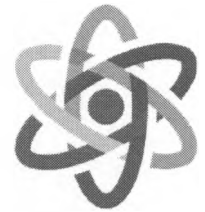


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JURIDICAL SCIENCES

LEGAL REGULATION OF INSTRUMENTS OF DEVELOPMENT OF AGRICULTURE IN KAZAKHSTAN

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Abstract

This article provides legal analysis of instruments of regulation of agriculture in Kazakhstan. Authors determine primary types of the state support in the field of agriculture fixed in the legislation of Kazakhstan. Special attention in the article is also paid to research of content of changes in the legislation of RK introduction of which is caused by accession of the country to the WTO. In particular, within these innovations inefficient types of subsidies were replaced with more effective instruments of the state support. One of such inefficient subsidies are subsidies on a hectare in crop production and on an increase of productivity in livestock production. Authors also note the main institutes of agriculture including subjects of state and quasi-public sectors responsible for realization of national objectives in the agrarian sphere taking into account the functions which are carried out by them. At the same time the main emphasis will be placed on the institute of agricultural cooperatives reforming of which was one of the prerogatives of the state during the accession to the WTO.

Keywords: World Trade Organization, agriculture, Kazakhstan, agricultural cooperative, agricultural producers.

Historically, agriculture has always been for Kazakhstan a strategic direction. The huge territory located in several climatic zones is predisposed to cultivation of various crops and raising in natural conditions many types of livestock and poultry. Besides, the profitable arrangement of Kazakhstan in the center of Asia creates favorable opportunities for logistics to the third countries of import products and promotion of own agricultural commodity.

In addition, according to the World Bank, agriculture creates on average about 5% of GDP. Considering that a half of the population of Kazakhstan lives in the rural areas and the number of employed in this industry is a quarter of economically active population, agrarian sector has a special social significance [1]. Rapid rise in price of foodstuff around the world, caused by global factor of depletion of natural resources, brings up a question of national food security more seriously, placing a positive task on agriculture of expansion of foodstuff production.

In this regard, during negotiations on accession of Kazakhstan to the WTO the questions concerning agriculture were the most disputable. Special attention paid to agriculture is connected with its distortion by subsidies and high level of trade barriers, which influence the welfare of farmers around the world and the access to foodstuff, fibers for clothes and other materials, except for products of forestry and fishery, which within the WTO are not included in this sector.

Importance of this question is determined by the carried-out analysis of world practice of subsidizing which confirms direct link between the level of development of agriculture and measures of support from the government in the form of subsidies and privileges. It is also important to note the following features causing a need of rendering the state support to agriculture.

Firstly, the agriculture is less effective in comparison with other industries of economy, therefore the capital invested in it makes a smaller profit. Hence, less profitable agriculture is not able (for example, in comparison with the industry) to participate on equal terms in the interbranch competition without external support.

Secondly, the agriculture is characterized by specific of response to market requirements. So, in case of increase in demand on agricultural products features of agricultural production don't give a chance to quickly react and increase products output. There is a number of restrictions on increase in growth rates of agricultural production. For example, growth of livestock numbers, especially broodstock, is connected with quite a long for many animal species temporary period of its raising. Besides, in case of decline in demand on food stuff the agriculture, owing to its conservatism, is not able to quickly adapt to the changing situation. It is impossible, for example, to reduce or to increase the areas and production of crops, if sowing works are already carried out, or to substantially reduce production of milk and meat without

reducing of livestock numbers. All of these require a certain time for realization.

In the conditions of market economy with free competition prices in monopolized sector of industry grow quicker, than in the demopolized agrarian sector. It creates an insuperable to agriculture disparity of the prices between the cost of agricultural products and the cost of resources, necessary for production of the specified products. These pronounced features of agriculture, on the one hand, significantly reduce its *attractiveness* to investors; on the other hand, generate a need of the specific field of state activity connected with provision to agricultural producers of financial and other resources for the purpose of strengthening of their economic and social situation, increase in profitability, and therefore investment *attractiveness*.

As agriculture incurs substantial damages from disparity of the prices between agricultural and industrial output, untimely payments for supplied commodities, incomplete budget financing, I.G. Ushachev's statement that "one of the main directions of providing a sustainable growth of agriculture is an increase its profitability at the expense of strengthening of state support" is represented as absolutely fair [2].

The other scientists also adhere to the similar point of view, claiming that "the agriculture owing to special conditions of production and a specific of the created products (the first vital benefits which shall be available to the mass consumer) is forced to be the subsidized branch" [3].

At the same time, each country may develop the own system of support of agriculture and level of subsidizing. Most important, this support must stimulate producers, increase productivity of crop production and livestock production, and also promote export development. Kazakhstan according to data of OECD is a part of group of countries with the moderate level of support, which is usually determined by indicators, specially formulated within this organization.

The *Percentage Producer Support Estimate* (percentage PSE, or %PSE) is the main indicator used by OECD for measurement of level of support of agricultural producers. It expresses a cash equivalent of transfers to agricultural producers in a percentage to their gross incomes. Percentage PSE of Kazakhstan in 2009-2011 was equal to 11%, meaning that a little more than one tenth of gross incomes of agricultural producers of the country was received at the expense of measures of support [4].

At the same time conditions of the state support owing to various circumstances can't be determined only by a discretion of one state. To create equal competitive opportunities for the countries within the world market, above all, it is necessary to consider the international regulation of agrarian sector and the positive foreign practice.

Generalization of experience of agriculture support by various countries of the world showed that most countries use subsidizing as the key instrument of support of agricultural production. However the leading countries exporting agricultural products which are a part of the Kern group such as Australia, New Zealand,

Argentina, Brazil and others don't support direct subsidizing of producers and develop the branch at the expense of growth of competitiveness and production efficiency [5].

The main principles of this group are liberalization of agricultural trade, reduction of direct state support, abolition of export subsidizing. The considerable part of financial resources is allocated in such countries through "the green box". Thus, there is a set of indirect measures of support of agricultural producers which is applied by the countries of the Kern group.

Among instruments of such countries are development of infrastructure of the village, assistance in modernization of the equipment, subsidizing of percent on the credits, financing of agrarian higher education institutions. These tools stimulate agricultural producers to increase their efficiency and to work for a long-term outlook, while direct grants just keep farms afloat. Thus, experience of the Kern group countries shows higher growth of cumulative productivity of production factors during the period after abolition of direct subsidies [6]. In the WTO this tendency, according to which direct payments are subject to essential restriction, is also dominating.

In this regard, the accession of Kazakhstan to the WTO imposes certain restrictions to the amount of the state support. So, Kazakhstan reached the agreement on application of measures of the state support of agriculture in the form of direct subsidies of the "amber box" at the level 8,5% of the gross volume of agricultural production of Kazakhstan.

These restrictions caused a need for improvement of the national legal system in the field of agriculture. As a result, there has been a large-scale reforming of system of the state support of this branch in the country, new instruments of the state support were implemented, standard rates of effective types of subsidies were raised and, respectively, standard rates of inefficient measures were reduced. The necessity of the last measure is caused by the fact that as a result of the continuation of practice of financing of inefficient types of subsidies more effective instruments of the state support remain underfunded, that aggravates problems of low updating of fixed assets.

One of such inefficient subsidies are subsidies on a hectare in crop production and on an increase of productivity in livestock production. As practice shows, these subsidies are not enough effective for increase in profitability of production, because they are paid on cultivated areas and generated products, regardless of production efficiency. Difficulties in checking the data used in distribution of subsidies in regions by administrative measures of department represent another problem of the existing practice of subsidizing. Decisions on a hectare subsidy are often made by members of the Interdepartmental commission without the actual inspection of sowing existence. Finally, all of this promotes in certain places prosperity of practice of the overestimate by agricultural producers of actual amounts of completed works (the acreage sizes) subsequently influencing on amounts of the allocated subsidies.

Instead of these types of subsidizing the agricultural policy is redirected on the new format of subsidizing of subjects of agrarian and industrial complex (AIC) connected with reorientation to technology development of the branch. This format is created at the expense of application of high-quality seeds, herbicides, fertilizers, agricultural machinery, development of livestock breeding, high-productive infrastructure and other tools. In this connection, in 2015 the government made the decision to stop "not stimulating subsidies" in crop production and livestock production and their replacement with the following more effective types of state support:

1) cheapening of the rates of remuneration on leasing of agricultural engineering, credits and leasing of technological equipment for the subjects of AIC;

2) subsidizing on compensation of the part of expenses incurred by the subject of AIC upon investments;

3) seed production development;

4) increase of productivity and quality of animal products;

5) increase in productivity and quality of plant products, cheapening of the cost of fuel and lubrication materials and other commodity and material valuables required for conduct of spring field and harvesting operations by subsidizing the production of priority crops;

6) cheapening of the cost of manures (with the exception of organic) for domestic agricultural commodity producers;

7) cheapening of the cost of herbicides, bioagents (entomophages) and biopreparations designed for processing of agricultural crops for the purpose of protection of plants;

8) development of management system by production of agricultural products;

9) development of livestock breeding;

10) increase of the share of processing domestic agricultural products;

11) subsidizing within the guarantee and insurance of loans of the subjects of AIC;

12) subsidizing the amounts of value added tax paid to the budget for procurement organizations in the scope of AIC within the calculated value added tax [7].

Thus, as of today, realization of agrarian policy of the state assumes the use of the wide list of instruments of agriculture development, which are different according to their economic characteristics. The use of these tools in the Republic of Kazakhstan is distributed among the subjects of the state and quasi-public sectors, responsible for realization of national objectives in the agrarian sphere, taking into account the functions, which are carried out by them.

One of the major among the used tools is crediting of subjects of AIC on the conditions acceptable for them. For the purpose of providing agricultural formations with available credit resources there was created a branched net of credit tools of an agricultural branch in the Republic of Kazakhstan, which offer various credit products.

The largest of such institutes are JSC «KazAgroFinance» and JSC «Agrarian Credit Corporation», which are the subsidiaries of the National holding "KazAgro". The first of the specified organizations, along with the main leasing activity, grants loans with a rate of remuneration of 17,3% per annum on replenishment of a working capital for up to one year, and also installation and construction works for up to 10 years, other investment purposes and projects. According to investment projects, by which this organization is determined by the operator of the investment directions, terms of granting of loans can reach 12 years, and rates of remuneration constitute 6% per annum [8].

These projects concern creation and development of the active greenhouse facilities, grain storages, breeding farms (reproducer farms), feedlots with the developed infrastructure, meat-processing complexes, dairy and commodity farms, poultry farms of the meat direction; development of production of fruit and vegetable, commercial and oil-bearing crops using irrigation systems, deep processing of grain, production and processing of fine wool; production of fodder and other agricultural products, and also organization of production on assembly of agricultural machinery.

Besides, JSC "KazAgroFinance" now actively applies the financial leasing for providing agrarian sector with agricultural machinery and equipment, breeding cattle, vehicles, agricultural aircrafts, wind installations, and also within investment projects.

JSC "Agrarian Credit Corporation" (JSC ACC) specializes in forming of the available credit granting system stimulating development of a competitive entrepreneurship in the village. JSC ACC offers a big variety of credit products, in particular, for projects realization in the sphere of agriculture (the credit program on acquisition of import selection cattle), realization of non-agricultural types of business activity in the rural zone, carrying out spring field and harvesting works, acquisition of livestock, development of livestock production and crop production, a construction of infrastructure of watering pastures, and also the credits for banks of the second level. Depending on the program and the purposes of crediting this organization grants loans for up to 10 years with remuneration rates to 14% per annum.

In development of credit infrastructure in the village active part is also taken by JSC "Fund for Financial Support of Agriculture". This organization credits legal entities and individuals within the realized programs of microcredit, aimed at the development of different types of activities in the rural zone, including non-agricultural.

In addition to the use of credit and leasing tools, funds from republican and local budgets are also allocated in the republic for subsidizing of different types of activities, actions, the expenses connected with development of agriculture, list of which is rather wide and constantly changes. Administrators of the budget programs, concerning subsidizing of agrarian sector, are the Ministry of Agriculture of RK and territorial authorities of agriculture. It should be noted that the state determined JSC "KazAgroMarketing" as the operator of the programs on allocation of subsidies for financial rehabilitation and investment subsidies. It has such

functions as organization of application acceptance from investors for investment subsidizing, consideration of these applications by the special commission within the specified programs.

Investment subsidizing in Kazakhstan is carried out on the basis of Rules of subsidizing on compensation of a part of the expenses, incurred by the subject of agro-industrial complex in case of investments. At the same time, in the legislation of RK the investment subsidies are understood as compensation of a part of the costs, incurred by the subject of the agrarian and industrial complex and directed to creation of new or expansion of current productive capacities in agro-industrial complex of the Republic of Kazakhstan [9]. According to program conditions, investment subsidies are paid to investors on the projects, which were put into operation since January 1, 2014. Subsidies assume compensation from 20 to 80% of costs of the investors, directed to project realization.

Other not less important instrument of development of agriculture is reinsurance of risks in agriculture with creation of Fund of guaranteeing that will provide protection of interests of AIC subjects.

So, for risk minimization, connected with the possible loss or quality degradation of agricultural raw materials, JSC "KazAgroGarant" offers to AIC subjects the guaranteeing, as an alternative to insurance, of fulfillment of obligations of enterprises, accepting and storing grain and cotton. At the same time, the system of guaranteeing assumes bringing by its participants (the insurance companies and other entities performing storage) contributions on certain tariffs in the State reinsurance fund. In fact, this fund represents an institute of guaranteeing of insurance payments, which would assist to private insurance companies to reinsure most of risks in the state non-profit organization not pursuing a revenue generating purpose. Thus, the fund gives some kind of certain line of support when losses of the insurance company are partially covered at the expense of this fund. Assets of Fund at the same time would be invested in various financial instruments, profitability of which would also increase capitalization of fund. Subsequently, it would promote creation of sustainable system.

The system of agriculture support also includes the purchase of agricultural products from domestic agricultural producers owing to which the last ones have an additional possibility of receiving revenues from their activities. Acquisition of grain crops in the state and commercial resources is performed by JSC "National Company "Food Contract Corporation". Besides, specified company has a subsidiary - JSC "Kazakhstan mak-tasy" which typically makes cotton purchase, while the purchase of livestock and their products is made by another subsidiary JSC "KazAgroProduct". This company is involved in purchase of cattle, livestock products and cattle fattening service.

Realization of the state agrarian policy is also based on the wide list of measures of service support of agricultural formations, key role in implementation of which is played by JSC "KazAgroMarketing". This organization has an extensive net of divisions on all territory of the Republic of Kazakhstan which agricultural

producers can closely contact with. For the purpose of increasing awareness of AIC subjects about measures of the state support and about new opportunities of development of agribusiness, the specified company publishes specialized agricultural printing editions. Moreover, company created the call-center giving to agricultural producers an opportunity to get advice on all questions they are interested in.

For improvement of process of agricultural production by implementation of results of scientific research and developments, there were created institutes of development of agrarian science in the Republic of Kazakhstan, the largest of which is the non-commercial JSC "National Agrarian Scientific-Educational Center" (the NCJSC "NASEC"). The center brings together the research organizations of an agricultural profile, including spheres of grain farming, livestock production, the food industry, irrigation farming, crop production, mechanization of agriculture, economy of AIC, etc. The NCJSC "NASEC" as an association of research and production potential of agrarian science is a successor of JSC "KaAgroInnovation", which assists to increase efficiency of creation and commercialization of new agrotechnologies, a transfer of perspective foreign agrotechnologies and their adaptation in domestic conditions; and also promotes scientific research and developmental activities and increase in scientific and personnel capacity of AIC. At the same time, the main priorities of agrarian science are based on features of agriculture of Kazakhstan, its competitive advantages and industry specialization. Much attention is paid to questions of an ecological safety, preserving quality of the generated products and reproduction of natural resources.

Special attention in improvement of agrarian policy was also paid to agricultural cooperation. This sector is important for potential saving on costs for production and increase in the income at the expense of access to new markets. On October 29, 2015 for exclusion of the barriers, interfering with consolidation of small agricultural producers, the Head of state signed the law "About Agricultural Cooperatives". This law is directed to creation of conditions for cooperation of agricultural producers for the purpose of organization of product sales, purchase of means of production, access to agricultural machinery and the requested information.

The main innovations of the new Law of RK "About Agricultural Cooperatives" include an elimination of the following barriers, restraining cooperation process:

- 1) a lack of possibility of income distribution in the agricultural cooperatives, created in the form of non-profit organizations (the cooperative became a part of the category of commercial legal entities);
- 2) the excessive standard and legal regulation assuming a lack of the single regulating document;
- 3) limited possibility of application of the special tax regime (STR), unavailability of subsidies and preferential crediting for rural consumer cooperatives of water users and agricultural partnerships. For these purposes, barriers on application of STR by cooperative

were removed, the list of activity types, being subject to the STR, was expanded:

4) opacity of activities of cooperatives, mistrust to each other, fraud risks (in this regard, there was introduced a possibility of carrying out internal audit by the auditing union with subsidizing of its cost on 50%);

5) excessive regulation of internal procedures (excessive detailing of regulation was excluded, dispositive norms were applied, the system of standard documentation was implemented);

6) impossibility of participation of legal entities in production cooperatives [10].

Thus, today there is being conducted an active state agrarian policy in the Republic of Kazakhstan, realization of which is carried out by a set of institutes of agriculture development with using a wide list of tools. At the same time, this sector is still full of the unresolved problems, requiring acceptance of adequate measures by the state. Taking into account problem features and modern economic realities, such measures as strengthening of activity on creation of attractive conditions for investors in agriculture, which may assume implementation of additional incentives to make investments in agrarian projects, and also holding a broad information campaign about benefits of investment into the branch, have a special relevance today. It is also possible to highlight the stimulation of enlargement of AIC subjects and improvement of the mechanism of redistribution of unused agricultural lands as priorities of the state.

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