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BILATERAL INVESTMENT TREATIES REPUBLIC OF KAZAKHSTAN WITH FOREIGN STATES

General

The investment policy of the Republic of Kazakhstan which is a system of measures of the legislative, executive and controlling character taken by authorized governmental bodies for the purpose of increasing the investment activity of business entities by means of creation of a system of stimulating investors, a favourable investment climate, securing a legal stability of the investment process.

Irrespective of the policy pursued by the state, the policy of open doors or the policy of limited access of the foreign capital to the country, the state never relinquishes the economic sovereignty, i.e. its sovereign right to solve the main matter in relations connected with foreign investments, the matter on granting the right to the foreign person to perform the entrepreneurial activity on the territory of this state, i.e. the question of admittance of the foreign capital.

As for the investment aspect, Kazakhstan currently remains one of the most attractive countries with prospects for future of the CIS states. The volume of direct overseas investments into Kazakhstan has reached more than \$160 bln for the period of 1993-2014 y.y. The highest level of investments was achieved in 2001 y.: \$4418.5 mln. According to the the data of the National Bank of Kazakhstan, the investment volume of 2002 y. made \$4073.5 mln. The main inflow of direct overseas investments has been made into the oil industry (roughly 85%). In 2002 y., the investments into oil and gas recovery counted for 51%, and 19% of the entire direct investment volume went to exploration work.

Formation of a democratic, temporal, legal and social state envisages, in particular, perfection of state administrative relations and their legal regulation, putting the status of participants of these

relations in accordance with new tasks confronting a mechanism of state government under creation of the highly efficient, flexible market economy.

The joining international conventions and treaties is an important task for Kazakhstan. The republican international activity extended from the moment of acquiring of the independence by Kazakhstan (on December 16, 1991 y.). As of January 1, 2015 y. the Republic of Kazakhstan signed over 800 international treaties.

The Republic of Kazakhstan joined the following international legal treaties on February 16, 1993 y. : the Paris convention on protection of the industrial property dated March 30, 1883 y., revised on July 14, 1967 y. in Stockholm (the Paris convention); the Madrid agreement on international registration of trade marks; the Treaty on patent cooperation; On Membership in the World Organization of Intellectual Property (WOIP). The Law of the Republic of Kazakhstan "On Joining the Bern Convention on Protection of Literary Works of Art by the Republic of Kazakhstan" was adopted on November 10, 1998 y.

Agreements on the encouragement and mutual protection of investments are called bilateral investment treaties. These agreements have replaced 200-year-old treaties on friendship, trade and navigation. As of 1 January 2015 y., Kazakhstan has signed over 90 bilateral investment treaties with foreign states. Some of these agreements specify that the investments are 'capital' investments while other agreements merely mention investments. Most of these agreements have been ratified by both parties, although not all of them.

All Kazakhstani bilateral investment agreements follow a similar structure: definitions; encouragement investments and permits on investment; protection of investments and their legal

status; expropriation and compensation; transfers of investment-related payments; subrogation (transfer of rights); disputes between one agreeing party and the other agreeing party's investor; disputes between the agreeing parties; better conditions; consultations and information exchange; application of the agreement; amendments; entry into force; validity and termination. All of these bilateral investment agreements include four basic obligations incurred by Kazakhstan relating to the activities of foreign investors. For example, the government of Kazakhstan is responsible for ensuring a good environment for investments and related activities; ensuring proper protection of foreign property; providing a foreign investor with free transfers of its revenues; and referring any disputes about capital investments to international arbitration.

1. Capital Investments:

Article 1 of the bilateral investment agreement between Kazakhstan and Germany stipulates that the term 'capital investment' covers "all kinds of property holdings, in particular:

movable and immovable property, as well as other vested interests, such as mortgage rights and liens;

participating rights and other forms of participating in companies;

the right of claim on funds used for creating economic values or services which have an economic value;

intellectual property rights, such as copyright, patents, useful models, industrial specimens and models, trade marks, brand names, business and commercial secrets, technologies, know-hows and the goodwill;

concessions, including those for exploration and production of mineral resources.¹"

The agreement further stipulates that changing the kind of investment of property values does not affect the quality of investment².

The bilateral investment agreement between Kazakhstan and the United States stipulates that the term 'capital investment' means "Any capital investments on the territory of one of the parties, belonging to or controlled (directly or indirectly) by citizens or companies of the other party, such as shares, bonds, services and capital investment contracts.³" This term includes:

material and intangible property, including such

rights as the mortgage right, the right of detainer, the tax law;

a company, a block of shares, or another interest (participation) in a company, or participation in its assets;

claim to funds or implementation of a contract with an economic value and connected with the capital investment;

intellectual property, including the rights for:

literary books and fiction, including sound records,

inventions in all areas of human activities,

industrial models,

topologies of integral circuits,

production secrets, know-how, confidential business information;

trademarks, service marks and brand names; and

any right provided by law or contract and any licenses and permits issued in accordance with the law⁴.

Section 1 of Article 2 stipulates that "the United States reserves the right to impose or preserve limited exceptions from the national treatment in the following areas: air transport, maritime and coastal shipping, banking, insurance, government subsidies, government programmes on loan insurance, power engineering, customhouse brokers, real estate ownership, ownership or management of radio broadcasting or companies owning radio and TV stations, shares in the Satellite Communication Corporation, rendering services by companies which own telephone and telegraph communication, underwater cable communication, use of land and natural resources, exploration and production of mineral resources, marine and related services, and major stock transactions with the U.S. government securities⁵." Further according to Section 1 of Article 2, "the United States reserves the right to impose or preserve limited exceptions from the most favoured treatment in the following areas: exploration and production of mineral resources, real estate ownership, marine and related services, and major stock transactions with the U.S. government securities⁶."

On the other hand, Section 1 of Article 2 reserves to the Republic of Kazakhstan "the right to impose or preserve limited exceptions from the most favoured treatment in the following areas: ownership of land and mineral resources, water, flora and fauna, and

¹Article 1 Bilateral Investment Agreement between Kazakhstan and Germany

²*Id.*

³Article 1 Bilateral Investment Agreement between the United States of America and Kazakhstan

⁴*Id.*

⁵Section 1, Article 2, Bilateral Investment Agreement between the United States of America and Kazakhstan

⁶*Id.*

other natural resources; real estate ownership (during transition to the market-based economy); ownership or management of TV or radio broadcasting; air transport; and securities issued by the Government of Kazakhstan⁷.”

2. Investments

As noted earlier, not all bilateral investment agreements use the term ‘capital investment’. Some use the term ‘investment’ only, which, in turn, has various shades of meaning. The bilateral investment agreement between Kazakhstan and the United Kingdom illustrates this. Article 1 of the agreement defines the term ‘investment’ as “any kind of assets and includes, but not limited to:

movable and immovable property and any other property rights, such as mortgage, the right for seizure of the debtor's property, collaterals and bonds;

shares, securities, debentures of any company, and any other kind of participation in a company;

liabilities or any other contractual obligations with a fiscal value;

intellectual property rights, goodwill, production processes and know-how;

preferences for an enterprise, granted according to the law or contract, including preferences for exploration, development and use of natural resources⁸.”

It further stipulates that changing the form of the investment assets does not affect the investment's character. The term ‘investment’ also includes any investments made before the agreement becomes effective⁹. Another example is in the agreement with Poland. There, the term includes: industrial engineering, production management, re-investment of revenues and payments of the debt and interest on loan agreements¹⁰. Whereas, the agreement between Kazakhstan and Uzbekistan defines ‘investments’ as including land ownership and use rights (including the rent)¹¹. The agreement with Hungary takes in goodwill¹². The Finnish agreement contains in its definition: rented investment goods connected under this agreement with investments and used by the lessor according to the law¹³. In the agreement with Romania, the term ‘investments’ also means loans, credits, bank and fiscal deposits and other liabilities,

related to investments¹⁴. The agreement between Kazakhstan and Turkey incorporates claims for funds or any other legal rights with a financial value related to an investment¹⁵.

3. Investor

With the use of these terms in the agreements, the term ‘investor’ becomes important. A review of the definitions for this term in various agreements would be helpful to gain an understanding of its general meaning.

The agreement between Kazakhstan and Finland defines ‘investor’ as:

1. an individual who is a citizen of Kazakhstan or Finland in accordance with legislations of their countries, or a legal entity established in accordance with the current legislation of Kazakhstan or Finland, which are authorized by the legislation of its country to make investments on the territory of the other Agreeing Party;

2. a legal entity located on the territory of a Agreeing Party or a third country, while the investor of one of the Agreeing Parties has a predominant shareholding;

3. a legal entity or an individual definitions of which are not covered by Sections 1 and 2, provided the Agreeing Parties will jointly approve each separate investment planned by this entity or individual¹⁶.

The agreement between Kazakhstan and Germany is special. In relation to the Federal Republic of Germany, the term ‘company’ means any legal entity or trade company, other companies or associations with or without the right of a legal entity, located in the Federal Republic of Germany, no matter whether their activities aim at making a profit or don't. Here, making a profit is not a determining feature of a company¹⁷.

In the agreement between Kazakhstan and Poland, the term ‘investor’ covers two kinds of legal entities:

1. a legal entity established in accordance with the current legislation of one of the Agreeing Parties;

2. a legal entity not established in accordance with the current legislation of one of the Agreeing Parties, but directly or indirectly controlled by individuals or legal entities of the same Agreeing

⁷*Id.*

⁸Article 1 Bilateral Investment Agreement between United Kingdom and Kazakhstan

⁹*Id.*

¹⁰Article 1 Bilateral Investment Agreement between Poland and Kazakhstan

¹¹Article 1 Bilateral Investment Agreement between Uzbekistan and Kazakhstan

¹²Article 1 Bilateral Investment Agreement between Hungary and Kazakhstan

¹³Article 1 Bilateral Investment Agreement between Finland and Kazakhstan

¹⁴Article 1 Bilateral Investment Agreement between Romania and Kazakhstan

¹⁵Article 1 Bilateral Investment Agreement between Turkey and Kazakhstan

¹⁶Article 1 Bilateral Investment Agreement between Finland and Kazakhstan

¹⁷Article 1 Bilateral Investment Agreement between Federal Republic of Germany and Kazakhstan

Party, which will observe the provisions of this bilateral Agreement¹⁸.

The definition of the investor is somewhat different in the agreement between Kazakhstan and Malaysia:

1. any individual who has a citizenship of or constantly living on the territory of a Agreeing Party, according to its legislation; or

2. any corporation, partnership, trust, joint-stock company, organization, association, or enterprise founded or duly established in accordance with the legislation of a Agreeing Party¹⁹.

4. Application of definitions

Of a great practical importance is the issue of applying these agreements. Article 2 of Kazakhstan's agreements with India and Finland stipulates that the agreement is applied to all investments made by investors of any of the agreeing parties on the territory of the other agreeing party, established in accordance with its legislation and norms, no matter whether they were made before or after the agreement became effective. Thus, the bilateral investment agreements have a retroactive effect²⁰. Article 7 of the agreement between Kazakhstan and China states that the agreement shall be applied to all investments made after 1 January 1985²¹. The agreement between Kazakhstan and Georgia specifies that the agreement provisions do not affect investments made before 16 December 1991²².

All bilateral investment agreements of Kazakhstan include provisions of the national treatment and the most-favoured treatment. An example can be drawn from Article 3 of the agreement between Kazakhstan and the United Kingdom, which states that "neither Agreeing Party, on its territory, shall provide investments or citizens' incomes or companies of the other Agreeing Party with a treatment less favoured than the one provided for investments or citizens' incomes or companies of any third country. Neither Agreeing Party, on its territory, shall provide citizens or companies

of the Agreeing Party, regarding management, preservation, use, ownership, or handling of its own investments, with a treatment less favoured than the one it provides for its own citizens or companies²³."

It is important to note that the most-favoured nation treatment shall not affect advantages which the agreeing party provides or will provide in the future:

regarding participation in a free trade area, a customs or economic union;

based on an international agreement about avoiding double taxation or other agreements on taxation;

agreements on border trade²⁴.

5. Transfer of Payments

Transfer of payments related to investments and revenues is a practical issue for foreign partners. Kazakhstan's agreements with Hungary²⁵, Spain²⁶, Poland²⁷, Mongolia²⁸, Uzbekistan²⁹, and Georgia³⁰ have respective articles called 'transfers' or 'transfer of payments related to investments'. In Kazakhstan's agreements with India³¹, Great Britain³² and Korea³³, the article is called 'repatriation of investments and revenues', and in the agreement with Malaysia, 'repatriation of investments'³⁴. In the agreement between Kazakhstan and Turkey, the article in question is called 'repatriation and transfer'³⁵.

The institution of transfer is most completely regulated in Kazakhstan's agreements with Spain³⁶ and Poland³⁷. Wordings of agreements coincide on this article. For example, provisions of Article 7 of the agreement between Kazakhstan and Spain go as follows:

"1. Regarding investments made on its territory, each Agreeing Party shall provide investors of the other Agreeing Party with a free transfer of the income received from these investments and other related payments, including but limited to:

- incomes from investments, as stipulated in Article 1;

- compensation, stipulated in Articles 5 and 6;

¹⁸Article 1 Bilateral Investment Agreement between Poland and Kazakhstan

¹⁹Article 1 Bilateral Investment Agreement between Malaysia and Kazakhstan

²⁰Article 2 Bilateral Investment Agreement between India and Kazakhstan. Article 2 Bilateral Investment Agreement between Finland and Kazakhstan

²¹Article 7 Bilateral Investment Agreement between China and Kazakhstan

²²Article 9 Bilateral Investment Agreement between Georgia and Kazakhstan

²³Article 3 Bilateral Investment Agreement between Kazakhstan and Great Britain

²⁴Article 3 Bilateral Investment Agreement between Kazakhstan and Romania.

²⁵Article 6 Bilateral Investment Agreement between Kazakhstan and Hungary

²⁶Article 6 Bilateral Investment Agreement between Kazakhstan and Spain

²⁷Article 6 Bilateral Investment Agreement between Kazakhstan and Poland

²⁸Article 6 Bilateral Investment Agreement between Kazakhstan and Mongolia

²⁹Article 5 Bilateral Investment Agreement between Kazakhstan and Uzbekistan

³⁰Article 6 Bilateral Investment Agreement between Kazakhstan and Georgia

³¹Article 7 Bilateral Investment Agreement between Kazakhstan and India

³²Article 7 Bilateral Investment Agreement between Kazakhstan and Great Britain

³³Article 7 Bilateral Investment Agreement between Kazakhstan and Korea

³⁴Article 7 Bilateral Investment Agreement between Kazakhstan and Malaysia

³⁵Article 7 Bilateral Investment Agreement between Kazakhstan and Turkey

³⁶Article 7 Bilateral Investment Agreement between Kazakhstan and Spain

³⁷Article 7 Bilateral Investment Agreement between Kazakhstan and Poland

- profits from selling or liquidation of investments, partially or fully;

- funds on redemption of loans;

- payments to support or develop investments, such as funds to acquire raw materials or auxiliary supplies, semi-finished products or finished commodities, and to replace fixed assets;

- salaries, wages and other remuneration received by citizens of one Agreeing Party on the territory of the other Agreeing Party, or a company in which a citizen had made an investment, to have a non-discriminatory access to the currency market so that the investor could buy the foreign currency to make transfers in accordance with this article.

2. Transfers made according to this Agreement shall be performed in a fully convertible currency, in accordance with the tax legislation of the recipient country.

3. The Agreeing Parties shall support procedures needed to make these transfers without much delay, in accordance with practices adopted by international financial centres. For example, no more than three months are allowed to pass after the date by which the investor has submitted proper statements in order to make a transfer by the date of the actual transfer. Therefore, both Agreeing Parties shall implement formal procedures needed to purchase the currency and to effectively transfer it abroad during this period of time.

4. The Agreeing Parties shall provide the transfers referred to in this article with the same treatment as for the transfers resulting from investments made by investors of a third country³⁸.”

We think it important to underline that Kazakhstan's agreements with the United States and Turkey consider payments from the investment conflict as transfers.

The agreement between Kazakhstan and Uzbekistan states that an agreeing party may limit the transfer in accordance with a fair and non-discriminatory legislation of its country, in cases regarding:

- a) bankruptcy, insolvency or protection of creditors' rights;

- b) criminal or administrative offences;

- c) incompatibility with procedures or decisions of court trials³⁹.

6. Concluding Provisions

Concluding provisions in all bilateral investment agreements are about their entry into force, period and amending. The agreement between Kazakhstan and Finland states that this agreement becomes effective upon thirty days after the agreeing parties notify each other about fulfilling constitutional formalities needed to make the agreement effective⁴⁰. A similar wording is provided in Kazakhstan's agreements with Malaysia⁴¹ and Romania⁴². The agreement between Kazakhstan and Spain states that this agreement becomes effective on the day when notifications have been exchanged about implementation of respective constitutional procedures to make the agreement effective⁴³. The shortest record is stated in the agreement between Kazakhstan and Korea: “This Agreement shall come into force on the day the Agreeing Parties notify each other about implementation of all legal requirements on its entry into force⁴⁴.”

The length of term of bilateral investment agreements vary from 5 to 15 years. For example, Kazakhstan's agreements with Finland and Korea have a 15-year term of validity⁴⁵. Most agreements have a term of 10 years⁴⁶. The agreement between Kazakhstan and China has a term of 5 years⁴⁷.

Termination is an important issue in these agreements. A standard wording from the agreement between Kazakhstan and Malaysia can be used as an example: “Any Agreeing Party may terminate this Agreement by a written notification to the other Agreeing Party not later than one year prior to the end of the 10-year period, or at any other time after it.⁴⁸”

The other important issue is that Kazakhstani bilateral investment agreements are made in two, three or four languages, and thus the problem of a correct interpretation may arise in the future. For example, Kazakhstan's agreement with the United States stated that “this agreement shall come into force on the date of signing; accomplished in

³⁸ Article 7 Bilateral Investment Agreement between Kazakhstan and Spain

³⁹ Article 7 Bilateral Investment Agreement between Kazakhstan and Uzbekistan

⁴⁰ Article 12 Bilateral Investment Agreement between Kazakhstan and Finland

⁴¹ Article 12 Bilateral Investment Agreement between Kazakhstan and Malaysia

⁴² Article 12 Bilateral Investment Agreement between Kazakhstan and Romania

⁴³ Article 12 Bilateral Investment Agreement between Kazakhstan and Spain

⁴⁴ Article 12 Bilateral Investment Agreement between Kazakhstan and Korea

⁴⁵ Article 12 Bilateral Investment Agreement between Kazakhstan and Finland. Article 12 Bilateral Investment Agreement between Kazakhstan and Korea

⁴⁶ Spain, Great Britain, the United States, India, Poland, Germany, the Czech Republic, Iran, Turkey, Romania, Malaysia, Hungary, Mongolia, Uzbekistan, Georgia, Azerbaijan, and Kyrgyzstan

⁴⁷ Article 12 Bilateral Investment Agreement between Kazakhstan and China

⁴⁸ Article 12 Bilateral Investment Agreement between Kazakhstan and Malaysia

Washington on 19 May 1992, in two copies, each in English and Russian, with both texts having an equal legal force. A text in Kazakh will be drafted which will have a legal force of the English version. This will be confirmed by exchanging diplomatic notes which endorse its compliance in English⁴⁹.”

The agreement between Kazakhstan and Iran states that the agreement has been made in Kazakh, Persian and English, with all texts equally authentic. If there is a dispute about interpretation of the wording of this agreement, the English version shall prevail⁵⁰. The agreement between Kazakhstan and Malaysia states that the agreement has been made in two copies, each in Kazakh, Malay, Russian, and English, with all texts having an equal force. If there are any disagreements in interpretation, the English text shall prevail⁵¹. As noted, the prevailing language in investment-based relations in English. So, Kazakhstan needs to train its national cadre who would know the special (professional) terminology of the English language in various business areas: finance, banking, insurance, oil, law, etc.

It is necessary to distinguish the four stage development of the legislation on foreign investments for the Republic of Kazakhstan. The first stage (1990-1994 y.y.) commences from the moment of adoption of the first law “On Foreign Investments in the Kazakh SSR” by the Supreme Soviet of the Republic on December 7, 1990 y.; and it is completed by the adoption of the second law in history of the republic “On Foreign Investments” on December 27, 1994 y. The second stage (1994-1997 y.y.) finishes with the adoption of the law of the Republic of Kazakhstan “On State Support of Direct Investments” on February 28, 1997 y. The third stage (from 1997-2003 y.y.) finishes with the adoption a new Law “On Investments” on January 8, 2003 y. The fourth stage (from 2003 y. till the present time) is characterized by the further renewal and development of the legislation on foreign investments of Kazakhstan.

Law “On Investments” on January 8, 2003. establish guarantee of legal protection of activities of investors in the territory of the Republic of Kazakhstan. The rights and interests of an investor shall be provided full and unconditional protection, which shall be ensured by the constitution of the Republic of Kazakhstan, this law and other normative legal acts of the Republic, as well as international treaties ratified by the Republic of Kazakhstan.

An investor shall have the right to be reimbursed for damages caused to it as a result of issuance by state agencies of acts conflicting with legislative acts of the Republic of Kazakhstan or as result of illegal actions (omissions) of officers of such agencies, pursuant to the civil legislation of the Republic of Kazakhstan.

The Republic of Kazakhstan guarantees the stability of the terms of agreements executed between investors and state bodies of the Republic of Kazakhstan, with the exception of the cases where the agreements are amended by mutual agreement of the parties. These guarantees do not apply to: changes in the legislation of the Republic of Kazakhstan and/or enactment of, and/or amendments to the international treaties of the Republic of Kazakhstan which change the procedure for and terms of the importation, production and sale of excisable goods; amendments and additions that are introduced to the legislative acts of the Republic of Kazakhstan in order to ensure national and ecological security, healthcare and morality.

Investors shall have the right: to use income gained from their activities at their own discretion after payment of taxes and other obligatory payments to the budget in accordance with the legislation of the Republic of Kazakhstan; to open bank accounts in the territory of the Republic of Kazakhstan in the national currency and/or a foreign currency in accordance with the banking and currency legislation of the Republic of Kazakhstan.

Official declarations of state bodies of the Republic of Kazakhstan and normative legal acts affecting the interests of investors shall be published in the procedure established by the legislation of the Republic of Kazakhstan. Investors, including minority investors, shall be given free access to information about the registration of legal entities, their charters, the registration of real-estate transactions, any issued licenses, as well as to any other information, as stipulated by legislative acts of the Republic of Kazakhstan, which is related to their investment activities and which contains no commercial secrets or other secrets protected by law.

Control over investors' activities shall be carried out by those state bodies which are granted such rights by the laws of the Republic of Kazakhstan. Procedures for and terms of exercising control over investors' activities shall be determined by the laws of the Republic of Kazakhstan.

⁴⁹Article 13 *Bilateral Investment Agreement between Kazakhstan and United States*

⁵⁰Article 12 *Bilateral Investment Agreement between Kazakhstan and Iran*

⁵¹Article 12 *Bilateral Investment Agreement between Kazakhstan and Malaysia*

Law "On Investments" on January 8, 2003 y. establish guarantees of the rights of investors in the case of nationalization and requisitioning. A forced seizure of an investor's property (nationalization, requisitioning) for the state needs shall be allowed in exceptional cases which are provided for by legislative acts of the Republic of Kazakhstan. In case of nationalization, the investor shall be fully reimbursed by the Republic of Kazakhstan for any losses caused as a result of issuance of legislative acts of the Republic of Kazakhstan on nationalization.

The investor's property shall be requisitioned by way of payment of the full market value of such property. The market value of the property shall be determined in accordance with the procedure established by the legislation of the Republic of Kazakhstan. The valuation according to which the owner was refunded the value of its requisitioned property may be challenged by the owner in a judicial proceeding.

When circumstances due to which the investor's property was requisitioned no longer exist, the investor may demand that the remaining property be returned to him, but the investor shall be obliged to return the amount of compensation which he received, taking into account losses resulting from a reduction in the value of the property.

Law "On Investments" on January 8, 2003 y. establish resolution of disputes. Investment disputes may be resolved through negotiation, including by retaining experts, or in accordance with the dispute resolution procedure previously agreed by the parties. If an investment dispute cannot be resolved in accordance with the provisions of Paragraph 1 of this Article, such dispute shall be settled in accordance with international treaties and legislative acts of the Republic of Kazakhstan in Republic of Kazakhstan courts, as well as by international arbitration as determined by agreement of the parties. Disputes that are not investment disputes shall be resolved in accordance with the legislation of the Republic of Kazakhstan.

The State committee on investments of the Republic of Kazakhstan must adhere the investment policy in the republic. It is necessary to remind that the State committee on investments of the Republic of Kazakhstan was set up by the President's Decree

of the Republic of Kazakhstan on November 8, 1996 y. The State committee is the only authorized governmental body in the matter of pursuing the state policy on stimulation of direct investments.

Main directions of the activities of the Committee on investments are as follows: 1) the elaboration and following the state policy on stimulation of direct foreign and domestic investments; 2) setting up of a system of the work with foreign investors and the preparation of offers on stimulating direct investments and improvement of the investment climate; 3) the preparation and spreading abroad information materials concerning economy and the requirements of the Republic of Kazakhstan in direct investments; 4) the organization of registration and accounts in matters of attraction and application of direct foreign and domestic investments jointly with the National statistical agency of the Republic of Kazakhstan, other governmental bodies.

Setting up of the Council of foreign investors under the President of the Republic of Kazakhstan is a new direction in state regulation of the foreign investment activities. The President's Decree of the Republic of Kazakhstan was adopted on that matter on June 30, 1998 y.

The newly formed Council of foreign investors is a consultative and deliberative body under the President of the Republic of Kazakhstan. The Council was set up for the following purposes:

1) submission of offers for consideration of the President of the Republic of Kazakhstan regarding the following: perfection of legislation regulating issues of the investment activity, offers on matters related to realization of large investment programmes and projects of the Republic of Kazakhstan having an international significance;

2) elaboration of recommendations on improvement of the investment climate in conformity with the strategy of attracting foreign investments into the economy of the Republic of Kazakhstan;

3) elaboration of offers on the integration of economy of the country into world economic processes.

The Secretariat was established under the Council of foreign investors. It will deal with processing of offers and requests made by foreign investors.



Мақалада Қазақстан Республикасының инвестицияларды қорғау туралы екі жақты шарттар енгізу практикасы қарастырылған. Осы халықаралық шарттардың мазмұнына талдау жасалған, сонымен бірге Қазақстан Республикасы заңнамасының шетелдік инвестицияларды тарту саласындағы даму және қалыптасу мәселелері қарастырылған.

Түйін сөздер: екі жақты шарттар, инвестицияларды қорғау, шетелдік инвестицияларды тарту.

В статье рассматривается практика заключения Республикой Казахстан двусторонних договоров о защите инвестиций. Дан анализ содержания данных международных договоров, а также рассмотрен вопрос развития и становления законодательства Республики Казахстан в сфере привлечения иностранных инвестиций.

Ключевые слова: двусторонние договоры, защита инвестиций, привлечение иностранных инвестиций.

The investment policy of the Republic of Kazakhstan is a system of measures of the legislative, executive and controlling character taken by authorized governmental bodies for the purpose of increasing the investment activity of business entities. As for the investment aspect, Kazakhstan currently remains one of the most attractive countries with prospects for future of the CIS states. Formation of a democratic, temporal, legal and social state envisages, in particular, perfection of state administrative relations and their legal regulation, putting the status of participants of these relations in accordance with new tasks confronting a mechanism of state government under creation of the highly efficient, flexible market economy.

Keywords: bilateral agreements, investment Protection, attraction of foreign investments.

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