

во всех странах: во Франции — еще в 30-х годах, в Германии — в 1947 г., США — в 1933 г. в условиях полного изъятия золота из обращения; в Англии в 1956 году золотые оговорки были объявлены противоречащими публично-му порядку. Золотые оговорки в указанных странах допускаются только в международных платежах. Действительность валютных оговорок не оспаривается практически нигде, в отношении индексных оговорок вопрос решается в разных странах неодинаково.

Таким образом, правовое регулирование международной коммерческой сделки представляет собой комплексное правовое обеспечение, состоящее из взаимодействующих и взаимосвязанных правовых источников международного и национального характера. Вместе с тем, применяя на практике принцип свободы договора, используя такой способ защиты прав и законных интересов, как самозащита права в виде особых оговорок и условий обеспечения обязательства, стороны договора в состоянии разработать обоюдовыгодный справедливый контракт, основанный на балансе интересов.

Some Legal Aspects of Undertaking Investment Activities in the Republic of Belarus

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The Republic of Belarus has consistently manifested positive trends in macroeconomic performance resulting mainly in the pursuing a policy of gradual economic reforms. Belarus possesses enormous potential that has yet to be fully engaged. Its advantages include sustainable economic growth, export orientation of the economy (over 60% of Gross Domestic Product (further — GDP) is exported), a well-developed infrastructure, social stability, a strong research and technological potential and a low level of corruption. Belarus can provide foreign investors with ample opportunity of doing business, including privatisation programme for state-owned enterprises [1, с. 134–136].

Today, we have every reason to maintain that Belarusian investment legislation is highly developed. It regulates different spheres of investment activity both for domestic and foreign investors. To prove this point, we shall examine some facts. The Republic of Belarus is the only country among other countries of the Commonwealth of Independent States (further — CIS), which adopted the Investment Code 10 years ago. The Investment Code is a comprehensive set of rules that is applied to undertaking investment activities and establishes conditions, forms and guarantees that comprise the part of Foreign Direct Investments (further — FDI) regime. In addition to the above, our country has concluded 54 bilateral agreements on promotion and mutual protection of foreign investments, and 55 bi-

lateral treaties on avoiding double taxation. Belarus is also a party to a number of multilateral agreements on investments, including the Convention on Establishing the Multilateral Investment Guarantee Agency and the Washington Convention on the Settlement of Investment Disputes. So all these facts may serve as a good example of Belarus' commitment to attracting foreign investors and FDI.

But it is an erroneous point of view that only a big amount of legal acts in this sphere can speak in favor of good investment climate in Belarus. Today in our modern world, we have to take into account that Belarus is a country of small open economy and is situated on the crossroads of commodity and financial flows. In this connection only the country or region, which create the most favourable conditions for foreign capital (direct foreign investment) will be able to receive a long-term effect for developing its economy [2, c. 54]. So, the relevance of the problem is also determined by economic integration between the Russian Federation and the Republic of Belarus, by economic (trade) expansion with the countries of the European Union. It is evident, that these processes demand further modernization and development of the domestic (Belarusian) legislation in the sphere of investment activity.

A complete examination of Belarusian investment legislation shows that there are territories (zones) with a special (preferential) regime of investment in the Republic of Belarus. They are as follows: free economic zones, the Belarus High Technologies Park, small towns, villages, spheres of passenger car production, road service. The investors are given preferences and privileges on these territories. To make use of these privileges, foreign investors should follow all legal requirements. In some cases it is rather difficult because of a long term of analyzing and examining business project by authorities (for example, according to Article 22 of the Investment Code, the average duration of the term of examination is 30 days, but it can be prolonged automatically by the Ministry of Economy of the Republic of Belarus). Another difficulty is connected with a number of privileges and preferences given to foreign investors that can be used for a short period of time (3–5 years). So it is unacceptable for business projects with a long term of recoupment. Beyond all doubt all these factors have a bad influence on the stimulation of attracting foreign investments into the Belarusian economy [1, c. 156–169].

It must be admitted that the Republic of Poland could serve as a good example in the sphere of investment legislation reforming. In particular, the possibility of using the Polish experience in creating a new investment promotion of investment activity (such as investment tax credits, investment grants for business-projects which could be a real stimulation for investment and business activity) must be taken into account.

Belarus could offer potential investors such advantages as vast domestic market, privileged geographical position, developed transport infrastructure and lo-

gistics, skilled labour force, legal framework stimulating investment process and constantly growing requirements for developing investment climate. Today the Belarusian economy is facing a number of challenges which are caused by the current global financial crisis. In this connection the government's commitment to implementing reforms is an important factor for improving and stimulating investment activity in the Republic of Belarus.

Литература

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К вопросу о правовом регулировании защиты растений

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Необходимым в экономическом отношении элементом количественного и качественного расширения производства сельскохозяйственной продукции является обеспечение защиты сортов растений от вредных организмов и болезней. Важным шагом в этом направлении стало принятие 6 декабря 1951 года Продовольственной и сельскохозяйственной организацией Объединенных Наций (далее — ФАО) Международной конвенции по карантину и защите растений, являющейся основой международного сотрудничества в области защиты растений, гармонизации стандартов и обмена технической информацией между договаривающимися сторонами (Республика Беларусь присоединилась 12 мая 2005 года) [1]. В соответствии со статьей 2 данной Конвенции под растениями понимаются живые растения и части растений, включая семена и генетический материал [1]. Вышеназванный международный документ обеспечивает скоординированные и эффективные действия по предупреждению интродукции и распространению вредных для растений и растительных продуктов организмов, а также борьбе с ними. Странам предоставляется возможность анализировать возможные риски для национальных растительных ресурсов и использовать научно-обоснованные методы для охраны культивируемых растений. Во исполнение взятых на себя обязательств, Республика Беларусь приняла Закон Республики Беларусь от 25 декабря 2005 года «О защите растений», который определяет правовые, организационные и экономические основы защиты растений от вредителей,