

CIRCULAR
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Subject:

RESOLUTION REGARDING PROJECT-BASED GOVERNMENT SUPPORT FOR INVESTMENTS IS PUBLISHED

The “*Resolution Regarding Project-Based Government Support for Investments*” is going into effect through publication in the Official Gazette No. 29900, dated 26.11.2016. Said resolution establishes the methods and principles regarding the provision of project-based support to innovative, R&D-intensive and high-value-added investments, which would meet the country’s current or potential future critical needs, ensure security of supply, reduce external dependence and realize technological transformation in line with the targets specified in development plans and annual programs.

As is already known, the Council of Ministers was authorized as per Article 80 of the “*Law on Amendment of Law No. 6745 on Project-Based Support for Investments and Certain Laws and Legislative Decrees*” with regard to **incentives, allowances and support** to be provided for investments, **which the Ministry of Economy decided to support on a project-by-project basis** in order to **ensure quick realization of the investment** required to meet the following needs:

- Achieving the long-term macroeconomic goals of the country;
- Reinforcing the share of the country in global trade;
- Enhancing the country’s expertise/competence in the production of information, technology and innovation;
- Increasing R&D expenditures; and
- Accelerating the transition to a production structure based on design and brand, with high value added.

Our circular note, [dated 09.09.2016 and No. 2016/170](#), was published with respect to Law No. 6745.

Based on the authorization provided by said Law, the Council of Ministers established the methods and principles regarding project-based support of investments, which were stipulated in Bylaw No. 2016/9495 annexed to our circular note.

On the one hand, it is understood – based on the matters pointed out in the Bylaw – that special support can be provided to projects approved by the Ministry of Economy and designated for support by the Council of Ministers. On the other hand, it is also apparent that many Ministries would need to issue further, secondary legislation during the provision phase of the support, such as decrees, circulars, regulations, etc., within their jurisdictions. The resolution provides a general framework for the abovementioned support, and other secondary legislation should be closely followed up with regard to the execution thereof, similar to the execution phase of the “Resolution Regarding Government Subsidies on Investments.” However, considering the **minimum fixed investment amount requirement of 100 million US Dollars** and the **assessment criteria** provided in Article 5, it is apparent that the scope of the government support covers **large-scale** investments that are of **strategic importance** for the national economy.

SUPPORT PROVIDED

The following support will be provided to those investments that are approved for support on a project-by-project basis within the scope of said resolution:

- a) Customs tax indemnity;
- b) VAT exemption;
- c) VAT refund;
- d) Reduced tax or exemption;
- e) Employer’s insurance premium share support;
- f) Income tax withholding support;
- g) Qualified personnel support;
- h) Interest support or grant support;
- i) Capital contribution;
- j) Energy support;
- k) Public purchase guarantee;
- l) Allocation of investment location;

- m) Infrastructure support; and
- n) Issuance of exemptions for permits, allocations, licenses or registrations and other restrictive clauses imposed by laws, or provision of facilitative arrangements in legal or administrative procedures.

As provided in Section 4 of the project application form annexed to the Bylaw, it is apparent that **the investor would decide which support to apply for**; in other words, it will specify in its application what kinds of support it needs, as well as the rationale therefor. This related provision reads as follows:

“Section 4 - Support Requested and Rationale Therefor

*Description: This section aims to **determine which support the investor intends to utilize**, as well as the potential change in investment feasibility in the event that such support is utilized. The following information shall be submitted within such context:*

- a) **Support requested by the investor;***
- b) **The critical importance of the support for the investment;***
- c) **Presentation, for each support element, of the change in future cash flows, return on investment and rate of return resulting from the support;***
- d) **Ratio of the requested total support amount to the total fixed investment amount (investment intensity).**”*

APPLICATION AND DOCUMENTS REQUIRED FOR APPLICATION

The Ministry of Economy will be entitled to invite one or multiple companies to invest in the area it has identified in line with the specified purpose, or to summon companies through a public announcement.

Investor companies intending to utilize project-based support based on such invitation or announcement will file an application with the Ministry of Economy and include the information and documents specified below.

- a) Investor and project information, investment feasibility, impact analysis, requested support and rationale therefor, all prepared in accordance with the sample format provided in Annex 1 of the Bylaw;
- b) Application letter, signed by person(s) authorized to represent and bind the investor;
- c) Notarized signatory circular of the person(s) authorized to represent and bind the investor, or statement of signature for sole proprietorships.

The Ministry of Economy may request additional information and documents as may be needed in the assessment process.

ASSESSMENT OF THE PROJECTS

Applications will be assessed by the Ministry of Economy based on the goals of the said resolution, as well as the following qualifications:

- a) Ability to meet the country's current critical needs or those that may potentially arise in the future;
- b) Guaranteed security of supply for products for which production capacity is inadequate in the country;
- c) Improvement of technological capacity for areas where the company lacks adequate technology;
- d) Reduction of import dependence in areas of foreign trade deficit;
- e) Provision of high added value;
- f) Enabling of production utilizing latest-generation technologies not currently available in the country;
- g) Attraction of competitive power to the country in various industries;
- h) Acceleration of technological transformation in industries of interaction, and provision of positive externalities to such industries;
- i) Status as an innovative and R&D-based investment;
- j) Status as an investment for the production of high-value-added processed goods in industries that negatively impact the current account balance and in which raw material shortages are experienced;
- k) Status as an investment for integrated production that would enable utilization of the country's raw material potential.

The **projects** should have a **minimum fixed investment amount of 100 million US Dollars** in order to qualify for assessment within the scope of said resolution.

Project(s) approved as a result of the assessment based on the criteria specified above will be submitted by the Ministry of Economy to the Council of Ministers. A Resolution for Support will be issued for **projects which the Council of Ministers resolves to support**.

OTHER MATTERS

Applications which are not approved for support within the scope of said resolution will, upon request by the investor, be assessed within the scope of the Resolution Regarding Government Subsidies on Investments.

An **investment incentive certificate** will be issued by the Ministry for projects which the Council of Ministers has resolved to support on a project-by-project basis through a Resolution for Support.

Investors will be **liable to report** the actualization information for their undertakings regarding the investment, as well as the support amount utilized within the relevant investment and operation period, **through a certified public accountant's report to be submitted in January and July each year**, for a period provided in the Resolution for Support, and to be inspected by the Ministry of Economy or institutions and organizations assigned by the Ministry.

The investor will be solely responsible for the completion of the investment in due time, except for reasons attributable to the State. In cases where investors fail to fulfill their liabilities provided in the Resolution for Support, **any tax amount** not accrued due to corporate tax discount or tax immunity practices will be charged, **including delay interest** but **without imposition of any tax loss fine**, and the other support amounts provided will be charged to the investor in accordance with the provisions of Law No. 6183.

Investment expenditures subject to support within the scope of said resolution **will not be qualified for support provided by other State institutions and organizations**. No support applications may be filed with the Ministry of Economy within the scope of said resolution for investments that are/will be subject to support by other State institutions and organizations.

Best regards,

**DENGE İSTANBUL YEMİNLİ
MALİ MÜŞAVİRLİK A.Ş.**



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(*) Explanations contained in the Circular Note are for information purposes only. We recommend that you seek the opinions and support of an expert advisor prior to realizing any final transactions on any matter of hesitancy. Our office shall not assume responsibility with respect to any damages that may arise as a consequence of transactions performed solely based on the explanations contained in our circular note.

(**) For any opinions, comments and questions regarding our circular note, please contact our experts specified below.

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