

THE GOVERNMENT DECREE

Decree no. 99/2003/ND-CP of August 28, 2003 promulgating the regulation on high-tech parks

THE GOVERNMENT

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

Pursuant to the June 9, 2000 Science and Technology Law;

Pursuant to the May 20, 1998 Domestic Investment Promotion Law (amended);

Pursuant to the November 12, 1996 Law on Foreign Investment in Vietnam and the June 9, 2000 Law Amending and Supplementing a Number of Articles of the Law on Foreign Investment in Vietnam;

At the proposal of the Minister of Science and Technology,

DECREES:

Article 1 .-To promulgate together with this Decree the Regulation on high-tech parks.

Article 2.-This Decree takes effect 15 days after its publication in the Official Gazette and replaces the Regulation on high-tech parks in the Government's Decree No. 36/CP of April 24, 1997 promulgating the Regulation on industrial parks, export-processing zones and high-tech parks. Other regulations contrary to the provisions of this Decree are all hereby annulled.

Article 3.-The ministers, the heads of the ministerial level agencies, the heads of the agencies attached to the Government, the presidents of the People's Committees of the provinces and centrally-run cities, and the chairmen of the management boards of high-tech parks shall have to implement this Decree.

On behalf of the Government Prime Minister

PHAN VAN KHAI

REGULATION ON HIGH-TECH PARKS

*(Promulgated together with the Government's Decree
No. 99/2003/ND-CP of August 28, 2003)*

Chapter I: GENERAL PROVISIONS

Article 1.- Scope of regulation and subjects application

1. This Regulation provides for the organization and operation of high-tech parks.
2. Subjects of application of this Regulation are domestic and foreign agencies, organizations and enterprises; Vietnamese and overseas Vietnamese individuals and foreigners operating in high-tech park

Article 2.- Interpretation of terms

In this Regulation, the following words and phrases are construed as follows:

1. "High technology" means technology integrated from advanced scientific and technological achievements, capable of creating a sharp increase the productivity, utilities, quality and added value of commodity products, forming new production branches or services of high socio-economic efficiency and of great *impact* on socio-economic development and security-defense.
2. "High-tech products" mean products created owing to the application of high technology.
3. "High-tech park" means a multi-functioned economic-technical park with delimited boundaries, established under a decision of the Prime Minister, aiming to research into, develop and apply high technologies; nurse high-tech enterprises, train high tech manpower, produce and trade in high-tech products. Within a high-tech park, there may be export-processing zones, bonded warehouses, tax suspension warehouses, and residential quarters.
4. "Investors" mean domestic and foreign organizations and enterprises, Vietnamese and overseas Vietnamese individuals and foreigners who have investment projects in high-tech parks.
5. "Nursery of high-tech enterprises" means activities supporting organizations and individuals that have scientific or technological ideas or scientific or technological research results to perfect technologies, make products on an experimental basis and set up enterprises to turn out high-tech products.

Article 3.- Objectives of high-tech parks

1. To contribute to building up the research and development capabilities in the country's high-tech domains.
2. To create an environment conducive to investment activities in order to attract capital, high technologies and high-tech manpower at home and abroad, contributing to building high-tech industries which shall serve as a motive force for economic development, especially in key economic regions.

3. To create favorable conditions for linking high-tech training, research and development with production and services, step up technological renovation, nursery of high-tech enterprises and commercialization of high technologies.

4. To contribute to boosting economic growth, raising the level of production technologies as well as the competitiveness of commercial goods and services.

Article 4.-The State's guaranty

1. To prioritize the allocation of budget capital for investment in building high-tech parks and a number of technical infrastructural items outside high-tech parks in direct service of the operation of high-tech parks.

2. To treat equally and create favorable conditions for organizations, enterprises and individuals at home and abroad to invest in high-tech parks; for Vietnamese and foreign scientists and specialists to work in high-tech parks.

3. To protect the ownership over investment capital, assets, profits, intellectual property rights, other legitimate rights and interests of organizations, enterprises and individuals operating in high-tech parks; to guarantee that their lawful properties in high-tech parks not be requisitioned or confiscated through administrative measures and nationalization in the period of execution of investment projects.

Chapter II:INVESTMENT ACTIVITIES

Article 5.- Investment domains and high-tech domains eligible for investment encouragement

1. Investment domains:

a/ Building and commercial operation of technical infrastructural works;

b/ Manufacture of and trading in high-tech products;

c/ Scientific research and technological development, training of high-tech manpower;

d/ Nursery of high technologies, high-tech enterprises and high-tech trade promotion;

e/ Provision of assorted services.

2. High-tech domains eligible for investment encouragement:

a/ Information, communication, informatic software technologies.

b/ Bio-technologies in service of agriculture, aquaculture and healthcare;

c/ Micro-electronic, precision mechanical engineering, electro-mechanical, electro-optical and automation technologies;

d/ New materials technologies and nano technologies;

e/ Environmental technologies, new energy technologies.

f/ A number of other special technologies.

3. Basing themselves on the high-tech domains specified in Clause 2 of this Article, the high-tech park management boards shall announce the lists of specific projects which

are encouraged to be invested in high-tech parks in the domains: manufacture of high-tech products, high-tech services and high-tech research and development.

Article 6.- Competence and procedures for investment in high-tech parks

1. The high-tech park management boards shall guide the investors on the procedures for making investment in high-tech parks; receive dossiers, grant, adjust and withdraw investment licenses of authorized investment projects; submit unauthorized investment projects to the competent State bodies for granting, adjusting or withdrawing investment licenses.

2. For authorized investment projects, within 15 working days after receiving valid dossiers, the high-tech park management boards shall have to consider, decide to grant or refuse to grant investment licenses and/or investment preference certificates and notify the investors thereof. In case of refusal, the high-tech park management boards must reply in writing, clearly stating the reasons therefor.

3. For unauthorized investment projects, the high-tech park management boards shall have to act as coordinators to help investors deal with difficulties and problems in the process of carrying out investment procedures according to the on-spot, one-door principle.

4. Investment projects in the high-tech parks shall be elaborated according to law provisions, clearly stating the satisfaction of conditions for enjoying investment preferences according to law provisions.

5. Investment preferences for foreign-invested projects shall be considered concurrently in the process of evaluation for granting investment licenses and prescribed therein. Preferences offered to domestic investment projects shall be prescribed in investment preference certificates.

Chapter III: LAND MANAGEMENT AND INFRASTRUCTURE CONSTRUCTION

Article 7.- Land management

1. The high-tech park management boards shall be assigned land once for organizing the construction and development of high-tech parks according to planning and use purposes already approved by competent State bodies. They may assign or lease land to investors according to the procedures prescribed by the land legislation.

2. Investors that use land in the high-tech parks shall be granted the land use right certificates. The competence to grant land use right certificates shall comply with the law provisions on land.

3. The order and procedures for assigning land and granting land use right certificates shall comply with the guidance of the Ministry of Natural Resources and Environment.

Article 8.- Management of planning and construction of technical infrastructures

1. The construction of technical infrastructures and works in the high-tech parks must comply with the approved plannings. The high-tech park management boards shall

manage the planning dossiers, technical designs and records on the test and acceptance of technical infrastructural works constructed in the high-tech parks.

2. For technical infrastructural works invested with the State budget capital, the high-tech park management boards shall organize the construction thereof under the current law provisions.

3. For technical infrastructural works invested with non-State budget capital, the high-tech park management boards shall guide and supervise the investors in the construction thereof according to law provisions.

4. Water and power supply and postal and telecommunication works outside the boundaries of the high-tech parks shall be constructed by specialized enterprises at the requests of the high-tech park management boards in conformity with the plannings and progress of construction of the high-tech parks.

Article 9.- Investment capital for constructing technical infrastructures

1. The State budget capital shall be allocated for the following tasks:

a/ Making general and detailed plannings, investment preparation work;

b/ Ground clearance, bomb, mine and explosive sweeping, ground leveling.

c/ Constructing common-use technical infrastructures of the high-tech parks, working offices of the high-tech park management boards.

d/ Constructing technical infrastructures for the high-tech training and research and development areas. e/ Building nurseries of high-tech enterprises.

2. Depending on the practical conditions of each high-tech park, the Prime Minister shall consider and decide on the percentage of re-investment in building the high-tech parks within the annual collected amounts of land rentals and taxes in the high-tech parks and the duration of execution of these decisions.

3. The construction of technical infrastructures in the remaining areas shall be funded with other capital sources.

4. The State shall prioritize the calling of official development assistance (ODA) capital for constructing high-tech parks.

Chapter IV :HIGH-TECH PARK ENTERPRISES

Article 10.- High-tech park enterprises

1. High-tech park enterprises are those set up under law provisions and operating within the high-tech parks, including infrastructure development enterprises, high tech enterprises, high-tech service enterprises, high-tech park development companies and catering service enterprises.

2. High-tech park enterprises shall have the following rights and obligations:

a/ To select investment forms.

b/ To be assigned, leased or sub-leased land with built infrastructures; to rent or purchase workshops.

c/ To be granted the land use right certificates; to mortgage the land use right value and assets affixed to land at credit institutions according to law provisions.

d/ To transfer the land use right value and assets affixed to land within the land lease duration according to law provisions. The transferees shall have to continue performing the obligations and enjoying the interests defined in the contracts signed between the transferors and the infrastructure development enterprises or high-tech park development companies, unless otherwise agreed upon.

e/ To enjoy investment preference policies as prescribed.

f/ To operate in accordance with the provisions of their investment licenses.

g/ To supply information to the high-tech park management boards and concerned State management bodies according to regulations.

h/ Other rights and obligations as prescribed by law.

Article 11.-Infrastructure development enterprises 1. Infrastructure development enterprises are those building and dealing in technical infrastructures, dwelling houses, workshops and other works in the high-tech parks according to the approved projects.

2. Infrastructure development enterprises shall have the following rights and obligations:

a/ The rights and obligations specified in Clause 2, Article 10 of this Regulation.

b/ To be accountable for the quality of works; to upkeep the works constructed by themselves;

c/ To mobilize investment into the high-tech parks. d/ After two years as from the decisions approving the technical development projects are issued, if the infrastructure development enterprises fail to deploy the projects, the high-tech park management boards shall consider and revoke such decisions.

Article 12.-High-tech enterprises

1. High-tech enterprises are those manufacturing commodity products on the high technology production chains.

2. High-tech enterprises shall have the right to directly export products manufactured by themselves and other rights and obligations as specified in Clause 2, Article 10 of this Regulation.

Article 13.- High-tech service enterprises

1. High-tech service enterprises are those providing information, high technique, technology transfer and knowledge transfer services in direct service of high tech research and development as well as manufacture of high-tech products.

2. High-tech service enterprises shall have the rights and obligations as specified in Clause 2, Article 10 of this Regulation.

Article 14.-High-tech park development companies 1. High-tech park development companies are enterprises set up by the State and attached to the high-tech park management boards.

2. The high-tech park development companies shall operate in the following domains:

a/ Investing in building and developing high-tech parks.

b/ Building and commercially operating high-tech park technical infrastructural works.

c/ Providing services for investment and technology transfer activities within the high-tech parks.

d/ Other activities registered according to law provisions.

3. The high-tech park management boards shall prescribe the organizational apparatuses of high-tech development companies and approve their operation charters.

4. The high-tech park development companies shall have the rights and obligations specified in Clause 2, Article 11 of this Regulation.

Article 15.- Catering service enterprises

1. Catering service enterprises are those providing services regarding dwelling houses, schooling, healthcare, cultural activities and other services related to the life of inhabitants in the high-tech parks.

2. Catering service enterprises shall have the rights and obligations as prescribed in Clause 2, Article 10 of this Regulation.

Article 16.- Export-processing zones, bonded warehouses and tax suspension areas

1. Within the high-tech parks, export-processing zones, bonded warehouses and/or tax suspension areas may be set up according to law provisions.

2. The Ministry of Trade shall promulgate the Regulation on organization and operation of tax suspension areas in the high-tech parks.

Chapter V:SCIENTIFIC AND TECHNOLOGICAL ACTIVITIES, TRAINING OF HIGH-TECH MANPOWER

Article 17.- Scientific and technological activities

1. Scientific and technological activities in the high-tech parks include high-tech adaptability research, improvement and creation; high-tech nursery and transfer; scientific and technological services.

2. The State encourages organizations, enterprises and individuals at home and abroad to invest in hightech research and development in the high-tech parks.

3. The State concentrates investment on building a number of key laboratories in the priority domains in high-tech parks.

4. Vietnamese and foreign scientists and specialists working in the libraries in the high-tech parks shall enjoy preferential treatment policies according to law provisions.

Article 18.-High-tech manpower training activities

1. Manpower training activities in the high-tech parks include:

a/ Training high-tech workers and technicians.

b/ Participating in training doctors in the high-tech domains.

2. The State encourages organizations, enterprises and individuals at home and abroad to set up job-training establishments, carry out training cooperation programs in the high-tech parks to train high-tech workers and technicians.

3. Training organizations in high-tech parks may hire infrastructures and/or services under preferential conditions and shall have to comply with the law provisions on education and training.

Chapter VI: VENTURE INVESTMENT, NURSERY OF HIGH-TECH ENTERPRISES AND HIGH-TECH COMMERCE

Article 19.- Venture, investment funds

1. A venture investment fund is a financial institution set up under the law provisions to invest in high-tech nursery activities and high-tech enterprises. The venture investment funds shall operate on the basis of their organization and operation charters.

2. Functions of the venture investment funds:

a/ To mobilize, receive and manage lawful investment capital of organizations, enterprises and individuals at home and abroad.

b/ To invest in high-tech nursery activities, high-tech enterprises and enjoy benefits from investment activities.

3. The State encourages:

a/ Foreign investment funds currently operating in Vietnam and abroad to participate in venture investment activities in the high-tech parks.

b/ Vietnamese organizations and individuals to set up, or enter into joint ventures with foreign countries in setting up, venture investment funds.

4. The State creates favorable conditions and supports initial capital for the formation of venture investment funds to develop domestic high technologies and high-tech enterprises.

Article 20.-High-tech enterprise nurseries

1. A high-tech enterprise nursery shall have the tasks of organizing and deploying activities to support organizations and individuals that have scientific and/or technological ideas or research results to perfect the technologies, make products on an experimental basis and set up high-tech product-manufacturing enterprises.

2. Conditions, rights and obligations of organizations and individuals nursing enterprises in the enterprise nurseries.

a/ Conditions: Having high-tech projects which have been approved for nursery.

b/Interests:

-To be supported by the high-tech park management boards 50% of the house and workshop rentals.

- To receive free-of-charge consultations and information on matters related to enterprise-nursing activities in the enterprise nurseries.

- To lease infrastructures and be provided with assorted services under preferential conditions.

- To be created with conditions for using equipment and facilities of the State-invested laboratories in the high-tech parks.

-To be supported for borrowing capital from financial institutions and investment funds.

c/ Obligations: To comply with the regulations of the high-tech park management boards and law provisions.

Article 21.- Commercial activities regarding high technologies and high-tech products

1. Commercial activities regarding high technologies and high-tech products in the high-tech parks include:

a/ Exhibitions of and advertisements for high technologies and high-tech products.

b/ Purchasing and selling high-tech products.

c/ Transferring high technologies.

c/ Providing consulting services related to the transfer and commercialization of high technologies and high-tech products.

d/ Providing consulting services related to the transfer and commercialization of high technologies and high-tech products.

2. The high-tech park management boards shall organize and manage the activities specified in Clause 1 of this Article according to law provisions.

Chapter VII: LABOR AND POPULATION MANAGEMENT

Article 22.- Labor management

The high-tech park management boards shall manage, inspect and urge the observance of the law provisions on labor in the high-tech parks under the authorization of competent State management bodies.

Article 23.- Employment

1. The investors operating in the high-tech parks may directly recruit and employ laborers according to law provisions.

2. Foreigners and overseas Vietnamese working in the high-tech parks shall be granted work permits by the high-tech park management boards under the authorization of competent State management bodies.

3. The labor-employing investors shall have to register the lists of laborers being foreigners and overseas Vietnamese and changes therein with the high-tech park management boards.

4. In case of merger, separation, transfer of the right to own, manage or use properties of investors in high-tech parks, the new owners or succeeding employers shall have to continue implementing the signed collective labor agreements and labor contracts

until the contract signatories agree to revise or terminate the old contracts and enter into the new ones.

Article 24.- Regimes for laborers

The working conditions, rights and obligations of each party in the labor relations shall be agreed upon by the employers and the employees in the labor contracts on the basis of respecting the legitimate interests of laborers.

Article 25.- Residence in the high-tech parks Vietnamese people, overseas Vietnamese and foreigners working in the high-tech parks and their families may reside in the high-tech parks according to law provisions and the regulations of the high-tech park management boards.

Chapter VIII: FINANCE, ACCOUNTING AND FOREIGN EXCHANGE

Article 26.- Currency

The currency used in the cost-accounting and book-keeping by the investors in the high-tech parks is Vietnam dong.

Article 27.- Payment currency

The investors in the high-tech parks shall effect amounts payable or remittable into the State budget, conduct the purchase, sale, payment, transfer and other transactions in the Vietnamese currency.

Article 28.- Financial accounting regime

The investors in the high-tech parks shall implement the law-prescribed financial accounting regime. If the investors with foreign investment capital wish to apply accounting regimes other than the prescribed one and universal international standards, they must obtain the approval from the Ministry of Finance and notify the high-tech park management boards thereof before application.

Article 29.- Fiscal year

1. The fiscal year is counted according to the calendar year as from January 1 to the end of December 31 every year. Particularly for the first fiscal year, it shall be counted from the date of issuance of investment license to the end of December 31 of that year.

2. The investors having foreign investment capital in high-tech parks may apply a 12-month fiscal year not coinciding with the calendar year, but they must obtain the approval from the Ministry of Finance and notify the high-tech park management boards thereof before application.

Article 30.- Financial statements

The investors in the high-tech parks shall make and submit annual financial accounting statements to competent State management bodies according to the approved reporting regime.

Article 31.- Foreign exchange management

The foreign exchange management applicable to the investors in the high-tech parks shall comply with Vietnam's foreign exchange management regulations.

Chapter IX: STATE MANAGEMENT OVER HIGH-TECH PARKS

Article 32.-Contents of State management

1. Formulating high-tech park development strategies, plannings, plans, mechanisms and policies.
2. Prescribing and guiding the establishment, construction, development, and management of the operation of, high-tech parks.
3. Granting, adjusting and evoking licenses.
4. Supervising, inspecting and overseeing the law observance and handling law violations in the high-tech parks.

Article 33.- State management responsibilities

1. The Ministry of Science and Technology:

a/To assume the prime responsibility for formulating strategies and overall plannings for development of high-tech parks nationwide in line with the socio-economic development and the scientific and technological development strategies in each period and submit them to the Prime Minister for consideration and approval.

b/ To formulate and promulgate according to its competence or submit to the Government of the Prime Minister for promulgation legal documents concerning the high-tech park development mechanisms and policies.

c/ To supervise and inspect the construction, development and operation of high-tech parks; to evaluate the operational efficiency of the high-tech parks and periodically report thereon to the Prime Minister.

2. High-tech park-managing agencies:

a/ To submit to the Prime Minister for appointment chairmen of the high-tech park management boards under their respective charge.

b/ To authorize the chairmen of the high-tech park management boards under their respective charge to decide on group-B and group-C investment projects funded with the State budget capital according to law provisions.

3. The People's Committees of the provinces or cities where exist the high-tech parks shall manage administrative, population, security and public order affairs in the high-tech parks in coordination with the high-tech park management boards.

4. The ministries of: Planning and Investment; Finance; Construction; Labor, War Invalids and Social Affairs; Home Affairs; Natural Resources and Environment; and Trade; and other concerned ministries and agencies shall perform the State management over the high-tech parks or authorize the high-tech park management boards to perform some of the State management tasks according to their functions and tasks.

Article 34.- High-tech park management boards

The high-tech park management boards set up under decisions of the Prime Minister shall have the function of State management over all activities in the high-tech parks according to law provisions. The high-tech park management boards shall have their organization and payrolls attached to the high-tech park-managing agencies, may

use seals with the national emblem, are assigned annual plan norms, have class-1 bank accounts and are allocated funding from the State budget for their operations.

Article 35.- Tasks and powers of high-tech park management boards

1. Management of plannings and plans:

a/ To manage the implementation of the general plannings of high-tech parks and the detailed plannings of functional quarters.

b/ To draw up five-year and annual high-tech park development plans and submit them to the high-tech park-managing agencies and competent State management bodies for approval.

c/To organize the implementation of the approved plans on construction and development of high-tech parks.

2. Investment mobilization, investment and construction management:

a/ To draw up, and organize the implementation of, investment mobilization and promotion plans.

b/ To grant, adjust and revoke investment licenses and investment preference certificates under the provisions in Article 6 of this Regulation.

c/ To decide on group-B and group-C projects with regard to investment items funded with the State budget capital under the authorization by the high-tech park-managing agencies.

d/To organize the building and commercial operation of construction works, technical infrastructures in the high-tech parks.

e/To cooperate with organizations, enterprises and individuals at home and abroad in the domains relating to the high-tech park investment, construction and development.

f/ To inspect the execution of investment projects within the high-tech parks.

3. Land management:

To manage land in the high-tech parks under the provisions of Article 7 of this Regulation.

4. To formulate the organization and operation charters of the high-tech park management boards and submit them to the high-tech park-managing agencies for approval.

5. To organize and manage services within the high-tech parks.

6. To regularly and irregularly report to the Prime Minister, the high-tech park-managing agencies and competent State management bodies on the situation of construction, development, management and operation of high-tech parks.

Article 36.- Organizational structure of high-tech park management boards

1. The organizational structure of a high-tech park management board consists of a chairman, vice chairmen, the office, professional sections, non-business units and the high-tech park development company.

2. The heads of the high-tech park management boards shall be appointed by the Prime Minister at the proposals of the high-tech park-managing agencies. The deputy heads shall be appointed by the heads of the high-tech park-managing agencies at the proposals of the boards' heads.

3. The heads of the high-tech park management boards shall have to run all activities of their high-tech park management boards, take responsibility to the Prime Minister and the heads of the high-tech park-managing agencies for the operation and operational efficiency of the high-tech parks.

Chapter X: IMPLEMENTATION PROVISIONS

Article 37.- Dispute settlement

All disputes arising in high-tech parks shall be settled according to law provisions.

Article 38.- Handling of violations

If organizations, enterprises and individuals operating within the high-tech parks violate law provisions and regulations of this Regulation, they shall be handled according to law provisions, depending on the seriousness of their violations.

Article 39.-Other provisions

To apply the provisions of other legal documents to matters related to the operation of high-tech parks, which are not prescribed in this Regulation.

On behalf of the Government Prime Minister

PHAN VAN KHAI