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PROSPECTS

FOR SPECIAL ECONOMIC ZONE DEVELOPMENT IN RUSSIA

PERSPECTIVAS PARA EL DESARROLLO ESPECIAL DE ZONAS ECONÓMICAS EN RUSIA

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ABSTRACT

The article shows that the establishment of territories with a special economic status actually represents an experiment aimed to achieve a social-and-economic effect.

Therefore, relations in the field of legal regulation applied to territories with a special economic status cannot be referred to private relations. These are purely public relations focused on temporal changes in standards of entrepreneurship. They cannot be referred to any individual public relations since the conducted experiment may bring changes to general standards of both customs and currency regulation.

Keywords: Investment, foreign economic activity, protection of the national economy, attraction of foreign resources for the development of the national economy.

RESUMEN

El artículo muestra que el establecimiento de territorios con un estatus económico especial representa en realidad un experimento dirigido a lograr un efecto socioeconómico.

Por lo tanto, las relaciones en el campo de la regulación legal aplicada a territorios con un status económico especial no pueden ser referidas a relaciones privadas. Se trata de relaciones puramente públicas centradas en cambios temporales en los estándares de emprendimiento. No pueden ser referidos a relaciones públicas individuales ya que el experimento conducido puede traer cambios a las normas generales de regulación aduanera y monetaria.

Palabras clave: Zonas económicas especiales, crímenes económicos, estrategia económica, experimento legal.

INTRODUCTION

Pursuant to clause 2 of the Federal law No. 116-FZ d/d 22 July 2005 on special economic zones in the Russian Federation a special economic zone represents a part of the Russian territory defined by the Government of the Russian Federation and subject to a special regime of entrepreneurship. Furthermore, a special economic zone can use a customs procedure applied in a free customs zone.

Relations in the field of legal regulation applied to territories with a special economic status were included in the subject matter of Russian international business law only in the end of the twentieth century. Three different legal regimes regulating such relations were changed from 1990 to the present day.

The first legal enactments on establishing this type of territories were adopted between 1990 and 1991. Between 1990 and 1995 special status territories were regulated at the level of by-laws and clauses 41 and 42 of the RSFSR Law No. 1545-1 d/d 04.07.1991 on foreign investments in RSFSR. During the 8 years between 1996 and 2004 regulation of special economic zone status was transferred to the level of federal laws applied to separate zones. In 2005 a Federal law No. 116-FZ d/d 22 July 2005 on special economic zones in the Russian Federation was adopted. Upon the entry of the Law into legal force and pursuant to clause 40 thereof all free and special economic zones created prior to its coming into legal force, except for the special economic zones located in Kaliningradskaya and Magadanskaya oblasts, have ceased to exist. The name of the free economic and trade zones was also changed to "special economic zones".

DEVELOPMENT

The purpose of creating such zones was to attract foreign investments which resulted in a number of scientists claiming that the relations in the field of legal regulation applied to such territories referred to international investment relations. At the moment clause 3 of the Federal law No. 116-FZ d/d 22 July 2005 on special economic zones in the Russian Federation defines the aims of creating special economic zones as the development of processing economic sectors, high-technology branches, manufacturing new types of products, transport infrastructure, tourism and sanatorium-resort facilities.

If you compare the above aims of creating special economic zones with their types (clause 4 of the Law) then each type of the zone will correspond to one aim. The following four types of special economic zones may be established in Russia:

1. Special industrial-and-manufacturing economic zones.
2. Special technology-and-innovation economic zones.
3. Special tourism-and-recreation economic zones.
4. Special port economic zones.

In our opinion, this is a historically determined but extremely narrow understanding of the role of territories with a special economic status in external economic relations.

The experience of creating territories with a special economic status in the People's Republic of China (e.g. the establishment of a free trade zone in the Yangshan port) is evidenced by using the zone as an experimental field for improving the external economic strategy. Thus, the free trade zone in the Yangshan port implies simplification of customs regulations, exposing the service sector (including banking services) for foreign investments and, at the same time, moving towards free yuan conversion inside the zone. Analysts justifiably refer to this free trade zone as an "economic experiment zone" – China is planning to implement a series of reforms in this zone during a 10-year period to evaluate feasibility and usefulness and to practise techniques and methods of similar reforming on a nationwide scale.

Therefore, it is inappropriate to consider territories with a special economic status exclusively as a tool for attracting investments. Instead, this is a comprehensive tool for implementing experimental economic reforms, evaluating such reforms and developing optimum techniques and methods for their implementation. Perhaps if such experimental zones were created in the USSR in 1980s then the dissolution of the Soviet Union and the transition to market economy would not lead to such disastrous social and economic impacts.

The purpose of the legal experiment is to improve legal regulation of the particular group of public relations. The legal experiment can be defined as a public-law method of legal regulation used to artificially modify the factors of particular social phenomenon development and the creation of new forms of living process structure to resolve the issue of feasibility and usefulness involved with the implementation of particular legal provisions.

The Soviet legal science placed special emphasis on the method of legal experiment largely because the Soviet law itself represented the result of social and economic experiments performed across the Soviet Union. According to S.S. Alekseyev, the experiment performed in the field of business relationship structure may result in obtaining critical factual information for improving developed regulations and resolving the issue of feasibility and usefulness involved with the implementation of particular legal provisions.

MAIN PART

Today, with an exception of criminal procedure law science the experimental method is not popular in legal science. Clause 181 of the Criminal procedure code of the Russian Federation provides for the investigative experiment institute that implies the reproduction of actions, atmosphere and other circumstances related to a particular incident. At the same time the possibility of perceiving some facts, committing certain actions and occurrence of any event are verified and the sequence of the occurred event and the mechanism of trace formation are revealed.

Experiments are quite rarely conducted in Russia these days. "In particular, between 1997 and 2006 an experiment was conducted in Veliky Novgorod and Tver with regard to property tax calculation based on the appraisal of the real estate market prices. The universal state exam was subjected to a practical approval". An experiment was carried out at the premises of the Ural state law academy (presently, the Ural state law university) for the purpose of finding an optimum model of conciliation (mediation) procedure coordination with civil legal proceedings.

For the purposes of international business law the experiment technique involves a practical experimental check of viability and effectiveness of changes in international business politics by generating an artificial modification of import and export conditions with the use of legal means.

The above gives evidence that the Russian law-making bodies ignore the whole range of special economic zone applications and continues to view them as a relatively safe and wide-scale method of attracting foreign investments.

The Russian law influence vector is directed towards today but it does not aim to prepare state institutions and national economy for the future which, in our opinion, prevents from developing an international business growth strategy in the country and creating statutory concepts. At the moment the strategy is directed at wasting resources rather than searching for new sources of growth and mild reforms. The experience of the People's Republic of China directly evidences that even the largest world economies cannot develop without a well-defined international business strategy focused on an empirically calculated forecast of national growth. Special economic zones represent a perfect ground for empirical testing of the effectiveness of economic reforms.

In view of the existing law provisions and the experience of the People's Republic of China related to the establishment of territories with a special economic status we propose the following definition of relations developed in the field of legal regulation applied to the territories with a special economic status – these are the relations resulting from the process of establishing a special economic activity (including international business) regime within the

territory of the Russian Federation as part of an economic experiment.

In the middle of March 2014 the Russian Prime Minister Dmitry Medvedev decided that it was necessary to consider the establishment of a special economic zone in the Crimea. *"We need to create a legitimate financial and economic tool for the development of the Crimea and Sebastopol. We should think about preparing regulations allowing to exempt the companies paying taxes in the Crimea - and which have, naturally, been transferred under the Russian jurisdiction - from taxes during the transition period"*.

Russian government will prepare proposals for establishing a special economic zone in the Crimea and Sebastopol before 15 April 2014. The plan is to organize a special economic zone in the Crimea in the same way as it was done in the Kaliningradskaya oblast. During the first six years residents of the Kaliningradskaya oblast special economic zone created in 1996 were exempted from profit and property taxes. They were also exempted from the procedure of surrender requirements. A certain law will be passed to arrange a special economic zone in the Crimea. According to this law large investors willing to enter the region will be granted tax advantages. The validity term for the special conditions existing in special economic zones in the Crimea will not exceed 49 years.

CONCLUSIONS

Therefore, the Russian law holds one of the most powerful tools for conducting an international business experiment – namely, the institute of creating territories with a special economic status which, in turn, represents an experiment focused on the achievement of a social-and-economic effect by changing the conditions of legal regulations applied to particular public relations. Such territories are traditionally created with the purpose of attracting foreign and domestic investments and increasing goods turnover in a particular part of the country. We believe that such interpretation of this institute's potential is too narrow.

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