

THE GOVERNMENT

No. 133/2008/ND-CP

SOCIALIST REPUBLIC OF VIET NAM
Independence - Freedom - Happiness

Hanoi, December 31, 2008

DECREE

**DETAILING AND GUIDING THE IMPLEMENTATION OF A NUMBER OF ARTICLES OF THE
LAW ON TECHNOLOGY TRANSFER**

THE GOVERNMENT

Pursuant to the December 25, 2001 Law on Organization of the Government;
Pursuant to the November 29, 2005 Law on Technology Transfer;
At the proposal of the Minister of Science and Technology,

DECREES:

Article 1. Scope of regulation

This Decree details and guides the implementation of a number of articles of the Law on Technology Transfer regarding technology transfer contracts, technology evaluation services and measures to encourage and promote technology transfer.

Article 2. Making of technology transfer contracts

1. Technology transfer and entry into technology transfer contracts comply with Article 12 and Clause 1, Article 14 of the Law on Technology Transfer and other relevant provisions of law.

2. In case a technology transferor transfers to a technology transferee more than one subject matter of technology, they may make a common contract or several different contracts, provided that these contracts do not have contents on the same transferred technology.

In case a technology transferor transfers a technology accompanied with machinery, equipment and technical devices, a list of and agreements on these machinery, equipment and technical devices must be provided in the transfer contract or annexes thereof.

3. A technology transfer contract involving the transferred subject matter being documents on technologies which contain technical solutions, technical know-how, engineering drawings, formulas or technological processes must specifically indicate the titles and contents of these documents.

4. For a technology transfer contract with a technological training content, the contracting parties shall include in the contract or annex thereof their agreements on the number of technical workers and technicians; sectors or professions in which the training is provided; training expenses, duration and places, ensuring that transferees can absorb and master transferred technologies after the training.

5. For a technology transfer contract with a content that the technology transferor shall send technical consultants to provide technical assistance or consultancy to the technology transferee

in applying transferred technologies to production, the contracting parties shall include in the contract or annex thereof their agreements on the number of consultants; technical assistance and consultancy contents, duration and expenses, ensuring that the transferee can turn out products up to quality standards and solve difficulties in the course of application of transferred technologies to production.

Article 3. Payment methods under technology transfer contracts

Contracting parties may agree on payment by any of the following methods:

1. Payment in lump sum or installments in cash or in kind;
2. Conversion of the technology value into contributions as capital to an investment project or to an enterprise;

In case the contracting parties agree on contribution of technologies as capital, only after the technology transfer is completed with these parties' certification can the technology value be accounted by contribution of the technology transferor to the investment project or enterprise;

3. Payment on a seasonal basis at a percentage (%) of the net selling price.

The net selling price is determined to equal the selling price of products or services turned out by the transferred technology (according to sale invoices) minus value-added tax, excise tax, export duty (if any); costs of semi-finished products, parts, details and components imported or purchased at home; package material and packaging costs, freight for transportation of products to outlets, and advertisement expenses;

4. Payment at a percentage (%) of the net turnover.

The net turnover is determined to equal the turnover from sale of goods or provision of services turned out by the transferred technology minus turnover reductions including commercial discounts, price reductions of goods sold, returned goods;

5. Payment at a percentage (%) of the pre-tax profit of the transferee.

The pre-tax profit is determined to equal the net turnover minus total reasonable expenses for the production of marketed products with the transferred technology;

6. Combination of payment methods specified in Clauses 1, 2, 3, 4 and 5 of this Article.

Article 4. Technology transfer funded with state capital

1. When using state capital for receiving a transferred technology under an investment project, a technology transferee shall work out a plan on receipt of the transferred technology, clearly stating technology transfer contents and the estimated price of the technology, then submit it to an agency with investment-deciding competence. The technology transferee shall take responsibility for technology transfer contents and the payment price of the transferred technology under a decision of the agency with investment-deciding competence.

2. Cases in which capital of many sources is used for receiving a transferred technology, of which state capital accounts for 51% or more, comply with Clause 1 of this Article.

Article 5. List of technologies encouraged for transfer, list of technologies restricted from transfer and list of technologies banned from transfer

1. Enclosed with this Decree are the following lists:

a/ A list of technologies encouraged for transfer (Appendix I);

b/ A list of technologies restricted from transfer (Appendix II);

c/ A list of technologies banned from transfer (Appendix III).

2. Ministries, ministerial-level agencies and government-attached agencies shall:

a/ Organize the identification of specific technologies on the lists mentioned in Clause 1 of this Article;

b/ Annually, based on the socio-economic development situation and state management requirements, propose amendments and supplements to the lists of technologies mentioned in Clause 1 of this Article.

3. The Ministry of Science and Technology shall:

a/ Guide ministries, ministerial-level agencies and government-attached agencies in procedures and criteria for identifying specific technologies on the lists of technologies mentioned in Clause 1 of this Article;

b/ Consider proposals of ministries, ministerial-level agencies and government-attached agencies on amendment or supplementation of the lists of technologies mentioned in Clause 1 of this Article and sum up and submit them to the Government for decision.

Article 6. Registration of technology transfer contracts

1. Technology transfer contracts are not subject to compulsory registration but contracting parties may register their contracts if they so wish. If wishing to register a technology transfer contract, a technology transferee (in case of transfer of a technology from abroad into Vietnam) shall, within 90 days after entering into the contract, file on behalf of the contracting parties a dossier with an agency competent to issue technology transfer contract registration certificates under Article 9 of this Decree.

2. For contracts for transfer of technologies on the list of technologies encouraged for transfer, technology transfer contract registration certificates serve as a basis for enjoying the incentives provided in this Decree and relevant laws.

3. Technology transfer contract registration certificates are made according to a form provided in Appendix IV to this Decree (not printed herein).

Article 7. Dossiers for registration of technology transfer contracts

1. A dossier for registration of a technology transfer contract comprises:

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

This application shall be made according to a form provided in Appendix V to this Decree (not printed herein).

b/ The original or a notarized copy of the technology transfer contract in Vietnamese and a foreign language. The contract must be signed and sealed by the contracting parties and must be initialed and sealed by the contracting parties on every two adjoining pages and annexes in case a contracting party is an organization.

2. The filing of dossiers for registration of technology transfer contracts must comply with the following regulations:

a/ For cases of technology transfer specified in Clause 1, Article 9 of this Decree, the technology transferee (in case of transfer of a technology from abroad into Vietnam or within the country) or the technology transferor (in case of transfer of a technology from Vietnam abroad) shall file on behalf of the contracting parties 3 (three) dossier sets, including at least 1 (one) original, with the Ministry of Science and Technology;

b/ For cases of technology transfer not specified in Clause 1, Article 9 of this Decree, the technology transferee (in case of transfer of a technology from abroad into Vietnam or within the country) or the technology transferor (in case of transfer of a technology from Vietnam abroad) shall file on behalf of the contracting parties 3 (three) dossier sets, including at least 1 (one) original, with the provincial-level Science and Technology Service in the locality where the transferee (or the transferor) is headquartered.

Article 8. Registration of modification of technology transfer contracts

1. If parties to a technology transfer contract for which a technology transfer registration certificate has been issued agree to modify the contract, they shall send the modified contract to the agency that has issued the registration certificate for issuance of a certificate of registration of modification of the contract.

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

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

This application shall be made according to a form provided in Appendix V to this Decree (not printed herein).

b/ The original or a notarized copy of the modified contract in Vietnamese and a foreign language. The contract must be signed and sealed by the contracting parties and must be initialed and sealed by the contracting parties on every two adjoining pages and annexes in case a contracting party is an organization.

3. The agency competent to register technology transfer contracts for technologies encouraged for transfer shall receive dossiers for registration of modification of technology transfer contracts specified in Clause 2, Article 7 of this Decree.

Article 9. Competence to issue technology transfer contract registration certificates

1. The Ministry of Science and Technology shall issue technology transfer contract registration certificates for technologies of investment projects in which investment is approved by the Prime Minister.

One copy of a technology transfer contract registration certificate shall be sent to the provincial-level Science and Technology Service in the locality where the transferee is headquartered for coordinated monitoring and inspection of contract performance.

2. Provincial-level Science and Technology Services shall issue technology transfer contract registration certificates for technologies other than those specified in Clause 1 of this Article.

One copy of a technology transfer contract registration certificate shall be sent to the Ministry of Science and Technology for management.

3. Within 15 days after receiving a valid dossier, the competent agency specified in Clause 1 or 2 of this Article shall examine the dossier and issue a technology transfer contract registration certificate. In case of refusal to issue a technology transfer contract registration certificate, it shall reply in writing, clearly stating the reason.

Article 10. Approval of technology transfer for technologies on the list of technologies restricted from transfer

1. Organizations and individuals that wish to receive or transfer technologies on the list of technologies restricted from transfer must fully satisfy the following conditions:

a/ For technologies transferred from abroad into Vietnam: Organizations and individuals that wish to receive these technologies must have functions and tasks directly related to the use of to-be-received technologies; have sufficient material foundation and qualified personnel to receive and safely operate technologies; and shall strictly observe national standards and technical regulations;

b/ For technologies transferred from Vietnam abroad: Organizations and individuals that wish to transfer these technologies shall ensure that the technology transfer is not prejudicial to national interests.

2. Organizations and individuals that wish to receive or transfer technologies on the list of technologies restricted from transfer shall file dossiers with the Ministry of Science and Technology for approval.

3. The Ministry of Science and Technology shall coordinate with other ministries and ministerial-level agencies in approving transfers of technologies related to branches or domains under the management of these ministries and ministerial-level agencies.

4. Within 30 days after receiving a valid dossier, the Ministry of Science and Technology shall examine it and issue a written approval of technology transfer. In case of disapproval, it shall reply in writing, clearly stating the reason.

5. Dossiers of application for approval of transfers of technologies on the list of technologies restricted from transfer comply with Clause I, Article 12 of this Decree.

Article 11. Licensing of transfer of technologies on the list of technologies restricted from transfer

1. The Ministry of Science and Technology shall evaluate and issue technology transfer licenses for technologies on the list of technologies restricted from transfer specified in Article 52 of the Law on Technology Transfer.

2. Within 60 days after entering into a technology transfer contract, the technology transferee (in case of transfer of a technology from abroad into Vietnam or within the country) or the technology transferor (in case of transfer of a technology from Vietnam abroad) shall file on behalf of the contracting parties 3 (three) sets of the dossier of application for a technology transfer license, including at least 1 (one) original, with the Ministry of Science and Technology.

3. Within 10 days after receiving a valid dossier, the Ministry of Science and Technology shall examine it and issue a technology transfer license.

3. In case the dossier is incomplete or improper according to law, the Ministry of Science and Technology shall request in writing the party that has filed the dossier to modify it. Within 10 days after receiving the duly modified dossier, the Ministry of Science and Technology shall examine it and issue a technology transfer license. In case of refusal to issue a license, it shall reply in writing, clearly stating the reason.

Past 60 days after receiving the Ministry of Science and Technology's written request for dossier modification, if the contracting parties fail to comply with such request, their dossier of application for a technology transfer license will become invalid.

4. In the course of performance of a technology transfer contract for which a technology transfer license has been issued, if the contracting parties wish to modify contents of the technology transfer license, one of them shall file on their behalf a dossier of application for a new license.

5. Technology transfer licenses are made according to a form provided in Appendix VI to this Decree (not printed herein).

Article 12. Dossiers of application for approval of, and dossiers of application for licensing of transfer of technologies on the list of technologies restricted from transfer

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

a/ An application for approval of technology transfer;

b/ A document on the applicant's legal status; a copy of the investment certificate or business registration certificates or practice license for the business line or profession the applicant is conducting or practicing;

c/ Explanatory documents on the technology;

d/ Explanatory documents on the satisfaction of the conditions specified in Clause 1, Article 10 of this Decree.

Applications for approval of technology transfer and principal contents of explanatory documents on technologies shall be made according to forms provided in Appendices VII and VIII to this Decree (not printed herein).

2. A dossier of application for a license for transfer of a technology on the list of technologies restricted from transfer:

a/ An application for a technology transfer license;

Applications for technology transfer licenses must be made according to a form provided in Appendix DC to this Decree (not printed herein).

b/ A document on the legal status of the contracting parties: copies of the investment certificates or business registration certificates or practice licenses for the business lines or professions the contracting parties are conducting or practicing; and certifications of the legal status of their representatives who sign the contract;

c/ The Ministry of Science and Technology's written approval of technology transfer;

d/ The original or a notarized copy of the technology transfer contract in Vietnamese and a foreign language. The contract must be signed and sealed by the contracting parties and must be initialed and sealed by contracting parties on every two adjoining pages and annexes in case a contracting party is an organization;

e/ A list of technology documents, machinery, equipment and technical devices (if any) enclosed with the technology transfer contract;

f/ For technology transfers funded with state capital, written consent of the agency with investment-deciding competence to the technology transfer and the estimated price of the transferred technology.

Article 13. Technology transfer under projects or commercial franchising contracts, industrial property rights assignment contracts or contracts on sale and purchase of machinery and equipment accompanying technology transfer

1. In case an investment project, commercial franchising contract, industrial property rights assignment contract or machinery and equipment sale and purchase contract has a technology transfer content, when that project or contract is formulated, the technology transfer content and expenses must be presented in a separate part of the project or contract.

2. For technologies on the list of those restricted from transfer, the dossier and licensing for the technology transfer part under a project or a contract must comply with Articles 10, 11 and 12 of this Decree.

3. For technologies not on the list of those restricted from transfer, the dossier and registration of the technology transfer part under a project or a contract must comply with Articles 6, 7, 8 and 9 of this Decree.

Article 14. Technology transfer contracts ineligible for registration certification or technology transfer licensing

1. Technology transfer contracts contain no subject matter of technology specified in Article 7 of the Law on Technology Transfer.

2. Technology transfer contracts are in violation of Article 13 of the Law on Technology Transfer.

Article 15. Withdrawal of technology transfer contract registration certificates or technology transfer licenses

1. A technology transfer contract registration certificate or technology transfer license shall be withdrawn in the following cases:

a/ The contracting parties fail to perform the technology transfer 12 months after the technology transfer contract registration certificate or technology transfer license is issued;

b/ The transferred technology is other than that for which the technology transfer contract registration certificate or technology transfer license has been issued;

c/ Documents for technology transfer contract registration or application for a technology transfer license are fake.

2. Agencies that have issued technology transfer contract registration certificates or technology transfer licenses may withdraw these certificates or licenses.

3. In case parties that have obtained technology transfer contract registration certificates or technology transfer licenses and enjoyed the incentives provided for in the Law on Technology Transfer have their technology transfer contract registration certificates or technology transfer licenses withdrawn, they shall refund these incentives to the State.

Article 16. Reports on performance of technology transfer contracts

1. For a technology transfer contract for which a technology transfer license has been issued and which has been performed for more than one year, the technology transferee (in case of transfer of a technology from abroad into Vietnam or within the country) or the technology transferor (in case of transfer of a technology from Vietnam abroad) shall annually make a report on performance of the technology transfer contract in the preceding year and send it to the Ministry of Science and Technology.

2. For a technology transfer contract for which a registration certificate has been issued and which has been performed for more than one year with state capital accounting for 51% or more of its total budget, every year the technology transferee (in case of transfer of a technology from abroad into Vietnam or within the country) or the technology transferor (in case of transfer of a technology from Vietnam abroad) shall annually make a report on performance of the technology transfer contract in the preceding year and send it to the Ministry of Science and Technology or the provincial-level Science and Technology Service that has issued the technology transfer contract registration certificate.

3. A report on performance of a technology transfer contract in a year must be sent before January 15th of the subsequent year.

4. Annual reports on performance of technology transfer contracts must be made according to a form provided in Appendix X to this Decree (not printed herein).

Article 17. Liquidation of technology transfer contracts for technologies on the list of technologies restricted from transfer

1. The liquidation of technology transfer contracts for technologies on the list of technologies restricted from transfer must be recorded in writing by contracting parties.

2. The technology transferee or technology transferor in case of transfer of a technology from Vietnam abroad shall send a written record of liquidation of the technology transfer contract to the Ministry of Science and Technology within 30 (thirty) days after the date of liquidation.

3. Written records of liquidation of technology transfer contracts must be made according to a form provided in Appendix XI to this Decree (not printed herein).

Article 18. Charge for evaluation of technology transfer contracts

1. When submitting dossiers of application for technology transfer contract registration certificates or technology transfer licenses, technology transferees (in case of transfer of technologies from abroad into Vietnam or within the country) or technology transferors (in case of transfer of technologies from Vietnam abroad) shall pay the charge for evaluation of technology transfer contracts.

2. The Ministry of Finance shall guide the collection, management and use of the charge for evaluation of technology transfer contracts.

Article 19. Contents of technology appraisal

1. Verifying the legal status of and rights to transferred technologies.

2. Identifying criteria of actually transferred technologies against those indicated in technology transfer contracts.

Article 20. Right to invite and right to request technology appraisal

1. Agencies having the right to invite technology appraisal include:

a/ Agencies competent to issue technology transfer contract registration certificates and technology transfer licenses;

b/ Agencies competent to settle disputes, handle violations or settle complaints and denunciations about technology transfer.

2. Organizations and individuals having the right to request technology appraisal include:

a/ Parties to technology transfer contracts;

b/ Organizations and individuals requested to be handled for their acts of violation or subjected to complaints or denunciations about their violations related to technology transfer;

c/ Other organizations and individuals that have rights or interests related to disputes over, violations in, complaints or denunciations about technology transfer.

Article 21. Rights and obligations of technology appraisal inviters and requesters

1. Technology appraisal inviters and requesters have the following rights:

a/ To select accredited technology appraisal organizations that are qualified for technology appraisal;

b/ To request appraisal organizations to supply appraisal conclusions with details and within a time limit as agreed upon;

c/ To request appraisal organizations to explain appraisal conclusions;

d/ To request additional appraisal or reappraisal under Article 26 of this Decree;

e/ To reach agreement on technology appraisal expenses.

2. Technology appraisal inviters and requesters have the following obligations:

a/ To supply sufficient documents, evidence and information on appraised subject matters at the request of appraisal organizations and appraisers, and take responsibility for their truthfulness and accuracy;

b/ To clearly and concretely present matters which are subject to invited or requested appraisal;

c/ To pay technology appraisal expenses as agreed upon.

3. Expenses for invited or requested technology appraisal shall be agreed upon by involved parties.

Article 22. Technology appraisal organizations and technology appraisers

1. Technology appraisal organizations may be scientific and technological organizations or enterprises.

2. Technology appraisal organizations must have at least two technology appraisers.

3. A person who fully satisfies the following criteria may be recognized as a technology appraiser:

a/ Having a college, university or higher degree and professional qualifications relevant to the technology appraisal requirements and domains;

b/ Having worked for at least three years in the technological domain to be appraised;

c/ Possessing an appraisal certificate pertaining to the technological domain to be appraised, when such certificate is required by law.

4. Ministries, ministerial-level and government-attached agencies shall coordinate with the Ministry of Science and Technology in specifying contents of examination of technology appraisal knowledge and skills.

5. Ministries, ministerial-level and government-attached agencies shall base themselves on their functions, tasks and powers to guide the issuance of technology appraisal certificates in branches and domains under their management.

Article 23. Rights and obligations of technology appraisal organizations

1. Rights of technology appraisal organizations:

a/ To conduct appraisal when invited or requested; to conduct appraisal according to specific requirements of invited or requested appraisal and within the required time limit. In case the appraisal requires more time, to promptly notify such to appraisal inviters or requesters;

b/ To refuse to conduct appraisal when appraised subject matters and relevant documents are insufficient or invalid for making appraisal conclusions, or when appraisers have rights or interests related to appraised subject matters or cases subject to appraisal or can, for other

reasons, affect the objectiveness of appraisal conclusions but at the same time act as representatives to protect interests of any of parties involved in cases subject to appraisal;

c/ To request agencies and organizations to supply documents, objects and information related to appraised subject matters;

d/ To select necessary and appropriate appraisal methods; to conduct appraisal based on test results or professional conclusions or expert opinions;

e/To prepare appraisal dossiers and explain appraisal conclusions upon request.

2. Obligations of technology appraisal organizations:

a/To preserve objects and documents related to cases subject to appraisal; to keep secret appraisal results, information and documents;

b/ To make independent appraisal conclusions and take responsibility before law for appraisal conclusions;

c/To pay compensations for damage caused by their untruthful appraisal conclusions to concerned individuals and organizations under law;

d/ To comply with regulations on the appraisal order and procedures and exercise other rights and perform other obligations specified by law.

Article 24. Invitation of technology appraisal

1. Invitation of technology appraisal must be made in writing.

2. A written invitation of technology appraisal must have the following principal details:

a/ Name and address of the inviting agency; name and position of the person competent to invite technology appraisal;

b/ Name and address of the appraisal organization or appraiser;

c/ Subject matter and contents to be appraised;

d/ Relevant documents and objects;

e/ Time limit for notifying appraisal conclusions.

Article 25. Request for technology appraisal

1. Technology appraisal request must be made in the form of an appraisal service contract between the appraisal requester and technology appraisal organization.

2. A technology appraisal service contract must have the following principal details:

a/ Name and address of the organization or individual requesting appraisal;

b/ Name and address of the technology appraisal organization;

c/ Contents to be appraised;

d/ Relevant documents and objects;

e/ Time limit for notifying appraisal conclusions;

f/ Rights and obligations of involved parties;

g/ Responsibility for contract breaches.

Article 26. Additional appraisal or reappraisal

1. Additional appraisal may be conducted in case appraisal conclusions are inadequate and unclear about appraised contents or there emerge new details which need to be clarified. Requests for additional appraisal and performance of an additional appraisal comply with regulations on first-time appraisal.

2. Re-appraisal may be conducted in case appraisal inviters or requesters disagree with appraisal results or appraisal conclusions on the same appraised subject matter are contradictory. Re-appraisal may be conducted by the same appraisal organizations or appraisers that have conducted previous appraisal or by other appraisal organizations or appraisers at the request of appraisal inviters or requesters.

Article 27. Documents on technology appraisal conclusions

1. Documents on technology appraisal conclusions constitute a legal ground for handling relevant cases.

2. A document on technology appraisal conclusions must have the following principal details:

a/ Name and address of the technology appraisal organization;

b/ Name and address of the appraisal inviter or requester;

c/ Appraisal subject matter, contents and scope;

d/ Method of appraisal; e/ Appraisal conclusions;

f/ Time and place of performance and completion of appraisal.

3. Documents on technology appraisal conclusions must be signed by appraisers who have conducted the technology appraisal and heads of technology appraisal organizations and appended with the seals of these organizations.

Article 28. Technology transfer services

1. Technology transfer services means activities assisting the process of seeking, entering into and performing technology transfer contracts, including technology evaluation and pricing, technology transfer brokerage and consultancy, and technology transfer promotion.

2. The Ministry of Science and Technology shall specify and guide technology transfer services specified in Clause 1 of this Article.

Article 29. Technology evaluation, pricing and appraisal and technology transfer consultancy services

1. Organizations and individuals are encouraged to establish technology transfer service organizations to provide technology evaluation, pricing and appraisal and technology transfer consultancy services.

2. The Ministry of Science and Technology shall guide contents and methods of operation of technology evaluation, pricing and appraisal and technology transfer consultancy service organizations.

Article 30. Technology evaluation and pricing results

Technology evaluation and pricing results must be expressed in writing and constitute a ground for:

1. Parties to technology transfer contracts to conduct negotiations and reach agreement on prices of to-be-transferred technologies;

2. Considering and determining the values of transferred technologies based on state-invested research outcomes; using state capital in technology transfers; contributing as capital the values of technologies when parties so request;

3. Competent agencies to examine and handle breaches of technology transfer contracts and settle disputes in the course of performance of technology transfer contracts.

Article 31. Inspection of technology transfer activities

Agencies issuing technology transfer contract registration certificates or technology transfer licenses defined in Articles 9 and 11 of this Decree shall inspect technology transfer activities under law.

Article 32. Tax policies to promote technology transfer activities

1. Organizations contributing as capital technologies for establishing enterprises or performing business cooperation contracts are exempt from enterprise income tax for incomes generated from these technologies.

2. Import duty exemption is given for goods imported for direct use in technology research and development, technology renewal, including machinery, equipment, spare parts, materials and means of transport which cannot be manufactured at home or technologies which cannot be created at home; scientific documents, books and newspapers.

3. Machinery, equipment and special-purpose means of transport which cannot be manufactured at home and need to be imported for the performance of technology transfer contracts are not liable to value-added tax.

4. Enterprises investing in technology renewal and receiving technologies on the list of technologies encouraged for transfer are exempt from enterprise income tax for incomes

generated from the application of these technologies for four years, provided that the total exempted tax amount does not exceed 50% of total investment in technology renewal.

5. Enterprises receiving technologies for implementing investment projects in localities with difficult or exceptionally difficult socioeconomic conditions are exempt from import duty for goods used for technology replacement or renewal and raw materials, supplies and parts used for production for five years from the commencement of the production with new technologies.

6. Organizations transferring technologies on the list of technologies encouraged for transfer in rural or mountainous areas, localities with difficult or exceptionally difficult socioeconomic conditions are entitled to a 50% reduction of income tax for incomes from technology transfer or supply of plant varieties or animal breeds.

7. Technology nursery establishments and technology enterprise nursery establishments are exempt from income tax for four years, entitled to a 50% reduction of income tax for nine subsequent years and exempt from land use tax.

8. Organizations and individuals that receive technologies in localities with difficult or exceptionally difficult socio-economic conditions are exempt from the charge for examination of technology transfer contracts.

9. The order of and procedures for exemption from or reduction of enterprise income tax, personal income tax and the charge for examination of technology transfer contracts comply with relevant tax and charge laws.

Article 33. The national technology renewal program

1. 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, approving the national technology renewal program.

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

Article 34. The national technology renewal fund

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, studying and proposing the Prime Minister for decision the setting up, management and use of the national technology renewal fund.

Article 35. Making statistics on technology transfer activities

1. Every January, enterprises, scientific research and technological development organizations, universities, colleges and other training institutions shall report on their technology renewal and transfer activities in the preceding year to the provincial-level Science and Technology Services of localities where they are headquartered. Provincial-level Science and Technology Services shall sum up these reports and report to the Ministry of Science and Technology.

2. The Ministry of Science and Technology shall sum up and report to the Prime Minister on the annual situation of technology renewal and transfer nationwide.

3. The Ministry of Planning and Investment shall assume the prime responsibility for, and coordinate with the Ministry of Science and Technology in, specifying report forms and the reporting regime and guiding the making of statistics on technology transfer.

Article 36. Transitional provisions

1. Technology transfer contracts certified as having been registered or approved by the Ministry of Science and Technology or provincial-level Science and Technology Services before the effective date of the Law on Technology Transfer will continue to be valid until their dates of expiration.

2. Dossiers of application for registration of technology transfer contracts filed with the Ministry of Science and Technology or provincial-level Science and Technology Services between July 1, 2007, and the effective date of this Decree will be examined for issuance of technology transfer contract registration certificates or technology transfer licenses under regulations effective at the time of filing.

Article 37. Effect

This Decree takes effect 15 days after its publication in "CONG BAO" and replaces the Government's Decree No. 11/2005/ND-CP of February 2, 2005, providing in detail technology transfer (amended).

Article 38. Implementation responsibility

The Minister of Science and Technology, other ministers, heads of ministerial-level agencies and government-attached agencies, and presidents of provincial-level People's Committees shall implement this Decree.

**On behalf of the Government
Prime Minister**

NGUYEN TAN DUNG

APPENDIX I

LIST OF TECHNOLOGIES ENCOURAGED FOR TRANSFER

(Enclosed with the Government's Decree No. 133/2008/ND-CP of December 31, 2008)

1. Nano technology.

2. Technology for manufacturing micro-electro-mechanical systems (MEMS), nano-electro-mechanical systems (NEMS) and equipment using MEMS or NEMS.

3. Technology for manufacturing integrated circuits and high-capacity memories.
4. Technology for manufacturing liquid crystal displays (LCD) and plasma displays.
5. Technology for manufacturing digital precision measuring devices.
6. Technology for manufacturing sensors and electronic measuring devices.
7. Technology for manufacturing robots.
8. Space technology.
9. Technology for manufacturing systems simulating human-machine interactions through thoughts, gestures, languages and images.
10. Technology for applying neuronal networks in image processing.
11. Technology for manufacturing magnetic resonance devices for imaging diagnosis.
12. Technology for manufacturing high-frequency radiographs, electroencephalography and laser instruments for medical use.
13. Technology for processing materials with ultrasound, electric spark, plasma, laser or digital control.
14. Technology for manufacturing high-purity metals.
15. Technology for manufacturing construction materials with special properties.
16. Technology for manufacturing easy-to-disintegrate and environmentally friendly materials.
17. Technology for manufacturing composite materials in flexible or bimetal form.
18. Technology for manufacturing ceramic materials, special glass fibers, optical fibers and carbon fibers.
19. Technology for manufacturing catalysts and new materials.
20. Technology for working, rolling and elongating special metals.
21. Technology for treating high zinc contents in pig iron manufacture.
22. Technology for manufacturing lithium-ion and solar cells.
23. Technology for manufacturing paints without organic solvents and heavy metals.
24. Marine technology.
25. Technology for engineering large-sized seagoing ships with complicated functions.

26. Technology for manufacturing remote automatic control devices (temperature, pressure, electric voltage, flow or spin number) for use on board ships.
27. Technology for manufacturing navigation devices for ships and marine works.
28. Technology for reducing electricity wastage in transmission.
29. Technology for manufacturing energy-saving products.
30. Technology for generating solar, wind, geothermal, tide, wave or biomass power.
31. Technology for producing new fuels.
32. Technology for manufacturing hydropower turbines of over 60 MW.
33. Technology for propagating or creating plant varieties or animal breeds of high productivity and quality.
34. Technology for controlling the blooming, fructification and harvest time of plant varieties.
35. Technology for automating the process of rearing, cultivating and harvesting vegetables, flowers and fruits.
36. Water-saving irrigation technology.
37. Technology for cold preservation of animal eggs and zygotes.
38. Technology for manufacturing human and animal vaccines.
39. Technology for breeding and rearing tuna, lobster, abalone, blood cockle, mother-of-pearl and corals.
40. Technology for producing disease-free giant tiger prawns (*penaeus monodon*) for breeding.
41. Technology for early discovering water or C_nH_{n+2} gas pockets.
42. Technology for constructing marine or submerged works.
43. Technology for underwater cutting or welding.
44. Technology for manufacturing bio-products (biological membranes, reverse osmosis membranes).
45. Technology for culturing human or animal stem cells.
46. Technology for manufacturing artificial human body parts.
47. Technology for manufacturing medicines for cancer, cardiovascular disease, diabetes, HIV/AIDS, drug detoxification or family planning.
48. Technology for detecting, collecting, supervising and disposing of hazardous wastes.

49. Technology for forecasting typhoons, floods, earthquakes, tsunami and other natural disasters.

50. Technologies for modernizing traditional trades and crafts.

APPENDIX II

LIST OF TECHNOLOGIES RESTRICTED FROM TRANSFER

(Enclosed with the Government's Decree No. 133/2008/ND-CP of December 31, 2008)

I. TECHNOLOGIES TRANSFERRED FROM ABROAD INTO VIETNAM AND WITHIN VIETNAMESE TERRITORY

1. Technology for manufacturing inert gas filament lamps.
2. Technology for manufacturing vacuum electronic components, low-integrated semiconductor components.
3. Technology for isomerization using fluorhydric acid or sulfuric acid as a catalyst.
4. Technology for manufacturing titanium oxide powder using sulfuric acid.
5. Technology for manufacturing one-layer or two-layer printed circuits.
6. Technology for printing money and par-value papers.
7. Technology for producing plant varieties or animal breeds by the genetic modification method in agricultural production, forestry or fisheries.
8. Technology for manufacturing domestic-use germicides, insecticides and rodenticide by biological methods.
9. Technology using toxic chemicals in aquatic product rearing, culture and processing.
10. Technology using non-aboriginal species as environmental treatment agents or indicators.
11. Technology for enriching radioactive substances.

II. TECHNOLOGIES TRANSFERRED FROM VIETNAM ABROAD

12. Technology for breeding, rearing and culturing aquatic products being key exports.
13. Technology for manufacturing foodstuffs by traditional methods using microorganisms with precious and rare properties.

APPENDIX III

LIST OF TECHNOLOGIES BANNED FROM TRANSFER
(Enclosed with the Government's Decree No. 133/2008/ND-CP of December 31, 2008)

I. TECHNOLOGIES BANNED FROM TRANSFER FROM ABROAD INTO VIETNAM OR WITHIN VIETNAMESE TERRITORY

1. Technology for manufacturing sulfuric acid by the method of single exposure and single absorption.
2. Technology for printing and type-setting with lead plates.
3. Technology for manufacturing cells by the electrophoresis method.
4. Electrolysis technology using mercury electrodes.
5. Technology for manufacturing paints with mercury.
6. Technology for manufacturing explosive chemical products by manual methods.
7. Technology for shaft kiln cement production.
8. Technology for rotary kiln cement production by the wet method.
9. Technology for human embryo cloning.
10. Technology for producing narcotics.
11. Technology for radio wave interference.
12. Technology for nullifying sound-recording, video recording, measuring, counting and weighing devices and speedometers of means of transport, except for those used for the security purpose.
13. Technology for nullifying devices to measure, count or calculate electricity volume.
14. Technology for nullifying devices to record telephone call time.
15. Technology for nullifying devices to check and detect weapons, explosive materials, narcotics and other dangerous objects, except for those used for security purposes.
16. Technology for manufacturing weapons, military equipment, explosive materials, technical equipment, support tools and devices for nullifying equipment to detect access to computer networks, except for those used for security and defense purposes.

II. TECHNOLOGIES TRANSFERRED FROM VIETNAM ABROAD

17. Technologies banned from transfer under treaties to which Vietnam is a contracting party.-