

CABINET OF MINISTERS OF UKRAINE

RESOLUTION

as of 11 August 2021, No. 860

Kyiv

On Approval of Procedure for Import into the Customs Territory of Ukraine and Intended Use of New Equipment and Components to it, imported by an Investor with Significant Investments Exclusively for Use in the Course of Implementation of an Investment Project with Significant Investments to Perform a Special Investment Agreement Concluded in Accordance with the Law of Ukraine “On State Support of Investment Projects with Significant Investments in Ukraine”

In accordance with subparagraph 15 of paragraph 4 of section XXI “Final and transitional provisions” of the Customs Code of Ukraine, the Cabinet of Ministers of Ukraine decrees:

To approve Procedure for import into the customs territory of Ukraine and intended use of new equipment and components to it, imported by an investor with significant investments exclusively for use in the course of implementation of an investment project with significant investments to perform a special investment agreement concluded in accordance with the Law of Ukraine “On State Support for Investment Projects with Significant Investments in Ukraine”, attached.

Prime Minister of Ukraine

D. SHMYHAL

APPROVED
by the resolution of the Cabinet of Ministers of Ukraine
as of 11 August 2021, No. 860

PROCEDURE
for Import into the Customs Territory of Ukraine and Intended Use of New
Equipment and Components to it, imported by an Investor with Significant
Investments Exclusively for Use in the Course of Implementation of an Investment
Project with Significant Investments to Perform a Special Investment Agreement
Concluded in Accordance with the Law of Ukraine “On State Support for
Investment Projects with Significant Investments in Ukraine”

1. This Procedure determines the mechanism of import into the customs territory of Ukraine in the customs regime of import and intended use of new equipment and components to it, imported by an investor with significant investment exclusively for use in the course of implementation of an investment project with significant investments to perform a special investment agreement concluded in accordance with the Law of Ukraine “On State Support for Investment Projects with Significant Investments in Ukraine”, and exempt from import duty and value-added tax until January 1, 2035, provided that the respective goods are manufactured not earlier than three years prior to the date of their importation into the customs territory of Ukraine, were not in use and are classified according to the codes specified in subparagraph 15 of paragraph 4 of section XXI “Final and transitional provisions” of the Customs Code of Ukraine according to Ukrainian Classification of Goods for Foreign Economic Activity (hereinafter – goods).

2. In this Procedure, the terms are used in the meaning given in the Law of Ukraine “On State Support for Investment Projects with Significant Investments in Ukraine”.

3. To determine the list and volume of import of goods by an investor with significant investments an applicant shall submit a written request to the Ministry of Economy with a certified list and volumes of such goods in the form in accordance with Annex 1.

An applicant is responsible for the accuracy of the information contained in the submitted documents.

4. Based on the submitted written request, the Ministry of Economy with the approval of the Ministry of Finance, the State Customs Service of Ukraine, and the central executive body, which ensures the formation of state policy in the field in which implementation of an investment project with significant investments is planned, submits the list and volumes of goods for approval to the Cabinet of Ministers.

If while approval procedure the Ministry of Economy finds grounds for a refusal to approve the list and volumes of goods, the Ministry of Economy shall within three days notify an applicant (in case of revision of the list and volumes of goods approved by the Cabinet of Ministers of Ukraine – an investor with significant investments) and terminate its approval.

5. The grounds for a refusal to approve the list and volumes of goods are the detection in the documents submitted by an applicant:

non-compliance of goods with the requirements of subparagraph 15 of paragraph 4 of section XXI “Final and transitional provisions” of the Customs Code of Ukraine;

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non-compliance of the list and volumes of goods submitted by an applicant with the information on purchase of the necessary equipment and components to it, specified in the feasibility study of an investment project with significant investments.

6. In case of elimination of the revealed grounds for a refusal to approve the list and volumes of goods, an applicant (an investor with significant investments in case of revision of the list and volumes of goods approved by the Cabinet of Ministers of Ukraine) may re-submit a written request to the Ministry of Economy.

7. Upon a written request of an investor with significant investments submitted in accordance with paragraph 3 of this Procedure, the list, and volumes of goods approved by the Cabinet of Ministers of Ukraine shall be reviewed.

A duly certified copy of the project documentation of an investment project with significant investments approved in accordance with the procedure established by the legislation shall be attached to the written application.

The submitted list and volumes of goods should not increase the total amount of state support for a project with significant investments and should not impair the main social, economic, technical, and qualitative indicators of such a project, which are planned to be achieved.

The grounds for a refusal to approve the list and volumes of goods are detection in the documents submitted by an investor with significant investments non-compliance of goods with the requirements of subparagraph 15 of paragraph 4 of section XXI “Final and transitional provisions” of the Customs Code of Ukraine and/or non-compliance of the list and volumes of goods with the content of the project documentation approved in the order established by the legislation.

An investor with significant investments is responsible for the accuracy of the information contained in the submitted documents.

8. Import of goods by an investor with significant investments into the customs territory of Ukraine is carried out on the basis of the list and volumes of goods approved by the Cabinet of Ministers of Ukraine in accordance with this Procedure and the requirements established by the legislation on state custom affairs.

9. Control over the intended use of goods imported by an investor with significant investment in the customs territory of Ukraine is carried out within its competence by the State Customs Service, the State Tax Service, and the Ministry of Economy in accordance with the Law of Ukraine “On State Support for Investment Projects with Significant Investments in Ukraine”, the Tax Code of Ukraine, and the Customs Code of Ukraine.

An investor with significant investments shall:

submit on a quarterly basis before the 20th day of the following month following the reporting quarter to the State Customs Service, the State Tax Service, and the Ministry of Economy a report on the intended use of goods in the form in accordance with Annex 2 to monitor implementation of approved import volumes and confirm the intended use of imported goods;

declare and pay the amount of import duty, value-added tax, and penalty in the cases specified in subparagraph 15 of paragraph 4 of section XXI “Final and transitional provisions” of the Customs Code of Ukraine and paragraph 76 of subsection 2 of section XX “Transitional provisions” of the Tax Code of Ukraine.

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10. In case of establishing facts of misuse of goods, their alienation earlier than five years from the date of import into the customs territory of Ukraine, as well as in case of early termination of a special investment agreement (except for early termination of a special investment agreement due to a violation of the state's obligations on granting state support under a special investment agreement or the occurrence of force majeure, the State Customs Service of Ukraine and the State Tax Service of Ukraine together with the Ministry of Economy take measures to collect unpaid import duties, value-added tax, fines and penalties, specified in paragraph 30.8 of Article 30 and Article 123 of the Tax Code of Ukraine, in the manner and amount prescribed by law.