

**LAW OF MONGOLIA
ON TECHNOLOGY TRANSFER**

May 7, 1998
Ulaanbaatar city

(Turiin medeelel #6, 1998)

**CHAPTER ONE
GENERAL PROVISIONS**

Article 1. Purpose of the law

1.1. The purpose of this law shall be to define the principles of technology transfer, evaluation of technological level, requirements for technology transfer and to govern relationships connected with technology transfer.

Article 2. Legislation on Technology Transfer

2.1. Legislation on technology transfer shall consist of the Constitution, Patent Law, this Law and other acts of legislation enacted in conformity therewith.

2.2. If an international agreement to which Mongolia is party provides otherwise than this Law, then the former shall prevail.

Article 3. Definitions

3.1. For the purposes of this law:

3.1.1 "technology" shall mean a comprehensive set of methods of interrelated human resource, facilities, information, and logistical actions to convert intellectual work into applied product;

3.1.2 "technology transfer" shall mean a comprehensive set of activities where a technology owner may on the basis of agreement transfer rights for the use of given technology to other natural or legal persons;

3.1.3 "technology regime" shall mean a set of comprehensive actions based on human activities and scientifically reasoned physical, chemical and biological processes aimed at regulating purposeful actions of humans;

3.1.4 "know-how" shall mean expertise and knowledge of manufacturing, management, trading and financial value that is not protected by law and require specific skills to possess and use.

Article 4. Principles of Technology Transfer Process

4.1. The following principles shall be adhered to in the technology transfer process:

4.1.1. be in compliance with the state policy on science and technology;

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

4.1.3. have no adverse impact on environment, human health, flora and/or fauna;

4.1.4. aimed at application of the current achievements;

4.1.5. increase the efficiency of technology transfer by use of economic incentives;

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

Article 5. Powers of Government with Respect to Technology Transfer

5.1. The Government shall exercise the following powers with respect to technology transfer:

5.1.1. organize implementation of the state policies and legislation concerning technology transfer process;

5.1.2. provide economic guarantees for technology advancement of the state- owned business entities and organizations;

5.1.3. determine forms and amounts of incentives and benefits for the participants of technology transfer process;

5.1.4. such other powers as conferred by law.

Article 6. Powers of the State Central Administrative Body in Charge of Technology Transfer Matters

6.1. The state central administrative body in charge of technology transfer matters shall exercise the following powers with respect to technology transfer:

6.1.1. to ensure and oversee the implementation of the technology transfer legislation, interlink and coordinate technology transfer with the state policies on the promotion of science, technology and industry;

6.1.2. issue permits to the agencies to conduct evaluation of the technological level, develop and enforce relevant regulations;

6.1.3. organize provision with information related to technology transfer;

6.1.4. announce and select project proposals to introduce advanced technology, promote the initiatives of citizens, business entities and institutions to introduce advanced technology;

6.1.5. regulate the matters of protecting the rights of technology owners;

6.1.6. such other powers as conferred by law.

CHAPTER TWO

EVALUATION OF TECHNOLOGICAL LEVEL

Article 7. Evaluation of Technological Level

7.1. An evaluation shall be conducted by an academic institution authorized by the state central administrative body if the technology applied by citizens, business entities or institutions causes damage to human health, fauna, and/or environment or requires to ensure oversight as provided by intergovernmental or other international agreements to which Mongolia is a party.

7.2. Citizens, business entities and institutions that introduce new technologies may be evaluated by the institution referred to in 7.1 of this law.

7.3. An authorized academic institution shall take into account the following indicators in the course of the evaluation:

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

7.3.2. recommendations for minimizing the possible positive and adverse impacts on environment, human health, animals and production process;
7.3.3. economic indicators in case of application of a given technology;
7.3.4. indicators of the product standard, quality and safety;
7.3.5. availability and sufficiency of qualified experts required for use of technology;

7.3.6. other indicators relevant to the specifics of a given technology.

7.4. An academic institution conducting an evaluation shall be obliged to strictly preserve the confidentiality of the technology being evaluated.

7.5. Relevant citizens, business entities and institutions shall without delay compile necessary documentations and other required information and shall be responsible for the costs in case of conducting evaluation.

7.6. The state central administrative body in charge of technology matters may prohibit further application of a given technology upon completion of an evaluation.

7.7. The state central administrative body shall develop the procedures and methodology for conducting evaluation.

CHAPTER THREE TECHNOLOGY TRANSFER

Article 8. Subjects of Technology Transfer

8.1. The following shall be subject of 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 scientific and technological researches and studies;

8.1.5. patents, licenses, product samples;

8.1.6. know how.

Article 9. Requirements for Transfer of Technology

9.1. Technology to be transferred shall meet the relevant indicators of the following requirements:

9.1.1. compliance with requirements of international and national standards;

9.1.2. cost efficiency of energy, materials, raw materials and the ultimate product;

9.1.3. creating the possibilities for maximal utilization and comprehensive processing of raw materials, introduction of waste less technology, enabling processing of secondary raw materials;

9.1.4. manufacturing process and the products produced shall have no adverse impact on environment, human health and fauna;

9.1.5. optimal defining of required sources of investments at each stage of application of technology;

9.1.6. optimal balance of human, facilities, information and organizational components of technology and considering of conditions and terms for further improvement of such balance.

Article 10. Technology Prohibited for Transfer

Technology that exceeds the maximum level of permissible adverse impact on environment and humans shall be prohibited for transfer.

Article 11. Rights of Participants of Technology Transfer

11.1. Participants of technology transfer shall enjoy the following rights:

11.1.1. freely participate in any technology transfer processes except for those prohibited by the legislation;

11.1.2. obtain information related to technology transfer;

11.1.3. mediate and be mediated within the framework of technology transfer process;

11.1.4. cooperate with domestic, foreign and international institutions, citizens, exchange experience, and organize seminars and conferences.

Article 12. Technology Transfer Agreement

12.1. Technology transfer process shall be implemented on the basis of a license agreement.

12.2. Technology transfer agreement shall cover the following matters:

12.2.1. scope and quantity of know-how, materials, facilities, raw materials and services related to the manufacturing technology to be supplied;

12.2.2. terms of use of patents and trademarks;

12.2.3. application of technology, its improvement and matters of exclusive rights related thereto;

12.2.4. training and re-training of professional staff and mutual obligations in this respect;

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

12.2.6. warranty of seller proving the warranty term of technology, equipment and related maintenance and other services;

12.2.7. matters of provision of information on the transferred technology and improvements made;

12.2.8. liabilities of the parties to the agreement to perform it and matters of compensation for the damage incurred;

12.2.9. terms and conditions of preserving confidentiality of technology;

12.2.10. dispute settlement procedure;

12.2.11. price for technology procurement, license fees and terms of payment;

12.2.12. location for selling and service sites of the products manufactured with the transferred technology;

12.2.13. term of agreement;

12.2.14. other matters.

12.3. Parties shall be mutually liable for strictly preserving the confidentiality of technology and explicitly provide for compensation of losses caused.

Article 13. Prohibition of Imposing Restrictions on Technology Transfer Agreements

13.1. Parties shall be prohibited from imposing the following restrictions when concluding technology transfer agreements:

13.1.1. Exporting to a third party the manufactured products which apply the transferred technology;

13.1.2. Defining of quantity of products and adjustments of production technology;

13.1.3. Procurement of competitive technology from the third countries;

13.1.4. In case if the inability of the technology transferring party to perform its obligations is proved, materials, raw materials, equipment and semi-processed products may be procured from other persons;

13.1.5. Unless otherwise provided in the agreement, freely use technology after the expiration of the term of agreement.

Article 14. Registration of Technology Transfer Agreements

14.1. Technology transfer agreement shall be registered with the agency in charge of intellectual property.

14.2. Intellectual property institution shall register agreements for import of a technology that does not meet international or national standards or newly introduced technology based on one of the following evaluations:

14.2.1. conclusion of the state central administrative body in charge of health matters on possible effects on human health;

14.2.2. conclusion from the state central administrative body in charge of agricultural matters in case of transfer of the veterinary, plants and arable production technology;

14.2.3. assessment of environmental impact in cases other than those provided in 14.2.1 and 14.2.2 of this law.

14.3. Intellectual property institution may not register agreements on the grounds provided in 14.2 of this law.

14.4. In the case any technology transfer agreement is not registered, the state central administrative body in charge of technology matters shall make a decision to prohibit its application.

Article 15. License Fees

15.1. Payment that citizens, business entities and institutions who intend to use technology pay to the technology owner shall be license fees.

15.2. License fees may be of a lump sum or continuous premium type in the percentage of the profit estimations to be generated by application of the technology or a combination of these two types.

15.3. Parties to the technology transfer process shall specify in agreement the amount, type and duration of license fees.

CHAPTER FOUR MISCELLANEOUS

Article 16. Settlement of Disputes

16.1. Any disputes arising between Mongolian and foreign business entities, organisations and citizens on the technology transfer matters shall be settled by Mongolian courts unless otherwise provided in an international agreement to which Mongolia is a party or contract between the parties.

Article 17. Liability for the Breaches of Legislation

17.1. Citizens, business entities and institutions that cause damage to environment, human health in the course of technology transfer process shall be subject to criminal or administrative liability in accordance with applicable legislation and eliminate or compensate for the damage caused.

17.2. A judge shall impose a fine of up to 50,000 togrogs on a citizen, up to 60,000 togrogs on an official and 250,000 togrogs on a business entity for disclosure of technology confidentiality and decide the method of compensation for the damage caused.

17.3. A judge shall impose a fine of 20,000-50,000 togrogs on a citizen, 30,000-60,000 togrogs on an official and 100,000-250,000 togrogs on a business entity or institution for failure to submit documentation required for evaluation of the technological level or for failure to register a technology transfer agreement.

Article 18. Entry into Force

This law shall enter into force on 15 June 1998.

CHAIRMAN OF THE
STATE IKH KHURAL

R.GONCHIGDORJ