

On approval of the Agreement between the Government of the Republic of Kazakhstan and the Government of the Kingdom of Spain on mutual protection of classified information

Unofficial translation

Decree of the Government of the Republic of Kazakhstan dated October 20, 2017 No. 661.

Unofficial translation

The Government of the Republic of Kazakhstan HEREBY RESOLVES:

1. To approve the attached Agreement between the Government of the Republic of Kazakhstan and the Government of the Kingdom of Spain on mutual protection of classified information, executed in Astana on July 15, 2017.

2. This resolution shall take effect from the date of its signing.

Prime Minister

of the Republic of Kazakhstan

B. Sagintayev

Approved by

Resolution No. 661

of the Government of the

Republic of Kazakhstan

dated October 20, 2017

Agreement

between the Government of the Republic of Kazakhstan and the Government of the Kingdom of Spain on mutual protection of classified information

The Government of the Republic of Kazakhstan and the Government of the Kingdom of Spain, hereinafter referred to as the Parties,

aspiring to facilitate further development and strengthening of mutual political, economic, technical and military cooperation and cooperation on national security issues,

emphasizing the importance of information exchange in addressing modern security challenges,

understanding that exchange of classified information may be required to ensure effective cooperation between the Parties,

guided by the wish to resolve issues of mutual protection of classified information exchanged between the Parties or generated in the framework of this Agreement,

HAVE AGREED AS FOLLOWS:

Article 1

Definitions

For the purposes of this Agreement:

1) classified information – means information, documents or materials transferred and / or generated in the process of cooperation, regardless of their form, nature or method of transfer, to which security label was assigned in accordance with the degree of sensitivity, and which in the interests of national security and in accordance with the national laws of the states of the Parties require protection from disclosure, loss, destruction, damage, misappropriation or misuse;

2) security label (classification) – means a tag assigned to classified information, indicating the degree of its confidentiality;

3) admission to classified information - a decision made in accordance with national procedures that provides an individual with the right of access to classified information, and a legal entity – with the opportunity to carry out activities using the classified information in accordance with the national laws of the Parties;

4) access to classified information - the process of sanctioned familiarization with classified information by an individual with an appropriate access to the classified information;

5) the competent authority - the state body of the Party, as defined in Article 5 of this Agreement and which, in accordance with the national laws, exercising control over protection of classified information and coordination within the framework of this Agreement , is responsible for implementing the provisions of this Agreement;

6) authorized body – state bodies and organizations (legal entities) of the Party that in accordance with the national laws of the Parties are authorized to create, receive, transfer, store, use, protect the classified information exchanged and / or generated in the process of cooperation between the Parties;

7) sending Party – the authorized body or the competent authority transferring the classified information;

8) receiving Party – the authorized body or the competent authority receiving the classified information;

9) classified contract - an agreement the development and execution of which requires the use and / or creation of the classified information concluded between the authorized bodies and legal entities of the Parties;

10) third Party - any state, including individuals and legal entities under its jurisdiction, or an international organization that is not a Party to this Agreement.

Article 2

Objective of the Agreement

The objective of this Agreement shall be providing mutual protection of classified information in the course of cooperation between the Parties.

Article 3

Comparability of confidentiality degrees

1. The Parties in accordance with this Agreement and the national laws of the Parties establish that the degrees of confidentiality and the security classifications corresponding to them shall be compared as follows:

| In the Republic of Kazakhstan | Equivalent expression in Russian | In the Kingdom of Spain |
|----------------------------------|----------------------------------|-------------------------|
| ӨТЕ ҚҰПИЯ | СОВЕРШЕННО СЕКРЕТНО | SECRETO |
| ӨТЕ ҚҰПИЯ | СОВЕРШЕННО СЕКРЕТНО | RESERVADO |
| ҚҰПИЯ | СЕКРЕТНО | CONFIDENCIAL |
| ҚЫЗМЕТ БАБЫНДА ПАЙДАЛАНУ ҮШІН | ДЛЯ СЛУЖЕБНОГО ПОЛЬЗОВАНИЯ | DIFUSIÓN LIMITADA |

Article 4

Security measures

1. The Parties shall take all the necessary measures to protect the classified information in accordance with their national laws and this Agreement.

2. Access to classified information shall be provided only to persons who need it to perform official duties, if they have access to classified information of an appropriate degree of confidentiality.

3. The receiving Party shall undertake:

1) not to provide a third party with access to the classified information obtained and generated in the course of cooperation without a prior written consent of the competent authority of the Party that transferred such information;

2) not to use classified information for other purposes not provided for in its transfer.

4. The receiving Party shall assign to the obtained classified information the degree of confidentiality comparable with the degree of confidentiality assigned to it by the sending Party in accordance with Article 3 of this Agreement.

5. None of the Parties, without a prior written consent of the other Party, may declassify or change the security classification of the classified information received or generated in the course of cooperation.

Article 5

Competent authorities

1. The competent authorities shall be:
in the Kingdom of Spain - the National Security Bureau of the National Intelligence Center;
in the Republic of Kazakhstan - the National Security Committee of the Republic of Kazakhstan.
2. The competent authorities shall inform each other of the applicable national laws governing the protection of classified information and all the changes in these laws that are relevant to the protection of classified information in accordance with this Agreement.
3. In order to ensure close cooperation and fulfillment of this Agreement, the competent authorities may carry out consultations on a request sent by one of them.

Article 6

Classified information transfer

1. The decision on transfer of classified information shall be taken by the Parties in each individual case in accordance with the national laws of the Parties.
2. The transfer of classified information is generally carried out through diplomatic channels. By mutual agreement between the competent authorities of the Parties and in accordance with their national laws, other channels may be determined. The receiving party shall confirm the receipt of classified information in writing.
3. Classified information transferred by electronic channels shall be protected by cryptographic methods mutually approved by the competent authorities of the Parties.
4. When transferring a large amount of classified information between the Parties, the transportation methods, transmission routes and escort form shall be determined in the relevant transportation plan, prepared in advance by mutual agreement between the competent authorities of the Parties.
5. If the authorized body of one Party intends to transfer secret information to the authorized body of the other Party or intends to conclude a classified contract with it, then it shall request in advance from the competent authority of his Party a written confirmation that the authorized body of the other Party has access to classified information.

The competent authority of one Party shall request a written confirmation from the competent authority of the other Party that the authorized body of the other Party has access to classified information.

Article 7

Handling of classified information

1. Copying of classified information with the secrecy stamps "ӨТЕ ҚҰПИЯ/СОБЕРШЕННО СЕКРЕТНО/SECRETO", "ӨТЕ ҚҰПИЯ/СОБЕРШЕННО СЕКРЕТНО/RESERVADO" and "ҚҰПИЯ/СЕКРЕТНО/CONFIDENCIAL" shall be carried out only after obtaining the written permission of the sending Party.

2. Translation or copying of classified information shall be carried out only by persons with appropriate access to classified information of an appropriate degree of confidentiality or higher.

3. When translating or copying the classified information, each copy shall bear the security stamp corresponding to the security classification of the original. The number of copies shall be determined by official need.

4. Classified information shall be destroyed in such a way as to exclude the possibility of its full or partial recovery. The receiving Party shall inform the sending Party in writing of destruction of the classified information.

5. Classified information labeled "ӨТЕ ҚҰПИЯ/СОБЕРШЕННО СЕКРЕТНО/SECRETO" is not subject to destruction and shall be returned to the sending Party, except the cases specified in paragraph 7 of this article.

6. Classified information with secrecy stamp "ӨТЕ ҚҰПИЯ/СОБЕРШЕННО СЕКРЕТНО/SECRETO", "ӨТЕ ҚҰПИЯ/ СОБЕРШЕННО СЕКРЕТНО/RESERVADO" and "ҚҰПИЯ/СЕКРЕТНО/CONFIDENCIAL" shall be destroyed only after obtaining the written permission of the sending Party.

7. Classified information shall be immediately destroyed in the event of a crisis when its protection and return are not possible. The receiving Party shall immediately notify the sending Party in writing.

Article 8

Classified contracts

1. A separate section is included in classified contracts, which shall contain:
the list of classified information planned for use in the interaction process, and the degree of its confidentiality;

requirements for protection and conditions for the use of classified information;

procedure for resolving disputes and compensation for possible damage from unauthorized distribution of classified information;

requirements for the authorized bodies of the Parties that they will not disclose and / or allow the transfer of classified information to a third party.

2. The competent authorities of the Parties shall control protection of the classified information in accordance with the national laws of their states.

Article 9

Visits

1. Access to classified information for representatives of the sending Party shall be granted after obtaining a prior written permission of the competent authority of the state of the receiving Party.

2. Request for a visit shall be submitted no later than 30 (thirty) days before the planned visit, and shall contain the following data:

1) visitor's first name and surname, date and place of birth, nationality and number of passport (identity document);

2) position of the visitor and the name of the organization that he (she) represents;

3) availability of required permit for access to the classified information and its expiry date;

4) purpose of the visit, the planned date of the visit and its duration;

5) names of the planned objects of the visits;

6) position, name and surname of representatives of the state of the receiving Party with whom a meeting is planned.

3. Validity term of the visit permit shall not exceed one year.

4. Representatives of each of the Parties when visiting the territory of the other Party shall comply with the national legislation of the state of the receiving Party.

Article 10

Breach of classified information security and determination of the damage extent

1. In the event of a breach of the classified information security that led to unauthorized distribution of classified information transferred by the authorized body of the other Party and (or) formed in the process of cooperation, the authorized or competent body of the relevant Party shall immediately notify the authorized or competent body of the other Party, conduct the necessary investigation and inform the competent authority of the Party that transferred the classified information about the investigation findings and measures taken in accordance with the laws of the state of the Party in whose territory the breach happened.

2. The amount and procedure of compensation for the damage caused by unauthorized distribution of classified information shall be determined in accordance with the laws of the States of the Parties, international treaties to which they are parties, also during the consultations and negotiations between the Parties.

Article 11

Costs

The Parties shall independently bear the costs resulting from implementation of this Agreement in accordance with their national laws.

Article 12

Dispute settlement

1. Any dispute relating to interpretation or application of this Agreement shall be settled exclusively by consultation and negotiation between the Parties.

2. The Parties shall continue to comply with the obligations arising from this Agreement until the settlement of any dispute.

Article 13

Amendments

By mutual written consent of the Parties, amendments may be entered on this Agreement, which shall be its integral parts drawn up by separate protocols that take effect in accordance with the procedure provisioned by paragraph 1 of Article 14 of this Agreement.

Article 14

Final provisions

1. This Agreement shall be concluded for an indefinite term and shall take effect 30 (thirty) days after receipt by the diplomatic channels of the last written notice on completion by the Parties of the internal procedures necessary for its enforcement.

2. Each Party may terminate this Agreement by sending a written notice on diplomatic channels to the other Party. In this case, this Agreement shall be terminated upon expiry of 6 (six) months from the date of receipt of such notice.

3. Regardless of the termination of this Agreement, all the classified information exchanged and / or generated under this Agreement shall be protected in accordance with the provisions of this Agreement until the Parties relieve each other of these obligations by sending appropriate written notices by the diplomatic channels.

Executed in Astana on July 15, 2017 in duplicate, each in the Kazakh, Russian and Spanish languages, all texts being equally authentic.

*For the Government
of the Republic of Kazakhstan*

*For the Government
of the Kingdom of Spain*

