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INVESTMENT REGIMES AS AN INSTRUMENT OF PRIVATE AND FOREIGN DIRECT INVESTMENT STIMULATION IN UKRAINE

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Uncertainty of global economic prospects, "slackness" of international flows of goods and capital, negative trends in the field of global finance, national budgets crisis in leading world countries affect the economy of Ukraine, which is open to influences from the world markets. The possibilities of financing reforms became worse. The problem of contradictory tasks of stabilization and growth became an acute problem.

In 2012, the amount of the FDI into economy of Ukraine was 6,013 mln US \$. It is less on 7,2% in comparison with the same indicator in 2011 (6,480 mln US \$). In 2013, according to experts forecasts, FDI in Ukraine could be reduced to 4 mln US \$ [18].

Unfavorable foreign economic conditions, including the pressure of European and Russian factors, hamper the economic growth in Ukraine. The productivity slowdown of the export-oriented industries is reflected in the development of the real sectors of the economy, including such as engineering industry [16, p.4].

A wide range of measures of stimulating investment and financial supporting for the development of the national economy, including in regions, was implemented during the years 2010-2012. These measures will ensure post-crisis recovery on a new qualitative basis that will be a background for further economic growth in the long term prospects. In particular, in 2012 modernization processes were initiated in basic industries such as coal mining, metallurgical and engineering industries.

The ensuring of equal protection of the rights, interests and property for investment entities is one of the main directions of creating favorable conditions for investment activities by the state.

The article is aimed to investigate whether operating investment regimes in Ukraine are able to overcome the decline of private and foreign direct investment and fully utilize existing investment potential of regions.

The aim determined the necessity to review the legislation of Ukraine concerning the usage of the investment potential of sectors and regions, for activation of social and economic development according to their features. It should be noted that the economic affectiveness analysis of implementation of adopted legislation

in this area is not a part of the objectives of this study.

It should be noted that the current legislation of Ukraine creates all possible conditions to ensure the equal protection of the rights, interests and property investment entities regardless of ownership, investments effectiveness, development of international economic cooperation and integration.

Thus, the Law of Ukraine "On Investment Activity" (Article 12-1) provides the following forms of the state aid for investment projects: financing, co-financing, credit, full or partial compensation of interest on loans from the state or local budgets, guarantees from the state and local authorities to ensure debts obligations of entities, etc.[2].

According to this Law the selection of investment proposals and projects for the state aid is done on a competitive basis after the state registration of project (investment) proposals or investment projects and evaluating their cost-effectiveness.

Besides, the Law of Ukraine "On Stimulating Investment in Priority Sectors of the Economy for New Jobs Creation" came into force on 1 January 2013. It provides conditions for investment stimulating by concentration state resources on priority areas of the economic development for introduction of new energy technologies, jobs creation, regional development [1].

This law provides the state aid for investment in priority areas for entities that implement investment projects in priority sectors in the form of special taxation (income tax and import duty tax) in accordance with the Tax and Customs Codes of Ukraine.

The following income tax rates are used for those entities that implement investment projects:

- 0 % during the period from 01.01.2013 to 31.12.2017,
- 8% during the period from 01.01.2018 31.12.2022,
- 16 % from 01.01.2023 [11].

It should be noted that starting from 01.01.2013 the basic income tax rate is 19 % in Ukraine and starting from 01.01.2014 it will be 16 % [11].

Entities that implement investment projects in priority sectors during the period from 01.01.2013 to 31.12.2022 may provide a tax bill for customs authority. The tax bill may be issued for the equipment and components that is imported into the customs territory of Ukraine with exemption from import duty. Its amount should reflect a specified in the customs declaration VAT liability [12].

Until 01.01.2018 the exemption from the import duty tax for the equipment and components will be used in the case of their import into customs territory of Ukraine (the customs regime of import) by entities that implement investment project in priority sectors of the national economy. According to the Law of Ukraine "On Stimulating Investment in Priority Sectors of the Economy for New Jobs Creation" [1], proposals for granting a title "investment project in priority sectors of the economy" to the project maybe made by state regional administrations. The equipment and components should respond to the following conditions: they are not excisable goods, they have been produced not later than three years before

the date of state registration of the project, they have not been in use before, they are not produced in Ukraine and have no analogues in Ukraine.

In addition, the Tax Code provides favorable tax regime for entities that implement investment projects, aimed, in particular, at improving energy efficiency and energy conservation, production and usage of alternative fuel sources [11]. Besides, it determines a list of economic activities that are stimulated by fiscal instruments.

Until 01.01,2020 the following incomes are exempt from taxation :

- incomes of producers of biofuels from the sale of biofuels,
- incomes of entities from the simultaneous production of electricity and heat energy using biofuels and/or heat generation on biofuels,
- incomes of producers of equipment manufacturers set out in the Law of Ukraine "On Alternative Fuels" (Article 7) that are used for manufacturing/reconstruction of hardware and vehicles including self-propelled agricultural machines and power plants that consume biological fuels [5],
- income of entities from the extraction and usage of gas (methane) of coal deposits in accordance to the Law of Ukraine "On Gas (Methane) of Coal Deposits" [8].
- Starting from 01.01.2011 and on the period of 10 years, the exemption from income tax is used for the entities (from their basic activities) in:
 - hotel sector ("five stars", "four star" and "three stars" categories of the hotel, including newly constructed, reconstructed hotels or restored existing buildings),
 - light industry (except companies that produced goods on commission raw materials),
 - electricity sector (in the case of generating electricity exclusively from renewable energy sources),
 - shipbuilding industry,
 - aircraft industry,
 - engineering industry (working for agriculture complex).

The Tax Code also established the favorable tax regime for entities of software industry, in particular: VAT exemption for the operation of software products during the period from 01.01.2013 to 01.01.2023, 5 % tax rate on incomes (starting from 01.01.2013)[11].

The Customs Code provides stimulating norms for foreign investment by the exemption from import duty tax, in particular for:

- goods (except goods for sale or usage for indirect purposes of doing business) that are imported into the customs territory of Ukraine for at least 3 years by foreign investors in accordance with the Law of Ukraine "On Foreign Investments" for the purpose of investing in accordance to registered contracts (the basic import duty tax should be paid in the case of the disposal of such goods earlier than three years from the time of their admission to the balance),

- goods (except goods for sale or use for purposes related to doing business not directly) that are imported in **Ukraine** as a foreign investor's contribution to the charter capital of enterprises with foreign investments [12].

Also, the Customs Code improved a legal framework for the creation and operation of duty-free zones.

There are following types of duty-free zone in Ukraine:

- commercial (free storage of goods for unlimited period),
- service (free activities on repairing, modernization, construction of air, sea and river vessels and other crafts or their parts),
- industrial (producing/manufacturing goods within territories of the certain types of special (free) economic zones) [12].

Duty-free zone can be established within border crossing points at the state border of Ukraine, sea and river ports, airports, railway stations and territories of entities, as well as in other places where it is possible to provide a regime of duty-free zone in accordance with this Code.

The creation of duty-free zones of commercial and service types is determined by provisions of Chapter 15 of the Customs Code. The creation of duty-free zones of industrial type is done by special laws of Ukraine.

The Law of Ukraine "On Public and Private Partnership" defines the organizational and legal framework, principles, forms and spheres of interaction of public and private partners in Ukraine. Thus, this Law (Article 4) contains a list of areas for the partnership, including: exploration and mining of mineral resources; engineering industry; collection, purification and distribution of water; health care; tourism, recreation, culture and sport; waste processing; manufacturing, distribution and supply of electricity [9].

This Law (Article 18) determines ways of the state aid for the implementation of public and private partnerships, including:

- guarantees of the state, the Autonomous Republic of Crimea and local governments,
- funding from the state or local budgets and other sources in accordance with national and local programs;
- other forms of the state aid provided by law.

Also according to the Law of Ukraine "On Concessions":

- state, local governments take part in the partial financing of concessions of social significance,
- unprofitable and low-profit concession objects of great social importance may get benefits in concession fees (including those in the form of extension, postponement, total or partial exemption from payment of concession fees for a certain period, as well as subsidies, compensations and benefits) [4].

The stimulating provisions of the legislation opens the way to use fully the available investment potential of regions, according to their possibilities for intensification of social and economic development, attracting additional financial resources, creating jobs and increasing revenues to the budgets of all levels through the implementation of investment projects.

In order to stimulate the depressed areas development may be carried out such measures as:

- target public funding to the development of industrial, communications and social infrastructure,
- state aid, including financial, for promotion a small business infrastructure development, such as business centers, business incubators, innovation and consulting centers, venture capital funds and so on.

The Law of Ukraine "On the Promotion of Regional Development" determines that the promotion of regional development, particularly, is carried out by the programme-based approach for solving problems of social and economic development, creating favorable investment environment in regions, concentration of financial resources (from the State Budget of Ukraine and local budgets and others) on a competitive basis to achieve the most effective their usage [7].

The Budget Code of Ukraine (Article 24-1) determines a creation of a State Fund for Regional Development as part of the general budget fund in order to finance:

- measures for implementation the state target programs and investment programs (projects) in particular for regional development;
- programs and activities for social and economic development, including programs of activities of administrative units (including small towns, mountain settlements, settlements of surveillance areas etc) [10].

At the same time, the Law of Ukraine "On the State Target Programmes" defines legal principles of state target programmes to facilitate the implementation of the state policy in the priority areas of the state, some sectors and administrative units; to concentrate financial, material and technical and another resources of industrial, scientific and technological capacities; and coordinate central and local executive bodies, enterprises, institutions and organizations [6].

In June 2012, the Parliament of Ukraine adopted the Law of Ukraine "On Industrial Parks". It provides incentives for the creation and operation of industrial parks that can be formed on the lands of the state, municipal and private property [13].

In accordance to this Law, the land of industrial park can be located inside or outside of the locality. Its area must be less than 700 ha.

The law stipulates the business activities that may be carried out within the industrial park. The business activities are the following: manufacturing, media and telecommunications, as well as research and development.

In addition, this Law provides an exemption from the equity participation in the development of local infrastructure for initiators, management companies and members of the industrial park.

- Besides, the Customs Code established the exemption from import taxation on:
- equipment and its components, materials that are not produced in Ukraine and are not taxed goods in the case of their import by the initiators and the management companies for the construction of industrial parks,
 - equipment and its components that are not produced in Ukraine and are not taxed goods by in the case if their import by participants of industrial parks for further economic activity within the industrial park [12].

The Law of Ukraine "On the Preparation and Implementation of Investment Projects on the Principle of "One Window"" also simplifies business for investors in the regions. It is an initial step to create "One Window" registration system for enterprises engaged in investment project.

CONCLUSION

The analysis shows that the legislation of Ukraine provides the state aid for investment in priority areas and for entities that implement investment projects in priority sectors (special rates of income tax and import duty tax in accordance with the Tax and Customs Codes Ukraine). The complex of laws on public and private partnerships and regulatory liberalization in this area tallies with the priorities of economic development and is an important background for overcoming the crisis in the investment field.

According to the rating "Doing Business 2013", Ukraine became the most active country in the region and the third country among countries that have demonstrated a significant improvement in facilitation of business environment in their national economies. The above mentioned is a result of reforms in spheres of creation of enterprises, property registration and taxation in Ukraine. In general, Ukraine has risen by 15 points and won 137 seats among 185 countries in the world (in 2012 - 152 seats) for favorable business environment. In terms of "creation of enterprises" Ukrainian's rating improved from 116 to 50 seats [15, p. 40].

The results of the Program of Economic Reforms (it was started in 2010) are reflected in the Global Competitiveness Index, which is calculated annually by experts of the World Economic Forum. According to the Index 2012/2013, Ukraine's position has risen by 9 points and ranked 73 among 144 countries in the world (according to Index 2011/2012 - 82 seats), and improvement was observed in 9 of the 12 index components [15, p. 47].

However, many issues remain unsolved. There is no real business climate war-ming in Ukraine and it is a main issue for now. Much of the money, registered in Ukraine as foreign investment, is actually funds of Ukrainian financial and industrial groups that are coming from offshore [19, p. 33]. There is also unfair

competition, monopolization of economic, pressure from regulatory authorities, corruption and inadequate justice which again used as an instrument of pressure on investors in Ukraine.

Thus, Ukraine ranked low ranks among 144 countries in following Indexes: "ownership rights" (134 seats), "Efficiency of legal framework in setting disputes" (141 seats) and "Protection of minority shareholders' interests" (141 seats), "Efficiency of legal frame for challenging regulations" (139 seats), "Burden of government regulation" (135 seats), "Irregular payments and bribes" (133 seats), "Effectiveness of anti-monopoly policy" (132 seats) and "Business impact of rules on FDI" (132 seats) [14, p.7].

The above mentioned proves about some correction of legislative acts for criteria of certain international rankings. However, their impact on the real and irreversible improve the business climate is not a crucial.

After a long-term of focusing policy of modernization on institutional changes and preparing legal framework of investment areas, state officials should focus on more drastic structural changes in the real sector, recorded in state-level policy document Letter of the President of Ukraine to the Verkhovna Rada [15 p.41].

Analysis of effective of adopted legislation concerning reducing the number and length of administrative procedures as an background and impetus for the business competition in foreign and domestic markets, intensification of investment and innovation and creation of new jobs, will be a subject for the next research.

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