

On Subsidies and Countervailing Measure

Invalidated Unofficial translation

The Law of the Republic of Kazakhstan dated 16 July, 1999 No. 441-1

Unofficial translation

This Law regulates relations between the interested persons, arising upon import of goods, subsidized by the foreign state (union of foreign states), as well as upon conducting of proceedings and the introduction of countervailing measures.

Chapter 1. GENERAL PROVISIONS

Article 1. Basic concepts used in this Law

The following basic concepts shall be used in this Law:

1) temporary countervailing measures – the measures, taken on the ground of regulation of the Government of the Republic of Kazakhstan to the supplier of imported goods, subsidized by foreign state (union of foreign states) in the form of guaranteed cash deposits and (or) guarantees of the bank of the Republic of Kazakhstan, in the process of conducting of proceeding;

2) interested persons – National chamber of entrepreneurs of the Republic of Kazakhstan;

domestic producer of similar goods, being the object of proceedings, or association of domestic producers, majority of participants that produce similar goods;

foreign exporter of goods and foreign producer of goods, being the object of proceedings;

domestic importer of goods or association of domestic importers, majority of participants of which are the importers of similar goods;

the Government of the foreign state, an authorized body of country of origin of goods or export of similar goods or an authorized body of union of foreign states, which includes the countries of origin of similar goods or their export;

consumer or association of consumers of the goods;

The Government of the Republic of Kazakhstan and an authorized body of the Republic of Kazakhstan;

other persons, rights and interests of which are affected by this proceedings and which is able to render assistance in conducting of similar proceedings according to opinion of the authorized body, specified in Article 6 of this Law; 3) compensation

duty – duty, that is applied upon introduction of countervailing measures and established above the base rate of customs duty on the import of goods, subsidized by the foreign state (union of foreign states) on the basis of regulation of the Government of the Republic of Kazakhstan;

4) countervailing measures – a set of means of administrative and economic impact, applied to the import of goods, subsidized by the foreign state (union of foreign states) in the form of compensation duty, temporary countervailing measure and price undertakings for elimination of material damage or the threat of its application by the domestic producer;

5) confidential information – information, disclosure of which provides significant advantages for competitors or have significant adverse consequences for the interested persons, provided information;

6) material damage – an actual damage and (or) unreceived incomes (loss profit) of domestic producers from supplies of imported goods, subsidized by the foreign state (union of foreign states);

7) disadvantaged region – administrative and (or) economic territory, determined by the regulatory legal acts of country of origin and (or) export of goods, subsidized by the foreign state (union of foreign states), the level of development of which is characterized or the past three years to the period of proceedings: per capital income, income per family member or gross domestic product per capita, not exceeding 85 percent, and unemployment level not later than 110 percent from the relevant averages of country of origin and (or) exporting country;

8) domestic producers - Kazakh producers of similar or directly competitive product, the total volume of production of which is the basic part of production of similar goods in the territory of the Republic of Kazakhstan;

9) similar goods – the goods, that are classified by the similar code of nomenclature of goods of external economic activity and completely identical to another goods, comparable with it on their functional purpose, application, quality and technical features and other basic properties;

10) supplier – foreign producer or exporter of goods, subsidized by the foreign state (union of foreign states);

11) proceedings – procedure of consideration of documents and other evidences on the occasion of supplies of imported goods, subsidized by the foreign state (union of foreign states), imported into the Republic of Kazakhstan, sale of which causes or threatens to cause material damage to the domestic producers of similar product;

12) regional producer – a set of producers of similar goods on the regional market, meeting the following conditions;
producers sell all or most of their goods within this market;
they are the only producers who supply goods to this region;

13) regional market – market of separate administrative-territorial entity of the Republic of Kazakhstan;

14) specific subsidy – subsidy, the access of which is restricted and which is represented to the specific supplier or specific union of suppliers, or specific branch of economy, or directed to encouragement of export of goods or import substitution of goods;

15) subsidizing body – the government or other state body, providing subsidy to the supplier;

16) subsidy – financial support, provided by the foreign state (union of foreign states), which carries the advantages by:

direct transfer of funds or obligations to make such transfer;
full or partial exemption from tax, customs and other obligatory payments;
cancellation of debt or credit arrangement for the purposes of rendering of assistance in payment of such debt;

privileged or uncompensated provision of energy, materials, components, semi-finished products, services, except for the goods and services, intended for support and development of common infrastructure, not related only with specific supplier;

privileged acquisition of goods;
instruction of government to the non-governmental organizations on implementation of one or more of the above listed support measures;
any price support or incomes, if such leads to obtain additional incomes;

17) threat of material damage – obvious unavoidability of material damage, approved by actual evidences for the purposes of exclusion of subjective reasons on possibility of infliction of damage;

18) an authorized body – the state body of the Republic of Kazakhstan, carrying out monitoring of commercial and industrial practice, executing proceedings on establishment of existence or threat of material damage and necessity of introduction of countervailing measures.

Footnote. Article 1 as amended by the Laws of the Republic of Kazakhstan dated 09.01.2006 No. 114 (shall be enforced from the date of its official publication); dated 04.07.2013 No. 130-V (shall be enforced upon expiry of ten calendar days after its first official publication).

Article 2. Purposes of this Law

The purposes of this Law shall be protection of internal market from unfair competition on the part of suppliers of imported goods, subsidized by the foreign state

(union of foreign states), and elimination of negative consequences for the domestic producers.

Article 3. The scope of application of this Law

The relations, arising between the authorized body and interested persons and between the interested persons themselves in connection with supplies of imported goods, subsidized by the foreign state (union of foreign states) to the territory of the Republic of Kazakhstan, as well as in connection with deterioration of the competitive opportunities of domestic producers in the market of subsidized country and market of third country, upon which the material damage is caused or there is a threat of its application to domestic producers of the similar goods shall be regulated by this Law.

Article 4. The legislation of the Republic of Kazakhstan on subsidies and countervailing measures

1. The legislation of the Republic of Kazakhstan on subsidies and countervailing measures shall be based on the Constitution of the Republic of Kazakhstan and consist of this Law and other regulatory legal acts.

2. If by the international agreement or treaty, ratified by the Republic of Kazakhstan, made other rules than those that contained in this Law, the rules of the international agreement or treaty shall be applied.

Article 5. Organization of control over the import of goods, subsidized by the foreign state (union of foreign states)

1. An activity on control and conducting of proceedings upon import of goods, subsidized by the foreign state (union of foreign states), and introduction of countervailing measures shall be carried out by the authorized body.

2. Introduction, revision and cancellation of countervailing measures shall be carried out by the Government of the Republic of Kazakhstan on presentation of the authorized body.

Article 6. An authorized body

1. An authorized body shall act within the powers, granted to it by this Law, other Laws of the Republic of Kazakhstan, acts of the President of the Republic of Kazakhstan and the Government of the Republic of Kazakhstan.

2. An authorized body may issue the regulatory legal acts on procedures of proceedings within its competence, conduct proceedings, prepare conclusion for introduction to the Government of the Republic of Kazakhstan for the purposes of

adoption of countervailing measures.

Footnote. Article 6 as amended by the Law of the Republic of Kazakhstan dated 05.07.2011 No. 452-IV (shall be enforced from 13.10.2011).

Chapter 2. CRITERIONS AND CONDITIONS OF DETERMINATION OF SUBSIDY

Article 7. Determination of specific subsidy

1. Subsidy of foreign state (union of foreign states) shall not be considered as specific, if objective criterions and conditions of its provision are established without instruction of specific enterprise or branch of economy.

Subsidy shall be specific and its provision entails application of countervailing measures, if:

1) subsidizing body or the legislation, on the basis of which the subsidizing body acts, restricts the access to the subsidy to all other persons, except for the restricted number of enterprises;

2) provision of subsidies related to the limited number of enterprises, located in the specific region;

3) subsidies related with the results of export or with the use of local goods instead of imported goods as the single or one of the several conditions.

2. Non-specific subsidy shall be compensated, if its provision causes or may cause material damage to the domestic producers and conditions, the forms of its provision corresponds to the following factors:

1) prior use of subsidies by limited number of enterprises;

2) disproportionately large rates of subsidies, granted to the limited number of enterprises;

3) direction of the use of subsidies;

4) frequency of failures or fulfillment of requests for subsidies and motives of the relevant decisions of governmental bodies of the foreign state (union of foreign states);

5) the number of enterprises, using the budgetary subsidies;

6) the degree of diversification of economic activity of enterprises upon provision of subsidies.

3. If according to the result of the proceedings conducted by the authorized body, it is established that the import of any goods, upon production and (or) export of which used a specific subsidy of a foreign state (union of foreign states), causes or threatens to cause material damage to domestic producers, the Government of the Republic of Kazakhstan shall have a right to apply the countervailing measures, except for the case,

provided in paragraph 4 of this Article.

4. The rates of specific subsidy shall be considered as insignificant if it is less than one percent of the cost of the goods.

5. If the goods are imported into the Republic of Kazakhstan not from the country of origin, and from intermediate country of export, the provisions of this Law shall be fully applicable and the transactions (transaction) shall be considered similar to transactions that took place between the country of origin and the Republic of Kazakhstan.

Footnote. Article 7 as amended by the Laws of the Republic of Kazakhstan dated 09.01.2006 No. 114 (shall be enforced from the date of its official publication); dated 03.07.2013 No. 124-V (shall be enforced upon expiry of ten calendar days after its first official publication).

Article 8. Uncompensated subsidies

(Article is excluded by the Law of the Republic of Kazakhstan dated 9 January, 2006 No. 114 (shall be enforced from the date of its official publication))

Chapter 3. ESTABLISHMENT OF EXISTENCE OF MATERIAL DAMAGE

Article 9. Determination of material damage

1. Determination of material damage shall be based on the evidence and includes the objective examination of the volume of imported goods, subsidized by the foreign state (union of foreign states), its influence on prices of similar goods in the internal market of the Republic of Kazakhstan and consequences of import of such goods for the domestic producers of similar goods.

2. If the import of any goods, subsidized by a foreign state (union of foreign states) from more than one country is the subject of simultaneous proceedings, the joint impact of imports of such goods shall subject to evaluation, if it is determined that the rates of compensable subsidies, established in relation of import from each country and the volume of import of goods, subsidized by a foreign state (union of foreign states) from each country is significant and exceed the levels, determined in Articles 7 and 10 of this Law.

Footnote. Article 9 as amended by the Law of the Republic of Kazakhstan dated 2006 No. 114 (shall be enforced from the date of its official publication).

Article 10. Determination of the extent of insignificant material damage

The extent of material damage shall be considered as insignificant, if supply of goods from country, in relation of which the application is filed, is less than 1 percent from total volume of imports for comparable period of time, and in case of accumulation these countries account for less than 3 per cent of supplies of such goods in the Republic of Kazakhstan.

Article 11. Determination of impact of import of goods, subsidized by a foreign state (union of foreign states), on the domestic producers

1. The study of the impact of import of goods, subsidized by a foreign state (union of foreign states) on the domestic producers shall include an assessment by the authorized body of all relevant economic factors and indicators influencing on the state of domestic producers, including:

actual and potential reduction of product release, sales, market share, profits, productivity, incomes from investments, utilization of capacity; factors, influencing on formation of prices for the similar goods in the Republic of Kazakhstan;

actual or potential negative impact on cash flow, trade stocks, employment, salaries, rate of increase in production, possibility of attracting investments.

2. Impact of import of goods, subsidized by a foreign state (union of foreign states) shall be assessed in relation to the domestic production of similar goods, if available data allows highlight this production on the basis of such criterions as the production process, shipping of products to producers and profits. If such allocation of this production is not possible, the impact of import of goods subsidized by a foreign state (union of foreign states) shall be estimated on the basis of study of production possibly of a narrower nomenclature of goods, which includes the similar goods, by which the necessary information may be obtained.

Article 12. Establishment of existence of material damage

1. An authorized body shall establish existence of material damage, caused to the domestic producers upon import of goods, subsidized by a foreign state (union of foreign states), and cause and effect relationship between the import of goods, subsidized by a foreign state (union of foreign states), and material damage, caused them, or its threat.

2. Except for the import of goods, subsidized by a foreign state (union of foreign states), an authorized body shall study other known factors, which in the same period cause the material damage to domestic producers, but this material damage shall not be attributed to the import of goods, subsidized by a foreign state (union of foreign states).

These factors shall include, in particular, the volume and prices of import of goods which are not subsidized by a foreign state (union of foreign states), demand reduction or change in the structure of consumption, restrictive trade practices and competition between foreign and domestic producers, technological achievements, and results of export and production of domestic producers.

Article 13. Determination of threat of material damage

Threat of material damage to the domestic producers from imported goods, subsidized by a foreign state (union of foreign states), shall be justified by the authorized body on the basis of analysis of the following indicators:

- 1) nature of subsidy and its impact on trade;
- 2) rate of increase of import of goods, subsidized by a foreign state (union of foreign state), on the market of the Republic of Kazakhstan;
- 3) existence of the supplier of production reserves and (or) export of goods, subsidized by a foreign state (union of foreign states), indicating to the probability of increasing its deliveries on the market of the Republic of Kazakhstan. Upon that it is considered the possibilities of other export markets for implementation of any additional export;
- 4) import of goods, subsidized by a foreign state (union of foreign states), on prices, which may affect on the lowering of prices of internal market and lead to an increase in demand for additional supplies;
- 5) volume of stocks of goods in the country of supplier, in relation of which the proceedings are conducted.

Article 14. Material damage to the regional producers

In the case of concentration of supplies of imported goods, subsidized by a foreign state (union of foreign states), on the separate regional market of the Republic of Kazakhstan, when these suppliers lead to causing of material damage or the threat of its occurrence to the regional producers, an authorized body shall have a right to conduct proceedings in accordance with the regulation of this Law in relation to this region.

Chapter 4. PROCEEDINGS

Article 15. Subject of proceedings on subsidies and countervailing measures

The subject of proceedings on import of goods, subsidized by a foreign state (union of foreign states), shall be establishment of the fact of import of goods to the Republic of Kazakhstan by the authorized body, subsidized by a foreign state (union of foreign state), and by that causing material damage to the domestic producers of the similar goods, or occurrence of a threat of its infliction.

Article 16. Application on existence of subsidy and material damage caused by it or threat of its causing

1. Application on existence of subsidy and material damage caused by it or threat of its causing shall be filed by the domestic producers or the state bodies of the Republic of Kazakhstan in a written form to the authorized body.

2. An application shall be considered as accepted, if the authorized body recognizes adequacy of details, presented in it to the applicant in a written form with notification on that. If an authorized body considers the details as insufficient, it shall inform on that the applicant within ten days from the date of acceptance of the application and provide it with opportunity to change or add its application. In the case if an applicant changes or adds its application, the term of consideration of application begins from the date of receipt of additions or changes.

3. An application shall contain the following details:

1) name of an applicant, applicants (hereinafter-applicant), details on production of goods (volume and prices) by the applicant, as well as details on production of similar goods, known to the applicant of domestic producers;

2) description of imported goods, subsidized by a foreign state (union of foreign state), name of the country of supplier or origin, details on well-known suppliers, importers of these goods;

3) evidences, approving existence, rates, nature and specificity of subsidies;

4) evidences of caused or the threat of causing of material damage, including the dynamics of the volume of supplies of imported goods, subsidized by a foreign state (union of foreign states), its impact on the price of similar goods in the internal market and the negative consequences of supplies of such goods.

4. Compulsory condition for the commencement of procedure of proceedings upon application of domestic producers shall be establishment by the authorized body that the share of those who expressed an opinion on this application has more than fifty percent of the volume of production of goods of domestic producers. These opinions may be "for", "against", and not express its defined relation. Upon that the share of goods, produced by domestic producers supporting the application accounted for more than twenty-five percent of all similar goods produced by domestic producers.

Article 17. Commencement of proceedings at the initiative of the authorized body

In the case, if there are sufficient evidences of the existence of specific subsidies and material damage or its threat, caused by the supply of imported goods, subsidized by a foreign state (union of foreign states) and their cause and effect relationship, an authorized body shall have a right to make decision on commencement of proceedings on its own initiative.

Article 17-1. Holding consultations

1. An authorized body shall direct the goods which may be the subject of proceedings, suggestion on holding of consultations with it to the foreign states (unions of foreign states) for clarification of situation on issues, specified in paragraph 3 of Article 16 of this Law, and achievements of agreed decision after acceptance of application and before commencement of proceedings.

2. During the whole period of proceedings, the opportunity to continue consultations with the authorized body for clarification of factual circumstances and the achievement of agreed decision shall be offered to the foreign states (unions of foreign states), the goods of which are the subject of the proceedings.

3. Holding of consultations shall not prevent to commencement of proceedings, rendering of conclusions, application of temporary or definitive countervailing measures in accordance with this Law.

4. An authorized body at the request of foreign states (union of foreign states), the goods of which shall be the subject of proceedings shall allow access to non-confidential information, used for commencement or conducting of proceedings.

Footnote. Chapter is supplemented by Article 17-1 by the Law of the Republic of Kazakhstan dated 9 January, 2006 No. 114 (shall be enforced from the date of its official publication).

Article 18. Reasons for refusal in commencement of procedure of proceedings

An authorized body shall refuse before the commencement of procedure of proceedings, if it is established the insignificance of the rates of subsidies, provided by Article 7 of this Law, and volume of import of goods, subsidized by foreign state (union of foreign states), provided by Article 10 and 16 of this Law.

Article 19. Cancellation of application, filed on behalf of domestic producer

An application may be cancelled by the applicant before commencement or in the course of its proceedings. In the case if application is cancelled before commencement of proceedings, it is considered as not filed. If application is cancelled in the course of proceedings, an authorized body shall have a right to continue proceedings or terminate it without adoption of measures.

Article 20. Decision on commencement of conducting of procedure of proceedings

1. Decision on commencement or on refusal before the commencement of procedure of proceedings shall be adopted by the authorized body during two months from the date of acceptance of application on the basis of examination of all presented data in recognition of requirements of Article 16 and 18 of this Law.

2. An authorized body shall publish notification in the official publications after adoption decision on commencement of procedure of proceedings.

3. Notification on commencement of proceedings shall contain the following information :

- 1) name of the authorized body, conducting the proceedings;
- 2) the date of commencement of proceedings;
- 3) the name of country of origin or export of goods, subsidized by a foreign state (union of foreign states), being the subject of proceedings;
- 4) the basis for commencement of proceedings;
- 5) summary of the facts, on which the approval on causing or threat of causing of material damage is based ;
- 6) the terms, within of which the interested persons may file their applications to be able to get acquainted with the case, file on its opinion and necessity of meetings with the interested persons .

In the case of adoption of decision on refusal in conducting of proceedings, an authorized body shall notify the applicant on that, specifying the reasons and grounds for refusal within two months from the date of acceptance of application.

Article 21. Request for information

1. After commencement of proceedings, an authorized body shall direct the requests to the interested persons.

The interested persons shall have one month for preparation of a response to the request from the date of its receipt.

Request shall be considered as received after seven days from the date when it was sent by mail or transferred to the representative of the interested person.

For an authorized body it is necessary to take into consideration an application of interested persons on extension of specified monthly term, and upon sufficiency of grounds such extension shall be presented in the course of proceedings.

In the course of proceedings, an authorized body may request additional information from the interested persons with establishment of the term, which shall be answered .

2. The interested person shall have a right to present any of evidences, which it considers necessary in a written form.

3. If any interested person does not present the necessary details in the terms, established by the authorized body or impede proceedings, an authorized body shall have a right to render conclusion on the basis of available data.

4. The interested persons shall render assistance in conducting of proceedings and provide necessary information, as well as confidential, at the request of the authorized body .

Footnote. Article 21 as amended by the Law of the Republic of Kazakhstan dated 9 January, 2006 No. 114 (shall be enforced from the date of its official publication).

Article 22. Verification of information and terms of proceedings

1. Information which is provided by the interested persons and on which the summary according to the results of proceedings are based shall be verified for reliability .

2. For the purposes of verification of reliability of information or acquisition of additional data, with the consent of relevant suppliers and in the absence of objections of official bodies of their countries, an authorized body shall conduct proceedings in the territory of these countries.

3. The period for which the information on import of goods, subsidized by a foreign state (union of foreign states) is verified shall be the last year of financial accounting of defined enterprise or, if it is impossible, six months before proceedings, for which there are reliable financial and other data relevant to the proceedings.

4. The term of proceedings in connection with import of goods, subsidized by a foreign state (union of foreign states) may not exceed six months from the date of commencement of its procedure.

Article 23. Confidential information

1. Confidential information, provided to the authorized body in the course of proceedings shall not be disclosed without written consent of interested persons.

2. Interested persons, providing confidential information shall provide written explanations of non-confidential nature on this information.

Explanations shall be sufficiently detailed to understand the substance of information.

3. Confidential information may not be disclosed, used by the civil servants of authorized body for personal purposes, transferred to third persons, as well as other state bodies, except for the cases, provided by the legislation acts of the Republic of Kazakhstan.

Chapter 5. TEMPORARY MEASURES

Article 24. Preliminary determination of existence of subsidy and material damage

1. An authorized body shall render preliminary conclusion on existence of specific subsidies and material damage or the threat of its causing to the domestic producers or their absence, as well as necessity of continuation or termination of proceedings on the basis of actual data, obtained in the course of proceedings.

2. An authorized body shall direct notification on intention of introduction of temporary countervailing measures to all interested persons and official bodies of their countries after rendering of preliminary conclusion on existence of import of goods, subsidized by a foreign state (union of foreign states), and material damage or the threat of its causing. During ten days after direction of notification, the interested persons, involved in the proceedings shall have a right to provide written comments in relation of grounds of imposition of countervailing temporary measures, which an authorized body takes into account, or rejects during the proceedings.

3. An authorized body shall provide the consumers of goods, in relation of which the proceedings is conducted, in the cases, when these goods are widely represented in the retail trade, the possibility to provide information, relating to the proceedings and concerning subsidy, material damage and cause and effect relationship between them.

Article 25. Introduction of temporary countervailing measures

1. On the grounds of preliminary conclusion on existence of import of goods, subsidized by a foreign state (union of foreign states), and causing material damage or the threat of its causing, rendered by the authorized body, the Government of the Republic of Kazakhstan shall adopt decision on introduction of temporary

c o u n t e r v a i l i n g m e a s u r e s .

2. Temporary countervailing measures in the form of cash deposits and (or) guarantees of bank of the Republic of Kazakhstan shall be applied to the supplier not earlier than two months from the date of commencement of proceedings.

3. Application of temporary countervailing measures shall not exceed four months.

4. Temporary countervailing measures shall be applied by the bodies of state incomes of the Republic of Kazakhstan to the suppliers of imported goods, subsidized by a foreign state (union of foreign states), released for free circulation in its territory upon expiry of ten calendar days after their official publication. Procedure of recovery in the form of guaranteed cash deposits shall be determined by the body of state i n c o m e s .

Footnote. Article 25 as amended by the Law of the Republic of Kazakhstan dated 07.11.2014 No. 248-V (shall be enforced upon expiry of ten calendar days after its first official publication).

Article 26. The amount of temporary countervailing measure

The amount of temporary countervailing measure shall not exceed preliminary established extent of specific subsidies, but it may be less than this amount, if it is sufficient for compensation of material damage, caused to the domestic producers.

Article 27. Publication of decision on introduction of temporary countervailing measures

Decision of the Government of the Republic of Kazakhstan on introduction of temporary countervailing measures shall be published in the official publications.

Publication shall contain the following data:
the name of suppliers or countries, from where the goods are supplied;
detailed description of goods (sufficient for customs purposes);
established value of subsidy;
assessment criterion of material damage;
basic arguments of introduction of temporary measures;
rate of temporary countervailing measure and terms of its application.

Confidential information shall not be contained in the publication.

Chapter 6. OBLIGATIONS ON PRICES

Article 28. Conditions of assumption of obligations on prices

1. Procedure of proceedings may be completed without introduction of temporary or final countervailing measures after obtainment of obligation on prices, according to w h i c h :

1) the government of country of origin or export agrees to eliminate or limit the s u b s i d y ;

2) supplier is obliged to revise its prices or cease exports of goods subsidized by a foreign state (union of foreign states).

2. Increase of prices of such obligations shall not be higher than it is necessary to compensate the rates of specific subsidies. Increase of prices may be less than the rates of specific subsidies, if the supplies of imported goods, subsidized by a foreign state (union of foreign states), at these prices will not cause material damage to the domestic p r o d u c e r s .

3. Obligations on prices may be offered by the authorized body, but supplier shall not be compelled to accept such obligation.

4. Obligations on prices may be accepted by the authorized body only after rendering by them of preliminary conclusion on existence of specific subsidy and material damage or the threat of its causing in accordance with Article 25 and 26 of this Law in relation of existence of specific subsidies and material damage or the threat of its occurrence, caused by the domestic producer.

5. Obligation on prices may not be accepted, if an authorized body considers their acceptance as almost impracticable by virtue of large number of suppliers or for other reasons, on which the authorized body shall inform the supplier.

Article 29. Control of observance of obligation on prices

1. An authorized body shall have a right to request submission of data on implementation of accepted obligation on prices, as well as conduct verification of reliability of submitted data from the supplier, whose obligation on prices was accepted .

2. In the case of violation of obligations on prices by the supplier, the Government of the Republic of Kazakhstan at the suggestion of the authorized body shall have a right to immediately impose the temporary measure, without preliminary notification.

Article 30. Force of obligations on prices

1. An authorized body shall have a right to terminate proceedings in the case of conscientious implementation of accepted obligation on prices by the supplier.

2. An authorized body shall continue proceedings in connection of import of goods, subsidized by a foreign state (union of foreign states), after acceptance of obligations on prices for determination of existence of specific subsidy and material damage or the

threat of its causing in the cases, when the supplier, accepted an obligation on prices, or on its own initiative, insists on this.

3. Obligation on prices shall be cancelled by the authorized body, if it is established the fact of absence of specific subsidy or material damage, except for the cases, when the absence of material damage or its threats will be the result of accepted obligation on prices.

4. Obligation on price shall be remained in force during the time and amount, necessary for counteraction to causing material damage from specific subsidy.

Chapter 7. IMPOSITION OF COMPENSATION DUTY AND ITS RECOVERY

Article 31. Establishment of compensation duty and determination of its size

1. If the authorized body establishes the fact of existence of specific subsidies and material damage, related with them or the threat of its causing to the domestic producers and upon that subsidies are not withdrawn, then shall be considered the issue on imposition of compensation duty.

2. Decision on practicability of imposition of compensation duty in the cases, when all of the requirements for its imposition are carried out shall be adopted by the authorized body in recognition of opinion of local interested persons, used the imported goods, subsidized by a foreign state (union of foreign states), whose interested may be adversely affected by imposition of compensation duty.

3. The size of compensation duty shall not exceed the size of specific subsidies, determined in accordance with this Law, but may be less than the total size of these subsidies, if it is sufficient for elimination of material damage or the threat of its causing to the domestic producers.

Article 32. Imposition of compensation duty

1. Decision on imposition of compensation duty and the size of its rate shall be adopted by the Government of the Republic of Kazakhstan on conclusion of the authorized body and shall enter into force from the date of publication of regulation in the official publications. Publication shall contain details, provided in Article 27 of this Law, as well as the reasons of acceptance or rejections of arguments or requirements of suppliers.

2. Supplier or suppliers of imported goods, subsidized by a foreign state (union of foreign states) shall be specified in the decision of the Government of the Republic of

Kazakhstan on imposition of compensation duty.

In the case if several suppliers from one country are involved in the case and call all suppliers is not possible, only the country is called.

If several suppliers more than from one country are involved in the case shall be called either all involved suppliers, or if it is impractical, each of the involved countries – s u p p l i e r s .

3. On the basis of decision of the Government of the Republic of Kazakhstan on imposition of compensation duty, the bodies of state incomes shall collect it from all imported goods, in relation of which the proceedings is conducted, except for the goods of those suppliers, from which the obligations on prices were accepted.

Footnote. Article 32 as amended by the Law of the Republic of Kazakhstan dated 07.11.2014 No. 248-V (shall be enforced upon expiry of ten calendar days after its first official publication).

Article 33. The term of application of compensation duty

1. Compensation duty shall be applied to the goods, which are released for free circulation in the territory of the Republic of Kazakhstan after entry into legal force of decision of the Government of the Republic of Kazakhstan in accordance with Article 5 of this Law, except for the cases, provided by paragraphs 2 and 5 of this Article.

2. Compensation duty shall be applied from the date of introduction of temporary countervailing measures in the case of their imposition.

3. If the amount of compensation duty is larger than the temporary countervailing measure, the difference between them shall not be recovered, and if it is less, the difference shall be returned to the supplier in the manner established by the legislation.

4. If an authorized body renders the final conclusion, denying the provision of specific subsidy and existence of material damage or the threat of its causing to the domestic producers, any cash deposit or guarantee of bank, contributed in the period of application of temporary countervailing measures shall be returned to the supplier in the manner, established by the legislation.

5. In the cases, when the authorized body establishes that material damage is caused to the domestic producers by import of goods, subsidized by a foreign state (union of foreign states), due to the increased volume of supplies of subsidized goods in a short time, compensation duty may be recovered from import of goods, entered into circulation three months before the date of introduction of temporary countervailing measures.

Chapter 8. VALIDITY, REVISION AND RECOVERY OF COMPENSATION DUTY

Article 34. Validity of compensation duty

1. Compensation measures shall act during the time and amounts, which are necessary for elimination of material damage or the threat of it causing by import of goods, subsidized by a foreign state (union of foreign states), and subjected to c o m p e n s a t i o n .

2. Validity of compensation duty shall not exceed five years from the date of its imposition or last revision. Such revision shall begin at the initiative of the authorized body or at the request of the interested persons.

3. An authorized body shall publish notification on term of termination of application of countervailing measures in the official publications in six months before its expiration.

Article 35. Revision of compensation duty

1. Revision of compensation duty shall be carried out by the authorized body on its own initiative or on the basis of reasonable application of interested persons, filed not later than three months before the expire of validity of compensation duty.

2. In the case, if it is established that determination of compensation duty causes material damage to the domestic producer, an authorized body shall apply before the Government of the Republic of Kazakhstan on extension of validity of previously imposed compensation duty.

Article 36. Cancellation of compensation duty

If in the result of revision, conducted in accordance with Article 35 of this Law, an authorized body determines that application of compensation duty is not justified, compensation duty shall be cancelled.

Article 37. Proceedings upon revision of compensation duty

An authorized body shall use approaches, which are applied upon proceedings and imposition of duty in force upon revision of compensation duty in accordance with Article 35 of this Law.

Article 38. Determination of individual amount of compensation duty to the suppliers, not involved in the proceedings

1. Upon imposition of compensation duty in relation of imported goods, subsidized by a foreign state (union of foreign states), compensation duty shall be recovered in

each case in the relevant size on the non-discriminatory basis from the import of similar goods from all sources, in relation of which it was established existence of subsidies and material damage and (or) the threat of its causing.

2. Upon the application of suppliers of goods, on which the final compensation duty is imposed, but in relation of which the individual proceedings is not conducted for other reasons, than refusal in assistance to the proceedings, the authorized body shall determine an individual size of compensation duty.

Article 39. Customs declaration of goods in relation of which the proceeding is conducted

Footnote. The title of Article as amended by the Law of the Republic of Kazakhstan dated 30.06.2010 No. 297-IV (shall be enforced from 01.07.2010).

Proceedings shall not be the basis for obstacle in carrying out of its customs d e c l a r a t i o n .

Footnote. Article 39 as amended by the Law of the Republic of Kazakhstan dated 30.06.2010 No. 297-IV (shall be enforced from 01.07.2010).

Article 40. Accounting of import of goods, subsidized by a foreign state (union of foreign states) by the bodies of the state incomes

1. After commencement of proceedings on application of the authorized body, the bodies of the state incomes shall maintain accounting of import of goods, subsidized by a foreign state (union of foreign states) so that the countervailing measures may be further applied to this import.

2. The bodies of the state incomes shall monthly inform the authorized body on volumes of import of goods, subsidized by a foreign state (union of foreign states), in relation of which the proceedings are conducted.

Footnote. Article 40 is in the wording of the Law of the Republic of Kazakhstan dated 07.11.2014 No. 248-V (shall be enforced upon expiry of ten calendar days after its first official publication).

Article 41. Procedure of appeal of decisions

Decisions and actions of the authorized body, adopted in the period of proceedings may be appealed by the interested persons in a judicial procedure.

T h e P r e s i d e n t

of the Republic of Kazakhstan

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