

ACT ON PREVENTION OF DIVULGENCE AND PROTECTION OF INDUSTRIAL TECHNOLOGY

Act No. 8062, Oct. 27, 2006
Amended by Act No. 8852, Feb. 29, 2008
Act No. 8900, Mar. 14, 2008
Act No. 9227, Dec. 26, 2008
Act No. 9368, Jan. 30, 2009
Act No. 10962, Jul. 25, 2011
Act No. 11690, Mar. 23, 2013
Act No. 13083, Jan. 28, 2015
Act No. 14108, Mar. 29, 2016
Act No. 14591, Mar. 14, 2017
Act No. 16476, Aug. 20, 2019

CHAPTER I GENERAL PROVISIONS

Article 1 (Purpose)

The purpose of this Act is to prevent undue divulgence of, and protect, industrial technology in order to strengthen the competitiveness of Korean industries and contribute to national security and development of the national economy.

Article 2 (Definitions)

The definitions of the terms used in this Act are as follows: *<Amended by Act No. 10962, Jul. 25, 2011; Act No. 13083, Jan. 28, 2015*

1. The term "industrial technology" means any of the following technologies the head of an administrative agency (where the relevant affairs have been delegated or entrusted, referring to the head of the agency, corporation, or organization delegated or entrusted therewith) determines, publicly notifies, publicly announces, or certifies in accordance with this Act, other statutes, or an order delegated by this Act or other statutes (limited to Presidential Decree, Ordinance of the Prime Minister, and Ministerial Ordinance; hereafter in this Article the same shall apply) to enhance the competitiveness of industries or prevent divulgence of technologies, among the methods and technological information

necessary for the development, production, dissemination, and use of products or services:

- (a) National core technology publicly notified pursuant to Article 9;
 - (b) Technology falling within the scope of state-of-the-art technology publicly notified pursuant to Article 5 of the Industrial Development Act;
 - (c) New technology certified pursuant to Article 15-2 of the Industrial Technology Innovation Promotion Act;
 - (d) New electric technology determined and publicly notified pursuant to Article 6-2 of the Electric Technology Management Act;
 - (e) New technology certified pursuant to Article 7 of the Environmental Technology and Industry Support Act;
 - (f) New construction technology determined and publicly notified pursuant to Article 14 of the Construction Technology Promotion Act;
 - (g) Health and new technology certified pursuant to Article 8 of the Health and Medical Service Technology Promotion Act;
 - (h) Core ppuri technology determined pursuant to Article 14 of the Act on Promotion and Sophistication of Ppuri Industry pursuant to Industry;
 - (i) Technology publicly notified in the Official Gazette by the Minister of Trade, Industry and Energy among technologies determined, publicly notified, publicly announced, or certified in accordance with an order delegated by other statutes or the relevant statute;
2. The term "national core technology" means a technology designated under Article 9, whose leak abroad could have a material adverse effect on national security and development of the national economy, since it has high technological and economic values in the Korean and overseas markets or brings high growth potential to its related industries;
3. The term "national research and development project" means research and development projects advanced by the heads of relevant central governmental administrative agencies under Article 11 of the Framework Act on Science and Technology;
4. The term "institution possessing industrial technology" means enterprises, research institutes, specialized institutions, universities, etc. possessing industrial technologies.

Article 3 (Responsibilities and Duties of the State)

- (1) The State shall formulate and implement comprehensive policies needed to prevent divulgence of, and protect, industrial technology.
- (2) In the application of this Act, every institution involved in the development, dissemination and utilization of industrial technology, such as the State, enterprises, research institutes, and universities shall endeavor to protect workers, such as researchers and developers of industrial technology, from being treated unfairly and becoming a bona fide victim, and not to impede the dissemination and utilization of industrial technology and knowledge.

(3) Every citizen shall endeavor to pay more attention to and elevate awareness to prevent divulgence of industrial technology and to cultivate the awareness of vocational ethics.

Article 4 (Relationship to Other Statutes)

Except as otherwise provided in other statutes, matters concerning preventing divulgence of, and protecting, industrial technology shall be governed by the provisions of this Act.

CHAPTER II FORMATION AND ENFORCEMENT OF POLICIES TO PREVENT DIVULGENCE OF, AND PROTECT, INDUSTRIAL TECHNOLOGY

Article 5 (Formulation and Implementation of Comprehensive Plans)

(1) The Minister of Trade, Industry and Energy shall formulate and implement comprehensive plans to prevent divulgence of, and protect, industrial technology (hereinafter referred to as "comprehensive plan").

<Amended by Act No. 8852, Feb. 29, 2008; Act No. 10962, Jul. 25, 2011; Act No. 11690, Mar. 23, 2013>

(2) When formulating comprehensive plans, the Minister of Trade, Industry and Energy shall undergo the deliberation of the Industrial Technology Protection Committee under Article 7, after consulting with the heads of relevant central governmental administrative agencies in advance. *<Amended by Act No. 8852, Feb. 29, 2008; Act No. 10962, Jul. 25, 2011; Act No. 11690, Mar. 23, 2013>*

(3) Comprehensive plans shall contain the following matters: *<Amended by Act No. 10962, Jul. 25, 2011>*

1. Basic goals and directions to prevent divulgence of, and protect, industrial technology;
2. Phased goals and measures to prevent divulgence of, and protect, industrial technology;
3. Matters concerning publicity and education on preventing divulgence of, and protecting, industrial technology;
4. Matters concerning the establishment of infrastructure to prevent divulgence of, and protect, industrial technology;
5. Matters concerning research and development of technology to prevent divulgence of, and protect, industrial technology;
6. Matters concerning the collection, analysis, processing, and dissemination of data on the prevention of divulgence of, and protection of, industrial technology;
7. Matters concerning international cooperation to prevent divulgence of, and protect, industrial technology;
8. Other matters necessary to prevent divulgence of, and protect, industrial technology.

(4) The Minister of Trade, Industry and Energy may require the submission of data necessary to formulate comprehensive plans from heads of relevant central governmental administrative agencies. In such cases, the head of an agency who is requested to submit data shall comply with such request, in the absence of special circumstances. *<Amended by Act No. 8852, Feb. 29, 2008; Act No. 10962, Jul. 25, 2011; Act No. 11690,*

Article 6 (Formulation and Implementation of Action Plans)

- (1) The heads of relevant central governmental administrative agencies shall, in accordance with comprehensive plans, formulate and implement action plans to prevent divulgence of, and protect, industrial technology (hereinafter referred to as "action plan") each year. *<Amended by Act No. 10962, Jul. 25, 2011>*
- (2) Matters necessary for the formulation and implementation of action plans shall be determined by Presidential Decree.

Article 7 (Establishment of Industrial Technology Protection Committee)

- (1) An Industrial Technology Protection Committee (hereinafter referred to as the "Committee") shall be established under the jurisdiction of the Minister of Trade, Industry and Energy to deliberate on the following matters regarding preventing divulgence of, and protecting, industrial technology: *<Amended by Act No. 10962, Jul. 25, 2011; Act No. 13083, Jan. 28, 2015>*

1. Matters concerning the formulation and implementation of comprehensive plans;
 2. Matters concerning the designation as national core technology and change and cancellation of such designation under Article 9;
 3. Matters concerning the export, etc. of national core technology under Article 11;
 4. Matters concerning cross-border acquisition, merger, etc. of an institution possessing industrial technology including national core technology under Article 11-2;
 5. Other matters determined by Presidential Decree as necessary to prevent divulgence of, and protect, industrial technology.
- (2) The Committee shall be comprised of not more than 25 members, including one chairperson. In such cases, at least five persons falling under paragraph (3) 3 shall be included in the members.
- (3) The Minister of Trade, Industry and Energy shall become a chairperson and the following persons shall become members: *<Amended by Act No. 8852, Feb. 29, 2008; Act No. 13083, Jan. 28, 2015>*

1. A person who is determined by President Decree from among Vice-Minister, Vice Administrator, or a public official equivalent to such position of a relevant central governmental administrative agency;
 2. A person who is nominated by an intelligence investigative agency in charge of preventing divulgence of industrial technology;
 3. A person who has abundant experience and knowledge in preventing divulgence of, and protecting, industrial technology and is commissioned by the chairperson taking into account the gender of the person.
- (4) The Committee shall have one secretary member, who shall be nominated by the chairperson from among public officials of the Ministry of Trade, Industry and Energy. *<Amended by Act No. 8852, Feb. 29, 2008; Act No. 11690, Mar. 23, 2013; Act No. 13083, Jan. 28, 2015>*

(5) The Committee shall establish specialized committees by field thereunder to professionally pre-deliberate on the following matters regarding preventing divulgence of, and protecting, industrial technology: <Amended by Act No. 10962, Jul. 25, 2011; Act No. 13083, Jan. 28, 2015>

1. A prior review on items under deliberation by the Committee;
2. Matters delegated by the Committee, as prescribed by Presidential Decree;
3. Other practical matters necessary for preventing divulgence of, and protecting, industrial technology, as prescribed by Presidential Decree.

(6) Matters necessary for the organization, operation, etc. of the Committee and specialized committees by field other than matters provided in paragraphs (1) through (5) shall be determined by Presidential Decree.

<Amended by Act No. 13083, Jan. 28, 2015>

CHAPTER III PREVENTING DIVULGENCE AND MANAGEMENT OF INDUSTRIAL TECHNOLOGY

Article 8 (Formulation of Guidelines for Protection)

(1) The Minister of Trade, Industry and Energy shall formulate guidelines (hereinafter referred to as "guidelines for protection") for methods, procedures, etc. needed to prevent divulgence of, and protect, industrial technology in consultation with the heads of relevant central governmental administrative agencies, and shall enable institutions possessing industrial technology to utilize the guidelines for protection. <Amended by Act No. 8852, Feb. 29, 2008; Act No. 10962, Jul. 25, 2011; Act No. 11690, Mar. 23, 2013>

(2) The Minister of Trade, Industry and Energy may, in consultation with the heads of relevant central governmental administrative agencies, revise or supplement the guidelines for protection after deliberation by the Committee, taking into account the trend in the development of industrial technology, Korean and overseas market environments, etc. <Amended by Act No. 8852, Feb. 29, 2008; Act No. 10962, Jul. 25, 2011; Act No. 11690, Mar. 23, 2013>

Article 9 (Designation as National Core Technology and Change and Cancellation of Such Designation)

(1) Where the Minister of Trade, Industry and Energy selects a technology to be designated (hereafter in this Article referred to as "technology subject to designation") as national core technology, or he or she has been notified that technology subject to designation has been selected under the jurisdiction of the head of a relevant central governmental administrative agency; he or she may designate it as national core technology after deliberation by the Committee. In such cases, where technology subject to designation which has been selected by the Minister of Trade, Industry and Energy is under the jurisdiction of the head of any other central governmental administrative agency, he or she shall undergo consultation with the head of the relevant central governmental administrative agency prior to deliberation by the Committee.

<Amended by Act No. 8852, Feb. 29, 2008; Act No. 11690, Mar. 23, 2013; Act No. 13083, Jan. 28, 2015>

(2) The Minister of Trade, Industry and Energy and the head of a relevant central governmental administrative agency shall select technology subject to designation within the minimum extent necessary, based on comprehensive consideration of such factors as the ripple effect of the technology in question on national security and the national economy; market share of relevant products in the Korean and overseas markets; trends in research in relevant fields; and harmony with the proliferation of technology. *<Amended by Act No. 13083, Jan. 28, 2015>*

(3) Where the Minister of Trade, Industry and Energy selects a technology for which changing the scope or substance of national core technology or canceling the designation as national core technology is deemed necessary, or receives from the head of a relevant central governmental administrative agency a request to change the scope or substance of national core technology under the jurisdiction of the head of the relevant central governmental administrative agency or to cancel the designation as national core technology, he or she may change or cancel such designation after deliberation by the Committee. In such cases, where technology subject to designation selected by the Minister of Trade, Industry and Energy is under the jurisdiction of the head of any other central governmental administrative agency, he or she shall undergo consultation with the head of the relevant central governmental administrative agency prior to deliberation by the Committee. *<Amended by Act No. 8852, Feb. 29, 2008; Act No. 11690, Mar. 23, 2013; Act No. 13083, Jan. 28, 2015>*

(4) Where the Minister of Trade, Industry and Energy designates national core technology pursuant to paragraph (1), changes the scope or substance of national core technology, or cancels such designation pursuant to paragraph (3), he or she shall publicly notify such fact. *<Amended by Act No. 8852, Feb. 29, 2008; Act No. 11690, Mar. 23, 2013>*

(5) Where the Committee deliberates on the designation as national core technology or change or cancellation of such designation pursuant to paragraphs (1) and (3), it shall, upon receipt of a request by interested persons, such as an enterprise in possession of, or managing, technology subject to designation, provide them with an opportunity to state their opinions, as prescribed by Presidential Decree.

(6) The institution possessing industrial technology may request the Minister of Trade, Industry and Energy to determine whether the technology the relevant institution possesses is relevant to the national core technology, as prescribed by Presidential Decree. *<Newly Inserted by Act No. 10962, Jul. 25, 2011; Act No. 11690, Mar. 23, 2013>*

(7) The criteria and procedures for designation as national core technology, and change and cancellation of such designation under paragraphs (1) and (3) and other necessary matters shall be determined by Presidential Decree. *<Amended by Act No. 10962, Jul. 25, 2011>*

Article 9-2 (Non-Disclosure of Information on National Core Technology)

(1) None of state agencies, local governments, public institutions defined in Article 2 of the Act on the Management of Public Institutions, and other institutions determined by Presidential Decree shall disclose information on national core technology: Provided, That such information may be disclosed if its

disclosure is unlikely to have any adverse effect on national security and development of the national economy.

(2) When it is intended to disclose information on national core technology pursuant to the proviso of paragraph (1), opinions shall be collected from interested persons in writing or by electronic document; consent shall be obtained from the Minister of Trade, Industry and Energy and the head of the relevant ministry or administrative agency; and then the case shall be referred to the Committee for deliberation, within 20 days from the filing date of an application for the disclosure of information.

Article 10 (Measures for Protecting National Core Technology)

(1) The head of each institution possessing industrial technology which has and manages national core technology, shall take the following measures to prevent divulgence of national core technology:

<Amended by Act No. 16476, Aug. 20, 2019>

1. Designating protection zones, implementing access control systems, or inspecting personal belongings at the entrance;
2. Managing turnover of specialized human resources handling national core technology, and concluding confidentiality agreements or the like;
3. Other measures determined by Presidential Decree to prevent divulgence of national core technology.

(2) Necessary matters regarding the measures under paragraph (1) shall be determined by Presidential Decree.

(3) No person shall be allowed to refuse, interfere with, or challenge the measures for protection under paragraph (1) without any justifiable ground. *<Newly Inserted by Act No. 9368, Jan. 30, 2009>*

Article 11 (Export of National Core Technology)

(1) Where an institution possessing industrial technology including national core technology developed with government subsidies for research and development intends to export the national core technology concerned to a foreign enterprise, etc. by means of sale, transfer, etc. (hereinafter referred to as "export of national core technology"), it shall obtain approval from the Minister of Trade, Industry and Energy.

<Amended by Act No. 8852, Feb. 29, 2008; Act No. 11690, Mar. 23, 2013>

(2) With respect to an application for approval under paragraph (1), the Minister of Trade, Industry and Energy may, after consulting with the head of the relevant central governmental administrative agency, grant approval after deliberation by the Committee, taking into account the ripple effect of the export of national core technology on national security, the national economy, etc. *<Amended by Act No. 8852, Feb. 29, 2008; Act No. 11690, Mar. 23, 2013>*

(3) Where national core technology approved pursuant to paragraph (1) is technology under Article 19 (1) of the Foreign Trade Act, it shall be deemed to have obtained permission pursuant to paragraph (2) of said Article, and being defense science and technology and defense articles under Articles 30 and 34 of the Defense Acquisition Program Act, it shall be deemed to have obtained permission under Article 57 (2) of

said Act. In such cases, the Minister of Trade, Industry and Energy shall consult with the head of the relevant central governmental administrative agency in advance. *<Amended by Act No. 8852, Feb. 29, 2008; Act No. 10962, Jul. 25, 2011; Act No. 11690, Mar. 23, 2013>*

(4) Where an institution possessing industrial technology which has and manages national core technology, other than that approved pursuant to paragraph (1), intends to export the national core technology, it shall report it to the Minister of Trade, Industry and Energy in advance. *<Amended by Act No. 8852, Feb. 29, 2008; Act No. 11690, Mar. 23, 2013>*

(5) When the Minister of Trade, Industry and Energy deems that the export of national core technology subject to reporting under paragraph (4) is likely to have a material impact on national security, he or she may, after consulting with the head of the relevant central governmental administrative agency, order institutions possessing industrial technology to take measures such as suspension or prohibition of export of such national core technology, restoration to original state, etc. after deliberation by the Committee. *<Amended by Act No. 8852, Feb. 29, 2008; Act No. 11690, Mar. 23, 2013>*

(6) Any person that intends to export national core technology subject to reporting under paragraph (4) may file an application for prior review with the Minister of Trade, Industry and Energy as to whether the national core technology in question is related to national security. *<Amended by Act No. 8852, Feb. 29, 2008; Act No. 11690, Mar. 23, 2013>*

(7) Where an institution possessing industrial technology including national core technology exports national core technology without obtaining approval under paragraph (1) or with such approval obtained by improper means, or exports national core technology subject to reporting under paragraph (4) without filing a report or with a false report; the Minister of Trade, Industry and Energy may, after reporting to the Committee the result of the investigation he or she has requested to the head of an intelligence investigative agency, order the institution to take measures, such as suspension and prohibition of export of the national core technology in question and restoration to original state, after deliberation by the Committee. *<Amended by Act No. 8852, Feb. 29, 2008; Act No. 11690, Mar. 23, 2013>*

(8) In any of the following cases, the Committee may listen to the opinions of institutions possessing industrial technology:

1. Deliberation on applications for approval under paragraph (2);
2. Deliberation on suspension and prohibition of export of national core technology which have a material effect on national security, restoration to original state, etc. under paragraph (5);
3. Deliberation on suspension and prohibition of export of national core technology, and restoration to original state with respect to failing to obtain approval or obtaining approval by fraud, non-reporting or false reporting, etc. under paragraph (7).

(9) The Minister of Trade, Industry and Energy may allow the specialized committees to review matters in connection with approval under paragraph (1) or reporting under paragraph (4) and request the heads of relevant central governmental administrative agencies or the heads of institutions possessing industrial technology to render necessary cooperation, such as submission of data. In such cases, the heads of the

relevant central governmental administrative agencies and the heads of institutions possessing industrial technology shall render cooperation, in the absence of special circumstances. <Amended by Act No. 8852, Feb. 29, 2008; Act No. 11690, Mar. 23, 2013>

(10) Detailed matters concerning approval under paragraph (1), reporting under paragraph (4), measures and procedures for suspension and prohibition of export, restoration to original state, etc. under paragraphs (5) and (7), etc. shall be determined by Presidential Decree.

(11) Matters necessary for application for prior review as to whether national core technology is related to national security under paragraph (6) shall be determined by Presidential Decree.

Article 11-2 (Cross-Border Acquisition and Merger of Institutions Possessing Industrial Technology including National Core Technology)

(1) Where an institution possessing industrial technology including national core technology developed with government subsidies for research and development, intends to conduct cross-border acquisition, merger, joint venture, etc. (hereinafter referred to as "cross-border acquisition, merger, etc."), as prescribed by Presidential Decree, it shall obtain approval therefor, in advance, from the Minister of Trade, Industry and Energy. <Amended by Act No. 11690, Mar. 23, 2013; Act No. 16476, Aug. 20, 2019>

(2) Where an institution possessing industrial technology under paragraph (1) finds that a foreigner determined by Presidential Decree (hereafter in this Article referred to as "foreigner") has been conducting cross-border acquisition, merger, etc., it shall without delay report such finding to the Minister of Trade, Industry and Energy. <Amended by Act No. 11690, Mar. 23, 2013; Act No. 16476, Aug. 20, 2019>

(3) Upon receipt of a report from an institution possessing industrial technology under paragraph (2), the Minister of Trade, Industry and Energy may request the foreigner who intends to conduct cross-border acquisition, merger, etc. to cooperate in the procedure for approval under paragraph (1). The foreigner so requested in such cases shall comply with the request, in the absence of special circumstances. <Newly Inserted by Act No. 16476, Aug. 20, 2019>

(4) Upon receipt of an application for approval under paragraph (1), the Minister of Trade, Industry and Energy may approve cross-border acquisition, merger, etc. after examining the impact of such cross-border acquisition, merger, etc. on national security, consulting with the heads of related central administrative agencies thereon, and then successfully undergoing deliberation by the Committee. In such cases, the Minister of Trade, Industry and Energy may attach conditions to approval as he or she deems necessary. <Newly Inserted by Act No. 16476, Aug. 20, 2019>

(5) Where an institution possessing industrial technology which has and manages any national core technology other than that subject to approval under paragraph (1), intends to conduct cross-border acquisition, merger, etc., it shall report its intended cross-border acquisition, merger, etc., in advance, to the Minister of Trade, Industry and Energy. <Newly Inserted by Act No. 16476, Aug. 20, 2019>

(6) Where an institution possessing industrial technology under paragraph (5) finds that a foreigner has been conducting cross-border acquisition, merger, etc., it shall without delay report such finding to the

Minister of Trade, Industry and Energy. <Newly Inserted by Act No. 16476, Aug. 20, 2019>

(7) Where the Minister of Trade, Industry and Energy deems that divulgence of national core technology under paragraphs (1), (5), and (6) is likely to have a material impact on national security, he or she may, after consulting with the head of the relevant central governmental administrative agency, order institutions possessing industrial technology to take measures, such as suspension, prohibition, restoration to original state, etc. regarding cross-border acquisition, merger, etc. after deliberation by the Committee.

<Amended by Act No. 11690, Mar. 23, 2013; Act No. 16476, Aug. 20, 2019>

(8) When a person who intends to conduct cross-border acquisition, merger, etc. under paragraphs (1), (5), and (6) has a question about the following matters regarding the relevant cross-border acquisition, merger, etc., he or she may request the Minister of Trade, Industry and Energy to make examination in advance, as prescribed by Presidential Decree: <Amended by Act No. 11690, Mar. 23, 2013; Act No. 16476, Aug. 20, 2019>

1. Whether the national core technology in question is related to national security;
2. Whether the cross-border acquisition, merger, etc. in question is subject to approval under paragraph (1) or subject to reporting under paragraphs (5) and (6);
3. Other questionable matters regarding the relevant cross-border acquisition, merger, etc.

(9) Where an institution possessing industrial technology including national core technology conducts cross-border acquisition, merger, etc. without obtaining approval under paragraph (1) or with such approval obtained by fraud or other improper means, or without filing a report under paragraphs (5) and (6) or with such report filed by fraud or other improper means, the Minister of Trade, Industry and Energy may, after reporting to the Committee the findings of the investigation he or she has requested to the head of an intelligence investigative agency, order the institution to take necessary measures, such as suspension, prohibition, and restoration to original state, regarding cross-border acquisition, merger, etc. after deliberation by the Committee. <Amended by Act No. 11690, Mar. 23, 2013; Act No. 16476, Aug. 20, 2019>

(10) In any of the following cases, the Committee may listen to the opinions of an institution possessing industrial technology: <Amended by Act No. 16476, Aug. 20, 2019>

1. Deliberation on applications for approval under paragraph (1);
1-2 Deliberation on reporting under paragraphs (5) and (6);
2. Deliberation on suspension, prohibition, restoration to original state, etc. regarding cross-border acquisition, merger, etc. which have a material impact on national security under paragraph (7);
3. Deliberation on damage of an institution possessing industrial technology according to measures under paragraph (7);
4. Deliberation on suspension, prohibition, restoration to original state, etc. of cross-border acquisition, merger, etc. regarding failing to obtain approval, obtaining approval by fraud, non-reporting, or false reporting under paragraph (9).

(11) The Minister of Trade, Industry and Energy may require specialized committees by field to examine regarding an application for approval under paragraph (1) or reporting under paragraphs (5) and (6); and may request necessary cooperation of materials submitted, etc. to the head of a relevant central

administrative agency or the head of an institution possessing industrial technology. In such cases, the head of a relative central administrative agency or the head of an institution possessing industrial technology shall cooperate therewith, in the absence of special circumstances. *<Amended by Act No. 11690, Mar. 23, 2013; Act No. 16476, Aug. 20, 2019>*

(12) Detailed matters on measures, procedures, etc. for approval under paragraph (1); reporting under paragraphs (2), (5), and (6); and suspension, prohibition, restoration to original state, etc. under paragraphs (7) and (9) shall be prescribed by Presidential Decree. *<Amended by Act No. 16476, Aug. 20, 2019>*

Article 12 (Protection and Management of National Research and Development Projects)

The heads of institutions possessing industrial technology shall formulate and implement measures necessary to prevent development outcomes from being divulged externally in the course of performing a national research and development project related to the industrial technology.

Article 13 (Improvement Recommendations)

(1) If deemed necessary in connection with measures to protect national core technology under Article 10 and protection and management of national research and development projects under Article 12, the Minister of Trade, Industry and Energy may recommend the heads of institutions possessing industrial technology to make improvements. *<Amended by Act No. 10962, Jul. 25, 2011; Act No. 11690, Mar. 23, 2013>*

(2) The heads of institutions possessing industrial technology in receipt of an improvement recommendation upon paragraph (1) shall formulate and implement improvement plans and notify the Minister of Trade, Industry and Energy of the result thereof. *<Amended by Act No. 10962, Jul. 25, 2011; Act No. 11690, Mar. 23, 2013>*

(3) In cases of an improvement recommendation to the heads of institutions possessing industrial technology under paragraph (1), the Minister of Trade, Industry and Energy shall report the major contents and reasons of the improvement recommendation, the result of measures taken, etc. to the Committee. *<Newly Inserted by Act No. 10962, Jul. 25, 2011; Act No. 11690, Mar. 23, 2013>*

(4) Matters necessary for improvement recommendations under paragraphs (1) and (2), the formulation and implementation of improvement plans, and reporting to the Committee under paragraph (3) shall be determined by Presidential Decree. *<Amended by Act No. 10962, Jul. 25, 2011>*

Article 14 (Prohibition on Divulgence of, and Acts of Infringement of, Industrial Technology)

No person shall engage in any of the following acts: *<Amended by Act No. 8852, Feb. 29, 2008; Act No. 10962, Jul. 25, 2011; Act No. 11690, Mar. 23, 2013; Act No. 13083, Jan. 28, 2015; Act No. 16476, Aug. 20, 2019>*

1. Acquiring the industrial technology of any institution possessing industrial technology obtained by means of theft, deception, threat, or other improper means or using or publicizing such industrial technology (including providing information to a specific person in secret; hereinafter the same shall apply);

2. In cases of a person who has a duty to maintain confidentiality of industrial technology under Article 34 or in accordance with a contract, etc. with an institution possessing industrial technology, divulging industrial technology for the purpose of obtaining unjust enrichment or causing loss to the institution possessing industrial technology; using or publicizing the divulged industrial technology; or causing a third person to make use thereof;
3. Acquiring, using, or publicizing industrial technology, knowing that any act under subparagraph 1 or 2 is involved in the industrial technology, or using or publicizing industrial technology, knowing, after acquiring the industrial technology, that any act under subparagraph 1 or 2 is involved in the industrial technology;
4. Acquiring, using, or publicizing industrial technology without knowing, by gross negligence, that any act under subparagraph 1 or 2 is involved in the industrial technology; or using or publicizing industrial technology without knowing, by gross negligence after acquiring the industrial technology, that any act under subparagraph 1 or 2 is involved in the industrial technology;
5. Exporting national core technology without obtaining approval under Article 11 (1) or with such approval approved by improper means;
6. Conducting cross-border acquisition, merger, etc. without obtaining approval under Article 11-2 (1) or with such approval obtained by fraud or other improper means, with intent to use national core technology in a foreign country or to cause national core technology to be used in a foreign country;
- 6-2. Conducting cross-border acquisition, merger, etc. without filing a report under Article 11-2 (5) and (6) or with such report filed by fraud or other improper means, with intent to use national core technology in a foreign country or to cause national core technology to be used in a foreign country;
- 6-3. In cases of a person who has a duty to maintain confidentiality of industrial technology under Article 34 or in accordance with a contract, etc. with an institution possessing industrial technology and is requested by a relevant institution possessing industrial technology to return the special media records, such as documents, drawings, and electronic records concerning industrial technology, or to delete the industrial technology; refusing to comply with, or evading, such request or keeping a copy for the purpose of obtaining unjust enrichment or causing loss to the institution possessing industrial technology;
7. Failing to comply with an order issued by the Minister of Trade, Industry and Energy under Article 11 (5) or (7) or Article 11-2 (7) or (9);
8. Using or disclosing information including industrial technology provided through any legitimate process prescribed by Presidential Decree, such as litigation on industrial technology, for any purpose other than the purpose for which such information was provided.

Article 14-2 (Right to Request Prohibition on Acts of Infringement of Industrial Technology)

- (1) If a person who commits or intends to commit an act of infringement of industrial technology, undermines or is likely to undermine business profits of an institution possessing industrial technology,

the institution may request the court to prohibit or to prevent such act.

(2) When an institution possessing industrial technology files a request under paragraph (1), it may also request measures necessary for prohibiting or preventing an act of infringement, such as the destruction of articles that are subject of the act of infringement and the removal of facilities that are provided for the act of infringement.

(3) If an institution possessing industrial technology fails to exercise the right to request prohibition or prevention on an act of infringement of industrial technology under paragraph (1) within three years from the date when it learns the infringer and the fact that continuing acts of infringement undermine or are likely to undermine business profits, the right shall be time-barred. The same shall apply even when it has passed 10 years from the date the act of infringement began.

Article 14-3 (Verification as to Whether Technology Constitutes Industrial Technology)

(1) An institution possessing industrial technology may apply for verification to the Minister of Trade, Industry and Energy as to whether technology in its possession constitutes industrial technology.

(2) Matters concerning the procedures for and methods of verification under paragraph (1) shall be prescribed by Presidential Decree.

Article 15 (Report on Infringement of Industrial Technology)

(1) If an act referred to in any subparagraph of Article 14 is likely to be committed or was committed, the head of an institution possessing industrial technology including national core technology or industrial technology developed through a national research and development project, shall immediately report such commission to the Minister of Trade, Industry and Energy and the head of an intelligence investigative agency; and may request them to take necessary measures. *<Amended by Act No. 8852, Feb. 29, 2008; Act No. 11690, Mar. 23, 2013; Act No. 16476, Aug. 20, 2019>*

(2) Upon receipt of a request under paragraph (1) or upon becoming aware of the commission of an act prohibited under Article 14, the Minister of Trade, Industry and Energy and the head of an intelligence investigative agency shall conduct investigations and take other necessary measures. *<Amended by Act No. 8852, Feb. 29, 2008; Act No. 10962, Jul. 25, 2011; Act No. 11690, Mar. 23, 2013; Act No. 16476, Aug. 20, 2019>*

CHAPTER IV ESTABLISHMENT OF INFRASTRUCTURE FOR PROTECTION OF INDUSTRIAL TECHNOLOGY AND DEVELOPMENT AND SUPPORT OF INDUSTRIAL SECURITY TECHNOLOGY

Article 16 (Establishment of Association for Industrial Technology Security)

(1) Institutions possessing industrial technology may establish an Association for Industrial Technology Security (hereinafter referred to as the "Association"), after obtaining authorization from the Minister of

Trade, Industry and Energy, to efficiently promote policies to prevent divulgence of, and protect, industrial technology. <Amended by Act No. 8852, Feb. 29, 2008; Act No. 11690, Mar. 23, 2013>

(2) The Association shall be a corporation, and it shall come into existence upon completing registration for incorporation at the seat of its principal office.

(3) No matter requiring registration, other than registration of establishment, shall become effective against any third person, unless the relevant registration is made.

(4) The Association shall conduct the following affairs: <Amended by Act No. 8852, Feb. 29, 2008; Act No. 10962, Jul. 25, 2011; Act No. 11690, Mar. 23, 2013; Act No. 13083, Jan. 28, 2015>

1. Formulation of, and cooperation on, policies for protection of industrial technology;
2. Dissemination of information on divulgence of industrial technology to foreign countries;
3. Counselling, public relations, education, and fact-finding surveys to prevent divulgence of industrial technology;
4. Collection, analysis, and publication of data on protection of industrial technology, in or outside Korea;
- 4-2. Providing support for the protection, management, etc. of national core technology;
5. Duties to support the protection of industrial technology under Article 22 (1);
6. Assistance in the affairs of the Industrial Technology Dispute Mediation Committee under Article 23;
7. Other affairs, such as projects that the Minister of Trade, Industry and Energy deems necessary to entrust and projects determined by the Association's articles of association.

(5) If necessary to protect industrial technology of institutions possessing industrial technology, the Government may provide funds necessary to conduct the affairs of the Association within budgetary limits.

(6) Matters necessary for affairs, supervision, etc. of the Association shall be determined by Presidential Decree.

(7) Except as provided in this Act, the provisions of the Civil Act concerning incorporated associations shall apply mutatis mutandis to the Association.

Article 17 (Fact-Finding Surveys for Protection of Industrial Technology)

(1) The Minister of Trade, Industry and Energy may, when necessary, conduct fact-finding surveys on the protection and management of industrial technology of institutions possessing industrial technology.

<Amended by Act No. 8852, Feb. 29, 2008; Act No. 11690, Mar. 23, 2013>

(2) The Minister of Trade, Industry and Energy may, in order to conduct a fact-finding survey pursuant to paragraph (1), request institutions possessing industrial technology and relevant organizations to submit relevant data or to render cooperation necessary for the survey. In such cases, any person so requested shall comply with the request, in the absence of special circumstances. <Amended by Act No. 8522, Feb. 29, 2008; Act No. 11690, Mar. 23, 2013>

(3) Necessary matters concerning the subjects, scope, method, etc. of the fact-finding surveys under paragraph (2) shall be determined by Presidential Decree.

Article 18 (International Cooperation)

(1) The Government may perform international cooperation projects necessary for, among other things, international exchange of relevant industrial security technology and professional manpower, international standardization of industrial security technology, and international joint research and development of industrial security technology in order to facilitate international cooperation to protect industrial technology.

(2) The Government may assist the following business:

1. Examination and research of industrial security technology and security industries at an international level;
2. Exchange of manpower and information on industrial security technology and security industries at an international level;
3. Holding international exhibitions, academic meetings, etc. on industrial security technology and security industries;
4. Other projects prescribed by Presidential Decree, as deemed necessary to formulate and implement measures at an international level.

Article 19 (Education on Protection of Industrial Technology)

(1) The Minister of Trade, Industry and Energy may provide education to executive officers and employees of institutions possessing industrial technology to prevent divulgence of, and protect, industrial technology. <Amended by Act No. 8852, Feb. 29, 2008; Act No. 11690, Mar. 23, 2013>

(2) Necessary matters concerning contents, term, cycle, etc. of the education under paragraph (1) shall be determined by Presidential Decree.

Article 20 (Support for Development of Industrial Security Technology)

(1) The Government may formulate and implement policies to develop the industrial security technology and foster professional manpower in order to protect industrial technology.

(2) The Government may cause institutions possessing industrial technology to work to develop the industrial security technology under paragraph (1), etc. in order to efficiently promote the development of technology needed to protect industrial technology.

(3) With respect to those who conduct an industrial security technology developing project, etc. pursuant to paragraph (2), the Government may provide contributions or subsidies to cover expenses incurred in conducting the project.

(4) Matters necessary for, among other things, disbursing, using, and managing the contributions under paragraph (3) shall be determined by Presidential Decree.

Article 21 (Rewards for Industrial Technology Protection, and Protective Custody)

(1) The Government may, within budgetary limits, reward those who contributed significantly to preventing divulgence of, and protecting, industrial technology through developing industrial security technology, etc. or those who reported divulgence of industrial technology to foreign countries in contravention of this Act. *<Amended by Act No. 9368, Jan. 30, 2009>*

(2) The Government shall, when requested by a person who reported the fact of divulging industrial technology to foreign countries in violation of the provisions of this Act, take necessary measures, such as protective custody of such person.

(3) With respect to foreigners who contributed significantly to preventing divulgence of, and protecting, industrial technology through developing industrial security technology, etc., the Government may assist their settlement in Korea and acquisition of Korean nationality.

(4) Necessary matters concerning criteria, methods, and procedures for reward, payment of reward, protective custody, etc. under paragraphs (1) through (3) shall be determined by Presidential Decree.

Article 22 (Support for Protection of Industrial Technology)

(1) If deemed necessary to promote the protection of technical technology, the Government may provide the following support to institutions possessing industrial technology, etc.: *<Amended by Act No. 10962, Jul. 25, 2011>*

1. Consultation on the protection of industrial technology;
2. Technical support to install and operate security facilities of industrial technology;
3. Support for education and manpower training for the protection of industrial technology;
4. Other matters necessary for the protection of industrial technology.

(2) Matters necessary for support under paragraph (1) shall be determined by Presidential Decree.

CHAPTER V SUPPLEMENTARY PROVISIONS

Article 22-2 (Liability for Damage Caused by Divulgence of, and Acts of Infringement of, Industrial Technology)

(1) Any person who inflicts damage on an institution possessing industrial technology by divulgence of, or an act of infringement of, industrial technology under Article 14 (hereafter in this Article referred to as "infringement of industrial technology") shall be liable to compensate such damage.

(2) If an infringement of industrial technology is found intentional, the court may determine the amount of damages within a maximum of three times the assessed damage, taking the following matters into consideration:

1. Whether the person who committed the infringement of industrial technology was in a superior position;

2. The level of intention or the level of perceiving the likelihood of causing damage;
3. The extent of damage inflicted by the infringement of industrial technology on an institution possessing industrial technology;
4. Economic benefits acquired by the infringement of industrial technology by the person who committed such infringement;
5. The duration, frequency, etc. of the infringement of industrial technology;
6. The fines imposed on the infringement of industrial technology;
7. The state of property of the person who committed the infringement of industrial technology;
8. The degree of efforts made by the person who committed the infringement of industrial technology to redress damage.

Article 22-3 (Submission of Materials)

Upon receipt of either party's application in a lawsuit regarding divulgence or infringement of industrial technology, the court may order the other party to submit materials necessary for proving the alleged infringement or for computing the amount of damage caused by the infringement: Provided, That the foregoing shall not apply where the possessor of such data has a justification to refuse to submit such materials.

Article 22-4 (Confidentiality Orders)

(1) If the following causes are all substantiated with regard to industrial technology possessed by the asserting party in a lawsuit on divulgence or infringement of industrial technology, the court may order the other party (in cases of a corporation, referring to its representative), the person representing the party in the lawsuit, or any other person who obtained knowledge about the industrial technology due to the lawsuit, by decision upon the party's request, to refrain from using such industrial technology for any purpose other than continuation of the relevant lawsuit or from disclosing the industrial technology to any person other than the person to whom an order under this paragraph was issued in connection with the industrial technology: Provided, That the foregoing shall not apply where the other party (in cases of a corporation, referring to its representative), the person representing the party in the lawsuit or any other person who obtained knowledge about the industrial technology due to the lawsuit has already acquired the industrial technology before the time of filing the application, by any method other than perusing briefs referred to in subparagraph 1 or examining evidence:

1. The industrial technology is included in a brief already submitted or to be submitted or a piece of evidence already examined or to be examined;
2. If the industrial technology referred to in subparagraph 1 is used or disclosed for any purpose other than the litigation of the relevant case, such use or disclosure is likely to adversely affect the party's business management; and thus it is necessary to restrict the use or disclosure of the industrial technology for preventing such adverse effect.

(2) An application for an order under paragraph (1) (hereinafter referred to as "confidentiality order") shall be filed in writing, stating the following therein:

1. A person to whom the confidentiality order is to be issued;
2. Facts sufficient to identify the industrial technology subject to the confidentiality order;
3. A fact constituting a cause prescribed in the subparagraphs of paragraph (1).

(3) When a court decides to issue a confidentiality order, it shall serve the written decision on the person to whom the confidentiality order is issued.

(4) A confidentiality order shall become effective when the written decision under paragraph (3) is served on the person to whom the confidentiality order is issued.

(5) An immediate appeal may be filed against a court's ruling to dismiss, with or without prejudice, an application for a confidentiality order.

Article 22-5 (Revocation of Confidentiality Orders)

(1) If a person who applied for a confidentiality order or a person to whom a confidentiality order was issued fails or ceases to meet the requirements under Article 22-4 (1), such person may apply for the revocation of the confidentiality order to the court keeping the relevant litigation records (if no court keeping the relevant litigation records exists, referring to the court that issued the confidentiality order).

(2) If a court makes a ruling on an application for the revocation of a confidentiality order, it shall serve the written decision on the applicant and the other party.

(3) An immediate appeal may be filed against a ruling on an application for the revocation of a confidentiality order.

(4) A ruling to revoke a confidentiality order shall become effective when it becomes final and conclusive.

(5) If there is a person to whom a confidentiality order was issued with regard to the relevant industrial technology, in addition to the person who applied for the revocation of the confidentiality order and the other party, the court that makes a ruling to revoke the confidentiality order shall notify such person immediately of the ruling to revoke the confidentiality order.

Article 22-6 (Notifying Requests for Perusal of Litigation Records)

(1) Where a decision under Article 163 (1) of the Civil Procedure Act was made with regard to litigation records on a lawsuit for which a confidentiality order has been granted (excluding a lawsuit for which all confidentiality orders have been revoked), if a party filed a request for the perusal of the portion containing secrets referred to in said paragraph but the procedure for such request was filed by a person to whom no confidentiality order was issued in the relevant lawsuit, a Grade IV, V, VI, or VII court official in charge (hereafter in this Article referred to as "court official") shall notify the party who filed a request under Article 163 (1) of the Civil Procedure Act (excluding the person who filed a request for the perusal, etc. of such records; hereafter in paragraph (3) the same shall apply) that a request for the perusal of such records was filed immediately after the previous request.

- (2) In cases falling under paragraph (1), not earlier than two weeks after the filing date of a request under paragraph (1) (if an application for issuing a confidentiality order to the person who proceeded with the procedure for such request was filed during the period, referring to not earlier than the time a ruling on such application becomes final and conclusive), a court official shall not allow the person who proceeded with the procedure for such request to peruse any portion of secrets referred to in paragraph (1).
- (3) If all parties who filed an application under Article 163 (1) of the Civil Procedure Act consent to allowing a person who filed a request for perusal, etc. under paragraph (1) to peruse any portion of secrets referred to in paragraph (1), paragraph (2) shall not apply.

Article 23 (Industrial Technology Dispute Mediation Committee)

- (1) An Industrial Technology Dispute Mediation Committee (hereinafter referred to as the "Mediation Committee") shall be established under the Minister of Trade, Industry and Energy to promptly mediate disputes over divulgence of industrial technology. *<Amended by Act No. 8852, Feb. 29, 2008; Act No. 11690, Mar. 23, 2013>*
- (2) The Mediation Committee shall be comprised of not more than 15 members, including one chairperson.
- (3) The Minister of Trade, Industry and Energy shall appoint or commission members of the Mediation Committee in consideration of professional field and gender, as prescribed by Presidential Decree from among the following persons: *<Amended by Act No. 8852, Feb. 29, 2008; Act No. 11690, Mar. 23, 2013; Act No. 13083, Jan. 28, 2015>*
1. Current or former workers of a university or certified research institute as an associate professor or in a higher position, or in a position equivalent thereto and majored in a field related to protection of technology or information;
 2. Current or former public officials of at least Grade IV or current or former workers of a public institution in a position equivalent thereto with experience in the affairs of prevention of divulgence of industrial technology;
 3. Executive officers of an enterprise conducting affairs to protect industrial technology or of an organization conducting a duty to protect industrial technology;
 4. Qualified judges, prosecutors, or attorneys-at-law.
- (4) The term of office for members shall be three years, but may be extended.
- (5) The chairperson shall be appointed by the Minister of Trade, Industry and Energy, from among the members. *<Amended by Act No. 8852, Feb. 29, 2008; Act No. 11690, Mar. 23, 2013>*
- (6) Meetings of the Mediation Committee shall be convened with a majority of the current members present, and resolutions shall be adopted by the affirmative vote of a majority of members in attendance. *<Newly Inserted by Act No. 13083, Jan. 28, 2015>*
- (7) A secretariat shall be established in the Association to assist the Mediation Committee in conducting its business affairs. *<Newly Inserted by Act. No. 14108, Mar. 29, 2016>*

(8) Other matters necessary for the composition and operation of the Mediation Committee shall be prescribed by Presidential Decree. <Newly Inserted by Act. No. 13083, Jan. 28, 2015; Act. No. 14108, Mar. 29, 2016>

Article 24 (Mediation Department)

- (1) The Mediation Committee shall establish a mediation department, comprised of not more than five members, to efficiently mediate disputes, and one of whom shall be a person qualified as attorney-at-law.
- (2) The Mediation Committee may, if necessary, entrust some of disputes to the mediation department under paragraph (1) for mediation.
- (3) Matters necessary for the composition and operation of the mediation department under paragraph (1) shall be determined by Presidential Decree.

Article 25 (Disqualification of, Challenge against, or Refrainment by Members)

- (1) In any of the following cases, a member shall be barred from deliberating and resolving on a case in which a request for mediation of a dispute is filed (hereinafter referred to as the "case"): <Amended by Act No. 16476, Aug. 20, 2019>
 1. Where the member or the spouse or former spouse of the member is a party to the case concerned or is a joint interest holder or obligor in the case;
 2. Where the member is in or has been in a kinship relationship with a party to the case;
 3. Where the member has given testimony or has made an appraisal in connection with the case;
 4. Where the member is or has been involved in the case as an attorney, executive officer, or employee of a party to the case.
- (2) If a party has a ground to believe that it is impractical to expect impartiality from a member in deliberation and resolution, the party may file a challenge against the member with the Mediation Committee. In such cases, the Mediation Committee shall decide to accept the challenge if it finds that the challenge is reasonable.
- (3) If a member is to be disqualified under paragraph (1) or (2), he or she may voluntarily refrain from participating in deliberating and resolving on the case.

Article 26 (Mediation of Disputes)

- (1) Any person that desires the mediation of a dispute related to divulgence of industrial technology may apply for mediation of such dispute by submitting a written application for mediation to the Mediation Committee, stating the purpose of and ground for the application therein.
- (2) When receiving an application for dispute mediation under paragraph (1), the Mediation Committee shall examine the application and prepare a mediation proposal within three months from the date on which it receives the application: Provided, That where an unavoidable circumstance exists, such period may be extended by a month, up to three times, by the resolution of the Mediation Committee, and in such

cases, the extended period and reasons thereof shall be notified to the parties to the case. *<Amended by Act No. 14591, Mar. 14, 2017>*

(3) Where the period under paragraph (2) elapses, mediation shall be deemed to have failed.

(4) Where mediation is applied for, the respondent shall respond to the mediation in good faith. *<Newly Inserted by Act No. 14591, Mar. 14, 2017>*

Article 27 (Requests for Materials)

(1) The Mediation Committee may request materials necessary for dispute mediation from the parties to the dispute. In such cases, the parties to the dispute shall comply with such request, unless there is a good reason not to do so.

(2) The Mediation Committee may, when deemed necessary, summon the parties to a dispute or witnesses to appear before the Mediation Committee to listen to their opinions.

(3) When the Mediation Committee requests materials pursuant to paragraph (1) and listens to the statement of opinions pursuant to paragraph (2), it shall not make such materials and statement of opinions available to the public and shall maintain the confidentiality for materials submitted and opinions heard.

Article 28 (Effect of Mediation)

(1) The Mediation Committee shall, when it completes preparation of a mediation proposal pursuant to Article 26 (2), present it to each party to the dispute without delay.

(2) Any party to a dispute that is presented with a mediation proposal pursuant to paragraph (1) shall notify the Mediation Committee of his or her acceptance or non-acceptance of the mediation proposal within 15 days from the date on which he or she is presented with the mediation proposal.

(3) When a party to a dispute accepts a mediation proposal, the Mediation Committee shall immediately prepare a mediation protocol, to which the chairperson and each party shall either affix their names and seals or signatures. *<Amended by Act. No. 14108, Mar. 29, 2016>*

(4) Where a party to a dispute accepts the mediation proposal and affixes his or her name and seal or signature on the mediation protocol pursuant to paragraph (3), the mediation protocol shall have the same effect as that of judicial compromise. *<Amended by Act. No. 14108, Mar. 29, 2016>*

Article 29 (Refusal and Suspension of Mediation)

(1) When the Mediation Committee deems a dispute inappropriate to be mediated by the Mediation Committee due to its nature or when a party to a dispute is deemed to have filed an application for mediation for an undue purpose, it may refuse to perform the mediation concerned. In such cases, it shall notify the applicant of the ground therefor, etc.

(2) The Mediation Committee shall, when one party institutes a litigation to a court while it proceeds to handle a mediation case applied for, suspend the proceeding of such mediation and notify the parties concerned of such fact.

Article 30 (Mediation Procedures)

Necessary matters concerning the methods and procedures for mediation of disputes, handling of mediation affairs, etc. shall be determined by Presidential Decree.

Article 31 (Statutes Applicable Mutatis Mutandis)

Except as provided in this Act, the provisions of the Judicial Conciliation of Civil Disputes Act shall apply mutatis mutandis to the mediation of disputes over divulgence of industrial technology, unless it is against the nature of the Judicial Conciliation of Civil Disputes Act.

Article 32 (Fees)

(1) Any person that applies to the Mediation Committee for the mediation of a dispute over divulgence of industrial technology pursuant to Article 26 (1) shall pay a fee as prescribed by Presidential Decree.

(2) Necessary matters concerning the amount of fees, and methods of, and procedures for, collection of fees under paragraph (1) shall be determined by Ordinance of the Ministry of Trade, Industry and Energy.

<Amended by Act No. 8852, Feb. 29, 2008; Act No. 11690, Mar. 23, 2013>

Article 33 (Delegation and Entrustment of Authority)

The Minister of Trade, Industry and Energy may delegate or entrust part of his or her authority under this Act to the heads of line agencies or the heads of agencies under his or her jurisdiction or the heads of relevant central governmental administrative agencies or the heads of relevant specialized institutions as prescribed by Presidential Decree. *<Amended by Act No. 8852, Feb. 29, 2008; Act No. 11690, Mar. 23, 2013>*

Article 34 (Duty of Confidentiality)

None of the following persons shall divulge or misappropriate any secret he or she has learned in the course conducting his or her duties: *<Amended by Act No. 8852, Feb. 29, 2008; Act No. 10962, Jul. 25, 2011; Act No. 11690, Mar. 23, 2013; Act No. 13083, Jan. 28, 2015; Act No. 16476, Aug. 20, 2019>*

1. Any executive officer or employee of an institution possessing industrial technology (including professors, researchers, and students);
2. Any person who designates national core technology or changes or cancels such designation pursuant to Article 9, or performs any duty to provide support for the protection, management, etc. of national core technology pursuant to Article 16;
3. Any person who performs review, prior review, or investigation for matters on export, acquisition, merger, etc. of national core technology, etc. pursuant to Articles 11 and 11-2;
- 3-2. Any foreigner who intends to perform cross-border acquisition, merger, etc. under Article 11-2 (3) and (6) and executive officers and employees of such foreigner;

4. Any person who receives reports on, and prevents, an act of infringement pursuant to Article 15;
5. Any person engaged in counselling or fact-finding surveys pursuant to Article 16 (4) 3;
6. Any person who conducts a fact-finding survey on the protection and management of industrial technology pursuant to Article 17 (1);
7. Any person who conducts research and development of industrial security technology as an employee of an industrial security technology development business entity pursuant to Article 20 (2);
8. Any person who mediates disputes over industrial technology pursuant to Article 23;
9. Any person who conducts business, exercising any of the authority delegated or entrusted by the Minister of Trade, Industry and Energy pursuant to Article 33;
10. Any person who obtains information on industrial technology in the course of performing his or her duties prescribed by Presidential Decree, such as requests for disclosing information under the Official Information Disclosure Act and litigation on industrial technology.

Article 35 (Legal Fiction as Public Officials for Purposes of Penalty Provisions)

Any person who performs the following duties shall be deemed a public official for the purposes of Articles 129 through 132 of the Criminal Act: *<Amended by Act No. 8852, Feb. 29, 2008; Act No. 10962, Jul. 25, 2011; Act No. 11690, Mar. 23, 2013; Act No. 13083, Jan. 28, 2015>*

1. Any person who designates national core technology or changes or cancels such designation pursuant to Article 9, or performs duties to provide support for the protection, management, etc. of national core technology pursuant to Article 16;
2. Any person who reviews or investigates matters on export, acquisition, merger, etc. of national core technology, etc. pursuant to Articles 11 and 11-2;
3. Any person who receives reports on, and prevents, an act of infringement pursuant to Article 15;
4. Any person who conducts a fact-finding survey on the protection and management of industrial technology pursuant to Article 17;
5. Any person who mediates disputes over industrial technology pursuant to Article 23;
6. Any person who performs duties, exercising part of the authority delegated or entrusted by the Minister of Trade, Industry and Energy pursuant to Article 33.

CHAPTER VI PENALTY PROVISIONS

Article 36 (Penalty Provisions)

(1) Any person who commits an offense under any of subparagraphs 1 through 3 of Article 14 with intent to use national core technology in a foreign country or to cause national core technology to be used in a foreign country shall be punished by imprisonment with labor for a limited term of not less than three years. In such cases, a fine not exceeding 1.5 billion won shall be concurrently imposed. *<Newly Inserted by Act No. 16476, Aug. 20, 2019>*

(2) Any person who commits an offense under any of the subparagraphs (excluding subparagraph 4) of Article 14 with intent to use industrial technology in a foreign country or to cause industrial technology to be used in a foreign country (excluding a person who commits an offense under paragraph (1)) shall be punished by imprisonment with labor for not more than 15 years or by a fine not exceeding 1.5 billion won. <Amended by Act No. 8900, Mar. 14, 2008; Act. No. 14108, Mar. 29, 2016; Act No. 16476, Aug. 20, 2019>

(3) Any person who commits an offense under any of the subparagraphs (excluding subparagraphs 4, 6, 6-2, and 8) of Article 14 shall be punished by imprisonment with labor for not more than 10 years or by a fine not exceeding one billion won. <Amended by Act No. 10962, Jul. 25, 2011; Act. No. 14108, Mar. 29, 2016; Act No. 16476, Aug. 20, 2019>

(4) Any person who commits an offense under subparagraph 4 or 8 of Article 14 shall be punished by imprisonment with labor for not more than three years or by a fine not exceeding 300 million won. <Amended by Act No. 16476, Aug. 20, 2019>

(5) The property that a person who committed an offense under any of paragraphs (1) through (4) acquired through such offense shall be confiscated: Provided, That if it is impracticable to confiscate the whole or part of such property, the value equivalent thereto shall be collected. <Amended by Act No. 16476, Aug. 20, 2019>

(6) Any person who divulges or misappropriates a secret, in violation of Article 34, shall be punished by imprisonment with labor for not more than five years or by the suspension of qualification for not more than 10 years or by a fine not exceeding 50 million won. <Amended by Act. No. 14108, Mar. 29, 2016; Act No. 16476, Aug. 20, 2019>

(7) Any person who attempted a crime under any of paragraphs (1) through (3) shall be punished. <Amended by Act No. 16476, Aug. 20, 2019>

(8) Imprisonment with labor and a fine under paragraphs (2) through (4) may be imposed concurrently. <Amended by Act No. 16476, Aug. 20, 2019>

Article 36-2 (Violation of Confidentiality Orders)

(1) Any person who violates a confidentiality order in or outside Korea, without good cause, shall be punished by imprisonment with labor for not more than five years or by a fine not exceeding 50 million won.

(2) No person shall be prosecuted for a crime under paragraph (1) without a criminal complaint filed by a person who applied for a confidentiality order.

Article 37 (Preparations and Conspiracies)

(1) Any person who makes preparations or conspires with intent to commit a crime under Article 36 (1) or (2) shall be punished by imprisonment with labor for not more than three years or by a fine not exceeding 30 million won. <Amended by Act No. 16476, Aug. 20, 2019>

(2) Any person who makes preparations or conspires with intent to commit a crime under Article 36 (3) shall be punished by imprisonment with labor for not more than two years or by a fine not exceeding 20 million won. <Amended by Act No. 16476, Aug. 20, 2019>

Article 38 (Joint Penalty Provisions)

Where the representative of a corporation or an agent or employee of, or any other person employed by, a corporation or an individual commits an offense under any of Article 36 (1) through (4) in connection with business of the corporation or the individual, the corporation or individual shall, in addition to punishing the offender accordingly, be punished by a fine prescribed in the relevant provision: Provided, That the same shall not apply where such corporation or individual has not been negligent in giving due attention and supervision concerning the relevant business affairs to prevent such offense. <Amended by Act No. 16476, Aug. 20, 2019>

Article 39 (Administrative Fines)

(1) Any of the following persons shall be subject to an administrative fine not exceeding 10 million won: <Amended by Act No. 9368, Jan. 30, 2009>

1. Any person who refuses, obstructs, or evades measures to protect national core technology, in violation of Article 10 (3);
2. Any person who fails to make a report on the infringement of industrial technology under Article 15 (1);
3. Any person who fails to submit relevant materials or has submitted false materials, in violation of Article 17 (2).

(2) Administrative fines under paragraph (1) shall be imposed and collected by the Minister of Trade, Industry and Energy, as prescribed by Presidential Decree. <Amended by Act No. 8852, Feb. 29, 2008; Act No. 11690, Mar. 23, 2013>

(3) through (5) Deleted. <by Act No. 9368, Jan. 30, 2009>

ADDENDUM

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

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

Article 1 (Enforcement Date)

This Act shall enter into force on the date of its promulgation: Provided, That ... <omitted> ... the amendments to the statutes to be amended pursuant to Article 6 of the Addenda, which were promulgated before this Act enters into force but the enforcement dates of which have yet to arrive, shall enter into force on the enforcement date of the relevant statute.

Articles 2 through 6 Omitted.

ADDENDUM <Act No. 8900, Mar. 14, 2008>

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

ADDENDUM <Act No. 9227, Dec. 26, 2008>

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

ADDENDUM <Act No. 9368, Jan. 30, 2009>

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

ADDENDA <Act No. 10962, Jul. 25, 2011>

(1) (Enforcement Date) This Act shall enter into force six months after the date of its promulgation.

(2) (Transitional Measures concerning Previous Master Plans) A master plan concerning preventing divulgence of, and protecting, industrial technology which has been established by the previous provisions as at the time this Act enters into force shall be deemed a comprehensive plan concerning preventing divulgence of, and protecting, industrial technology which has been established in accordance with this Act.

(3) (Transitional Measures concerning Previous Improvement Recommendations) An improvement recommendation issued by the Industrial Technology Protection Committee in accordance with the previous provisions as at the time this Act enters into force shall be deemed an improvement recommendation issued by the Minister of Trade, Industry and Energy pursuant to this Act. <Amended by Act No. 11690, Mar. 23, 2013>

ADDENDA <Act No. 11690, Mar. 23, 2013>

Article 1 (Enforcement Date)

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

(2) Omitted.

Articles 2 through 7 Omitted.

ADDENDA <Act No. 13082, Jan. 28, 2015>

Article 1 (Enforcement Date)

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

Articles 2 and 3 Omitted.

ADDENDA <Act No. 13083, Jan. 28, 2015>

Article 1 (Enforcement Date)

This Act shall enter into force three months after the date of its promulgation: Provided, That the amended provisions of subparagraph 4 of Article 2, Article 5 (4), and Article 23 (6) shall enter into force on the date of its promulgation.

Article 2 (Transitional Measures concerning Change of Affiliation of the Industrial Technology Protection Committee)

(1) The Industrial Technology Protection Committee under the previous provisions of Article 7 (1) as at the time this Act enters into force shall be deemed the Industrial Technology Protection Committee under the amended provisions of Article 7 (1).

(2) Members of the Industrial Technology Protection Committee appointed under the previous provisions of Article 7 (3) 3 as at the time this Act enters into force shall be deemed members of the Industrial Technology Protection Committee appointed under the amended provisions of Article 7 (3) 3. In such cases, the term of office shall be the remaining period.

ADDENDUM <Act No. 14108, Mar. 29, 2016>

This Act shall enter into force three months after the date of its promulgation: Provided, That the amended provisions of Article 28 (3) shall enter into force on the date of its promulgation.

ADDENDUM <Act No. 14591, Mar. 14, 2017>

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

ADDENDA <Act No. 16476, Aug. 20, 2019>

Article 1 (Enforcement Date)

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

Article 2 (Applicability to Compensation for Damage)

The amended provisions of Article 22-2 shall begin to apply to the first lawsuit seeking compensation for damage caused by divulgence of, or an act of infringement of, industrial technology, which is filed after this Act enters into force.

Last updated : 2020-08-13

