

Translation

**CSET**CENTER *for* SECURITY *and*
EMERGING TECHNOLOGY

The following document is South Korea's industrial technology protection law, as amended in January 2023. The law aims to prevent technologies vital to South Korean national security or economic competitiveness from being divulged to or shared with foreign countries or corporations without the government's knowledge.

Title

Act on Prevention of Divulgence and Protection of Industrial Technology (Abbreviated: Act on Protection of Industrial Technology)

산업기술의 유출방지 및 보호에 관한 법률 (약칭: 산업기술보호법)

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Source

Website of the Korean Law Information Center (국가법령정보센터) of the Ministry of Government Legislation (법제처), January 3, 2023.

The Korean source text is available online at:

[https://www.law.go.kr/%EB%B2%95%EB%A0%B9/%EC%82%B0%EC%97%85%EA%B8%B0%EC%88%A0%EC%9D%98%EC%9C%A0%EC%B6%9C%EB%B0%A9%EC%A7%80%EB%B0%8F%EB%B3%B4%ED%98%B8%EC%97%90%EA%B4%80%ED%95%9C%EB%B2%95%EB%A5%A0/\(19166,20230103\)](https://www.law.go.kr/%EB%B2%95%EB%A0%B9/%EC%82%B0%EC%97%85%EA%B8%B0%EC%88%A0%EC%9D%98%EC%9C%A0%EC%B6%9C%EB%B0%A9%EC%A7%80%EB%B0%8F%EB%B3%B4%ED%98%B8%EC%97%90%EA%B4%80%ED%95%9C%EB%B2%95%EB%A5%A0/(19166,20230103))

An archived version of the Korean source text is available online at: <https://perma.cc/Z4CM-3S24>
U.S. \$1 ≈ 1,300 South Korean won, as of March 7, 2023.

Translation Date

March 7, 2023

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ACT ON PREVENTION OF DIVULGENCE AND PROTECTION OF INDUSTRIAL TECHNOLOGY (Abbreviated: ACT ON PROTECTION OF INDUSTRIAL TECHNOLOGY)

[Enforced on April 4, 2023] [Article 19166 of the Bill, January 3, 2023, partially revised]
Ministry of Trade, Industry and Energy (Technology Security Division), 044-203-4852

Chapter 1: General Provisions

Article 1 (Purpose)

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

Article 2 (Definitions)

The definitions of terms used in this Act are as follows: <Amended 2011. 7. 25., 2015. 1. 28.>

1. The term "industrial technology" refers to any of the following technologies the head of an administrative agency (where the relevant affairs have been delegated or entrusted, referring to the head of the agency, corporation, or organization delegated or entrusted therewith) designates, declares, announces, or certifies in accordance with this Act, other statutes, or an order delegated by this Act or other statutes (limited to Presidential Decree, Ordinance of the Prime Minister, and Ministerial Ordinance; hereafter in this Article the same shall apply) to enhance the competitiveness of industries or prevent divulgence of technologies, among the methods and technological information necessary for the development, production, dissemination, and use of products or services:
 - (a) National core technology declared pursuant to Article 9;
 - (b) Technology falling within the scope of the high technology pursuant to Article 5 of the Industrial Development Act;
 - (c) New technology certified pursuant to Article 15-2 of the Industrial Technology Innovation Promotion Act;
 - (d) New electric technology designated and declared pursuant to Article 6-2 of the Electric Technology Management Act;
 - (e) New technology certified pursuant to Article 7 of the Environmental Technology and Industry Support Act;
 - (f) New construction technology designated and declared pursuant to Article 14 of the Construction Technology Promotion Act;
 - (g) New health technology certified pursuant to Article 8 of the Health and Medical Service Technology Promotion Act;
 - (h) Core root¹ technology designated pursuant to Article 14 of the Root Industry Promotion and Advancement Act;

¹ Translator's note: The South Korean government defines "root"(*ppuri*; 뿌리) here as industries and technologies such as castings, molds, plasticity, welding, thermal processing, and surface treatment that serve as a basis for other manufacturing. Root industries support important economic sectors such as the automobile, shipbuilding, and information technology industries.

- (i) Technology declared in the official gazette by the Minister of Trade, Industry and Energy among technologies designated, declared, announced, or certified in accordance with an order delegated by other statutes or this statute;
- 2. The term "national core technology" refers to technologies designated under Article 9 that may have a significant adverse effect on national security and the development of the national economy if divulged abroad, due to their high technological and economic value in domestic and foreign markets or the high growth potential of related industries;
- 3. The term "national research and development project" refers to research and development projects advanced by the heads of relevant central governmental administrative agencies under Article 11 of the Framework Act on Science and Technology;
- 4. The term "relevant organization" refers to corporations, research institutes, specialized institutions, universities, etc. possessing industrial technologies.

Article 3 (Responsibilities and Duties of the State)

- (1) The State shall establish and implement comprehensive policies needed to prevent divulgence of, and protect, industrial technology.
In the application of this Act, every institution relevant to the development, dissemination, and use of industrial technology, such as the State, corporations, research institutes, and universities, must endeavor to prevent relevant workers, such as researchers of industrial technology, from receiving unfair treatment and harm. [Every relevant institution] must also endeavor not to impede the diffusion and use of industrial technology and knowledge.
- (2) Every citizen shall endeavor to pay more attention to and elevate awareness to prevent divulgence of industrial technology and to cultivate the awareness of vocational ethics.

Article 4 (Relationship to Other Statutes)

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

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

Article 5 (Establishment and Implementation of Comprehensive Plans)

- (1) The Minister of Trade, Industry and Energy shall establish and implement comprehensive plans to prevent divulgence of, and protect, industrial technology (hereinafter referred to as "comprehensive plans"). <Amended Feb. 29, 2008; Jul. 25, 2011; and Mar. 23, 2013>
- (2) When formulating comprehensive plans, the Minister of Trade, Industry and Energy shall go through deliberation with the Industrial Technology Protection Committee under Article 7, after consulting with the heads of relevant central governmental administrative agencies in advance. <Amended Feb. 29, 2008; Jul. 25, 2011; and Mar. 23, 2013>
- (3) Comprehensive plans shall contain the following matters: <Amended Jul. 25, 2011>
 1. Basic goals and directions to prevent divulgence of, and protect, industrial technology;
 2. Phased goals and measures to prevent divulgence of, and protect, industrial technology;
 3. Matters concerning publicity and education on preventing divulgence of, and protecting, industrial technology;
 4. Matters concerning the establishment of infrastructure to prevent divulgence of, and protect, industrial technology;
 5. Matters concerning research and development of technology to prevent divulgence of, and protect, industrial technology;
 6. Matters concerning the collection, analysis, processing, and dissemination of data on the prevention of divulgence of, and protection of, industrial technology;
 7. Matters concerning international cooperation to prevent divulgence of, and protect, industrial technology;
 8. Other matters necessary to prevent divulgence of, and protect, industrial technology.
- (4) The Minister of Trade, Industry and Energy may require the submission of data necessary to establish comprehensive plans from heads of relevant central governmental administrative agencies. In such cases, the head of an agency who is requested to submit data shall comply with such request, in the absence of special circumstances. <Amended Feb. 29, 2008; Jul. 25, 2011; Mar. 23, 2013; and Jan. 28, 2015>

[Amendment to Title: Jul. 25, 2011]

Article 6 (Establishment and Implementation of Action Plans)

- (1) The heads of relevant central governmental administrative agencies shall, in accordance with comprehensive plans, establish and implement action plans to prevent divulgence of, and protect, industrial technology (hereinafter referred to as "action plans") each year. <Amended Jul. 25, 2011>
- (2) Matters necessary for the establishment and implementation of action plans shall be determined by Presidential Decree.

Article 7 (Establishment of Industrial Technology Protection Committee)

- (1) An Industrial Technology Protection Committee (hereinafter referred to as the "Committee") shall be established under the jurisdiction of the Minister of Trade, Industry and Energy to deliberate on the following matters regarding preventing divulgence of, and protecting, industrial technology: <Amended Jul. 25, 2011 and Jan. 28, 2015>
 1. Matters concerning the establishment and implementation of comprehensive plans;
 2. Matters concerning the designation as national core technology and changes to and cancellation of said designation under Article 9;
 3. Matters concerning the export, etc. of national core technology under Article 11;
 4. Matters concerning overseas acquisitions, mergers, etc. of relevant organizations possessing national core technologies under Article 11-2.
 5. Other matters determined by Presidential Decree as necessary to prevent divulgence of, and protect, industrial technology.
- (2) The Committee shall be comprised of not more than 25 members, including one chairperson. In such cases, at least five persons falling under paragraph (3) shall be included among the members.
- (3) The Minister of Trade, Industry and Energy shall become the chairperson and the following persons shall become members: <Amended Feb. 29, 2008; and Jan. 28, 2015>
 1. A person who is determined by President Decree from among Vice-Ministers, Vice Administrators, or a public official equivalent to such a position in a relevant central governmental administrative agency;
 2. A person who is nominated by an intelligence investigative agency in charge of preventing divulgence of industrial technology;

3. A person who has abundant experience and knowledge in preventing divulgence of, and protecting, industrial technology and is commissioned by the chairperson, taking into account the gender of the person.
- (4) The Committee shall have one secretary member, who shall be nominated by the chairperson from among public officials of the Ministry of Trade, Industry and Energy. <Amended Feb. 29, 2008; Mar. 23, 2013; and Jan. 28, 2015>
- (5) The Committee shall establish specialized committees by field thereunder for professional advance review on the following matters regarding preventing divulgence of, and protecting, industrial technology: <Amended Jul. 25, 2011; and Jan. 28, 2015>
 1. A prior review on items under deliberation by the Committee;
 2. Matters delegated by the Committee, as prescribed by Presidential Decree;
 3. Other practical matters necessary for preventing divulgence of, and protecting, industrial technology, as prescribed by Presidential Decree.
- (6) Matters necessary for the organization, operation, etc. of the Committee and specialized committees by field other than matters provided in paragraphs (1) through (5) shall be determined by Presidential Decree. <Amended Jan. 28, 2015>

CHAPTER III PREVENTION AND MANAGEMENT OF INDUSTRIAL TECHNOLOGY DIVULGENCE

Article 8 (Establishment of Guidelines for Protection)

- (1) The Minister of Trade, Industry and Energy shall establish guidelines (hereinafter referred to as "guidelines for protection") for methods, procedures, etc. needed to prevent divulgence of, and protect, industrial technology in consultation with the heads of relevant central governmental administrative agencies, and shall enable institutions possessing industrial technology to utilize the guidelines for protection. <Amended Feb. 29, 2008; Jul. 25, 2011; and Mar. 23, 2013>
- (2) The Minister of Trade, Industry and Energy may, in consultation with the heads of relevant central governmental administrative agencies, revise or supplement the guidelines for protection after deliberation by the Committee, taking into account trends in the development of industrial technology, Korean and overseas market environments, etc. <Amended Feb. 29, 2008; Jul. 25, 2011; and Mar. 23, 2013>

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

- (1) Where the Minister of Trade, Industry and Energy selects a technology to be designated (hereafter in this Article referred to as "technology subject to designation") as national core technology, or he or she has been notified that technology subject to designation has been selected under the jurisdiction of the head of a relevant central governmental administrative agency; he or she may designate it as national core technology after deliberation by the Committee. In such cases, where technology subject to designation which has been selected by the Minister of Trade, Industry and Energy is under the jurisdiction of the head of any other central governmental administrative agency, he or she shall undergo consultation with the head of the relevant central governmental administrative agency prior to deliberation by the Committee. <Amended Feb. 29, 2008; Mar. 23, 2013; Jan. 28, 2015>
- (2) The Minister of Trade, Industry and Energy and the head of a relevant central governmental administrative agency shall select technology subject to designation within the minimum extent necessary, based on comprehensive consideration of such factors as the ripple effect of the technology in question on national security and the national economy; the market share of relevant products in the Korean and overseas markets; trends in research in relevant fields; and harmony with the diffusion of technology. <Amended Jan. 28, 2015>
- (3) Where the Minister of Trade, Industry and Energy selects a technology for which changing the scope or substance of national core technology or canceling the designation as national core technology is deemed necessary, or receives from the head of a relevant central governmental administrative agency a request to change the scope or substance of national core technology under the jurisdiction of the head of the relevant central governmental administrative agency or to cancel the designation as national core technology, he or she may change or cancel such designation after deliberation by the Committee. In such cases, where technology subject to designation selected by the Minister of Trade, Industry and Energy is under the jurisdiction of the head of any other central governmental administrative agency, he or she shall undergo consultation with the head of the relevant central governmental administrative agency prior to deliberation by the Committee. <Amended Feb. 29, 2008; Mar. 23, 2013; Jan. 28, 2015>
- (4) Where the Minister of Trade, Industry and Energy designates national core technology pursuant to paragraph (1), changes the scope or substance of

national core technology, or cancels such designation pursuant to paragraph (3), he or she shall declare said fact. <Amended Feb. 29, 2008; Mar. 23, 2013>

- (5) Where the Committee deliberates on a designation as national core technology or change or cancellation of such designation pursuant to paragraphs (1) and (3), it shall, upon receipt of a request by interested persons, such as a corporation in possession of, or managing, technology subject to designation, provide them with an opportunity to state their opinions, as prescribed by Presidential Decree.
- (6) The relevant organization may request that the Minister of Trade, Industry and Energy determine whether the technology the relevant institution possesses is relevant to the national core technology, as prescribed by Presidential Decree. <Newly Inserted Jul. 25, 2011; Mar. 23, 2013>
- (7) The criteria and procedures for designation as national core technology, and change and cancellation of said designation under paragraphs (1) and (3) and other necessary matters shall be determined by Presidential Decree. <Amended Jul. 25, 2011>

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

- (1) None of the state agencies, local governments, public institutions defined in Article 2 of the [Act on the Management of Public Institutions], and other institutions determined by Presidential Decree shall disclose information on national core technology. However, it is provided that such information may be disclosed if its disclosure is unlikely to have any adverse effect on national security and development of the national economy.
- (2) When it is intended to disclose information on national core technology pursuant to the proviso of paragraph (1), opinions shall be collected from interested persons in writing or by electronic document; consent shall be obtained from the Minister of Trade, Industry and Energy and the head of the relevant ministry or administrative agency; and then the case shall be referred to the Committee for deliberation, within 20 days from the filing date of an application for the disclosure of information.

[This Article Newly Inserted Aug. 20, 2019]

Article 10 (Measures for Protecting National Core Technology)

- (1) The head of each relevant organization which has and manages national core technology, shall take the following measures to prevent divulgence of national core technology: <Amended Aug. 20, 2019>

1. Designating protection zones, implementing access control systems, or inspecting personal belongings at the entrance;
 2. Managing turnover of specialized human resources handling national core technology, and concluding confidentiality agreements or the like;
 3. Other measures determined by Presidential Decree to prevent divulgence of national core technology.
- (2) Necessary matters regarding the measures under paragraph (1) shall be determined by Presidential Decree.
- (3) No person shall be allowed to refuse, interfere with, or challenge the measures for protection under paragraph (1) without any justifiable ground. <Newly Inserted Jan. 30, 2009>

Article 11 (Export of National Core Technology)

- (1) Where a relevant organization with technology, including national core technology developed with government subsidies for research and development intends to export the national core technology concerned to a foreign corporation, etc. by means of sale, transfer, etc. (hereinafter referred to as "export of national core technology"), it shall obtain approval from the Minister of Trade, Industry and Energy. <Amended Feb. 29, 2008; Mar. 23, 2013>
- (2) With respect to an application for approval under paragraph (1), the Minister of Trade, Industry and Energy may, after consulting with the head of the relevant central governmental administrative agency, grant approval after deliberation by the Committee, taking into account the ripple effect of the export of national core technology on national security, the national economy, etc. <Amended Feb. 29, 2008; Mar. 23, 2013>
- (3) Where national core technology approved pursuant to paragraph (1) is technology under Article 19 (1) of the [Foreign Trade Act], it shall be deemed to have obtained permission pursuant to paragraph (2) of said Article, and where it is defense articles pursuant to Article 34 of the [Defense Acquisition Program Act] and defense science and technology pursuant to Article 2 paragraph (2) of the [Defense Science Technology Innovation Promotion Act], then it shall be deemed to have obtained permission under the [Defense Acquisition Program Act]. In such cases, the Minister of Trade, Industry and Energy shall consult with the head of the relevant central governmental administrative agency in advance. <Amended Feb. 29, 2008; Jul. 25, 2011; Mar. 23, 2013; Mar. 31, 2020>
- (4) Where a relevant organization which has and manages national core technology, other than that approved pursuant to paragraph (1), intends to

export the national core technology, it shall report it to the Minister of Trade, Industry and Energy in advance. <Amended Feb. 29, 2008; Mar. 23, 2013>

- (5) When the Minister of Trade, Industry and Energy deems that the export of national core technology subject to reporting under paragraph (4) is likely to have a material impact on national security, he or she may, after consulting with the head of the relevant central governmental administrative agency, order institutions possessing industrial technology to take measures such as suspension or prohibition of export of such national core technology, restoration to original state, etc. after deliberation by the Committee. <Amended Feb. 29, 2008; Mar. 23, 2013>
- (6) Any person who intends to export national core technology subject to reporting under paragraph (4) may file an application for prior review with the Minister of Trade, Industry and Energy as to whether the national core technology in question is related to national security. <Amended Feb. 29, 2008; Mar. 23, 2013>
- (7) Where a relevant organization with technology including national core technology exports national core technology without obtaining approval under paragraph (1) or with such approval obtained by improper means, or exports national core technology subject to reporting under paragraph (4) without filing a report or with a false report; the Minister of Trade, Industry and Energy may, after reporting to the Committee the result of the investigation he or she has requested to the head of an intelligence investigative agency, order the institution to take measures, such as suspension and prohibition of export of the national core technology in question and restoration to the original state, after deliberation by the Committee. <Amended Feb. 29, 2008; Mar. 23, 2013>
- (8) In any of the following cases, the Committee may listen to the opinions of institutions possessing industrial technology:
 1. Deliberation on applications for approval under paragraph (2);
 2. Deliberation on suspension and prohibition of export of national core technology which has a material effect on national security, restoration to original state, etc. under paragraph (5);
 3. Deliberation on suspension and prohibition of export of national core technology, and restoration to original state with respect to failing to obtain approval or obtaining approval by fraud, non-reporting or false reporting, etc. under paragraph (7).
- (9) The Minister of Trade, Industry and Energy may allow the specialized committees to review matters in connection with approval under paragraph (1)

or reporting under paragraph (4) and request that the heads of relevant central governmental administrative agencies or the heads of institutions possessing industrial technology render necessary cooperation, such as submission of data. In such cases, the heads of the relevant central governmental administrative agencies and the heads of institutions possessing industrial technology shall render cooperation, in the absence of special circumstances. <Amended Feb. 29, 2008; Mar. 23, 2013>

- (10) Detailed matters concerning approval under paragraph (1), reporting under paragraph (4), measures and procedures for suspension and prohibition of export, restoration to original state, etc. under paragraphs (5) and (7), etc. shall be determined by Presidential Decree.
- (11) Matters necessary for application for prior review as to whether national core technology is related to national security under paragraph (6) shall be determined by Presidential Decree.

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

- (1) Where a relevant organization with technology including national core technology developed with government subsidies for research and development, intends to conduct cross-border acquisition, merger, joint venture, etc. (hereinafter referred to as "cross-border acquisition, merger, etc."), as prescribed by Presidential Decree, it shall obtain approval therefor, in advance, from the Minister of Trade, Industry and Energy. <Amended Mar. 23, 2013; Aug. 20, 2019>
- (2) Where a relevant organization under paragraph (1) finds that a foreigner determined by Presidential Decree (hereafter in this Article referred to as "foreigner") has been conducting cross-border acquisition, merger, etc., it shall without delay report said finding to the Minister of Trade, Industry and Energy. <Amended Mar. 23, 2013; Aug. 20, 2019>
- (3) Upon receipt of a report from a relevant organization under paragraph (2), the Minister of Trade, Industry and Energy may request that the foreigner who intends to conduct cross-border acquisition, merger, etc. cooperate in the procedure for approval under paragraph (1). The foreigner so requested in such cases shall comply with the request, in the absence of special circumstances. <Newly Inserted Aug. 20, 2019>
- (4) Upon receipt of an application for approval under paragraph (1), the Minister of Trade, Industry and Energy may approve cross-border acquisitions, mergers, etc. after examining the impact of such cross-border acquisitions, mergers, etc. on

national security, consulting with the heads of related central administrative agencies thereon, and then successfully undergoing deliberation by the Committee. In such cases, the Minister of Trade, Industry and Energy may attach conditions to approval as he or she deems necessary. <Newly Inserted Aug. 20, 2019>

- (5) Where a relevant organization which has and manages any national core technology other than that subject to approval under paragraph (1), intends to conduct cross-border acquisition, merger, etc., it shall report its intended cross-border acquisition, merger, etc., in advance, to the Minister of Trade, Industry and Energy. <Newly Inserted Aug. 20, 2019>
- (6) Where a relevant organization under paragraph (5) finds that a foreigner has been conducting cross-border acquisition, merger, etc., it shall without delay report said finding to the Minister of Trade, Industry and Energy. <Newly Inserted Aug. 20, 2019>
- (7) Where the Minister of Trade, Industry and Energy deems that divulgence of national core technology under paragraphs (1), (5), and (6) is likely to have a material impact on national security, he or she may, after consulting with the head of the relevant central governmental administrative agency, order institutions possessing industrial technology to take measures, such as suspension, prohibition, restoration to original state, etc. regarding cross-border acquisitions, mergers, etc. after deliberation by the Committee. <Amended Mar. 23, 2013; Aug. 20, 2019>
- (8) When a person who intends to conduct cross-border acquisition, merger, etc. under paragraphs (1), (5), and (6) has a question about the following matters regarding the relevant cross-border acquisition, merger, etc., he or she may request that the Minister of Trade, Industry and Energy review in advance, as prescribed by Presidential Decree: <Amended Mar. 23, 2013; Aug. 20, 2019>
 1. Whether the national core technology in question is related to national security;
 2. Whether the cross-border acquisition, merger, etc. in question is subject to approval under paragraph (1) or subject to reporting under paragraphs (5) and (6);
 3. Other questionable matters regarding the relevant cross-border acquisition, merger, etc.
- (9) Where a relevant organization with technology including national core technology conducts foreign acquisition, merger, etc. without obtaining approval under paragraph (1) or with such approval obtained by fraud or other improper

means, or without filing a report under paragraphs (5) and (6) or with such report filed by fraud or other improper means, the Minister of Trade, Industry and Energy may, after reporting to the Committee the findings of the investigation he or she has requested to the head of an intelligence investigative agency, order the institution to take necessary measures, such as suspension, prohibition, and restoration to original state, regarding foreign acquisition, merger, etc., after deliberation by the Committee. <Amended Mar. 23, 2013; Aug. 20, 2019>

- (10) In any of the following cases, the Committee may listen to the opinions of a relevant organization: <Amended Aug. 20, 2019>
1. Deliberation on applications for approval under paragraph (1);
1-2. Deliberation on reporting under paragraphs (5) and (6);
 2. Deliberation on suspension, prohibition, restoration to original state, etc. regarding cross-border acquisitions, mergers, etc. which have a material impact on national security under paragraph (7);
 3. Deliberation on damage to a relevant organization according to measures under paragraph (7);
 4. Deliberation on suspension, prohibition, restoration to original state, etc. of cross-border acquisition, merger, etc. regarding failing to obtain approval, obtaining approval by fraud, non-reporting, or false reporting under paragraph (9).
- (11) The Minister of Trade, Industry and Energy may require specialized committees by field to examine regarding an application for approval under paragraph (1) or reporting under paragraphs (5) and (6); may request necessary cooperation of materials submitted, etc. to the head of a relevant central administrative agency or the head of a relevant organization. In such cases, the head of a relative central administrative agency or the head of a relevant organization shall cooperate therewith, in the absence of special circumstances. <Amended Mar. 23, 2013; Aug. 20, 2019>
- (12) Detailed matters on measures, procedures, etc. for approval under paragraph (1); reporting under paragraphs (2), (5), and (6); and suspension, prohibition, restoration to original state, etc. under paragraphs (7) and (9) shall be prescribed by Presidential Decree. <Amended Aug. 20, 2019>

[This Article Newly Inserted Jul. 25, 2011]

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

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

Article 13 (Improvement Recommendations)

- (1) If deemed necessary in connection with measures to protect national core technology under Article 10 and protection and management of national research and development projects under Article 12, the Minister of Trade, Industry and Energy may recommend that the heads of institutions possessing industrial technology make improvements. <Amended Jul. 25, 2011; Mar. 23, 2013>
- (2) The heads of institutions possessing industrial technology in receipt of an improvement recommendation upon paragraph (1) shall establish and implement improvement plans and notify the Minister of Trade, Industry and Energy of the result thereof. <Amended Jul. 25, 2011; Mar. 23, 2013>
- (3) In cases of an improvement recommendation to the heads of institutions possessing industrial technology under paragraph (1), the Minister of Trade, Industry and Energy shall report the major contents of and reasons for the improvement recommendation, the result of measures taken, etc. to the Committee. <Newly Inserted Jul. 25, 2011; Mar. 23, 2013>
- (4) Matters necessary for improvement recommendations under paragraphs (1) and (2), the establishment and implementation of improvement plans, and reporting to the Committee under paragraph (3) shall be determined by Presidential Decree. <Amended Jul. 25, 2011>

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

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

1. Acquiring the industrial technology of any relevant organization by means of theft, deception, threat, or other improper means or using or publicizing industrial technology so obtained (including providing information to a specific person in secret; hereinafter the same shall apply);
2. In cases of a person who has a duty to maintain the confidentiality of industrial technology under Article 34 or in accordance with a contract, etc. with a relevant organization, divulging industrial technology for the purpose of obtaining unjust

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

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

- (1) If a person who commits or intends to commit an act of infringement of industrial technology, undermines or is likely to undermine the business profits of a relevant organization, the institution may request that the court prohibit or prevent said act.
- (2) When a relevant organization files a request under paragraph (1), it may also request measures necessary for prohibiting or preventing an act of infringement, such as the destruction of articles that are subject of the act of infringement and the removal of facilities that are provided for the act of infringement.
- (3) If a relevant organization fails to exercise the right to request prohibition or prevention of an act of infringement of industrial technology under paragraph (1) within three years from the date when it learns the infringer and the fact that continuing acts of infringement undermine or are likely to undermine business profits, the right shall be time-barred. The same shall apply even when it is more than 10 years after the date the act of infringement began.

[This Article Newly Inserted Jul. 25, 2011]

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

- (1) A relevant organization may apply for verification to the Minister of Trade, Industry and Energy as to whether technology in its possession constitutes industrial technology.
- (2) Matters concerning the procedures for and methods of verification under paragraph (1) shall be prescribed by Presidential Decree.

[This Article Newly Inserted Jan. 28, 2015]

Article 15 (Report on Infringement of Industrial Technology)

- (1) If an act referred to in any subparagraph of Article 14 is likely to be committed or was committed, the head of a relevant organization with technology including national core technology or industrial technology developed through a national research and development project, shall immediately report such commission to the Minister of Trade, Industry and Energy and the head of an intelligence investigative agency; and may request that they take necessary measures.
<Amended Feb. 29, 2008; Mar. 23, 2013; Aug. 20, 2019>
- (2) Upon receipt of a request under paragraph (1) or upon becoming aware of the commission of an act prohibited under Article 14, the Minister of Trade, Industry

and Energy and the head of an intelligence investigative agency shall conduct investigations and take other necessary measures. <Amended by Feb. 29, 2008; Jul. 25, 2011; Mar. 23, 2013; Aug. 20, 2019>

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

Article 16 (Establishment of Association for Industrial Technology Security)

- (1) Institutions possessing industrial technology may establish an Association for Industrial Technology Security (hereinafter referred to as the "Association"), after obtaining authorization from the Minister of Trade, Industry and Energy, to efficiently promote policies to prevent divulgence of, and protect, industrial technology. <Amended Feb. 29, 2008; Mar. 23, 2013>
- (2) The Association shall be a corporation, and it shall come into existence upon completing registration for incorporation at the seat of its principal office.
- (3) No matter requiring registration, other than registration of establishment, shall become effective against any third person, unless the relevant registration is made.
- (4) The Association shall conduct the following affairs: <Amended Feb. 29, 2008; Jul. 25, 2011; Mar. 23, 2013; Jan. 28, 2015>
 1. Establishment of, and cooperation on, policies for protection of industrial technology;
 2. Dissemination of information on divulgence of industrial technology to foreign countries;
 3. Counseling, public relations, education, and fact-finding surveys to prevent divulgence of industrial technology;
 4. Collection, analysis, and publication of data on protection of industrial technology, in or outside Korea;
 - 4-2. Providing support for the protection, management, etc. of national core technology;
 5. Duties to support the protection of industrial technology under Article 22 (1);
 6. Assistance in the affairs of the Industrial Technology Dispute Mediation Committee under Article 23;

7. Other affairs, such as projects that the Minister of Trade, Industry and Energy deems necessary to entrust to it, and projects determined by the Association's articles of association.
- (5) If necessary to protect the industrial technology of institutions possessing industrial technology, the Government may provide funds necessary to conduct the affairs of the Association within budgetary limits.
- (6) Matters necessary for affairs, supervision, etc. of the Association shall be determined by Presidential Decree.
- (7) Except as provided in this Act, the provisions of the [Civil Act] concerning incorporated associations shall apply *mutatis mutandis* to the Association.

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

- (1) The Minister of Trade, Industry and Energy may, when necessary, conduct fact-finding surveys on the protection and management of industrial technology of institutions possessing industrial technology. <Amended Feb. 29, 2008; Mar. 23, 2013>
- (2) The Minister of Trade, Industry and Energy may, in order to conduct a fact-finding survey pursuant to paragraph (1), request that institutions possessing industrial technology, and relevant organizations, submit relevant data or render cooperation necessary for the survey. In such cases, any person so requested shall comply with the request, in the absence of special circumstances. <Amended Feb. 29, 2008; Mar. 23, 2013>
- (3) Necessary matters concerning the subjects, scope, method, etc. of the fact-finding surveys under paragraph (2) shall be determined by Presidential Decree.

Article 18 (International Cooperation)

- (1) The Government may perform international cooperation projects necessary for, among other things, international exchange of relevant industrial security technology and professional manpower, international standardization of industrial security technology, and international joint research and development of industrial security technology in order to facilitate international cooperation to protect industrial technology.
- (2) The Government may assist in the following undertakings:
 1. Examination of and research on industrial security technology and security industries at the international level;
 2. Exchange of manpower and information on industrial security technology and the security industry at the international level;

3. Holding international exhibitions, academic meetings, etc. on industrial security technology and security industries;
4. Other projects prescribed by Presidential Decree, as deemed necessary to establish and implement measures at the international level.

Article 19 (Education on Protection of Industrial Technology)

- (1) The Minister of Trade, Industry and Energy may provide education to executive officers and employees of institutions possessing industrial technology to prevent divulgence of, and protect, industrial technology. <Amended Feb. 29, 2008; Mar. 23, 2013>
- (2) Necessary matters concerning the contents, term, cycle, etc. of the education under paragraph (1) shall be determined by Presidential Decree.

Article 20 (Support for Development of Industrial Security Technology)

- (1) The Government may establish and implement policies to develop industrial security technology and foster professional manpower in order to protect industrial technology.
- (2) The Government may cause institutions possessing industrial technology to work to develop industrial security technology under paragraph (1), etc. in order to efficiently promote the development of technology needed to protect industrial technology.
- (3) With respect to those who conduct an industrial security technology development project, etc. pursuant to paragraph (2), the Government may provide contributions or subsidies to cover expenses incurred in conducting the project.
- (4) Matters necessary for, among other things, disbursing, using, and managing the contributions under paragraph (3) shall be determined by Presidential Decree.

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

- (1) The Government may, within budgetary limits, reward those who contributed significantly to preventing divulgence of, and protecting, industrial technology through developing industrial security technology, etc. or those who reported divulgence of industrial technology to foreign countries in contravention of this Act. <Amended Jan. 30, 2009>
- (2) The Government shall, upon the request of a person who reported the fact of divulging industrial technology to foreign countries in violation of the provisions of this Act, take necessary measures, such as protective custody of said person.

- (3) With respect to foreigners who contributed significantly to preventing divulgence of, and protecting, industrial technology through developing industrial security technology, etc., the Government may assist their settlement in Korea and acquisition of Korean nationality.
- (4) Necessary matters concerning criteria, methods, and procedures for rewards, payment of rewards, protective custody, etc. under paragraphs (1) through (3) shall be determined by Presidential Decree.

Article 22 (Support for Protection of Industrial Technology)

- (1) If deemed necessary to promote the protection of technical technology, the Government may provide the following support to institutions possessing industrial technology, etc.: <Amended Jul. 25, 2011>
 - 1. Consultation for the protection of industrial technology;
 - 2. Technical support in installing and operating secure facilities for industrial technology;
 - 3. Support for education and manpower training for the protection of industrial technology;
 - 4. Other matters necessary for the protection of industrial technology.
- (2) Matters necessary for support under paragraph (1) shall be determined by Presidential Decree.

[Title Amended Jul. 25, 2011]

CHAPTER V SUPPLEMENTARY PROVISIONS

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

- (1) Any person who inflicts damage on a relevant organization by divulgence of, or an act of infringement of, industrial technology under Article 14 (hereafter in this Article referred to as "infringement of industrial technology") shall be liable to pay compensation for said damage.
- (2) If an infringement of industrial technology is found to be intentional, the court may determine the amount of damages within a maximum of three times the assessed damage, taking the following matters into consideration:
 - 1. Whether the person who committed the infringement of industrial technology was in a superior position;

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

[This Article Newly Inserted Aug. 20, 2019]

Article 22-3 (Submission of Materials)

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

[This Article Newly Inserted Aug. 20, 2019]

Article 22-4 (Confidentiality Orders)

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

obtained knowledge about the industrial technology due to the lawsuit has already acquired the industrial technology before the time of filing the application, by any method other than perusing briefs referred to in subparagraph 1 or examining evidence:

1. The industrial technology is included in a brief already submitted or to be submitted or a piece of evidence already examined or to be examined;
 2. If the industrial technology referred to in subparagraph 1 is used or disclosed for any purpose other than the litigation of the relevant case, such use or disclosure is likely to adversely affect the party's business management, and thus it is necessary to restrict the use or disclosure of the industrial technology to prevent said adverse effect.
- (2) An application for an order under paragraph (1) (hereinafter referred to as "confidentiality order") shall be filed in writing, stating the following therein:
1. A person to whom the confidentiality order is to be issued;
 2. Facts sufficient to identify the industrial technology subject to the confidentiality order;
 3. A fact constituting a cause prescribed in the subparagraphs of paragraph (1).
- (3) When a court decides to issue a confidentiality order, it shall serve the written decision on the person to whom the confidentiality order is issued.
- (4) A confidentiality order shall become effective when the written decision under paragraph (3) is served on the person to whom the confidentiality order is issued.
- (5) An immediate appeal may be filed against a court's ruling to dismiss, with or without prejudice, an application for a confidentiality order.

[This Article Newly Inserted Aug. 20, 2019]

Article 22-5 (Revocation of Confidentiality Orders)

- (1) If a person who applied for a confidentiality order or a person to whom a confidentiality order was issued fails or ceases to meet the requirements under Article 22-4 (1), said person may apply for the revocation of the confidentiality order to the court keeping the relevant litigation records (if no court keeping the relevant litigation records exists, this refers to the court that issued the confidentiality order).
- (2) If a court makes a ruling on an application for the revocation of a confidentiality order, it shall serve the written decision on the applicant and the other party.

- (3) An immediate appeal may be filed against a ruling on an application for the revocation of a confidentiality order.
- (4) A ruling to revoke a confidentiality order shall become effective when it becomes final and conclusive.
- (5) If there is a person to whom a confidentiality order was issued with regard to the relevant industrial technology, in addition to the person who applied for the revocation of the confidentiality order and the other party, the court that makes a ruling to revoke the confidentiality order shall notify said person immediately of the ruling to revoke the confidentiality order.

[This Article Newly Inserted Aug. 20, 2019]

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

- (1) Where a decision under Article 163 (1) of the Civil Procedure Act was made with regard to litigation records on a lawsuit for which a confidentiality order has been granted (excluding a lawsuit for which all confidentiality orders have been revoked), if a party filed a request for the perusal of the portion containing secrets referred to in said paragraph but the procedure for said request was filed by a person to whom no confidentiality order was issued in the relevant lawsuit, a Grade IV, V, VI, or VII court official in charge (hereafter in this Article referred to as "court official") shall notify the party who filed a request under Article 163 (1) of the Civil Procedure Act (excluding the person who filed a request for the perusal, etc. of such records; hereafter in paragraph (3) the same shall apply) that a request for the perusal of such records was filed immediately after the previous request.
- (2) In cases falling under paragraph (1), not earlier than two weeks after the filing date of a request under paragraph (1) (if an application for issuing a confidentiality order to the person who proceeded with the procedure for such request was filed during the period, referring to not earlier than the time a ruling on such application becomes final and conclusive), a court official shall not allow the person who proceeded with the procedure for said request to peruse any portion of secrets referred to in paragraph (1).
- (3) If all parties who filed an application under Article 163 (1) of the Civil Procedure Act consent to allowing a person who filed a request for perusal, etc. under paragraph (1) to peruse any portion of secrets referred to in paragraph (1), paragraph (2) shall not apply.

[This Article Newly Inserted Aug. 20, 2019]

Article 23 (Industrial Technology Dispute Mediation Committee)

- (1) An Industrial Technology Dispute Mediation Committee (hereinafter referred to as the "Mediation Committee") shall be established under the Minister of Trade, Industry and Energy to promptly mediate disputes over divulgence of industrial technology. <Amended Feb. 29, 2008; Mar. 23, 2013>
- (2) The Mediation Committee shall be comprised of not more than 15 members, including one chairperson.
- (3) The Minister of Trade, Industry and Energy shall appoint a commission of members of the Mediation Committee in consideration of professional field and gender, as prescribed by Presidential Decree from among the following persons: <Amended Feb. 29, 2008; Mar. 23, 2013; Jan. 28, 2015>
 1. Current or former workers at a university or certified research institute with a rank of associate professor or in a higher position, or in a position equivalent thereto, who majored in a field related to protection of technology or information;
 2. Current or former public officials of at least Grade IV or current or former workers at a public institution in a position equivalent thereto, with experience in the affairs of prevention of divulgence of industrial technology;
 3. Executive officers of a corporation conducting affairs to protect industrial technology or of an organization conducting its duty to protect industrial technology;
 4. Qualified judges, prosecutors, or attorneys-at-law.
- (4) The term of office for members shall be three years, but may be extended.
- (5) The chairperson shall be appointed by the Minister of Trade, Industry and Energy, from among the members. <Amended Feb. 29, 2008; Mar. 23, 2013>
- (6) Meetings of the Mediation Committee shall be convened with a majority of the current members present, and resolutions shall be adopted by the affirmative vote of a majority of members in attendance. <Newly Inserted Jan. 28, 2015>
- (7) A secretariat shall be established in the Association to assist the Mediation Committee in conducting its business affairs. <Newly Inserted Mar. 29, 2016>
- (8) Other matters necessary for the composition and operation of the Mediation Committee shall be prescribed by Presidential Decree. <Newly Inserted Jan. 28, 2015; Mar. 29, 2016>

Article 24 (Mediation Department)

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

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

- (1) In any of the following cases, a member shall be barred from deliberating and resolving on a case in which a request for mediation of a dispute is filed (hereinafter referred to as the "case"): <Amended Aug. 20, 2019>
 1. Where the member or the spouse or former spouse of the member is a party to the case concerned or is a joint interest holder or obligor in the case;
 2. Where the member is in or has been in a kinship relationship with a party to the case;
 3. Where the member has given testimony or has made an appraisal in connection with the case;
 4. Where the member is or has been involved in the case as an attorney, executive officer, or employee of a party to the case.
- (2) If a party has a ground to believe that it is impractical to expect impartiality from a member in deliberation and resolution, the party may file a challenge against the member with the Mediation Committee. In such cases, the Mediation Committee shall decide to accept the challenge if it finds that the challenge is reasonable.
- (3) If a member is to be disqualified under paragraph (1) or (2), he or she may voluntarily refrain from participating in deliberating on and resolving on the case.

Article 26 (Mediation of Disputes)

- (1) Any person who desires the mediation of a dispute related to divulgence of industrial technology may apply for mediation of said dispute by submitting a written application for mediation to the Mediation Committee, stating the purpose of and grounds for the application therein.
- (2) When receiving an application for dispute mediation under paragraph (1), the Mediation Committee shall examine the application and prepare a mediation

proposal within three months from the date on which it receives the application: Provided, that where an unavoidable circumstance exists, said period may be extended by a month, up to three times, by the resolution of the Mediation Committee, and in such cases, the extended period and reasons thereof shall be communicated to the parties to the case. <Amended Mar. 14, 2017>

- (3) Where the period under paragraph (2) elapses, mediation shall be deemed to have failed.
- (4) Where mediation is applied for, the respondent shall respond to the mediation in good faith. <Newly Inserted Mar. 14, 2017>

Article 27 (Requests for Materials)

- (1) The Mediation Committee may request materials necessary for dispute mediation from the parties to the dispute. In such cases, the parties to the dispute shall comply with said request, unless there is a good reason not to do so.
- (2) The Mediation Committee may, when deemed necessary, summon the parties to a dispute or witnesses to appear before the Mediation Committee to listen to their opinions.
- (3) When the Mediation Committee requests materials pursuant to paragraph (1) and listens to the statement of opinions pursuant to paragraph (2), it shall not make such materials and statement of opinions available to the public and shall maintain the confidentiality for materials submitted and opinions heard.

Article 28 (Effect of Mediation)

- (1) The Mediation Committee shall, when it completes preparation of a mediation proposal pursuant to Article 26 (2), present it to each party to the dispute without delay.
- (2) Any party to a dispute that is presented with a mediation proposal pursuant to paragraph (1) shall notify the Mediation Committee of his or her acceptance or non-acceptance of the mediation proposal within 15 days from the date on which he or she is presented with the mediation proposal.
- (3) When a party to a dispute accepts a mediation proposal, the Mediation Committee shall immediately prepare a mediation protocol, to which the chairperson and each party shall either affix their names and seals or signatures. <Amended Mar. 29, 2016>
- (4) Where a party to a dispute accepts the mediation proposal and affixes his or her name and seal or signature on the mediation protocol pursuant to paragraph (3),

the mediation protocol shall have the same effect as that of a court settlement.
<Amended Mar. 29, 2016>

Article 29 (Refusal and Suspension of Mediation)

- (1) When the Mediation Committee deems a dispute inappropriate to be mediated by the Mediation Committee due to its nature or when a party to a dispute is deemed to have filed an application for mediation for an undue purpose, it may refuse to perform the mediation concerned. In such cases, it shall notify the applicant of the ground therefor, etc.
- (2) The Mediation Committee shall, when one party initiates litigation in a court while it proceeds to handle a mediation case applied for, suspend the proceeding of such mediation and notify the parties concerned of said fact.

Article 30 (Mediation Procedures)

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

Article 31 (Statutes Applicable *Mutatis Mutandis*)

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

Article 32 (Fees)

- (1) Any person who applies to the Mediation Committee for the mediation of a dispute over divulgence of industrial technology pursuant to Article 26 (1) shall pay a fee as prescribed by Presidential Decree.
- (2) Necessary matters concerning fee amounts, and methods of, and procedures for, collection of fees under paragraph (1) shall be determined by Ordinance of the Ministry of Trade, Industry and Energy. <Amended Feb. 29, 2008; Mar. 23, 2013>

Article 33 (Delegation and Entrustment of Authority)

The Minister of Trade, Industry and Energy may delegate or entrust part of his or her authority under this Act to the heads of line agencies or the heads of agencies under his or her jurisdiction or the heads of relevant central governmental administrative agencies or the heads of relevant specialized institutions as prescribed by Presidential Decree. <Amended Feb. 29, 2008; Mar. 23, 2013>

Article 34 (Duty of Confidentiality)

None of the following persons shall divulge or misappropriate any secret he or she has learned in the course of conducting his or her duties: <Amended Feb. 29, 2008; Jul. 25, 2011; Mar. 23, 2013; Jan. 28, 2015; Aug. 20, 2019>

1. Any executive officer or employee of a relevant organization (including professors, researchers, and students);
2. Any person who carries out designation of national core technology or changes or cancels such designation pursuant to Article 9, or performs any duty to provide support for the protection, management, etc. of national core technology pursuant to Article 16;
3. Any person who performs review, prior review, or investigation on matters related to the export, acquisition, merger, etc. of national core technology, etc. pursuant to Articles 11 and 11-2;
3-2. Any foreigner who intends to perform cross-border acquisition, merger, etc. under Article 11-2 (3) and (6) and executive officers and employees of said foreigner;
4. Any person who receives reports on, and prevents, an act of infringement pursuant to Article 15;
5. Any person engaged in counseling or fact-finding surveys pursuant to Article 16 (4) 3;
6. Any person who conducts a fact-finding survey on the protection and management of industrial technology pursuant to Article 17 (1);
7. Any person who conducts research and development of industrial security technology as an employee of an industrial security technology development business entity pursuant to Article 20 (2);
8. Any person who mediates disputes over industrial technology pursuant to Article 23;
9. Any person who conducts business, exercising any of the authority delegated or entrusted by the Minister of Trade, Industry and Energy pursuant to Article 33;
10. Any person who obtains information on industrial technology in the course of performing his or her duties prescribed by Presidential Decree, such as requests to disclose information under the [Official Information Disclosure Act] and litigation on industrial technology.

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

Any person who performs the following duties shall be deemed a public official for the purposes of Articles 129 through 132 of the Criminal Act: <Amended Feb. 29, 2008; Jul. 25, 2011; Mar. 23, 2013; Jan. 28, 2015>

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

CHAPTER VI PENALTY PROVISIONS

Article 36 (Penalty Provisions)

- (1) Any person who commits an offense under any of subparagraphs 1 through 3 of Article 14 with intent to use national core technology in a foreign country or to cause national core technology to be used in a foreign country shall be punished by imprisonment with labor for a limited term of not less than three years. In such cases, a fine not exceeding 1.5 billion won shall be concurrently imposed. <Newly Inserted Aug. 20, 2019>
- (2) Any person who commits an offense under any of the subparagraphs (excluding subparagraph 4) of Article 14 with intent to use industrial technology in a foreign country or to cause industrial technology to be used in a foreign country (excluding a person who commits an offense under paragraph (1)) shall be punished by imprisonment with labor for not more than 15 years or by a fine not exceeding 1.5 billion won. <Amended Mar. 14, 2008; Mar. 29, 2016; Aug. 20, 2019>

- (3) Any person who commits an offense under any of the subparagraphs (excluding subparagraphs 4, 6, 6-2, and 8) of Article 14 shall be punished by imprisonment with labor for not more than 10 years or by a fine not exceeding one billion won. <Amended Jul. 25, 2011; Mar. 29, 2016; Aug. 20, 2019>
- (4) Any person who commits an offense under subparagraph 4 or 8 of Article 14 shall be punished by imprisonment with labor for not more than three years or by a fine not exceeding 300 million won. <Amended Aug. 20, 2019>
- (5) The property that a person who committed an offense under any of paragraphs (1) through (4) acquired through said offense shall be confiscated: Provided, that if it is impracticable to confiscate the whole or part of such property, the value equivalent thereto shall be collected. <Amended Aug. 20, 2019>
- (6) Any person who divulges or misappropriates a secret, in violation of Article 34, shall be punished by imprisonment with labor for not more than five years or by the suspension of professional qualifications for not more than 10 years or by a fine not exceeding 50 million won. <Amended Mar. 29, 2016; Aug. 20, 2019>
- (7) Any person who attempted a crime under any of paragraphs (1) through (3) shall be punished. <Amended Aug. 20, 2019>
- (8) Imprisonment with labor and a fine under paragraphs (2) through (4) may be imposed concurrently. <Amended Aug. 20, 2019>

Article 36-2 (Violation of Confidentiality Orders)

- (1) Any person who violates a confidentiality order in or outside Korea, without good cause, shall be punished by imprisonment with labor for not more than five years or by a fine not exceeding 50 million won.
- (2) No person shall be prosecuted for a crime under paragraph (1) without a criminal complaint filed by a person who applied for a confidentiality order.
[This Article Newly Inserted Aug. 20, 2019]

Article 37 (Preparations and Conspiracies)

- (1) Any person who makes preparations or conspires with the intent to commit a crime under Article 36 (1) or (2) shall be punished by imprisonment with labor for not more than three years or by a fine not exceeding 30 million won. <Amended Aug. 20, 2019>
- (2) Any person who makes preparations or conspires with the intent to commit a crime under Article 36 (3) shall be punished by imprisonment with labor for not more than two years or by a fine not exceeding 20 million won. <Amended Aug. 20, 2019>

Article 38 (Joint Penalty Provisions)

Where the representative of a corporation or an agent or employee of, or any other person employed by, a corporation or an individual commits an offense under any of Article 36 (1) through (4) in connection with the business of the corporation or the individual, the corporation or individual shall, in addition to punishing the offender accordingly, be punished by a fine prescribed in the relevant provision: Provided, that the same shall not apply where such corporation or individual has not been negligent in giving due attention and supervision concerning the relevant business affairs to prevent said offense. <Amended Aug. 20, 2019>

[This Article Wholly Amended Dec. 26, 2008]

Article 39 (Administrative Fines)

- (1) Any of the following persons shall be subject to an administrative fine not exceeding 10 million won: <Amended Jan. 30, 2009>
 1. Any person who refuses, obstructs, or evades measures to protect national core technology, in violation of Article 10 (3);
 2. Any person who fails to make a report on the infringement of industrial technology under Article 15 (1);
 3. Any person who fails to submit relevant materials or has submitted false materials, in violation of Article 17 (2).
- (2) Administrative fines under paragraph (1) shall be imposed and collected by the Minister of Trade, Industry and Energy, as prescribed by Presidential Decree. <Amended Feb. 29, 2008; Mar. 23, 2013>