



On approval of the Rules (methods) for price formation when performing export operations with crude oil received as a share of the Republic of Kazakhstan under the Production Sharing Agreement for the Northern Caspian dated November 18, 1997

Unofficial translation

Decree of the Government of the Republic of Kazakhstan dated November 2, 2016 No. 653.

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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 price formation when performing export operations with crude oil received as a share of the Republic of Kazakhstan under the Production Sharing Agreement for the Northern Caspian dated November 18, 1997.

2. This decree shall come into force from the date of its signing.

*Prime Minister
of the Republic of Kazakhstan*

B. Sagintayev

Approved by
the decree of the Government
of the Republic of Kazakhstan
dated November 2, 2016 no. 653

Rules (methods) for price formation when performing export operations with crude oil received as a share of the Republic of Kazakhstan under the Production Sharing Agreement for the Northern Caspian dated November 18, 1997

Chapter 1. General provisions

1. These Rules (methods) for price formation when performing export operations with crude oil received as a share of the Republic of Kazakhstan under the Production Sharing Agreement for the Northern Caspian dated November 18, 1997, (hereinafter referred to as the Rules) have been developed 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" (hereinafter referred to as the Law) and shall establish the procedure for determining (calculation) of prices when performing export operations with crude oil, received as a share of the Republic of Kazakhstan under the Production Sharing Agreement for the Northern Caspian dated November 18, 1997 (hereinafter referred to as the Agreement).

2. In these Rules, the following terms, definitions and abbreviations shall be used:

1) information sources (publisher and country of publication) – Crude Oil Market Wire Basic Service (The McGraw-Hill Companies (Platts), Great Britain, (hereinafter referred to as

the Platts) and 3000Xtra, RTC Advanced (Thomson Reuters EIKON) (Thomson Reuters, Великобритания, (hereinafter referred to as the Thomson Reuters);

2) a route means the direction of transportation and sale of goods;

3) differential means the amount of adjustment used to bring transaction prices or prices from an information source into comparable economic conditions in accordance with the Law ;

4) a contract means a Purchase-Sales Agreement;

5) CPC – the pipeline system of the Caspian pipeline consortium means a uniform pipeline system, starting in Tengiz (Kazakhstan) and passing through Atyrau (Kazakhstan), Astrakhan, Komsomolsk and Kropotkin to the Terminal in the Novorossiysk region (Russia - CPC-R);

6) bill of lading means a document for the shipped goods, which confirms its receipt by the ship;

7) a transaction (sale) price means the price of the goods for one unit of measurement in accordance with the contracts, expressed in the currency of the contract and calculated in accordance with the provisions of these Rules;

8) oil quotation means the price quotation published in information sources;

9) a competent authority means a legal entity defined by the Government of the Republic of Kazakhstan and acting in the interests of the Republic of Kazakhstan in production sharing agreements;

10) quality adjustment - adjustment of the transaction price according to the qualitative characteristics of crude oil (density, sulfur content);

11) North Sea price benchmark means Brent (Dated) or BFOE oil quotation published by Platts;

12) spread means the price difference between various quotations in the information sources;

13) goods – crude oil transferred by the taxpayer and received by the authorized body as part of the transfer of minerals to fulfill the tax obligation to pay in kind the share of the Republic of Kazakhstan under the Agreement;

14) FOB, CIF, DAP means the bases of delivery in accordance with Incoterms 2010;

15) Platts Dirty Tanker Wire Basic Service means the officially recognizes source of information about oil freight rates.

Chapter 2. Procedure of determining the transaction (sale) price of crude oil when selling on FOB terms, CPC-P C terminal using CPC pipeline system

3. The price of the transaction (sale) shall be calculated according to the following formula:

$$P = B + S - D$$

where:

P - the transaction (sale) price of crude oil;

B - the average of the average quotations for crude oil of the North sea price standard grade per 1 (one) barrel applied in the relevant market in accordance with the terms of the contract published in the Platts information source, for each shipment, taking into account the quotations valid for five quotation days following the date of the bill of lading;

S - spread (Spread vs Fwd Dated Brent in line CPC Blend CIF), one or the average of several consecutive average quotations published in the Platts information source, in the period from 10th to 25th day to 1 day of the loading window in accordance with the terms of the contract.

For goods with loading windows in the first and second decade of the month, a spread (quotation) shall apply in the period from 1st to 25 calendar day to 1 day of the loading window. Loading windows at the port of loading shall be determined on the basis of the approved official position schedule issued by the sea terminal on the application received from the transport company.

D - the differential taken into account depending on the conditions of supply of crude oil, defined in the contract, used to bring in comparable economic conditions of the price from the information source in accordance with the Law, which include:

costs of chartering the vessel;

costs of insuring the goods;

buyer's margin;

port charges;

costs of excessive downtime of the tanker, towing and aerobatics during the passage of the Turkish Straits;

a discount (premium) for the shipments of oil with delivery by tankers with the volume of 135 thousand tons to the shipments with delivery by tankers with the volume of 85 thousand tons (CPC-85-135);

costs of inspection of the goods;

bank charges for opening and servicing an irrevocable letter of credit;

the costs of losses during the transportation of crude oil.

Footnote. Paragraph 3 as amended by the decree of the Government of the Republic of Kazakhstan dated 25.06.2019 no.436.

Chapter 3. The procedure for determining the transaction price (sale) at transportation of crude oil through the Atyrau – Samara system

4. When crude oil is delivered to the ports of the Black sea on the route Atyrau-Samara for subsequent sale on FOB terms, the transaction price (sale) shall be calculated according to the following formula:

$$P = B + S \pm K - D$$

where:

P - the transaction (sale) price of crude oil;

B - the average of the average quotations for crude oil of the North sea price standard grade per 1 (one) barrel applied in the relevant market in accordance with the terms of the contract published in the Platts information source, for each shipment, taking into account the quotations valid for five quotation days following the date of the bill of lading;

S - spread (Spread vs Fwd Dated Brent in line CPC Blend CIF), one or the average of several consecutive average quotations published in the Platts information source, in the period from 10th to 25th day to 1 day of the loading window in accordance with the terms of the contract.

For goods with loading windows in the first and second decade of the month, a spread (quotation) shall apply in the period from 1st to 25 calendar day to 1 day of the loading window. Loading windows at the port of loading shall be determined on the basis of the approved official position schedule issued by the sea terminal on the application received from the transport company;

K - price adjustment by API degree (escalation-de-escalation) shall be calculated as a premium / discount if the quality of crude oil is above / below the standard range of base density limits (for example, 32.00-32.09 API degrees for Urals grade oil) under the terms of the contract;

D - the differential taken into account depending on the conditions of supply of crude oil, defined in the contract, used to bring in comparable economic conditions of the price from the information source in accordance with the Law, which include:

costs of chartering the vessel;

costs of insuring the goods;

port charges;

costs of excessive downtime of the tanker, towing and aerobatics during the passage of the Turkish Straits;

a discount (premium) for the shipments of oil with delivery by tankers with the volume of 140 thousand tons to the shipments with delivery by tankers with the volume of 80 thousand tons (URL-80-135);

buyer's margin;

costs of inspection of the goods;

bank charges for opening and servicing an irrevocable letter of credit;

the costs of losses during the transportation of crude oil.

Footnote. Paragraph 4 as amended by the decree of the Government of the Republic of Kazakhstan dated 25.06.2019 no.436.

5. When delivering crude oil to the ports of the Baltic Sea on the route Atyrau - Samara for subsequent sale on FOB terms, the transaction (sale) price shall be calculated according to the following formula:

$$P = B + S \pm K - D$$

where:

P – the transaction (sale) price of crude oil;

B – the average of the average quotations for crude oil of the North sea price standard grade per 1 (one) barrel applied in the relevant market in accordance with the terms of the contract published in the Platts information source, for each shipment, taking into account the quotations valid for five quotation days following the date of the bill of lading;

S spread (Spread vs Fwd Dated Brent in line CPC Blend CIF), one or the average of several consecutive average quotations published in the Platts information source, in the period from 10th to 25th day to 1 day of the loading window in accordance with the terms of the contract.

For goods with loading windows in the first and second decade of the month, a spread (quotation) shall apply in the period from 1st to 25 calendar day to 1 day of the loading window. Loading windows at the port of loading shall be determined on the basis of the approved official position schedule issued by the sea terminal on the application received from the transport company;

K – price adjustment by API degree (escalation-de-escalation) shall be calculated as a premium / discount if the quality of crude oil is above / below the standard range of base density limits (for example, 32.00-32.09 API degrees for Urals grade oil) under the terms of the contract;

D – the differential taken into account depending on the conditions of supply of crude oil, defined in the contract for the purchase and sale of goods, used to bring in comparable economic conditions of the price of the source of information in accordance with the Law, which include:

Chartering costs;

buyer's margin;

costs of insuring the goods;

costs of inspection of the goods;

bank charges for opening and servicing an irrevocable letter of credit;

the costs of losses during the transportation of crude oil;

losses on the transportation of crude oil;

port charges in ports of the Baltic Sea;

costs of port charges for the call at the port of Rotterdam;

environmental charges in the sulfur control area (ECA);

ice charges, additional charges for towing during the winter season, including waiting times, including at the ice edge and in the ice/time difference (delay) in the passage of ice compared to the normal speed in a given water area;

compensation for the difference in quality between the quality of crude oil in the port of Ust-Luga and the port of Primorsk-if it is available in the case of confirmation by the state authorized bodies or authorized transport companies that it is a different quality of oil.

6. When crude oil is delivered via the Druzhba trunk pipeline on the terms of DAP sale to the border of Eastern Europe, the transaction price (sale) shall be calculated according to the following formula:

$$P = B + S - D$$

Where:

P – the transaction (sale) price of crude oil;

B – the average of the average quotations for crude oil of the North sea price standard grade per 1 (one) barrel applied in the relevant market in accordance with the terms of the contract published in the Platts information source, for each shipment, taking into account the quotations valid for five quotation days following the date of the bill of lading;

S – this is the arithmetic mean value of the average daily quotes of the Urals Rotterdam differential to the North sea oil price standard published in Platts Crude Oil Market Wire Basic Service under the heading "Russian Urals/ESPO spot assessments" for the entire month during which the supply is carried out;

D – the differential taken into account depending on the conditions of supply of crude oil, defined in the contract for the purchase and sale of goods, used to bring in comparable economic conditions of the price of the source of information in accordance with the Law, which include:

costs of transportation to the oil refinery plant;

buyer's margin;

costs of insuring the goods;

costs of inspection of goods;

bank charges for opening and servicing an irrevocable letter of credit;

the costs of losses during the transportation of crude oil.

Chapter 4. Determination of differential components

7. For the purposes of bringing prices into a comparable economic environment from a source of information, depending on the terms of delivery of the goods, the differential shall include justified and documented and (or) information sources the costs of the buyer related to the delivery of the goods to the appropriate market of destination (delivery) of goods and its sale.

The components of the differential shall be confirmed by primary documents, in cases of absence and (or) inconsistency of primary documents, the sizes of the components of the differential shall be taken as the minimum / average value from the range of market prices published in Platts, Thomson Reuters.

8. The cost of freight transportation (chartering) shall be confirmed by copies of freight contracts (charter party, time-charter) or copies of extracts from freight contracts for a tanker (CP recap), copies of invoice for payment (invoice) and copies of calculation of the buyer of the cost of chartering per 1 (one) net barrel or the data of Platts Dirty Tanker Wire Basic Service. At the same time, the costs of chartering the vessel shall not exceed the following expenses:

on conditions of FOB delivery, the ports of the Black Sea shall not exceed the cost of expenses to the port of August, calculated at the Worldscale (WS) rate specified in the freight contract;

on conditions of FOB delivery, the ports of the Baltic Sea shall not exceed the cost of expenses to the port of discharge of Rotterdam, calculated at the Worldscale (WS) rate specified in the freight contract, plus a call to the port of Rotterdam according to the official publications of the Platts Dirty Tanker Wire Basic Service.

Copies of the mentioned document shall be certified by the buyer.

9. The cost of chartering the vessel shall be determined as of the date of chartering the vessel. In case of absence of the primary documents on chartering the vessel, the cost of chartering shall be determined as a mean from 10th to 25th day to the date of the marine bill of lading. When calculating the cost of chartering, the capacity of the tanker (Aframax, Suezmax) used to ship the corresponding consignment of goods, the base rate flat rate and the Worldscale (WS) value published in the Platts Dirty Tanker Wire Basic Service shall be taken into account.

10. The cost of bank expenses for opening and servicing an irrevocable letter of credit shall be confirmed by the following documents:

originals of contracts for the sale of crude oil, which stipulate the terms of a bank letter of credit;

original documents of the bank confirming the opening of a letter of credit in favor of the seller and bank expenses for opening a letter of credit;

Original interpretation with a mark and signature of the buyer for each individual delivery, indicating the name of the tanker, the date of shipment of the goods, volumes in barrels, the bank interest rate, the amount of the letter of credit and the amount of bank expenses per barrel.

11. The amount of losses during transportation is taken into account according to copies of reports of independent inspection companies, in the absence of such, the minimum value in the range shall be accepted according to the data of Thomson Reuters.

12. The buyer's margin shall be taken as a minimum value in the range, published in Thomson Reuters as of the date of the bill of lading.

13. The cost of insurance of goods during transportation shall be confirmed by copies of contracts or copies of insurance policies, or copies of invoices for payment, copies of the buyer's calculations of insurance costs, if not, the minimum value in the range is accepted according to the data of Thomson Reuters.

14. The cost of inspection of goods to establish the quality and quantity of goods shall be confirmed by copies of contracts for the provision of inspection services, copies of invoices for payment (invoice), copies of the buyer's calculations for the cost of inspection, copies of reports of independent inspection companies, if not available, the minimum value in the range according to the data of Thomson Reuters. The cost of inspection shall be taken into account at each measuring point.

15. The cost of unloading at the port of Rotterdam shall be confirmed by copies of the primary documents confirming the route of the cargo to the port of Rotterdam, in the absence of such, the minimum value in the range is accepted according to the data of Thomson Reuters.

16. The cost of the port charges at the port shall be confirmed by copies of contracts for the provision of relevant services, copies of invoice payments, if not available, the minimum value in the range is accepted according to the data of Thomson Reuters.

17. The cost of transshipment costs at ports shall be confirmed by copies of contracts for the provision of relevant services, copies of invoices for payment (invoice), if not available, the minimum value in the range is accepted according to the data of Thomson Reuters.

18. Environmental charges in the sulfur control area (ECA) shall be confirmed by copies of the charter party (ECA section), copies of the invoices of vessel owners given by Worldscale (confirmation of the rate and the length of the route in one and the opposite direction in miles), if not available, the minimum value in the range is accepted according to the data of Thomson Reuters.

19. The discount (premium) for oil consignments with delivery by tankers of 140 thousand tons (Suezmax) to consignments with delivery of tankers of 80 thousand tons (Aframax) shall be determined as the average value of the average quotes URL-80-135, according to the data of Thomson Reuters, from 10th to 25th day to 1 day of the loading window. At the same time, if the quote has a negative value, then this component of the differential increases the total value of the differential, shall decrease the value of the price, conversely, in the case of a positive value of the quotation, shall decrease the total value of the differential, and shall increase the value of the price. For Aframax class vessel, no discount on tanker shipments shall apply.

Footnote. Paragraph 19 as amended by the decree of the Government of the Republic of Kazakhstan dated 25.06.2019 no.436.

19-1. The discount (premium) for oil consignments with delivery by tankers of volume of 135 thousand tons (Suezmax) to consignments with delivery of tankers of volume of 85 thousand tons (Aframax) is determined as the average of the average quotations CPC-85-135, according to the data of Thomson Reuters, from 10th to 25th day to 1 day of the loading window. At the same time, if the quote has a negative value, then this component of the differential increases the total value of the differential, shall decrease the value of the price, conversely, in the case of a positive value of the quotation, shall decrease the total value of the differential, and shall increase the value of the price. For Aframax class vessel, no discount on tanker shipments shall apply.

Footnote. The Rules as supplemented by paragraph 19-1 in accordance with of the Government of the Republic of Kazakhstan dated 25.06.2019 no.436.

20. Compensation for the quality difference between the quality of the goods in the port of Ust-Luga and the port of Primorsk shall be confirmed by copies of the primary documents at the entrance and exit, in the absence of such, the minimum value in the range is accepted according to the data of Thomson Reuters.