

On approval of the Rules of interaction between state bodies of the Republic of Kazakhstan in the event of an investigation prior to the application of compensatory measures by a member state of the Eurasian Economic Union in relation to goods originating from the Republic of Kazakhstan

Unofficial translation

Decree of the Government of the Republic of Kazakhstan dated September 9, 2019 No. 668.

Unofficial translation

In accordance with paragraph 2 of Article 22-1 of the Law of the Republic of Kazakhstan "On regulation of trade activities," the Government of the Republic of Kazakhstan **hereby RESOLVED as follows:**

Footnote. The preamble - in the wording of the resolution of the Government of the Republic of Kazakhstan dated 17.03.2023 No. 236 (shall enter into force upon expiry of ten calendar days after the day of its first official publication).

1. To approve the attached Rules for the interaction of state bodies of the Republic of Kazakhstan in the event of an investigation prior to the application of compensatory measures by a member state of the Eurasian Economic Union in relation to goods originating from the Republic of Kazakhstan.

2. This resolution shall be enforced after ten calendar days after the day its first official publication.

Prime Minister of the Republic of Kazakhstan

A. Mamin

Approved by the
Decree of the Government of the
Republic of Kazakhstan
dated September 9, 2019 No. 668

RULES

of interaction between state bodies of the Republic of Kazakhstan in the event of an investigation prior to the application of compensatory measures by a member state of the Eurasian Economic Union in relation to goods

originating from the Republic of Kazakhstan Chapter 1. General Provisions

1. These Rules of interaction of state bodies of the Republic of Kazakhstan in case of investigation preceding application of compensatory measure by a member state of the Eurasian Economic Union (hereinafter referred to as the EEU) in relation to goods originating from the Republic of Kazakhstan (hereinafter referred to as the Rules), have been developed in accordance with paragraph 2 of Article 22-1 of the Law of the Republic of Kazakhstan "

On regulation of trade activities" and shall determine the procedure for interaction of state bodies of the Republic of Kazakhstan in the event of an investigation by a member state of the EEU preceding the application of a compensatory measure in relation to goods originating from the Republic of Kazakhstan.

Footnote. Paragraph 1 - in the wording of the resolution of the Government of the Republic of Kazakhstan dated 17.03.2023 No. 236 (shall enter into force upon expiry of ten calendar days after the day of its first official publication).

2. For the purposes of these Rules, the following concepts are used:

1) business entities - citizens, kandases and non-state commercial legal entities engaged in entrepreneurial activity (private businesses), state enterprises (state businesses);

2) associations of business entities - associations (unions) created by business entities in order to coordinate their business activities, as well as represent and protect the common interests of business entities;

3) subjects of the quasi-public sector - state enterprises, limited liability partnerships, joint-stock companies, including national management holdings, national holdings, national companies, the founder, participant or shareholder of which is the state, as well as subsidiary, dependent and other legal entities that are affiliated with them in accordance with the legislative acts of the Republic of Kazakhstan;

4) the competent authority is the state authority of the EAEU Member State responsible for conducting the investigation;

5) state bodies - the central executive state bodies of the Republic of Kazakhstan, state bodies of the Republic of Kazakhstan directly subordinate and accountable to the President of the Republic of Kazakhstan;

6) compensatory measure - a measure to neutralize the negative impact of a specific subsidy of the Republic of Kazakhstan on the economy of the EAEU Member State that has submitted an application for the introduction of this measure;

7) investigation - a procedure carried out by a competent authority in order to establish a violation by the Republic of Kazakhstan of the Protocol on the unified rules for the provision of industrial subsidies, which is Appendix No. 28 to the EAEU Agreement of May 29, 2014 (hereinafter - the Protocol on Industrial Subsidies), and (or) damage to the industry of a member state of the EAEU from subsidies of the Republic of Kazakhstan;

8) investigation materials - notifications of decisions taken in connection with the investigation, a questionnaire (request) of the competent authority, a report prepared based on the results of the investigation, and other information requested and (or) submitted as part of the investigation;

9) authorized body - the central executive body that shapes trade policy and carries out management, as well as intersectoral coordination in the field of trade.

Footnote. Paragraph 2 as amended by the Resolution of the Government of the Republic of Kazakhstan dated 25.02.2021 No. 96 (shall be enforced upon expiry of ten calendar days after the date of its first official publication).

Chapter 2. The procedure for interaction between state bodies of the Republic of Kazakhstan in the event of an investigation prior to the application of compensatory measures by a member state of the Eurasian Economic Union in respect of goods originating from the Republic of Kazakhstan

3. The authorized body, within its competence, coordinates the activities of state bodies on issues of investigation conducted by the competent authority in relation to Kazakhstan goods, including:

1) inform the state authorities about the beginning of the investigation by the competent authority in relation to Kazakhstan goods;

2) sends investigation materials to state bodies within 3 (three) business days from the date of receipt of the investigation materials from the competent authority;

3) analyzes the state of the industry, information on the availability of subsidies, information on state subsidies, business entities, quasi-public sector entities on their subsidies, their compliance with the provisions of the Protocol on Industrial Subsidies, assessing the possible impact on the industry of the Republic of Kazakhstan and the EAEU Member State that initiated the investigation, and other investigation materials;

4) forms together with interested state bodies a consolidated position (comments, arguments) of the Kazakhstan side and answers to the questionnaire of the competent authority;

5) submits for consideration by the Interdepartmental Commission of the Republic of Kazakhstan on foreign trade policy and participation in international economic organizations investigation materials in the event of fundamental disagreements of state bodies on the consolidated position formed by the authorized body to develop the final position of the Republic of Kazakhstan;

6) sends official proposals and (or) requests to the competent authority through an authorized state body engaged in foreign policy activities;

7) holds consultations and meetings with state bodies on the issues of investigation;

8) organize the participation of representatives of state bodies in the inspection visit conducted by the competent authority and the submission of information, including confidential information, to the competent authority through an authorized state body engaged in foreign policy activities;

9) participates in consultations, meetings, negotiations and public hearings as part of the ongoing investigation;

10) interacts with foreign institutions of the Republic of Kazakhstan, representatives of foreign states, unions of foreign states and international organizations on issues of the ongoing investigation through an authorized state body engaged in foreign policy activities.

4. State bodies, when interacting with the authorized body, within their competence:

1) determine the responsible official at a level not lower than the deputy first head of the state body in order to interact with the authorized body on matters of investigation;

2) within the limits of their competence, consider the investigation materials received from the authorized body, unless a different time period is indicated in the request, within 5 (five) business days from the day they are received, ensure the presentation of information, formed position, answers to the questionnaire, statistical data and other information, including confidential (limited distribution), necessary for the formation of the Kazakhstani position on the investigation conducted by the competent authority;

3) participate in investigations, hearings, consultations, meetings on investigation matters, test visits conducted by the competent authority, if necessary, at the request of the authorized body;

4) carry out other activities within their competence on issues related to the investigation, at the request of the authorized body.

5. In the event that the requested information provided for by subparagraph 2) of paragraph 4 of these Rules relates to proprietary information of limited distribution, such information is submitted by state bodies to the authorized body with the consent of the first head to transmit information to the full or partially competent authority in the manner established the legislation of the Republic of Kazakhstan.

6. Overseas institutions of the Republic of Kazakhstan provide:

1) timely sending of investigation materials received from the competent authority to the Ministry of Foreign Affairs of the Republic of Kazakhstan and the authorized body within 1 (one) business day from the day of receipt in the working order, within 3 (three) business days in the official manner;

2) timely transfer of materials from the authorized body to the competent authority within the time specified by the authorized body.

7. The Ministry of Foreign Affairs of the Republic of Kazakhstan provides:

1) sending investigation materials received through diplomatic channels from the competent authority to the authorized body within 3 (three) business days from the date of receipt;

2) sending through diplomatic channels to the competent authority the corresponding official position of the authorized body within the time specified by the authorized body.

8. Investigation issues affecting the interests of business entities, associations of business entities, entities of the quasi-public sector are sent by the authorized body to these

organizations for consideration and submission of the requested information, including confidential (with the consent to transmit it to the competent authority), within the time periods specified by the authorized body.

9. In case of receipt of investigation materials from the competent authority to the Government of the Republic of Kazakhstan, these materials shall be sent by the Apparatus of the Government of the Republic of Kazakhstan to the authorized body and state bodies in accordance with the spheres of their jurisdiction within the time limits established by the Regulations of the Government of the Republic of Kazakhstan.

Upon receipt of investigation materials in accordance with the first part of this paragraph, the authorized body shall, within its competence, interact with state bodies in accordance with paragraph 3 of these Rules.

Footnote. Paragraph 9 as amended by the resolution of the Government of the Republic of Kazakhstan dated 17.03.2023 No. 236 (shall enter into force upon expiry of ten calendar days after the day of its first official publication).

Chapter 3. Interaction of the authorized body with the competent authority of a member state of the Eurasian Economic Union, in the event of an investigation prior to the application of compensatory measures

10. The authorized body forms the final position, answers to the questionnaire and requests of the competent authority. The specified information, including confidential (limited distribution), is transmitted to the competent authority in the working language of the EAEU bodies through diplomatic channels through the Ministry of Foreign Affairs of the Republic of Kazakhstan in the manner prescribed by the legislation of the Republic of Kazakhstan.

11. The transfer by the authorized body of the information requested by the competent authority is provided provided that this information does not contain information classified as state secrets or other protected secrets in accordance with the legislation of the Republic of Kazakhstan, unless otherwise provided by international treaties ratified by the Republic of Kazakhstan.

12. In the event that the information requested from the state bodies requested by the competent authority refers to official information of limited distribution, such information shall be transmitted by the authorized body to the competent authority marked “Confidential” in the manner established by the legislation of the Republic of Kazakhstan.