

**THE FOURTH REGIONAL STUDENT RESEARCH  
CONFERENCE AT KIMEP  
"ECONOMIES AND POLITICS IN TRANSITION:  
CENTRAL ASIA AND BEYOND"  
KIMEP, Almaty, 8-9 October 2004**

Papers reporting results of original researches on various topics in the social sciences, economics and business on Central Asian and former Soviet borderlands as well as other countries are welcome.

Working language of the conference is ENGLISH.

Some panels might be in RUSSIAN.

Students of Bachelor's, Master's and Aspirantura levels from Kazakhstan, Central Asia, Russia and other countries are welcome to submit via e-mail a two-page abstract: Microsoft Word format, double-spaced, Times New Roman, twelfth font size.

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- ◆ Page 2-3 - Title of paper; abstract of paper - statement of purpose, major research findings, conclusion.
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September	15, 2004	Notification of acceptance of abstracts
September	25, 2004	Deadline for the submission of papers to chairs/discussants
September	25, 2004	Registration deadline
October	8-9, 2004	Conference

Please, submit your abstracts to Mansiya Kainazarova  
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Third Regional Student Conference:

10 Years of Independence: Building Open Society and Democracy

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## PREFACE

The journal you are holding in your hands is a special issue dedicated to the Third Regional Student Conference sponsored by the KIMEP Center for Research and Development. The Center has committed itself to organizing a regional student conference once a year and publishing the best papers in a special student issue of the *Central Asian Journal*.

This issue, *10 Years of Independence: Building Open Society and Democracy*, is a collection of the best papers presented at the Third Regional Student Conference dedicated to the tenth anniversary of Kazakhstan independence. In total, 178 students from 11 countries took part in the Conference held at KIMEP, February 23 – 24, 2002.

KIMEP attributes a great importance to such events. The next similar conference has been scheduled for September 2003 and will be part of the celebration of KIMEP's tenth anniversary. Such conferences provide students with various opportunities – young people meet with their fellow-students from other institutions and even other countries, and exchange their opinions on the most vital issues. In the process, they learn how to make presentations, conduct discussions and how to prove their arguments. In addition to acquiring valuable research and public speaking skills, students take an active civic position. Today's students will become tomorrow's political leaders, economists, and academics, people who will directly influence the destiny of their countries.

Publishing students' papers serves also as an encouragement of their research efforts and recognition of their academic achievements.

The topics of the papers collected in this issue range from the situation with the mass media in Central Asia to the problems of youths' adaptation to market relations. I am sure 'grownup' readers will find many of these papers quite insightful and informative. Young people in Central Asia can't stay removed from the ongoing enormous social transformations in their countries. Reading these papers, I had the impression that post-Soviet students are really thirsty for knowledge. They hunger for comprehension of the ongoing social processes. This paper collection provides their earnest explanations and opinions.

**Alex Danilovich, Ph.D., Director**  
**KIMEP Center for Research and Development**

## Problems of Youth Adaptation to Market Relations

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Swift changes in socioeconomic, political and cultural spheres take the lead over rates of adaptation even of such a dynamical part of our society as youth.

According to the data of Statistics Agency of Kazakhstan upto today there are 3 780 000 citizens from 16 till 29, which is 25.7% or more than a quarter of the total population of Kazakhstan. Youth bears great responsibility today. Kazakhstan is on the second place in the world on volume of foreign investments per capita. Consequently, foreign debts will be paid by those who are under 30 now.

Adaptation of youth to market relations is rather controversial and contradictory process. It seems like youth is divided into those who could be reformed to market (businessmen and farmers, young representatives of force structures, civil servants etc) and those who still feel uneasy in these new conditions (the unemployed, housewives, people involved in the sphere of education, healthcare, transport etc.)

We understand youth not only as a subject for analysis, but as an independent object with their own opinions and judgements. Youth can be called adapted only if they feel that they are. So making this report we generally relied on youth's opinion, gained at the results of sociologic polls and testings.

We think that the main obstacles on the way of successful adaptation of youth to market relations are:

- Strained situation on home labor market;
- Difficulties in getting high quality vocational education;
- Low motivation to work for the young;
- Lack of legal consciousness of the young;
- Sluggish social activity of the young;
- Unconsecutive and ineffective state youth policy.

Difficulties of adaptation are redoubled by the own problems of the young people. So results of social testing in the framework of the project «Youth of Kazakhstan-2000», held in April-May of 2000, revealed the main problems that young people experience

today (difficulties of upkeeping family (50.3%), of placing on a job according to qualification (36.7%), impossibility of getting vocational education (16.1%), absence of domicile (12.1%), bad health (10.4%) and others.) It showed that the most pressing are the problems that youth come across on the labor market, counting that youth makes up 40% of capable of working population of Kazakhstan.

### How has role and position of a young person changed after transition to market economy?

Till the beginning of 1991 youth worked with legislatively fixed principle of allembacing full employment. For more than 70 years government has been the only monopolist employer, so conditions of coming of youth to labor market have been tightly regulated. For final-year students of professional-technical schools, who decided to work for industry working places have been reserved. Graduate students were assigned through the vacancies on condition of working in exact place and for exact number of years. Military service, call-up to construction jobs, where youth was involved used it satisfy needs of youth for work.

Moving to market economy strained the problem of social protection of the young. It has all began with cancellation of centralized assignment of the young specialists. The rights of chiefs to hire and dismiss have extended. It immediately touched upon the young employees as the least competitive group. This matter and setback in production led to the fact that today youth is the most numerous group among the officially registered unemployed. So in 2000 portion of unemployed young people was 32.5% versus 29.8% in 1999. Moreover, rate of growth of youth unemployment tops the rate of unemployment among population as a whole.

Problems of searching for a job are urgent for people from 17 till 22 or graduate and final-year students. Now we'll try to make some conclusions to answer the question: **Why does the portion of youth unemployment is so high?** That can be explained by a few main causes:

- Absence of prior work experience that becomes the main reason of refusal during taking on;
- Absence of necessary degree or corresponding qualification;
- Absence of social protection of graduate students or state quota for providing with work of a newly-fledged specialists;
- Setback in production brought about staff reduction. First candidates for cutting down of the staff, as the rule, are young people;
- Ignoring interests of agriculture gave rise to outflow of youth from country to town, that logically made this workpower unnecessary in town;



Lack of interest and credit to service of employment agencies.

Interview among students of Eurasian University showed that only 5% of respondents intend to approach employment agencies if necessary. Reasons of unwillingness are various. They mention minute unemployment benefit, great distance away from the place of residence and even humiliation of status of unemployed for them. Others just do not have the slightest idea about their rights and possibilities of employment agencies.

The differences in rates of youth unemployment across the various regions are considerable. For comparison: Kizilorda oblast – 42.3%, city of Almaty – 16.7%. The highest levels of official youth unemployment were observed in Mangistau (36.8% of the total number of the unemployed), Atyrau (33.1%), Eastern-Kazakhstan (29.9%), and Karaganda (29.9%) oblasts.

To the thinking of the young people the main reasons, preventing from placing on a job are absence of jobs in the place of permanent living, bribery and corruption among employers, low competitive abilities of the young, inconsistency of education received and the vacancy functional requirements.

In condition of severe competition on labor market youth is permanently anxious about threat of unemployment. And this is the very reason of social strain among youth. 31.9% of questioned young people are fully confident that they would find themselves in a state of unemployed. 45.6% don't exclude such a possibility. It's interesting to notice that the more level of education the higher estimates of possibility to be left without job (from 33.3% with secondary to 51.1% with high education.) Only 10% of youth are sure that it doesn't threaten them.

At the same time it's necessary to note that, over the past few years, a positive tendency towards gradual reduction in the share of youth unemployment has been observed. In particular, from 1996 till 1999, the number of officially registered unemployed youth decreased by 37.0%.

Concerning distribution of working youth to kinds of activities we can say that youth is mostly represented in the next branches: hotels and restaurants (36.4% of involved people), financial activities (31.5%), fishing and fish-breeding (30.1%), state administration (29.5%), health care and social service (29.4%). We should note that there is a stable growth of young employees in comparatively new branches of economy: in information service, real estate business and general commercial activities. And that can be considered as a good sigh of adaptational process.

Work mobility is an important indicator of degree of adaptation to market relations. Results of social poll revealed a considerable number of youth, which are ready to change the nature of activity. Among those who expressed willingness to retrain for a new pro-

fession are mostly engineers, bank employees and teachers. Youth strive for specialties of lawyer (20.2%), economist (4.8%), bank employee (9.6%), interpreter (5.7%), computer operator (5%), tax inspector (4.5%) etc. Results brought us to an interesting conclusion that 35% of economists (or every 3<sup>rd</sup>) would like to get a profession of a lawyer and a quarter of lawyers are attracted by the profession of economist. In this situation side by side with loss of a qualifying potential of population it is observed a readiness of youth to act in accordance with requirements of modern labor market.

Market economy demands to be ready to intensive work, risk and responsibility. What is the young people's attitude to labor now? We asked this question to 40 of 3-year students of institute of economy in Eurasian National University. So 30% of the respondents realize labor as means of reaching material abundance, 27.5%-as means of self-affirmation, for 10% labor has become an ordinary means of surviving (there were other answers like "unpleasant necessity", "human necessity, having evolutionary character"). But in general we can say that attitude of the young to labor is determined through the hard living facilities of the young. About 47% or almost half of youth have an average monthly income of 3000 tenge or live below the poverty line. In such a condition priority is not given to intensive, substantial, and commodity-producing labor.

We can't estimate degree of adaptation of youth to market relations not knowing about their appraisal of going on reforms. **What is attitude of youth to present policy of government, do they support or deny it?** Satisfaction with course of transformation is expressed by 46.9% of respondents, 35.8% express negative attitude, 16.7% found it difficult to answer. This data clearly shows that market consciousness of the young is still fluctuating and unstable.

But broadly speaking compared with other age groups youth is better adjusted to conditions of market economy. This can be explained by the fact that majority of youth are ready to take into account the requirements of modern labor market (agreement to training for a new profession, dominance of young specialists in comparatively new branches of economy etc.). They don't avoid supplementary earnings and working in nongovernmental sector of economy. After all, youth have a sense of boldness and risk, which are highly appreciated in market economy.

That is why an effective use of this rich potential assumes ever-greater importance. In addition, we would like to offer some measures in order to solve the problems of youth adaptation to market relations:

- Dissemination of ideas and patterns of market economy preference among youth;
- Determination of vocational education in the country on peculiarities of regional labor market;

- Increase employer's responsibility for providing information on vacancies;
- Creation of system of institutions, occupied in provision of employment and re-training of youth;
- Regularly forecast trends in the changing supply and demand in the labor market;
- Respond to market demand by providing training of the young employees;
- Security in labor sphere, assistance to youth entrepreneurship;
- Keeping security of youth, excluding security restrictions on age;
- Encouragement of social activity of the youth.

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## Leasing, Barter, Forward and Futures Transactions in Agrarian Management of Kazakhstan

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### Introduction

During the years of reforms in the time of transition to market mechanisms of management agrarian sector has turned out to be in a state of a deep crisis. According to many indices agriculture has been thrown back to the previous state of 2-3 decades ago, its material and technical basis and social realm of the rural community go to ruin, financial position of commodity producers does not ensure reproduction even on a simple scale. The necessity of creation of an effective mechanism of relation among agricultural commodity producers that would take into account the seasonality of production, slow capital turnover, heightened production risk, protectionism of foreign countries favoring foodstuffs import increase, has come into existence. One must admit that possessing huge land, labor and energy potential the country is close to losing its foodstuffs independence. Agriculture is still suffering from price disparity and can be called a deeply disadvantageous branch.

In this connection the expediency of search and adoption of not traditional for our economy financial instruments of material and technical basis renewal of enterprises of all ownership forms has been revealed. Such instruments to a certain extent degree are leasing, barter, forward and futures transactions, and the study of their theoretical principles, forms, methods, advantages and effectiveness of use in agrarian management has been found topical.

The aim of this work is the study of theoretical fundamentals of formation, systematization, exposure of advantages of leasing, barter, forward and futures transactions, substantiation of methodical recommendations for effective use in agrarian management.

To be able to achieve the pursued aim in stages there have been set the following tasks:

- to explain the notion and essence of barter, forward, futures and leasing transactions, to present and generalize different approaches to theoretical substantiation of problems of the investigated question;
- to examine the peculiarities of barter, forward, futures and leasing transactions among the agricultural enterprises and businesses;

- to analyze the advantages of barter, forward, futures and leasing transactions, to make conclusions on the basis of the conducted analysis and make suggestions about the confronted problem.

The first part of the work centers on the information about theoretical aspects of leasing, barter, forward and futures transactions, overview of already existing theories and suggestions regarding this issue, including economic essence and conception of these transactions.

The second chapter presents forms and methods of these kinds of transactions, as well as foreign countries experience.

The third chapter deals with the peculiarities of leasing, barter, forward and futures transactions concluded directly among agricultural enterprises, as well as example calculations demonstrating suitability of these transactions for agriculture.

### **1. Basic kinds of transactions of agrarian marketing. Notion and essence of barter, forward, futures and leasing transactions**

To begin with, let us take a look at the notion of barter transactions. It should be observed that barter is a kind of merchandise exchange operations. It was especially widespread at the time of primitive communal system and existed in the form of exchange among artisans before money came into being. According to the opinion of Professor Busygin A. V. [3] the term "barter" (which means exchange, trade by exchanging) implies a merchandise exchange transaction in which the following should be considered:

- what goods will be exchanged;
- certain proportions of exchange of one good for the other (an agreement about prices for these goods should be concluded);
- terms of mutual deliveries (the maximum period between the mutual deliveries is worldwide considered to be 6 months).

Professor Busygin A. V. [3] also mentions that a barter transaction is a kind of trade transactions with the help of which the mutual exchange of produce without monetary payment is conducted, in other words the payment is made with respect to the correlations of prices for the exchanged goods both in the world and in domestic markets.

Scientists Gorfinkel V. J. and Shvandr V. A. [7] also assert that barter transactions include exchange of goods of a certain value for other goods for other goods of an equal value without monetary payment.

Forward contracts ("forward" which implies relation to the future) are used when concluding bilateral agreements on commodity delivery. When concluding such contracts partners undertake mutual commitments about delivery and acceptance of production, its quality, delivery terms, prices or ways of their calculation, as well as payment procedure of the concluded contract. Bilateral forward contracts can be concluded for any goods. The only limitation compared to the market of physical goods is the necessity of indicating in the contract the standards of goods. It should also be noted that forward agreements are concluded for a period of 6 to 14 months.

Future transactions are transactions that are conducted not with a objective to buy or sell a commodity, but to hedge the contracts with goods on hand or to benefit from a price difference as prices will possibly change in the course of reselling or after the transaction is discontinued. That is why futures transactions are concluded on commodity exchanges in parallel to real transactions and have the same value as they do.

According to the opinion of Professor Busygin A. V. [3] a futures transaction is a transaction for a certain period of time which implies only shifting the right of purchase and sale from one good to another, but not the right of ownership of this good. In other words it does not stipulate commitments about delivery and acceptance of a certain good mentioned in the contract. For this reason a futures contract can be called a "paper" contract, and a futures transaction - a "paper" transaction.

The object of a futures transaction is not a good (unlike other transactions also concluded on commodity exchanges), but a contract (futures). The aim of futures transactions is to make a profit from price differences or to decrease risks and losses because of price reduction.

A futures commodity contract gives its owner the right to buy or sell a certain quantity of this good at a fixed price in the future and stipulates the date.

When planning a futures transaction an entrepreneur proceeds from the fact that when in the future the price for a certain good rises, then he tries to buy the contract, and vice versa.

A futures contract cannot be discontinued in the general sense. Discontinuity of such a contract takes place when a contrary transaction for an equal quantity of a good (which is stipulated in the contract) is concluded or when a real good has been delivered on the terms also stipulated in the contract, which happens more rarely.

Tushkanov M. P. and Maksimov A. F. [16] also state that futures contracts are concluded with an expectation to attain not a real good, but rather a price difference for the good specified in the contract. The price difference is calculated as an excess or reduction during the period between the date of the contract conclusion (the price at the moment of

signing the contract) and the date of its realization (the price at the moment of signing the contract with a contrary term: if a futures contract has been concluded for a purchase, it is discontinued by selling and vice versa). Appendix 1 shows basic provisions of forward and futures contracts.

At present in connection with the depreciated state of agricultural equipment on one side and absence of sufficient amount of financial resources for technical reequipment on the other side leasing is being mentioned more often.

According to the opinions of Guskova B. and Sidorovich J. [9] presented in their joint article, leasing is defined as a certain kind of lease relations, major kind of business undertaking, directed to investing of temporarily free equity or outside funds in an asset by the lessor with an objective to pass it in accordance with a lease arrangement to the lessee for the use in return for a certain payment.

Under the Law of the Republic of Kazakhstan "About financial leasing" of July 5<sup>th</sup> 2000 [1] a leasing transaction is defined as a totality of coordinated actions of participants of leasing directed toward establishment, change or discontinuity of civil rights and obligations.

Vlasova V. M. [4] asserts that a leasing transaction is a leasing agreement within the framework of a trilateral transaction according to which a leasing firm (lessor) acquires from a producer (owner) property of a client's (lessee's) choice, which it passes to the disposal (lease) of the later (Appendix 2).

## **2. Forms and methods of transactions of agrarian marketing in present conditions**

### **2.1. Barter, forward and futures transactions**

One of the most spread forms of barter transactions is an offset transaction, which implies not only exchange of goods and services, but also offering an opportunity to invest capital in exchange of services and privileges of different kinds.

Such transactions stipulate payment of not only the delivered produce, machines, equipment, but also of the rendered services including credit ones by subsequent counter delivery of the produced goods and rendering services using goods and materials that were received before.

Offset transactions are used as a rule when the counterparties do not possess a sufficient amount of money. In such cases a supplier sells the goods to a counterpart on a condition that the later using these goods in the production process will deliver as a payment products produced with the help of delivered in advance semi-finished products, component parts, raw materials, goods and credit services.

According to an offset transaction each side prepares two lists of goods: in the first one is indicated the nomenclature which the side would like to receive, in the second one enumeration of the goods offered for export.

After coming to an agreement about the nomenclature of the goods and their prices the partners enclose these two lists to the offset contract and are considered to be its integral part. The specificity of such an agreement consists in the fact that in case the stipulated goods delivery is not possible to carry out by one of the partners, he can open a bank account for the benefit of his counterpart who can settle accounts in the form of clearing. Transactions with received feedstock also have compensating character and are a kind of commodity stocks transactions. Such transactions consist in passing to a foreign firm feedstock for processing with the help of the equipment on hand and getting back a fixed amount of semi-finished or ready products made from that feedstock. A part of the produce remains in the firm as a compensation for processing. The semi-finished or ready products can be sold on the market of a third country.

Barter transactions can also be concluded in the form of counter purchase when, for example, recipient ("recipients"- Latin for "to receive") of the equipment settles accounts by delivering farm produce not connected with the received equipment. An agreement of such a kind of interrelations can be concluded for a period of 1 to 5 years.

A more complicated is a barter transaction that has a multilateral character, because in this case the conclusion of a range of export and import operations that cover one another in terms of value is possible.

In other words in conclusion of such barter transactions can take part not just two, but three (or even more) parties when it is required for the search of a necessary good.

Future transactions can be concluded both on the level of partners and with a registration in a clearinghouse established by every recognized commodity exchange. Through this clearinghouse all payments are made. (appendices 3 and 4).

When concluding the futures transactions directly on a commodity exchange to decrease risk and give to a seller an opportunity to calculate its maximum possible quantity for himself the so called potion trade is used.

An option is a contract between two counterparts one of whom receives premium and undertakes the obligation of buying or selling and the other pays the premium and gains the right to buy or sell a certain good at a fixed price during a certain period of time.

There are two major kinds of options: call option and put option. A buyer of a call option has the right to buy a futures contract, whereas a buyer of a put option has the right to sell a futures contract.

Accordingly, a seller of a call option undertakes the obligation to sell a futures contract (when there is a call) and a seller of a put option undertakes the obligation to buy a futures contract (when there is a put). A purchase of an option gives the right to buy or sell one futures contract. The price of an option is a sum paid by a buyer to a seller. A buyer of an option has no other obligations except paying this sum. This is his maximum risk. The price of an option is determined in the exchange hall in the course of bidding. It depends on the demand and supply for each product every month and the price of a futures contract.

## 2.2. Leasing transactions

As is generally known, leasing transactions can have different forms. According to the Law of the Republic of Kazakhstan "About financial leasing" of July 5<sup>th</sup> 2000 [1] there are domestic and cross border leasing.

When conducting domestic leasing a lessor, a lessee and a seller are residents of the Republic of Kazakhstan. When conducting cross border leasing a lessor and a lessee are nonresidents of the Republic of Kazakhstan.

Kaldiyarov D. [11] states that cross border leasing implies leasing of equipment, ships, planes etc. to foreign firms for a period of 15 years and longer. Cross border leasing promotes the activation of economical collaboration with foreign countries. It spreads widely favoring the modernization of production on the basis of modern foreign technologies, renewal of the active part of industrial machinery in accordance with world achievements, formation of leasing organizations.

In the Law of the Republic of Kazakhstan "About financial leasing" of July 5<sup>th</sup> 2000 [1] are also mentioned financial, bank, service, non-service and restitution leasing.

Financial leasing is the most widely used form of leasing according to which leasing of property is carried out for a long period of time and with full reimbursement of the property cost. During the period of the leasing a lessor receives back the full cost of the property and gains additionally profit from the leasing transaction. When carrying out financial leasing, as a rule, obligations to render the technical services and to insure are undertaken by a lessee.

Classical financial leasing implies trilateral character of relations and full reimbursement of property cost.

Kaldiyarov D. [11] asserts that the important feature of financial leasing consists in the fact that the agreement cannot be discontinued before the term of the so called basic lease. According to this form of leasing a lessor (leasing firm) performs only financial functions in this trilateral agreement and in its turn concludes two contracts: with a lessee about the lease and with a supplier about purchasing the property.

Bank leasing is a form of leasing in which a bank is a lessor.

Service leasing is a form of leasing in which the technical maintenance of the object of leasing and its current repairs are carried out by a lessor.

There is also a kind of service leasing that implies compulsory technical maintenance, its repairs, insurance and other obligations undertaken by a lessor. In economic literature this kind of leasing is called leasing with a full set of services. As a rule, this kind of leasing is used when leasing complex and expensive equipment. Besides these services, according to the desire of a lessee a lessor can also undertake obligations to educate the personnel, offer marketing, advertising, production services etc. Costs of these additional kinds of services are included in the leasing payments.

Non-service leasing implies relations that stipulate the fact that a lessee undertakes the full maintenance of the property.

Restitution leasing represents totality of interrelations among counterparts within the framework of a bilateral leasing transaction. Restitution leasing takes place in cases when an enterprise possesses equipment but having no means for production activity finds a leasing company and sells to it its property, the later in its turn passes it on conditions of leasing to the same enterprise.

There is also partial leasing. It is leasing with additional funds involvement or leasing partially financed by a lessor. The distinguishing feature of this kind of leasing consists in the fact that a lessor buying equipment pays for it using only a part of his own funds. The rest of the money is taken by him as a credit from one or more creditors. The leasing company continues to use all the tax privileges, which are calculated proceeding from the total cost of property.

Such form of leasing as revolving leasing or , as it is also called leasing with subsequent replacement of property can take place when a lessee according to the technical needs subsequently requires different equipment. In such cases in accordance with the terms of a leasing agreement, a lessee acquires the right to exchange the leased property for another object of leasing after a certain period of time has run out.

Operating leasing is characterized by the fact that the leasing term is shorter than the period of property exploitation and leasing payments do not cover the full cost of property. That is why a lessor must pass it for temporary use several times and the risk of not being able to reimburse the remaining cost of an object of leasing when there is no demand for it. It is interesting to know that in operating leasing find their expression two following forms of leasing: hiring and renting. Hiring implies middle term leasing for a period of 1 to 3 years, and renting – short term leasing that can last from several hours, days, months to 1 year, which is widely practised in many countries.

Direct leasing takes place in cases when a producer of machinery independently without an intermediary passes the object to a lessee on conditions of leasing, in other words a supplier and a lessor are the same person. In this case a bilateral transaction is concluded. Practical interest attracts also such form of leasing as compensating leasing mentioned in the work of scientists Osipova L. P. and Sinyaeva I. M. [13].

Compensating leasing can be characterized by the fact that instead of monetary leasing payments a lessee submits to a lessor production produces with the help of the leased equipment in fixed volumes. Compensating leasing has been used more and more in international leasing transactions lately, since it solves the problem of free currency used to pay for the lease.

Busygin A. V. [3] suggests one more form of leasing which is called leveraged leasing. According to his point of view, leveraged leasing is a form of relations in which several companies, firms, institutions act as a lessor. Leveraged leasing is used when realizing large-scale projects.

### 2.3. Foreign countries experience

At the end of 1980s the firm "Xerox" offered to exchange 200 its table Xerox machines to a total value of \$ 800 thousand for the needed goods and services (fork lifters and plane tickets for its employees).

More widely spread barter transactions among small entrepreneurs, especially in the service sphere (for example, exchange of services between a doctor and a lawyer). Since the number and scale of barter transactions concluded in the world has grown, new firms acting as go-between for the conclusion of barter transactions have emerged.

It should be observed, however, that at the present time barter transactions account only for 2 % of the total volume of commodity turnover.

In the USA forward transactions are regulated by the national trade laws and laws of individual administrative and territorial units – states, and futures transactions are regulated on three levels: Futures Trade Commission, National Futures Association and conformable regulations about the commodity exchange itself.

The basis of the present market of futures contracts for production of the agrarian sector, feedstock and financial instruments was founded in the XIX century with the development of the centralized markets of farm produce in the USA. In 1848 was founded Chicago Board of Trade, the biggest futures trade exchange in the world specialized on grain-crops and financial contracts. In 1918 was opened Chicago Trade exchange.

Reduction of prices for farm produce in the 1930s led to the issuing in the USA of "The Law about trade exchanges" (1933), which promoted to a considerable extent regulating

the futures contracts trade proceeding from obligatory registration of a broker in particular, put in good order his activities and directed registration of large-scale positions on the futures market.

After the World War II futures contracts markets of Chicago were filled with a whole range of new products. A swift economic upsurge led to the necessity of insuring against changes of prices for production of mining industries (copper, aluminum, lead contracts and so on). At this very time began the futures trade and trade in some foodstuffs, which later turned out to be unprofitable.

Leasing as a nontraditional form of management was widely spread during the 60's of the XX century at first in the USA, then in Europe and Japan.

The father of the American leasing as a basic form of organized commercial services is said to be Henry Shonfeld who founded in 1952 the first associated leasing firm "U. S. Leasing" with initial capital of \$ 20 thousand. The first leasing company in France emerged in 1957 and was specialized on industrial machinery leasing. In 1965 there were already 28 such companies. In Japan leasing business appeared only at the beginning of the 1960s.

Foreign world experience shows that the most part of leasing transactions are concluded for machinery and equipment. On the whole, the specific gravity of leasing in industrial investments accounts for a considerable share: in Australia – about 33 %, in the USA – 30 %, in the UK – 18 %.

Every country has its own peculiarities in the leasing laws. For instance, in Austria according to the regulation of the tax law a lease term should not exceed 90 % of the total period of technical exploitation, or to put it another way, the period till writing off an object of leasing in the bookkeeping of a lessor. The shortest lease contract term possible makes up 40 % of the total period of technical exploitation.

The experience of the USA shows that a lessee can purchase equipment, if the period of its technical exploitation constitutes at least 2 years, and if the residual value, calculated in terms of the market price, accounts for no less than 15 % of its initial value. Besides, a lessee is not allowed to pass the equipment on conditions of subleasing without a special agreement composed in written form, to let competitors or other interested individuals to get acquainted with the constructive and exploitation peculiarities of the leased equipment. As a rule, during the leasing period of a lessee marks the equipment with special labels indicating the owner's company so that when the lessee's equipment is under arrest or taken away from him to cover his debts in case of bankruptcy or other infringements, the lessor's equipment would be safe.

The pioneer of the large-scale and active adoption of operating leasing in the USA is stated to be the company "IBM" – the leading firm on the market of software and tech-

nical means, as well as the corporation "McDonnell Douglas" specialized in the field of production of planes for civil aviation. These firms exceed in their branches on both American and world markets.

In May 28<sup>th</sup> 1988 in Ottawa (Canada) was accepted the "Convention about international financial leasing", which made it possible to establish commonly accepted norms regulating law relations of all participants of an international leasing transaction and eliminate any existing law hindrances.

Among the world biggest specialized leasing firms should be noted such as "Berman Leasing" (USA), "Kennings Motor" (UK), "Fuel-Carhop" (France), "Japan Lease International Corp." (Japan).

It should be observed that foreign leasing firms seldom act independently and do not have close connections with other companies. In most cases, they are subsidiary companies of large-scale transnational, industrial and trade firms, banks and insurance companies. For example, such large-scale industrial companies as American ones "Ford Motor", "International Telephone and Telegraph Corp.", French ones "Reno", "Citroen", German ones "Volkswagen", "BMW", Japan ones "Toyota Motor", "Nissan Motor K" and others are known to have their own subsidiary companies and branches.

Organizational management form of leasing activities widely spread in the world experience is foundation of joint companies. For example, the well-known joint leasing company "Euroleasing" was established by large-scale German, French and Russian firms and banks.

### 3. Principal advantages and conditions of effective use of different kinds of transactions in agrarian management of Kazakhstan

To better understand the mechanism of future transactions on commodity exchanges let us study the following case.

An agricultural firm A purchased 50 piglets in August and plans to finish the feeding in February of the following year. The cost price of 1 metric centner of pork equals 25000 tenge, and the price for pork on the commodity exchange in August constitutes 30000 tenge for 1 metric centner. The agricultural firm A considers the profit of 5000 tenge to be enough and sells with the help of its broker 5 contracts for alive pigs at the price of 30000 tenge for 1 metric centner.

Suppose, however, that in February the prices for pork on the commodity exchange and market reduced to 25000 tenge for 1 metric centner. The firm buys on the commodity exchange 5 contracts at this price. Since it sold contracts at the price of 30000 tenge for 1 metric centner and bought at the price of 25000 tenge, the commodity exchange will pay the difference of 5000 tenge for 1 metric centner.

In fact, the firm sells the pigs on the market and gains 25000 tenge for 1 metric centner. The total gain of the firm in this case equals 30000 tenge for 1 metric centner (25000 tenge on the market and 5000 tenge on the commodity exchange), in other words the firm gained the exact sum of money that it planned to gain initially.

The use of futures contracts offers to an agricultural business the following opportunities and advantages:

- An agricultural business gains an opportunity to find a real consumer for its not yet grown crops, stock.
- An agricultural business gains an opportunity to sell grain-crops, stock, wool and other production at the prices formed at the present moment, which will make it possible to insure the crops against possible price drop.
- Under unfavorable conditions an agricultural business having sold the crops under the terms of a futures contract beforehand, gains an opportunity to redeem its one contract.
- The most important advantage consists in the fact that an agricultural business gains an opportunity to invest the means attained as a result of the future crops sale in the development of production already now, which will play a role of an interest-free credit.
- As a guarantor and intermediary of a futures transaction acts a commodity exchange, and a seller and a buyer might not know each other.
- As it is known, every year the crops should be harvested during a short period of time, but only a small share of the crops is sold on the market right away. The major part is stored until it is needed for processing, feeding the stock and so on. The storage costs are usually included in the futures prices proceeding from the month of delivery. The prices include not only costs of storehouses use, but also costs of insurance, as well as the interest of the invested capital.
- Each party in a futures transaction can any time till 5 days before the date of delivery stipulated in the contract sell (buy off) its contract at prices formed at the moment.

Thus, the conclusion of futures contracts for farmers is profitable, it provides both a farmer and a consumer with favorable conditions for carrying out trade transactions and gaining a profit no matter what the weather conditions or the state of the market are. A securer guarantee of the realization of a futures contract gives the membership of a commodity exchange, since the cost of a broker's place represents a deposit sum.



Now let us illustrate the calculation of leasing payments in the following example.

An agricultural firm B has applied in the leasing firm C for a leasing agreement, according to which it gains on conditions of leasing the equipment in value of 100 thousand tenge for a period of 8 years. The leasing firm C charges a 7% interest rate. The leasing payments should be made in equal sums periodically twice a year. Let us calculate the sum of a leasing payment using the following equation:

$$T = \frac{C \times P}{1 - [1 / (1 + P)^t]}, \text{ where}$$

T – sum of a leasing payment, tenge;

C – asset value, tenge;

P – interest rate;

t – number of payments, times

According to the offered terms of a lease contract the number of payments equals  $t = 8 \times 2 = 16$ . The sum of a leasing payment equals:

$$T = \frac{100 \times 0,07}{[1 / (1 + 0,07)^{16}]} = 10,59 \text{ thousand tenge.}$$

Thus, the agricultural firm B will have to pay a total sum of 169,44 thousand tenge during a period of 8 years ( $10,59 \times 16$ ).

Examining the alternative what could be more profitable in terms of crediting: leasing or credit, enterprises prefer the later. It is connected with the fact that a credit is already well-known means and, besides, a leasing interest rate is usually much higher than that of a credit. In spite of this, even with a higher interest rate leasing in the final analysis leasing can turn out to be more profitable than credit. In comparison to the other ways of acquisition of equipment (payment after delivery, deferred payment purchase, a bank credit to an enterprise), leasing possesses a number of advantages. Let us take a closer look at the most important ones (appendix 5).

Leased property should not be paid for beforehand, since a leasing transaction is fully financed by a lessor, and a lessee does not have to pay a lot as a lump sum and therefore can use the additional funds to ensure economical development of his production. Leasing payments made during the lease term consist mostly of income funds gained in the course of using the leased equipment.

Investment in the form of property lowers the risk of money loss, since a lessor keeps the ownership right to the leased property.

It is easier for an enterprise to attain property on conditions of leasing rather than a credit for its acquisition, since it is required to mortgage some property as a security for payment of money lent.

For a lessee the risk of moral and physical wear and obsolescence of equipment decreases, since it is not purchased, but borrowed.

The leased property is not showed in the lessee's balance, which does not increase its assets and therefore releases from property tax liabilities.

A way of payment is stipulated by a lease contract. Thus, leasing, in contrast to relatively hard credit rules, allows to cover the investment costs proceeding from the real possibilities of an entrepreneur and exploitation peculiarities of the leased property. When the production is sold heavily and there is little ready market for it, a lessee can give the leased property back to a lessor, which allows to lower the risk of possible losses while starting to produce a different kind of production. Exploitation costs decrease because the leased property is used more intensively (according to the terms of a lease contract purposeful use of the object of leasing is compulsory).

Besides these, International Monetary Fund does not take into account the leasing transaction sum when calculating national debts, which makes it possible for a lessee to keep his credit line (limit for a credit).

### Conclusions and suggestions

At present in connection with the depreciated state of agricultural equipment on one side and absence of sufficient amount of financial resources for technical reequipment on the other side, new forms of trade relations have made their appearance in agrarian marketing.

Barter transactions are a kind of merchandise exchange operations, which include exchange of goods of a certain value for other goods of an equal value without monetary payment. In the time of money deficit much importance is attached to this kind of transactions by the subjects of market relations of the agrarian sector of economy. Barter transactions allow to carry out mutual exchange of produce without monetary payment, in other words the payment is made with respect to the correlations of prices for the exchanged goods, which is extremely convenient for many agricultural businesses.

There are agroindustrial commodity exchanges that are meant to smooth seasonal differences in farm produce trade, to promote regulating of prices, to form national and international markets, to intensively develop agribusiness. Conclusion of forward and future transactions makes it possible to raise effectiveness of agrarian management in enterprises.



Forward and futures transactions also make it possible for agricultural enterprises to conduct their commercial activities effectively. In a forward contract the quantity and quality of goods, place and time of delivery are specified by a seller and a buyer for each transaction, and acting system of financial guarantees ensure absolute fulfillment of duties, secures the future price of goods.

That is why many agricultural enterprises in the world use the services of commodity exchanges, which offer them a wonderful opportunity not only to lower the commercial risk, but also to gain a profit from futures trade.

Futures contracts are concluded with an expectation to attain not a real good, but rather a price difference for the good specified in the contract. The price difference is calculated as an excess or reduction during the period between the date of the contract conclusion (the price at the moment of signing the contract) and the date of its realization (the price at the moment of signing the contract with a contrary term: if a futures contract has been concluded for a purchase, it is discontinued by selling and vice versa).

At present in connection with the depreciated state of agricultural equipment on one side and absence of sufficient amount of financial resources for technical reequipment on the other side leasing is being mentioned more often.

Because of the depreciated state of equipment and machinery in many agricultural enterprises (considerable specific gravity of obsolescent equipment, low efficiency of its use, shortage of spare parts etc.), much importance is attached to the adoption of leasing transactions in agrarian management.

Leasing a certain kind of lease relations, major kind of business undertaking, directed to investing of temporarily free equity or outside funds in an asset by the lessor with an objective to pass it in accordance with a lease arrangement to the lessee for the use in return for a certain payment.

Leasing transactions are concluded for equipment, machinery, buildings mostly for middle-term and long-term period.

It should be observed that even with a higher interest rate in the final analysis leasing could turn out to be more profitable than credit. In comparison to the other ways of acquisition of equipment (payment after delivery, deferred payment purchase, a bank credit to an enterprise), leasing possesses a number of advantages.

Leased property should not be paid for beforehand, since a leasing transaction is fully financed by a lessor, and a lessee does not have to pay a lot as a lump sum and therefore can use the additional funds to ensure economical development of his production. Leasing payments made during the lease term consist mostly of income funds gained in the course of using the leased equipment.

Investment in the form of property lowers the risk of money loss, since a lessor keeps the ownership right to the leased property.

It is easier for an enterprise to attain property on conditions of leasing rather than a credit for its acquisition, since it is required to mortgage some property as a security for payment of money lent.

For a lessee the risk of moral and physical wear and obsolescence of equipment decreases, since it is not purchased, but borrowed.

The leased property is not showed in the lessee's balance, which does not increase its assets and therefore releases from property tax liabilities.

A way of payment is stipulated by a lease contract. Thus, leasing, in contrast to relatively hard credit rules, allows to cover the investment costs proceeding from the real possibilities of an entrepreneur and exploitation peculiarities of the leased property. When the production is sold heavily and there is little ready market for it, a lessee can give the leased property back to a lessor, which allows to lower the risk of possible losses while starting to produce a different kind of production. Exploitation costs decrease because the leased property is used more intensively (according to the terms of a lease contract purposeful use of the object of leasing is compulsory).

Foreign countries experience also points out the profitability of use of these kinds of transactions concluded among agricultural enterprises.

In this connection, it is necessary to recommend to the subjects of market the use of leasing, barter, forward and future transactions, as well as creation of the conditions necessary for widespread adoption of these transactions among agricultural enterprises and businesses with an aim to increase effectiveness of agrarian management.

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APPENDIX I

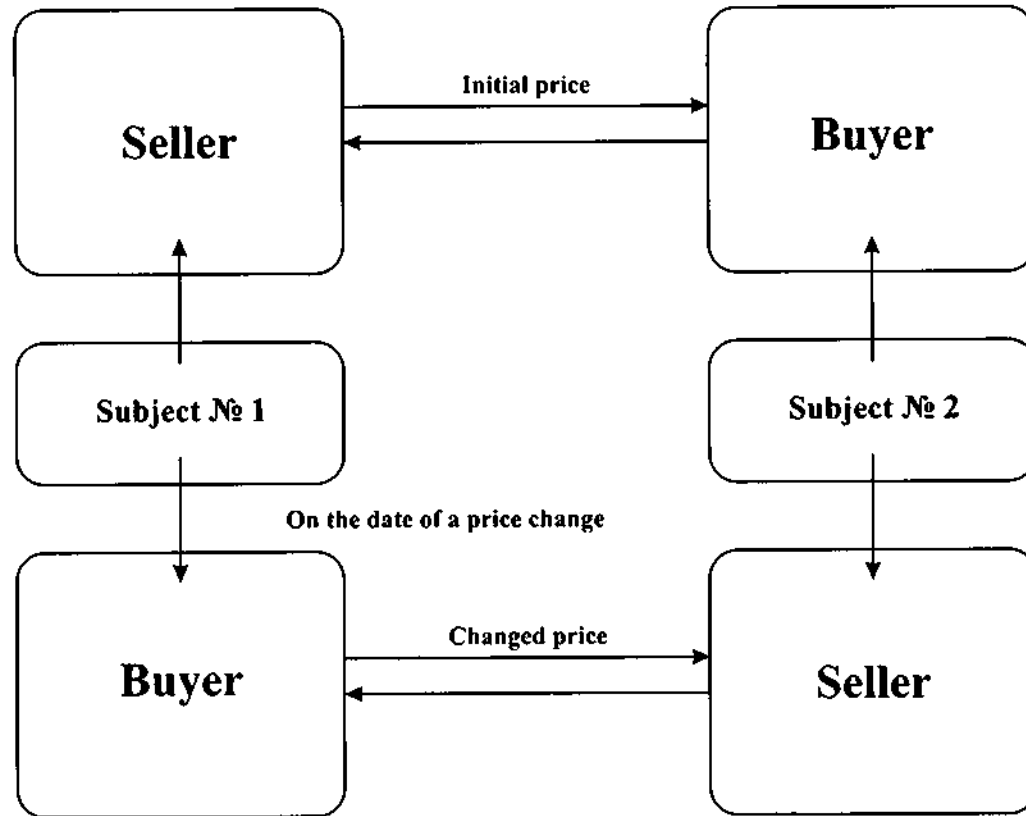
Basic provisions of forward and futures contracts

№	Contractual provision	Forward contract	Futures contract
1	2	3	4
1	Volume of delivery	Conformed between a seller and a buyer.	Standard, the same for all participants of commodity trade.
2	Quality of goods	Conformed between a seller and a buyer. Lower quality and higher quality goods are sold accordingly with a discount or with a markup.	Standardized, divergences from the established quality standard are minor.
3	Time of delivery	Conformed by both parties.	Standardized by a commodity exchange.
4	Price of goods	Conformed between a seller and a buyer.	Settled in the course of bidding.
5	Realization of a contract	Goods are delivered as stipulated by a contract.	A contract is mostly redeemed.
6	Guarantor of transactions and institution publishing information about transactions.	Absent.	Clearinghouse

APPENDIX 2

A futures transaction on the level of partners.

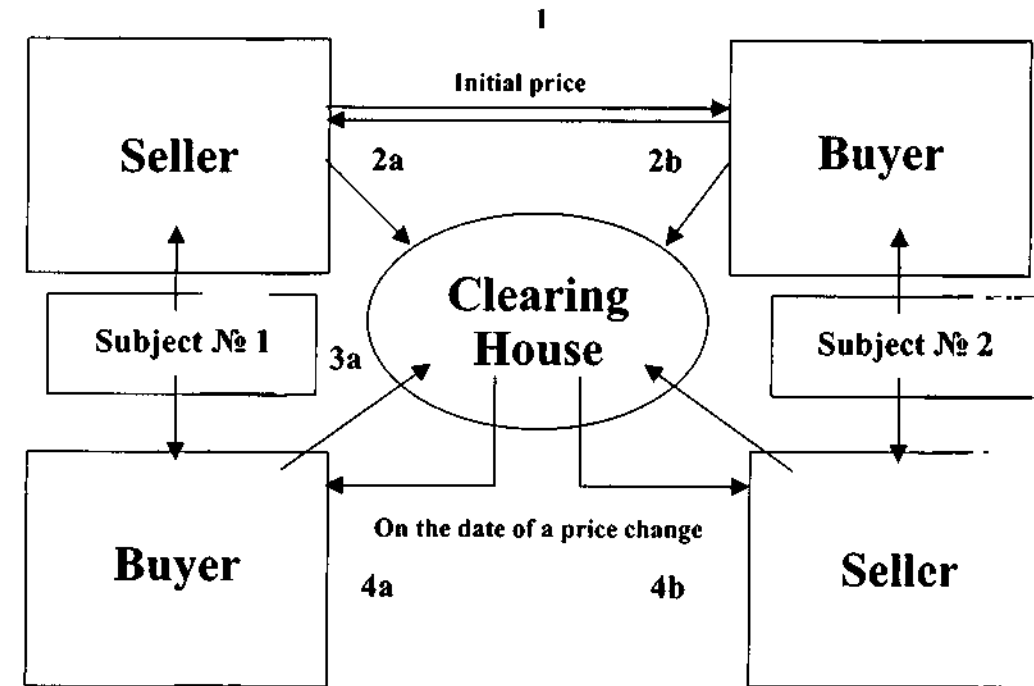
On the date of conclusion of a contract



APPENDIX 3

A futures transaction on a commodity exchange.

On the date of conclusion of a contract



1 conclusion of a contract;

2a, 2b registration of a contract;

3a purchase of a contract;

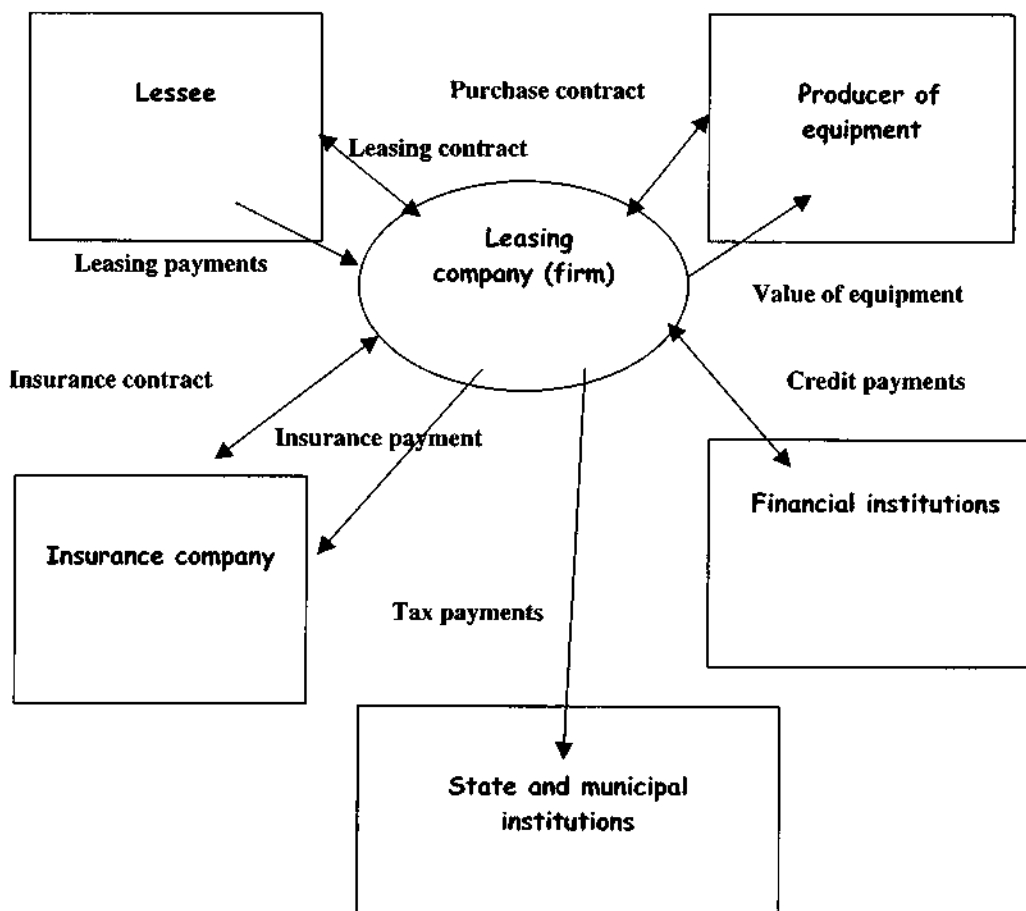
3b sale of a contract;

4a – payment of the price difference between the initial and the changed prices by the clearing house to a buyer;

4b payment of the price difference between the initial and the changed prices by a seller

APPENDIX 4

A leasing transaction.



APPENDIX 5

Peculiarities and advantages of leasing as a basic form of lease

Peculiarities of leasing	Advantages of leasing as a basic form of lease
Facilitation and acceleration of the asset acquisition	In comparison to the asset acquisition using funds borrowed from financial institutions: <ul style="list-style-type: none"> <li>- no pledge is needed;</li> <li>- leasing keeps the way for a lessee to get a loan;</li> <li>- no deposit is needed.</li> </ul> When conducting leasing operations the asset acquisition is possible according to a small-scale investment plan.
Prevention of obsolescence and operating adaptation to the scientific and technical progress	In a lease contract a lease term is shorter than the exploitation period. Thanks to this adoption of new equipment influencing the scientific and technical progress can be conducted without regard to the exploitation period
Tax payment reduction effect	Owing to the fact that in a lease contract a lease term is shorter than the exploitation period there is an effect of reimbursement of the whole sum of investment in equipment during the lease term. Lease payments are excluded from a lessee's gain. Lease payments are included in the assets and the difference between lease payments and amortization costs are regarded as current costs. As a result, the sum liable to tax is reduced.
Economy of office labor costs	Office work can be cut down: <ul style="list-style-type: none"> <li>- elimination of labor-intensive operations connected with the asset acquisition (conclusion of a purchase contract, payments etc.);</li> <li>- elimination of maintenance operations (amortization costs, tax payments, industrial machinery tax payments, insurance and reequipment);</li> <li>- elimination of labor-intensive operations connected with liquidation and sale of equipment.</li> </ul>
Prevention of deterioration of financial activities	Leased equipment is not showed in the lessee's balance, which allows to invest capital in the equipment without changing the correlations of basic and equity capitals.

## EC Human Rights and Democracy Clauses in the Partnership and Co-operation Agreements with the States of the Former Soviet Union

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### Introduction

While before the 1990s human rights and democracy in third states were of minor importance in the European Communities' (EC) external relations, they play a central role since then. Today the European Communities (EC) or European Union (EU) tries in many different ways to improve the respect for human rights and democratic principles in third countries.<sup>1</sup> Firstly, it engages in direct democracy assistance, i.e. it directly funds human rights and democracy related projects ("positive or encouraging measures"). The central EU programme in this respect is since 1999 the 'European Initiative for Democracy and Human Rights'.<sup>2</sup> Secondly, it employs sanctions and embargoes or suspends diplomatic ties and trade relations ("negative or punitive measures"). Thirdly, traditional diplomatic instruments, like diimarches, resolutions, declarations and specific Common Foreign and Security Policy (CFSP) measures, like common positions and joint actions, are used to express human rights concerns in third countries.<sup>3</sup> Fourthly, EC external agreements increasingly foresee so-called political dialogues which intend to provide an institutionalized platform to discuss human rights and democracy related topics. Fifthly, since the beginning of the 1990s the EU applies political conditionality which makes aid, trade, the conclusion of co-operation and association agreements and EU membership dependent on respect for human rights and democracy.

A particular expression of political conditionality is the inclusion of human rights and democracy clauses in agreements between the EC and third states. These clauses give the right to both parties to suspend or terminate an agreement in case of breaches of human rights or democratic principles.

In this paper I analyse the EU's use of human rights and democracy clauses in the Partnership and Co-operation Agreements (PCAs), concluded between the EC, its Member States and the successor states of the Soviet Union (except the Baltic states<sup>4</sup>). I start with a short overview of the evolution of EU human rights clauses and their roots in international law. A comparison of the various formulations of human rights clauses used in the PCAs follows. In the last part I turn to the practical application of the clauses and evaluate its effectiveness. The central argument of the paper is that while the EU has developed an enforceable legal instrument in accordance with

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international law, the lack of objective and equitable application has so far rendered human rights clauses ineffective.

### Partnership- and Co-operation Agreements (PCAs)

The PCAs are the main instrument regulating the relations between the EU and the States of the Former Soviet Union (Newly Independent States or NIS).<sup>5</sup> They replaced the "Agreement on trade and commercial and economic co-operation"<sup>6</sup> signed in December 1989 between the EEC and the Soviet Union.

PCAs cover a broad spectrum of issues such as trade in goods, economic co-operation (including among others investment promotion and protection, energy, environment transport, tourism), financial co-operation, cross-border supply of services and others. Despite this broadness the established relations are not very deep, e.g. the PCAs do not create a free trade area, but contain at most a 'prospect' of it. Most of the articles just determine the fields in which Tacis projects should be carried out. The agreements also establish a political dialogue that obliges the parties to meet regularly at various levels and to work on PCA related issues as well as to discuss their future relationship. Respect for democracy is one of the explicitly mentioned objectives of the PCAs, while reference to human rights is missing as objective. Moreover, all PCAs include human rights and democracy clauses.<sup>9</sup>

PCAs were signed with all NIS except Tadjikistan between 1994-1998<sup>10</sup> and so far entered in to force with Russia, Ukraine, Moldova, Armenia, Azerbaijan, Georgia, Uzbekistan, Kazakhstan and the Kyrgyz Republic.<sup>11</sup> The PCAs with Turkmenistan and Belarus have not yet been ratified. The PCAs are 'mixed agreements'<sup>12</sup> because they do not fall in the exclusive competence of the EC or the Member States but cover fields for which the EC and the Member States share competence. The legal basis for the EC to conclude the PCAs are among some more specific articles of the EC-Treaty Art. 133 and Art. 308 EC-Treaty. For the time pending the ratification of the agreements, which was because of the high number of parliaments and the political situation in the NIS expected to last long, so-called Interim Agreements were signed. These contain the trade-related provisions of the PCAs, and are based on Art. 133 EC-Treaty (and Art. 300(2) EC-Treaty) and also include human rights clauses.<sup>13</sup>

### Reaching consensus on political conditionality

Before the 1990s the use of political conditionality<sup>14</sup> was disputed and imposing human rights and democracy standards was considered as political interference into the internal affairs of a sovereign state.<sup>15</sup> EC external agreements of the 1970s and 1980s contained affirmations of respect for human rights and references to specific documents such as the UN Charter or CSCE documents, but these were included only in preambles and not in the text. An example is the agreement between the EEC and the Soviet Union of 1989, which mentions "the importance of giving full effect to the final act of the CSCE and the

Concluding Documents of subsequent meetings of the CSCE participating states".<sup>16</sup> Usually, violation of human rights did not influence the implementation of the agreement.<sup>17</sup>

The main reasons for the change in attitude of the EC and other Western countries to political conditionality seem to have been the end of the Cold War and the end of the competition between West and East for political influence in the Third World. It allowed Western governments to make support conditional on political and economic performance of a third state. At the same time the International Financial Institutions and in particular the World Bank came to the conclusion that 'bad governance' was a reason for the lack of development in the Third World especially in Sub-Saharan Africa. Another reason for starting to use political conditionality might have been the strong support for democracy in many areas where it was absent before the 1990s, especially in Central and Eastern Europe. Also Western countries might have needed a new justification for continuing to give aid to the Third World vis-a-vis their own population.<sup>18</sup>

#### EC institutions and human rights clauses

Among the EC institutions it was the European Parliament (EP) that already since the early 1980s supported the use of political conditionality. It requested the Commission to link EC aid with minimum conditions of human rights protection and to build human rights considerations into development programmes and external agreements.<sup>19</sup> With the entry into force of the Single European Act in 1987 the EP gained the power to approve association agreements and membership applications. This made it a more powerful actor able to press for higher respect for human rights by other EC institutions as well as third countries.

During 1991 also the other EC institutions declared their support for human rights conditionality. In June 1991 the Luxembourg European Council said that it is the legitimate and permanent duty of the EC and its Member States to promote and safeguard human rights throughout the world and that this cannot be considered as interference in the domestic affairs of a state.<sup>20</sup> On 28<sup>th</sup> November 1991 the Development Council agreed that considerations of human rights and democracy should be important elements in the EC's relations with developing countries. The EC "will give high priority to a positive approach that stimulates the respect for human rights and encourages democracy", but "in the event of the grave violations or serious interruption of democratic processes, the Community and its Member States will consider appropriate responses in the light of the circumstances, guided by objective and equitable criteria".<sup>21</sup> On 11 May 1992 the Council decided that all co-operation and association agreements concluded with CSCE countries should contain a clause which permits suspension or termination of the agreements if human rights, democratic principles and the principles of the market economy are not respected.<sup>22</sup> Because the NIS are all OSCE members and the PCAs were signed in the middle and end of the 1990s, they all include a human rights and democracy clause.

#### EC competence to use human rights clauses

Because the EC is a system of attributed competences<sup>23</sup>, the question arises if it has competence to include human rights clauses in its external agreements.

The legal basis for the inclusion of human rights clauses used in the cases of the PCAs was Art. 308 EC-Treaty. This article requires that the protection of human rights and democratic principles are objectives of the EC, because it can be relied upon only "if action by the Community should prove necessary to attain, in the course of the operation of the common market, one of the objectives of the Community and this Treaty has not provided the necessary powers....".

Human rights and democracy are not explicitly mentioned among the objectives of the EC, outlined in Art. 2 and Art. 3 EC-Treaty. Nevertheless, most authors agree that they are, since there are references to human rights in the EC-Treaty and even more in the EU-Treaty. Art. 177 EC-Treaty, which concerns development co-operation, mentions in paragraph 2 that the "Community policy in this area shall contribute to the general objective of developing and consolidating democracy and the rule of law, and to that of respecting human rights and fundamental freedoms". It could provide the legal basis for a human rights clause in agreements with classical developing countries.<sup>24</sup> The successor states of the Former Soviet Union are not part of this group though, but from the beginning of the 1990s on formed a different group in the EC's external relations.<sup>25</sup> Art. 177 EC Treaty was therefore not relied on in the case of the PCAs.

The most central article of the EU-Treaty in respect of human rights is Art. 6 which lays down that "the Union is founded on the principles of liberty, democracy, respect for human rights and fundamental freedoms..." and that "the Union shall respect fundamental rights, as guaranteed by the European Convention for the Protection of Human Rights and Fundamental Freedoms...and as they result from the constitutional traditions common to the Member States, as general principles of Community law". Art. 7 EU-Treaty allows for the suspension of Member States rights in cases of human rights violations. Art. 49 EU-Treaty requires an applicant country to respect the principles outlined in Art. 6 before it can accede to the Union. Moreover, the ECJ has over the last 30 years developed jurisprudence that set some minimum human rights standards for measures adopted by the EC institutions and EC measures implemented by the Member States.<sup>26</sup> Some authors interpret Opinion 2/94, concerning EC competence to accede to the ECHR, as supporting the argument that human rights are an objective of the Community. "The protection of human rights was seen to be a general principle applying horizontally to all Community activities".<sup>27</sup> It is argued that the ECJ rejected accession to the ECHR system because of institutional reasons and not because human rights is not an objective.<sup>28</sup> Others rely on Opinion 2/94 in order to prove that Art. 308 can not serve as a basis for an 'essential element clause' and argue that the inclusion of such a clause is restricted to agreements concerning development co-operation.<sup>29</sup> This point of view seems to be in the minority though, so Art. 308 EC Treaty is broadly accepted as a legal basis for the inclusion of the human rights clauses.<sup>30</sup>

As regards the interim agreements which included a human rights clause, but were only based on Art. 133, it was argued that this article can serve as a legal basis for the inclusion of the clause. Riedel and Will suggest that, applying principles of international law, "suspension of a treaty or of some of its provisions is the reverse of the treaty conclusion. Thus, to the extent that the Community is entitled to conclude a treaty based on Art. 133(ex Article 113) EC, it must also be empowered to suspend it."<sup>31</sup> Because international law allows for the suspension in case of certain human rights violations, it should also be allowed for the Community.

### Human rights clauses in international law

International law, in particular the Vienna Convention on the Law of the Treaties of 1969 (VCLT), allows for the suspension or termination of agreements in case of human rights violations also without explicit conditionality clause.<sup>32</sup> According to Arts. 54(a) and 57(a) VCLT suspension and termination is possible if a treaty specifically provides for it. In addition, Arts. 60(1) and (2) VCLT make suspension or termination possible in cases of 'material breaches' of an agreement. Such a material breach may for example be the violation of a provision essential to the accomplishment of the object or purpose of an agreement. This means that agreements can be suspended or terminated in cases of disrespect for human rights or democratic principles, if it was explicitly mentioned or if they may be regarded as an essential element of the object or purpose of the agreement.<sup>33</sup>

### The EC in search for a conditionality clause

A first attempt of a human rights clause was made in the Fourth Lomé Convention of 1989.<sup>34</sup> While there is more than one reference "to respect for and promotion of all human rights", Article 5(2)(2) seems to be the closest approximation to a conditionality clause. It states that, "every individual shall have the right, in his own country or in a host country, to respect for his dignity and protection by the law". This formulation does not make clear if respect for human rights is an 'essential element' and their violation therefore a 'material breach' of the agreement in the sense of Art. 60 VCLT. Also the Convention did not contain an explicit suspension clause, which lies down the procedural rules in case of non-compliance of a treaty partner, without reference to Art. 60 VCLT.<sup>35</sup> The next step in introducing human rights clauses was the framework treaty signed with Argentina on 2 April 1990.<sup>36</sup> This was after the EC institutions had found general consensus about the inclusion of such a conditionality clause. Also, Art. 5 of Lomé IV was the particular outcome of negotiations with the ACP states and there was no intention of repeating it in other treaties.

The conditionality clause in Art. 1 (1) of the treaty with Argentina, entitled 'democratic basis for co-operation' stipulated:<sup>37</sup>

"Co-operation ties between the Community and Argentina and this Agreement in its entirety are based on respect for the democratic principles and human rights,

which inspire the domestic and external policies of the Community and Argentina".

Also this clause leaves doubts if the suspension or termination of the agreement is possible in the case of human rights violations. The formulation 'based' does not clearly mean that human rights are essential for the achievement of the purpose of a treaty as required by Art. 60 (3)(b) VCLT.<sup>38</sup> Also a clear suspension clause was missing.

The suspension of the relations between the EC and the Republic of Yugoslavia in 1991 made it clear that the agreements concluded by the EC with third countries need a clear human rights conditionality clause.<sup>39</sup> A first consequence of this awareness was the May 1992 Council declaration which stated that human rights and democratic principles form an essential and integral part of relations between the EC and OSCE states and that there should be a clear conditionality clause.<sup>40</sup> It was suggested that agreements with OSCE states should contain, next to political conditionality and references to several OSCE documents, also a reference to the principles of the market economy. Following this declaration all agreements with OSCE states contained a clause that closely reflected the relevant provisions of the VCLT and left no doubt about the possibility of suspension or termination in case of violations of human rights or democratic principles. The first were included in the 1992 agreements with the Baltic states and Albania.

### The 'essential element clause'

There are variations among the 'essential element' clauses in use, even among the eleven PCAs that have so far been signed. The PCA with Russia, signed in June 1994 does not contain a reference to the principles of a market economy, although this was requested in the May 1992 Council declaration and the PCA with Ukraine, signed in the same month, does. These differences might be explained by Russia's stronger position in the negotiation and refusal to include such a reference.

Art. 2 of the PCA with Russia states:

"Respect for democratic principles and human rights as defined in particular in the Helsinki Final Act and the Charter of Paris for a New Europe, underpins the internal and external policies of the Parties and constitutes an essential element of partnership and of this Agreement."<sup>41</sup>

Art. 2 of the PCA with Ukraine mentions:

„Respect for the democratic principles of human rights as defined in particular in the Helsinki Final Act and the Charter of Paris for a New Europe, as well as the principles of market economy, including those enunciated in the documents of the CSCE Bonn Conference, underpin the internal and external policies of the Parties and constitute an essential element of partnership and of this Agreement".

The PCAs with Belarus, the three states of the Caucasus, and Kyrgyzstan, Kazakstan, and Moldova contain the following 'essential element clause':

„Respect for democracy, principles of international law and human rights as defined in particular in the United Nations Charter, the Helsinki Final Act and the Charter of Paris for a New Europe, as well as the principles of market economy, including those enunciated in the documents of the CSCE Bonn Conference, underpin the internal and external policies of the parties and constitute an essential element of partnership and of this Agreement.“

The PCA with Turkmenistan mentions in Art. 2:<sup>42</sup>

„Respect for democratic principles and fundamental and human rights, as defined in particular in the Universal Declaration of Human Rights, the United Nations Charter, the Helsinki Final Act and the Charter of Paris for a New Europe, as well as the principles of market economy, including those enunciated in the documents of the CSCE Bonn Conference, underpin the internal and external policies of the Parties and constitute an essential element of this agreement“.

A comparison shows that the EC in the first two and the last PCA refers to 'democratic principles' while it uses the term 'democracy' in the others. The return to the use of the phrase "democratic principles" seems to have been a deliberate decision because the Commission made clear in a 1998 communication, concerning the relations between the EU and the ACP states, that it is aware of the difference between the two terms and that it prefers the second.<sup>43</sup> It mentions that "by opting for the phrase 'democratic' principles rather than 'democracy', Article 5 of Lomë IV sought to emphasise the universally recognised principles that must underpin the organisation of the State and guarantee the enjoyment of rights and fundamental freedoms, while leaving each country and society free to choose and develop its own model... It is a defining characteristic of a democracy, whatever the system or model adopted, that it formalises a non-violent dialectic between the aspirations of the majority and those of a minority according to a body of rules accepted by all and based on respect for human rights and fundamental freedoms".<sup>44</sup>

The other differences between the four clauses mentioned above refer to the UN and OSCE documents and the principles of international law mentioned in some PCAs and missing in others. The absence of reference to the documents of the CSCE Bonn conference in the PCA with Russia has to be seen in relation with the absence of the reference to the principles of market economy. The 1990 Bonn conference concentrated on the economic dimension of co-operation.<sup>45</sup> The other differences, i.e. the reference to UN documents in all PCAs except Russia and Ukraine and the reference to the Universal Declaration of Human Rights in the PCAs with Turkmenistan while all other PCAs (except with Russia and Ukraine) refer only to the UN Charter, cannot be explained with different accessions dates to the relevant organisations. By the end of 1992, all NIS were members in the OSCE as well as the UN. While Russia took the seat of the Soviet Union, all other

NIS became new members in 1992.<sup>46</sup> It rather seems that the differences can be explained by the different times when the agreements were signed and are reflecting a development in the EC's formulation of conditionality clauses. The agreements with Russia and Ukraine were signed in June 1994 and have, except the reference to a market economy the same wording. The second group of PCAs were signed between late 1994 and 1996 (with Moldova, Belarus, Kazakstan, Kyrgyzstan, Uzbekistan, Armenia, Georgia, Azerbaijan) and contain the same wording of the clause, with references to the main OSCE documents as well as the UN Charter. At last, Turkmenistan's PCA was signed in 1998, and contains, different from the others also a reference to the Universal Declaration of Human Rights. Also the inclusion of 'principles of international law', mentioned in the case of the PCAs signed between late 1994 and 1996 seems to be just the result of a general development of the clause by the Commission. Some authors suggested that the reference to international law might have been caused by the Nagorny-Karabach conflict<sup>47</sup>, which does not explain the inclusion in the cases of the Central-Asian republics. Moreover, the agreements with Kazakstan and Kyrgyzstan were signed more than a year before the agreements with the Caucasian states.

#### Suspension Clauses in the PCAs

In addition to the 'essential element' clause the PCAs also contain a 'suspension' or 'non-compliance' clause, lying down the procedure to be followed in cases of human rights violations. These clauses are identical in all PCAs.

Art. 102 of the PCA with Ukraine stipulates:

„If either Party considers that the other Party has failed to fulfil an obligation under the Agreement, it may take appropriate measures. Before so doing, except in cases of special urgency, it shall supply the Cooperation Council with all relevant information required for a thorough examination of the situation with a view to seeking a solution acceptable to the Parties.

In the selection of these measures, priority must be given to those which least disturb the functioning of the Agreement. These measures shall be notified immediately to the Association Council and shall be the subject of the consultations within the Association Council if the other Party so requests.“

This type of suspension clause was first used in 1994 in the association agreements with Bulgaria and Romania.<sup>48</sup> It replaced the so-called 'Baltic suspension clause', used in the treaties with the Baltic states and Albania, which did not refer to the possibility of negotiations and demanded 'serious violations' of human rights.<sup>49</sup>

The 'appropriate measures' referred to in the clause mean a partial or complete suspension or the termination of the agreement. Important in the selection of the measure is to take into account the principle of proportionality, mentioned in the second paragraph of the clause.



The requirement to involve the Co-operation Council, which is a PCA institution consisting of EC/EU Council and Commission members and members of the government of the third state, is a reference to Art. 65 VCLT. It demands that when a treaty is suspended or terminated pursuant to Art. 60 VCLT, a period of not less than three months must be given except in cases of special urgency. On the one hand the necessity of negotiation between the EU and the respective NIS in cases of human rights violations has to be evaluated positively. Discussions and dialogue (as positive approach) might in the end be more productive to improve the human rights situation than a simple suspension or termination (negative approach). On the other hand, it was feared that a long-lasting procedure involving the Co-operation Council would render the non-compliance clause ineffective or inoperative.<sup>50</sup> For this reason a joint declaration, attached to a treaty, made clear that violations of human rights and democratic principles were 'cases of special urgency' that allowed for immediate reaction without necessary involvement of the negotiation procedure. The PCAs with Ukraine and Russia, both signed in June 1994, were the first agreements ever to include such a joint interpretative declaration. It is formulated as follows:

"The parties agree, for the purpose of its correct interpretation and its practical application, that the term "cases of special urgency" included in Art.102 of the Agreement mean cases of material breach of the Agreement by one of the Parties. A material breach of the Agreement consists in

- (a) repudiation of the Agreement not sanctioned by the general rules of international law or
- (b) violation of the essential elements of the Agreement set out in the Article 2.

The Commission's communication "on the respect of human rights and democratic principles in the relations with third countries" of May 1995<sup>51</sup> proposed that all future external agreement of the EC should contain a conditionality clause that had in fact been used in the PCAs with Russia and Ukraine, signed in June 1994. Firstly, it should consist of an essential element clause, which could include different elements and therefore, different from the May 1992 Council decision did not necessarily have to refer to the principles of market economy. The content of the essential element clause was put "at the discretion of the Council".<sup>52</sup> Secondly, there should be a suspension clause, with reference to negotiations (except in cases of special urgency). Thirdly, a joint interpretative declaration should clarify what constitutes a case of special urgency and material breach of the agreement.

#### Conditionality clauses in unilateral measures

EU measures laying down the provision of aid to third countries also contain conditionality clauses, which are because of the unilateral character of the measures differently formulated than the above discussed. Tacis is the programme laying down assistance

to the States of the Former Soviet Union. A conditionality clause is included in Art 16 of the Tacis regulation.<sup>53</sup>

When an essential element for the continuation of co-operation through assistance is missing, in particular in cases of violation of democratic principles and human rights, the Council may, on a proposal from the Commission, acting by a qualified majority, decide upon appropriate measures concerning assistance to a partner.

In a second paragraph Art. 16 lays down that suspension or termination of aid channelled through the Tacis programme is also possible if the third country violates obligations arising from the PCAs.

#### Conditionality in practice

Although the EU uses human rights clauses for several years, no treaty so far has been suspended solely because of human rights violations. There were some cases of treaty suspension with some ACP states (eg. Rwanda, Somalia, Sudan) but the suspension was not only because of the human rights violations, but because of a general non-fulfilment mixed with human rights violations (e.g. civil wars).

The TACIS conditionality clause on the other hand has been invoked in response to the constitutional crisis in Belarus in 1996. In that year the political situation deeply deteriorated with fundamental rights, like the freedom of assembly and speech being restricted. President Lukashenko enacted a new constitution that changed the balance of powers in his own favour and established what has been called a "constitutional dictatorship".<sup>54</sup> As a result the EU suspended all Tacis programmes except those related to democratic development, humanitarian aid, and regional programmes and halted the ratification process of the PCA and Interim Agreement. Next to this punitive or negative measure, a more positive one was looked for. In 1997 the Commission proposed a special "Civil Society Development Programme", that after two years of negotiation between the EU and the Belarusian government finally started to be implemented in late 1999.<sup>55</sup>

There are cases when agreements were not signed at all because of the rejection of the third party to include a human rights clause. Examples are the planned agreement with Australia and with New Zealand, which both refused to include a human rights clause and argued that such clauses are inappropriate for agreements between developed countries. In the end the planned agreements were substituted by a Joint Declaration which also referred to the respect of human rights but is not a legally binding document.<sup>56</sup>

It has been argued that the lack of invoking human rights clauses does not mean that they are not effective.<sup>57</sup> The main purpose does not lie in their invocation but in their threatening effect: having the stick but not using it. This effect is said to become especially obvious between the time of signing and the ratification of the treaty. The human rights clause puts a special obligation on the parties to ensure the respect for human

rights. If one party fails to perform positively, the ratification process can be halted until the situation improves.

As regards Russia, the ratification process fell in the time of the war in Chechnia. In January 1995 the European Parliament passed a resolution referring to the human rights clause and requesting the Commission and Council to halt the ratification process of the Interim Agreement until military attacks and massive human rights violations had ceased.<sup>58</sup> Subsequently, the Council made the signing of the Interim Agreement dependent upon the permanent presence of the OSCE in Chechnia, on allowing humanitarian aid to enter the country, on a cease-fire, and on a serious search for a political solution to the conflict. But while the OSCE mission reported continued human rights violations at the end of March 1995 and the European Parliament still conceived signing the Interim Agreement and ratification of the PCA as impossible in mid July 1995, the European Council of June 1995 formally decided to sign the Interim Agreement. This was eventually done in July 1995 and the Interim Agreement entered into force in February 1996.<sup>59</sup> By November 1995 the European Parliament gave its assent to the PCA, mentioning the continuation of the cease-fire in Chechnia as justification for its decision.<sup>60</sup>

In 1999 Chechnia a second time triggered discussions on the invocation of the PCA's human rights clause. At the European Council meeting in Helsinki in December 1999 a statement was issued condemning the situation in Chechnia and qualifying the situation as "totally unacceptable".<sup>61</sup> The European Council mandated to review the Common Strategy on Russia<sup>62</sup>, to suspend some provisions of the PCA and to transfer some Tacis funds towards humanitarian assistance and to priority areas like human rights, the rule of law, support for civil society and nuclear safety. Even the suspension of the Most Favoured Nation (MFN) status and the withdrawal of the customs preferences under the Generalized System of Preferences (GSP) were discussed. But when the Council of Ministers met at the end of January 2000, one month after the Helsinki European Council, no initiative had been taken, except some very small and unimportant 'pseudo-sanctions'. The ratification process of the PCAs with the Central Asian Republics and the Caucasus States lasted even longer than with Russia. While these PCAs have either been initialled or signed in 1995 or 1996, the European Parliament blocked their ratification for three to four years. It finally gave its assent in 1999 and all agreements entered in force on the same day, July 1, 1999.<sup>63</sup>

In the cases of Belarus and Turkmenistan the ratification is still blocked. In these cases the EU tries to encourage the two states to improve their human rights record as well as to introduce democratic standards. So far one cannot observe any success of this endeavour, since the political situation and human rights standards have not improved in neither state.

## Evaluating the EU's use of conditionality clauses

The examples, especially the one of the EU's approach to the war in Chechnia, point to several weaknesses in the EU's application of conditionality clauses. Firstly, it shows that a clear definition of what is a violation of human rights and democratic principles is missing. The different EU institutions applied different standards in one and the same case, with the Parliament seemingly pursuing a stricter policy than the Council and the Commission. The same has been observed with regard to ACP states, where in some cases the Commission suggested to use the stick, but the Council opted for the carrot.<sup>64</sup> Also, different standards are used with regard to different countries. The lack of democracy in Uzbekistan does not seem to be given as much attention as it is in case of Belarus, human rights violations in Turkmenistan seem to be considered differently than in Russia and Ukraine. According to the Freedom House ranking of 2001 all three states form the group of 'consolidated autocracies'.<sup>65</sup>

This relates to a second issue, namely that human rights are not a trump which always and everywhere prevails, but that the EU's actions are led by other, like political, economic, or security-related considerations as well. Because Russia is a powerful European actor, the EU as soon as possible wanted to establish closer political and economic relations and to put the PCA in force. Also the decision to enlarge to the East taken in 1993 played a role, since it would eventually shift the external EU borders closer to Russia and the Western NIS. These aspects necessitated the EU to take a less strict approach to Russia in cases of violations of human rights and democratic principles.

Thirdly, the examples show that the EU after a certain – longer or shorter – time anyway ratifies agreements, irrespective whether the human rights situations has improved or not. This becomes particularly obvious in the case of the Central Asian republics, where the ratification of the PCAs was halted for three to four years. After this period, all PCAs were ratified at the same time, disregarding the lack of improvements of the human rights and democratic situation.<sup>66</sup> Similarly in the case of Russia, the European Parliament ratified the PCA in November 1995 referring to the continuation of the cease-fire, despite its earlier more far-reaching demands.

Fourthly, in each case the EU seems to focus on one particular issue and at the same time disregard other irregularities in the same country that would also fall under the conditionality clause. Third states are made believe that with improving this particular issue they will get the benefit and that other issues do not count – and in fact it happens like that. This is problematic, because with giving the benefit, i.e. ratifying the agreement, the anticipatory force of the conditionality clause is gone and what remains is only the possibility it negatively, i.e. to suspend or terminate it.



## Conclusion

Generally it has to be evaluated positively that human rights and democratic principles gained an important place in the EC's external relations. While they have been absent until the early 1990s, they form now part of nearly all external agreements, particularly in the form of conditionality clauses. The formulation of such clauses the EC has adopted during the 1990s is composed of an 'essential element' clause, a 'suspension' clause and a 'joint declaration'. Together, they are broadly accepted as a clear and proper basis allowing for a suspension or termination of agreements in cases of human rights violations in conformity with international law (VCLT).

More problematic and a real challenge for the future is the application of the clauses. The examples presented in this paper show that the EC/EU lacks a clear catalogue of what constitutes a breach of human rights and democratic principles. The different institutions apply different parameters. Moreover, different standards are applied to different countries, showing that human rights still rank second after economic and security-related issues. It seems that the Parliament and the Commission pursue a stricter policy than the Council. From a Realpolitik point of view the EU's approach could be understandable, but from a human rights and democracy point of view it just cannot.

In order for a human rights policy to be effective, conditionality has to be applied according to the EU's own parameters in an "objective and equitable" manner, as well as consistently.<sup>67</sup> Otherwise the EU risks that a very useful instrument to foster more protection of human rights and democracy remains ineffective.

## Endnotes:

<sup>1</sup> The European Economic Community (EEC) was founded by its six original Member States (Germany, France, Italy, the Netherlands, Belgium and Luxembourg) in 1958 as a mainly economic organization. In 1992 the EEC's then already 12 Member States founded the European Union (EU) which added a political dimension to the existing framework of relations between these European states. In particular, the EU established the Common Foreign and Security Policy. At the same time it renamed the original EEC into European Communities (EC). Depending on the subject discussed and related competence, this paper refers to both, EC and EU. See e.g. P. Graig and G. de Búrca: *EC Law: Text, Cases and Materials*, 2nd ed., 1998.

<sup>2</sup> Council regulations 975/1999 and 976/1999, OJ L 120, 1999, pp.1 and 8.

<sup>3</sup> D.J. Marantis: Human Rights, Democracy, and Development: The European Community Model, in: *Harvard Human Rights Journal*, vol. 7, Spring 1994, p. 1.

<sup>4</sup> The EU includes the Baltic States in the group of the Central and Eastern European Countries (CEEC) and has concluded association agreements also known as 'Europe Agreements'. They are applicants for EU membership.

<sup>5</sup> As regards Russia and Ukraine the EU has issued Common Strategies, which are a second main instrument regulating the relations between the two parties. OJ L 157, 1999, p. 1 and OJ L 331, 1999, p. 1. There are also bilateral agreements on more specific topics with all NIS, like on textiles. See e.g. the textiles agreement with Armenia: OJ L 123, 1994, pp. 64-91.

<sup>6</sup> OJ L 68, 1990, p. 1.

Only the PCAs with the Western NIS contain a reference that after some time and further negotiations a free trade area might be possible. The reference is missing the other PCAs. See e.g. Art. 3 of the PCA with Russia: "The Parties undertake to consider developments of the relevant titles of this Agreement, in particular Title III and Article

53, with a view to the establishment of a free trade area between them", OJ L 177, 1990, p. 1. Cf. Hillion: *Partnership and Cooperation Agreements between the European Union and the New Independent States of the Ex-Soviet Union*, EFA Rev., 3, 1998, p. 404.

<sup>8</sup> See for example the Committees created by the PCA with Ukraine. Arts. 85 to 97 OJ L 49, 1998, p. 5.

<sup>9</sup> See for example Art. 1 of the PCA with Russia:

"...The objectives of this Partnership are:

...  
- to support Russian efforts to consolidate its democracy and to develop its economy and to complete the transition into a market economy. ..."  
OJ L 327, 1997, p.3

<sup>10</sup> The dates when the PCAs were signed are: with Russia on 24.06.1994, with Ukraine on 16.06.1994, with Belarus in March 1995, with Moldova on 28.11.1994, with Georgia, Armenia and Azerbaijan on 22.04.1996, with Uzbekistan on 21.06.1996, with Kyrgyzstan on 09.02.1995, with Kazakstan on 23.01.1995 and with Turkmenistan in May 1998.

<sup>11</sup> For the text of the PCAs see: Russia OJ L 327, 1997; Ukraine OJ L 49, 1998; Moldova OJ L 181, 1998; Armenia OJ L 239, 1999; Azerbaijan OJ L 246, 1999; Georgia OJ L 205, 1999; Kazakhstan OJ L 196, 1999; Kyrgyz Republic OJ L 196, 1999; Uzbekistan OJ L 229, 1999.

<sup>12</sup> The term 'mixed agreement' may also refer to an agreement which has been concluded by the EC or by the Member State alone. The important issue is that this agreement concerns fields for which the EC and the Member States share competence, not that they both signed the agreement. See: P. Graig and G. de Búrca: *EC Law: Text, Cases and Materials*, 2nd ed., 1998, p.117-118

<sup>13</sup> Art. 133 EC-Treaty gives the EC exclusive competence to conclude trade agreements and does not require the consultation or assent of the European Parliament. See Arts. 133 and 300 EC-Treaty.

<sup>14</sup> Political conditionality is the linking, by a state or international organisation, of perceived benefits to another state (such as aid), to the fulfilment of conditions relating to the protection of human rights and the advancement of democratic principles. K. Smith: *The Use of Political Conditionality in the EU's Relations with Third Countries: How Effective?* in *EFA Rev.*, 3, 1998, p. 256.

<sup>15</sup> See e.g. the Fourth Lomé Convention of December 1989, which declared that each state should retain the right "to determine its own political, social, cultural and economic policy options". OJ L 229, 1991, p. 3 and L. Caillie: *The European Community and the Developing Countries*, 1993, p. 102.

<sup>16</sup> OJ L 68, 1990, p. 3.

<sup>17</sup> In some exceptional cases the EC reacted to grave violations of human rights in third countries already before the 1990s, e.g. in Uganda in mid 1970s, in South Africa in 1985 and 1986 and in China in 1989. The Community did agree that some measures should be taken if an ACP state systematically violates human rights.

<sup>18</sup> O. Stokke, *Aid and Political Conditionality: Core Issues and State of the Art* in: O. Stokke (ed.): *Aid and Political Conditionality*, 1995, pp. 9-10.

<sup>19</sup> EP Resolution for the year 1983/84 on human rights in the world and Community policy on human rights, in OJ C 172, 1984, p. 38.

<sup>20</sup> Bull. EC 6-1991, I, 45.

<sup>21</sup> Resolution of the Council of the Member States meeting in the Council on Human Rights, Democracy and Development. Bull. EC 11-1991, 2.3.1.

<sup>22</sup> Bull. EC 5-1992, I.2.12.

<sup>23</sup> Art. 5 EC-Treaty: "The Community shall act within the limits of the powers conferred upon it by this Treaty and of the objectives assigned to it therein."

<sup>24</sup> See case C-268/94 *Portugal v. Council*, in which the ECJ made clear that human rights and democracy clauses in the form of essential element clauses can be included in an agreement if it concerns development co-operation.

<sup>25</sup> The EC-Treaty does not define what a developing country is. Applying an inverse interpretation of Art 177 the NIS in fact could fall under the EC-Treaty development provisions. However the Community puts them into a different category: countries in transition.

<sup>26</sup> M. Novak: *Human Rights 'Conditionality' in Relation to Entry to, and Full Participation in, the EU*, in: Ph. Alston: *The EU and Human Rights*, 1999, p. 687.

<sup>27</sup> E. Riedel and M. Will: Human Rights Clauses in External Agreements of the EC, in: Ph. Alston: *The EU and Human Rights*, 1999, p. 736.

<sup>28</sup> Riedel and Will, 1999, p. 736

<sup>29</sup> A. Ward: Frameworks for Co-operation between the European Union and Third States: a Viable Matrix for Uniform Human Rights Standards? *EFA Rev.* 3, 1998, p.531. She bases her arguments on a very restrictive interpretation of Opinion 2/94 and case *Portugal v. Council*.

<sup>30</sup> See: M. Cremona: *The EU and the External Dimension of Human Rights Policy*, Bristol Forum III.

<sup>31</sup> Riedel and Will, p. 735.

<sup>32</sup> The EC could not sign the VCLT because it can only be signed by states. It is nevertheless (for most parts) binding for the EC, because it has become part of customary international law Riedel and Will, 1999, p. 723f.

<sup>33</sup> Riedel, and Will, 1999, p. 724.

<sup>34</sup> OJ L 229, 1991, p. 3.

<sup>35</sup> Riedel and Will, 1999, p. 728.

<sup>36</sup> OJ L 295, 1990, p.67.

<sup>37</sup> The same wording was used in agreements with Chile, Uruguay, Paraguay and some Asian countries, Mongolia and Macao. E. Fierro Sedano: *The EU's Approach to Human Rights Conditionality in Practice*, PhD Dissertation, EUI, 2001, p. 227.

<sup>38</sup> Riedel and Will mention that some authors perceive this clause as being clear enough to suspend or terminate an agreement. Riedel and Will, 1999, p. 728.

<sup>39</sup> In reaction to the break-out of the war in Yugoslavia in 1991, the Council suspended the then existing agreement with immediate effect on the basis of 'clausula rebus sic stantibus', which turned out to be problematic. Fierro Sedano, p. 230.

<sup>40</sup> Bull. EC 5-1992, I.2.12.

<sup>41</sup> OJ L 327, 1997, p. 3.

<sup>42</sup> OJ C 50, 1998, p. 2.

<sup>43</sup> Communication from the Commission to the Council and the European Parliament: *Democratization, the rule of law, respect for human rights and good governance: the challenges of the partnership between the European Union and the ACP States*, Brussels, 12.03.1998, COM (1998) 146 final.

<sup>44</sup> Ibid.

<sup>45</sup> [http://www.osce.org/docs/english/1973-1990/other\\_experts/bonn90e.htm](http://www.osce.org/docs/english/1973-1990/other_experts/bonn90e.htm)

<sup>46</sup> Ukraine and Belarus were next to the Soviet Union original members in the UN <http://www.un.org/Overview/unmember.html>

<sup>47</sup> Riedel and Will, p. 743.

<sup>48</sup> OJ L 358, 1994, p. 3.

<sup>49</sup> See Art. 21 of the agreement with Albania: "The parties reserve the right to suspend this Agreement in whole or in part with immediate effect if a serious violation occurs of the essential provisions of the present agreement". OJ L 343, 1992, p. 2.

<sup>50</sup> Riedel and Will, 1999, p. 730.

<sup>51</sup> COM(95)216.

<sup>52</sup> COM(95)216 final, footnote 9, p. 13.

<sup>53</sup> OJ L 12, 18.1.2000, p. 1. The acronym Tacis stands for 'Technical assistance for the Commonwealth of Independent States'. The first unilateral measure foreseeing aid for the Soviet Union, and therefore for-runner of the Tacis regulations, was adopted in 1991.

It did not contain a conditionality clause. The first Tacis regulation of 1993 contained a conditionality clause.

<sup>54</sup> Nations in Transit 1998, [www.freedomhouse.org](http://www.freedomhouse.org).

<sup>55</sup> [http://europa.eu.int/comm/external\\_relations/belarus/intro/index/htm](http://europa.eu.int/comm/external_relations/belarus/intro/index/htm).

<sup>56</sup> Fierro Sedano, 2001, pp.

<sup>57</sup> Riedel and Will, 1999, p. 739.

<sup>58</sup> The Interim Agreement contains the trade related provisions of the PCA and does not require ratification by all national parliaments since it falls in the exclusive competence of the EC. Moreover, the European Parliament does not have to be consulted in the case of the Interim Agreements, because it is a mere trade agreement based on Art. 133 EC-Treaty. For the ratification of the PCA, the European Parliament has to give its assent (Art. 300 (3) EC-Treaty post Amsterdam).

<sup>59</sup> The Interim Agreement contains the trade related provisions of the PCA and does not require ratification by all national parliaments since it falls in the exclusive competence of the EC. Moreover, the European Parliament does not have to be consulted in the case of the Interim Agreements, because it is a mere trade agreement based on Art. 133 EC-Treaty. For the ratification of the PCA, the European Parliament has to give its assent (Art. 300 (3) EC-Treaty).

<sup>60</sup> Riedel and Will, 1999, pp. 741-742.

<sup>61</sup> Presidency conclusions of the Helsinki European Council, 10 and 11 December 1999, Annex II <http://ue.eu.int/cn/Info/eurocouncil/index.htm>.

<sup>62</sup> The Common Strategy on Russia outlines the EU's policy towards that country. [http://europa.eu.int/comm/external\\_relations/ceeca/com\\_strat/russia\\_99.pdf](http://europa.eu.int/comm/external_relations/ceeca/com_strat/russia_99.pdf).

<sup>63</sup> [http://europa.eu.int/comm/external\\_relations/ceeca/pca/index.htm](http://europa.eu.int/comm/external_relations/ceeca/pca/index.htm)

<sup>64</sup> Fierro Sedano, 2001, pp. 400-401.

<sup>65</sup> Nations in Transit 2001, [www.freedomhouse.org](http://www.freedomhouse.org)

<sup>66</sup> Nations in Transit 1998 and 2001, <http://www.freedomhouse.org>

<sup>67</sup> See Resolution of the Council and the Member States meeting in the Council on Human Rights, Democracy and Development, Bull. EC 11-1991, 2.3.1.

## Constructive and Destructive Aspects of Batken conflict in 1999-2000. Experts' Opinion

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### Introduction and Problem Statement

In the beginning of August 1999, on the southern territory of Kyrgyzstan an unpredictable and shocking conflict burst out. International terrorists of Islamic Movement of Uzbekistan intruded into the territory of Kyrgyzstan. Many of the citizens of the country saw this bloody conflict as destructive and called it a war. Indeed, the Kyrgyz people lost their soldiers in the conflict, there were many refugees and the government had to allocate financial resources in order to solve the conflict. This was aggravated by the fact that Kyrgyzstan is going through an economic crisis and is a developing country. However, according to the social theory of conflict, every conflict, whatever it is, interpersonal or international, has both destructive and constructive functions.

The main goal of my research is to identify the destructive and constructive functions carried out by the Batken conflict in 1999-2000. Perhaps, this is one of the most correct ways to see the weak and strong sides of the Kyrgyz side in this military conflict. The research adheres to the complicated and constructive approach to the understanding of conflict, the one that examines conflict as a many-dimensional social phenomenon, which is an inalienable feature of human existence important for the progressive processes of history, social change and transformation

### Methodology

In research in order to identify constructiveness and destructiveness of the conflict in Batken method of in-depth interviews was used. The number of experts interviewed is 12 people (*see annex*). The experts are divided into four groups: politicians and military men who took part in the military operations, journalists, who wrote articles on the events and independent observers from public organizations.

### Research Findings

It should be admitted, that in the course of the research it was sometimes difficult to draw a clear line between the constructive and destructive sides of the conflict as the constructive ones always bear an element of destructiveness, and vice versa. For instance, all experts noted that, in general, the population had displayed the growth of patriotism and unity, but at the same time they mentioned the facts of corruption among the politicians and other officials with regard to the humanitarian aid provided to the inhabitants of Batken and the fighting soldiers. Also, together with the solidarity of the nation there

was evident the growth of migration not only among the Russian ethnic population, but also among other ethnicities.

### The Constructive Aspects of the Conflict

The first important constructive aspect of the conflict, in the opinion of all experts, is that the war actions in Batken in 1999-2000 gave a strong impulse for the development of the national army. This was initiated by means of a peculiar military reform when an urgent need for development of the military system of defense in the country was realized. The military men and politicians told that prior to the commencement of military actions in Batken (in 1997), the President of the Kyrgyz Republic, Askar Akayev, had made a proposal to disband the National Army and to retain the National Guard only. This proposal was justified not only by the forced yearly spending of the state budget for the maintenance of the army, but also by the fact that, in fact, Kyrgyzstan had no one to defend itself against and, consequently, the army is simply unnecessary. So the conflict had shown that due to the country's geopolitical location, the army is needed, and not merely a symbolic army but a well-equipped and capable of working even in the most difficult conditions: in snow-covered mountains and under severe weather conditions.

Certainly, all experts mentioned the growth of patriotism among the people of Kyrgyzstan as a positive aspect. Patriotism was displayed everywhere: from humanitarian aid coming from all the regions of the country to the soldiers-volunteers that were ready to risk their lives protecting the motherland.

Furthermore, according to the experts, the growth of patriotism had also facilitated the unity of the people. Various foundations and charitable organizations comprising people of different ethnicities had been established. That is to say that not only ethnic Kyrgyzs, but also Russians, Koreans, Dungans and other ethnic groups<sup>1</sup> were interested in the resolution of the conflict in the territory of Kyrgyzstan.

The military actions also made it clear that the borders between the states - Kyrgyzstan and Tajikistan - are of administrative, not state, nature. There arose a big and important issue of delimitation of state borders, which requires the most urgent resolution as it threatens with an emergence of further conflicts with the neighboring republics and the loss of the country's southern territories.

Furthermore, it is worthwhile to mention the proliferation of international relations with the neighboring states. In the opinion of some of the experts, the international relations have improved, though many still think that the relations with such states as Tajikistan, Uzbekistan and Kazakhstan had worsened and became more tense. Those who tend to think that the international relations had improved base their beliefs on the number of important unions formed and a set of agreements for consolidation of military forces for joint struggle against the international terrorism and peacekeeping in the Central Asian



region signed. This vital agreements and unions necessary for the purposes of protection of the sovereignty of other states in case if the conflict actions of IMU expand.

Summarizing all of the above constructive aspects of the conflict, it is possible to say that Kyrgyzstan is capable of giving a stronger rebuff to international terrorism in the near future, than that of the past year. This process of defense will not be as painful as it was in 1999-2000. However, it needs to be admitted that for the time being Kyrgyzstan is only able to defend itself but not to destroy these bandit formations.

### **The Destructive Aspects of the Conflict**

While identification of the constructive aspects of the conflict required a deep analysis of the situation, the destructive aspects are evident. The human casualties among the civilian population and soldiers were the most tragic feature of this conflict. Overall, fifty military men of various ranks died and seventy-seven were wounded during the Batken events of 1999-2000.

In the beginning, in August of 1999, when the gunmen first intruded into the territory of Kyrgyzstan, the loss of military men during the fighting was to some extent due to the poor coordination of the defensive actions and lack of clear separation of functions and duties between the power structures of the country: the militia, Ministry of Emergencies and Ministry of Defense. In light of this, along with human deaths there were vast financial losses.

Since the conflict and the military actions that started in 1999 were unexpected, the country's budget had not provided for the expenses for defensive activities, which entailed additional, unplanned spending. The funds for the defensive procedures were sought out at the expense of the 1999 social spending budget and from other sources.

As the military actions started, the number of people willing to emigrate from the country increased. By 30<sup>th</sup> of August of 1999 (the conflict had commenced in the first week of August 1999) large masses of people, most with higher education, had gathered in front of the Russian embassy. The spring of 2000 became crucial for Kyrgyzstan in terms of outflow of people. During that year 17,986 ethnic Russians had left for Russia<sup>2</sup>. Overall, the Embassy received 43,588 applications for immigrating to Russia. There was also a trend of increased internal migration from Batken region into other regions of the country and a downfall of immigration to Kyrgyzstan.

The unstable situation that formed in Kyrgyzstan, according to the experts, makes the country unattractive for foreign investors. This fact, in the opinion of Modumarov, has already been confirmed in practice and resulted in decrease of foreign investment in Kyrgyzstan. Certainly, the conflict in Batken was not the only reason for reduction of monetary injections into the country but, nevertheless, it was the dominant one.

Moreover, this conflict, in Tursunbai Bakir Uluu's opinion, had shown who they were. That is to say that while countries like Armenia, United States of America, Russia and China had been rendering all possible support, no aid was received from Uzbekistan. This had demonstrated the real face of the president of Uzbekistan, Islam Karimov and as a consequence.

In general, during their interviews, the experts expressed a number of various viewpoints, with regard to the conflict studied, which, however, did not fall under the purposes of the present research. Since this conflict is of international nature and touches upon the interests of and presents danger not only to Kyrgyzstan and the neighboring republics but to the international public as well, it needs to be studied on the international scale.

### **Endnotes:**

<sup>1</sup> This is a list of ethnicities that were mentioned by the experts during the interviews. No ethnic group was neither added nor subtracted by the author.

<sup>2</sup> Net migration rate for Kyrgyzstan: - 2,81 migrants / 1,000 pop., <http://www.geocities.com/naryn1998/kyrgyzstan.html>, last accessed on 22 of April, 2002.

### **Annex**

#### **List of Interviewed Experts**

##### **Politicians**

1. Tursunbai Bakir Uluu, Deputy of Legislative Chamber of Parliament, Bishkek;
2. Modumarov Adaham Kimsanbaevich, Deputy of Legislative Chamber of Parliament, Bishkek;
3. Bailo N. S., Deputy of Legislative Chamber of Parliament (Communist Party), Bishkek.

##### **Military men:**

1. Abdyldaev Almazbek, Private Soldier, Bishkek;
2. Chotbaev Abdygul, Lieutenant-general, KR's National Guards Commander, Afghan Officer, Bishkek;
3. Kurmanov Alibek, Army Group Commander, Bishkek.

##### **Journalists:**

1. Bezborodova O., Editor Assistant, reporter of "Utro Bishkeka" newspaper, Bishkek;
2. Sidorov N., reporter of "Slovo Kyrgyzstana" newspaper, Bishkek;
3. Toktorbaeva K., reporter of "Asaba" newspaper, Bishkek.

##### **Public Observers:**

1. Bekkulov A.S., Youth Organization's Leader, Bishkek.

2. Birimkulov J. B., Acting Director of social fund "For International Tolerance", Bishkek;

3. Yakovleva S.V., "International Cooperation of Russia with Central Asian States" (NGO), Moscow.

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## Kazakhstan as an Independent and Sovereign State Became a Part of International Community: Ratification of Kyoto Protocol

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**“Think globally – act locally”**  
U Tan, 1969

### 1. Introduction

Big influence on the environment became one of the main characteristics of technology evolution and technical progress, especially after the WWII. Industrial development is the basis of economic development and growth. However it was going without taking into account that resources are limited and some day can be exhausted. ‘Today the threat came from the environment. It has a global character and touches all countries, the whole civilization.’ (Houds, G. and Dolgih, S, 2000:10)

In the beginning of 1980s the growth of concern of scientists in the world about possible irreversibility of the global warming process forced to undertake the international efforts on mitigation of influences on a climate and negative consequences of its change. So now the international community is working out programs on solving this problem. And Kazakhstan participates in it.

10 years of Kazakhstan independence have passed. During that time Kazakhstan was developing as a state. As any independent and sovereign state Kazakhstan becomes a part of international community in different problems. And the goal of my research is to show that Kazakhstan is really becoming a full member of the world community in one of the global problems.

Threats of global warming, stratospheric ozone depletion, accumulation of toxic chemicals and hazardous wastes in the ground forced humans to think is it possible to live like this further?

I want to focus on the problem of Global Climate Change, in particular global warming. I will show how Kazakhstan participates in solving this problem, what work is being done about this issue. I will try to analyze what particular internal policies should Kazakhstan government make for full realization of its obligations connected with Kyoto protocol (what amendments and changes in existing Kazakhstan legislation should be made). This paper seeks to introduce some analysis of Kazakhstan participation in solving of the problem of global warming and necessary actions to make it more progressive. After a general description of the greenhouse effect, the consequences of global warming and an observation of the work of the international community on this issue in the first and second part, the last part of this study focuses on the work that is being done about this issue in Kazakhstan.

There are some pictures that briefly explain the greenhouse effect in appendix. Some background information is taken from a report for the club of Rome’s club project on the predicament of mankind “The Limits to Growth” (1972) and modern critical articles on it.

Also the third part contains an analysis of what particular internal policies the Kazakhstani government should make for full realization of its obligations connected with the Kyoto protocol, will they be effective or not.

The main sources of this information are ecological journals and newspaper articles, survey and interview.

This part will also question the two different views on the sources of global warming: is it induced by human activities or is it simply a natural process. Is it really necessary for RK to participate in Kyoto mechanisms? Or is it just a waste of time, money and labor? This question is very important.

Even if there is no strong evidence humans cause that global warming, people should nevertheless “clean up their acts” and try to find rational ways of eliminating causes of pollution.

A start has been made. World leaders issued statements and urged action. Petitions were signed; placards were waved, but very little of a substantive nature has been done so far to ward off the coming environmental catastrophe. The government of RK as well as the international community has started working on this issue, which means that the target should be reached. But it is just the first stage and nobody knows if this actions (Kyoto protocol) are absolutely right or wrong. In my opinion, no matter, with protocol or without it, an international politics needs to make some decisions as soon as possible and to make the work more progressive people should talk about this issue; we should inform each other to make everybody concerned about it. There is almost no access to ecological information in Kazakhstan. So, the main goal of Kazakhstani government is to create this access and that is the central point of my research.

In the beginning I will give you some background information about the origin of this problem of global warming.

### 2. Background

#### 2.1. Greenhouse effect

‘The Earth has a natural temperature control system. Certain atmospheric gases are critical to this system and are known as greenhouse gases. On average, about one third of the solar radiation that hits the earth is reflected back to space. Of the remainder, the atmosphere absorbs some but most is absorbed by the land and oceans. The Earth’s surface



becomes warm and as a result emits infrared radiation. The greenhouse gases trap the infrared radiation, thus warming the atmosphere. Naturally occurring greenhouse gases include water vapour, carbon dioxide, ozone, methane and nitrous oxide, and together create a natural greenhouse effect.' (UNEP,1995 ) *Picture 1*

Note: Greenhouse gases are mixed throughout in the atmosphere. For pedagogical reasons they are depicted here as a layer.

## 2.2. Global warming as a result of carbon dioxide pollution

The greenhouse effect theory of climate is not new. The French mathematician Jean Fourier was the first who innovated this concept in 1822. Later in the 19<sup>th</sup> century scientists discovered that the heat-trapping component of our atmosphere is carbon dioxide. In 1897 the Swedish chemist S.A Arrhenius calculated that a doubling of the present amount of atmospheric CO<sub>2</sub> would result in a warming of the Earth temperature of 4 to 6 degrees and catastrophic environmental changes.

There are two points of view on the causes of global warming.

A lot of scientists call for accurate examination of the whole greenhouse concept before we plunge into any sort of huge program for purifying our atmosphere. As William M. Gray, a professor of atmospheric science at Colorado, said this warming is likely a result of the natural alterations in global ocean currents which are driven by ocean salinity variations. Ocean circulation variations are little understood and human kind has nothing to do with the recent temperature changes.

But the majority of scientists think that Global warming of the Earth is a result of the Greenhouse effect and that human activities are causing greenhouse gas levels in the atmosphere to increase by carbon dioxide pollution. They consider global warming as a human induced problem.

## 2.3. Current and possible consequences of the Global warming

The results of this carbon dioxide pollution are already significant. We have increased levels of carbon dioxide (CO<sub>2</sub>), the primary global warming gas, in our atmosphere by 30 percent (Randers,J., 1991) in the past 100 years. Some regions of the world have already warmed by as much as 5 degrees Fahrenheit.

Today there is a number of consequences of global warming:

1) Millions of people worldwide may die from heat and disease as global warming worsens.

2) Global warming could mean more people around the world will become infected with malaria.

3) Thawing ice in the seas and warming of the top water layer a sea level will increase on meter, which will be catastrophe for over populated coastal regions.

4) Scientists are already finding that the number and intensity of extreme weather events are increasing. For example, events such as the deadly stretch of hot days that killed 669 people in the Midwest during the summer of 1995 and 250 in the Eastern United States in July 1999 are likely to become more common.

5) 'The climate in the Antarctic region has changed rapidly in the last 50 years. The region has experienced a 2.5 degree Celsius rise in average temperatures - an increase greater than for any location in the Southern Hemisphere.' Dr Vaughan. (BBC, 2002). UK scientists reported on March 20<sup>th</sup> 2002 that an Antarctic ice shelf that was 200 meters thick and with a surface area of 3,250 square kilometers has broken apart in less than a month.

'Researchers from the British Antarctic Survey (Bas) predicted in 1998 that several ice shelves around the peninsula were doomed because of rising temperatures in the region but the speed with which the Larsen B has gone has shocked them.' (BBC, 2002) The accounts made with the help of modern climatic models, certainly are not perfect, and can not completely take into account changes of the Earth greenhouse, however show, that approximately in the middle of new century average temperature of the terrestrial surface can raise on 1,5-5C°.

All that led to increasing concern of international community over the global warming

## 3. The work of international community

The slogan " To think globally and act locally" was proclaimed by the Rome club which believed that local measures would in general make it possible to avoid an ecological catastrophe. 'However, the state of the environment continues to deteriorate in a majority of countries across the world. To avert an environmental catastrophe actions, arising from the global analysis, are needed.' (Danilov, 1997,6)

The United Nations is one of the international organizations that plays an important role in developing steps for solution of global ecological problems.

Major steps of the work of the international community are shown in Appendix in table #1.

#### 4. Work on global warming issues in Kazakhstan

##### 4.1 Kyoto protocol

Already in 1992 the UN Framework Convention on Climate Change (Rio Convention) was agreed and Kazakhstan ratified it with the objective of stabilization of greenhouse gas (GHG) concentrations in the atmosphere.

Kazakhstan has recently announced its intention to join the list of countries of the Framework Convention on Climate Change (FCCC) and the Kyoto protocol by joining the Kyoto Protocol on March 12, 1999.

There are three Kyoto Mechanisms (flexible economic mechanisms) that were determined during the Conference:

- a) **“Joint implementation** Industrialized countries can invest in clean technology projects in other countries whose economies are in transition, such as India. (Countries of Appendix I UNFCCC) (see Appendix Table #3)
- b) **Clean Development mechanisms** Industrialized countries can claim emissions credits for climate-friendly technology projects in the developing world (countries, not included in Appendix I, can help countries of Appendix I) (Appendix Table #3)
- c) **Emissions Trading** - Countries that expect to meet their targets can sell their spare emission rights to other signatory countries.” (BBC, 2001) (Countries of Appendix B) (Appendix Table #3)

39 developed countries will reduce their emissions of CO<sub>2</sub> by buying the extra permits (quotas) from the developing countries to balance their emissions. Because the emissions' reduction costs in their country might be too high.

The main feature of the Kyoto protocol lies in determining flexible mechanisms for emissions trading. It enables industry to achieve specified reductions in GHG emissions in the most economically efficient way. So the emissions trading mechanisms will help to increase economic efficiency. The rules for emissions trading mechanisms are the subject of intensive international debate and negotiation.

All countries, which ratified this protocol, are divided into three groups depending on which of these mechanisms they chose.

“When it ratified the Kyoto Protocol in 1997 this committed developed countries to reducing their emissions of six GHG by 5.2% from 1990 levels over the period 2008-2012.” (Houde, 2000:14)

The Republic of Kazakhstan ratified the UN Framework Convention on Climate Change in May 1995. ‘As the United Nations’ WHO (2000) reports for Kazakhstan, this means first of all its participation in greenhouse gas emissions trading; second, the possibility of starting negotiations with potential partners in joint projects and quantified emission trading; and third the political advantage of being the focus of developing countries.’

##### 5. What should the Kazakhstani government do now to realize the Kyoto target?

We can say that the start of work has been made, ‘but a national and well-organized environmental movement in Kazakhstan remains a distant ideal. Taking into account deep socio-economic problems in Kazakhstan the prospects for the development of a strong environmental policy appear to be slim.’ (Kuratov, 1999, 3:9) Why is it so?

According to Meadows (1991), interests of people living on the Earth differ in time and space. Rome’s club had tried to show this difference on the graph. (see Appendix Table #2)

The interests of the majority are concentrated on the issues concerning their family and friends during a short period of time. Others look forward to the future and observe wider space – city or country; and very few people are interested in global issues in the far future.

The type of people’s interest depends on their culture and conditions in which they live. As there is an economic and social crisis in Kazakhstan many of the people are mainly concerned with their own survival and do not have time to think about a healthy environment.

One of the main goals of my research was to investigate what particular internal policies should Kazakhstan government make and what are the major challenges. So I conducted a research of the involvement of KIMEP students in ecological problems of Kazakhstan. The hypothesis was that not so many students know about the problem of global warming and are well ecologically educated. I included in the sample about 60 Bachelors 1-3. My hypothesis was not rejected.

My questionnaire (see Appendix #5) made of KIMEP students has shown:

- 1) 90% of students do not consider themselves as ecologically educated persons and do not know really what ecology is as a science.
- 5% are neutral to this issue and didn’t even try to define the term ecology. And only the other 5% gave the correct definition of “ecology”.

Ecology is a science that studies the relationship between living organisms and the environment

2) Also it was interesting to find out that nearly 100% of sampled students don't think that it is possible to make a future career working in an ecological organization.

Also in December of last year a survey of students from different parts of Kazakhstan was made by the faculty of Environmental economy from Almaty University of Economics. "50 % of Kazakhstani citizens do not believe that Kazakhstan can really prevent a threat of ecological catastrophe and only 30 % believe that Kazakhstan can prevent it." (Eco-courier, 2002)

If we analyze the data carefully we'll conclude that the first and the most important thing that the Kazakhstani government should do is to provide a good governmental information policy to inform people. The start was made - Kazakhstan signed the Orhuss convention.

### 5.1. Orhuss convention

The Orhuss convention was signed by RK in 1998 on the fourth minister's conference called "An environment for Europe" and held in the city of Orhuss (Denmark). In October 30<sup>th</sup> 2001 this convention came into force.

The Orhuss convention had one central purpose - access to information. This convention is a very important step made towards progress. The process of my research showed in practice that there are very few ecological journals and newspapers published in Kazakhstan that are available to the general public. In fact there is only one journal "Ecology and sustainable development" and one newspaper - "Eco courier".

As Kim M. (2001) says in her article, "The Orhuss convention is a step to democracy" And, in my opinion, it is fair statement, because the convention had three main issues discussed: about access to information; active participation of the community in the decision making process; and access to justice on environment issues.

Major decisions of the Orhuss convention:

- 1) Regular national and local seminars on programs of ecological education are necessary.
- 2) Agreed, that to solve ecological problems through joint efforts is impossible without an informing of society.
- 3) To create an ecological codex
- 4) To prepare professional ecologists with profile "Ecology and environmental use"
- 5) To increase the number of ecological newspapers and journals
- 6) To develop a uniform network of ecological information and etc.

### 5.2. Amendments to legislation.

The laws that exist now in Kazakhstan limit only harmful gas emission in the atmosphere, the Government of the RK in accordance with existing environmental quality norms determines these limits. But this law does not include limits on carbon dioxide emissions, because these gases are not harmful for our life and industries do not pay for them.

Kazakhstan needs to review its existing environmental policy and legislation for full participation in flexible mechanisms and for assistance to be provided by developed countries. Assistance should be provided for building policies and institutions necessary for financing GIIG reductions as well as regulating, monitoring and trading emissions credits.

Here is the list of laws to which amendments are necessary:

- Law about insurance;
- Law on securities regulation;
- Law on foreign investments;
- Law on monopoly regulation;
- Law on protection of the environment etc.

Emissions trading process will touch each of this laws, that's why it is important that all of them will be amended.

The main block of issues, connected with GHG emissions, is included in new special law of "atmosphere protection".

This law includes forms of regulation of GHG emissions trade, monitoring of GHG emissions, order in organization and licensing of emissions trading actions, features of contracts on GHG emissions, price forming mechanism, property rights on GHG emissions and others.

According to the Gumidov, N. (2002) on 16<sup>th</sup> of March 2002 the law on "atmosphere protection" was published. Absence of the article about society control caused bewilderment among active sociologists of Kazakhstan. Because according to the base-law "Environmental law of Republic of Kazakhstan (2001)" this article should be presented there. Due to this fact it is clear that one of the point of the Orhuss convention - society participation - is already violated. And if we examine the whole environmental legislation we will find a lot of mistakes like that.



According to an interview with the director of the firm that deals with ecological expertise Abenov M., the main problem with proclaiming ecological policies in Kazakhstan is that legislative and normative system of the state is not work out well and this is the problem of the whole state.

As he said, the reasons are:

- There is a very few number of ecological specialists;
- Kazakhstan state is very young, no experience;
- Authoritarian regime, society participation is too slim;
- Decisions are made only on the paper...

But in spite of this reasons that he gave, he has an optimistic point of view. He said that ecological education would gradually improve this situation. "No interested environment no progress" (Astaniina, 2001)

## 6. Conclusion

In my project I tried to introduce briefly a difficult issue. This issue is very important today. People strongly depend on the environment and it was always like this. So the economic and political costs of international decisions are huge. However, they have to be undertaken in conditions of uncertainty. Today the factors of Global Climate Change are not clearly determined. There are a lot of different views and disagreements between scientists on the reasons of it. That is why the gains of the Kyoto protocol are being achieved so slowly.

Because of this uncertainty about the future people can not ignore this problem. That is why international organizations such as the United Nations started to organize conventions to make all countries participate in them and be concerned.

The movement starts from below, so, first of all, actions should begin from below. The forces to move are not the heads of states, but populations, all people of the Earth. So the next step would be informing people. And all governments as well as the Kazakhstan government should realize that ecological education is the most important strategy to avoid the global ecological catastrophe.

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## Appendixes

### Table #1

#### Brief historical information

1972	Stockholm	Special UN Environment Program (UNEP) was created
1988		Intergovernmental Group of Experts on Climate Change was created
1992	Rio-de-Janeiro	UN Framework Convention on Climate Change is opened for signing.
1994		Rio Convention began its work
1997	Kyoto	Kyoto protocol was agreed: this commits developed countries to reducing their emissions of greenhouse gases by 5.2% from 1990 levels averaged over the period 2008-2012.
1998	Bucnos Aires	The plan of actions for development of economic mechanisms for realization of Kyoto protocol
1999	Bonn	Fifth Framework Conference – Continuation of discussion of rules for realization economic mechanisms of Kyoto protocol
2000	The Hogue	Six Framework Convention.

Table #2

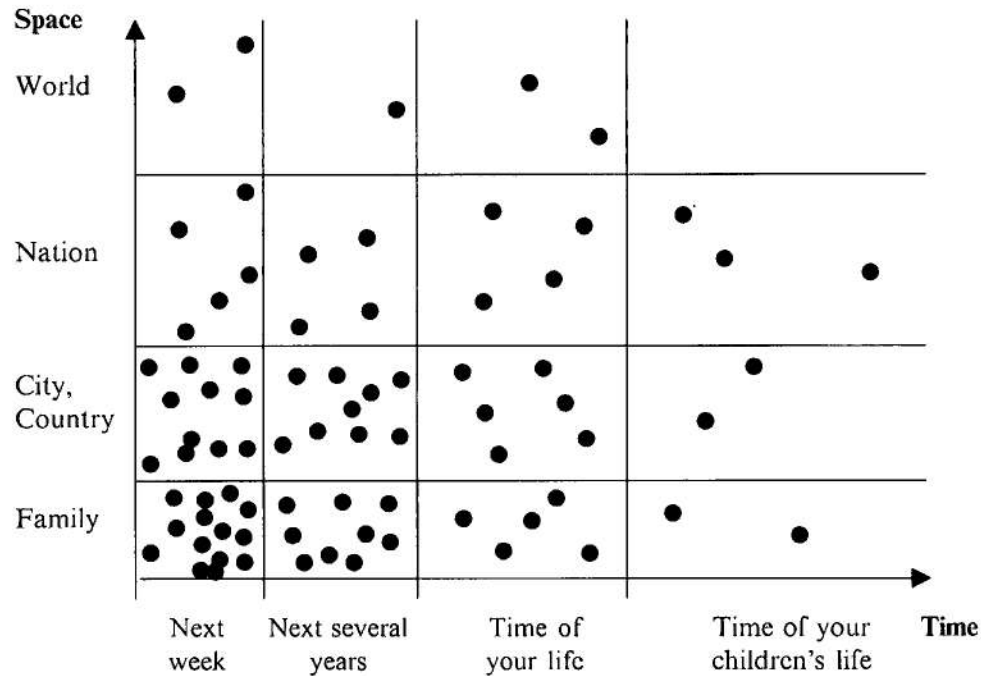


Table #3

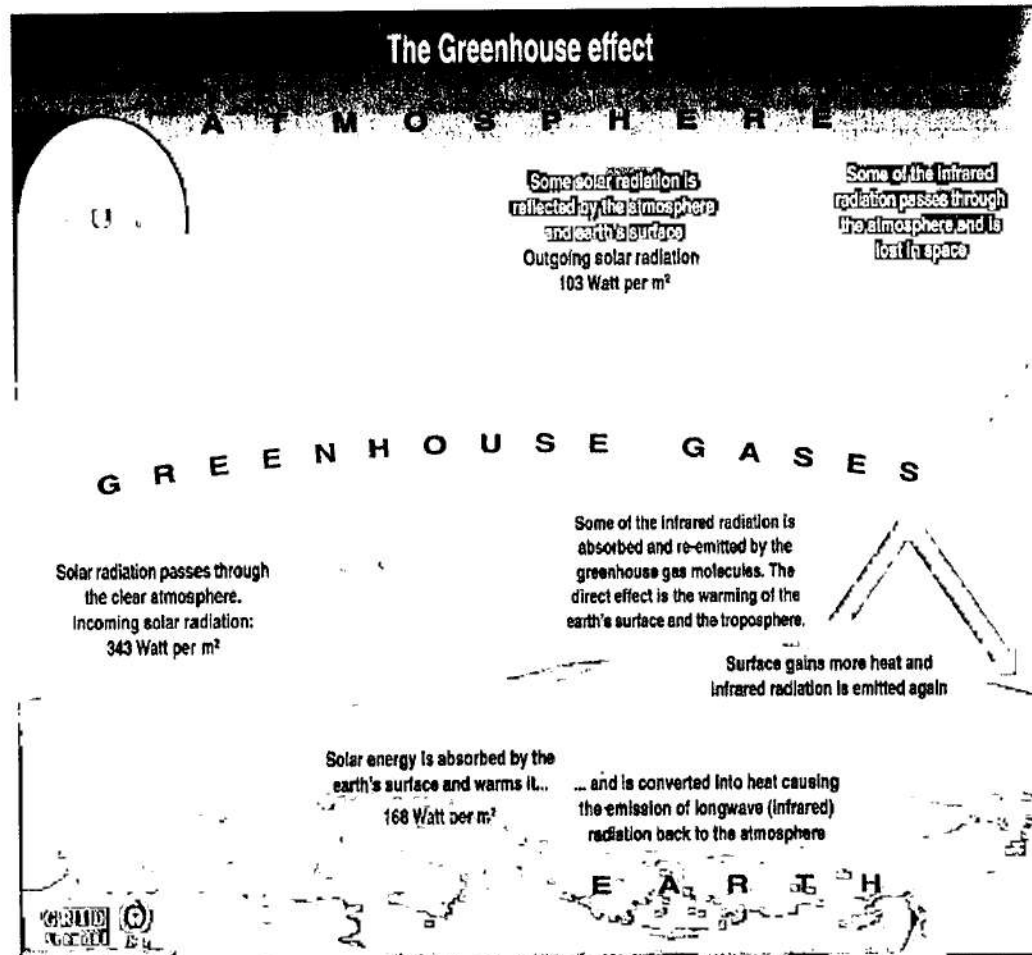
Appendix I of the UNFCCC	Industrially developed countries of Organization of economic cooperation, of EU and countries that are carrying out transition to the market economy. This countries are committed to reducing their emissions of six GHG by 5.2% from 1990 levels over the period 2008-2012
Appendix II of the UNFCCC	Industrially developed countries (24 countries of Organization of economic cooperation, EU) They need to provide new financial resources for the developing countries and the countries of transitional period.
Countries that are not included into Appendix I of the UNFCCC	Developing countries, which need to provide national data taking into account all costs for preparing national programs.

Appendix #4

1. From what department are you? Year  
 a) BSC b) BSS c)BAE 1 2 3
2. Check those areas that are you mostly interested in?
 

_ Macroeconomics _ Microeconomics _ Political science _ Ecology _ Public administration	_ Sociology _ Psychology _ None of the above _ Other _____
---	---
3. Do you see yourself as ecologically educated person?  
 \_ Yes \_ No
4. How would you define the term "ecology" (in your own words)?  
 \_\_\_\_\_  
 \_\_\_\_\_
5. Would you make your future career working in an ecological area (organization)?
  - a) Yes, I think it is a good idea
  - b) No
  - c) Don't think that it is possible
  - d) Yes, if there won't be any other choice
6. In your opinion, is the policy on atmosphere protection of the Kazakhstani government effective in Almaty? Does the air condition improve?
  - a) Yes
  - a) No
  - b) Yes, but not always
  - c) I don't know
  - d) Neutral
7. What role does the clear atmosphere play in your life?
  - Very important
  - Important
  - Neutral
  - Not so important, people can live without clear atmosphere
  - Absolutely unimportant
8. Arrange by the level of importance to you (put 1,2,3,4 and 5<sup>th</sup> place)
  - \_ Ecological situation in Almaty
  - \_ Global warming of the Earth
  - \_ Problem of the Aral sea
  - \_ Problem of Caspian sea
  - \_ Nuclear pollution
9. Have you heard about such ecological problem as global warming?  
 Yes \_ No
10. If Yes, please write what are the major reasons of this problem.  
 \_\_\_\_\_  
 \_\_\_\_\_

Picture #1  
The greenhouse effect



Sources: Okanagan university college in Canada, Department of geography, University of Oxford, school of geography, United States Environmental Protection Agency (EPA), Washington, Climate change 1996, The science of climate change, contribution of working group 1 to the second assessment report of the intergovernmental panel on climate change, UNEP and WMO, Cambridge university press, 1998.

## Lack of Independent Media is a Barrier on the Way to Democracy

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### A WAY TO DEMOCRACY – AN ACTIVE INDEPENDENT MEDIA

*"A free press is not a privilege but an organic necessity in a great society. Without criticism and reliable and intelligent reporting the government can't govern."*

Walter Lippmann, journalist and scholar.

The Kyrgyz Republic has gained reputation of the most democratic country in the Central Asia in the early 90's. In 1992, then United States Secretary of State James Baker declared Kyrgyz Republic to be an "island of democracy." At that time, Kyrgyzstan lacked strong organizational basis but there were numerous political parties, which represented different viewpoints participating in political process. Although government has closed several newspapers for publishing stories about high-level corruption, authorities tolerated independent media criticism of the government. The situation has radically changed after the presidential elections of 2000. Kyrgyzstan started to slide from democratic republic to aristocratic rule, where president Akaev and his cabinet maintain tight control over political life in Kyrgyzstan. Parliamentary and presidential elections of 2000 were judged by the international observers to fail to follow democratic rules. The constitution of Kyrgyz Republic gives president a high executive power and the ability to appoint the ministers and other key officials. Now, Akaev faces few checks on his authority.

*Independent media outlets in Kyrgyzstan don't fulfill their democratic purposes due to the fact that they are under increasing oppression from the government.* I make this statement knowing that the democratic media, particularly press media, in Kyrgyzstan is under fewer restraints than the media in other Central Asian countries.

Kyrgyzstan, being in transition from the Soviet system, faced numerous circumstances, where "individual's constitutional rights and freedoms are only gradually being established and there is still insufficient check on abuse of authority."<sup>1</sup> In this situation, the media can play an indispensable role in political and democratic development of the state, for media helps to promote popular sovereignty, political equality, and political efficacy by providing access to political information, thus making people aware of the happenings in the country. Thus, according to recognized scholars and journalists Edward S. Greenberg and Benjamin S. Page, there are three main purposes of democratic media:



"1) *watchdog over government*- where media should dig up facts and warn the public when officials are doing something wrong; 2) *clarifying electoral choices*-mass media should make clear what electoral choices the public has: what do the political parties stand for, as well as politicians' profile and 3) *providing policy information*-media ought to present a diverse, full and enlightening set of facts and ideas about public policy."<sup>2</sup>

Kyrgyzstan's media was announced to be *free* by international observers before the year of 2001, where after the precedents that took place during the parliament and presidents' elections of 2001 the same observers announced the media *not free*. According to Kyrgyz Laws on Media, independent outlets are free from censorship, but the government still maintains control over large number of important and big media outlets. Independent media in this post-Soviet country lacks professionalism and financial viability. Television is considered to be the major source of information, whereas in many other post-Soviet countries the print press is considered to be the most important source of political information. There is only one national TV channel and it is state-owned. There are some 50 private newspapers and magazines in Kyrgyzstan, mainly based in Bishkek. They include *Delo No*, *Asaba*, and *Respublica*, which have circulation of roughly 10.000. The vast majority of media outlets though remain state-owned. The government owns several national, regional, and local newspapers. Though many newspapers claim to be independent and free they do not fulfill their democratic purposes.

It is interesting to observe how Kyrgyz government uses various techniques to pressure and oppress independent media. It has been stated by Dennis Everette and Merrill John, both journalists and scholars, that "freedom of press media is the right to communicate ideas, opinions, and information through the printed word, without government's restraint in order to ensure satisfaction of society's need for a maximum flow of information."<sup>3</sup> The same could be applied to broadcasting and electronic media. Following Everette's and John's idea, an independent media would get freedom and would be able to fulfill its democratic purposes only under conditions where officials do not create obstacles in the form of restrictive laws on media and oppressive articles to the constitution. The most vivid evidence of the Kyrgyz governments' attempt to restrict the influence of the independent media is the passing of the 1992 Law on Mass Media. This law broadly prohibits the disclosure of government and commercial secrets; articles that advocate war, violence, or ethnic intolerance; and articles that harm a person's honor or dignity. Thus, this Law on Media prohibits journalists from directly criticizing the president.

The facts show that Articles 127 and 128 of the Kyrgyz Criminal Code make libel a criminal offense. To be exact, article 127 of Kyrgyz Criminal Code says that the libel (which can be contained either in public speech or be used by the means of the mass media) will be fined by payment from one to one thousand minimal salaries. Article 128 of Criminal Code mandates that public insult of person's honor or dignity or publicly presented by the mass media is going to be fined in the payment from fifty to hundred minimal monthly salaries established in Kyrgyz Republic.<sup>4</sup> These above-mentioned legal regulations contradict the guarantees for freedom of speech maintained by the Constitu-

tion of the Kyrgyz Republic. In particularly, the Constitution proclaims freedom of media and freedom of expression. Therefore, it can be argued that the Law of 1992 on Mass Media is unconstitutional and is a good example of the creation of obstacles for mass media in Kyrgyzstan by governmental authorities.

The latest and most extreme measure that Kyrgyz authorities took was the issuing of the Decree #20 that charges the Ministry of the Interior of the KR with compiling a list of, and registering, all printing, polygraph, copying and publishing equipment in KR. This means that all physical and juridical entities have to register all of their copying and publishing equipment (xeroxes, scanners, computers, printers, type machines, etc.) with the organs of the Ministry of Interior.<sup>5</sup> Thus, the Kyrgyz authorities intend to register and control all newly established newspapers and magazines. Thus, the Decree # 20 provides government with another mean of eliminating unwanted oppositional newspapers. This is the last and the most critical measure that Kyrgyz government have used to prevent independent outlets from fulfilling their democratic purposes.

The gravity of the problem of oppression of the independent media, in Kyrgyzstan is increased by the fact that the authority of the country that has embraced the liberalization of society as a pattern to follow, hasn't done much to encourage the development of a sustainable and independent media vital to democracy building. Therefore, in both of the post-Soviet countries, the mass media doesn't fulfill its democratic purposes. The government oppresses independent media using contradictory laws, as well as tax audits, criminal investigations and exhausting law suits against outspoken newspapers, TV channels, and radio stations.

Kyrgyz authorities have used administrative means to harass independent publications. In August of 1999, the tax police carried out a series of inspections in the offices of the largest independent daily newspaper, *Vechernii Bishkek* (Bishkek Evening News). The paper's editor-in-chief, Alexander Kim, alleged that the inspections came less than a year after *Vechernii Bishkek's* previous tax audit and, therefore, violated Kyrgyz law. The newspaper, at that time had recently published interviews with opposition politicians.<sup>6</sup>

Another incident happened in April 2000, when the Committee to Protect Journalists reported that the government had fined the opposition newspaper *Asaba* 2 million soms (US \$ 4, 200) for alleged tax code violations. Kyrgyz authorities also use a method of pressing lawsuits against the independent press media in order to challenge them financially. Thus, in February 2000, the opposition newspaper *Res Publica* was fined \$5000 for insulting the honor and dignity of an official.<sup>7</sup> In fact, the newspaper *Res Publica* has existed since the early days of the independence of the Kyrgyz Republic, and throughout the whole history of the existence of this newspaper, it has been facing legal harassment through the libel suits, most of which resulted in heavy fines. Almost every newspaper that seems to present an oppositional authorities perspective to Kyrgyz authorities faces these constraints. These incidents give a clear idea of the Kyrgyz government's approach to the development of the "free" mass media



The biggest constraint that is faced by every independent print outlet in Kyrgyzstan is the fact that there is only one publishing house- Uchkun. It is owned by the state. Also businessmen close to the Akaev's administration own the main publishing center according to the information from the Kyrgyz Human Rights Committee. All the supply of the newsprint is in the hands of the government. Occasionally, newspapers experience shortages of newsprint, which is politically manipulated by the authorities. There are also only two main information agencies, where the biggest is Kabar Information Agency. This agency is state owned and totally controlled by the government. There is also a new information agency AkiPress, but it is not as popular among people and therefore doesn't have much power.

In addition, the process of registration was another effective measure that Kyrgyz government had used as a manipulating tool. In the year of 2000 the government successfully used this tool to eliminate some of the independent press outlets. According to the Chairman of Kyrgyz Committee of Human Rights, Ramazan Dyrlydaev (who is in exile), on June 21st deputy Minister of Justice sent a letter to the "Uchkun" publishers, demanding they not to publish 16 new newspapers that were registered before. The registrations were annulled and after re-application these 16 newspapers were refused registration at the Ministry of Justice. The pretext for such an act, as described by the Chairman, was the suspicion by the government that these papers will become oppositional once registered.<sup>8</sup> As was mentioned before, there is a legislative base in Kyrgyzstan that enables the Freedom of Publishing and the Freedom of Mass Media. However, governmental authorities intentionally create obstacles for media, which is against Constitution and once again proves that authorities in Kyrgyzstan oppress independent media.

In order to understand the extent of Kyrgyz government's oppression of the independent media, it is important to compare the position of Kyrgyz independent media with the position of other CIS countries of the Central Asia.

In Turkmenistan the independent media was neither born nor raised there. It just doesn't exist on the territory of that country. "Turkmen's government controls all broadcast media and funds all print media, and does not allow criticism of the government or the president. Newspapers are subject to prepublication censorship. Access to foreign media is severely restricted."<sup>9</sup>

In Uzbekistan it seems the media is protecting the government, not the society. Independent press is virtually nonexistent there. All the newspapers are government-owned and need approval from the Committee for the Control of State Secrets before publishing. There are two independent newspapers but they don't fulfill their democratic purposes since they mostly contain advertisements. Journalists are imprisoned for trying to create opposition.<sup>10</sup>

In Kazakhstan the law requires all media register with the government, with no appeals process if registration is denied. A 1999 state secrets law established a list of prohibited

topics. Criticism of the president and his family prohibited, and self-censorship is widespread on other issues. The government controls or influences most newspaper's printing and distribution. The government has repeatedly harassed or shut down many independent media outlets. Khabar Media Holding monopolizes most of the TV programs and printing outlets. The head of this holding is Dariga Nazarbaeva, daughter of president of Kazakhstan. "Only during the year of 2000, several newspapers were forced to close or faced politically-motivated libel charges."<sup>11</sup>

This comparison proves that even though the independent press media in Kyrgyz Republic is oppressed, it is still in a comparably good shape. If the society will put efforts in making independent media in Kyrgyzstan a stronger competitor, the situation can be improved. Therefore, the solution that I suggest cannot be implemented without the public's participation in it. Namely, wide range social work on the public awareness of the basic political rights should be held. This would increase the public participation in the political events whereby it will enable them to be aware of media's importance and strive to protect it. The role of increased international pressure is significant also. This external pressure should definitely be a complement to internal forces committed to protect democratic values. High public awareness, which I suggest is the kind of internal pressure that our society has to build.

Another solution can be the professional training of the journalists in professionalism and ethics in the media. The independent media need to learn who to be loyal to and how to protect society efficiently. In addition, the major problem with having one publishing house would have to be solved.

The arguments and evidences presented in this paper revealed the fact that independent media in Kyrgyzstan is under increasing oppression of the government, at the moment. However, the solutions stated above can be implemented, thus helping the notion of non-democratic media in Kyrgyzstan to slow down and take the right democratic path, since Kyrgyz Republic proves to have the foundation for it.

## Endnotes

<sup>1</sup> Oleg Katsiev (1999), "Prospects for Development of an Independent Media in Kazakhstan", *Civil Society in Central Asia* ed. by Ruffin, Holt, Waugh, Daniel. Seattle and London: University of Washington Press, p. 122.

<sup>2</sup> Greenberg, Edward, Page, Benjamin (1997), *The Struggle for Democracy*, 3rd ed., Addison-Wesley Educational Publishers Inc., p. 17

<sup>3</sup> Dennis, Everette, Merrill, John (1996), *Media Debates: Issues in Mass Communication*, White Plains: Longman Publishers USA, p. 5

<sup>4</sup> Administration of the President of the Kyrgyz Republic (1998), *Criminal Code of the Kyrgyz Republic*. Bishkek: Raritet Info, p. 55

<sup>5</sup> NDI Advocacy FOI Manual (March 2002), *Citizen's Guide to Decree #20*, Bishkek, p.2

<sup>6</sup> Freedom house (2001), "Nations in Transit: Kyrgyz Republic", [www.freedomhouse.org/research/utransit.html](http://www.freedomhouse.org/research/utransit.html) (accessed on February 6th, 2002)

<sup>7</sup> EIM Media Report form the CIS (July 2000), "Kyrgyzstan: Media News", [www.eurasianet.org/resource/regional/newslettereng.html](http://www.eurasianet.org/resource/regional/newslettereng.html) (accessed on February 18th, 2002)

<sup>8</sup> EIM Media Report form the CIS (July 2000), "Kyrgyzstan: Media News", [www.eurasianet.org/resource/regional/newslettereng.html](http://www.eurasianet.org/resource/regional/newslettereng.html) (accessed on February 18th, 2002)

<sup>9</sup> Freedom house (2001), "Nations in Transit: Turkmenistan", [www.freedomhouse.org/research/nattransit.html](http://www.freedomhouse.org/research/nattransit.html) (accessed on February 6<sup>th</sup>, 2002)

<sup>10</sup> Freedom house (2001), "Nations in Transit: Uzbekistan", [www.freedomhouse.org/research/nattransit.html](http://www.freedomhouse.org/research/nattransit.html) (accessed on February 6<sup>th</sup>, 2002)

<sup>11</sup> Freedom house (2001), "Nations in Transit: Kazakhstan ", [www.freedomhouse.org/research/nattransit.html](http://www.freedomhouse.org/research/nattransit.html) (accessed on February 6<sup>th</sup>, 2002)

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## Solution of the Frontiers Issue between Kazakhstan and China

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For 10 years of state independence Kazakhstan has strengthened its external political position, got recognition and support of many states and became a member of United Nations Organization and other international organizations. An active process of Kazakhstan integration to the world economic community is going on. Main tasks of Kazakhstan Republic foreign policy course were formulated by President of the Republic of Kazakhstan N.A.Nazarbaev: «...strengthening of state sovereignty, preservation of external conditions for economic and social development, security and social-political stability».

Nowadays one of the actual problems for Kazakhstan is a security issue. Strengthening of Kazakhstan frontiers with China, Russia and other states is a main factor of security guarantee. In this connection, solution of the disputable territories issue takes an important place in the Kazakhstan-Chinese relations, and promotes the further bilateral cooperation between our countries as well. It is necessary to point out that the frontiers issue always is considered to be an important question in the bilateral relations of countries. In particular, ex-president of France Francois Mitterand emphasized: "To discuss frontiers means to discuss war..." He was for the necessity of regulation of the territorial disputes only by peaceful means. Francois Mitterand was deeply convinced that sooner or later discrepancy concerning the disputable territories would lead to military clashes. That's why it is necessary to prevent the tension on the earliest stage.

Actually, this problem dates back to the history of relations between China and Tsarist Russia, then USSR. Nerchin Agreement of August 27, 1689 was the first official document between Russia and China on frontier issue. Russian-Chinese state frontier was legalized in the end of XIX century by signing of Beijing Supplementary Agreement of November 2, 1860, Chuguchack Protocol of September 25, 1864 and St. Petersburg Agreement of February 12, 1881. Later on, the work over marking of the border by frontier posts was held during 1882-1893, and at the beginning of 1894 many years work of Russian and Chinese Governments successfully ended in establishment of Russian-Chinese state border in the area of Central Asia.

Juridical fixed Soviet-Chinese state frontier was kept up to 1960's. In 1960's situation on the frontier became complicated. Striving for prevention of the border incidence growth, the Soviet Government suggested the Chinese Government to hold consultation. Bilateral consultations between USSR and China, which began in 1964, concerning the issue of borderline elaboration in some places didn't give any result. Eyewitnesses of those events tell that the negotiation was broken because of the Soviet side position, which refused to admit the existence of border issue between two states. And, in spite of the fact that



the USSR at that time was a quite strong power in comparison with China, nevertheless bloody events took place. It happened in March of 1969 in Damansky island (Amur River), and in August of that year in the region of Jalanashkol Lake (Kazakhstan) as well.

On September 11, 1969 after the military incidence a meeting between Chairman of the Ministers Council Kosygin, returning from Vietnam to Moscow, and Chinese Premier Zhou Enlai took place in the Beijing airport. During this meeting two sides checked their maps, and it turned out that in some places the borderline didn't coincide. So, these revealed places began to be called "disputable". The total area of disputable territories formed 34,000 sq.km. In fact, in this area the borderline didn't correspond the requirements of the Russian-Chinese agreements - the only historical juridical documents, according to which the state frontiers between two states were fixed in the end of XIX century.

On October 20, 1969 negotiations between the delegations of USSR and China concerning the borderline elaboration began in Beijing. The negotiations went on with difficulties. The Soviet side refuted the existence of disputable territories in some places. Actually, the initiated negotiations ended in failure. Only in 1987 an agreement was achieved and the discussion about belonging of disputable territories began. The sides exchanged the official maps, defined places, on which the borderline didn't coincide, and began to discuss this problem in detail.

What about the origin of these disputable territories? In fact, their origin were caused by some reasons, including bad study of territories, their difficult accessibility, poor technical basis, natural changes, destruction of border posts and, at last, deliberate changes of border line.

Actually, after USSR collapse Russia, Kazakhstan, Kyrgyzstan and Tajikistan, from one side, and China, from another, inherited long time Chinese-Soviet border arguments. This problem was interlaced into a complicated knot of the territorial discrepancies and security problems. For example, since 1964 the Chinese authorities have been considering that the borderline, which was fixed in the end of XIX- beginning of XX centuries doesn't correspond the real situation, because the frontiers demarcation was made at the time, when China was a very weak state, but Russia - a strong one. That's why the modern government of China hoped to revise these agreements.

After USSR collapse instead of governmental delegation of the former USSR for the negotiations with China a joint delegation of four bordering with China CIS countries Governments (Russia, Kazakhstan, Kyrgyzstan and Tajikistan) was created by the agreement, which was signed on September 8, 1992 in Minsk. The achieved understanding of the result of negotiations between the former Soviet governmental delegation and China was confirmed in this agreement.

The Kazakhstan delegation proceeded in its work from Declaration about the basis of friendly interrelation between the Republic of Kazakhstan and the People's Republic of China, which was signed by the head of the Republic of Kazakhstan N.Nazarbaev and the Chinese Premier Zhang Zheming in 1993 in Beijing.

At the result, after CIS creation in 1991 the territorial arguments between the post-Soviet republics and China appeared on the area of 19 districts of 34,000 sq.km.

After gaining its independence Kazakhstan inherited 11 disputable territories of 2235 sq.km. Solution of a disputable territories problem was reflected in Agreement about the Kazakhstan-Chinese state frontier of April 26, 1994, where only 1291 sq.km of disputable territories were solved. This Agreement came into force after the change of the instruments of ratification on September 11, 1995. But this document was the first step to the final solution of the complicated issue. Two places of approximately 944 sq.km in the district of Chogan-Obo and Baimurza passes (Zaisan region, Eastern Kazakhstan oblast) and Sarychilydy river valley (Alakol region, Almaty oblast) remained disputable. In this connection, negotiations process lasted. The Kazakhstan side conducted these negotiations on the basis of the earlier accepted principles. They are as follows:

- On the basis of the Russian-Chinese agreements, which are considered to be the only historical juridical documents, according to which the state frontier was fixed in the end of XIX century.
- According to the international law norms.
- Fairly and rationally.
- In the spirit of the mutual understanding and mutual pliability of sides.

The negotiations ended in signing of two Supplementary Agreements of September 24, 1997 and July 4, 1998. According to the last one, Sarychilydy river valley district of 315 sq km was divided in the following proportion: 70%-to China and 30%-to Kazakhstan. On the contrary, the district of Chogan-Obo and Baimurza passes of 629 sq.km was divided in other proportion: 30%-to China and 70%-to Kazakhstan. At the result, 537 sq km (56,9%) of disputable territories belong to Kazakhstan and 407 sq.km (43,1%) - to China.

It is important to point out that the conclusion of Agreements about the Kazakhstan-Chinese state frontier brought about misunderstanding. Public expressed quite contradictory opinions upon this issue.

Nowadays there is a problem of Transboundary Rivers between Kazakhstan and China. So far an interstate agreement with China about joint use of Black Irtysh and Ily rivers

water resources is absent. The point is that China is going to build the *Black Irtysh-Karamai Canal*, and in this connection take 20% of water from Irtysh. In this case it is necessary to point the following aspects:

- First, the projected utilization of 20% means about 2 billion cubic meters of water, but Kazakhstan specialists say that during dry seasons the river's volume is not 9 billion cubic meters, but 4.5 billion. In this case 2 billion is not 20%, but about 50%. This is an important fact, as now the Irtysh contains little water. This phase can last for another 10 to 20 years.
- Second, the Irtysh (up to the place where it flows into the Zaisan Lake it is called the Black Irtysh) flows through such towns as Ust-Kamenogorsk, Semipalatinsk and Pavlodar, and further to Russia. Apart from this, there is a canal that goes from the Irtysh to Karaganda and provides Temirtau and Ekibastu with water. Moreover, to settle water problems of Astana a branch of the canal Irtysh-Karaganda will be constructed.
- Third, there are Bukhtarminskaya, Ust-Kamenogorskaya and Shulbinskaya electric power stations along the river. 4 million people live in this part of Kazakhstan. There are the country's biggest enterprises here.

Considering the above-mentioned facts, it is possible to conclude that the withdrawal of 20% water to the *Black Irtysh-Karamai Canal* could lead to serious ecological and economic consequences. In this case this will violate the water regime and natural balance. This would cause the death of fishes' offspring and muskrats, and ultimately change climatic conditions as well. The concentration of harmful substances in the river will increase. This will negatively affect the possibilities of water supplies for the vast region. The lack of water resources will automatically limit the possibilities to develop this industrially developed region. Of course, this will affect the entire country's economic growth. The fishery and agriculture will be in danger, in particular.

As far as Ily River is concerned, the water utilization of 10-15% from this river will cause uncontrollable worsening of the economic situation in the Ily-Balhash basin, where 17% of the Kazakhstan population lives and 20% of the country's industrial potential is concentrated.

It is important to notice that Kazakhstan was the first CIS country, which has settled a problem of disputable territories with China. The only issue left is one concerning utilization of the Transboundary Rivers water resources. It seems necessary to solve this problem as soon as possible without further complication with the participation of countries concerned including Russia and Kyrgyzstan. Only after solution of this issue we can speak about the total legalization of frontiers that guarantees security of Kazakhstan

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## Kazakhstan Stock Exchange: Ways of Overcoming its Problems

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### Introduction

Stock Exchanges look attractive for many students especially with specialization in Finance. It is not unusual to hear that somebody made a fortune in one day on a stock exchange therefore many students in countries with developed financial system dream about working on Stock Exchange, but it is not a case for Kazakhstan. Kazakhstan Stock Exchange could be distinguished from others by very stable without not any sensations or big changes in stock prices. What are the reasons of that? What problems do KASE faces and what actions should be done to facilitate the development of it? These are the questions the author intended to research by doing this paper. The uniqueness of this paper is that some questions and their answers are new for the public.

This paper consists of three main parts: Tendencies of KASE development, Descriptions of the problems that KASE has and finally the conclusion where would be proposed some possible solutions to listed problems.

### Tendencies of KASE development

10 years past since The Republic of Kazakhstan acquired an independence. Much was done in the economic and social life. New forms of organizations inherent to all developed countries began to appear and play a vital role in the economy of the republic. Kazakhstan Stock Exchange is one of them. Created in November 1993, by the National Bank of Kazakhstan and 23 leading commercial banks in 8 years it became a universal financial market.<sup>1</sup> Presence of it on a Kazakhstani market is a necessary condition for efficient functioning of market economy because its growth and market turnover shows development of economy and volume of investments in the country. In developed countries securities market enables stock issuer both to attract means for financing real sector and to transfer of ownership to more effective owners and investor has an opportunity to maximize profitability with minimum risk. This opportunity is well developed in USA, Japan, Germany where securities market capitalization equal to \$7 trillions, \$3,7 trillions, and \$0,6 trillions accordingly.<sup>2</sup>

In Kazakhstan these figures are hundreds times lower. In the 2001 the securities market's total volume of transactions made in all sectors of the KASE was only \$10.25 billion. Nevertheless, this amount constitute about a half of GDP of Kazakhstan and compared to the year 2000, turnover of all types of securities in Kazakhstan Stock Exchange increased two times.

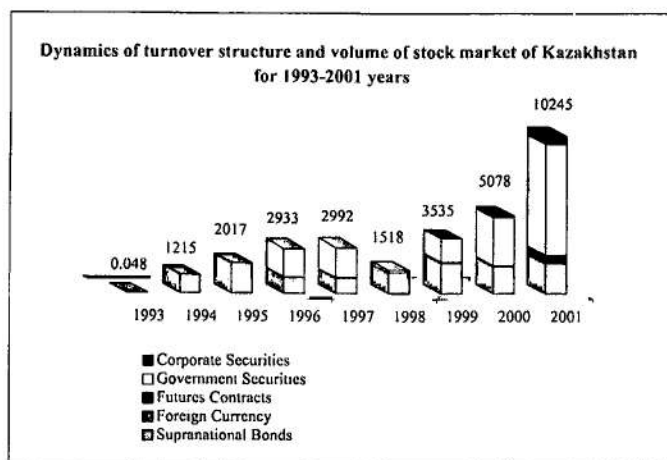


Figure 1 shows that all markets of KASE showed good growing rates. Foreign exchange market turnover increased on 12.5%. Governmental securities market turnover on 132%. Corporate securities turnover increased on 265%. Futures market on 679%. In addition in the last year new market of supranational bonds was opened on a Stock Exchange. Although development of non-governmental

securities' market that serves as an index of stock market's development mounted 7 times from 1999 to 2000 and increased 3.65 times from 2000 to 2001 this securities market in the last year was about only 4.9%. This small fraction of all securities shows underdevelopment of securities market in Kazakhstan.<sup>3</sup>

### Problems Kazakhstan Stock Exchange faces.

This paragraph is based on an interview with the Head of Information and Analysis Department Andrey Tsaluk who described the author the reasons for the weak development of Kazakhstan Stock Exchange.

First and the main problem here in Kazakhstan are weak laws. An example of shortage in the law is a recent adjustment made in civil code about prohibition of counting and selling with a tether to dollar. This ban created doubts among participants of stock market because stock exchange is not used to make transactions in tenge. Mostly because of that bonds market boot experienced by the stock exchange a several month ago has declined.

Second reason is weak level of regulations made by the low and the middle governmental management. The steps they do either not correct or late. The reason is that the salary for professional financial workers is higher in commercial than in State entities, therefore mostly all qualified people are working for commercial organizations. As a Head of Information and Analysis Department of KASE Andrey Tsaluk said in an interview, sale



of Kazakhstan blue chip companies today is not worth doing that because of low demand and consequent low prices but a year ago when the demand was high government did nothing. Now there is no way than just wait until the situation will be like a year ago. To get the situation better State management need to be more qualified to quickly react to the changing environment.

Third reason is low capitalization rate of Kazakhstan (the sum of values of all Kazakhstani companies both trading or not). The capitalization of a whole Kazakhstan is only about 20 billion dollars. A one rich man like Bill Gates can buy all the shares of all Kazakhstani companies. With a goal of protecting National security government of the republic posed a number of restrictions for the purchase of securities by the people from abroad. Usually foreign investors come to Kazakhstan just for the short-run profits and try to take as much as possible from every company the shares of which they purchased. All the money they earn is transferred to investors' home countries not working for the good of Kazakhstan.

The next problem of stock market is Kazakhstani standards of accounting and auditing are far from those from Western countries. Investors cannot rely on reported financial statements because they are difficult to verify and analyze. Even the process of transition to international accounting standards is in action present situation needs some improvements. It is a reason why investors take into consideration other factors of financial performance to evaluate the shares potential.

The next reason for underdevelopment of financial market is a weak or even absence of dependence between companies' stock price and its financial conditions. Presently, stock price of all the companies in Kazakhstan do not depend on such indexes as financial ratio like price/earning ratio, stock issuer financial conditions, potential for growth, etc. Stockholders sell their shares when they are in shortage of money.

Nevertheless, the main problem is in the main participants of a stock market, which are current stockholders, corporate management and the government itself. They are not willing to change present situation of stock market. Current stockholders are satisfied with the rate of return their companies bring to them because actually they choose the rate of return their companies should bring to them. For example, KazakhMys brings its shareholders more than a 100% of dividends. It is a reason why they are not willing to sell their share on the market. Until stockholders are getting high returns with a low risk they will not sell their shares. Corporate management that makes a decision to go on the market is not willing to make these efforts also because in that case they could lose their power and would have to be checked by the government for the validity of presented financial information. Moreover the demand for corporate stocks is not enough to make a share price sufficiently high to generate necessary cash and the gain from issuance of stock is not worth doing it. The government, main regulating entity, whose duty is to forward the development of stock market is, interested itself in nowadays situation. State budget receives good inflows in form of dividends. By selling their shares they will lose

these high dividends in favor of low yield from sale of stock. They wait until the market will be able to pay them the acceptable price. That means that the three main participants of the stock market are content with the present situation and do not care about those who are not satisfied.

## Conclusion

The situation on a stock market in Kazakhstan is far from those in capitalistic countries but to progress it some changes should be made. First, good quality of reporting based on international standards and audited by reliable auditors. All the companies whose shares are sold on stock exchange should report their financial results regularly for the people who are interested in their company. Second, since laws are one of the basics for the stability of the economy Kazakhstani law and regulations should be well thought to make people sure at least in laws. The third is a creation of techniques of market and company risk evaluation in national currency or which is more proper, removal of a restriction of evaluating market in the currency that is used all over the world. Dollar is considered a stable currency with a predictable inflation rate. Today assessment in tenge is not worth doing it because tenge is a very risky currency itself. We are living in a free market economy where enforcements from the government should not have a place. The only way is a creation by the government of all necessary conditions for the development of stock market. The companies should make a decision themselves at what time and how much to sell their stocks. It means facilitate the progress and pass the time until the economy does well and will be able to absorb a big supply of corporate shares. With improvement of situation on Kazakhstan stock market the KASE turnover and volume of stock market will increase also.

By doing this research author found out many unexpected problems that are difficult to solve. They are weak and constantly changing laws and regulations made by the government, low capitalization rate of Kazakhstan, low quality of financial reporting and therefore no dependence between ratios showing operating results and stock price and finally unwillingness of the main participants of the market to change the situation because the present situation is favorable for the main participants of the market. Government nowadays has a great power and therefore, changes that others will undertake will not be successful until the government reconsiders its politics.

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## Is There a Light in the End of the Tunnel?

(ways of regulation of youth unemployment: regional perspective)

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One of the important characteristics of Russian labour market is the significant share of youth in total amount of unemployed. According to the data as for July 1 2000 of consolidated department of the Federal service of employment in Russia out of more than 7 million of unemployed people, that are capable to work, almost every third are the young people in the age till 30 years, 85 % of them are getting a dole.

The challenging problem of youth unemployment is caused by a compound of events. Some of them occur at the state level, others have regional character: they are either related to the specificity of the local labour market and its infrastructure, or to specificity of particular youth categories. Therefore ways of solving of this dilemma have different scale and require decisions both at a federal level and at a level of local authorities, services of employment and educational institutions.

**The nonlinear effects of education** become apparent through such major events, as:

- many young specialists have confronted the impossibility to obtain a position in compliance with their profession. Significant part of such specialists remains unemployed for a long period of time, or employed at workplaces not in accordance with main specialty;
- modern level of national economy doesn't promote self-realization of youth in creativity aspect, therefore young people find a non-trivial way out to their abilities: quite often youth shows its potential in illegal business, turning the creativity to finding loop holes in legislation;
- there is a decrease of influence of the educational factor on the income level and rise of public prestige of the trades, which do not require diploma of institute of higher education and allow to raise welfare standards in a short term;
- young people entering the labour market, have a high level of financial claims, however the majority of young specialists can not provide adequate feedback, because of having little professional knowledge due to small work experience;
- besides, young people sometimes are exposed to discrimination because of age.

The complexity of the problem of youth unemployment, its versatility and danger of negative consequences requires immediate solution and search of ways out from it. Youth in Russia amounts to 33 mln., or 36% people capable of working. 13,4% of economically

active population, 12% of employed citizens. Unfortunately, statistics of the Federal service of employment (FSE) in Russia is not complete enough to investigate the situation at youth labor market. Since 1997 one can find in statistic documents of (FSE) only the information on amount of registered unemployed youth, its share to the total amount of officially registered unemployed people and among these, dispatched to professional training and on duration of unemployed period among people of the age of 16-29. However, when investigating the youth employment one should proceed not only from the amount of registered unemployed people, but also from the number of not learning and not studying young people.

In spite of the fact, that in the international practice and statistics maximum limit of youth age is traditionally 25 years old, official Russian statistics tends to define this group as people between 16 and 29. However, it is quite obvious that such group is non-homogeneous with respect to the style of life, level of education and life's perspectives. Three different categories can be easily distinguished: youth of 16-18; youth between 18 and 25; people of 25-29 years old. Department of Employment in Novosibirsk Oblast officially places youth to the age group of 16-29 years old, however in real life it works with young people of 16-26. This is the group between 16-26, that becomes an object of applying of all organizing and social-protecting events. Citizens between 26-29 years old are considered in the group of other economically active population.

**Major reasons of youth unemployment** are the following:

1) disparity of training level of graduates of educational institutions to requirements of national economy, that results in differences in structure of the Russian education and in needs of industry. In the last years about half of all graduates of universities and professional schools prefer not to work according to their specialty, and that is not the cause of uselessness of their profession at the labor market the reason is low income apyed in these branches.

2) inadequate level of training and quality of received education to concrete requirements of particular employers. In contrast to american, german or japanese firms, Russian enterprises and organization rely on the coming of moulded specialists, from universities and institutes; enterprises expect these specialists to be almost professionals, that need only minimum of adaptation. Our enterprises don't possess traditions, methods, organizational structures, free funds and motivations to conduct preparation of people with high education directly at work places.

3) substantial disproportions in territorial location of educational establishments, that results in various opportunities of obtaining education in different areas. About one third of all higher educational institutes are located in Central Region 151 institutions (26%), Ural and Povolzskii Regions are the second 63 institutions (11%), Western Siberia has 62 institutions (10,8%). On the one hand, this specificity corresponds with concentration of industries in this regions, hence on the other hand, at present time students don't have

the possibility to study away from home; however, if the succeed, they won't come back; this is the "brain drain" to central regions. Besides, the quality of education and opportunities for it obtaining differs from region to region.

4) conservation of mainly departmental character of structure of primary professional training, and, though the training of personnel is carried out for needs of regions, the majority of schools (85 %) is in the federal property and financed from the federal budget. Yet regional problems have its specificity. The role of state, public and private institutions is to create equal conditions in the form of provision of versatile services on determination of choice of the path, type and of educational programs for realization of the citizen's right to getting proper education.

Alongside with the offers of regulation of youth employment at the state level, in my work I shall discuss concrete directions of decrease of youth unemployment and perfection of activity of local services of employment. The basis for such analysis is my case-study on functioning of youth labour market in Novosibirsk. I gathered information during 2000-2001 in city placement service; I also used sociological questioning as an active tool of my investigation. Relying on my research, it's indispensable to emphasize the following points:

necessity of development of target regional programs for maintenance of employment of the graduates of educational establishments. In this connection, regional services of employment could show the initiative at territorial and local levels. At a territorial level it would be possible to create a databank on training of personnel and requirements for them, and to develop on this basis the territorial program;

realization of target training of experts according to the requirements of employers, under the individual programs of training with the purposes to decrease disbalance of the labour market;

expansion of the contractual forms of professional training and retraining, focused on needs of branches of regional economy and realized on the basis of the conclusion of the contracts between young experts and employers;

use of foreign experience, e.g. programs of so-called youth practice, accepted in several european countries. The crux of it is that a young person herself or with assistance of employment services finds a firm, where she/he wants to work. Afterwards, this company and employment service sign a contract: the firm employs the young person at the terms of a contract, and the fund transfers means for wage for the practice period. After this period is over, it's up to the firm to decide, weather employ her/him.

development of the compensation system of expenditures of employers on placing in a job and usage of youth labor and establishment of tax privileges. It is indispensable to



increase the privileges to employers alongside with tax advantages, aiming at the motivation to labor of the graduated of professional schools besides already set quota.

organization of a special department at a local placement service, specialized on selection of the personnel. The structure of vacancies to a urban service of employment approximately on 80 % consists of working trades. To an expert of a high level younger than 30 years, unfortunately, the service can not offer enough number of positions on the basis of vacancies.

The analysis of youth labor market in Novosibirsk has shown that there is lack of providing of professional orientation services. The data of employment service testify to wide-spread dissatisfaction among youth with obtained profession. In conditions of perfection of market economic relationships, professional orientation of youth has the aim to provide socio- psychological backing of one's personality in the choice of future carrier according to plans.

In conclusion, it is indispensable to emphasize the following points. The guarantee of high competitiveness of a specialist at labor market is one of the most important socio-politic goals of higher and specialized secondary education, since social security of citizens significantly depends upon the level of education, professional qualification and of competency of everyone. Suggested proposals of regulation of youth employment are not certainly, comprehensive as far as the problem is fairly complicated and the situation in labour market is constantly changing. The only way of solving this problem is the coordination of activities of all parties, concerned with their active policy in the labour market.

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## Small and Medium Enterprises in Diminishing Poverty in Uzbekistan: Role and Perspectives

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Small and medium enterprise has existed and developed for many centuries in the world arena. Thanks to its specificity of development many entrepreneurs give their preferences to small and medium enterprise, particularly those who has just started their economic activity in the market. The main advantages of small and medium enterprise are the following:

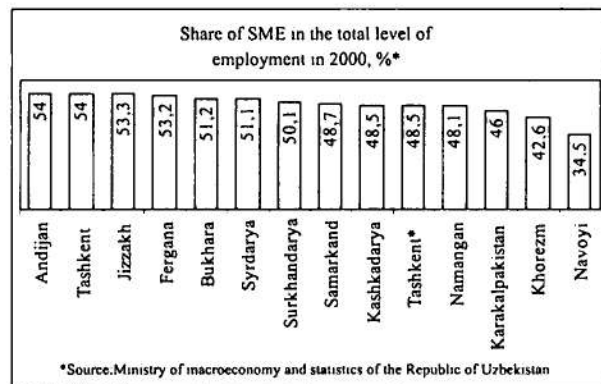
- creation of new work places with relatively small startup capital;
- creation and sharpening the competition in market, that, consequently, increases the level of productivity of economy;
- elaboration and implementation of innovations;
- high mobility and adaptability to radical changes in the market, which, in its turn, can smooth consequences of crisis.

Before giving a brief description of the development of small and medium enterprise in the Republic of Uzbekistan it is necessary to give a definition to this business units. It is very crucial point because there is no common determination of small and medium enterprise in the world. It is natural since each country has its own peculiarities in economy and in determination of some notions particularly. However, it is clear that many countries use several criteria (number of employees, amount of authorized capital, etc.), not one as it is so in Uzbekistan - number of employees.

According to the national law agents of small and medium enterprise can be determined as following:

- **individual entity (entrepreneur)**- physical body, acted as an agent of private enterprise on the basis of state registration, and which can not take on workers;
- **microfirm** - an enterprise of any ownership with limited number of employees: in production sphere - up to 10 people, and in nonproduction sphere - up to 5 people;
- **small enterprise** - an enterprise of any ownership with limited number of employees: in industry - up to 40 people, in other production spheres - up to 20 people, and in nonproduction sphere - up to 10 people;

**medium enterprise** - an enterprise of any ownership, in which annual number of employees should be higher than in small enterprises but up to 100 people in industry, 50 - in other sectors of production sphere and 20 - in nonproduction sphere.

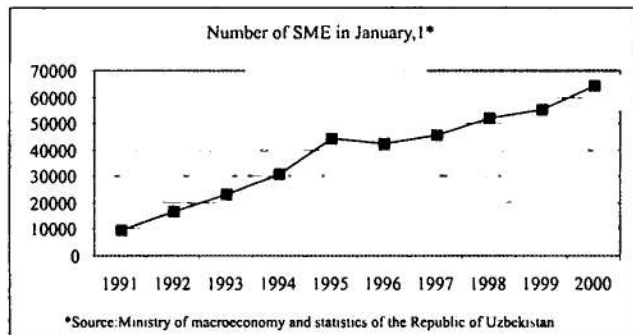


In the beginning some of the main advantages of small and medium enterprise were mentioned, but they were mostly economic ones. Now, let's turn to social aspects of our question. Small and medium enterprise forms a middle class, which allows, in some extent, to soften some social tensions between wealthy and poor people. Moreover, creation of small and medium enterprise - means creation of new work places,

which in its turn, increases level of employment of population and level real income. In this case, it would be more profitable for government to support small and medium enterprise (at least at the beginning of their economic activities) than to allocate subsidies to indigent people endlessly. Besides, government could spend more financial resources to other national purposes. Furthermore, facing the fact that birth rate and, as a consequence, number of dependants is very high, small and medium enterprise in this situation plays a role of balance mechanism, which allows to enable work force even in the absence of special qualification. Therefore, one can say, that small and medium enterprise is of high importance in diminishing the poverty.

A ten-year development of small and medium enterprise in Uzbekistan can be reviewed through three main stages of economic development.

**First Stage (1991-1995).** At the first stage of transition period there was a radical increase in the total number of small and medium enterprise. This growth predominantly was reached by individual entrepreneurs, family business and limited society, which were engaged in the sphere of mediation, trade and services.



There are four main factors, which influenced on this growth. Firstly, it is a transformation in the beginning of 90s of illegal small businesses of social time to legal ones. Secondly, it is realization of program of small privatization. Many enterprises

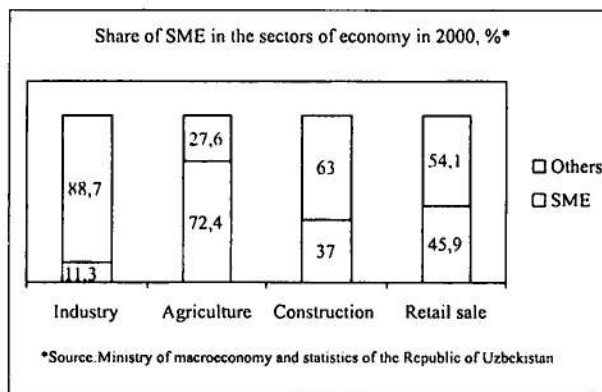
were bought by their directors and employees. Thirdly, in the beginning there were almost no government regulations and many entrepreneurs could carry them out very liberally. This relatively liberal economic environment continued to 1994. Fourthly, there was a growth in new actors. As a result, total number of small and medium enterprise increases by more than 4,5<sup>1</sup>.

Thus, the first stage of economic development is characterized by an increase in the number of agents of small and medium enterprise.

**Second stage (1996-1999).** This period characterized by retardation of small and medium enterprise. Such a situation was due to some governmental measures. In fact, government has given its preference to big firms and companies, supplying with lax credit, tax abatement, etc, on the one hand. On the other hand, it has put some import restriction. All these factors have led to critical situation in which it was not profitable for small and medium enterprise to continue their economic activity.

**Third stage (1999 - up today).** This stage of development is characterized by liberalization of economy, which positively reflected in the position of small and medium enterprise. Moreover, government itself was interested in the development of small and medium enterprise and has provided them with some privileges in the form of preferential tax treatment, lax credit, etc. These measures were approved by adoption a range of legislative acts. For example, "Guarantee of freedom for economic activity" of 2000. Basing on the results of the fourth quarter of 2000 in comparison with the first one 80%<sup>2</sup> of registered small and medium enterprises were acting in market.

In a ten-year period of independence of Uzbekistan small and medium enterprise has been widely adopted and still is on its path to development and prosperity. Thus, in 2000 total number of microfirms increased by 85,47% in comparison with that of 1991.



For last three-four years small and medium enterprises were engaged in agriculture, and the main agents were farmers. Besides, an increase in other sectors of economy (transport, communication, health protection, etc.) became perceptible. So, nowadays share of small and medium enterprise in GDP amounts to 29%, where 16,5% relates to individual enterprises and 12,5% - to others.

<sup>1</sup> (6)  
<sup>2</sup> (6)



Activity analysis has shown that small and medium enterprises have begun to expand their foreign-economic activities. So, in 1999 the share of small and medium enterprises in total export increased by 1,8 and in comparison with 1998 reached 29,4%. The main export articles of small and medium enterprises were - production of agriculture, textile manufacture, processing of goods, electrical industry and also goods of homecraft.

Today, unfortunately, there still some problems deterring the development of small and medium enterprise. The main of them can be described below.

Finding startup capital is the first difficult task in establishing small businesses. Of course in comparison with big companies small enterprises need not so much deal, but still they do. While speaking on this problem it is necessary to remind that the citizens of the former USSR on the average were not wealthy, and inflation in the beginning of the 90s covered all private savings and made it impossible even for banks to make credits. The problem connected to lack of money accompanies small and medium enterprises at the beginning of their activity as well as during their production cycle. Besides the financial problem there is also another one directly connected to inventories acquisition. Moreover, the cost of equipment, transport and other means of production is so high that small and medium enterprises are not able to obtain production basis. Of course, leasing can solve this problem but the level of its development is very low.

Secondly, presence of official circumlocution (bureaucracy) appears together with establishment of small and medium enterprises and presents while obtaining credits and entering foreign markets (complex procedures of paper work).

Thirdly, imperfect legal system also causes disorder. Since many normative documents are referential then vagueness in issues emerges. Besides, in some questions there is harmony among state departments and as a result of this variance some documents contradict each other.

Fourthly, non-business use of credits brings to many problems. On the one hand, it leads to increase in the account payable. On the other hand, out-of-sequence repayment adversely affects the activity of credit institution.

Fifthly, nescience and inexperience of small and medium enterprises in market, especially in foreign one restrain the development of small and medium enterprises. This problem is mostly related to the lack of reliable information.

And, of course the presence of macroeconomic instability (exchange rate, etc.) is the last problem.

In order to eliminate above mentioned problems and shortages and meet some wants of small and medium enterprises many measures were taken into consideration.

*Taxation.* According to the Article 92 of Tax code, newly created enterprises are released from paying taxes on property for 7 years from the formation moment. Newly created farmings are free of paying income taxes for 2 years, and private enterprises are free of paying taxes on income, which was obtained from production and processing of agricultural products, output of national consumption goods and production of building materials (Article 31, Tax code). Besides, share of income (no more than 50%), which was spent on the enlargement of production, is deducted from taxable income for private enterprises.

In accordance with decree of the President of Uzbekistan "Supplementary measures in stimulation of small and medium enterprises", 31<sup>st</sup> January, 1997, small and medium enterprises engaged in production sphere and leasing companies are released from paying import taxes on manufacturing equipment.

Concerning small enterprises, they have rights to choose one of two possible taxation systems either simplified or general one. In the first system 12 taxes are replaced by single one. The table below shows a comparative analysis of taxation of small enterprises in different sectors of economy (rate has a deviation from actual depending on the sector)<sup>1</sup>.

Sectors	All taxes to 1 soum revenue, tiyin	
	Simplified system	General system
Industry	11,44	19,31
Transport	10,00	29,40
Communication	10,00	37,69
Procurement and product	10,00	20,99
Housing	10,00	36,12
Municipal economy	10,00	26,66

*Supervision.* Limitation of supervisory body's activity has been another measure of protecting small and medium enterprises. It is conducted via limitation of:

- number of supervisory bodies (reduced twice since 1996);
- number of inspections (1 inspection per year (per 2 diligent taxpayers); no more than 40% of enterprises annually);
- duration of inspections (30 calendar days + 30 with Republican Council on Coordination of activity of supervising bodies);

<sup>1</sup> (10)

- access of inspectors (highly qualified with direct inspection);
- number of off-scheduled inspections (only on concordance with Republican Council on Coordination of activity of supervising bodies).

*Crediting.* Reoffering to the problem of resource shortage and bureaucratic obstacles in the process of crediting, microcrediting can serve as a solution to this problem. The latter implies credit up to \$5000 (in sums) for individual entrepreneurship and dehqan farming (not juridical bodies) and \$10000 (in sums) for other agents of small and medium enterprises (juridical bodies) for 3 years. And, giving out of credit in cash is also possible (up to 50%), but in this case, period of payment decreases twice. For getting credits entrepreneurs (not juridical bodies) have to produce to bank an application for microcredit with determined amount of money and business plan with the purpose of using credit. Agents of small and medium enterprise (juridical bodies) have to present an application for credit, business plan with flow-of-funds analysis and balance sheet for last accounting period, which must be approved by rating authority.

An alternative solution for the problems of development of small and medium enterprise can be the following. It is known that all sectors of economy are connected to each other, and none of them can deal in isolation. A similar dependence can be formed between small and medium enterprises and big companies. Small enterprises can perform orders of big and even medium enterprises on the basis of subcontract. Franchising can be another form of business. Franchiser (in our case a big enterprise) is interested in successful performance of his franchisee (small or medium enterprise), as royalty is in direct dependence from franchisee's profit. Big enterprise, in its turn, provides not only brand name, but also other types of services (consulting, material help, etc).

Besides, it is necessary to set up a center which would provide small and medium enterprises with necessary information, help.

Of course, 10 years is relatively short period of time, and it would be incorrect to reckon up the sum for development of economy, and small and medium enterprise in particular. Analysis has shown that tendency of small and medium enterprises' development leads to growth, but on the way of the former there exist certain difficulties, which hamper the development of small and medium enterprises. Numerous measures to stimulate and support the participants of small and medium enterprises sector have been undertaken, but state-of-the art practice still needs to be improved.

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## New Law on Joint Stock Companies and Development of Securities Market in Kazakhstan

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Bearing in mind the importance of developing free market, democracy and legislation I assume that it is vitally important to know the legislature and law's that regulate our every day life and all spheres of our Society. For instance: Constitution, Criminal Law, Civil Law, Law on Consumer rights protection, and law on Joint Stock companies.

Since state controls and regulates trade, labor and other relations by imposing legislations we can say that development of Trade, Securities Market, Democracy and building of an Open Society directly depends on laws that establish rights and obligations for its citizens and organizations.

In my research paper I will investigate the project of Law which was entered to the Mazhilis branch of parliament in 5 th of November 2001 by the governments edict # 1400. I also will make short analyzing of securities market in Kazakhstan.

### Analyze of securities market development in 2001.

- Volume of trade in KASE from January to November 2001 reached 8.216 milliard dollars. As we see in 2001 trade increased approximately 189% in comparement with year 2000. During this period trade with corporate securities was very active and development was very high than ever before. Volume of trade with state securities from January to November 2001 reached 6.1 billion dollars. Accordingly 2.38 times more in comparement with statistics of year 2000. In year 2000 the volume of trade with state securities was not more than 3.1 milliard dollars<sup>1</sup>.
- Individual bank deposits of citizens in Kazakhstan as for 01.10.01 were approximately 2.8 billion or increased to 4.6 %
- By the end of 2001 total amount of Kazakhstan's commercial bank's capital was approx 899 million US Dollars or 34% higher than in yaer 2000.
- **Assets of National OIL Fund** by the end of 2001 reached 1.35 bn US dollars. There is possibility that National Bank might reconsider its investment policy and Fund's assets might be invested not only to American securities but also to other securities. Only 119 million US dollars from National Oil Fund were invested to the securities of International Financial Institutions.<sup>2</sup>

- **Ministry of energy and mineral recourses** informed that in 2015 natural gas recourses will be approx 29-34 milliard cubic meters. By 2015 our government plans to extract 45-50 milliard cubic meters. In 2001 only 700 000 tons were extracted<sup>3</sup>.

Which means that at least for 20-25 years our government will be attracting foreign investment and capital in to different industries and also will have enough money to improve education, social and healthcare institutions.

- **Pension Funds assets** were 1.128 billion US dollars and were increased to 253 million dollars (January - October 2001). Number of obligatory pension payments reached 4,431 million. Voluntary pension payments reached 20,897.<sup>4</sup>

### Investment portfolio of pension assets include:

1. Investment to short term state securities (5.2%)
2. Midterm and long term state loans (credits) (57.3%)
3. Local corporate securities (21.1%)
4. Secondary Bank deposits (9.1%)
5. Other securities

I assume that government has to decrease the limits of Pension Assets Management Companies' investment portfolio if it wants to develop securities market. In that case above-mentioned numbers may change and volume of trade with corporate securities may increase.

### Most stable Pension Funds:

1. Pension Fund of Narodni Bank 21.2% of market.
2. ULAR UMIT 17% of market.
3. ABN AMRO Caspi Munai Gas - 6.6 %
4. Senim - 5%
5. Kazakhmys - 3.6 %

**National Banks international reserves** as for 15<sup>th</sup> of November 2001 was 3.67 billion US dollars.

The chairman of National Bank Mr G. Marchenko suggested to sell state shares in national companies through KASE. He estimated that only pension funds alone could invest more than 100 million US Dollars to the different securities<sup>5</sup>.

I also for the idea of selling state shares in national companies only if their activities are not related to support national security. Government has not created the mechanisms for controlling and monitoring the functions of JSC where it has shares. For instance the government's edict # 683 issued in 01.06.1999 "The program for privatization and improving the quality of state property management" and edict #1095 issued in 21.07.2000



"About approving the concept of managing state property and privatization" chapter 1.4 "specific aspects of managing state shares in commercial bodies" state that the shortcomings in management of state shares appear because there is no common, governmental standards for monitoring JSC' activities.

As we can see securities market in one hand is one of quickly developing industries and in other hand it has so many shortcomings, therefore requires special attention from state bodies. Due to active reforms in main spheres of our society we have been witnessing economic growth, and commercial sectors like banking, insurance, pension funds were able to allocate huge sums of money. Now, next step shall be done in attempt to invest this money in internal market especially to the development of clothing, food, tourism industries. Because of strict rules and laws pension funds, banks and insurance companies have few investment options and investment usually is done through KASE, but, fact is not all Joint Stock companies can attract investment to their securities through KASE. Knowing all this government decided to activate securities market by improving the quality of securities and market participants. The first step towards fulfilling this goal was started with making changes in legislation.

In a case if the project of law is accepted as a law it will have a great significance and will change some existing mechanisms of regulating Securities Market in Kazakhstan.

Therefore the project of law and its standards shall be discussed and analyzed by details. To do so we need to know the existing Law on Joint Stock Companies.

#### Brief comments to the Law on JSC.

Definitions given in law include obligations, shares, stock, Joint Stock Company(JSC). JSC is a legal entity, which issues stock in order to attract the capital necessary for its activities<sup>6</sup>.

As a general rule, the JSC shareholders are not liable for obligations of JSC and bear the risks associated with the functioning of the JSC within the limits of the value of their contributions to the company in other words shareholder may lose capital equal to the amount of shares that belong to him.

According to the article 4 of the law on JSC, in the territory of Kazakhstan only two types of JSC can be founded and they are an open type joint stock company and a closed type joint stock company. Main differences between closed type joint stock companies and open type joint stock companies are as follows:

Closed type joint stock company	Open type joint stock company
1) Number of shareholder shall not be more than 100.	1) Not limited.
2) Restrictions on selling shares by shareholders. Shareholders cannot sell their shares to third parties without first offering them to the other shareholders and the JSC itself in accordance with the procedure established by JSC's charter or legislation.	2) No restrictions. Shareholders have the right to transfer and sell their shares at any time without the consent of other shareholders.
3) Minimal authority (charter) capital 100 (M.I.F)	3) Minimal authority (charter) capital 5000 (M.I.F) At the moment of registration minimum of contribution of at least 25% of the total amount of stated capital shall be paid, then within a year from the time of registration company has to complete the formation of its authority capital.

Because of this restrictions we have some difficulties in developing strong competitive securities market and it is fact that amendments to the law is necessity grown by demands of market and society.

#### The next step in my research will be taken towards analyzing the project of law on JSC.

Structurally project consist of 11 chapters, 91 articles which is less complex than existing law. Project will bring some new norms and main changes in comparison with existing law are as follows:

- 1) Closed joint Stock Companies will be abolished
- 2) Minimum of Authority Capital for JSC will be 200,000 (M.I.F-  $823 \text{ tg} \times 200,000 = 1, 6 460 000$ )

This is too much even for big companies and this kind of requirement may have negative consequences for business in general. As we know JSC has some advantages in comparison with other legal entities for instance OJSC do not have to re-register if some shareholders decide to leave the company and changes of shareholders do not influences to the functioning of JSC.



3) Number of governmental Bodies able to act as a founder of JSC will be extended and will include:

1. The Government of Republic of Kazakhstan
2. The National Bank and
3. Municipal Bodies.

As I mentioned earlier Government has no well established mechanisms of managing its shares in JSC and there is no standard forms for reports and monitoring of JSC' activities.

4) Foreign citizens and organizations will have the same rights in founding JSC's. Now it is mostly regulated with international treaties and agreements.

5) JSC will issue shares only in non-documentary form.

6) Only Independent registrar will do registration of rights for shares.

7) Obligations of JSC to found reserve capital will be abolished.

I believe that amendments # 6 and 7 will have positive effects in developing securities market because independent registrar is professional organization operating in securities market and has responsibilities for its services. Since reserve capital is deposited to the bank, shareholders can not use them to carry out functions of JSC.

8) General Meeting of Shareholders will have extra rights to demand so called "forcefully buying the shares from some shareholders" through Court. Unfortunately Law does not mention the Basis for forcefully buying.

9\*) In a case if JSC will not pay taxes and other obligatory dues and fees to the budget for more than three months, and if liabilities (depts) of JSC will increase 1/3 of its assets, then Tax Agencies will have a right to demand taking its shares for Governments sake instead of depts<sup>7</sup>.

To my mind It is a classic example of making the law, which contradicts to the existing laws for instance Law on Bankruptcy. Civil code and its main principles. If this law is accepted as it is now it will destroy the traditional order of repaying depts to the creditors. According to the article 51 of Civil code Demands of creditors in Bankruptcy situations shall be met in the following order:

1) Judicial Body has to pay its liabilities to the people whose life and health has been damaged by Judicial Bodies actions.

2) Demands of creditors whose demands were guaranteed by property will be satisfied in the second place.

3) Arrears for wage will be paid off in the third place.

4) Tax dept will be paid off at fourth.

5) Other depts.

As we can see Project of law not only contradicts to the main laws but also it gives opportunity to the government to overcome the procedure of bankruptcy and gives opportunity to avoid long lasting court procedures.

In a case if this project of law signed it will cause following consequences:

1) This law will violate and contradict to the main principle of Civil Code "Equality of parts"

2) It might be used as a tool for destroying counterparts.

### Conclusions

In general the project of law has some new rules and new ideas of approaching modernized stockmarket with its strong participants, reliable securities and financial instruments. But, taking in to consideration what was said above it is in interest of every participant of Market not to allow to sign this law in this condition. Unfortunately our Law makers do not try to keep a new laws in accordance with main principles of democracy and civilized legislation. From political point of view it is very convenient for the government to set out mechanisms (amendment 9\*) that will allow to control commercial sectors as banking, insurance, pension assets management companies e.t.c by changing their shareholders. There is also danger of passing a new law on media, which might establish obligatory rules like "Media companies and newspapers can be registered only as a Joint Stock company".

Only by active participation of citizens and non governmental organizations in law making process we can develop democracy and pass fair laws.

<sup>1</sup> Annual report of KASE for year 2001

<sup>2</sup> Business Week (Delovaia Nedelia), edition # 49. December 2001

<sup>3</sup> www.securities.com/ kazakhstan/news/ January 2002

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<sup>5</sup> Article 3, clause 1 of the Law on Joint Stock Companies, Issued 10.07.1998

<sup>7</sup> Article 33 of the Project of Law on Joint Stock Companies as for January 2002

## Principle of Subsidiarity in the Development of Kazakhstan

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### Introduction

Celebrating 10<sup>th</sup> year of independence in Kazakhstan and having a look to what was done so far, we can find that this country has made many changes to its' legal and political systems since the dissolution of the Soviet Union in 1991, and has made large strides in conforming its' legal system with generally accepted international legal principles.

The break-up of the USSR and the collapse of demand for Kazakhstan's traditional heavy industry products resulted in a sharp contraction of the economy, with the steepest annual decline occurring in 1994. In 1995-97 the pace of the government program of economic reform and privatization quickened with substantial shifting of assets into the private sector. Kazakhstan's economy turned downward in 1998 with a 2,5 % decline in GDP growth due to slumping oil prices and the August financial crisis in Russia. A bright spot in 1999 was the recovery of international oil prices, which, combined with a tenge devaluation and a bumper grain harvest, pulled the economy out of recession<sup>1</sup>.

As Kazakhstan proceeds through a rapid development stage, the legislation of the Republic of Kazakhstan is frequently amended and has always to be faced with new challenges of the developing process in the country. In the meantime we can observe a significant public interest with regards to decentralization of powers and implementation of new regulations in Kazakhstan, which could improve the structure of cooperation between localities and national level. Talking about economic analysis of these discussions, we should bear in mind that due to support an establishing market economy in a developing country it is extremely important to implement such regulation, which will lead to effective provisions enabling us to avoid market failures. Kazakhstan has already adopted number of laws, which are aimed to regulate such market failures as monopoly, externalities and problems of "common goods", but this does not solve the problem of instruments' choice for realization of these norms.

Similarly to other post-socialist countries, during the entire decade of the 1990s regional policies in Kazakhstan have been extremely weak and subordinated to sectoral policies of the national governments. In fact, there were only few measures and instruments applied that could have been labeled as "regional policy". We can probably mention here about creating of special economic zones in Kazakhstan.

Today, Kazakhstan seems quite a stable country with a particularly strong centralized system of regulation. As a rule, such concentrated system is justified by necessity of

coordination in the period of county's development, weakly specified preferences in society, "non-prepared mentality" of the population, existing corruption and the like. At the same time the opponents of such strong centralized system argue that such system is blocking natural progress and has become an obstacle for efficient development in localities.

Thus, we are coming to the question "whether the general concept of regulation is reflecting necessary level of efficiency now and what kind of regulation system Kazakhstan should choose?".

Following current public debates which could be observed in a recent mass media editions, we can conclude that it is vitally important to come up with a consensus on this issue. In this article I have considered one of the solutions which are leading us to a subsidiarity idea.

### Centralize or Decentralize: Con's and Pro's

To answer our question it is important to take into account a lot of factors. Firstly, historically Kazakhstan has moved from extremely centralized, planned economy, which influenced even on mentality of the society as such, and therefore decentralization is a very sensitive issue here. Secondly, we are dealing with a vast territory of the unitary state which requires special approach. In general, for analyzing of the type of regulation in a given situation, scholars usually used a three-keys' approach. It can be examined under efficiency, equity and accountability. Economic allocative efficiency refers to the level of aggregate welfare or the extent to which the pie of social welfare has been expanded. Equity refers to distributive justice whilst accountability measures the degree of control by society over government. The combination of these three criteria would lead to a choice of desirable type of regulation. As mentioned above, strengths and weaknesses either of centralization or decentralization can be evaluated in terms of three main kinds of considerations:

- 1) efficiency in the allocation of resources;
- 2) equity or fairness in their distribution; and
- 3) accountability of the agencies of the state to the people in whose name they are granted power.

There are a number of circumstances in which there is a good reason to expect centralized government to lead to great efficiency. We can point out the following issues according to the 3-keysr analysis:

#### Efficiency

- Spillovers
- Economies of Scale
- Insurance pooling

Equity:

- Redistribution within Localities
- Redistribution among Localities

Accountability:

- Visibility

These advantages of centralization appeal to the fact that the policies of localities may produce better results if they are coordinated rather than undertaken independently. One can say that current Kazakhstan's system is not able to exercise all these advantages in its' full richness and beneficial way. And perhaps, it is true at a certain degree that centralized system did not bring us to such advantages in Kazakhstan during last decade. For example, it seems that it was not proved that visibility in centralized systems is better, since centralized insurance pool systems did not provide support in most crucial economic cases for society during last 5-7 years. But talking about such kind of failures in existed scheme of regulation, we have to remember that centralization also has great costs. By diminishing accountability it offers scope of policies to diverge from the best interests of constituent states, regions of localities. Thus, the appropriate location of power reflects the conflict between the costs and benefits of centralization.

So, does it mean that because of some unsuccessful attempts we should immediately switch to decentralization or subsidiarity with its' own advantages and disadvantages?

First, decentralized systems may be more effective at gathering information than centralized systems. One serious limitation to the power of a centralized system to gather information is the central authorities' limited commitment power and the low credibility of any promises they may make not to use such information revealed to the future disadvantage of the localities. We can see it even from the Soviet model of centralization example: factory managers were over-fulfilling their production norms had every reason to fear that their norms in consequence would be raised in the future, so they responded only weakly to the promise of bonuses.

This argument stresses limitations to the ability of centralized states to implement decentralized solutions. The second reason is even more fundamental and emphasizes limitations to their willingness to do so. All societies whose citizens have conflicting interests face more or less serious problems of public choice. The centralization of power in any jurisdiction involves a fundamental trade-off. Taking into account great territory of Kazakhstan we can be assured that centralized system is always fighting with the problems of "public choice". Trying to satisfy "average" it eventually cannot satisfy anyone at all, since this "average" perhaps does not exist as such.

So, here are we can specify the advantages of the downwards decentralized regulation:

Efficiency:

- Certainty about Local Conditions
- Certainty about Local Preferences
- Certainty about the Effects of New Policies
- Regional Differentiation of Policies

Accountability:

- Citizen's Mobility<sup>2</sup>
- Voting ("direct" as a rule)

Equity aspect here does not seem so beneficial comparing with centralization since we are coming to dispersed minorities groups and "average" problem. But lacking arguments in here does not make decentralization less efficient than centralization could be in a certain situation.

Don't we lose anything here as well? Do we have anything in between pure central and decentralized schemes? These are the questions, to which subsidiarity is supposed to provide part of the answer.

Features of Subsidiarity

What exactly is subsidiarity? According to a 1993 CEPR Annual Report, it "is the specific claim that the burden of proof in the process of making this trade-off (between centralization and decentralization) should lie in favor of decentralization."<sup>3</sup> A definition of subsidiarity was also inserted into Article 5 of the Treaty on European Union. It reads that "the Community shall take action... only if and in so far as the objectives of the proposed actions can not be sufficiently achieved by the Member States and can therefore, by reason of the scale or effects of the proposed action, be better achieved by the Community"<sup>4</sup>.

From the other side, the principle of subsidiarity still remains vague and capable of conflicting interpretations. According to European Commission's Report<sup>5</sup> "subsidiarity" is not a blanket recommendation to decentralize, merely a presumption that operates unless a clear case can be made for centralization.

The principle of subsidiarity implies that all of these categories of power should be decentralized wherever is possible. But we should keep in mind that subsidiarity is not the same thing as decentralization. It is a principle for allocating power upwards as well as downwards, but it incorporates a presumption in favor of allocation downwards in case of doubt. By laying the burden of proof on those wishing to centralize, subsidiarity recognizes the initial sovereignty of its localities and emphasizes that problems of accountability of "government failure" at the center may be substantial.

Notably that until detailed arguments for and against centralization are made, the principle of subsidiarity is therefore an incomplete guide to decisions as to where power should reside. Even when such arguments are spelled out, their implication for the appropriate location of power varies case by case. Following the main spirit of subsidiarity - centralization of powers at the national level is necessary only when coordination is desirable but its decentralized implementation is not credible.

For such young, developing country as Kazakhstan, with its' unique cultural, ethnic, historic and geographic situation, it is not so obvious that principle of subsidiarity will lead to productive and allocative efficiency at once. Nevertheless, it is reasonable to implement advantages of centralization, decentralization and subsidiarity as a treatment in specific areas of regulation. It was proposed, for example, that Kazakhstan can benefit from extending fiscal decentralization reforms to rayons, cities, and towns, as well as to implementation units, such as schools and hospitals<sup>6</sup>. Local authorities here are in a position to make better choices, since they are expected to possess better information about local preferences. However, this requires several conditions that should be considered by the government prior to their implementation.

Definitely subsidiarity can serve as a balance in case of choice between central and decentralized schemes but each of this scheme is not a panacea in regulation as such. With its' diversity territory particularities and variety of "business' specializations" in the regions (e.g. oil and gas sector in Western Kazakhstan and the like), we have to implement rules of cooperation as carefully as possible. One of the lessons that can be learned from the past reforms suggests that the preparation or amending of the new system should be based on clear functional principles, which should not be disputed on the whole-national scale.

Overall, subsidiarity presupposes that decentralized allocations of power are to be preferred unless there are good reasons for centralization of powers and authorities. While moving to a stable, working free market economy regime and maximization of social welfare in a developing country, it is important to remember how thin and sensitive the society is and avoid immediate switch from one system to another.

## Conclusion

In a present time while hot disputes on decentralization process are taking place in Kazakhstan, it is important to consider the advantages of the subsidiarity principle. This could enable to avoid disadvantages linked to pure centralization or decentralization of powers, which can be viewed in a three-keys' approach used in the article.

In the meantime it seems reasonable to implement the rules of subsidiarity in some areas of regulation, which can be considered as non-high-risky areas from the regulation point of view. Since the society is extremely sensitive to any innovations and the economic regulation has to avoid high-wave shakings from center to full diffusion and vice versa.

Subsidiarity could serve as a guarantee for society that local governments will not over-use their power in a negative manner and the centralized government will have a legal opportunity to intervene where it is necessary for the social welfare.

Finally, I would stress that a choice between centralized, decentralized and subsidiarity forms of government need not always be made once and for all, but can sometimes be undertaken on a case-by-case basis if it is possible to estimate some of the relevant variables. In my opinion only such flexible view could lead Kazakhstan and other developing countries to the best solution in current circumstances.

## Endnotes

<sup>1</sup> Denton Wilde Sapte, *Doing Business in Kazakhstan*, September 2001.

<sup>2</sup> The extreme version of this argument is Tiebout's (1956) hypothesis, named after the economist who proposed that competition between jurisdictions would lead to an efficient allocation of resources even in the presence of public goods.

<sup>3</sup> CEPR Annual Report, *Making Sense of Subsidiarity: How Much Centralization for Europe?*, p.5

<sup>4</sup> Faber, *Subsidiarity, Sovereignty, Democracy and the World Trade Organization*, 2002, p.2

<sup>5</sup> See No.2

<sup>6</sup> World Bank, *Kazakhstan: Public Expenditure Review*, available at [http://www.worldbank.kz/content/esw8\\_eng.html](http://www.worldbank.kz/content/esw8_eng.html)



## Issues of Real Estate Mortgage in Kazakhstans

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Real estate mortgage is among the burning issues of our time. Stimulation of non-inflationary measures for production encouragement, fulfillment of the revenue part of the state's budget and provision of the circulability of the realty arouse strong interest of the society. Businessmen need to decline a tax pressure. Furthermore, they need to get "cheap" and long-term credit. Many citizens would like to improve their housing conditions but can not afford it. In this case, the program of mortgage crediting can become a possible approach of the development of economic. Mortgage crediting is more preferable due to the securing of the loan with the real estate, a thing, whose value is less susceptible to inflation. However, a practice of establishing such a program in Kazakhstan has some weaknesses worsening its implementation.

During the Soviet time private property was almost forbidden and, as a result, mortgage wasn't a current mean in economic turnover. This led to lack of legal regulations; to chaos in business activities. According to the Article 299 of the Civil Code: "Pledge shall be recognized as such a method of ensuring the fulfillment of the obligation, by virtue of which a creditor (pledgeholder) shall have the right in the case of a failure by the debtor to fulfill the obligation secured with the pledge to get satisfaction from the value of the pledged assets, in a priority procedure before the other creditors or the person to whom those assets belong (pledger), with the exceptions established by the legislative acts"

At the same time, the Civil Code contains the Article № 303, which has no analogue among the civil legislation of the other CIS countries and it changes completely the meaning of the pledge: "Mortgage shall be the type of pledge under which the pledged assets remain in ownership and use of the pledger or a third person".

Lack of agreement between the legislative and judicial bodies can be revealed by conducting an analysis of the definition of the mortgage of realty (hypotheca), given by the Resolution #4, 1995 of the Plenum of the Supreme Arbitration Tribunal: "Mortgage of enterprises, buildings, constructions, or any other objects that are directly linked with the land plot or with the right to use it, is deemed real estate mortgage (hypotheca)", which doesn't correspond *in toto* to the Civil Code, Article #303: "Enterprises or structures, buildings, installations, apartments, means of transport, cosmic items, goods in turnover may be subject to mortgage". It is obvious that goods in turnover has nothing to do with realty objects. Thus, the definition of hypotheca as a pledge of realty, given in the resolution which is still in charge, despite the fact that Arbitration Tribunals do not exist anymore, contradicts the law.

Conducting an analysis of the legal definition of the object of hypotheca, we can conclude: The only classification criterion of hypotheca in Kazakhstan is a subject that possesses and uses mortgaged property (debtor). All the other CIS countries define hypotheca as an institution requiring at least 2 criteria to constitute the whole: 1- a person that owns and uses the mortgaged property (a pledger or a third person); 2- an object of the mortgage, which is, in fact, real estate.

In Russia, for instance, according to the Article 334 p.2 of the Civil Code: "Mortgage of land plots, enterprises, buildings, flats, constructions and other real estate is deemed hypotheca".

There are many various conceptions concerning the legal nature of the realty mortgage.

As A. Didenko has noted, the isolation of the institution of hypotheca as an independent type of mortgage, based only on the subject criterion (pledger), can not be justified. He argues that: "While creating the generic definition of hypotheca as a mortgage of both the realty and movables, the lawmakers should have provided common legal regulation of both these types. However, it could not be done due to the sharp difference between the principles that constitute the basis for the legal regulation of these different types of property"

The terminology of the law represents also some serious drawbacks. For example, according to the Article 1 of the Decree "On the real estate mortgage", "Contract for the pledge of property" – is an agreement of parties to establish the principal obligation. I disagree with such concept because it doesn't reflect the essence of mortgage. Mortgage agreement requests provision of a property by a debtor in order to guarantee the due performance of the obligation rather than to confirm the fact of the establishment of the principal obligation. That can be explained by an accessory, securing nature of mortgage towards the principal contract (which can be, for instance, a credit agreement). In order to clarify the meaning of the article, I would suggest an amendment to an Article 1, p. 5 of the Decree, which will, probably, be this one: "Contract for the pledge of property" "is an agreement of the parties on the provision of the security for the purposes of the proper fulfillment of the principal obligation".

A full idea of mortgage is impossible to get without mentioning its basic principles. Among them are principles of specificity and seniority.

The principle of specificity means that the right to immovable property should be registered by the state agency by way of including in the list of rights. The registration should be done strictly in accordance with the territorial criterion, i. e. should be linked with the situation of the land plots. As far back as the beginning of the last century a noted Russian scientist, Mr. Meyer, proposed that the registration should have been done on the basis of estate, not the owner.

According to the principle of seniority, a right to pledge, listed in the official register, is executed under the date of its registration. This provision matters especially in the case when there are several creditors who have the right to pledge. It goes without saying that the previous pledgeholder has much more chances to get satisfaction than the following.

As we can see, both the above spoken principles constitute the basis for the pledge. At the same time they have been ignored by the Law of the Republic of Kazakhstan "On the execution proceeding". Article 37 of the Law provides that a recovery can be imposed on the pledged assets in the case, when a debtor fails to fulfil his obligations which are not secured with a pledge, with full observance of the pledgeholder's rights.

While conducting an analysis of civil legislation relating to this issue, I didn't find out any provisions granting any special preference to a pledgeholder that could help him to escape the effect of the Article 37 of the Law. Moreover, the Article 36 of the Law provides that a recovery can be imposed on any asset belonging to a debtor, since the client lacks money, sufficient for cancellation of a debt.

The Law "On execution proceeding" duplicates provisions of the Civil Procedure Code of Kazakh Soviet Socialist Republic, which is no more in charge. The Code had stipulated, that a recovery could be imposed on a pledged property in the case when a debtor lacked other property to fulfil his obligations, which were not secured with the pledge. This provision of the Code should be considered anti-market on its substant.

Thus, the Law does not comply with the Civil Code. The conception of pledge requires separation of the pledged assets from the rest of the debtor's property specifically for satisfaction of a pledgeholder in a priority procedure before the other creditors, irrespective of a presence or absence of another creditors.

A noted researcher, Mr. V. S. Em proposes that this conflict should be resolved for the benefit of a pledgeholder and suggests to establish such rule: Pledgeholder, in the cases established by Law and by contract, has the right to claim for imposition of the recovery on the pledged realty and to get satisfaction from its value irrespective of a presence or absence of another creditors.

On the other hand, Mr. S. N. Dudkin asserts that we can not reduce the meaning of the specificity principle only to the apportionment of the pledged asset from the whole specifically for satisfaction of the pledgeholder.

According to the Constitution of the Republic of Kazakhstan land can belong to citizens and legal entities under the right of private property. Indeed, an individual can own land, but this article of the Constitution is almost annulled by the provisions of the Land Code of Kazakhstan prohibiting private ownership of those lands that could be used in agricultural activities, i. e. the most substantial and valuable category of lands. This causes deficiency of investments into the agricultural section

Presently, one of the greatest issues on the realty market is the liquidity of the deposited property, an issue that is complicated greatly by the following circumstances:

- High and unstable rates of inflation that make long-term crediting risky;
- High rates of interest;
- Lack of legal regulations in the case when the bank imposes a recovery on the mortgaged property since the client has failed his obligations;
- Lack of experience in operating credits;
- Weak securities market.

All the above factors often lead to a negative practice when contracting parties prefer not to make a deal in the form of mortgage, but to substitute mortgage by fictitious or sham transactions which are out of legal framework. Later this causes trouble for them when they sue a case and can't get judicial defense.

In spite of all the above difficulties the progress in the sphere of mortgage is now achieved. The interest of the banks towards these issues is justified by the existing solvent demand for the long-term housing loans and by comprehension of the fact that now is a good time for taking a position on this sphere of the market.

#### List of Statutes:

Указ Президента Республики Казахстан, имеющий силу закона, "Об ипотеке недвижимого имущества" от 23.12.1995г., №2723.

Гражданский Кодекс Республики Казахстан общая часть (от 27.12.1997.) и особенная часть (от 01.07.1999г.).

Указ Президента Республики Казахстан, имеющий силу закона, "О государственной регистрации прав на недвижимое имущество и сделок с ним" от 25.12.1995г., №2072, с изменениями, внесенными Законом Республики Казахстан от 02.12.1997г., №189-1

Закон Российской Федерации "Об ипотеке (залоге недвижимости)" - Собрание законодательства РФ, 1998г., №29, ст. 3400.

Закон Российской Федерации "О залоге" от 29.05.1992г.

Гражданский Кодекс Российской Федерации (часть первая) от 08.12.1994г.

Постановление Пленума Высшего Арбитражного суда Республики Казахстан от 04.08.1995г., №4 "О применении законодательства при разрешении споров, связанных с залоговыми обязательствами".

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«Римское право» И.Б. Новицкий, М. ,1994г.

«Залоговое право РК» под ред. М.К. Сулейменова и Е.Б. Осипова, А. , 1997г.

«Гражданское право том 1», отв. ред. М.К. Сулейменов, Ю.Г. Басин, А. ,2000г.

«Правовые проблемы организации рынка ипотечного кредитования в России» под ред. В.С. Ема, М. , 1999г.

Е.Павлодский «Залог недвижимого имущества», Хозяйство и право, №4, 2000г.

А.Г. Диденко «Ипотека», «Предприниматель и право», №1, 2000г.

З. Цыбуленко «Договор об ипотеке», ХиП, №8, 2000г.

Д. Братусь «Основные элементы понятия залога», Указ. раб. ст.12

А.А. Вишневский «Залоговое право», М. , 1998г.

## Youth Reaction to the Strategy 2030

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The land where the republic of Kazakhstan is situated today has plenty of positive and negative historical events that influenced our modern life. Our country became an independent state in 1991 after about 70 years of being a part of the Soviet Union. And today our generation can completely evaluate the policies and economics of that time. We should derive all achievements and not admit previous repetitions of mistakes like extensive bureaucracy, refusing private property, having a planned economy and having just one party without any opposition. And by these reasons the president of Kazakhstan, Nursultan Nazarbaev, made a strategy, which promises that to the year of 2030 all Kazakhstani people will be living in prosperous state. It means that in 30 years we will have:

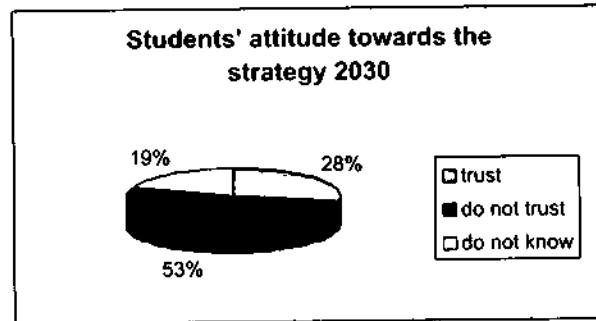
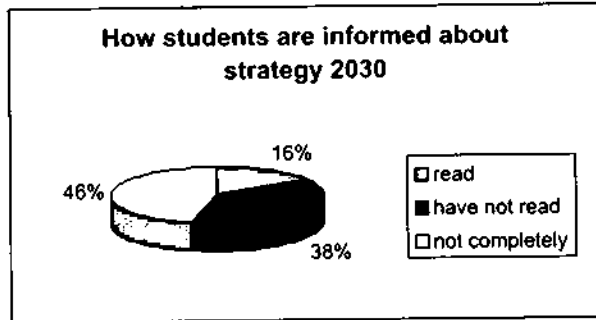
1. National security.
2. Domestic political stability and consolidation of the society.
3. Economic growth based on an open market economy with high level of foreign investments and internal savings.
4. Health, education and well being of Kazakhstani citizens.
5. Power resources.
6. Infrastructure, more particularly transport and communication.
7. Professional state.

So we can suppose that we will have all rights and our citizens will be able to insist on all their interests.

The main purpose of our research was to find out the reaction of our generation to the strategy 2030. What do they think about it? Do they believe in it or not? And is it possible for us to achieve all aims, which were mentioned in that strategy in 30 years? Or maybe we can achieve them in a shorter time like those Asian countries as Singapore, Malaysia, Taiwan, South Korea and Thailand? Lastly we wanted to know what our press says about it, why there are no sources which criticize it and plenty of those which only support it?

Doing our research we drew our sample from the **population** of students studying in Almaty universities and used **non-probability convenient sampling approach** as we considered that it is time and money saving. For getting the real picture of youth attitude toward the strategy 2030, we choused a **sample size** of 200 students from Almaty universities: KazGU and KIMEP. The **date** when questionnaires were distributed was January 16, 2001 and collected was January 27, 2001. (For questionnaire, see Appendix A) Firstly we were interested in how they were informed? Do they know what is the strategy 2030? You can see our findings on the following chart.

We can say that in spite of wide advertising, 62% or majority have not been informed yet. Our next question was do they trust it or not? The results you can see on the following chart.



28% of our respondents really trust it. They think that we should have a planned system, which can follow and due to this strategy we will reach improvements in education, industry and economy. At the same time most of young people or 53% do not trust it. As for explanation most of them said that we even had not achieved the plans for 1998 which were mentioned in the strategy. By 1998 we intended to reach those priority goals as timely and complete payment of pensions, wages, salaries, and social benefits, combating poverty and unemployment, settlement of the most pressing agricultural problems and also a lot of similar plans which have not been gained even today.

We tried to show you our findings concerning the strategy 2030. We really must plan everything, which has to be done for development of our country. But it is such a long time as 30 years to achieve them, because our today's young people will be at the age of 50 or 55. And that is why 16% of our respondents think we must do our best in order to get this strategy in 15 or 20 years, not in 30. As we know this world becomes more modern day by day and just by following this plan we are risking staying behind the world modernization.

It may be interesting for you to know the answer for the question: "What our press says about the strategy 2030 and why there are no sources which criticize it and plenty of those which only support it?" Doing content analysis we discovered to our surprise that most of Kazakhstani newspapers and magazines write only positive sides of this strategy. For example, in the newspaper "Kazakhstanskaya Pravda" there was one article, which says about only positive attitude of youth to this strategy. Having collected our questionnaires and analyzed them we found out that the majority of youth do not trust the strategy 2030. So from all stated above we derived another question: "Why our mass-media hides truth?" The answer is that there is relatively freedom of press and by that reason our mass media shows only one side. You can see that this strategy has a lot of points to discuss because we all know that the elaborate plan is necessary for our country but this

plan must be done in a shorter period of time like in some Asian countries. And here let us answer to the next question: "Is it possible for us to achieve all aims mentioned in this strategy in 30 years, or maybe we can gain it in a shorter period of time like countries as Singapore, Malaysia, South Korea and Thailand?"

Why not? As we know Malaysia, the country that is similar to Kazakhstan by population, ethnic groups, and many other features achieved the 10-time increase of welfare less than in 20 years. Another example is South Korea. You know, today South Korea has become one of the most developed countries in the world. And at the present time it can compete with USA, Japan, France, Britain and so forth.

All of these countries achieved their success by using foreign investments and technologies, having labor resources and feeling of togetherness. They managed to create successfully competed manufacturing industry among the west markets. In spite of all difficulties they became modernized in less than 20 years. So why not to follow their pattern? We have the same opportunities. Our land is bigger and richer with natural resources, people are educated, that shows we do not belong to third world countries but there are two main purposes which must be achieved at the very beginning. Firstly, we should eliminate any kind of corruption in our society and secondly, we should not wait all actions to be done by our government. We must be more active and participate in political life of our country for achieving all those things that we want. We think that the strategy 2030 was written just theoretically and practically it can be done only by people's efforts. We should remember the great words of an American president John Kennedy: "Don't ask what the country can do for you, ask what you can do for your country".

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Appendix A

QUESTIONNAIRE

Dear friends, I would like you to help us in our research, which concerns youth attitude toward the strategy 2030, by answering the questions below. Please put ticks near answers those correspond to you and fill in the blanks. Your responses are very important for me.

- 1. Age group: A) 15-19 B) 20-22 C) 23-26
2. Your occupation: A) Student B) Pupil
3. Which university or school are you from?
4. How are you informed about the strategy 2030? A) Read B) Have not read C) Not completely
5. Your attitude towards the strategy 2030 A) Trust B) Do not trust C) Do not know
6. Is it possible for us to achieve all aims, which were mentioned in that strategy in 30 years? A) Yes B) No
7. Can we achieve them in a shorter time? A) Yes B) No
8. How do you think why our mass-media gives only positive sides of the strategy 2030?
9. We would like to hear from you if you have any further comments:

THANK YOU VERY MUCH FOR COOPERATION.

APPENDIX

About KIMEP

The idea of the creation of the Institute dates back to early 1991, when the President of the Republic of Kazakhstan, Nursultan Nazarbayev, acutely aware of the Republic's need for trained personnel, asked Doctor Chan Young Bang to create an entirely new educational institution in Almaty, staffed by foreign instructors and operation according to the highest academic standards of the European Community and the United States.

The mission of Kazakhstan Institute of Management, Economics and Strategic Research (KIMEP) is to provide the young people of Kazakhstan with the skills and knowledge necessary to pursue prosperity and stability for the entire nation through competent and ethical leadership in business and government.

In order to fulfill this mission KIMEP offers graduate and undergraduate programs such as Business Administration, Accounting, Economics, Public Administration and Social Science, International Relations, International Journalism and Mass Media. KIMEP seeks to select students from among those who demonstrated leadership, talent and language capability irrespective of race, gender, ethnic origin, or financial means and is constantly striving to provide the highest level of instruction in economics, business, public administration and continuing education.

KIMEP has a unique financial aid system. The brightest students can get from 10 % to 100% scholarship or grant.

KIMEP actively participates in economical and political life of the Kazakhstan, organizing student scientific conferences on the most actual topics. KIMEP has developed student exchange program due to its partnership with the best Universities all over the World.

KIMEP is well known for its graduates, who have the high borrowing power and work on the key directions of economical reform of Kazakhstan and other CIS countries. More information: www.kimep.kz

## THE KIMEP CENTER FOR RESEARCH AND DEVELOPMENT

### MISSION

The Center is an interdisciplinary research unit concerned with basic and applied research in the social sciences, economics and business. The focus is on post-soviet developments in Central Asia and Kazakhstan in particular. The mission of the Center is to promote research as a way to enrich teaching and service at the Institute and to enhance the social and economic environment of the region.

The area of research covers a wide range of fields, from political transition, civil service reorganization, finance and banking sector reform to interethnic relations.

The Center carries out its mission by pursuing the following goals:

- assisting KIMEP faculty in securing sponsorships for research and scholarly activities
- conducting survey studies on economic, social, and political issues
- publishing a scholarly periodical, the Central Asian Journal, monographs, research papers and reports
- organizing and conducting conferences, seminars and workshops
- conducting collaborative research projects with local and international research centers
- sharing information appropriately with the general public and with targeted internal and external interest groups about KIMEP's research accomplishments and needs.

### PUBLICATIONS

- Central Asian Journal
- Student Central Asian Journal
- The bulletin of the Center 'LINK'
- Conference proceedings

### ACHIEVEMENTS

- **1998-2002** – Organizing over a dozen of conferences, symposiums, forums and workshops on various socials, economic and political issues related to Kazakhstan.
- **July 1999** – English Kazakh Russian Lexicon/Dictionary of terms, concepts in Social Sciences, Public Administration and Public Policy.
- **January 2000** – Launching the 'Central Asian Journal', a fully refereed academic periodical.
- **February 2002** – The Third Regional Student Conference. 170 students from 11 countries of the Central Asian Region, Russia, USA, Canada, Netherlands, Poland, Turkey and Italy participated.

- **June 2002** – Joint Summer Conference "Global Foreign Policy Issues after September 2001: Perspectives from Asia and the West" was conducted together with Sukmyung Women's University of Korea. Proceedings of the Conference were published.
- **September 2002** – First Round Table for the study "Local Content Study in the Oil and Gas Sector of Kazakhstan" with participation of several Kazakhstan and foreign companies: FMC Energy Systems, Parsons E&C, Chevron, Munaigas Inc., Coudert Bros., Halliburton and SEAF.
- **December 2002** – SME (Small and Medium Enterprise) Development paper presented to the Government.

### CURRENT ASSIGNMENTS

#### Ongoing studies:

- **Local Content Study in the Consumer Goods Sector of Kazakhstan.** The study will publish the results of empirical surveys and disseminate reports, prepared by faculty and students, to local and international companies, local trade associations and to Central and Oblast Government.
- **Local Content Study in the Oil and Gas sector of Kazakhstan.**
- **LGI Project 'Local Budget Expenditures Assignments in Kazakhstan'.** Financed by the Local Government and Public Reform Initiative -LGI, Soros Foundation. At the end of the project, a research paper will be published.

#### New Research Ideas:

- Foreign Direct Investment in Kazakhstan
- Impact of foreign aid in Kazakhstan
- SME development

#### Round tables and seminars for local content studies:

- Oil and gas sector
- Consumer goods sector

#### Conferences:

- The Fourth KIMEP International Student Conference
- International Conference "Advances in Statistical Inferential Methods, Theory and Application"

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**KIMEP CENTER FOR RESEARCH AND DEVELOPMENT INTERNATIONAL  
AND NATIONAL PARTNERS**

- . OECD, Organization for Economic Cooperation and Development, France
- . Coca-Cola Company, USA – Kazakhstan
- . Kommesk-Omir, Kazakhstan
- . FOA, Defence Research Establishment, Sweden
- . MSM, Maastricht School of Management, Holland
- . LG, South Korea-Kazakhstan
- . ICS Co., International Consulting Services Co, Kazakhstan
- . EBRD, European Bank of Reconstruction and Development, UK – Kazakhstan
- . PNNL, Pacific Northwest National Laboratory, USA
- . Canadian Embassy in Kazakhstan
- . INTRAC, International NGOs Training and Research Center, UK
- . USAID, United States Agency for International Development, USA – Kazakhstan
- . Soros Foundation, Hungary – Kazakhstan
- . ChevronTexaco, Kazakhstan – USA
- . Yale University, Center for International and Area Studies, USA
- . Procter & Gamble Company, USA – Kazakhstan
- . LGI, Local Government Initiative, Hungary
- . SWU, Sookmyung Women's University, South Korea
- . NBR, National Bureau of Asian Research, USA
- . UNDP Kazakhstan Gender in Development Bureau
- . International Labor Organization in Kazakhstan
- . Eurasia Foundation, USAID
- . World Bank
- . Fulbright Association, USA
- . Halliburton International Inc., Kazakhstan
- . Coudert Brothers Central Asia LLC, Kazakhstan
- . Parsons Overseas Company Kazakhstan
- . FMC International AG in Kazakhstan
- . SEAF, Small Enterprise Assistance Fund, Kazakhstan
- . MacArthur Foundation, USA