

TECHNOLOGY TRANSFER AND COMMERCIALIZATION PROMOTION ACT

Act No. 8108, Dec. 28, 2006
Amended by Act No. 8852, Feb. 29, 2008
Act No. 8934, Mar. 21, 2008
Act No. 9369, Jan. 30, 2009
Act No. 9582, Apr. 1, 2009
Act No. 9689, May 21, 2009

CHAPTER I GENERAL PROVISIONS

Article 1 (Purpose)

The purpose of this Act is to enhance the technical competitiveness of all the industries by establishing and implementing policies appropriate for facilitating the transfer of technologies developed by public research institutes to the private sector for the commercialization of such technologies as well as the smooth trading and commercialization of technologies developed by the private sector, and ultimately to contribute to the growth of the national economy.

Article 2 (Definitions)

For the purposes of this Act: <Amended by Act No. 8852, Feb. 29, 2008; Act No. 8934, Mar. 21, 2008>

1. The term "technology" means any of the following items:

(a) Intellectual property, such as patents, utility models, designs, layout-designs of semiconductor integrated circuits, and software registered in accordance with a relevant Act, such as the [Patent Act](#);

(b) Capital goods into which the technology under item (a) is integrated;

(c) Information about the technology under item (a) or (b);

(d) Other thing specified by Presidential Decree as similar to those under item (a) through (c);

2. The term "technology transfer" means that any technology is transferred by a holder of the technology (including a person who has a right to dispose of the technology) to any other person through assignment, grant of a license, technical guidance, joint research, joint venture, merger and acquisition, or any other way;

3. The term "commercialization" means the development, production, and sale of products using technology or the improvement of technology related to such process;

4. The term "technology evaluation" means that the economic value of any technology, which may be generated through commercialization, is expressed by a value, grade, point, or the like;

5. The term "public technology" means technology, the ownership of, a license for, or a right to use of which belongs to a public research institute;

6. The term "public research institute" means any of the following institutions:

(a) A national or public research institute;

(b) A government-funded research institute established pursuant to Article 8 (1) of the Act on the Establishment, Operation and Fostering of Government-Funded Science and Technology Research Institutions;

(c) A specific research institute governed by Article 2 of the Support of Specific Research Institutes Act;

(d) A school under [Article 2 of the Higher Education Act](#);

(e) Any other legal entity or organization related to research and development, which is established pursuant to the [Civil Act](#) or any other Act and specified by Presidential Decree as a public research institute for the facilitation of technology transfer and commercialization (hereinafter referred to as "technology transfer and commercialization");

7. The term "competent central administrative agency" means the Ministry of Ministry of Strategy and Finance, the Ministry of Education, Science and Technology, the Ministry of Knowledge Economy, or any other agency specified by Presidential Decree;

8. The term "patent trust management business" means a business engaging in, under a trust agreement on a patent, the management specified by Presidential Decree, such as the transfer of a patent or a license therefor and the collection and distribution of royalties, for a person who holds the patent, for which the creation of an exclusive or non-exclusive license has not been registered for the original Patent Register under [Article 85 \(1\) of the Patent Act](#), among patents the creation of which has been registered in accordance with [Article 87 \(1\)](#) of the aforesaid Act.

Article 3 (Responsibilities of Government)

(1) The Government shall establish and implement policies for the facilitation of technology transfer and commercialization to ensure to achieve the objectives of this Act.

(2) Each local government shall establish and implement a policy for facilitating technology transfer and commercialization in the region in conformity with the policies under paragraph (1), taking the characteristics of the region into account.

(3) Each public research institute shall endeavor to make the transfer of public technology to private sector smooth.

Article 4 (Relations to other Acts)

(1) Except as otherwise provided by any other Act, technology transfer and commercialization shall be governed by this Act.

(2) The [Trust Business Act](#) shall not apply to patent trust management businesses under

this Act. <Amended by Act No. 8934, Mar. 21, 2008>

CHAPTER II ESTABLISHMENT OF PLAN FOR FACILITATION OF TECHNOLOGY TRANSFER AND COMMERCIALIZATION

Article 5 (Establishment and Implementation of Plan for Facilitation of Technology Transfer and Commercialization)

(1) The Government shall establish and implement a plan for the facilitation of technology transfer and commercialization (hereinafter referred to as "facilitation plan"), in order to achieve the goals of the policy on technology transfer and commercialization, including the matters under each of the following subparagraphs:

1. Goals and strategy of the policy on technology transfer and commercialization;
2. Matters concerning the budget for the implementation of the facilitation plan;
3. Matters concerning the promotion of projects for facilitating technology transfer and commercialization and the expansion of infrastructure for such purposes;
4. A scheme for vitalizing evaluation of technology;
5. Matters concerning financial support for facilitating commercialization;
6. Other matters necessary for facilitating technology transfer and commercialization.

(2) In order to establish a facilitation plan, the head of each competent central administrative agency, excluding the Minister of Knowledge Economy, shall draw up a plan for facilitating technology transfer and commercialization of research and development projects carried out by the agency and notify the Minister of Knowledge Economy of the plan. <Amended by Act No. 8852, Feb. 29, 2008>

(3) The head of each competent central administrative agency may, when he/she draws up the plan under paragraph (2), include a condition that part of the funds for national research and development projects in the field under its control shall be provided as a subsidy for carrying out projects for the facilitation of technology transfer and commercialization.

(4) The Minister of Knowledge Economy shall consolidate the plans notified pursuant to paragraph (2) to establish a facilitation plan. In such cases, the facilitation plan shall contain an annual promotion plan and a medium-term promotion plan for every three year. <Amended by Act No. 8852, Feb. 29, 2008; Act No. 9582, Apr. 1, 2009>

(5) Deleted. <by Act No. 9582, Apr. 1, 2009>

(6) Necessary matters concerning the establishment and implementation of facilitation plans shall be prescribed by Presidential Decree.

Article 6 Deleted. <by Act No. 9582, Apr. 1, 2009>

CHAPTER III EXPANSION OF INFRASTRUCTURE FOR TECHNOLOGY TRANSFER AND COMMERCIALIZATION

Article 7 (Facilitation of Registration and Supply of Information about Technology Transfer and Commercialization)

(1) The Government shall formulate a policy for the systematic supply of information about technology transfer and commercialization, such as information about technology, technical human resources, facilities, and technology evaluation, in order to facilitate technology transfer and commercialization.

(2) Any person falling under any of the following subparagraphs shall, if intending to transfer technology, register the details of the technology and other relevant facts with the Korea Institute for Advancement of Technology under [Article 38 of the Industrial Technology Innovation Promotion Act](#) (hereinafter referred to as "KIAT") within the period prescribed by Presidential Decree, but within six months, except where there is any exceptional reason specified by Presidential Decree, such as where the technology is classified as a national secret: <Amended by Act No. 9369, Jan. 30, 2009; Act No. 9582, Apr. 1, 2009>

1. A public research institute;
2. Any institution or organization, other than a public research institute, that has developed and holds technology with support from the State, a local government, or a public institution under [Article 4 of the Act on the Management of Public Institutions](#) (hereinafter referred to as "public institution");
3. An industrial technology research cooperative under the Act on the Support of Industrial Technology Research Cooperatives.

(3) The Government may assign an appropriate specialized institution, such as the Korea Institute for Advancement of Technology under [Article 38 of the Industrial Technology Innovation Promotion Act](#) (hereinafter referred to as "KIAT"), a technology trading agency under [Article 10](#), an exclusively responsible organization under [Article 11](#), a specialized company under [Article 12](#), and a technology evaluation agency under [Article 35](#), to take charge of supplying information about technology transfer and commercialization and providing support therefor. <Amended by Act No. 9369, Jan. 30, 2009>

(4) Necessary matters concerning the further specific method of registration of information about technology transfer and commercialization under paragraph (2) and the support under paragraph (3) shall be prescribed by Presidential Decree.

Article 8 (Fact-Finding Survey)

(1) The Government may conduct a fact-finding survey on the actual state of technology transfer and commercialization and other relevant facts in order to secure basic data necessary for the facilitation of technology transfer and commercialization.

(2) The Minister of Knowledge Economy may request the head of any competent central administrative agency or public research institute to submit data necessary for fact-finding surveys under paragraph (1). In such cases, the head of the agency or institute that has been requested to submit data shall cooperate as requested, unless there is any exceptional reason specified by Presidential Decree, such as the maintenance of confidentiality of business or trade

secrets. <Amended by Act No. 8852, Feb. 29, 2008>

(3) The specific scope of documentation in conducting fact-finding surveys under paragraphs (1) and (2) shall be prescribed by Presidential Decree.

Article 9 Deleted. <by Act No. 9369, Jan. 30, 2009>

Article 10 (Designation of Technology Trading Agency, Cancellation of Designation, and Support therefor)

(1) The head of each competent central administrative agency may designate a person who meets the standards prescribed by Presidential Decree regarding human resources exclusive to technology trading and other relevant matters, as a technology trading agency, in order to facilitate technology transfer and commercialization.

(2) A technology trading agency designated pursuant to paragraph (1) (hereinafter referred to as "technology trading agency") shall undertake the following business activities:

1. Search for, and demand survey, analysis, and evaluation of, technology eligible for technology transfer and commercialization;
2. Collection, management, and circulation of information about technology transfer and commercialization and the establishment of an information network for such purposes;
3. Brokerage and referral for technology transfer;
4. Other business activities specified by Presidential Decree as those for facilitating the circulation of information about technology transfer and commercialization.

(3) The head of each competent central administrative agency may, if a technology trading agency falls under any of the following subparagraphs, cancel the designation:

1. If the trading agency has no performance of technology transactions for two years since the designation;
2. If the trading agency obtained the designation by deceit or in any other fraudulent way;
3. If the trading agency failed to perform the duty under paragraph (5) on three or more occasions;
4. If the trading agency desires to voluntarily have the designation cancelled;
5. If the trading agency is no longer able to carry on its business activities under paragraph (2) due to discontinuance of business or any other reason.

(4) The Government may subsidize expenses incurred by any technology trading agency in carrying out the business activities under subparagraphs of paragraph (2) within the extent of budget.

(5) Each technology trading agency shall notify KIAT of the information about technology transactions conducted in the course of business activities under paragraph (2). <Amended by Act No. 9369, Jan. 30, 2009>

(6) Necessary matters concerning the procedure for the cancellation of designation under paragraph (3), the Government subsidization under paragraph (4), the Scope of information about technology transactions that shall be notified in accordance with paragraph (5) and other relevant matters shall be prescribed by Presidential Decree.

Article 11 (Organizations Exclusively Responsible for Technology Transfer and Commercialization in Public Research Institutes)

(1) The head of each public research institute specified by Presidential Decree shall set up an organization exclusively responsible for technical transfer and commercialization (hereinafter referred to as "exclusively responsible organization") within the public research institute. Each exclusively responsible organization set up in national or public schools under [Article 3 of the Higher Education Act](#) (hereinafter referred to as "national or public school") shall be a legal entity.

(2) Except as otherwise provided by this Act, each exclusively responsible organization in national or public schools shall be governed by the provisions of [Civil Act](#) regarding incorporated foundations.

(3) The Government may provide any public research institute that has set up an exclusively responsible organization with support necessary for its activities.

(4) Necessary matters concerning the establishment and operation of exclusively responsible organizations under paragraph (1), the support under paragraph (3) and other relevant matters shall be prescribed by Presidential Decree.

Article 12 (Companies Specializing in Commercialization)

(1) The Government shall formulate a policy on rearing and supporting companies specializing in commercialization (hereinafter referred to as "specialized companies") in order to facilitate commercialization for the private sector.

(2) The Government may encourage specialized companies to expand the infrastructure for commercialization, such as the establishment of facilities for circulation of information about commercialization, and may subsidize expenses incurred by such expansion.

Article 13 (Cultivating Professional Human Resources for Technology Transfer and Commercialization and Support therefor)

(1) The Government shall cultivate professional human resources (hereinafter referred to as "professional") technology evaluation, technology management and technology contracting, etc. (hereafter in this Article, referred to as "technology evaluation, etc.") in order to meet demands for human resources required for technology transfer and commercialization, and technology evaluation.

(2) In order to cultivate professionals, the Government may subsidize all or part of the expenses incurred by any appropriate institution in securing facilities for education, developing teaching materials, and conducting educational programs.

(3) The Government shall formulate a policy necessary for cultivating professionals, such as the introduction of a national qualification system, as prescribed by the relevant Act, and measures to encourage schools under [Article 2 of the Higher Education Act](#) to include subjects

relating to technology evaluation in their curricula pursuant to [Article 21](#) of the aforesaid Act.

(4) Necessary matters concerning support under paragraph (2) and policy under paragraph (3) shall be prescribed by Presidential Decree.

Article 14 (Registration and Cultivation of, and Support to, Technology Traders)

(1) Any person who has expertise in technology transfer and commercialization may be registered with the Minister of Knowledge Economy if he/she meets the standards prescribed by Presidential Decree for a career in, and the qualification for, technology transactions. <Amended by Act No. 8852, Feb. 29, 2008>

(2) Any person who is registered in accordance with paragraph (1) (hereafter referred to as "technology trader" in this Article) shall carry out business activities for specialized counseling, consulting, and guidance for technology transfer and commercialization and for assisting in transactions of technology.

(3) The Minister of Knowledge Economy may, if any technology trader falls under any of the following subparagraphs, cancel his/her registration: <Amended by Act No. 8852, Feb. 29, 2008>

1. If he/she had him/herself registered by deceit or in any other fraudulent way;
2. If he/she carried out any business activity under paragraph (2) by deceit or in any other fraudulent way;
3. If he/she allowed someone else to use his/her registered name.

(4) The Minister of Knowledge Economy may provide information and support, such as education, to technology traders as necessary for them to carry out business activities for technology transactions. <Amended by Act No. 8852, Feb. 29, 2008>

CHAPTER IV FACILITATION OF TECHNOLOGY TRANSFER AND COMMERCIALIZATION

Article 15 (Advancement of Projects to Facilitate Technology Transfer and Commercialization)

(1) The Government shall advance projects to facilitate technology transfer and commercialization, such as support for technical transfer and commercialization and support for the development of technology in connection with commercialization.

(2) The head of each competent central administrative agency shall include projects to facilitate technology transfer and commercialization in the plan for execution of the funds for national research and development projects in the areas under his/her control.

(3) The head of each competent central administrative agency may, if he/she deems necessary in efficiently advancing projects to facilitate technology transfer and commercialization, assign an institution specified by Presidential Decree to vicariously carry out the planning, management, and evaluation of the projects for facilitating technology transfer and commercialization. In such cases, the head of each competent central administrative agency may

contribute funds for, or subsidize, all or part of expenses incurred in carrying out such business affairs. <Newly Inserted by Act No. 8934, Mar. 21, 2008>

(4) Necessary matters concerning the management of projects for facilitating technology transfer and commercialization shall be prescribed by Presidential Decree.

Article 16 (Facilitation of International Technology Transfer and Commercialization)

(1) The Government shall formulate a policy to facilitate international cooperation in mutual technology transfer and commercialization between the Government, enterprises, colleges and universities, research institutes, organizations and the like and international organizations or foreign governments, enterprises, colleges and universities, research institutes, organizations and the like.

(2) The head of each competent central administrative agency may advance the following activities for facilitating international cooperation in technology transfer and commercialization:

1. Survey and research on international cooperation in technology transfer and commercialization;
2. Exchanges of professionals in, and information about, technology transfer and commercialization;
3. Establishment of cooperative systems with foreign agencies and institutes supporting technology transfer and commercialization;
4. Facilitation of export of domestic technology or introduction of foreign technology;
5. Assistance in establishment of joint ventures between domestic and foreign enterprises;
6. Other activities specified by Presidential Decree for facilitating international cooperation in technology transfer and commercialization.

Article 17 (Support by Local Governments to Projects for Facilitation of International Technology Transfer and Commercialization)

(1) The Government may advance projects for facilitating technology transfer and commercialization jointly with a local government. In such cases, the Government may subsidize expenses incurred by a local government.

(2) The projects advanced by a local government for facilitating technology transfer and commercialization pursuant to paragraph (1) include the following projects:

1. Projects for facilitating technology transfer and commercialization by enterprises;
2. Technology incubation projects for facilitating commercialization of technology;
3. Projects for the development of exclusive complexes for commercialization of technology.

(3) If a local government organizes a council with public research institutes, technology trading agencies, specialized companies in the region and other institutions supporting technology transfer and commercialization in the region in order to facilitate technology transfer and commercialization, the Government may provide support to such council.

Article 18 (Implementation of Technology Incubation Programs)

(1) In an effort to facilitate commercialization, the Government may implement technology incubation programs through which it can provide support in funding, human resources, facilities, and technical guidance to enterprises that hold technology potential for commercialization.

(2) Necessary matters concerning the entities eligible for the technology incubation programs under paragraph (1), the method of such programs, and other relevant matters shall be prescribed by Presidential Decree.

Article 19 (Facilitation of Transfer of Public Technology)

(1) The Government shall formulate procedures and methods to ensure that transactions for transferring public technology to the private sector be conducted in a fair and orderly manner.

(2) The head of any public research institute shall distribute a certain portion of royalties accruing from the transfer of technology developed by researchers in the institute to the persons specified by Presidential Decree as those who have contributed to the transfer of technology among the researchers, executives, and employees of the public research institute.

(3) Guidelines for, and the method of, appropriate distribution of royalties under paragraph (2) and other necessary matters shall be prescribed by Presidential Decree.

Article 20 (Transfer and Commercialization of Private Technology)

(1) The Government shall formulate a plan for vitalizing a technology market, in which technology transactions are conducted between technology suppliers and technology users through sales and purchases of private technology, so that any technology other than public technology (hereafter referred to as "private technology" in this Article) can be transferred between private enterprises.

(2) The Government shall formulate a plan for support necessary to facilitate transfer and commercialization of private technology, such as financial support.

Article 21 (Regulations on Facilitation of Transfer and Commercialization of Public Technology)

(1) The head of each public research institute shall establish and enforce regulations on the facilitation of transfer and commercialization of public technology.

(2) Provisions to be included in the regulations under paragraph (1) shall be prescribed by Presidential Decree.

Article 22 (Assistance in Creation of Rights to Results of Research and Development)

(1) The Government shall formulate a policy for the securing, maintenance, and

management of intellectual property, such as patents, so that rights to results of research and development can be created quickly and transferred to technology users, and may provide support necessary for securing, maintaining and managing intellectual property.

(2) The Government may partly subsidize expenses incurred to a person who has registered the details of technology in possession and other relevant facts with KIAT in accordance with [Article 7](#) (2) in securing and maintaining the intellectual property for the technology. <Amended by Act No. 9369, Jan. 30, 2009>

Article 23 (Special Cases concerning Investment of Technology in Kind)

(1) Where a public research institute has any public technology evaluated by KIAT or a technology evaluation agency under [Article 35](#) with intent to provide the public technology to an enterprise as investment in kind, such evaluation is deemed to have been appraised by an officially certified appraiser in accordance with [Article 299-2](#) or [422 of the Commercial Act](#). <Amended by Act No. 9369, Jan. 30, 2009>

(2) Any person who is in charge of technology evaluation under paragraph (1) in KIAT or any technology evaluation agency under [Article 35](#) is deemed an appraiser for the purposes of application of [Articles 625](#), [630](#), and [635 of the Commercial Act](#). <Amended by Act No. 9369, Jan. 30, 2009>

Article 24 (Vesting of Rights to Results of Joint Research and Development)

(1) The State, a local government, or a public institution shall endeavor to secure intellectual property, such as patents, for the results acquired by subsidizing expenses incurred in research and development. <Amended by Act No. 9582, Apr. 1, 2009>

(2) The Government, a local government, or a public institution shall, when it intends to secure intellectual property pursuant to paragraph (1), assure of rights and interests of the institutions and enterprises that participated in the research and development (referring to the exclusively responsible organization under the latter part of [Article 11](#) (1) if a participant is a national or public school; for convenience, hereafter in this Article referred to as "participating institutions"), as well as rights and interests of researchers. <Amended by Act No. 9582, Apr. 1, 2009>

(3) The Government, a local government, or a public institution may vest participating institutions with rights in the results produced from a research and development project advanced or supported by it with conditions on use attached thereto, as prescribed by Presidential Decree. <Amended by Act No. 9582, Apr. 1, 2009>

(4) Any public research institute shall endeavor to make public technology the rights to which have been vested pursuant to paragraph (3) available to enterprises for use, except where the public research institute itself uses the public technology, the use of such technology is limited pursuant to any relevant Act, or any other exceptional circumstance exists. In such cases, a public research institute may set conditions on use in making public technology available for use and may collect royalties from users of the public technology.

(5) Any public research institute shall, when it intends to allow the use of public technology pursuant to paragraph (4), assure the enterprises that desire to use the public technology of equal opportunities: *Provided*, That a preferential right may be given to the enterprises that invested in the development of the public technology for a period of time prescribed by Presidential Decree.

(6) The exclusively responsible organization of any national or public school may use the royalties accruing from the use of public technology, the rights to which have been vested in the exclusively responsible organization pursuant to paragraph (3) for the following purposes:

1. Rewards to researchers;
2. Research and development;
3. Technology transfer and commercialization;
4. Application and registration of intellectual property and business affairs related thereto;
5. Operation of the exclusively responsible organization;
6. Other uses specified by Presidential Decree.

(7) Necessary matters concerning the management of public technology the rights to which have been vested in participating institutions pursuant to paragraph (3), the procedure for, and conditions on, the use of public technology under paragraph (4) and the collection of royalties therefor, the preferential right under paragraph (5), and the use of royalties under paragraph (6) shall be prescribed by Presidential Decree.

Article 25 (Payment of Incentives to Persons who Saved Budget)

(1) If any person has saved a portion of the budget allocated to a project by applying technology eligible for commercialization, the Government may pay a certain amount of the portion of the budget saved as an incentive to the person who has saved the budget in order to facilitate commercialization.

(2) Further details of guidelines for, and the method of, payment of the incentive under paragraph (1) shall be prescribed by Presidential Decree.

CHAPTER V FINANCIAL SUPPORT FOR TECHNOLOGY TRANSFER AND COMMERCIALIZATION

Article 26 (Financial Support for Commercialization)

The Government shall prepare a basis for financial support, such as investment and loans, to help small and medium enterprises under [Article 2 \(1\) of the Framework Act on Small and Medium Enterprises](#) (hereinafter referred to as "small and medium enterprises") achieve commercialization as early as possible.

Article 27 (Implementation of Programs for Facilitation of Technology-Backed Securitization)

(1) The head of each competent central administrative agency may implement a program for facilitating asset-backed securitization under subparagraph 1 of [Article 2 of the Asset-Backed Securitization Act](#) with the following funds for the technology held by small and medium enterprises (hereafter referred to as "program for the facilitation of technology-backed

securitization" in this Article):

1. The Government's budget;

2. The funds specified by Presidential Decree from among funds for promoting science and technology and fostering small and medium enterprises.

(2) The head of each competent central administrative agency may use the funds under paragraph (1) for the following purposes:

1. Compensation for all or part of losses incurred in the course of technology-backed securitization;

2. Other uses specified by Presidential Decree for implementing the projects to facilitate technology-backed securitization.

(3) Other matters necessary for the implementation of projects for technology-backed securitization shall be prescribed by Presidential Decree.

Article 28 (Implementation of Programs for Facilitation of Technology-Secured Loans)

(1) The head of each competent central administrative agency may implement a program to facilitate loans secured by technology (hereinafter referred to as "program to facilitate technology-secured loans"), within budget limits, to facilitate commercialization. In such cases, the head of each competent central administrative agency may compensate all or part of losses incurred in the grant of loans secured by technology.

(2) Other matters necessary for the implementation of program to facilitate technology-secured loans shall be prescribed by Presidential Decree.

Article 29 (Subsidization of Expenses for Promotion of Technology Transfer and Commercialization)

(1) The Government may provide financial subsidies to any of the following persons so that such subsidies can be appropriated for working expenses incurred in promotion of technology transfer and commercialization: <Amended by Act No. 9369, Jan. 30, 2009>

1. A public research institute, KIAT, a technology trading agency, a specialized company, or a technology evaluation agency under [Article 35](#);

2. An enterprise participating in technology transfer and commercialization promoted by an institute or agency under subparagraph 1.

(2) Necessary matters concerning the use and management of financial subsidies under paragraph (1) and other relevant matters shall be prescribed by Presidential Decree.

Article 30 (Loan of State-Owned Property)

(1) The Government may, if necessary for the advancement of technology transfer and commercialization, lend, or grant concessions for, State-owned property to any institution participating in technology transfer and commercialization, or allow such institution to use the

property for profit, for or without consideration, notwithstanding the provisions of the State Property Act and the Commodity Management Act.

(2) Necessary matters concerning the conditions on, and the procedure for, loans, grant of concessions, and the use and profit under paragraph (1) shall be prescribed by Presidential Decree.

Article 31 (Concessions for Intellectual Property without Consideration)

(1) Notwithstanding the provisions of the State Property Act, the Government may, if particularly necessary for the industrial development, exempt a licensee for the intellectual property vested in the State as the results of research and development from royalties, fully or partially, or grant a gratuitous concession for such intellectual property to the researchers who have performed the research and development for the relevant task of research and development or the investors in the research and development project, as prescribed by Presidential Decree.

(2) Notwithstanding the provisions of the Commodity Management Act, the Government may, if particularly necessary for industrial development, grant a gratuitous concession for the instruments and facilities for research, product prototypes, and the like, which have been used in the research and development project and the rights to which have been vested in the State, to the researchers involved and enterprises participating in a task of research and development.

CHAPTER VI ESTABLISHMENT OF TECHNOLOGY EVALUATION SYSTEM

Article 32 (Vitalization of Technical Evaluation)

The Government shall formulate a policy necessary for fostering institutions capable of conducting reliable technology evaluation and cultivating human resources therefor, in order to vitalize technology evaluation.

Article 33 (Evaluation of Economic Effects of Research and Development Projects)

In order to facilitate the transfer and commercialization of results of a research and development project, the Government may conduct evaluation of economic effects to evaluate the economic impact that the research and development project is likely to generate.

Article 34 (Development and Diffusion of Technology Evaluation Techniques)

(1) In order to develop an objective and specialized technology evaluation market, the Government shall assign KIAT or a technology evaluation agency under [Article 35](#) to develop technology evaluation techniques. In such cases, the Government may provide support necessary for the development of technology evaluation techniques. <Amended by Act No. 9369, Jan. 30, 2009>

(2) The Government shall diffuse technology evaluation techniques developed in accordance with paragraph (1) to public research institutes, financial institutions and enterprises, to facilitate the utilization of such techniques.

Article 35 (Designation of Technology Evaluation Agencies)

(1) The head of each competent central administrative agency may designate institutions that meet the standards prescribed by Presidential Decree regarding human resources exclusively dedicated to technology evaluation and organizations responsible for technology evaluation in order to facilitate technology transfer and commercialization.

(2) Each technology evaluation agency designated pursuant to paragraph (1) (hereinafter referred to as "technology evaluation agency") shall undertake the following business activities:

1. Technology evaluation;
2. Survey and analysis of demands for technology evaluation;
3. Collection, analysis, and circulation of information about technology evaluation and the establishment of an information network for such purposes;
4. Business activities for joint utilization and spread of information about technology evaluation.

(3) The head of each competent central administrative agency may, if any technology evaluation agency falls under any of the following subparagraphs, cancel the designation: *Provided*, That the designation of an agency falling under subparagraph 2, 4, or 5 must be cancelled without exception: <Amended by Act No. 9689, May 21, 2009>

1. If the results of technology evaluation conducted by the agency during one year after the designation does not exceed the number of cases prescribed by Presidential Decree;
2. If the agency obtained the designation by deceit or in any other fraudulent way;
3. If the agency failed to perform its duty under paragraph (4) on three or more occasions;
4. If the agency voluntarily desires to have its designation cancelled;
5. If the agency is no longer able to carry on its business activities under paragraph (2) due to the discontinuance of business or any other reason.

(4) Each technology evaluation agency shall notify the Minister of Knowledge Economy of the information about its technology evaluation under paragraph (2) 1, 3, and 4, except where there is any exceptional reason specified by Presidential Decree, such as maintaining confidentiality of business or trade secrets of an enterprise. <Amended by Act No. 8852, Feb. 29, 2008>

(5) The Minister of Knowledge Economy shall manage the information of technology evaluation notified in accordance with paragraph (4) properly so that it can be shared between technology evaluation agencies and utilized for the facilitation of technology transfer and commercialization. <Amended by Act No. 8852, Feb. 29, 2008>

(6) Necessary matters concerning the procedure for designation under paragraph (1), the procedure for the cancellation of designation under paragraph (3), the scope of the notification under paragraph (4), the scheme for the management of information about technology evaluation under paragraph (5), and other relevant matters shall be prescribed by Presidential Decree.

CHAPTER VI-2 PATENT TRUST MANAGEMENT BUSINESS

Article 35-2 (Permission for Patent Trust Management Business)

(1) Any person who desires to run a patent trust management business shall meet the following requirements and obtain permission from the Minister of Knowledge Economy, as prescribed by Presidential Decree: *Provided*, That the foregoing sentence shall not apply to cases where authorization has been granted pursuant to [Article 3 \(1\) of the Trust Business Act](#):

1. The person shall be a non-profit legal entity, institution, or organization;
2. The person shall have human resources, structure, and technical capacity prescribed by Ordinance of the Ministry of Knowledge Economy;
3. The person shall be competent enough to carry on the collection and distribution of royalties accruing from the transfer and licensing of patents.

(2) The Minister of Knowledge Economy shall, when he/she intends to grant permission for a patent trust management business pursuant to paragraph (1), consult with the Chairperson of the Financial Services Commission.

(3) Any person falling under any of the following subparagraphs is not qualified to obtain permission for a patent trust management business under paragraph (1):

1. A legal entity, an institution, or an organization, any executive or the representative of which falls under any of the following items:

- (a) A person declared incompetent or quasi-incompetent;
- (b) A person declared bankrupt but not yet reinstated;
- (c) A person in whose case one year has not passed since a sentence of imprisonment without prison labor or any heavier punishment pronounced upon him/her was completely executed (or is deemed completely executed) or discharged;
- (d) A person upon whom a suspended sentence of imprisonment without prison labor or any heavier punishment was pronounced but who is still in the period of suspension;
- (e) A person in whose case one year has not passed since he/she is sentenced to a fine;

2. A person who is not domiciled in the Republic of Korea;

3. A person in whose cases three years have not passed since permission was cancelled pursuant to [Article 35-5](#).

(4) Any person who holds permission for a patent trust management business under paragraph (1) (hereinafter referred to as "patent trust management institution") may receive fees from patent holders, users, and other persons involved in transfer and commercialization of any patented technology (for convenience, hereinafter referred to as "patent holders and other

interested parties") in connection with its business activities.

(5) The rates or amounts of fees under paragraph (4) shall be determined by each patent trust management institution, subject to prior approval of the Minister of Knowledge Economy. In such cases, the Minister of Knowledge Economy may attach, to the approval, terms and conditions on the applicable period.

(6) Necessary matters concerning the guidelines for fees under paragraph (5), the method of payment of such fees, and other relevant matters shall be prescribed by Ordinance of the Ministry of Knowledge Economy.

[This Article Newly Inserted by Act No. 8934, Mar. 21, 2008]

Article 35-3 (Duty of Patent Trust Management Institutions)

(1) Each patent trust management institution shall prepare a list of patents managed by it every calendar quarter, as prescribed by Presidential Decree, to make it available to the general public for inspection or publish it through its Internet website or any similar means.

(2) Each patent trust management institution shall, upon receiving a request from a user, provide the user with the information specified by Presidential Decree as necessary for entering into a contract for the transfer of patented technology managed by the institution, within a reasonable period, unless it has any justifiable reason otherwise.

[This Article Newly Inserted by Act No. 8934, Mar. 21, 2008]

Article 35-4 (Supervision)

In order to protect patent holders and other interested parties or to facilitate technology transfer and commercialization, the Minister of Knowledge Economy may require any patent trust management institution to submit data or report on the results of business performance for the previous year and the business plan for the pertinent year as may be necessary or issue an order for correction or any other necessary order to such institution.

[This Article Newly Inserted by Act No. 8934, Mar. 21, 2008]

Article 35-5 (Cancellation of Permission)

(1) The Minister of Knowledge Economy may, if any patent trust management institution falls under any of the following subparagraphs, cancel the permission or issue an order to suspend its business for a prescribed period not exceeding six months, as prescribed by Presidential Decree: *Provided*, That permission must be cancelled without exception, if it falls under any of subparagraphs 1 through 3:

1. If the institution obtained the permission under [Article 35-2](#) (1) by deceit or in any other fraudulent way;

2. If the ground for disqualification under any subparagraph of [Article 35-2](#) (3) is applicable to the institution: *Provided*, That the foregoing sentence shall not apply to cases where a legal entity, institution, or organization falling under subparagraph 1 of the aforesaid paragraph has replaced the executive or representative at issue within three months from the date on which the event or cause constituting the ground for disqualification had occurred;

3. If the institution continued its business during the period of business suspension after the disposition of business suspension had been made;

4. If the institution received fees in excess of the limitations approved pursuant to [Article 35-2](#) (5);

5. If the institution failed to make a list of patents available for inspection or publish the list, or failed to provide information within a reasonable period, without any justifiable reason, in violation of [Article 35-3](#);

6. If the institution failed to submit a report under [Article 35-3](#) without any justifiable reason or has submitted a false report;

7. If the institution failed to comply with an order issued under [Article 35-4](#) without any justifiable reason.

(2) Detailed guidelines for the administrative disposition under paragraph (1) shall be prescribed by Ordinance of the Ministry of Knowledge Economy, taking into account the types and degree of violations and other relevant facts.

[This Article Newly Inserted by Act No. 8934, Mar. 21, 2008]

Article 35-6 (Disposition of Penalty Surcharges)

(1) If the disposition of business suspension is required against any patent trust management institution that falls under any subparagraph of [Article 35-5](#) (1) 4 through 7, but it is anticipated that the disposition of business suspension is likely to undermine public interests, the Minister of Knowledge Economy may impose and collect a penalty surcharge not exceeding fifty million won as a substitute for the disposition of business suspension.

(2) If any person upon whom a penalty surcharge was imposed pursuant to paragraph (1) fails to pay the penalty surcharge by the prescribed deadline, the Minister of Knowledge Economy shall collect it in accordance with the practices for the disposition of national taxes in default.

(3) Necessary matters concerning the amount of a penalty surcharge depending upon the type and degree of a violation for which a penalty surcharge shall be imposed pursuant to paragraph (1) shall be prescribed by Presidential Decree.

[This Article Newly Inserted by Act No. 8934, Mar. 21, 2008]

CHAPTER VII SUPPLEMENTARY PROVISIONS AND PENAL PROVISIONS

Article 36 (Submission of Report and Data)

The head of each competent central administrative agency may, if necessary for advancing a project to facilitate technology transfer and commercialization under [Article 15](#), demand any person participating in the project to submit a report or data on his/her performance of the project. In such cases, the person shall, upon receiving a demand to submit a report or

data on the performance, comply with the demand in good faith, unless there is any justifiable reason otherwise.

Article 37 (Grant of Opportunities to Make Statements)

The head of each competent central administrative agency shall, whenever he/she intends to make any of the following dispositions, provide interested parties with opportunities to make statements thereon, as prescribed by Presidential Decree: <Amended by Act No. 8934, Mar. 21, 2008>

1. Cancellation of the designation of a technology trading agency under [Article 10](#) (3);
2. Cancellation of the registration of a technology trader under [Article 14](#) (3);
3. Cancellation of the designation of a technology evaluation institution under [Article 35](#) (3);
4. Cancellation of the permission for a patent trust management business or the suspension of business under [Article 35-5](#) (1).

Article 38 (Prohibition against Divulgence of Secrets)

Any person who has participated in the facilitation of technology transfer and commercialization shall not divulge any secrets of a public research institute or an enterprise known to him/her while participating in the facilitation of technology transfer and commercialization.

Article 39 (Entrustment of Business Affairs)

The head of each competent central administrative agency may entrust the head of KIAT, the head of a technology trading agency, or the head of a technology evaluation institution with part of his/her business affairs, as prescribed by Presidential Decree. <Amended by Act No. 9369, Jan. 30, 2009>

Article 40 (Statutory Treatment as Public Officials for Application of Penal Provisions)

The executives and employees of KIAT, any technology trading agency, or any technology evaluation institution that carries out the business affairs entrusted to it pursuant to [Article 39](#) shall be deemed public officials for the purposes of applying [Articles 129 through 132 of the Criminal Act](#). <Amended by Act No. 9369, Jan. 30, 2009>

Article 41 (Penal Provisions)

Any person falling under any of the following subparagraphs shall be punished by imprisonment for not more than five years or by a fine not exceeding fifty million won:

1. A person who has run a patent trust management business without permission in violation of [Article 25-2](#) (1);
2. A person who has divulged secrets in violation of [Article 38](#).

[This Article Newly Inserted by Act No. 8934, Mar. 21, 2008]

Article 42 (Joint Penal Provision)

If the representative of a legal entity, an institution, or an organization or an agent, an employee, or a servant of a legal entity, an institution, an organization, or a private individual committed an offense under subparagraph 1 of [Article 41](#) in the scope of the business of the legal entity, institution, organization, or private individual, not only shall such offender be punished accordingly, but the legal entity, institution, organization, or private individual shall be punishable by the fine prescribed in the relevant Article: *Provided*, That the foregoing sentence shall not apply to cases where a legal entity, institution, organization, or a private individual had not neglected reasonable care and supervision in connection with the relevant business in order to prevent such offense.

[This Article Newly Inserted by Act No. 9582, Apr. 1, 2009]

ADDENDA

Article 1 (Enforcement Date)

This Act shall enter into force six months after the date of its promulgation.

Article 2 (Transitional Measures)

(1) The pre-existing plans for the facilitation of technology transfer and commercialization under Article 4 of the former Technology Transfer Promotion Act at the time when this Act enters into force shall be deemed as the plans for the facilitation of technical transfer and commercialization under [Article 5](#) of this Act.

(2) The pre-existing Committee for the deliberation on policies on technical transfer and commercialization under Article 5 of the former Technology Transfer Promotion Act and the member of the Committee at the time when this Act enters into force shall be deemed the Committee for deliberation on policies on technical transfer and commercialization under [Article 6](#) of this Act and the member of the Committee.

(3) The pre-existing specialized technology evaluation agencies under Article 8 of the former Technology Transfer Promotion Act at the time this Act enters into force shall be deemed as the technology evaluation agencies under [Article 35](#) of this Act.

(4) The technology traders registered with the Korea Technology Transfer Center pursuant to Article 11 of the former Technology Transfer Promotion Act at the time when this Act enters into force shall be deemed technology traders registered with the Minister of Commerce, Industry and Energy pursuant to [Article 14](#) of this Act.

Article 3 Omitted.

Article 4 (Relations to other Acts)

A citation of the former Technology Transfer Promotion Act or any provision thereof by any other Act in force at the time this Act enters into force shall be deemed a citation of this Act

or the corresponding provision hereof in lieu of the former provisions, if there is such corresponding provision herein.

ADDENDA <Act No. 8852, Feb. 29, 2008>

Article 1 (Enforcement Date)

This Act shall enter into force on the date of its promulgation. (Proviso Omitted.)

Articles 2 through 7 Omitted.

ADDENDUM <Act No. 8934, Mar. 21, 2008>

This Act shall enter into force six months after the date of its promulgation.

ADDENDA <Act No. 9369, Jan. 30, 2009>

Article 1 (Enforcement Date)

This Act shall enter into force three months after the date of its promulgation.

Articles 2 through 9 Omitted.

ADDENDUM <Act No. 9582, Apr. 1, 2009>

This Act shall enter into force six months after the date of its promulgation.

ADDENDUM <Act No. 9689, May 21, 2009>

This Act shall enter into force on the date of its promulgation.