

Decree of the Ministry of Commerce of the People's Republic of China

[2009] No. 3

In accordance with the *Regulations of the People's Republic of China on Administration of Import and Export of Technologies*, the revised *Measures for the Administration of Technology Import and Export Contracts Registration* is hereby promulgated, which shall take effect 30 days thereafter, and the *Measures for the Administration of Technology Import and Export Contracts Registration* (the former Decree No. 17, 2001 of the Ministry of Foreign Trade and Economic Cooperation) is abolished at the same time.

Minister Chen Deming
1 February 2009

Degree No. 3 [2009] of the Ministry of Commerce of the People's Republic of China Concerning the Measures of the Administration of Technology Import and Export Contracts Registration

Article 1 For the purpose of regulating the administration of import and export technologies, establishing the information management system of import and export of technologies and promoting the development of import and export of Chinese technologies, these Measures is specially formulated in accordance with the *Regulations of the People's Republic of China on Administration of Import and Export of Technologies*,.

Article 2 Technology import and export contracts include the contracts on assignment of patent, assignment of patent application right, patent licensing, technical secret permission, technical service and other contracts with the content of technology import and export.

Article 3 The competent commercial authorities shall be the administrations for the registration of technology import and export contracts.

Free import and export technology contracts shall take effect as of the establishment according to law.

Article 4 The Ministry of Commerce shall be responsible for the administration of registration of technology import contracts under the approved or examined and approved projects by the State Council or the competent investment authorities of the State Council under the *Category of the Approved Investment Projects by the Government* and the government investment projects.

Article 5 The competent commercial authorities of provinces, autonomous regions, municipalities directly under the Central Government and separately planning cities shall be responsible for the administration of registration of other free import and export technology contracts other than those provided for in Article 4 herein. For the free import and export technology contracts of the enterprises

administered by the Central Government, the registration shall be handled with the competent commercial authorities of provinces, autonomous regions, municipalities directly under the Central Government and separately planning cities according to the territorial principle.

The competent commercial authorities of provinces, autonomous regions, municipalities directly under the Central Government and separately planning cities shall authorize the inferior competent commercial authorities to conduct administration of registration of free import and export technology contracts.

Article 6 The operators of import and export of technologies shall go through contracts registration within 60 days upon the effectiveness of the contracts, exclusive of the contracts with royalty payment.

Article 7 For the contracts with royalty payment, the operators of import and export of technologies shall go through contracts registration within 60 days after the formation of the first base royalty and thereafter go through the procedures for contracts alteration after the formation of every base royalty.

Article 8 The state shall conduct the administration of online registration of free import and export technology contracts. The operators of import and export of technologies shall have access to the "information management system of technology import and export contracts" on the official website of the Ministry of Commerce (website: jsjckqy.fwmys.mofcom.gov.cn) to conduct contracts registration and then go through the procedures of registration with the competent commercial authorities by holding the application for registration of technology import (export) contract, the copy of the technology import (export) contract (including Chinese version) and documents supporting the legal status of the parties to the contracts. The competent commercial authorities shall check the content of contract registration within 3 working days upon receipt of the above-mentioned documents and grant the certificate of registration of technology import or the certificate of registration of technology export to the operators of technology import and export.

Article 9 For those application documents that fail to meet the requirements of provisions of Article 18 and Article 40 of the *Regulations of the People's Republic of China on Administration of Import and Export of Technologies* or the registration record is not in line with the content of the contract, the competent commercial authorities shall notify the operators of technology import and export to make corrections and rectification within 3 working days upon receipt of application documents and check the content of contract registration within 3 working days on receipt of corrected and rectified application documents and grant the certificate of registration of technology import or the certificate of registration of technology export.

Article 10 The major contents of free import and export technology contracts registration are as follows:

1. Contract number
2. Contract name
3. Technology supplier
4. Technology recipient
5. Technology user

6. Contract overview

7. Contract amount

8. Terms of payment

9. Effective term of contract

Article 11 The state shall conduct administration of standard code on free import and export technology contract number. The operators of technology import and export shall obey the following rules while preparing technology import and export contract number:

1. The total length of contract number shall be 17 digits.

2. The first 9 digits shall be fixed numbers: the first 1 and the 2nd digits stands for the year of preparation of contract (the last two number of the year), the 3rd and the 4th digits stands for import or export country or region (Guo Biao two-digit code), the 5th and the 6th digits stands for the region where the enterprise concerned is located or domiciled (Guo Biao two-digit code), the 7th digit stands for technology import and export contract identification (Y for import, E for export), the 8th and the 9th digits stands for classification of industries of import and export technology (Guo Biao two-digit code). The last 8 digits are for the enterprise to define at its discretion. For example, 01USBJE01CNTIC001.

Article 12 For the registered free import and export technology contracts that need to alter the content of contract registration provided for in Article 10 of these Measures, the operators of technology import and export shall go through the procedures of contract alteration.

The operators of technology import and export shall have access to the "information management system of technology import and export contract" while handling the procedures of contract alteration, fill in the record form of contract data alteration and go through the procedures at the competent commercial authorities by holding the agreement of contract alteration and the record form of contract data alteration. The competent commercial authorities shall handle the procedures of contract alteration within 3 days upon receipt of complete application materials of alteration.

For those who handle the procedures of alteration according to Article 7 of these Measures, they shall handle with application of alteration and the record form of contract data alteration.

Article 13 For the registered free import and export technology contracts that are suspended or removed for some reasons in the process of implementation, the operators of technology import and export contract shall hold the certificate of registration of technology import or export and other materials and go to the competent commercial authorities for filing in a timely manner.

Article 14 For the loss of the certificate of registration of technology import or export contract, the operators of import and export shall make the public loss report and handle the procedure of reissue at the competent commercial authorities by producing the certification of loss report, reissuance application and certifications of related departments.

Article 15 The competent commercial authorities at all levels shall strengthen the administration of the administrative departments of registration of technology import and export contracts and personnel, establish and perfect the post responsibility system of contract registration and intensify professional training and appraisal.

Article 16 For the technology import contracts serving as capital contribution and appendix to the articles of association of joint ventures while establishing Sino-foreign equity joint venture, Chinese-foreign cooperative joint ventures and wholly foreign-owned enterprises, the related procedures shall be handled according to the provisions of the relevant laws concerning foreign-invested enterprises.

Article 17 The Ministry of Commerce shall be responsible for conducting statistics of the technology import and export situations of the country and regularly issue statistics data. The competent commercial authorities at all levels shall be responsible for conducting statistics of the technology import and export situations in their own administrative divisions.

Article 18 These Measures shall take effect 30 days after their promulgation. The *Measures for Administration of Technology Import and Export Contracts Registration* (the Degree No. 17 [2001] of the Ministry of Foreign Trade and Economic Cooperation) that became effect on January 1, 2002 is abolished at the same time.