

DECREE

Detailing and guiding the implementation of a number of articles of the Law on Science and Technology¹

Pursuant to the December 25, 2001 Law on Organization of the Government;

Pursuant to the June 18, 2013 Law on Science and Technology;

At the proposal of the Minister of Science and Technology,

The Government promulgates the Decree detailing and guiding the implementation of a number of articles of the Law on Science and Technology.

Chapter I

GENERAL PROVISIONS

Article 1. Scope of regulation

This Decree details and guides the implementation of Articles 11, 12, 15, 25, 30, 32, 41, 43 and 46, and a number of other necessary issues of the Law on Science and Technology concerning the establishment of science and technology organizations, representative offices and branches of science and technology organizations; independent assessment of science and technology organizations; order and procedures for identifying and approving special scientific and technological tasks; advisory councils for science and technology, and independent consultancy organizations and consultants; examination and evaluation in the process of performing scientific and technological tasks; appraisal of results of performance of scientific and technological tasks not funded by the state budget; and development of the science and technology market.

Article 2. Subjects of application

This Decree applies to organizations and individuals conducting science and technology activities and other organizations and individuals related to science and technology activities in Vietnam.

Article 3. Interpretation of terms

¹ Công Báo Nos 203-204 (14/02/2014)
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In this Decree, the terms and phrases below are construed as follows:

1. Public science and technology organization means a science and technology organization that is established and invested by a competent agency defined at Point a, b, c, d, dd, e or g, Clause 1, Article 12 of the Law on Science and Technology or by a political or socio-political organization.

2. Non-public science and technology organization means a science and technology organization established by a Vietnamese enterprise, individual or organization not mentioned in Clause 1 of this Article.

3. Foreign-invested science and technology organization means a science and technology organization established in Vietnam by a foreign organization or individual on its/his/her own or jointly with a Vietnamese organization or individual through capital contribution.

4. Scientific and technological theme means a scientific and technological task with the major content of exploring, discovering and inquiring into the nature and laws of natural and social objects or phenomena and thinking; or of inventing solutions for application to practice, including basic research theme, applied research theme, experimental development theme or combined basic research, applied research and experimental development.

5. Scientific project means a scientific and technological task aiming to determine theoretical and practical grounds to serve the formulation of mechanisms, policies and laws.

6. Trial production project means a scientific and technological task aiming to apply results of scientific research and experimental development to test solutions, methods and models of socio-economic management or organize trial production on a small scale in order to improve a new technology or new product before putting it into production or life.

7. Scientific and technological project means a scientific and technological task aiming to solve major scientific and technological problems to serve the production of a key product or a group of key products that has or have the effect of raising the technological level of a sector or field and has or have a great impact on the national socio-economic development, which is carried out in the form of a scientific and technological theme, a trial production project and a science and technology investment project with cohesively and synchronously integrated objectives and contents and implemented in a given period.

8. Scientific and technological program means a scientific and technological task with the general objective of solving scientific and technological problems to serve the development and application of science and technology in a medium or long term, which is implemented in the form of

a combination of scientific and technological themes, trial production projects and scientific and technological projects.

9. Potential scientific and technological task means a scientific and technological theme or a scientific and technological project focusing on studying and solving scientific and technological problems requiring high applicability and prospect of creating and developing a new research direction or a new product in a national priority or key field of science and technology.

10. Special scientific and technological task means a large-scale scientific and technological theme, scientific project, trial production project or scientific and technological project serving national defense or security, having great impacts on the productivity, quality and competitiveness of national products as considered and decided by the National Assembly or Prime Minister.

11. Protocol-based scientific and technological task means a scientific and technological theme or scientific and technological project to facilitate cooperation on the formulation, implementation organization and fund contribution between a Vietnamese science and technology organization and a foreign partner according to written agreements of competent Vietnamese and foreign agencies.

12. Function-based research task means a scientific and technological task aiming to ensure routine research activities of a science and technology organization, consistent with its functions and tasks defined in its organization and operation charter or a document of a competent agency defining the functions and tasks of the science and technology organization.

Chapter II

SCIENCE AND TECHNOLOGY ORGANIZATIONS

Article 4. Conditions for establishment of science and technology organizations

A science and technology organization may be established when all the following conditions are met:

1. Organization and operation charter

a/ The name of the science and technology organization includes the full name, international transaction name and abbreviated name (if any), written in the letters in the Vietnamese alphabet, possibly including the letters F, J, Z and W, numerals and symbols, and must be pronounceable. The full name includes the form of the science and technology organization and its proper name.

The name of the organization must be consistent with its major field of operation, must not be identical with that of another science and technology organization, must

historical, cultural, ethical and fine customs and practices, nor infringe upon intellectual property rights of organizations and individuals currently protected in Vietnam;

b/ The objectives and orientations of operation of a science and technology organization must not violate the provisions of Article 8 of the Law on Science and Technology and other relevant legal documents;

c/ Its head office has an address clearly identified with an administrative place name, telephone number, fax number and email address (if any);

d/ The representative;

dd/ The functions, tasks and powers of the science and technology organization conform with its objectives and orientations of operation;

e/ The field of operation is among the fields of scientific research, technological development, experimental development, trial production; production of and trading in products being results of scientific research and technological development; science and technology services.

For science and technology organizations established by individuals, their field of operation must comply with Clause 4, Article 20 of the Law on Science and Technology;

g/ The organizational structure, tasks and powers of the titles in the leadership apparatus and other units of the science and technology organization;

h/ The charter capital of the organization, including cash and other assets converted into monetary value; principles of increase and decrease of operational funds and other financial principles;

i/ Conditions, order and procedures for merger, division, splitting and dissolution (if any);

k/ Commitment to comply with the law.

2. Science and technology staff

a/ Each science and technology organization must have at least 5 (five) employees who possess a university or higher degree and work on a full-time or part-time basis, at least 30% of whom possess professional qualifications relevant to the registered major field of activity and at least 40% of whom work on a full-time basis.

If established to develop a new field of science and technology, a science and technology organization must have at least 1 (one) employee who possesses a university degree in the registered field of operation and works on a full-time basis;

b/ The head of a science and technology organization must possess a university or higher degree and have managerial experience and relevant professional competence.

Heads of science and technology organizations that are higher education institutions must meet the conditions prescribed by the law on higher education.

3. Physical and technical foundations

Having the right to own or use working offices, workshops, laboratories, machinery and equipment, intellectual assets and other physical and technical means to perform the functions and tasks of the science and technology organization.

4. Public science and technology organizations must also conform with the Prime Minister-approved master plan on the network of public science and technology organizations.

5. Foreign-invested science and technology organizations must also meet the requirements stated in Clause 3, Article 11 of the Law on Science and Technology.

6. The Ministry of Science and Technology shall specify Clauses 1, 2 and 3 of this Article.

Article 5. Competence to establish, merge, divide, split or dissolve science and technology organizations

1. Competent agencies, organizations or persons defined in Clause 1, Article 12 of the Law on Science and Technology may decide on or permit the establishment of science and technology organizations that meet all the conditions prescribed in Article 4 of this Decree.

2. Agencies, organizations or persons competent to establish science and technology organizations are competent to divide, split, dissolve or merge science and technology organizations they have established.

3. The competence to establish, divide, split, dissolve or merge science and technology organizations that are higher education institutions must comply with the law on higher education.

Article 6. Order and procedures for establishment of public science and technology organizations

1. A dossier of request for establishment of a public science and technology organization comprises a presentation report on the establishment, the establishment scheme, the draft establishment decision, and the draft organization and operation charter.

2. A dossier of request for establishment of a public science and technology organization must be made in 2 (two) sets and sent by post or directly to the competent agency prescribed in Clause 1, Article 12 of the Law on Science and Technology.

3. Within 5 working days after receiving the dossier prescribed in Clause 1 of this Article, the competent agency shall examine the validity of the dossier. If the dossier is invalid, it shall notify in writing the dossier-compiling agency thereof for modification and supplementation.

4. Within 30 days after receiving a complete and valid dossier, the following agencies shall give appraisal opinions:

a/ The Ministry of Science and Technology, with regard to central public science and technology organizations;

b/ Provincial-level Science and Technology Departments, with regard to other science and technology organizations.

5. In case the Ministry of Science and Technology establishes an attached science and technology organization, the Minister shall form an inter-sectoral council composed of scientists, managers and legal experts. Representatives of the Ministry of Science and Technology must account for no more than one-third of the total members of the council.

6. Within 15 working days after receiving the written appraisal, the competent agency shall consider and issue an establishment decision. If disapproving the establishment of a science and technology organization, it shall send a written notice clearly stating the reason to the organization or individual concerned.

7. The order and procedures for establishment of science and technology organizations being higher education institutions must comply with the law on higher education. The appraisal of the establishment of public higher education institutions must be participated by the Ministry of Science and Technology.

Article 7. Order and procedures for establishment of foreign-invested science and technology organizations and non-public science and technology organizations

1. A dossier of request for establishment of a foreign-invested science and technology organization comprises:

a/ A written request for establishment of a foreign-invested science and technology organization, made according to the form set by the Ministry of Science and Technology;

b/ The document certifying the legal status of the foreign organization;

c/ The judicial record of the head of the foreign-invested science and technology organization;

d/ The draft organization and operation charter;

dd/ The scheme on the establishment of the science and technology organization, including explanations on the necessity of the establishment; conformity with the science and technological development strategy and master plan and socio-economic development of Vietnam; objectives, content, field and scope of scientific and technological activities in Vietnam; scope of investment; projected science and technology human resources; and financial analysis (if any);

e/ Documents proving the satisfaction of the conditions prescribed in Article 4 of this Decree;

g/ The document of the provincial-level People's Committee of the locality where the organization intends to open its head office approving the location of the organization's head office;

h/ The audited financial statement or another document of equivalent validity of the latest fiscal year of the foreign organization or individual;

The foreign-language documents prescribed in this Clause must be translated into Vietnamese.

The documents prescribed at Points b, c and h of this Clause must be consularly legalized.

For a project to establish a science and technology organization in association with investment in the construction of works, the dossier must be enclosed with the investment project on the construction of works (the feasibility study report) as prescribed by the law on investment in work construction.

2. The order and procedures for establishment of a foreign-invested science and technology organization are as follows:

a/ The dossier, made in 2 (two) sets, must be sent directly or by post to the Ministry of Science and Technology;

b/ Within 5 working days after receiving the dossier prescribed in Clause 1 of this Article, the Ministry of Science and Technology shall examine its validity. If the dossier is invalid, it shall notify the organization or individual concerned for modification and supplementation.

If the dossier is valid, the Ministry of Science and Technology shall send the dossier to related ministries, branches and agencies for opinion;

c/ Within 15 working days after receiving the dossier of request for permission to establish a foreign-invested science and technology organization, related ministries, sectors and agencies shall give written opinions and take responsibility for contents according to their respective management functions;

d/ Within 45 days after receiving a complete and valid dossier, the Minister of Science and Technology shall decide to permit the establishment and approve the organization and operation charter of the foreign-invested science and technology organization, and send copies of the decision to the Ministry of Planning and Investment, the Ministry of Finance, the Ministry of Foreign Affairs, the Ministry of Public Security and the provincial-level People's Committee of the locality where the organization is approved to locate its head office;

dd/ In case of disapproval, the Ministry of Science and Technology shall send a written notice clearly stating the reason to the organization or individual concerned;

e/ Within 90 days after obtaining the establishment decision, the foreign-invested science and technology organization shall carry out its establishment.

3. Organizations or individuals may decide to establish their own non-public science and technology organizations. Non-public science and technology organizations that are higher education institutions shall be established in accordance with the law on higher education.

Article 8. Competence to grant registration certificates of scientific and technological activities

1. The Ministry of Science and Technology shall grant registration certificates of scientific and technological activities to science and technology organizations established by the agencies prescribed at Points a, b, c, d, dd and e, Clause 1, Article 12 of the Law on Science and Technology, and by central political organizations, socio-political organizations, social organizations or socio-professional organizations, to foreign-invested science and technology organizations, and to science and technology organizations that are higher education institutions.

2. Provincial-level Science and Technology Departments of localities where science and technology organizations locate their head offices shall grant registration certificates of scientific and technological activities to science and technology organizations other than those defined in Clause 1 of this Article.

3. Agencies competent to grant registration certificates of scientific and technological activities are competent to modify, supplement, terminate or

invalidate registration certificates of scientific and technological activities they have granted.

Article 9. Order and procedures for registration of scientific and technological activities

1. A dossier for registration of scientific and technological activities comprises:

a/ The written request for registration of scientific and technological activities;

b/ The establishment decision of the science and technology organization;

c/ The curriculum vitae of the head of the science and technology organization;

d/ The organization and operation charter already approved by the establishing agency, organization or individual;

dd/ Documents proving sufficient staff and technical and physical foundations as prescribed by law for scientific and technological activities, except science and technology organizations which have been appraised before establishment by competent agencies defined in Clauses 4 and 5, Article 6 of this Decree, or which are established with the permission of competent agencies defined at Point d, Clause 2, Article 7 of this Decree.

Registering organizations and individuals shall take responsibility before law for the declared contents in the dossiers prescribed in this Clause.

2. The order and procedures for registration of scientific and technological activities are as follows:

a/ The dossier for registration of scientific and technological activities shall be made in 2 (two) sets and sent by post or directly to the competent registration agency defined in Article 8 of this Decree;

b/ The agency competent to grant registration certificates for scientific and technological activities shall examine the dossier. If the dossier is incomplete under Clause 1 of this Article, within 5 working days after receiving the dossier, the agency competent to grant registration certificates for scientific and technological activities shall notify it to the organization or individual concerned for modification and supplementation;

c/ Within 15 working days after receiving a complete dossier as prescribed in Clause 1 of this Article, the competent agency shall grant a registration certificate of scientific and technological activities. If rejecting the dossier, the agency competent to grant registration certificates for scientific and

technological activities shall send a written notice clearly stating the reason to the organization or individual concerned.

3. The Minister of Science and Technology shall issue the form of registration certificate of scientific and technological activities and forms of documents of the dossier for registration of scientific and technological activities.

Article 10. Order and procedures for modification, supplementation or re-grant of registration certificates of scientific and technological activities

1. For modification and supplementation of registration certificates of scientific and technological activities, a dossier comprises:

- a/ The written request of the science and technology organization;
- b/ Documents related to the modification and supplementation;
- c/ The granted registration certificate of scientific and technological activities.

2. For the re-grant of registration certificates of scientific and technological activities, a dossier comprises:

- a/ The application made by the science and technology organization;
- b/ The certification of the police office, the receipt issued by the newspaper or broadcasting station for the publication of the announcement on the loss of the registration certificate of scientific and technological activities, or the granted registration certificate, for torn registration certificates.

3. A dossier of request for modification and supplementation or re-grant of a registration certificate for scientific and technological activities shall be made in 2 (two) sets and sent by post or directly to the competent registration agency defined in Article 8 of this Decree.

Within 10 working days after receiving a complete dossier prescribed in Clause 1 or 2 of this Article, the competent agency shall consider and grant a registration certificate of scientific and technological activities. In case of refusal, the agency competent to register scientific and technological activities shall send a written notice clearly stating the reason to the organization or individual concerned.

Article 11. Responsibility to register and report on scientific and technological activities

1. Within 60 days after its establishment, a science and technology organization shall register scientific and technological activities with a competent state agency defined in Article 8 of this Decree.

2. Science and technology organizations that fail to register scientific and technological activities under Clause 1 of this Article may not participate in performing scientific and technological tasks funded by the state budget and receive any investment and support from the State, and shall be handled in accordance with law.

3. Science and technology organizations shall report annually or at the request of a competent state management agency in charge of science and technology, on its activities under the guidance of the Ministry of Science and Technology.

Article 12. Suspension and cancellation of registration certificates of scientific and technological activities

1. A registration certificate of scientific and technological activities is suspended for up to 6 months in the following cases:

a/ Past 12 months from the date of receiving the registration certificate of scientific and technological activities, the science and technology organization fails to commence its operation;

b/ Ceasing operation for more than 12 consecutive months without a plausible reason;

c/ Failing to implement for 2 consecutive years the annual regime of reporting on the operation to the agency granting the registration certificate of scientific and technological activities;

d/ Failing to meet the conditions prescribed in Article 4 of this Decree for 12 consecutive months;

dd/ Failing to register the modification and supplementation or for re-grant of the registration certificate of scientific and technological activities within 12 months after making such modification and supplementation or losing the registration certificate.

2. A registration certificate of scientific and technological activities is cancelled in the following cases:

a/ The contents declared in the application dossier are falsified in order to be granted the registration certificate;

b/ Past the period of suspension of the registration certificate, the science and technology organization fails to implement remedial measures or is unable to remedy the problem at the request of a competent agency;

c/ Upon decision or request of a competent agency when the science and technology organization commits a violation in its operation.

3. The agencies competent to grant registration certificates of scientific and technological activities have the power to suspend or cancel such certificates and shall notify such in writing to the provincial-level People's Committees of the localities where the science and technology organizations locate their head offices, and notify on the websites of these agencies.

Article 13. Merger of science and technology organizations

1. One or more than one science and technology organization (below referred to as merged science and technology organizations) may be merged into another science and technology organization (below referred to as merging science and technology organization) by transferring all of its or their assets, rights, obligations and lawful interests to the merging science and technology organization while terminating its or their existence and having its name or their names deleted from the register.

2. Merger procedures

a/ The concerned science and technology organizations shall prepare the merger agreement and the draft organization and operation charter of the merging science and technology organization. The merger agreement must have major contents on the name and head office address of the merging science and technology organization; name and head office address of the merged one; procedures and conditions for merger; plan on use of employees; procedures, time limit and conditions for conversion of assets and capital contributions of the merged science and technology organization into those of the merging one; and time limit for the merger;

b/ Organizations or individuals that have established the concerned science and technology organizations shall adopt the merger agreement, the organization and operation charter of the merging science and technology organization and register for modification of the registration certificate of scientific and technological activities. In this case, the dossier for registration of scientific and technological activities must be enclosed with the merger agreement. The merger agreement must be sent to all creditors (if any) and notified to employees within 15 working days from the date of its adoption;

c/ After registering its scientific and technological activities, the merged science and technology organization shall terminate its existence; the merging science and technology organization shall enjoy the lawful rights and interests and take responsibility for unpaid debts, labor contracts and other asset liabilities of the merged one.

Article 14. Division of science and technology organizations

1. A science and technology organization may be divided into a number of science and technology organizations. The divided science and technology

organization shall terminate its operation and has its name deleted from the register after the new science and technology organizations are established and granted operation registration certificates.

2. Division procedures

The organization or individual establishing the science and technology organization to be divided shall adopt the division decision in accordance with this Decree and the organization and operation charter of the agency competent to establish the science and technology organization. The division decision must have major contents on the name and head office address of the divided science and technology organization; names of the science and technology organizations to be established; principles and procedures for division of assets of the science and technology organization; plan on use of employees; time limit and conditions for conversion of assets and capital contributions of the divided science and technology organization into those of the science and technology organizations to be established; principles of settlement of the obligations of the divided science and technology organization; and time limit for the division.

The division decision shall be sent to all creditors (if any) and notified to employees within 15 working days after it takes effect.

3. The divided science and technology organization shall terminate its operation after the new science and technology organizations register their scientific and technological activities. The new science and technology organizations shall take joint responsibility for unpaid debts (if any), labor contracts, recruitment decisions and other asset liabilities of the divided science and technology organization, or reach agreement with creditors (if any), clients and employees to allow one of these organizations to perform these obligations.

4. The science and technology organizations newly established from the division must meet all conditions and follow the order and procedures for establishment of science and technology organizations, and register their scientific and technological activities in accordance with this Decree. In this case, dossiers for registration of scientific and technological activities must be enclosed with the division decision.

Article 15. Splitting of science and technology organizations

1. A science and technology organization may be split by transferring part of assets of an existing science and technology organization (below referred to as splitting science and technology organization) to establish one or more than one new science and technology organization (below referred to as split science and technology organization); transferring some of the rights and

obligations of the splitting science and technology organization to the split one without terminating the existence of the splitting one.

2. Splitting procedures

The organization or individual establishing the science and technology organization to be split shall adopt the splitting decision in accordance with this Decree and the organization and operation charter of the science and technology organization. The splitting decision must have major contents on the name and head office address of the splitting science and technology organization; name of the science and technology organization to be established; plan on use of employees; value of assets and rights and obligations to be transferred from the splitting science and technology organization to the split one; and time limit for the splitting. The division decision shall be sent to all creditors (if any) and notified to employees within 15 working days after it takes effect.

3. The splitting and split science and technology organizations shall take joint responsibility for unpaid debts (if any), labor contracts, recruitment decisions and other asset liabilities of the splitting science and technology organization, unless otherwise agreed upon.

4. The science and technology organizations newly established from the splitting must meet all conditions and follow the order and procedures for establishment of science and technology organizations, and register their scientific and technological activities in accordance with this Decree. In this case, dossiers for registration of scientific and technological activities must be enclosed with the splitting decision.

Article 16. Dissolution of science and technology organizations

1. Dissolution of a science and technology organization is the termination of operation of that organization. A science and technology organization shall be dissolved in the following cases:

a/ No extension decision is issued at the expiration of the operation duration stated in the organization and operation charter of the science and technology organization;

b/ Upon decision of a competent agency, organization or person;

c/ Its registration certificate of scientific and technological activities is cancelled.

2. A science and technology organization may be dissolved only when it ensures payment of all debts and other asset liabilities.

3. Order and procedures for dissolution of science and technology organizations

a/ The organization or individual competent to establish a science and technology organization shall decide to dissolve that science and technology organization. The dissolution decision must have major contents on the name and head office address of the science and technology organization; reason for dissolution; time limit and procedures for liquidation of contracts and payment of debts (if any) of the science and technology organization; the time limit for debt payment and contract liquidation must not exceed 6 (six) months from the date the dissolution decision takes effect; plan for dealing with obligations arising from labor contracts or recruitment decisions; full name and signature of the at-law representative of the science and technology organization; the organization or individual establishing the science and technology organization shall organize liquidation of assets of the science and technology organization, unless the organization and operation charter of the science and technology organization provides the establishment of a separate liquidation unit;

b/ Within 10 working days after its issuance, the dissolution decision must be sent to the agency that has registered scientific and technological activities, creditors (if any), persons with related rights, obligations and interests, and employees of the science and technology organization, and be publicly displayed at the head office, branch and representative office of the science and technology organization. The dissolution decision sent to creditors must be enclosed with a notice of the debt settlement plan (if any). The notice must state the name and address of the creditor; debt amount, time limit, place and method of payment of the debt; and the method and time limit for settling creditor complaints.

The decision on dissolution of a science and technology organization must be published on at least one local print newspaper of the locality where its head office is located for 3 (three) consecutive issues, or on the website of the ministry or sector concerned or of the province where its head office is located;

c/ Within 10 working days after paying all debts of the science and technology organization, the at-law representative of the science and technology organization shall send a notice of the fulfillment of the obligations specified at Point b of this Clause and the registration certificate of scientific and technological activities to the agency registering scientific and technological activities. Within 10 working days after receiving a complete and valid dossier, the agency registering scientific and technological activities shall delete the name of the science and technology organization from the register of scientific and technological activities.

Article 17. Merger, division, splitting and dissolution of science and technology organizations being higher education institutions

The merger, division, splitting or dissolution of science and technology organizations being higher education institutions must comply with the law on higher education. The cases of division and splitting must also comply with Article 6 of this Decree on the order and procedures for appraisal for the establishment of new science and technology organizations.

Article 18. Establishment of attached science and technology organizations abroad

1. A Vietnamese science and technology organization that wishes to establish an attached science and technology organization abroad shall make a written request enclosed with documents proving the satisfaction of the following requirements:

a/ Having a project on establishment of an attached science and technology organization abroad;

b/ Fulfilling all financial obligations toward the State;

c/ Not violating any prohibitions prescribed in the Law on Science and Technology and other relevant laws;

d/ Complying with all regulations on cooperation and investment with foreign countries in the field of science and technology.

2. Within 30 days after receiving a written request and enclosed documents, the Ministry of Science and Technology shall issue a written notice of the satisfaction of the requirements prescribed in Clause 1 of this Article to a competent agency. The competence, order and procedures to permit establishment of attached science and technology organizations abroad must comply with the law on cooperation and investment with foreign countries in the field of science and technology.

3. Within 30 days after obtaining permission to establish an attached science and technology organization abroad, the science and technology organization prescribed in Clause 1 of this Article shall notify it to the Ministry of Science and Technology.

Article 19. Representative offices and branches of science and technology organizations

1. Representative office is a dependent unit of a science and technology organization, acting as authorized representative for the interests of the science and technology organization, and shall protect these interests.

2. Branch is a dependent unit of a science and technology organization, performing all or some of the functions of the science and technology organization, including the function of representation under authorization.

3. Representative offices and branches of science and technology organizations do not have the legal person status and may not set up their own representative offices or branches. The operation fields of representative offices and branches must conform with those of their science and technology organizations.

Article 20. Conditions for establishment and operation registration of representative offices and branches of domestic science and technology organizations

1. Conditions for establishment of representative offices and branches:

a/ The fields of operation of representative offices and branches must conform with those of their science and technology organization;

b/ The establishment of representative offices and branches is prescribed in the organization and operation charter of the science and technology organization;

c/ A representative office must have at least 2 (two) employees possessing a college or higher degree; a branch must have at least 3 (three) employees possessing a university or higher degree, at least of one whom must possess professional qualifications in the main field registered for operation. The head must possess a university or higher degree and work on a full-time basis at the representative office or branch;

d/ Representative offices and branches must have working offices like science and technology organizations as prescribed in this Decree.

2. Science and technology organizations shall register operation of their representative offices and branches at provincial-level Science and Technology Departments of localities where their representative offices or branches are located. A registration dossier must be made in 2 (two) sets, comprising:

a/ The written request for operation registration;

b/ The establishment decision of the representative office or branch;

c/ Resume of the head of the representative office or branch;

d/ Documents proving the personel and working office of the representative office or branch;

dd/ A copy (legally certified) of the registration certificate of scientific and technological activities of the science and technology organization.

3. Within 15 working days after receiving a complete and valid dossier, the provincial-level Science and Technology Department shall grant a certificate of operation of the representative office or branch. In case of refusal,

it shall issue a written reply clearly stating the reason to the organization or individual concerned. .

4. Within 15 working days after obtaining a certificate of operation of the representative office or branch, the science and technology organization prescribed in Clause 2 of this Article shall send a copy of the certificate to the agency that has granted its registration certificate.

5. The Ministry of Science and Technology shall provide specific guidance on documents in dossiers for registration of operation of representative offices and branches of science and technology organizations prescribed in Clause 2 of this Article, and issue the form of the certificate of operation of representative office or branch.

Article 21. Conditions, order and procedures for establishment of Vietnam-based representative offices and branches of foreign science and technology organizations

1. Foreign science and technology organizations may establish representative offices and branches in Vietnam when meeting the conditions prescribed in Clause 2, Article 15 of the Law on Science and Technology.

Representative offices and branches must meet all the conditions prescribed in Clause 1, Article 20 of this Decree.

2. A dossier of application for a license to establish a Vietnam-based representative office of a foreign science and technology organization comprises:

a/ The application for a license to establish a representative office, signed by a competent representative of the foreign science and technology organization;

b/ A copy of the operation registration certificate or a paper of equivalent validity of the foreign science and technology organization, certified by the agency competent to establish such organization. If the foreign science and technology organization has its operation duration stated in such operation registration certificate or paper, this duration must remain at least 1 year;

c/ Audited financial statement or other document of equivalent validity of the latest fiscal year of the science and technology organization;

d/ A copy of the organization and operation charter of the foreign science and technology organization;

dd/ The judicial record of the head of the representative office of the foreign science and technology organization;

e/ The written approval of the provincial-level People's Committee of the location of the working office of the representative office.

The papers prescribed at Points b, c, d and dd of this Clause must be translated into Vietnamese and consularly legalized.

3. A dossier of application for a license to establish a Vietnam-based branch of a foreign science and technology organization comprises:

a/ The application for a license to establish a branch, signed by a competent representative of the foreign science and technology organization;

b/ A copy of the organization and operation charter of the branch, clearly defining the scope of authorization to the branch head;

c/ A copy of the operation registration certificate or a paper of equivalent validity of the foreign science and technology organization, certified by the agency competent to establish such organization. If the foreign science and technology organization has its operation duration stated in such operation registration certificate or paper, this duration must remain at least 3 years;

d/ Audited financial statement or other document of equivalent validity of the latest fiscal year of the science and technology organization;

dd/ The judicial record of the head of the branch of the foreign science and technology organization;

e/ The written approval of the provincial-level People's Committee of the location of the working office of the branch.

The papers prescribed at Points b, c, d and dd of this Clause must be translated into Vietnamese and consularly legalized.

4. The order and procedures for establishment of Vietnam-based representative offices and branches of foreign science and technology organizations are as follows:

a/ A dossier of application for a license to establish a representative office or branch of a foreign science and technology organization must be made in 2 (two) sets, and sent to the Ministry of Science and Technology;

b/ Within 60 days after receiving a complete and valid dossier, the Ministry of Science and Technology shall grant to the foreign science and technology organization a license to establish a representative office or branch and its copies to the Ministry of Industry and Trade, the Ministry of Foreign Affairs, the Ministry of Public Security and the provincial-level People's Committee of the locality where the representative office or branch will be located;

c/ If the dossier is invalid, within 5 working days after receiving it, the Ministry of Science and Technology shall issue a written notice thereof to the foreign science and technology organization for supplementing the dossier;

d/ In considering the dossier, if finding it necessary, within 10 working days after receiving a complete and valid dossier, the Ministry of Science and Technology may assume the prime responsibility for, and coordinate with related ministries and agencies in, appraising the dossier;

dd/ In considering the dossier, the Ministry of Science and Technology may request the foreign science and technology organization to produce relevant documents to explain unclear information in the dossier;

e/ If the conditions for the grant of a license to establish a representative office or branch are not fully met, the Ministry of Science and Technology shall issue a written notice clearly stating the reason to the foreign science and technology organization.

5. The Ministry of Science and Technology shall provide specific guidance on the form of application for a license to establish a representative office prescribed at Point a, Clause 2 of this Article, the form of application for a license to establish a branch prescribed at Point a, Clause 3 of this Article, the form of license to establish a representative office or branch of a foreign science and technology organization prescribed at Point b, Clause 4 of this Article, and the procedures for the re-grant, extension, modification, supplementation, termination and cancellation of a license to establish a representative office or branch.

Article 22. Rights and obligations of Vietnam-based representative offices and branches of foreign science and technology organizations

1. A representative office or branch has the following rights:

a/ To have its lawful rights and interests protected by the Vietnamese State in accordance with Vietnamese law and treaties to which the Socialist Republic of Vietnam is a contracting party;

b/ To have a seal bearing its name in accordance with other relevant laws;

c/ To rent offices, hire or purchase equipment and articles necessary for its activities;

d/ To open accounts for foreign currencies and Vietnam dong at banks licensed to operate in Vietnam and only use these accounts for its activities;

dd/ To recruit and employ Vietnamese and foreigners in accordance with other relevant laws;

e/ Other rights as prescribed by the law on science and technology and other relevant laws.

2. A representative office or branch has the following obligations:

a/ To operate in accordance with the contents and fields of operation determined in its establishment license;

b/ To register the modification, supplementation, re-grant or extension of its establishment license in accordance with other relevant laws;

c/ The head of a Vietnam-based representative office or branch shall take responsibility for all activities of the representative office or branch, shall send periodical reports on its activities to the licensing agency before December 15 annually; shall report and provide documents and explain related matters at the request of competent Vietnamese agencies;

d/ The head of a Vietnam-based representative office or branch of a foreign science and technology organization shall perform the tasks as authorized by the foreign science and technology organization within the scope and period of authorization;

dd/ Other obligations as prescribed by the law on science and technology and other relevant laws.

Article 23. Vietnamese science and technology organizations' establishment of representative offices and branches abroad

1. Science and technology organizations permitted to establish representative offices and branches abroad shall make a written request enclosed with documents proving the satisfaction of the following conditions:

a/ Having operated for at least 3 years by the time of requesting establishment of a branch or for at least 1 year by the time of requesting establishment of a representative office;

b/ Having a feasible plan for establishment of a representative office or branch abroad, with clear operation objectives and directions in conformity with Vietnamese law;

c/ Strictly observing the regime of annual reporting on operation to the agency that has granted the registration certificate of scientific and technological activities, and fulfilling other obligations toward the State;

d/ Fully complying with the regulations on cooperation and investment with foreign countries in the field of science and technology. Not violating prohibitions prescribed by the law on science and technology and other relevant laws.

2. Within 30 days after receiving a written request and enclosed documents, the Ministry of Science and Technology shall issue a written notice of the satisfaction of the requirements prescribed in Clause 1 of this Article.

3. Within 30 days after obtaining permission to establish a representative office or branch abroad, the science and technology organization shall notify it to the Ministry of Science and Technology.

Article 24. Independent assessment of science and technology organizations

1. Independent assessment and ranking of science and technology organizations may be conducted by organizations or individuals themselves or under contracts with other organizations or individuals.

2. Organizations or individuals that independently assess and rank science and technology organizations shall comply with the provisions of Clause 3, Article 16 of the Law on Science and Technology.

3. The criteria for and method of assessment of science and technology organizations must be developed by independent assessment organizations and publicly announced in the mass media.

4. The capacity of independent assessment organizations and individuals to assess and rank science and technology organizations must be publicly announced in the mass media.

5. For the assessment and ranking of science and technology organizations under contracts, the rights and obligations of parties must comply with the contracts.

Chapter III

SCIENTIFIC AND TECHNOLOGICAL TASKS

Article 25. National-level scientific and technological tasks funded by the state budget

1. National-level scientific and technological tasks funded by the state budget are scientific and technological tasks satisfying the following criteria:

a/ Being important to socio-economic development, national defense or security on a national scale; playing an important role in increasing the national scientific and technological potential;

b/ Solving scientific and technological problems related to many sectors, fields or regions;

c/ Mobilizing national resources and possibly involving many scientific and technological sectors.

2. National-level scientific and technological tasks funded by the state budget include:

a/ National-level scientific and technological programs, including national-level key scientific and technological programs and other national-level scientific and technological programs;

b/ National-level scientific projects;

c/ National-level scientific and technological themes;

d/ National-level trial production projects;

dd/ National-level scientific and technological projects;

e/ Protocol-based scientific and technological themes and projects;

g/ Special scientific projects, scientific and technological themes and scientific and technological projects;

h/ National-level potential scientific and technological themes and projects;

i/ National-level scientific and technological tasks of special importance aiming to respond to urgent requirements of the country regarding security, national defense, natural disasters, epidemics and science and technology development.

3. National-level scientific and technological tasks funded by the state budget must be approved and have their performance contracts signed by the Minister of Science and Technology, except the case prescribed in Clause 4 of this Article.

4. Special scientific and technological tasks shall be approved according to the order and procedures prescribed in Article 30 of this Decree.

Article 26. Ministerial-level scientific and technological tasks funded by the state budget

1. Ministerial-level scientific and technological tasks funded by the state budget are scientific and technological tasks satisfying the following criteria:

a/ Being important to the development of a sector or field;

b/ Solving scientific and technological problems in a sector or field;

c/ Being funded by the non-business science and technology budget of a ministry or sector.

2. Ministerial-level scientific and technological tasks funded by the state budget shall be approved and have their performance contracts signed by ministers or heads of ministerial-level or government-attached agencies or other central state agencies, including:

- a/ Ministerial-level scientific and technological programs;
- b/ Ministerial-level scientific projects;
- c/ Ministerial-level scientific and technological themes;
- d/ Ministerial-level trial production projects;
- dd/ Ministerial-level scientific and technological projects;
- e/ Ministerial-level potential scientific and technological themes and projects.

Article 27. Provincial-level scientific and technological tasks funded by the state budget

1. Provincial-level scientific and technological tasks funded by the state budget are scientific and technological tasks satisfying the following criteria:

- a/ Being important to the provincial socio-economic development;
- b/ Solving scientific and technological problems in a province;
- c/ Being funded by the non-business science and technology budget of a province.

2. Provincial-level scientific and technological tasks funded by the state budget shall be approved and have their performance contracts signed by provincial-level People's Committee chairpersons, including:

- a/ Provincial-level scientific and technological programs;
- b/ Provincial-level scientific projects;
- c/ Provincial-level scientific and technological themes;
- d/ Provincial-level trial production projects;
- dd/ Provincial-level scientific and technological projects;
- e/ Provincial-level potential scientific and technological themes and projects.

Article 28. Grassroots-level scientific and technological tasks funded by the state budget

Grassroots-level scientific and technological tasks funded by the state budget are scientific and technological tasks aiming to solve scientific and technological problems of grassroots units and have their performance contracts signed by heads of grassroots units, including:

1. Grassroots-level scientific and technological themes.
2. Grassroots-level scientific and technological projects.

Article 29. Measures to encourage scientific ideas and scientific and technological tasks

1. The State shall encourage and create conditions for all organizations and individuals to propose scientific ideas and scientific and technological tasks. Scientific ideas should be sent to science and technology management agencies at all levels.

2. Science and technology management agencies shall receive and assess scientific ideas proposed by organizations and individuals.

3. Organizations and individuals are encouraged to organize contests to seek scientific ideas.

4. Science and technology management agencies shall provide support and guidance for scientific ideas selected through assessment activities of these agencies or contests to improve and become scientific and technological tasks at different levels according to current regulations.

5. After scientific and technological ideas become approved scientific and technological tasks, the persons who propose such ideas shall be considered and prioritized to be assigned to act as managers of these tasks or to participate in performing these tasks and be commended and rewarded in accordance with law.

Article 30. Order and procedures for identifying and approving special scientific and technological tasks

1. Criteria for identifying a special scientific and technological task

a/ Being performed on a large scale to directly serve national defense or security and greatly impact the productivity, quality and competitiveness of national products;

b/ Requiring use of funds outside the annual state budget estimates reserved for national-level scientific and technological tasks;

c/ Requiring special mechanisms and policies.

2. Competence to decide or approve special scientific and technological tasks

a/ For special scientific and technological tasks classified as national important projects or works to be approved by the National Assembly, the Ministry of Science and Technology shall assume the prime responsibility for, and coordinate with related agencies in, presenting them to the Government for submission to the National Assembly in accordance with relevant laws;

b/ For special scientific and technological tasks other than those prescribed at Point a of this Clause, the Ministry of Science and Technology

shall assume the prime responsibility for, and coordinate with related agencies in, submitting them to the Prime Minister for decision.

3. Proposal on special scientific and technological tasks is prescribed as follows:

a/ Ministries, ministerial-level agencies, government-attached agencies, provincial-level People's Committees and other central state agencies shall prepare dossiers of proposal on special scientific and technological tasks according to the form issued by the Ministry of Science and Technology and send them to the Ministry of Science and Technology;

b/ The Ministry of Science and Technology shall summarize and appraise proposals on special scientific and technological tasks and submit them to competent state agencies for consideration and decision.

Article 31. Directly assigned scientific and technological tasks funded by the state budget

1. Directly assigned scientific and technological tasks funded by the state budget are those falling into one of the cases prescribed in Clause 1, Article 30 of the Law on Science and Technology.

2. Heads of state management agencies in charge of science and technology at all levels shall select eligible organizations and individuals for assignment of scientific and technological tasks. Organizations and individuals assigned with scientific and technological tasks shall prepare outlines and defend them before the science and technology councils set up by science and technology state management agencies.

3. Science and technology organizations directly assigned with scientific and technological tasks may organize the performance of these tasks through selecting or directly assigning them to collectives and individuals within their organizations. If implementing the selection method, they shall form selection councils in accordance with Clause 5, Article 29 of the Law on Science and Technology and the guidance of the Ministry of Science and Technology. If implementing the method of direct assignment, they shall form science and technology councils to consider and approve the outlines for performance of scientific and technological tasks.

4. When necessary, the head of a state management agency in charge of science and technology is entitled to consult independent consultancy organizations and consultants before making decision.

Article 32. Advisory councils for science and technology

1. Advisory councils for determination of scientific and technological tasks, advisory councils for selection of performance of scientific and

technological tasks, advisory councils for direct assignment of performance of scientific and technological tasks and advisory councils for pre-acceptance assessment of results of performance of scientific and technological tasks (below referred to as advisory councils for science and technology) shall be set up by heads of science and technology state management agencies according to their competence.

2. An advisory council for science and technology must be composed of scientists, representatives of the order-proposing agency or organization, order-placing agency or organization, managers and businesspeople with capabilities and qualifications relevant to advisory tasks.

An advisory council for science and technology must be composed of the president, vice president, 2 (two) members including a critical member and a science secretary, and other members.

3. Members of a national-level advisory council for science and technology who are scientists must be included in the database on scientific and technological specialists approved by the Ministry of Science and Technology.

Article 33. Activities of an advisory council for science and technology

1. An advisory council for science and technology shall work on the principles of democracy, objectivity, honesty, and compliance with law and professional ethics. Council members shall discuss openly contents they are assigned to give advice on. Opinions of council members and recommendations of the council must be recorded in writing. Council members shall take responsibility for their advice.

A council meeting may be conducted only when it is attended by at least two-thirds of council members, including the president or authorized vice president, the critical member and science secretary.

2. An advisory council for science and technology shall give marks, classify or cast votes based on the criteria prescribed by the Minister of Science and Technology.

3. Funds for activities of advisory councils for science and technology, hiring of independent consultancy organizations and consultants for scientific and technological tasks funded by the state budget shall be separately estimated by science and technology state management agencies and allocated from the budget for non-business scientific and technological activities. Council members and independent consultancy organizations and consultants are entitled to remuneration for their task performance from the funds prescribed in this Clause.

Funds for activities of advisory councils for science and technology to perform tasks not funded by the state budget shall be paid by organizations or individuals investing in the performance of scientific and technological tasks.

Article 34. Independent consultancy organizations and consultants

1. Independent consultancy organization means a science and technology organization with capability and experience in the specialized field on which its advice is needed.

2. Independent consultant means a person who possesses a university or higher degree, capability and experience in the specialized field on which his/her advice is needed. Independent consultants on national-level scientific and technological tasks must be included in the database on scientific and technological specialists approved by the Ministry of Science and Technology.

3. The Ministry of Science and Technology shall specify this Article.

Article 35. Responsibilities of members of advisory councils for science and technology and independent consultancy organizations and consultants

1. To give advice on the principles of democracy, observance of professional ethics, independence, honesty, objectivity and scientificity.

2. To take responsibility for their advice.

3. To keep secret information received during the course of advice, unless otherwise agreed upon or prescribed by law.

4. To fully perform all obligations as prescribed or agreed upon.

Article 36. Examination and assessment during performance of scientific and technological tasks

1. Science and technology state management agencies at all levels shall, according to their competence, conduct regular or irregular examinations and assessments of the performance of scientific and technological tasks funded by the state budget regarding scientific content, implementation schedule and use of funds. In case of necessity, heads of science and technology state management agencies at all levels may adjust scientific content, schedule and method of using funds in conformity with practical requirements or terminate the performance of these tasks, and take responsibility for their decisions.

2. The Ministry of Science and Technology shall provide specific guidance on the order and procedures for examination and assessment prescribed in this Article.

Article 37. Appraisal of results of performance of scientific and technological tasks not funded by the state budget

1. Results of performance of scientific and technological tasks not funded by the state budget which bear latent factors affecting the national interests, defense, security, environment or human health and lives must be appraised by science and technology state management agencies before they are applied to production and life.

2. Organizations and individuals applying results of performance of scientific and technological tasks prescribed in Clause 1 of this Article shall:

a/ Send dossiers of request for appraisal to a science and technology state management agency, which comprises a written request for appraisal; approved explanation document (if any); research findings and related documents;

b/ Pay assessment and appraisal expenses.

3. The Ministry of Science and Technology shall guide the implementation of this Article.

Article 38. Support for joint scientific and technological tasks

1. Scientific and technological tasks that are identified and performed jointly by science and technology organizations or scientists and enterprises and other organizations to serve the requirement of renovating and raising technological level, productivity, quality and competitiveness of products and goods, are below referred to as joint scientific and technological tasks.

2. Conditions for supporting joint scientific and technological tasks include:

a/ The joint scientific and technological task must be presented in the form of a scientific and technological project of an enterprise with the research objective and content and specific products to directly serve the requirement of renovating and raising technological level, productivity, quality and competitiveness of products and goods;

b/ The project is feasible;

c/ Products of the project can be applied to production and business;

d/ The project is approved by the head of a competent agency;

dd/ The joint scientific and technological task must be presented in the form of a project to perform a national-level scientific and technological task in a priority or key field identified by the State.

3. Forms of support for joint scientific and technological tasks

The State shall support without recovery investment capital for projects of joint scientific and technological tasks prescribed in Clause 2 of this Article

with regard to contents related to scientific and technological activities of the projects.

4. Levels of support for joint scientific and technological tasks

a/ Up to 30% of investment capital for projects meeting the conditions prescribed at Points a, b, c and d, Clause 2 of this Article;

b/ Up to 50% of investment capital for projects meeting the conditions prescribed at Points a, b, c and d, Clause 2 of this Article and implemented in areas with difficult or extremely difficult socio-economic conditions;

c/ Up to 50% of investment capital for projects meeting the conditions prescribed at Points b, c, d and dd, Clause 2 of this Article;

d/ Specific levels of support and funding sources for each project shall be decided by the heads of agencies competent to approve the projects.

5. Order and procedures for supporting joint scientific and technological tasks

a/ Organizations or individuals that need support shall make a dossier in 2 (two) sets and send it by post or directly to the agency competent to approve the project;

b/ After receiving a complete and valid dossier, the head of the agency competent to approve the project shall set up an advisory council to consider support for the project. Such council shall be composed of representatives of the Ministry of Science and Technology, the Ministry of Finance and a ministry in charge of the relevant sector of field and scientists. The advisory council shall consider the necessity and level of support;

c/ The Ministry of Science and Technology shall specify the order and procedures for support prescribed in this Clause.

Chapter IV

ASSIGNMENT OF THE RIGHT TO OWN AND USE RESULTS OF SCIENTIFIC RESEARCH AND TECHNOLOGICAL DEVELOPMENT, APPRAISAL OF SCIENTIFIC GROUNDS AND TECHNOLOGIES IN INVESTMENT PROJECTS AND SOCIO-ECONOMIC DEVELOPMENT PROGRAMS

Article 39. Cases of assignment of the right to own or use results of scientific research and technological development funded by the state budget

1. Assignment of the whole of the right to own results of scientific research and technological development may be effected according to the agreement between the representative of the state owner and the responsible organization or when one of the following conditions is met:

a/ The responsible organization is capable of applying or commercializing all results of scientific research and technological development;

b/ The responsible organization is capable of applying or commercializing part of results of scientific research and technological development which cannot be separated into independent parts for application or commercialization.

2. Assignment of the right to own results of scientific research and technological development may be effected according to the agreement between the representative of the state owner and the responsible organization or when one of the following conditions is met:

a/ The responsible organization is capable of applying or commercializing part of results of scientific research and technological development which can be separated into different parts for application or commercialization;

b/ There is an agreement or regulation of the responsible organization on the division of the right to own results of scientific research and technological development to other organizations and individuals that are recognized by the representative of the state owner.

3. The representative of the state owner may authorize the organization responsible for performing scientific and technological tasks to register for protection of intellectual property rights to the part of achieved results before the pre-acceptance assessment in order to protect intellectual property rights.

4. Assignment of the whole or part of the right to use results of scientific research and technological development to responsible organizations or other organizations as prescribed in Clause 5, Article 41 of the Law on Science and Technology shall be effected according to the agreement between the representative of the state owner and such organizations, except results of scientific research and technological development of special importance to national defense and security. In case the parties have no such agreement, the assignment of the right to use shall be effected when results of scientific research and technological development need to be applied widely to meet the needs to prevent and treat diseases and improve nutrition for the people or other urgent needs of the society.

5. The representative of the state owner shall, after transferring the right to own or use results of scientific research and technological development to organizations, examine and supervise and request such organizations to send assessment reports on the use of these results.

Article 40. Order and procedures for assignment of the right to own or use results of scientific research and technological development funded by the state budget

1. Organizations responsible for performing scientific and technological tasks and science and technology enterprises that wish to be assigned the right to own or use results of scientific research and technological development shall make a dossier of request for assignment and send it to the representative of the state owner.

2. If the organizations that are assigned the right to use results of scientific research and technological development funded by the state budget prescribed in Clause 1 of this Article cannot use such results, other organizations that wish to be assigned the right to use results of scientific research and technological development shall make a dossier of request for assignment and send it to the representative of the state owner.

3. A dossier of request for assignment of the right to own or use results of scientific research and technological development comprises:

a/ A written request;

b/ A report on the capability to use or commercialize results of scientific research and technological development;

c/ Other relevant documents.

4. The representative of the state owner shall examine the validity of the dossier. If the dossier is invalid, within 5 working days after receiving it, the representative of the state owner shall notify it in writing to the requesting organization or individual for modification and supplementation.

Within 30 days after receiving a valid dossier, the representative of the state owner shall consider the dossier and issue a decision to assign the right to own or use results of scientific research and technological development. In case of refusal, it shall issue a written reply clearly stating the reason to the requesting organization or individual.

5. The Ministry of Science and Technology shall detail this Article.

Article 41. Rights and obligations of organizations that are assigned the right to own or use results of scientific research and technological development funded by the state budget

1. Organizations that are assigned the right to own or use results of scientific research and technological development funded by the state budget have the following rights:

a/ To exercise the right to own or use in accordance with the law on technology transfer, the law on intellectual property and other relevant laws and assignment decisions of the representative of the state owner;

b/ To enjoy the distributed profit earned from the commercialization of results of scientific research and technological development as prescribed in Article 42 of this Decree;

c/ To enjoy incentives provided by the State to support the development of the science and technology market and support science and technology enterprises.

2. Organizations that are assigned the right to own or use results of scientific research and technological development funded by the state budget have the following obligations:

a/ To effectively exploit the right to own or use results of scientific research and technological development;

b/ To register for protection, utilize and protect intellectual property rights over results of scientific research and technological development they are assigned the right to own or use; to perform the financial obligations prescribed in Article 42 of this Decree;

c/ To report on an annual basis or upon request to the representative of the state owner on the effectiveness of the utilization, transfer or assignment of the right to own or use results of scientific research and technological development;

d/ To notify the representative of the state owner when they are no longer able to exploit the right to own or use results of scientific research and technological development.

Article 42. Distribution of profits when using, or assigning the right to use, transferring or contributing as capital, results of scientific research and technological development funded by the state budget

1. After-tax profits earned from the use of, or transfer of the right to use, transferring or contributing as capital, results of scientific research and technological development, shall be distributed as follows:

a/ Remuneration to authors as agreed between the parties, at least 30%;

b/ Distribution to brokers (if any) as agreed between the parties, not exceeding 10%;

c/ After distribution to authors and brokers (if any), the remaining profit shall be distributed as follows: in case of being assigned the right to own: 50% for investment in scientific research and technological development and 50% for the welfare and reward fund of the organization; in case of being assigned the right to use: no more than 10% to be returned to the representative of the state owner as agreed between the parties, and 50% of the remainder for

investment in scientific research and technological development and the rest for the welfare and reward fund of the organization.

2. In case an organization or individual uses results of scientific research and technological development for improvement and development of technology for commercialization and registration for protection of intellectual property rights, agreement of the owners of such results must be obtained.

The distribution of profits earned from the commercialization prescribed in this Clause must be agreed in writing between the organization or individual concerned and the owner or representative of the state owner of results of scientific research and technological development in conformity with each party's contribution.

3. The Ministry of Science and Technology shall assume the prime responsibility for, and coordinate with the Ministry of Finance in, valuing results of scientific research and technological development or intellectual assets funded by the state budget.

Article 43. Application of science and technology in investment projects and socio-economic development programs funded by the state budget

1. Investment projects and socio-economic development programs funded by the state budget must elaborate spending items for the application, research and development to serve the formulation of scientific grounds in the stage of investment preparation, investment implementation and settlement of scientific and technological problems arising in the course of implementation.

2. When elaborating cost estimates for investment projects or socio-economic development programs funded by the state budget, investors shall elaborate cost estimates for application, research and development activities within the total cost estimates of investment projects or socio-economic development programs decided by investors.

3. Investors shall annually or upon request and upon completion of investment projects or socio-economic development programs decided by the National Assembly, the Government or the Prime Minister or decided or directly invested by ministries, ministerial-level agencies or government-attached agencies, and conditional investment projects, send reports on the use of funds for scientific and technological activities to the Ministry of Science and Technology.

4. Investors shall annually or upon request and upon completion of investment projects or socio-economic development programs decided by provincial- or district-level People's Committees, send reports on the use of funds for scientific and technological activities to provincial-level Departments

of Science and Technology for summarization and reporting to the Ministry of Science and Technology.

5. The Ministry of Science and Technology shall summarize and report to the Prime Minister on the use of funds for scientific and technological activities in investment projects and socio-economic development programs prescribed in Clauses 3 and 4 of this Article.

Article 44. Competence to appraise scientific grounds and technologies of investment projects and socio-economic development programs

1. Socio-economic development programs and investment projects subject to approval by the Prime Minister and projects in the fields of conditional investment prescribed by the law on investment must be appraised in terms of scientific grounds or technology.

Agencies responsible for appraising investment projects or socio-economic development programs prescribed in this Clause shall collect appraisal opinions on scientific grounds and technology of the Ministry of Science and Technology. Appraisal results of the Ministry of Science and Technology are a mandatory content of the appraisal report of the responsible appraisal agencies.

2. Investment projects subject to investment registration shall be appraised by provincial-level Science and Technology Departments in terms of scientific grounds and technology before grant of investment certificates in accordance with the investment law.

Article 45. Order and procedures for appraisal of scientific grounds and technologies of investment projects and socio-economic development programs

1. A dossier of request for appraisal of scientific grounds or technology of an investment project or a socio-economic development program comprises:

a/ A written request for appraisal;

b/ The dossier of the investment project or socio-economic development program. For appraisal of scientific grounds, the dossier must also include a report on results of research on theoretical and practical grounds for the formulation of the project or program and a minutes of the pre-acceptance assessment of research results. For appraisal of technology, the dossier must also include documents belonging to the dossier of application for an investment certificate; economic and technical explanations clearly stating the technological process, analysis and selection of the technology plan, the list of machinery, equipment and technology lines; assessment of environmental impact of the technology and its socio-economic effectiveness; and the draft technology transfer contract (if involving the contribution of technology as

A dossier of request for appraisal shall be made in 2 (two) sets and sent to competent appraisal agencies prescribed in Article 44 of this Decree.

2. Within 30 days after receiving a complete and valid dossier, a competent agency shall send an appraisal document to the appraisal-requesting agency.

3. The Ministry of Science and Technology shall specify dossiers, contents, process and procedures for appraisal prescribed in this Article.

Chapter V

DEVELOPMENT OF THE SCIENCE AND TECHNOLOGY MARKET

Article 46. Measures to develop the science and technology market

1. The State shall implement the following measures to develop the science and technology market:

a/ To promote scientific research and technological development in order to create technology, step up technology transfer and import and exploitation of advanced technology and high technology from abroad into Vietnam on the basis of close association with the requirements on technology renovation and raising of technological levels and competitiveness products and goods;

b/ To promote commercialization of results of scientific research and technological development on the basis of closely aligning scientific and technological activities with production and business through partnership and cooperation between science and technology organizations and enterprises;

c/ To promote the incubation and development of science and technology enterprises, especially in research institutes, higher education institutions and hi-tech parks.

2. Measures to increase demand for scientific and technological products:

a/ To step up the application of measures to develop the market economy and international integration in order to promote the internal need of enterprises for technology renovation and raising of technological level and competitiveness of products and goods;

b/ To support enterprises to step up the technology renovation and raising of technological level through the national technology renovation fund, performance of scientific and technological tasks at all levels and other forms;

c/ To encourage enterprises to place orders for technology renovation and raising of technological level and competitiveness of goods and products with domestic science and technology organizations.

3. The State shall establish and encourage organizations and individuals to establish intermediary organizations of the science and technology market.

Article 47. Establishment of intermediary organizations of the science and technology market

1. Intermediary organizations of the science and technology market are of the following forms:

a/ Establishments incubating technologies or science and technology enterprises;

b/ Technology centers and exchanges, technology and equipment marketplaces;

c/ Technology transfer assessment, valuation, appraisal and consultancy organizations;

d/ Technology transfer promotion and support centers;

dd/ Other scientific and technological service organizations related to the science and technology market.

2. The establishment and operation of organizations prescribed in Clause 1 of this Article must comply with the provisions of this Decree and other relevant legal documents.

3. The Ministry of Science and Technology shall guide the implementation of this Decree.

Chapter VI

IMPLEMENTATION PROVISIONS

Article 48. Transitional provisions

1. For scientific and technological tasks approved by competent agencies before January 1, 2014, shall continue to be performed in accordance with the 2000 Law on Science and Technology, the Government's Decree No. 81/2002/ND-CP of October 17, 2002, detailing a number of articles of the Law on Science and Technology, and their approval decisions.

2. For written requests for registration of scientific and technological activities submitted to agencies competent to grant registration certificates of scientific and technological activities before January 1, 2014, for which no registration certificate is granted yet, their dossiers shall be supplemented in accordance with this Decree.

For organizations which are established and register operation before the effective date of this Decree, they shall, within 2 years from the effective date of this Decree, review the establishment conditions according to the provisions of this Decree. If failing to meet all the establishment conditions prescribed in this Decree, they shall improve themselves to fully meet these conditions.

3. For newly established science and technology organizations with their establishment dossiers not yet approved by competent agencies before January 1, 2014, they shall supplement their dossiers and follow the order and procedures prescribed in this Decree.

4. Science and technology organizations that tertiary education institutions shall register their activities according to this Decree within 18 months from the effective date of this Decree.

Article 49. Effect

1. This Decree takes effect on March 15, 2014.

2. The Government's Decree No. 81/2002/ND-CP of October 17, 2002, detailing a number of articles of the Law on Science and Technology; the Government's Decree No. 201/2004/ND-CP of December 10, 2004, promulgating the Regulation on activities of social science and humanities; Articles 13, 14, 15, 24, 25, 26, 27, 28 and 29 of the Government's Decree No. 80/2010/ND-CP of July 14, 2010, stipulating cooperation and investment with foreign countries in the field of science and technology; Article 8 of the Government's Decree No. 119/1999/ND-CP of September 18, 1999, on a number of financial policies and mechanisms to encourage enterprises to invest in scientific and technological activities; and Article 12 of the Government's Decree No. 61/2010/ND-CP of June 4, 2010, on policies to encourage enterprises to invest in agriculture and rural areas, cease to be effective on the effective date of this Decree.

Article 50. Guidance and responsibility for implementation

1. The Ministers of Natural Resources and Environment; Planning and Investment; Finance; Education and Training; and Home Affairs shall, according to their respective functions, tasks and powers, guide the implementation of this Decree.

2. Ministers, heads of ministerial-level agencies, heads of government-attached agencies, chairpersons of provincial-level People's Committees, and related organizations and individuals shall implement this Decree.-

On behalf of the Government

Prime Minister

NGUYEN TAN DUNG