided otherwise than in 14.2.1, 14.2.2;

14.3 Intellectual property institution may not register an agreement referring to conclusions provided in 14.2.

14.4 In case a given technology transfer agreement is not registered, the central government agency for technology shall prohibit use of a given technology.

Article 15. License fee

15.1 Payment that citizens, economic entities and institutions who intend to use technology pay to a technology owner shall be considered license fee.

15.2 License fee may be in a type of a lump sum or continuous contributions on a basis of profit estimations to be generated upon use of technology or a mixed type.

15.3 License fee amount, type and duration shall be agreed by a contract by parties in technology transfer process.

CHAPTER FOUR

MISCELLANEOUS

Article 16. Settlement of dispute

Any disputes occurred between Mongolian and foreign economic entities, institutions and citizens on a matter of technology transfer shall be settled by the court of Mongolia if it is not provided otherwise in the International treaty of Mongolia and concluded contract between parties.

Article 17. Liabilities to breaches of the legislation

17.1 Citizens, economic entities and institutions that cause damages to environment, human health in the course of technology transfer process shall be imposed liabilities in accordance with criminal and administrative legislation and measures to clear up damage shall be taken accordingly.

17.2 Judge shall impose fine up to 50000 T to a citizen, up to 60000 T to an official and 250000 T to an economic entity for disclosure of technology confidentiality and authorize a way for compensation of the caused damage.

17.3 Judge shall impose fine from 20000 to 50000 T to a citizen, 30000-60000 T to an official and 100000-250000 T to an economic entity and institution for failure to submit completed documentations required to conduct technology level evaluation or for a failure to conclude technology transfer agreement.