

PROCEDURE FOR ESTABLISHING INVESTMENT CONTRACT

1. Common ground

1.1. The purpose of this regulation is that the Government, in accordance with Article 20 of the Law on Investments, invests more than 500 billion MNT in Mongolia with investors who hold stabilization certificates and investors who have not received stabilization certificates. is to regulate the relationship related to the conclusion of the contract.

1.2. This regulation applies to investors specified in the Law on Investments and Procedures for Compliance with the Law on Investments.

1.3. This procedure does not apply to the conclusion of an investment contract in the nuclear energy sector specified in Article 4, Clause 4.7 of the Law on Investment, or to the contract for the use of deposits specified in Sections 5.3, 5.4, and 5.5 of Article 5 of the Law on Minerals, and to the conclusion of a product sharing agreement in accordance with the Petroleum Law. .

2. Apply for an investment agreement

2.1. Pursuant to Article 20, Article 20.1 and 20.5 of the Law on Investment, an investor legal entity that will invest more than 500 billion MNT shall submit a request to enter into an investment agreement in accordance with the Law on Investment and this regulation to the state administrative body in charge of investment. The following documents are attached:

2.1.1. information on creating sustainable jobs;

2.1.2. information on the introduction of advanced techniques and technologies;

2.1.3. information about shareholders, activities and previously implemented projects of the requesting legal entity;

2.1.4. state registration certificate of the applicant legal entity and, in the case specified by law, a copy of the certificate issued by the competent authority, other rights certificates and stabilization certificates, respectively;

2.1.5. the total amount of investment is about to reach 500 billion MNT or more, and the technical and economic basis is confirmed by the central state administrative organization of the project activity or the scientific and technical council attached to it;

2.1.6. if it is necessary to obtain a permit according to Article 21 of the Law on Investment, a copy of the obtained permit;

2.1.7. environmental impact assessment report.

2.2. The state administrative body in charge of investment issues shall receive and review the request for investment agreement as specified in Section 2.1 of this regulation.

2.3. In the process of reviewing the request, the state administrative body in charge of investment may obtain from the investor legal entity additional documents other than those specified in Clause 2.1 of this regulation.

2.4. The state administrative body in charge of investment may refuse to negotiate an investment agreement on the following grounds:

2.4.1. any activities and investment characteristics of the investor are contrary to the concept of National Security of Mongolia;

2.4.2. if the investment is ineffective and has a negative impact on Mongolia's budget, financial income, and policy;

2.4.3. it was established by calculations and financial documents that the amount of investment to be made by the investor will not reach 500 billion MNT;

2.4.4. the legal entity that is required to obtain the permit specified in Article 21 of the Investment Law has not obtained the permit;

2.4.5. it was determined that the criteria specified in Article 16, Clause 16.1 of the Investment Law were not met;

2.4.6. if any activity, investment project or program of the investor causes significant damage to the environment.

2.5. The state administrative organization in charge of investment issues shall take the opinions and conclusions of the relevant organization in the process of verifying whether the conditions specified in Section 2.4 of this regulation have occurred.

2.6. In the event that there are grounds for refusing to enter into negotiations for an investment agreement as specified in Section 2.4 of this regulation, the state administrative body in charge of investment issues shall respond in writing to the requesting legal entity.

/Government Resolution No. 255 dated 6-22-2015 changed the provisions of Sections 2.1-2.6/

3. Negotiating and concluding contracts

3.1. In the event that the grounds for refusal specified in Section 2.4 of this Regulation are not established, the state administrative body in charge of investment shall invite the requesting legal entity to negotiations for the conclusion of an investment agreement. /Amended by Government Resolution No. 255 dated 6-22-2015/

3.2. The state administrative body in charge of investment issues shall establish a working group to negotiate the conclusion of an investment agreement with the applicant legal entity if deemed necessary. The member of the Government in charge of the sector or an authorized person appointed by him will participate in the working group, and the composition of the working group will be approved by the order of the Prime Minister of Mongolia. /Amended by Government Resolution No. 255 dated 6-22-2015/

3.3. During the negotiations, the working group may receive external consulting services consisting of professional scientists and experts, and the related costs will be presented to the Cabinet meeting each time by the member of the Government in charge of investment.

3.4. The working group specified in Clause 3.2 of this regulation shall conduct negotiations within the framework of the applicable laws and regulations at that time and agree on the draft investment agreement with the requesting legal entity.

3.5. The leader of the working group or the relevant official of the state administrative organization in charge of investment issues is responsible for regularly informing the government member in charge of investment issues about the progress of negotiations. /Amended by Government Resolution No. 255 dated 6-22-2015/

3.6. The parties will present the draft of the investment agreement to the government member in charge of investment after fully agreeing on the results of negotiations.

3.7. If the member of the Government in charge of investment issues supports the project of the investment agreement, the matter shall be discussed at the Cabinet meeting in accordance with the Law on the Government of Mongolia and relevant regulations.

3.8. The government will issue a resolution in accordance with relevant laws and regulations on whether to conclude the investment agreement.

3.9. If the government approves the project of the investment agreement, according to Article 20, Article 20.2 of the Law on Investment, the member of the government authorized by the order of the Prime Minister of Mongolia shall have the right to sign and conclude the investment agreement with the requesting legal entity. /Amended by Government Resolution No. 255 dated 6-22-2015/

4. Content of the Agreement

4.1. The investment agreement shall be written in Mongolian and English, and the following shall be included in the investment agreement.

4.1.1. the legal and legal basis for concluding the investment agreement;

4.1.2. the parties to the investment agreement, their percentage and amount of shares;

4.1.3. if the investor implements the investment project through a joint or partnership structure of a legal entity or with a related legal entity, the legal entity's name, state registration and tax payer's certificate number, subject to the regulation of the investment agreement;

4.1.4. investment objectives and main activities;

4.1.5. amount and source of investment;

4.1.6. investment period and stage;

4.1.7. investment contract period;

4.1.8. According to Article 20, Clause 20.4 of the Investment Law, conditions for stabilization of the tax environment, regulatory and financial support;

4.1.9. the technical and economic basis of the project based on the contract, and how to reconsider the contract in case of changes;

4.1.10. about ways and solutions to eliminate or reduce negative impacts on the health of the population and the environment;

4.1.11. impact on other industries and services;

4.1.12. contribution to regional development;

4.1.13. on enforcement of laws on labor relations, creation of new jobs, training of personnel;

4.1.14. how to solve infrastructure problems, urban and rural, social and cultural problems;

4.1.15. Whether to create business opportunities for citizens and enterprises of Mongolia;

4.1.16. about the volume and price of products produced, processed and sold during the investor's main activity;

4.1.17. measures to be taken in case of force majeure;

4.1.18. Government rights and obligations;

4.1.19. rights and obligations of the investor legal entity;

4.1.20. grounds for amendments to the investment agreement;

4.1.21. Grounds for annulment of the contract and termination of the contract;

4.1.22. dispute resolution;

4.1.23. how the parties will monitor the implementation of the agreement;

4.1.24. in case the investment does not reach the level set by law due to the investor's failure to properly fulfill the obligations under the contract, the tax support and stabilization provided to the investor shall be considered invalid, and the amount of tax enjoyed under the contract shall be claimed;

4.1.25. other conditions mutually agreed upon by the parties.

4.2. The contract shall be concluded in accordance with the laws in force.

5. Monitoring the implementation of the contract

5.1. An investor legal entity that has signed an investment agreement is obliged to submit a report on investment activities and project implementation to the state administrative body in charge of investment within the first quarter of the following year, as specified in the Law on Investment and the investment agreement. /Amended by Government Resolution No. 255 dated 6-22-2015/

5.2. The implementation of the investment agreement will be monitored by the state administrative organization in charge of investment matters, and may cooperate with the industry and other related organizations if necessary. /Amended by Government Resolution No. 255 dated 6-22-2015/

5.3. The state administrative organization in charge of investment issues shall immediately notify the investor legal entity that has signed the investment agreement about violations and deficiencies arising during the investment contract and take measures to eliminate the violation. /Amended by Government Resolution No. 255 dated 6-22-2015/

5.4. The government has the right to suspend or cancel the contract if the investor does not fulfill his obligations under the contract.

5.5. Disputes arising from the relationship of the investment contract shall be resolved in accordance with the laws of Mongolia and the contract.

6. Others

6.1. The state administrative body in charge of investment shall inform the central state administrative body in charge of tax within 5 working days of the information about the investment contract concluded with the investor. /Amended by Government Resolution No. 255 dated 6-22-2015/