

Problems of Implementing Legal Measures on Attracting Investment and Supply Chain Strategy to the Economy of the Republic of Kazakhstan

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Abstract— The manuscript considers the main international legal and national legal measures to attract investment and supply chain strategy in the economy of the Republic of Kazakhstan on the example of one of the priority sectors of the economy - transport and logistics and also suggests ways to solve them. The authors identified several problems in this area: a combination of private and general social interests, attracting private investment in the translogistical industry, ensuring a balance of national and foreign investments, guaranteeing the rights of investors, and legal regulation of investment policies. The authors substantiate that for more systematic measures to attract investment and apply the supply chain strategy in the country's economy, it would be advisable to develop a state investment policy for the long term, considering measures to attract private direct investment in priority sectors of Kazakhstan's economy, but not attractive for private investors, as well as providing for measures for international cooperation in this area. The tendency of supply chain development programs to be captured by small-business lobbies, and the willingness of international donors to tolerate, even promote this, has adverse consequences for emerging economies.

Keywords— *Supply chain strategy, Finance, trans-logistic system, foreign direct investment, finance, investment policy.*

1. Introduction

The transit system is one of the key sectors of the economy for the Republic of Kazakhstan. On the one hand, this is due to the domestic needs of the country: a huge territory (the territory of Kazakhstan is 2,724,900 km², the country is in the top ten states by the size of the territory), low population density (18,570,300 people as of October 1, 2019), large distances between settlements, remoteness from world markets; on the

other hand, the geopolitical position of Kazakhstan between Europe and Asia provides ample opportunities to become a bridge between the two continents, to become a transit power, thereby creating a favorable niche in the world system of the international division of labor, ensuring effective integration of the country into the world economic (including trans-logistic) system. Moreover, the experience of several countries of the world (Austria, the Netherlands, Singapore, etc.) shows that transport transit, providing the country's main financial and monetary source of income, allows for the accelerated economic growth of the country, thereby becoming an incentive for socio-economic development [1-4].

The country's leadership has set the goal of making Kazakhstan a world trade, logistics, and business hub, which means that the country must make a qualitative transition from a “just transport system” to a trans-logistic system (based on this, the term “trans-logistic system” is used later in this article, although the Priority List sectors of the economy for potential participants in the state business support and development program “Business Roadmap 2020” use the term “transport and storage”).

At the present stage, the transport system of the Republic of Kazakhstan is a whole complex that includes all types of transport: rail, road, air, water (river and sea), city electric (including metro), and trunk pipeline (oil and gas pipelines, etc.). There is also electronic transport. Five railway and six automobile international transport corridors pass through Kazakhstan, connecting China and other Asian countries with Europe through Russia, the Caspian and Black Seas, and Iran and Turkey. The transport infrastructure of the Republic includes a

network of roads and railways, river shipping lanes, and numerous objects of transport infrastructure — airports, railway stations, stations, service facilities (gas stations, hotels, food and retail outlets, parking lots, service stations [5]).

Annual growth is observed according to the main indicators of transport development. At the same time, the largest share in freight traffic belongs to road and city electric transport. However, in terms of freight turnover, the largest share belonged to rail transport, which averaged 47% during the period of 2015–2018. The largest share of passenger traffic belongs to bus transport: 2015: 77%, 2016: 72%, 2017: 66%, 2018: 62% of the total passenger turnover. At the end of 2018, the transport industry provided the country with 8.3% of its total gross domestic product. Despite the results achieved, nonetheless, the existing financial volumes of transit are very low in comparison with the Kazakhstan transit potential, which is estimated at USD 2 billion per year. The reasons for this are complex, including the high cost of transport services, which negatively affects their competitiveness in comparison with the transport systems of foreign countries; poor development of transport logistics, which forces potential consumers of transport services to look for other ways to bypass Kazakhstan; low technological level and industry informatization level; low level of transport infrastructure; a high level of traffic accidents and the negative environmental impact of transport on the environment, including human health [6]. The combination of such factors reduces the level of customer focus and the quality of transport services, which impedes the growth of transit traffic and the successful integration of Kazakhstan into international transport and communication flows.

The formation of sustainable sources and sufficient amounts of financing is required, first of all, by attracting investments to create an effective trans-logistic system and successfully solve the above problems. Investments in fixed assets in the field of transport and storage in 2018 amounted to 976.7, in 2019 - 766.1, a decrease of 21.6%. The share of investments in fixed assets to GDP in 2013 was 16.8%, in 2014 - 16.6%, in 2015 - 17.2%, in 2016 - 16.4%, in 2017 - 16.1%, and in 2018 - 18%. Interestingly, the record was in 2005 - 32%. According to preliminary data, this indicator amounted to 15% in 2019. For example, in Russia, the level of investment in fixed assets is 21%.

Direct investments in non-primary sectors of the economy of Kazakhstan make up only a third of the total. At a government meeting in autumn 2019, the task was set to increase the share of investments in GDP to 30%, the annual gross inflow of foreign direct investment from USD 24 billion in 2018 to USD 34 billion by 2025. In this regard, it is important to conduct a comprehensive analysis of the main problems of investment.

From the above-mentioned, it follows that the investments are equipment, machinery, research, new product samples, other investments made in the transport and logistics sector of the economy of the Republic of Kazakhstan. Financing is understood as the provision by international and foreign financial institutions of monetary funds in the form of loans, loans provided for the construction of highways, for the development of the transport and logistics sector of the Republic of Kazakhstan.

2. Literature Review

Various aspects of investments have been widely studied in the framework of economic research, these are the works by [7-10] The scientific understanding of investment issues, their attraction to the economy of individual countries or regions were studied in the works by [11-15] studied legal aspects of investments. There are several studies on the topic of attracting investment in the economy (or individual industries) of the Republic of Kazakhstan, these are scientific works by [16]. Despite a lot of scientific works, nevertheless, the problems of attracting investments in the trans-logistic sector of the economy of Kazakhstan were practically not studied, which also determines the relevance of the issues raised in this manuscript. The manuscript attempts to actualize and justify the formulation of several problems in the field of attracting investment and supply chain strategy in the trans-logistics industry of Kazakhstan.

3. Materials and Methods

The research examined international and national legal acts in the field of attracting investment in the economy of Kazakhstan. The authors studied statistical and other empirical materials, as well as theoretical materials: dissertations and scientific publications, monographic and educational publications. The authors also study a wide range of non-academic materials: publications in the

media, primarily on the Internet, materials from scientific and practical forums.

4. Results

The paper substantiates that one of the problems in the field of investment in the transport sector of the economy of Kazakhstan is the problem of attracting private investment in the transport system of Kazakhstan. Moreover, the need for investment, primarily in private, is quite high.

Analysis of the structure of investments in the economy of Kazakhstan shows the following. There is a decrease in investment in fixed assets in transport and storage. Thus, in 2018, the volume of investments in transportation and warehousing amounted to 998.4 billion tenge, and in 2019 - 766.1 billion tenge, as a result, compared with 2018, the decrease in investments in transportation and warehousing amounted to 21.6% in 2019. At the same time, investment in mining and quarrying keeps growing: 2018 - 3,176.3 billion tenge, in 2019 - 4,151.6 billion tenge, where the increase was 30.7%, as well as real estate operations: 2018 - 998.4 billion tenge, 2019 - 1,159.9 billion tenge, where the increase was 16.2%. According to the data of 2019 (January-June), a significant share of investments in fixed assets falls on the mining industry and quarrying (50.8%), operations with real estate (13.8%) and transportation and warehousing (7.6%). At the same time, private investment is mainly concentrated in industries such as mining and quarrying, as well as real estate operations. According to experts, the state remains the main source of financing for transport infrastructure and the logistics system, while there is a high need for private investment.

The authors assume that one of the reasons lies in the fact that most projects in the transport sector are socially significant (for example, in the field of public transport infrastructure: roads, bus stations, bus stations, etc.). However, often these projects, on the one hand, require significant investment, on the other hand, they often do not imply advance capital in a direct form to the investor, and therefore are not of interest to private investors. Although the effect of their implementation is distributed among wide groups of the population. Examples of this kind can be projects for the construction of roads, subways, the opening of new public transport routes in sparsely populated areas with a low built-up area, but social importance. For example, projects for the construction and

reconstruction of roads, bridge crossings, and transport interchanges manifest this effect in the form of increased efficiency and accessibility of transport links, reduced fatigue of passengers staying on the road, reduction of economically measurable damage from a traffic accident, and improvement of the environmental situation in the region. In this regard, the Kazakh state takes the leading role in the trans-logistic sphere. The state not only determines development priorities, creates the institutional foundation, but also supply chain strategy most of these projects. Besides, the state bears the costs of repair and maintenance of transport infrastructure facilities.

Thus, the state has developed several government programs to implement projects in the logistics industry. A major impetus to the development of transport in Kazakhstan was given by the implementation of the State Program for Enhanced Industrial and Innovative Development of the Republic of Kazakhstan for 2010 - 2014, within which 21.1% of the total volume of total investments in Kazakhstan was allocated for the development of transport in Kazakhstan and storage in 2009 fixed capital, in 2010 - 15.2%. Investment growth in the Transport sector in Kazakhstan in 2006-2009 averaged 131% annually. In general, over 10 years, 1.4 trillion tenge of investment was directed to the development of the transport and communication complex of Kazakhstan. The Nurlı Zhol State Infrastructure Development Program for 2015-2019 played an important role in the development of transport and logistics. The state program provided for the implementation of 15 infrastructure projects of the transport industry, of which: 11 projects - in the road industry, 3 projects - in the field of railway transport and the civil aviation industry. About 1.6 thousand kilometers of roads were built and reconstructed, the construction of the Zhezkazgan-Beineu railway line and logistics infrastructure were completed within the framework of the program. The main international transport corridor "Western Europe - Western China" was opened. In the framework of the direction of the Development of Domestic Mechanical Engineering Program for 2015 - 2019, enterprises that received support from Baiterek NMH JSC sold more than 12.9 thousand units of vehicles. Under the State Program, more than 400 thousand jobs were created, the share of transport in the gross domestic product (GDP) grew to 8.3%, labor productivity - 1.7 times, total transit

of containers - 3 times from 271 thousand to 825 thousand containers in twenty-foot equivalent, transit income - 4.3 times from 180 billion to 782.4 billion tenge, the volume of transit freight transportation - one and a half times from 1.3 million to 1.8 million tons, the number of transit passengers - 4 times up to about 1 million transit passengers. In autumn of 2019, the Prime Minister of the Republic of Kazakhstan, A. Mamin, instructed the Ministry of Industry and Infrastructure Development to develop and adopt a draft of a new stage of the Nurly Zhol State Program, within which work should continue to further develop the country's transport and logistics infrastructure and transit potential. The total funding for the new phase of the Nurly Zhol State Program until 2025 is expected to amount to 6 trillion 598 billion tenge. Moreover, 58% are funds of the republican budget; 11% - funds from local budgets; 26% - money raised through the mechanism of public-private partnership (private investment) and 5% - own funds of national and state companies.

One of the major projects was the main international transport corridor "Western Europe - Western China". The Kazakhstan part of the transport corridor "Western Europe - Western China" is 2787 kilometers (the total length of the route is 8445 kilometers). The cost of the Kazakh part of this project amounted to 900 billion tenge. The financial support of this project was carried out at the expense of foreign currency loans of international financial institutions, at the expense of the budget funds of the Kazakhstan state. Thus, Kazakhstan has signed agreements with 5 international financial institutions to fund the construction under the project. For example, a loan of USD 2.125 billion was issued for the implementation of this project under a loan agreement with the International Bank for Reconstruction and Development as of June 13, 2009. Based on the Loan Agreement between the Republic of Kazakhstan and the European Bank for Reconstruction and Development as of March 30, 2009, the Bank agreed to "provide the Borrower with a loan, following the terms and conditions set forth or referred to in this Agreement, in the amount of one hundred eighty million US dollars (USD 180,000,000)". Based on an agreement with the Japan International Cooperation Agency of December 21, 2000, Kazakhstan received USD 100 million. Following the Agreement between the

Republic of Kazakhstan and the Islamic Development Bank (the "Istisna's Agreement") as of July 31, 2009, the bank made an international commitment to supply chain strategy the reconstruction of the section of the South Kazakhstan Oblast - Taraz border road under the Western Europe project - Western China "in the amount of USD 414 million (Appendix II). Several loan agreements have been concluded between Kazakhstan and the Asian Development Bank. In total, the Asian Development Bank allocated Kazakhstan USD 700 million for the construction of the analyzed highway.

The implementation of this project required cooperation with several other states and organizations. This resulted in several agreements concluded (Memorandum between the Ministry of Transport and Communications of the Republic of Kazakhstan and the Ministry of Transport of the Russian Federation on cooperation and development of roads along the route St. Petersburg - Kazan - Orenburg - Aktobe - Almaty - the PRC border as of September 22, 2008, a Memorandum of Understanding between the Ministry of Transport and Communications of the Republic of Kazakhstan and the Ministry of Communications of the PRC on the creation of vehicles the transport corridor Western Europe - Western China as of April 16, 2009, as well as the Memorandum of Understanding in the field of development of transport networks between the European Commission and the Ministry of Transport and Communications of the Republic of Kazakhstan as of June 12, 2009).

Since the grace periods for repayment of international loans have already passed, Kazakhstan should complete the repayment of these loans in 2030-2035. Therefore it must strategically and logically calibrate and accurately operate this highway and other roads of Kazakhstan and ensure the maximum commercial benefit from ordinary and especially transit freight traffic, to sign bilateral agreements on road freight transport on this and other motorways of the republic with even more states. As the Kazakhstan section of this international transit corridor passes through the southern regions of Kazakhstan, the Central Asian countries, central and western regions of Kazakhstan are pulling their goods to this highway and they import the necessary goods using it. With such approaches, it is necessary to do everything to annually have on average the total economic effect

from the implementation of the investigated international project in the range of 30 to 55 billion tenge.

Since Kazakhstan's relatively small population is spread over a large territory, the lack of transport links between all regions is a pressing issue for the country and its market economy. This can and should be solved through roads, monorails, railways, and in the future, when the population reaches 30 million, through high-speed transport. The authors propose building additional roads in the form of rays from the capital of the country to all regional centers and connecting all of the regional centers and significant cities with two ring roads, following the model of the subway. The authors consider it expedient to build transport and logistics hubs at all junctions of the radial and ring roads, which could become the basis of new settlements and towns. Fortunately, professional experience in the construction of world-class roads already exists in Kazakhstan.

Such an important project needs to be supply chain strategy and finance from the country's state budget and local regional budgets. It would also be advisable to involve the supply chain finance of domestic entrepreneurs in public-private partnerships, to attract foreign transit investors, and to engage the services of international and foreign banks in order to allow the project to be supply chain financed at the lowest possible interest rate. The European Bank for Reconstruction and Development and the Asian Development Bank are doing a considerable amount of work to conclude loan agreements denominated not in U.S. dollars but in Kazakhstan tenge, and to issue bonds in tenge (In [17], the Asian Development Bank issued bonds in the national currency of Kazakhstan in the sum of more than 30 billion tenge.). These circumstances can be used to obtain investment and supply chain finance the transport industry of Kazakhstan through the above international banks. Much work remains to be done on the development and adoption of a large number of international investments, financial and credit agreements, etc.

Although Kazakhstan's transport industry has received significant financial injections from the state, this is not enough; investments in the transport industry should be no lower than the average level for the industry. Furthermore, for the sustainable development of the transport industry, a faster pace of investment is required.

A large role is given to private investment,

including foreign investment; however, private business is largely disconnected from the planning, financing, and management of transport infrastructure. In this regard, investment legislation should be aimed at attracting private capital to sectors of the economy that are unattractive for investors (transport and logistics, production infrastructure, agriculture, etc.), and not only (and not so much) at subsoil use.

Thus, the need for investment in the transport and logistics sector of Kazakhstan's economy is significant. International and national legal measures play a key role in attracting investment.

5. Discussion

At the present stage, several measures have been taken in the Republic of Kazakhstan to attract investment in the economy of Kazakhstan, primarily in priority sectors of the economy, including the transport industry. Let us consider some measures of international and national legal and organizational nature.

Kazakhstan participates in universal, regional and bilateral international agreements affecting the issues of attracting investment in this industry.

Investment relations in the transport sector are governed, first of all, by the main universal international acts in the field of investment, among which are the Energy Charter Treaty (signed on December 17, 1994, ratified by Kazakhstan on October 18, 1995, entered into force on April 16, 1998; over 50 states participated in it), the Washington Convention on the Procedure for the Settlement of Investment Disputes between States and Foreign Persons as of March 18, 1965 (Armenia, Belarus, Kazakhstan, and Kyrgyzstan officially joined among 149 member states, Russia signed this Convention), Seoul Convention on the Establishment of a Multilateral Investment Guarantee Agency as of October 11, 1985 (Belarus, Kazakhstan, and Russia are among 171 member states). It is known that the most effective way to protect the foreign investment is to insure these investments. The EEU countries, including the Republic of Kazakhstan, as parties to the 1985 Seoul Convention on the Establishment of the Multilateral Investment Guarantee Agency (MIGA) are involved in providing financial guarantees to foreign investors through the insurance of investments against non-commercial risks. Kazakhstan, being a party to these international conventions, thereby assumes several obligations

that act as guarantees of the rights of investors. Kazakhstan participates in regional investment agreements (the CIS Agreement on Cooperation in the Field of Investment Activities as of December 24, 1993, the CIS Convention for the Protection of Investor Rights as of March 28, 1997) [18, 19], as well as in 46 bilateral international treaties with foreign states on mutual encouragement and protection of foreign investments (with Austria, Denmark, Great Britain, Germany, Greece, Israel, Italy, Canada, Sweden, Switzerland, Finland, France, USA, Japan, and other developed states). These agreements are practical and specifically specialized in nature, which can become an effective legal means for the investor to protect their economic, organizational and other interests in almost any court, any arbitration, both national and international. These agreements are aimed at ensuring comprehensive protection of the investments of the other contracting party, providing guarantees for the export of the foreign currency part of the profits, and guarantees against non-commercial risks. These agreements impose an obligation on both contracting states not to carry out forced withdrawals of capital investments, financial resources through nationalization, requisition, or confiscation.

Today, a significant number of bodies and organizations implementing investment policy have been created and are functioning in the Republic of Kazakhstan, among which are: the Council of Foreign Investors under the President of the Republic of Kazakhstan (it is an advisory body chaired by the President of the Republic of Kazakhstan), the investment ombudsman (this is an official appointed by the Government of the Republic of Kazakhstan, which is responsible for protecting the rights and legitimate interests of investors, was established in 2014 based on the Regulation on Investment Ombudsman as of October 30, 2014). A special place in the system of implementing the investment and financial policy of the republic is given to the Astana International Financial Center (hereinafter referred to as the AIFC), which was created to help attract investment in financial services based on the Constitutional Law of the same name as of December 7, 2015. The AIFC is a territory within the city of Nur-Sultan with precisely defined boundaries determined by the President of the Republic of Kazakhstan, in which a special legal regime in the financial sphere operates. For the proper resolution of financial,

foreign exchange and investment disputes, including in the field of transport, the AIFC Court, the International Arbitration Center (IAC) were established within the framework of the AIFC. In this regard, the names of these two AIFC institutions could be included in the text of paragraph 3 of Article 296 of the Entrepreneurial Code of the Republic of Kazakhstan as follows: "If it is impossible to resolve investment, monetary and financial disputes following the provisions of paragraph 2 of this article, disputes shall be resolved following international agreements and legislative acts of the Republic of Kazakhstan in the courts of the Republic of Kazakhstan, the court of the International Financial Center "Astana", the International Arbitration Center of the International Financial Center "Astana", and in other arbitration agreed by the parties".

The Development Bank of Kazakhstan plays an important role since it is a national development institute and a bank authorized to implement state investment policy and state support for industrial and innovative activities in the form of loans, leasing financing in various sectors of the economy, including transport and logistics (paragraph 37 of the article 1 of the Law of the Republic of Kazakhstan "On the Development Bank of Kazakhstan" as of April 25, 2001). Several tens of billions of tenge are allocated annually from the budget to this sphere. According to the Budget Code of the Republic of Kazakhstan as of December 4, 2008, it is planned to create agencies as a national management holding company and legal entity, one hundred percent of the shares of which belong to the national management holding company, as well as a bank or organization with 100% state participation authorized to implement state investment policy in certain areas of the economy. Along with these subjects, investment policy issues are dealt with by various central government bodies (for example, according to the Law of the Republic of Kazakhstan "On Transport in the Republic of Kazakhstan" as of September 21, 1994, the tasks of the authorized body in the field of transport include, among other things, the formation and implementation of investment policies, national companies, and local authorities. One of the most important guarantees of investor rights is the creation of reliable dispute resolution mechanisms. Specialized courts and specialized tribunals of national courts have been created with this purpose. According to the Civil Procedure

Code of the Republic of Kazakhstan, civil cases of investment disputes are considered according to the rules of the court of the first instance in the court of Nur-Sultan (specialized structure) or the Supreme Court (cases involving a large investor, which are considered by individuals and legal entities making investments in the Republic of Kazakhstan in the amount of not less than two million times of the monthly calculation index) depending on the status of the investor (Article 28 of the Code of Civil Procedure of the Republic Kazakhstan). The procedural law has significantly simplified the procedure for appealing in such cases: for large investors - the cassation instance in the Supreme Court, for other investors - the appeal and cassation instance in the Supreme Court. At the same time, international commercial arbitrations and investment arbitrations as more neutral structures are most attractive to foreign investors. This relates to the fact that a foreign investor is less likely to trust national jurisdictional mechanisms, assuming their location in favor of the recipient state. In this regard, the AIFC Court, the International Arbitration Center (IAC) was established within the framework of the Astana International Financial Center (AIFC).

It is reasonable to analyze the problems and suggestions for improving legal measures to attract investment in the translogistical sector of the economy of Kazakhstan.

The following measures are proposed to improve the international and national legal framework for investment in the transport industry of Kazakhstan. Attention should be paid to the issues of the normative definition of investments, enshrined in the current legislation of the Republic of Kazakhstan. Thus, according to the Entrepreneurial Code of the Republic of Kazakhstan “investments are all types of property (except goods intended for personal consumption)” “invested by an investor in the authorized capital of a legal entity or an increase in fixed assets used for entrepreneurial activity, as well as for the implementation of a public-private partnership project, including the concession project” (paragraph 1 of Article 274). It should be considered that entrepreneurial activity is aimed at making a profit. However, in the process of investment activity, it is possible and desirable not only (and not even so much) to make a profit, but also to achieve social goals. In investment and financial-legal relations, both private (most often, making a profit) and general social interests should

be harmoniously combined: achieving a social effect (improving the material well-being of the country's population, reducing unemployment, etc.); economic effect (introduction of new technologies, development of backward sectors of the economy, etc.); the environmental effect (resolving existing and preventing future environmental problems, creating an environment conducive to living, etc.) and the scientific and technological effect (developing domestic science and technology, innovation, etc.)/12/, /17/.

First of all, for this, the above legislative definition of investments could be revised. According to the above definition of investments, these include only two types of business entities: authorized capital and fixed assets. It is not entirely clear why the legislator limited itself to these objects only. Although this may cover almost all forms of investment, some investors may find that their activities, according to this definition, do not qualify as “investments” /13/. If we turn to international treaties, then investments in them are understood much more broadly. Thus, according to Article 1 of the Energy Charter Treaty, “investments” means all types of assets owned or controlled directly or indirectly by an investor, and includes a wide list of objects.

The authors propose to expand the normative definition of investments contained in the current Entrepreneurial Code of the Republic of Kazakhstan. Otherwise, a narrowing of the definition of the concept of investment can create terminological confusion, lead to a limitation of investor activity, primarily in the field of social investment, erosion of the legal basis of investment activity. The authors believe that the basis for the legislative definition of investments could be taken from their definitions in international acts, as well as the following doctrinal definition. “Investments are all types of property and intellectual values, as well as rights to them, invested in objects of entrepreneurial and other activity to generate profit (income) and (or) achieving a positive social effect. It is necessary to consider the problem of ensuring investment attractiveness in the transport sector. On the one hand, the transport and logistics industry is in dire need of new technologies, advanced methods of management and labor organization, advanced knowledge, international personnel, etc. This creates the need for foreign investment, primarily direct foreign investment.

The current legislation of the Republic of

Kazakhstan speaks of the provision of tax, customs and other benefits and preferences, subject to the fact of an agreement on the industrial assembly of light motor vehicles. Currently, the Ministry of Industry and Infrastructure Development of the Republic has the right to conclude agreements on the industrial assembly of light motor vehicles. The above-mentioned norms are aimed at providing a comprehensive solution to problems that would lead to the investment attractiveness of engineering as a whole, including transport engineering. To ensure increased investment attractiveness of transport engineering, it is necessary that, as a supplement to the Entrepreneurial Code of the Republic of Kazakhstan, norms are introduced that would vest the Ministry of Industry and Infrastructure Development of the Republic of Kazakhstan (authorized body) with the authority to develop and approve the procedure and conditions for signing and amending and termination of the agreement on the industrial assembly of not only light motor vehicles but also all vehicles and their components with Kazakh legal entities. In the light of these proposals, clause 2 of Article 100 of the Entrepreneurial Code of the Republic of Kazakhstan should be supplemented with the following norms in the form of a new subparagraph. The authorized body for state support of industrial and innovative activities develops and approves the rules and conditions for the conclusion, amendment, and termination of the agreements on the industrial assembly of vehicles and their components, agricultural machinery and their components with legal entities and residents of the Republic of Kazakhstan”.

It should be noted that the preferences provided within the framework of the investment priority project differ from the preferences provided for the implementation of a regular investment project in that the first-row preferences are manifested in the form of exemption from corporate income tax, property tax, and land tax. But these preferences are not provided during the implementation of a special investment project, therefore, it would be advisable to include in article 286 of the Entrepreneurial Code of the Republic of Kazakhstan a rule on the provision of the same preferences for a special investment project, which may be related to the industrial assembly of light motor vehicles.

It is necessary to improve the legal guarantees of investor rights provided for in the legislation of the

Republic of Kazakhstan to improve its investment attractiveness. An analysis of the rules of the Entrepreneurial Code showed that the guarantees of investor rights are not clearly defined. Thus, the key guarantees of the rights of investors include a guarantee against changes in legislation. This guarantee is especially relevant in transition countries where legislation is not stable. In international practice, the legal construction of “grandfather provision” is widely used, which can be presented in different versions (broad, narrow), but the essence is the same: providing clear, concrete guarantees and measures against changes in legislation. However, this guarantee is vague and not clear in the Entrepreneurial Code, which raises investors' doubts about its stability. Thus, according to paragraph 3 of Article 4 of the Entrepreneurial Code “The Republic of Kazakhstan guarantees the stability of the terms of contracts concluded between investors and government bodies of the Republic of Kazakhstan, except when changes to the agreements are made by agreement of the parties”. This wording is declarative since it is not clear how exactly the stability of the terms of the contracts is guaranteed. This wording raises more questions than answers. In this regard [17] rightly raises the following questions: “What do these guarantees constitute? Do they constitute the obligation to pay damages? What does the stability of the terms of the contracts imply? Is a breach of a contract by a state body, not stability? What about changes in the law? There is no answer to the main question: what happens to the contract when the legislation changes? Do the old or new norms apply? Under the condition when the investor's situation worsens, or in any case?. Moreover, it is further established that even these not clearly formulated, and therefore not clear guarantees do not apply to “1) changes in the legislation of the Republic of Kazakhstan and (or) the entry into force and (or) changes in international treaties of the Republic of Kazakhstan, which change the order and terms of import, production, sale of excisable goods; 2) changes and additions that are made to the legislative acts of the Republic of Kazakhstan to ensure national and environmental safety, health care and morality”. A similar situation exists for other guarantees of investor rights. The authors believe this is one of the significant reasons that private investors, primarily foreign ones, do not show tangible activity in investing, primarily in such socially significant

areas as transport and logistics, energy, tourism, and the modernization of housing and communal infrastructure economy, healthcare, and education. What is the problem of state and legal regulation of investment policy, including in the transport and logistics industry? First of all, it should be noted that in the legislative acts of the Republic of Kazakhstan the term “investment policy” of the state is widely used. However, no law of the Republic of Kazakhstan contains a clear definition of it. Various program documents contain separate elements of investment policy. However, a single document has not yet been developed that would contain a clear, clear investment and financial policy for the long-term perspective. This largely leads to the low efficiency of public administration in investment in the economy, including the transport industry.

As discussed above, at the present stage there are several entities involved in the implementation of investment policies in the Republic of Kazakhstan. However, one of the problems is that these actors act fragmented, not systemically enough. This leads to poor investment management.

To overcome disunity in the management of investment issues, in 2019, a Coordinating Council for attracting investments was established as an advisory body to the Government of the Republic of Kazakhstan, chaired by the Prime Minister. The purpose of the Council was to develop proposals for attracting investments to the Republic of Kazakhstan (Decree of the Government of the Republic Kazakhstan as of April 20, 2019 No. 216 “On strengthening measures to attract foreign investment in the Republic of Kazakhstan”). This body has the authority to provide special conditions for the implementation of strategic investment projects. Besides, the Astana International Financial Centre (AIFC), which will become a regional investment hub, will be identified as a single center for coordination of work on attracting investments and promoting the investment image of the Republic of Kazakhstan. This system will include all development institutions and will work on the principle of a single window. Kazakh Invest will be transferred to the trust management of the AIFC administration. However, time will show how effective its activities will be.

The authors believe that for more systematic measures to attract investment in the country's economy it would be advisable to develop a state investment policy for the long term. This strategy

could be used to reflect measures to attract direct investment in priority sectors of the economy of Kazakhstan, primarily in the logistics sector. In conjunction with this document, it was possible to develop other program documents in the field of priority sectors of the economy. In particular, it would be possible to develop a transit attraction program, taking the achievements of other countries, such as the Netherlands, countries of Central and Eastern Europe, etc. as an example. This program could envisage measures for international cooperation in the field of integration of national transport systems, harmonization of national legislation of different countries, development of coordinated national programs for the development of transit (international) transport corridors, coordination of investment and financial policies for the development of priority projects.

The development of transit and transport potential could be facilitated at the international level by the integration of national transport systems, the harmonization of national legislation, the development of coordinated national programs for the development of transit (international) transport corridors, and agreed investment policy for the development of priority projects /16/. The modern world is changing and requires end-to-end service, multimodal transportation. There is a need for unified standards throughout the route, unified rules and tariff conditions, unified standards for the passage of goods and documents for processing goods and unified approaches to the form. The main thing is to reduce the number of borders and barriers to business. It would be reasonable to expand the practice of concluding regional agreements of states supplying certain goods that accept these goods and provide transit. Instead of competition between countries, certain types of transport, it is more advantageous for carriers and customers to integrate them, to cooperate to provide the best transport service for door-to-door cargo owners.

Given that the transfer and receipt of investments, supply chain finance is a two-way process, Kazakhstan has much to do to attract investment in priority sectors of the economy, including transport and logistics. Investors need a proper investment climate, the laws of the recipient country, which protects the legitimate rights of investors. Investment, financial relations need careful and skillful state and legal regulation. This shows the experience of several countries where the

competent and skillful attraction and placement of foreign investment, international and foreign finance allowed not only to get out of the economic crisis but also to take advanced positions in the world economy (post-war Germany, Japan, for example). In general, in modern conditions, cooperation in the field of transport is becoming an integral factor in global sustainable development. International transport transit is becoming one of the key segments of the global economy, which has a direct impact on the stability and balance of the international order.

6. Conclusion

Kazakhstan has all the conditions for the development of international transit through supply chain strategy. However, the economy of Kazakhstan needs new technologies that meet the needs of both the economy and the environment, advanced managerial experience, highly qualified personnel. Here a key role is given to private investment, including foreign investments. Several measures have been taken for the stability and reliability of guarantees of investor rights to create a favorable investment climate in Kazakhstan. The system of such measures includes legal, first of all, international legal, as well as organizational and legal measures. In general, a review of these measures showed that Kazakhstan is steadily moving towards creating an effective system of state legal regulation of investments, including in the logistics system. At the same time, there are still several systemic problems in this area that need to be resolved as soon as possible.

The following measures are proposed to improve the attraction of investment and supply chain finance in the economy of Kazakhstan, including in the transport and logistics industry of Kazakhstan.

It is necessary to expand the normative definition of investments given in the Entrepreneurial Code of the Republic of Kazakhstan, taking the definition of investments in international acts as a basis. This code defines investments as follows: "Investments are all types of property and intellectual values, as well as rights to them, invested in objects of entrepreneurial and other activities to make a profit (income) and (or) achieving a positive social effect".

Clause 2 of Article 100 of the Entrepreneurial Code of the Republic of Kazakhstan should be supplemented with the following norms in the form of a new subparagraph 24-9: "2. The authorized

body for state support of industrial and innovative activities": "24-9) develops and approves the rules and conditions for the conclusion, amendment, and termination of the agreements on the industrial assembly of vehicles and their components, agricultural machinery and their components with legal entities and residents of the Republic of Kazakhstan;". This helps to improve investment attractiveness by expanding the authority of the authorized body. It is also necessary to strengthen the guarantees of investor rights contained in the current legislation of the Republic of Kazakhstan.

It is proved that for more systematic measures to attract investment in the country's economy it would be advisable to develop a state investment policy for the long term. This strategy could reflect measures to attract private direct investment in priority sectors of the economy of Kazakhstan, which are not attractive for private investors (and not only, and not so much in subsoil use), including trans-logistics. In conjunction with this document, it was possible to develop other program documents in the field of priority sectors of the economy, in particular, to develop a transit attraction program, including measures for international cooperation in the integration of national transport systems, harmonization of national laws, and the development of harmonized national programs for the development of transit (international) transport corridors through supply chain strategy, coordination of investment policies for the development of priority projects.

References

- [1] Vasiliev G.A. The innovative potential of foreign investment. Author's abstract of Candidate of Sciences (Economics). Moscow, 2011.
- [2] Tikhonova V.G. The effectiveness of foreign direct investment. Author's abstract of Candidate of Sciences (Law). Moscow, 2005.
- [3] Erfurt K.A. Human capital investment management. Author's abstract of Candidate of Sciences (Economics). Tomsk, 2006.
- [4] Yakovaleva O.M. Forecasting investment on the railroad. Author's abstract of Candidate of Sciences (Economics). Moscow, 2001.
- [5] Komarova A.G. Foreign investment in Russia. Author's abstract of Candidate of Sciences (Economics). St. Petersburg, 2003.
- [6] Petrosova O.B. Investment efficiency in the Russian energy sector. Author's abstract of

- Candidate of Sciences (Economics). Moscow, 2002.
- [7] Chernov D.S. Formation of regional attractiveness of investments. Author's abstract of Candidate of Sciences (Economics). Nizhny Novgorod, 2003.
- [8] Semko A.V. Legal regulation of venture investments. Author's abstract of Candidate of Sciences (Law). Moscow, 2013. <https://www.dissercat.com/content/pravovoe-regulirovanie-venchurnykh-investitsii>.
- [9] Akopyan O.A. Legal regulation of budget investments. Author's abstract of Candidate of Sciences (Law). Moscow, 2009.
- [10] Akhmetova G.T. Status and main directions of investment policy in the oil and gas sector. Author's abstract of Candidate of Sciences (Economics). Astrakhan, 2004.
- [11] Seykenov B.E. Investment strategies for the efficient use of resources: On the example of the Republic of Kazakhstan. Author's abstract of Candidate of Sciences (Economics). Moscow, 2003.
- [12] Moroz S.P. Investment Law. The course of lectures. Almaty, 2008.
- [13] Griffin E. A Brief Review of Kazakhstan Investment Law. <http://www.investkz.com/journals/34/299.html>.
- [14] Suleymenov M.K. Investment Law of the Republic of Kazakhstan: 25 Years of Development. https://online.zakon.kz/Document/?doc_id=31870574
- [15] Takhumova O.V., Kasatkina E.V., Maslikhova E.A., Yumashev A.V., Yumasheva M.V. The main directions of increasing the investment attractiveness of the Russian regions in the conditions of institutional transformations. *Espacios*. Vol. 39., № 37., P. 6. 2018.
- [16] Jelnova, C. Analysis of the practice of decision-making in the field of investment policy. *Journal of Contemporary Economics Issues*, 4. 2013. doi:<https://doi.org/10.24194/41302>
- [17] Minakova, I., & Anikanov, P. Modelling of area of possible results of the innovative investment project. *Journal of Contemporary Economics Issues*, 1. 2013. doi:<https://doi.org/10.24194/11321>
- [18] Saleh, H., Abubakar, H., Suriani, S. Determining Factors Affecting the Interest in Investment in Bulukumba Area of South Sulawesi. *Journal of Southwest Jiaotong University*, 55(1). 2020. <http://jsju.org/index.php/journal/article/view/499>
- [19] Alrawi, A.K.O. Policies of Sustainable Transportation in the Holy City of Karbala. *Journal of Southwest Jiaotong University*, 55(2). 2020. <http://jsju.org/index.php/journal/article/view/541>