On approval of the Rules (methods) of pricing for titanium ingots produced by the method of electron beam melting

Unofficial translation

Resolution of the Government of the Republic of Kazakhstan dated July 11, 2018 No. 417.

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

1. To approve the attached Rules (methods) of pricing for titanium ingots produced by the method of electron beam melting.

2. Control over the execution of this resolution shall be entrusted to the Ministry of Investment and Development of the Republic of Kazakhstan.

3. This resolution comes into effect from the date of its signing.

Prime Minister of the Republic of Kazakhstan *B. Sagintayev*

Approved
by Resolution No. 417 of
the Government of the
Republic of Kazakhstan
dated July 11, 2018

The Rules (methods) of pricing for titanium ingots produced by the method of electron beam melting

1. General provisions

These Rules (methods) of pricing for titanium ingots produced by the method of electron beam melting (hereinafter referred to as the Rules) establish the procedure for determining (calculating) transaction (sales) prices when making export sales transactions for titanium ingots produced by the method of electron beam melting using one of the following types of raw materials:

titanium sponge;

titanium scrap;

titanium sponge and titanium scrap.

2. Terms and definitions used in these Rules

The following terms and definitions are used in these Rules:

1) electron beam melting - a method of melting titanium by using the energy of an electron beam;

2) differential – the quotation size applied for bringing transaction prices or prices from information sources to comparable economic conditions in accordance with the legislation of the Republic of Kazakhstan on transfer pricing and determined taking into account the provisions of chapter 5 of these Rules;

3) long-term contract - a contract (agreement) for the sale of titanium ingots produced by the method of electron beam melting, concluded for a period of one to two years;

4) buyer specification - document containing the requirements to the hardness and chemical composition of titanium ingots, which is approved by the consumer using the product for the production of titanium products and its alloys;

5) B348 standard – the international standard of the American voluntary organization " ASTM International" of the latest revision (American society for materials and testing), which develops and publishes standards for materials, products, systems and services of all industries;

6) titanium sponge - a biologically and environmentally friendly material obtained by a magnesmethermal method with vacuum thermal cleaning and being the starting material for the production of semi-finished products from titanium and its alloys with a titanium content of at least 95.0 wt.%;

7) titanium ingots - macroscopic homogeneous mixture based on titanium or with additives of aluminum, vanadium, iron and other impurities, as well as titanium scrap in the form of cast metal billet, intended for further processing by plastic deformation (rolling, forging, pressing), melting or electrolysis;

8) product - titanium ingots produced by the method of electron beam melting for further sale to the consumer;

9) titanium scrap - waste from the production of titanium ingots in the form of scrap of titanium chips and scrap of lump titanium;

10) a trader – a person carrying out mediatory functions on buy and sell of titanium ingots produced by electron beam melting independently and (or) on behalf of a transaction participant;

11) price from information sources – price, published in US dollars by the company Argus Media group in the MetalPrices.com magazine (United Kingdom) website - www.metalprices.com and Megasoft Limited Liability Company in the Metallurgical Bulletin magazine (Russia) website-www.metaltorg;

12) transaction price - the selling price of an enterprise for titanium ingots produced by the method of electron beam melting, calculated in accordance with the provisions of these Rules;

13) price corridor - the upper and lower price limits set by the parties to the transaction when concluding long-term contracts based on a series of minimum and maximum prices

from information sources: for titanium ingots - MetalPrices.com magazine, the site www.metalprices.com (UK), in the absence of publication of the source “MetalPrices.com” - the value of prices is taken from the source “Metallurgical Bulletin”, the site www.metaltorg.ru.

3. The use of the price band when determining the transaction price for long-term contracts

For long-term contracts for the sale of titanium ingots produced by the method of electron-beam melting, the parties to the transaction set the price corridor used throughout the contract.

The upper and lower limits of the price band are determined on the basis of the arithmetic average of the minimum and maximum prices published in the relevant information source for each first day of two calendar months preceding the month of the long-term contract conclusion, and prices from the source of information published on the first day of the month of the long-term contract conclusion.

The price corridor established by the parties to the transaction at the conclusion of a long-term contract is used to determine the transaction price on the date of transfer of ownership of titanium ingots produced by the method of electron beam melting.

If the arithmetic mean value of the price from the source of information deviates from the upper limit of the established price corridor towards an increase (rising) in the transaction price at the date of transfer of ownership of titanium ingots produced by the method of electron beam melting, is calculated based on the upper limit of the established price corridor.

If the arithmetic mean value of the price from the source of information deviates from the lower limit of the established price corridor decrease (downward), the transaction price at the date of transfer of ownership of titanium ingots produced by the method of electron beam melting is calculated based on the lower limit of the established price corridor.

4. The procedure for determining the transaction price (sales) for titanium ingots produced by the method of electron beam melting using titanium sponge, or titanium sponge and titanium scrap, or titanium scrap

For a long-term contract for the sale of titanium ingots produced by the method of electron beam melting using one of the following types of raw materials: titanium sponge; or titanium sponge and titanium scrap; or titanium scrap, the transaction (sales) price is calculated by the following formula:

$TP_{Ingot} > PIS_{Ingot} \times C_{Ingot} \times CS_{crap} - D$, where

TPIngot - transaction (sales) price for titanium ingots produced by the method of electron beam melting, on the date of transfer of ownership to the buyer;

PISIngot - price from the information source on titanium ingots, published in the MetalPrices.Com journal, defined as the arithmetic average of the minimum and maximum prices at the date of transfer of ownership of the goods to the buyer using the following formula:

$$PIS_{Ingot} = \frac{PIS_{MP\ min.} + PIS_{MP\ max}}{2}, \text{ where}$$

PISMP min. - the minimum price value from the information source on titanium ingots published in the "MetalPrices.Com" magazine at the date of transfer of ownership to the buyer;

PISMP max. - the maximum value of the price from the source of information on titanium ingots published in the MetalPrices.Com magazine on the date of transfer of ownership to the buyer.

Provided that, PISIngot is applied taking into account the limits of the price corridor and the provisions of Chapter 3 of these Rules

CIngot - decreasing coefficient used to determine the price of the transaction (sale) for titanium ingots produced by the method of electron beam melting, in accordance with the specification of the buyer, determined on the basis of the maximum allowable limits of the content of basic impurities (iron (Fe), oxygen (O), nitrogen (N), hydrogen (H), carbon (C), vanadium (V), aluminum (Al), yttrium (Y), silicon (Si), boron (B) , copper (Cu), ruthenium (Ru), palladium (Pd)), affecting the quality of titanium ingots, defined by standard B 348, according to the following formula:

$$C_{Ingot} = \frac{1}{(1+(Fe_x - Fe_{Ingot})) \times (1+(O_x - O_{Ingot})) \times (1+(N_x - N_{Ingot})) \times (1+(H_x - H_{Ingot})) \times (1+(C_x - C_{Ingot})) \times (1+(V_x - V_{Ingot})) \times (1+(Al_x - Al_{Ingot})) \times (1+(Y_x - Y_{Ingot})) \times (1+(Si_x - Si_{Ingot})) \times (1+(B_x - B_{Ingot})) \times (1+(Cu_x - Cu_{Ingot})) \times (1+(Ru_x - Ru_{Ingot})) \times (1+(Pd_x - Pd_{Ingot}))}, \text{ where}$$

Fe_x – iron	
O_x – oxygen	
N_x – nitrogen	
H_x – hydrogen	
C_x – carbon	

V_x - vanadium	
Al_x - aluminum	maximum allowable impurity content in titanium ingots produced by the method of electron beam melting, in accordance with the specifications of buyers (in percent);
Y_x - yttrium	
Si_x - silicon	
B_x - boron	
Cu_x - copper	
Ru_x - ruthenium	
Pd_x - palladium	
Fe_{Ingot} - iron	
O_{Ingot} - oxygen	
N_{Ingot} - nitrogen	
H_{Ingot} - hydrogen	
C_{Ingot} - carbon	
V_{Ingot} - vanadium	
Al_{Ingot} - aluminum	maximum allowable impurity content in titanium ingots in accordance with B 348 standard (in percent).
Y_{Ingot} - yttrium	
Si_{Ingot} - silicon	
B_{Ingot} - boron	
Cu_{Ingot} - copper	
Ru_{Ingot} - copper	
Pd_{Ingot} - palladium	

If the maximum permissible content of the above impurities in titanium ingots according to buyers' specifications is lower than the maximum permissible content of impurities in titanium ingots defined by B 348 standard, then the transaction (sales) price for titanium ingots produced by the method of electron beam melting is determined without coefficient.

C_{Scrap} - decreasing coefficient used to determine the transaction (sales) price for titanium ingots produced by the method of electron beam melting and determined on the basis of the price difference of the materials contained in the feedstock (sponge titanium; or sponge titanium and titanium scrap; or scrap titanium).

C_{Scrap} is determined by the following formula:

$$CScrap = \frac{(P_{TG} \times PIS_{TG}) + (PT_{urning} \times PT_{urning}) + (PS_{olids} \times PIS_{Solids})}{PIS_{TG}}$$, where

P_{TG} - percentage of titanium sponge in the feedstock;

$P_{Turning}$ - percentage of titanium chips in the feedstock in percent;

P_{Solids} - percentage of lumpy titanium scrap in the feedstock in percent;

PIS_{TG} - price from the information source on titanium sponge, published in the Metallurgical Bulletin magazine, defined as the arithmetic average of the minimum and maximum prices at the date of transfer of ownership of the goods to the buyer using the following formula:

$$PIS_{TG} = \frac{PIS_{MT\ min.} + PIS_{MT\ max}}{2}$$, where

$PIS_{MT\ min.}$ - minimum price value from the Metallurgical Bulletin source at the date of transfer of ownership to the buyer;

$PIS_{MT\ max.}$ - maximum price value from the Metallurgical Bulletin source at the date of transfer of ownership to the buyer.

$PIS_{Turning}$ - price from the information source on scrap of titanium chips, published in the "MetalPrices.Com" journal, defined as the arithmetic mean of the minimum and maximum prices at the date of transfer of ownership of the goods to the buyer using the following formula:

$$PIS_{Turning} = \frac{PIS_{MP\ min} + PIS_{MP\ max}}{2}$$, where

$PIS_{MP\ min.}$ - the minimum price value from the information source on titanium ingots published in the “MetalPrices.Com” magazine at the date of transfer of ownership to the buyer;

$PIS_{MP\ max.}$ - the maximum value of the price from the information source on titanium ingots published in the MetalPrices.Com magazine at the date of transfer of ownership to the buyer;

PIS_{Solids} - price from the information source on scrap lump titanium, published in the journal MetalPrices.Com, defined as the arithmetic average of the minimum and maximum prices at the date of transfer of ownership of the goods to the buyer using the following formula:

$$PIS_{Solids} = \frac{PIS_{MP\ min} + PIS_{MP\ max}}{2}$$, where

$PIS_{MP\ min.}$ - the minimum price value from the information source on titanium ingots published in the "MetalPrices.Com" magazine at the date of transfer of ownership to the buyer;

$PIS_{MP\ max.}$ - the maximum value of the price from the information source on titanium ingots published in the MetalPrices.Com magazine at the date of transfer of ownership to the buyer.

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- the differential is taken into account depending on the conditions of supply of titanium ingots produced by the method of electron beam melting, defined in the long-term contract.

5. Determination of differential

To the differential, in order to bring prices from a source of information to comparable economic conditions, depending on the conditions of supply of titanium ingots produced by the method of electron beam melting, include reasonable and confirmed by documents and (or) by the information sources, the buyer the costs associated with the delivery of the goods to the appropriate destination (delivery) market of the goods and its sale, including:

1) the cost of storing goods in warehouses;

2) the cost of transportation of the goods;

3) the cost of insurance of transportation of goods;

4) the cost of paying customs duties (payments) for the goods;

5) commission in the amount of not more than 2% of the total amount of costs incurred by the trader (buyer) for the purchase, financing, delivery and sale of goods. The commission of the trader (buyer) is determined on the basis of the audited financial statements of the trader (buyer), as the average size of the rate of return for three previous financial years preceding the year of the transaction. The rate of return is determined in percentage as the ratio of operating profit to the amount of the costs of sales and costs of the period.

6) financing costs, including costs of the buyer for the payment of interest on loans (borrowing) provided to the buyer by commercial banks for the purchase, delivery and sale of goods, in the amount of no more than three months LIBOR rate + 1.6%, as well as costs on bank fees that are borne the buyer when raising and servicing loans (borrowing). The remuneration on loans (borrowing) is determined as the average of the three-month LIBOR rate + 1.6%. The value of three-month LIBOR rate is determined on the basis of data from the www.bbalibor.com website, as the average of the 3-month LIBOR rate valid on the date of shipment of goods for the calendar month. In this case, if under the contract for the sale of goods, only one shipment was made during the month, then to determine the costs of remuneration on loans (borrowing), the average of the 3-month LIBOR rate corresponds to one value of the 3-month average of LIBOR rate given day of shipment.

If, at the request of the state revenue authority, the official information source provides information in which it will be stipulated that the differential does not include financing costs, including the costs of the buyer for the payment of interest on loans, provided to the buyer by commercial banks for the purchase, delivery and sale of titanium ingots, as well as the costs of the bank commission, which are borne by the buyer when raising and servicing loans, then such costs are subject to exclusion from the differential. The taxpayer should be familiarized with such information before the start of the tax audit on the issue of state control over transfer pricing.

The components of the differential are confirmed by the documents, including long-term contracts, acts of delivery and acceptance of service on operating costs with itemized detail of the buyer's costs related to the delivery of goods to the relevant destination (delivery) market of goods and its sale, and (or) information sources in the order established by article 18 of the Law of the Republic of Kazakhstan “On Transfer Pricing” dated July 5, 2008.