

On approval of the Rules (Methods) for pricing of cotton-lint

Unofficial translation

Decree of the Government of the Republic of Kazakhstan dated April 29, 2016 No. 255.

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In accordance with subparagraph 3) of paragraph 10 of article 10 of the Law of the Republic of Kazakhstan dated July 5, 2008 "On transfer pricing" the Government of the Republic of Kazakhstan **HEREBY DECREES:**

1. To approve the attached Rules (Methods) for pricing of cotton-lint.
2. This decree shall come into force upon expiry of ten calendar days after the date of its first official publication.

*Prime Minister
of the Republic of Kazakhstan*

K. Massimov

Approved by the decree
of the Government
of the Republic of Kazakhstan
dated April 29, 2016 no. 255

Rules (Methods) for pricing of cotton-lint

1. General provisions

1. These Rules (Methods) for pricing of cotton-lint (hereinafter referred to as the Rules) have been developed in accordance with Law of the Republic of Kazakhstan dated July 5, 2008 "On transfer pricing" and shall establish the procedure of determining (calculating) the prices of transactions (sale) for cotton-lint.

2. These Rules shall apply to the supplies of cotton-lint to the countries, specified in paragraphs 7-9 of these Rules, in all other cases, adjustment of the objects of taxation and (or) objects, associated with taxation shall be made in accordance with the procedure established by the Law of the Republic of Kazakhstan dated July 5, 2008 "On transfer pricing".

3. Terms and definitions, used in these Rules:

1) agent means then agent of a trader, performing intermediary services for finding a buyer of cotton-lint;

2) price from the source of information means the price of cotton-lint, received from the source of information, determined by the Rules;

3) area of application of the source of information (hereinafter referred to as the ROSI) means the geographical territory for which the market price of cotton-lint is determined based on data from this source of information;

4) advance payment means the conditions of the forward contract, according to which payment for the delivered goods is made until the time of delivery;

5) base port means the base port of transshipment or destination of the cargo for the corresponding ROSI;

6) base station means the base railway station of transshipment, transfer or destination of cargo for the corresponding ROSI;

7) permissible deviation means the permissible deviation of the transaction price from the market price;

8) short-term contract means the contract, concluded by the cotton-lint exporter based on the condition of advanced payment of less than 50 percent and (or) having a validity period of less than 3 months;

9) transaction price means the price of cotton-lint, specified in the contract and shipping documents, according to which its actual sale has been made;

10) market price means the price from the source of information, adjusted based on the differential;

11) buyer means the legal or natural person (non-resident of the Republic of Kazakhstan) purchasing cotton-lint from the exporter;

12) trader means a person, performing intermediary functions in sales and purchase of goods, performance of works, rendering services independently and (or) on behalf of the party to the transaction;

13) forward contract means the contract concluded by the cotton-lint exporter based on the condition of advanced payment of 50 and more percent and having the validity period of at least 3 months;

14) exporter means the legal entity or individual (resident of the Republic of Kazakhstan), exporting cotton-lint from Kazakhstan;

15) forwarder means the forwarding company that provides data on the cost of any kind of works or services included into the transport component of the differential.

4. The following sources of information are used in these Rules to determine market prices for cotton fiber:

1) "Price Digest" magazine and "Price Information" bulletin (supplement to the "Price Digest" magazine) ("Price-Inform" LLC, Russian Federation);

2) Price information "Cotlook Cotton Quotes" (information agency "Cotlook Limited", UK);

3) EIKON, (Refinitiv, UK).

Footnote. Point 4 - as amended by the Decree of the Government of the Republic of Kazakhstan dated June 24, 2020 No. 395 (shall be enforced upon expiry of ten calendar days after the day of its first official publication).

2. Regions of operation of the sources of information

5. ROSI determination shall be carried out for each supply of cotton-lint separately based on the data of the consignee specified in the cargo customs declaration and shipping documents of the exporter.

6. In each ROSI, the market price of cotton-lint shall be determined subject to that price, which is published in this source.

7. For the sources "Tsena Digest" magazine and "Tsenovaya informatsiya" bulletin, the area of application of the source of information shall be the countries: Russian Federation, Republic of Belarus, Republic of Moldova, Ukraine and the Republic of Latvia.

8. For the source of Price information "Cotlook Cotton Quotes" the region of the source of information is the countries of South-East Asia.

Footnote. Clause 8 - as amended by the Decree of the Government of the Republic of Kazakhstan dated June 24, 2020 No. 395 (shall be enforced upon expiry of ten calendar days after the day of its first official publication).

9. For the source EIKON, the region of action of the source of information is the countries of Europe (with the exception of those indicated in other RDII).

Footnote. Clause 9 - as amended by the Resolution of the Government of the Republic of Kazakhstan dated June 24, 2020 No. 395 (shall be enforced upon expiry of ten calendar days after the day of its first official publication).

3. Application of prices from the sources of information

10. To determine the market price of Kazakhstani cotton fiber, the prices determined in these Rules are used.

Footnote. Clause 10 - as amended by the Decree of the Government of the Republic of Kazakhstan dated June 24, 2020 No. 395 (shall be enforced upon expiry of ten calendar days after the day of its first official publication).

11. In cases when the price of cotton-lint in the source of information is expressed not in dollars of the United States of America (hereinafter referred to as the USA) per 1 net ton, but in other values, the price from the source of information shall be recalculated so that it expresses the cost of cotton-lint in US dollars per 1 ton.

12. To bring the price from the source of information in accordance with the price of the transaction, the price from the source shall be adjusted using the differential. Each information source shall have its own differential components.

13. The transaction price shall be determined for each delivery separately and is compared with the price from the corresponding source, valid in the corresponding ROSI and delivery period.

4. Procedure for determining the price for cotton-lint

Procedure for determining the price for cotton-lint

from the sources "Tsena Digest" magazine and "Tsenovaya informatsiya" bulletin

14. To determine the market prices for Kazakhstani cotton-lint, "Foreign trade prices" for cotton-lint imported into the Russian Federation shall be used, as specified in "Tsena Digest" magazine and "Tsenovaya informatsiya" bulletin.

15. The price published in "Tsena Digest" magazine and "Tsenovaya informatsiya" bulletin shall apply to that period which is specified in this edition.

16. Under short-term contracts, the market price of cotton-lint shall be determined from the price of the source of information valid for the period of shipment of cotton-lint.

17. For forward contracts, the market price of cotton-lint shall be determined from the price of the source of information valid at the time of conclusion of the contract. The indicated price shall be valid for the entire delivery period for this forward contract, but not more than six months from the date of the first delivery under the contract. In case when the delivery period for the forward contract exceeds six months, prices for deliveries that fall outside the agreed time frame shall be determined by the prices from the source of information valid during the period of transfer of ownership for cotton-lint.

18. In order to determine the market price of Kazakh cotton-lint, an average-weighted price of cotton-lint, imported into the Russian Federation from the Commonwealth of Independent States (hereinafter referred to as the CIS), indicated under the title of "Cotton fiber uncombed" shall be calculated.

19. An average-weighted price of cotton-lint, imported from the CIS, shall be calculated according to the formula: $PSI = (C1 + C2 + \dots) / (K1 + K2 + \dots)$, where:

PSI – price from the source of information;

C1, C2... – aggregate cost of the cotton-lint, imported from the CIS countries by areas, indicated in column "Cost of US dollars";

K1, K2... – aggregate cost of the cotton-lint, imported from the CIS countries by areas, indicated in column "Quantity".

The procedure for determining prices for cotton fiber from the source of information

Price information "Cotlook Cotton Quotes"

Footnote. The heading of paragraph 2 is as amended by the Decree of the Government of the Republic of Kazakhstan dated June 24, 2020 No. 395 (shall be enforced upon expiry of ten calendar days after the day of its first official publication).

20. To determine market prices of Kazakh cotton-lint shall be used from www.cotlook.com (USA) website.

21. Cotlook Cotton Quotes Published in Pricing Information, the price of cotton lint is valid for the period from the date of publication to the day preceding the next publication.

Footnote. Clause 21 - as amended by the Decree of the Government of the Republic of Kazakhstan dated June 24, 2020 No. 395 (shall be enforced upon expiry of ten calendar days after the day of its first official publication).

22. To determine the market price of cotton-lint, prices, indicated for the harvest of the current year shall be used.

23. Price from the source of information shall be determined as index "A", multiplied by coefficient 0,987.

24. Price from the source of information shall be multiplied by coefficient of conversion from "cents per pound" into "dollars per ton", equal to 22,0463.

25. Price shall be determined as of the date of transfer of ownership for cotton-lint.

The procedure for determining prices for cotton fiber from the information source EIKON)

Footnote. The heading of paragraph 3 is as amended by the Decree of the Government of the Republic of Kazakhstan dated June 24, 2020 No. 395 (shall be enforced upon expiry of ten calendar days after the day of its first official publication).

26. To determine market prices of Kazakh cotton-lint shall be used from <http://baumwollboerse.de/en> (Federal Republic of Germany) website.

27. The price of cotton fiber published in the information source EIKON applies for a period of time from the date of publication to the day preceding the next publication.

Footnote. Paragraph 27 - as amended by the Decree of the Government of the Republic of Kazakhstan dated June 24, 2020 No. 395 (shall be enforced upon expiry of ten calendar days after the day of its first official publication).

28. To calculate the market price of Kazakhstani cotton fiber at EIKON prices, the average price from COT BRE CIS SM (Mid Price Close) and COT BRE CIS M (Mid Price Close) is used, published on terms of delivery CIF-Bremen (Federal Republic of Germany). In the absence of specified prices, the average price COT BRE SP SM (Mid Price Close) is used.

Footnote. Clause 28 - as amended by the Resolution of the Government of the Republic of Kazakhstan dated June 24, 2020 No. 395 (shall be enforced upon expiry of ten calendar days after the day of its first official publication).

29. In the event that prices for cotton from the CIS countries are missing from EIKON publications for a certain period of time, the latest price will be used to calculate the market price.

Footnote. Clause 29 is as amended by the Resolution of the Government of the Republic of Kazakhstan dated June 24, 2020 No. 395 (shall be enforced upon expiry of ten calendar days after the day of its first official publication).

30. Price from the source of information shall be multiplied by coefficient of conversion from "cents per pound" into "dollars per ton", equal to 22,0463.

31. The price shall be determined as of the date of the transfer of the right of ownership for cotton-lint.

5. Procedure for determining the differential by sources of information

General conditions for calculating the differential

32. The components of the differential shall be documented, including contracts, payment documents, with itemized details of the costs associated with the delivery of the goods and their sale, and (or) sources of information, including forwarder data.

33. For transactions in which the buyer under the contract is a legal entity registered in a state with preferential taxation, the differential shall not apply.

Procedure of calculation of the differential

34. The differential shall be calculated by adding the components according to the formula:

$D = TC + Ds + TC + AC$, where:

D – differential,

TC – transport costs,

Ds – discounts by quality, applied to the cotton-lint, with the quality different from the basic,

TC – trader's commission,

AC – agent's commission.

Notice: if in relation of any source of information of these Rules application of any component of the differential is not provided, then in calculation of "D" such component shall not be taken into account.

35. The TC value (transport costs) shall be calculated by adding up the costs associated with the transportation of the cotton-lint from the place of its warehousing to the supply basis determined by the source of information.

36. The TC depending on conditions of supply of cotton-lint shall include costs of the buyer, substantiated and confirmed documentarily and / or by sources of information, associated with the terms of transaction and / or delivery of the cotton-lint to the basic station or basic port, indicated for corresponding ROSI, including:

1) costs of payments customs duties, payments and charges for cotton-lint, sold beyond the Customs Union;

2) costs of phytosanitary registration of cotton-lint;

3) transportation costs of goods to the base station or base port (including expenses for: expedition of freight, return of empty wagons, transshipment of goods, forwarding of wagons, station charges);

4) expenses for insurance of goods, if insurance was carried out.

37. Depending on the basis of supply under the contract, some costs of the seller may not be part of the differential.

38. Ds value (discounts on the quality of cotton-lint) shall be calculated from the price of the source of information according to formula:

$Ds = PSI * GDs$, where:

Ds– discount on the quality of cotton-lint,

PSI – price from the source of information,

GDs – Grade discount, which has the following meaning: for grade 1– no discount, for grade 2– 4%; for grade 3– 7%; for grade 4 – 15%; for grade 5– 40%.

39. TC value (trader's commission) shall be accepted in the amount of 2% from the price of the source of information.

40. AC value (agent's commission) shall be accepted in the amount of 1% from the source of information.

Procedure for determining ROSI differential according to

"Tsena Digest" magazine and "Tsenovaya Informatsiya" bulletin

41. The differential according to this source of information consists of transportation costs calculated from the loading station in the Republic of Kazakhstan to the railway station of Ozinki transfer (Russian Federation).

The procedure for determining the differential by RDII Price information “Cotlook Cotton Quotes

Footnote. The heading of paragraph 4 is as amended by the Decree of the Government of the Republic of Kazakhstan dated June 24, 2020 No. 395 (shall be enforced upon expiry of ten calendar days after the day of its first official publication).

42. The differential for a given source of information consists of:

1) transportation costs calculated from the loading station to the base port of destination Chittagong (People's Republic of Bangladesh) on the terms of delivery of the CFR-port of destination. Delivery is made by covered railway wagons to the base transshipment port of Vladivostok (Russian Federation) and then by sea transport to the port of Chittagong (People's Republic of Bangladesh);

2) discounts on the quality of cotton fiber;

3) trader's commission;

4) agent commissions.

Footnote. Paragraph 42 as amended by the Resolution of the Government of the Republic of Kazakhstan dated June 24, 2020 No. 395 (shall be enforced upon expiry of ten calendar days after the day of its first official publication).

The procedure for determining the differential according to the EIKON RDII

Footnote. The heading of paragraph 5 is as amended by the Decree of the Government of the Republic of Kazakhstan dated June 24, 2020 No. 395 (shall be enforced upon expiry of ten calendar days after the day of its first official publication).

43. The differential according to this source of information consists of:

1) transportation costs calculated from the loading station to one of the stations in the city of Bremen (Federal Republic of Germany) on CIF-Bremen delivery terms (Federal Republic

of Germany). Transportation route: by covered railway cars from the PSI loading station to one of the stations in the city of Bremen (or other means of transport);

2) discounts on the quality of cotton-lint;

3) trader's commission;

4) agent's commission.

6. Procedure of application of permissible deviation when determining the price of transaction

44. For cotton-lint purchase and sale contracts, the rule of permissible deviation shall apply, allowing the transaction price to deviate from the market price by no more than 10 percent.

45. Permissible deviation shall be calculated separately by each delivery separately.

46. Excluded by the Resolution of the Government of the Republic of Kazakhstan dated June 24, 2020 No. 395 (shall be enforced upon expiry of ten calendar days after the day of its first official publication).

7. The procedure for comparing transaction prices (sales) with market price

47. The market price of Kazakh cotton-lint shall be calculated as follows:

$MP = PSI - D$, where:

MP – market price for Kazakh cotton-lint;

PSI – price of cotton-lint from the source of information in accordance with the area of application of the source of information;

D – differential.

For transactions in which the buyer under the contract is a legal entity registered in a state with preferential taxation, the differential shall not apply.

48. The price of transaction of lint cotton should not deviate from the market price of Kazakhstani lint cotton by more than 10 percent.

In cases where the difference between the market price and the tolerance is less than or equal to the transaction price ($TP \geq MP - DA$), the transaction price shall be recognized as acceptable, and in cases where the difference between the market price and the tolerance is greater than the transaction price ($TP < MP - DA$), the transaction price shall be recognized as unacceptable, where:

TP – the price of transaction of lint cotton as of the date of the transfer of the ownership right to the buyer;

MP – market price for lint cotton as of the date of the transfer of the ownership right to the buyer;

DA – deviation allowed, equal to 10 %.

Footnote. Clause 48 – as reworded by the Decree of the Government of the Republic of Kazakhstan dated 18.10.2021 No. 746 (shall be enforced upon expiry of ten calendar days

after the date of its first official publication).

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