

SPIC 2.0: Making the First Move

MAY 2020

VEGAS LEX

The Ministry of Industry and Trade of Russia declared that from May 25 to June 5, 2020 investors may apply for including their technologies into the list of high technologies. This list is the most important element required for the new special investment contract (SPIC) model to function.

It is worth reminding that the SPIC mechanism was substantially amended last year. Thus, the key objective of investors under SPIC 2.0 is to set up manufacturing of industrial products based on high technologies. In return, the government promises to provide the investor with stable conditions for its operations, as well as incentives under the contract and special statutory regulation. We provided insight into the reform details in our previous [overview on the subject](#).

The list of high technologies is to be drawn up in accordance with the rules approved by the Government of Russia¹. In this overview, we will summarize the key aspects of how this list is compiled.

The list is made with respect to the following industrial products:



Ore mining products²;



Manufacturing products³;



Electric power, gas and steam.

The high technologies on the list are split into three groups:

- 1) High technologies to be both developed and implemented to launch mass production of industrial products;
- 2) High technologies that have already been developed, but need to be implemented to launch mass production of industrial products;
- 3) Developed high technologies that need to be adapted in order to be implemented in industrial manufacturing existing in Russia.

The list of cutting-edge high technologies is to be approved by the Government of Russia, whereas the Ministry of Industry and Trade of Russia is in charge of compiling and updating the list.

COMPILING THE LIST

The Ministry of Industry and Trade makes the list based on individual applications for inclusion of a technology into the relevant list. Such applications may be submitted by:

- 1) Federal authorities authorized to conclude SPICs (most likely, these will include the Ministry of Industry and Trade of Russia, the Ministry of Energy of Russia and the Ministry of Agriculture of Russia);
- 2) Regional authorities;
- 3) Owners of industrial processes⁴ or their associations (for example, RSPP (Russian Union of Industrialists and Entrepreneurs)).







¹ The relevant rules are approved by Decree of the Government of Russia No. 319 of March 21, 2020.

² Except for crude oil and natural gas.

³ Except for alcoholic beverages and tobacco goods.

⁴ Legal entities and individual entrepreneurs engaged in manufacturing in Russia, at the continental shelf of Russia, or in the exclusive economic zone of Russia.

The procedure for compiling the list of high technologies is as follows:

 Filing of application	 Submission for expert examination	 Expert examination	 Decision	 Public discussion	 Submitting proposals
<p>An applicant submits an application to the Ministry of Industry and Trade to add a technology into the relevant list.</p>	<p>The Ministry of Industry and Trade sends the application for expert examination.</p>	<p>The expert assesses whether it is possible to manufacture globally competitive products based on the technology.</p>	<p>The Ministry of Industry and Trade decides whether such type of technology should be included onto the list or whether the technology does not comply with the applicable.</p>	<p>The Ministry of Industry and Trade ensures that the draft list is publicly discussed.</p>	<p>The Ministry of Industry and Trade sends proposals for the list of high technologies to the Government.</p>

Filing the application. The application for inclusion of a technology onto the list of high technologies may be submitted from May 25 to June 5, 2020. The application, drafted in compliance with the approved template, is to be sent to the Ministry of Industry and Trade through the GISP platform⁵. The [template of the relevant application](#).

The application should include detailed information on the technology, in particular:

- Requirements to the specifications of the products to be manufactured upon the implementation of the technology, or requirements to the technology;
- The period of relevance of the technology;
- Information on the technology being deemed as a science and technology development priority⁶.

As part of the application, certain information is to be provided for technology evaluation, namely:

- Long-term market benefits, global competitiveness of the products, the manufacturing of which is to be set up based on the technology;
- The possibility to design the manufacturing process, in the course of applying the technology, that meets up-to-date manufacturing practices and standards;
- Reducing of negative environmental impact, ensuing resource efficiency and energy efficiency of the technology.

Submitting the application for expert examination. The Ministry of Industry and Trade sends the submitted applications to an expert within one day.

Expert examination. The expert is to prepare an opinion (free of charge) on the possibility to manufacture globally competitive products based on the technology.

⁵ State information manufacturing system.

⁶ To be set forth in accordance with Decree of the President of Russia No. 642 dated December 01, 2016 On the Strategy for Science and Technology Development of Russia.

The specific list of organizations that may conduct such an expert examination is approved by the Government⁷. There are no foreign expert examination organizations on this list.

The expert prepares a preliminary opinion within 15 business days. Then, the applicant may submit his/her/its objections to the opinion within 5 business days. Afterwards, the expert reviews said objections within 5 business days and prepares the final expert opinion, which is posted along with the objections.

No information on the applicant is disclosed to the expert. However, if the expert becomes aware of such information, he/she will have to refuse to conduct the expert examination only if he/she is interested in its result. If, in case of a conflict of interests, the expert did not seek self-disqualification, the Ministry of Industry and Trade sends the relevant application to another expert independently.

Making the decision. Within 10 business days after the expert opinion is published, the Ministry of Industry and Trade reviews the application for inclusion of a high technology into the list and makes one of the following decisions:

- On inclusion of the relevant type of technology into the list, or
- On the fact that the technology fails to comply with the relevant requirements to high technologies⁸.

The decision of the Ministry of Industry and Trade may be appealed in court.

Besides, the applicant may submit a new application for inclusion of the technology into the list if the circumstances change.

Public discussion. The Ministry of Industry and Trade has to ensure that the draft list is publicly discussed⁹. The timeline for the public discussion is 10 business days. Based on the outcome of the discussion, final minutes are to be drafted.

Submitting proposals. The Ministry of Industry and Trade submits to the Government of Russia the proposal on the list of high technologies describing the high technologies to be included into the list and any other information obtained.

The following must be attached to the application:

- Decisions of the Ministry of Industry and Trade on inclusion of the technology into the list or on the fact that the technology fails to comply with the requirements to high technologies;
- Applications for inclusion of a technology into the list and any other documents from the applicants;
- Copies of expert opinions for each type of technology to be included into the list;
- Final minutes on the results of the public discussion of the draft list.

⁷ Order of the Government of Russia No. 994-r of April 12, 2020 so far approves only 42 Russian organizations which, according to OKPD 2 (Russian National Classification of Products by Economic Activities) specifically designated for them, are entitled to issue opinions confirming the possibility to manufacture, based on the technologies recognized as high technologies for the purposes of SPIC, industrial products that are globally competitive and describing requirements for such technologies and (or) main specifications of these products.

⁸ Such a decision is adopted provided that, based on the documents available to the Ministry of Industry and Trade, it is impossible to conclude on the feasibility to manufacture, based on the relevant technology, industrial products that are globally competitive.

⁹ Except for the part of the list containing high technologies required to support national defence and state security.

UPDATING THE LIST

The list of high technologies may be updated in the following cases:

- Adding new types of technologies;
- Changing the period when the technology is considered up-to-date;
- Technology becoming out-of-date;
- Expiry of the period after which the technology included into the list becomes out-of-date;
- Correcting clerical errors or mistypes;
- Other reasons¹⁰.

The procedure for updating the list is mostly the same as the procedure for compiling it. Proposals for updating the list are to be submitted to the Ministry of Industry and Trade. An expert examination¹¹, of the relevant technologies is also carried out, following which the Ministry of Industry and Trade decides whether the list should be updated.

The timelines for updating the list are stipulated only for changing the period when the technology is up-to-date: proposals of the Ministry of Industry and Trade for updating the list for these reasons may be sent to the Government of Russia no sooner than 2 years after the date when the relevant type of high technology was included into the list. There are no time limits for updating the list for other reasons.

Compiling the list of high technologies is one of the first steps towards launching the SPIC 2.0 mechanism. However, this list alone will not be enough for the mechanism to function adequately: a number of by-laws, including the rules for concluding the SPIC, will require approval. At the same time, the necessary legal framework for SPIC 2.0 is most likely to appear soon: the Ministry of Industry and Trade expects to sign the first contracts as early as this summer.

CONTACTS FOR CLARIFYING ANY QUESTIONS ON FILLING IN AND FILING APPLICATIONS

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¹⁰ Based on the text of the rules, such other reason may consist in correcting clerical errors or mistypes. No other reasons are officially disclosed, which gives the Ministry of Industry and Trade wide discretions in this matter.

¹¹ Except when updating is due to the expiry of a period, after which the technology included in the list becomes out-of-date, as well as for correcting clerical errors and mistypes.

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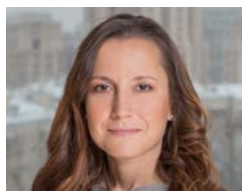
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