

# ORDER OF THE PRESIDENT OF THE PEOPLE'S REPUBLIC OF CHINA

No. 68

The Law of the People's Republic of China on Promoting the Transformation of Scientific and Technological Achievements, adopted at the 19th Meeting of the Standing Committee of the Eighth National People's Congress of the People's Republic of China on May 15, 1996, is hereby promulgated and shall enter into force as of October 1, 1996.

Jiang Zemin  
President of the People's Republic of China  
May 15, 1996

## Law of the People's Republic of China on Promoting the Transformation of Scientific and Technological Achievements

### CHAPTER I GENERAL PROVISIONS

Article 1 This law is enacted for the purpose of promoting the transformation of scientific and technological achievements into real productive forces, standardizing such transformation, hastening scientific and technological progress and facilitating economic and social development.

Article 2 The phrase "transformation of scientific and technological achievements" as used in this Law means the entire process of the follow-up tests, development, application and widespread use of the applicable scientific and technological achievements, made as a result of scientific research and technological development, through to the final creation of new products, new techniques, new materials and new industries -- all for the purpose of enhancing the productive forces.

Article 3 Transformation of scientific and technological achievements shall be instrumental to increasing economic and social results and protecting the environment and natural resources, as well as to promoting economic and social development and strengthening national defense. In transforming scientific and technological achievements, the persons concerned shall abide by the principles of voluntariness, mutual benefit, fairness and good faith and shall, in accordance with law or contractual agreement, enjoy interests and bear risks. Intellectual property involved in transformation of scientific and technological achievements shall be protected by law.

In transformation of scientific and technological achievements, laws shall be observed and State interests safeguarded, and no public interests shall be damaged.

Article 4 The administrative department for science and technology, the planning department, the administrative department for comprehensive economic and trade affairs and other relevant administrative departments under the State Council shall, within their functions and responsibilities as prescribed by the State Council, administer, guide and coordinate efforts for the transformation of scientific and technological achievements.

The local people's governments at various levels shall be responsible for administering, guiding and coordinating efforts for the transformation of scientific and technological achievements within their respective administrative regions.

## **CHAPTER II ARRANGEMENTS FOR IMPLEMENTATION**

Article 5 The State Council and the local people's governments at various levels shall incorporate the transformation of scientific and technological achievements in their notional economic and social development plans and make arrangements and coordinate efforts for the transformation of scientific and technological achievements.

Article 6 The relevant departments under the State Council and the people's governments of provinces, autonomous regions and municipalities directly under the Central Government shall, at regular intervals, publish catalogues of scientific and technological achievements and handbooks of major projects for transformation of scientific and technological achievements and shall give first priority and assistance to the following:

- (1) projects that will noticeably help raise the industrial and technical level and increase economic results;
- (2) projects of an industrial scale that can compete among the economies of the world;
- (3) projects that can help rationally develop and utilize the natural resources, conserve energy, reduce material consumption and prevent and control environmental pollution;
- (4) projects that can facilitate high-yield, high-quality and high-efficiency farming and promote economic development in the countryside; and
- (5) projects that can help accelerate the social and economic development in areas inhabited by minority nationalities and outlying and poverty-stricken areas.

Article 7 The State, by adopting appropriate policies and measures, promotes and encourages the use of advanced technology, techniques and equipment and continued improvement, restricted use and elimination of backward technology, techniques and equipment.

Article 8 When making arrangements for transformation of major scientific and technological achievements, the people's governments at various levels may have relevant departments to arrange for the transformation through public bidding. These departments shall provide the successful tender with the funds and other conditions that they decided to offer when making the bidding.

Article 9 Holders of scientific and technological achievements may have their achievements transformed in the following ways:

- (1) investing in the transformation themselves;
- (2) transferring their achievements to another;
- (3) allowing another to use their achievements;
- (4) working together with another for the transformation with their achievements as the conditions for cooperation; and

(5) investing with their achievements as trade-in, as converted shares or as proportions of contribution to the investment.

Article 10 An enterprise may, for the purpose of adopting new technology, new techniques and new materials and manufacturing new products, publish information on its own or entrust an intermediate institution engaged in trade of technology to solicit the scientific and technological achievements that it needs or to find collaborators for the transformation of scientific and technological achievements.

Article 11 An enterprise shall, according to law, have the right to conduct transformation of scientific and technological achievements independently or jointly with domestic or foreign enterprises or institutions or other collaborators.

An enterprise may, through fair competition, undertake the projects, arranged by the government, for scientific and technological research and development or for the transformation of scientific and technological achievements independently or jointly with another.

Article 12 The State encourages research and development institutions, colleges and universities and other institutions to join efforts with manufacturers for the transformation of scientific and technological achievements.

Research and development institutions, colleges and universities and other institutions may participate in the bidding or tendering conducted by relevant departments of the government or enterprises for transformation of scientific and technological achievements.

Article 13 The State encourages agricultural research institutions and agricultural experiment and demonstration stations to transform scientific and technological achievements independently or in cooperation with another.

Agricultural research institutions may, for the purpose of advancing the transformation of their scientific and technological achievements and in accordance with law, deal in the fine strains which they breed through their own research or in cooperation with another and which are approved after examination.

Article 14 With regard to scientific and technological achievements worth applying that are made by persons while holding positions in the research and development institutions set up by the State or in colleges and universities, if the units concerned fail to make timely transformation of the achievements, the persons who made the achievements and the participants may, on condition that ownership of the achievements remains unchanged and in accordance with the agreement they reached with the units they belong to, transform the achievements, and they shall enjoy the rights and interests as stipulated in the agreement. And the units concerned should assist in the transformation of the scientific and technological achievements mentioned above.

Persons who made the scientific and technological achievements or leading members of a research project may not obstruct transformation of the scientific and technological achievements they made while holding positions in the units or take into their own possession

such achievements or thus encroach upon the lawful rights and interests of the units they belong to.

Article 15 Units that made scientific and technological achievements, units that conduct transformation of the achievements and units that invest in such transformation shall sign a contract if they intend to cooperate in the follow-up tests, development and application of the achievements as well as their putting into production and operation, in which to stipulate the rights to be enjoyed and the risks to be borne by each party.

Article 16 In testing and evaluating scientific and technological achievements in the course of their transformation, the principles of impartiality and objectiveness shall be adhered to; it is not allowed to provide false testing results or evaluation certificates.

When research and development institutions that are set up by the State, colleges and universities or State-owned enterprises work together with enterprises, other organizations or individuals from outside China in transforming scientific and technological achievements, they must evaluate the achievements in accordance with relevant regulations of the State. Where State secrets are involved in transforming scientific and technological achievements with the cooperation of other countries, prior approval must be obtained through the procedures stipulated by law.

Article 17 In places or agencies set up according to law for the exchange of technology, the following activities to promote transformation of scientific and technological achievements may be conducted:

- (1) introducing or recommending scientific and technological achievements that are advanced, matured and applicable;
- (2) providing economic, technological, environmental and other information needed for transformation of scientific and technological achievements;
- (3) trading in technologies; and
- (4) providing other advisory services for transformation of scientific and technological achievements.

Article 18 Intermediate institutions acting as agent or intermediaries or providing other paid services in the exchange of technologies must obtain business licenses as required by relevant State regulations. Brokers of these institutions must have qualification certificates as required by relevant State regulations.

Article 19 The State encourages enterprises and institutions and economic cooperative organizations engaged in scientific and technological activities in the countryside to conduct intermediate and industrial experiments, agricultural experiments and demonstrations and other technological innovations and to provide technical services.

The following activities may be engaged in the bases for conducting intermediate and industrial experiments, agricultural experiments and demonstrations for the purpose of transforming scientific and technological achievements and in other institutions that are engaged in technical innovations or provide technical services:

- (1) conducting intermediate and industrial experiments with regard to new products and new

techniques;

(2) engaging in ancillary development and technical innovation for the systematization and engineering of scientific and technological achievements in different areas or trades to serve the community;

(3) providing technology or technical services to small and medium-sized enterprises, township enterprises, and economic cooperative organizations engaged in scientific and technological activities in the countryside; and

(4) providing all-round services in support of transforming high-technology achievements and establishing enterprises for the transformation.

Capital construction of the bases and institutions mentioned in the preceding paragraph shall have to be approved by the relevant department under the State Council and the people's governments of provinces, autonomous regions and municipalities directly under the Central Government and shall be included in the relevant plans of the State or the local authorities.

Article 20 Trial products from the transformation of scientific and technological achievements may be provided for test marketing within the verified period for trial sale, in accordance with State regulations governing products for trial sale and after approval by the relevant department. Trial manufacturing and test marketing of the products mentioned above shall meet the technical, quality, safety, health and other standards prescribed by the State.

### **CHAPTER III GUARANTEE MEASURES**

Article 21 Of the funds the government allocates to scientific and technological undertakings, to investment in fixed assets and to technological updating, a certain proportion shall be used for transforming scientific and technological achievements.

This proportion of government funds shall be chiefly used as initiation funds, discount loans, subsidy funds, risk investment and other funds for promoting transformation of scientific and technological achievements.

Article 22 The State adopts a preferential tax policy regarding transformation of scientific and technological achievements. Specific measures shall be formulated by the State Council.

Article 23 State banking institutions shall support transformation of scientific and technological achievements in matters of loans and gradually increase the amount of loans extended for such transformation.

Article 24 The State encourages establishment of funds or risk funds for transformation of scientific and technological achievements, such funds shall be raised by the State, local authorities, enterprises, institutions and other organizations and individuals and shall be used to aid transformation of such scientific and technological achievements as need substantial investment, involve considerable risks and promise high yields and to accelerate the application of major scientific and technological achievements in industrial production.

Funds and risk funds for transformation of scientific and technological achievements shall be established and used in accordance with relevant regulations of the State.

Article 25 The State promotes the establishment and expansion of scientific and technological information networks and the establishment of a data bank of scientific and technological achievements, both of which shall provide information services regarding such achievements throughout the country.

#### **CHAPTER IV TECHNOLOGICAL RIGHTS AND INTERESTS**

Article 26 When a unit that made scientific and technological achievements and another unit join efforts to transform the achievements, the ownership of rights and interests related to the achievements shall be stipulated in a contract in accordance with law. What is not stipulated in the contract shall be handled according to the following principles:

- (1) Where no invention or creation ensues from transformation of a scientific or technological achievement, the rights and interests related to the scientific or technological achievement shall belong to the unit that made the achievement;
- (2) Where inventions or creations ensue from collaborated transformation of a scientific or technological achievement, the rights and interests related to the inventions or creations shall belong to both parties in collaboration; and
- (3) As to the scientific and technological achievements made through collaborated transformation, both parties shall have the right to put into practice the achievements thus made; consent shall have to be obtained from both parties in collaboration for transfer of the said achievements.

Article 27 When a unit, that made scientific and technological achievements, and another unit collaborate to transform the achievements, both parties shall reach an agreement on protection of the technical know-how; the parties may not, running counter to the agreement or the request of the obligee for keeping the technical know-how, disclose or let another use the technical know-how.

Agencies of technological exchange and intermediate institutions shall be obligated to keep secret the technical know-how of the parties concerned, which they come to know while serving as an agent or an intermediary.

Article 28 Enterprises and institutions shall establish a system for protection of the technical know-how and keep improving it, in order to guard the technical know-how of their own. Employees shall adhere to the system of their own units for protection of the technical know-how.

Enterprises and institutions may sign an agreement on protection of their technical know-how with the employees who participate in the transformation of scientific and technological achievements during the period when they remain in employment or within a specified period of time after they leave office or retire; the said employees may not, in violation of what is agreed on, disclose the technical know-how of their own units or engage in transforming the same scientific or technological achievement as that of their own units.

No employees may transfer, without authorization, the scientific or technological achievements they made while holding positions in their units or do so in disguised form.

Article 29 When transferring a scientific or technological achievement made by employees while holding positions in a unit, the unit shall take not less than 20 percent of the net income, obtained from transfer of the achievement, to award persons who made important contributions to the scientific or technological achievement or to its transformation.

Article 30 If a scientific or technological achievement, that is made through the independent research and development of an enterprise or institution or through research and development of the enterprise or institution with the collaboration of another unit, is transformed successfully and is adopted in production, the unit or units shall take, for three to five years running, not less than five percent of the added profits from adoption of the achievement, that they are entitled to retain, to award persons who made important contributions to the scientific or technological achievement or to its transformation.

In respect of the remunerations or rewards given to persons who made important contributions to research and development of scientific and technological achievements or their transformation, joint stock enterprises may convert them into shares or proportions of contribution to investment in accordance with relevant regulations of the State. The persons, as shareholders, shall draw proceeds on the strength of the shares they hold or their proportions of contribution to investment.

Article 31 Anyone who, in violation of the provisions of this Law, resorts to deception in transformation of scientific or technological achievements and thus gets an award or honorary title, fraudulent money or illegal profits, shall be ordered to put it right, the award and honorary title shall be annulled, the illegal gains confiscated, and a fine also imposed on him. If he causes economic losses to another, he shall bear civil liability for compensation in accordance with law. If a crime is constituted, criminal responsibility shall be investigated according to law.

Article 32 Anyone who, in violation of the provisions of this Law, deliberately provides a false testing result or evaluation certificate after testing or evaluating a scientific or technological achievement shall be ordered to put it right and given a disciplinary warning, his illegal gains shall be confiscated, and the institution that arranged for the testing and the evaluation institution shall each be imposed with a fine. If the case is serious, the business license and qualification certificate shall be revoked. If economic losses are caused to another, civil liability for compensation shall be borne in accordance with law.

Article 33 Employees of administrative departments for science and technology and other relevant departments of the people's governments at various levels who neglect their duties or practise irregularities for personal gain shall be given administrative sanctions; if the case constitutes a crime, criminal responsibility shall be investigated in accordance with law.

Article 34 Whoever, in violation of the provisions of this Law, usurps another's scientific or

technological achievement by means of instigation, luring or coercion and thus encroaches upon the rights and interests of that person shall bear civil liability for compensation in accordance with law and may be imposed with a fine. If the case constitutes a crime, criminal responsibility shall be investigated in accordance with law.

Article 35 If, in violation of the provisions of this Law, an employee who, without permission of his unit, discloses the technical know-how of the unit or, without authorization, transfers or does so in disguised form the scientific or technological achievement made while holding a position in the unit, or if a person who took part in the transformation of a scientific or technological achievement, running counter to the agreement reached with his unit, engages in transforming the same scientific or technological achievement as that of his unit during the agreed period of time after leaving office or retiring shall bear legal responsibility in accordance with relevant regulations.

Article 36 If in the exchange of technologies the intermediate institution that serves as an agent or provides intermediary services or the broker deceives the client or colludes with one party to deceive another party, it or he shall be ordered to put it right, given a disciplinary warning and, in addition to bearing civil liability for compensation in accordance with law, the illegal gains shall be confiscated and a fine imposed. If the case is serious, the business license and qualification certificate shall be revoked in accordance with law. If the case constitutes a crime, criminal responsibility shall be investigated in accordance with law.

Article 37 This Law shall be put into force as of October 1, 1996.