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FOSTERING INNOVATIVE SCIENTIFIC RESEARCH THROUGH NATIONAL UNIVERSITIES

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The significance of science for the development of society and civilization is indisputable. National independence relies on the establishment and development of national science. No other national potential can face the challenges of the new technology age like science, not even abundant natural resources of our country.

However, previously introduced organizational reforms have not provided required efficiency of the state regulated system of science. Thus, we have to reconsider our strategic goals in the given field. During the time of constant development it is crucially important to keep up with the rapid changes in order to survive in the modern world. In times like this, it is important to share my opinions and propositions on the issues.

The first thing to consider is integration of education and science. We have to acknowledge an obvious gap between academic and higher education institution research. Fundamental science is concentrated in research institutions, while other types of science are pursued by teaching institutions. Some researchers are engaged in pure science, others have to balance heavy teaching workload and research. The level of research in teaching institutions is not as global and priority-driven as in research institutions; however, it is not the reason for the existing gap between the two types of institutions. Training of researchers and engineering staff is almost disconnected from fundamental science though they should be integrated into a comprehensive whole. Research institutions are equipped with modern facilities, while students of teaching institutions (future scientists) have to work on technically outdated and obsolescent equipment. Since connection between researchers and

students is non-existent, no training and mentoring of new generation of scientists is taking place. In many educational institutions quality of scientific research is drastically dropping, so is the interest towards research studies.

Hence there is a suggestion: it is desirable to integrate research institutions with leading national universities. Several research institutions of Kazakhstan are acknowledged scientific centers enjoying earned respect. Many decades were devoted to the establishment and development of these institutions, and now they train unique scientific staff. Students' research should be tightly connected and developed together with renowned researchers. This symbiosis will provide the development of both research institutions and educational institutions, ensure joint fundamental and applied types of research, and create favorable environment for cooperation between scientists and students. Combining educational and research institutions will also give an opportunity for the talented students to enter the scientific world. Young researchers are pragmatic people; they want to see clear results of their scientific research, their professional development, be directly involved in different kinds of global research and exchange. Close connection between educational and research institutions will give educational institutions access to modern equipment for the students' research.

These combined institutions will become profound scientific educational centers hosted by the largest national universities of Kazakhstan that will accumulate research institutions, industries and business companies together. This is where research schools consolidating large groups of highly qualified scientists will

be formed. A new university in Astana should become a brand name and a pioneer of the proposed idea. The University in Astana has as its goal to avant-garde scientific research and innovative ideas as the Kazakhstan President hopes it will.

In general, universities in Kazakhstan should return to fulfilling their initial role, which is connecting training of future competent professionals with cutting-edge scientific research. The state can enjoy the results of such cooperation – highly qualified scientific staff – in 5-10 years. There is quite an extensive international experience in this area: all leading American universities, for example, have research institutions that do their work in the field of innovative ideas.

The second important thing to mention is that international experience proves that efficient solutions to problems on a state level can be found only when scientific, financial and technical resources are concentrated in the priority directions. For stable science development detailed and planned state policy focused on increasing the share of science in economics of the state is essential. To achieve the stated goal one does not have to begin from “scratch,” one only needs to reconstruct the system that is already in existence. Step-by-step change from economy based on exporting raw-material to economy based on technological resources, to the preparation of highly qualified scientific staff and professionals for the national innovative system is essential. National strategic interests should serve as guidelines to set priorities in scientific research (agriculture, oil and gas industry, power industry, crop production, biotechnology and pharmaceutical branch of economy, etc.). We cannot dissipate our energies and embrace all the areas. The state should choose no more than ten priority goals of development and lay those development directions as a foundation for a state strategic planning for the fifteen years. Cho-

sen development goals and directions should be included in the scientific research in educational institutions to achieve succession of research in educational and academic institutions.

Scientists have the first say in determining priority goals of scientific development and among them, the scientists from research institutions because it is those institutions that will convert new scientific potential into applicable and advanced inventions of the modern day. Economically inefficient Academy of Science of modern days should be transformed into a National Science and Innovative Technology Center with new research-stimulating funding mechanism. The issue of doing scientific research is a crucial one for a modern science.

I agree with the opinions of my colleagues that there are three most efficient ways of financing research: 1) basic funding that has as its goal provision of material and technical facilities for science; 2) special purpose funding that supports development of innovative programs of state importance; 3) grants that serve as a stimulus for the advanced research.

A special emphasis should be placed on the application of the principle of competitive distribution of funds. When applied, this principle will result in competition based grants guaranteeing leading scientists access to cutting-edge equipment that will in its turn create favorable conditions for advanced scientific development, creating effective innovative management, establishing of international connections. Besides that, international integration makes partnership between Kazakhstani and international partners possible and effective for innovative science.

It is necessary to create stimuli to attract business community for funding scientific research. As has been mentioned above, educational institutions focus on applicable scientific research; therefore, research in those institutions is already

business oriented. Thus, funding system should include funds from both state and independent budgets. However, the state has not yet offered any stimulating mechanisms for such investments because of an inherited from Soviet era attitude toward funding: state is the only provider of funds. Science is an expensive and costly enterprise and those willing to develop it should face the fact. Concentration of all funds in the Scientific Center of the Republic of Kazakhstan will guarantee transparent and targeted use of them.

The third important point is the following: establishment of Innovative Education System is the main link in the national innovative policy because it addresses the question of preparing new generation of scientists ready to create and apply new scientific projects; future scientific elite is at stake. Students interested in scientific research should be involved in it during their academic career. The system of grants distributed through the Scientific Fund can serve as one of the ways to stimulate students in their endeavor. Establishing the system of State Award for Achievements in Science for young scientists might play a significant role in the stated goal. Unfortunately, the realization of young people's potential has not yet dawned on older generation of scientist and the gap between the two generations becomes a real danger.

This leads to the following suggestion: we need to establish Higher Graduate School within the scientific schools with the leading national researchers in order to train highly professional scientists, well-versed in their field, the state economy, culture and politics, speaking at least in three languages. There is no doubt about a high demand for such professionals.

And the forth point: there is a real need for a special attention to the issue of attracting international teaching staff from the best schools in the world. Scientific mobility is a phenomenon of the modern world. Kazakh-American Free University (Ust-Kamenogorsk) known for its unique educational and academic priorities has been inviting foreign professors not only to teach but also to organize scientific research, develop the PhD program, and lead the International Servant Leadership Program classes for fifteen years.

Proposed suggestions are not final and exhaustive; however, they address the issues of establishing essential requirements for national science and issues of identifying systematic obstacles that impede development in the field of education and science. The following are the possible outcomes that will result from implementing the suggested proposals:

- close connection and interdependence between Kazakhstan science, the state economy and national education;
- guaranteed transparency of science and education along with acknowledging the responsibility science has before the community;
- competency of national science and its prestige in the international scientific community;
- connection between the education of future professionals and science.

The significance of science and the urgent need for reforms in that field is indisputable for the development of an innovative national economy based on generation and distribution of professional knowledge. The mentioned changes will require a fundamental transformation of the system. Experiments in science are vital; experiments with science are fatal.

HISTORICAL ASPECTS OF DISTANCE EDUCATION

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Distance education allows realization of two fundamental principles of modern education - education for all "and" lifelong education".

Conditions for the existence of humanity on the threshold of the XXI century require a transition to a new strategy of society development based on knowledge and highly educational technologies. Under these conditions, one of the major problems of the world community is the educational system formation and making it meet the challenges of the time. The feature of the educational system in the beginning of the XXI century must be the greater availability of education provided by the extensive use of new educational technologies, including distance learning and self-education using information and telecommunication technologies.

Strategically, distance learning can be called the educational system of the XXI century. The results of the scientific progress, previously concentrated on technology, today is concentrated in the information sphere. Professional knowledge become obsolete very quickly, it must be continuously improved. Distance form of education allows you creating a system of continuous learning, sharing information worldwide and providing a system of equal opportunities for all, regardless of social status and geographical location. It is able to respond flexibly to the needs of society and ensure the implementation of the constitutional right to education.

Today distance education is the subject of research. Every day brings new techniques. The specialized seminars and scientific conferences on this subject are conducted. On the Internet you can find a lot of resources about distance learning programs.

But, despite this, distance learning is

not a new phenomenon. Accelerated degree programs have been widespread for many years. One of the newest trends is the instructional television, but, nevertheless, it has decades of existence. At the present time we feel a "virtual rush" of distance learning because of the appearance of the Internet.

Over the past few years the popularity of Web-based technologies has increased, the same way as free access to the Internet has influenced the increase of the number of Internet users. With the Internet, we can enjoy direct access to various resources media worldwide. The potential of Web-based technologies necessitates existence of teachers, as these technologies make it possible to combine educational resources scattered around the world, something similar to "bespoke" multimedia databases created for their own educational goals.

Distance learning is widely taking advantage of the new information and communication technology, allowing education to enter the mainstream of the queries posed by the emerging information society, as the future of education is for distance learning.

History tells us that Christ gathered disciples and taught them to his faith. His teaching spread as far as possible, and his apostles, including St. Paul recorded the lectures, and they distributed them among the priests and asked them to read these lectures in parishes. Therefore the question: who is the founder of distance education - Russia, Britain or other countries - (and such discussions have recently taken place) - can be considered closed - distance education has been known since ancient times and is inherently international.

If we talk about distance education as a philosophy, methodology, then it may

be noted that it's been a long time since people strove to organize distance learning, learning not only in the classroom, in the presence of the lecturer. At the heart of the development of distance learning there is the principle of separation of the university and the student.

Next there are two directions: the first (a form of asynchronous learning) – is a remote student. This trend has historically taken shape as an accelerated degree program. The second direction (synchronous learning, or distance learning in the modern sense) – is the remote class, teaching it for a synchronous interaction between the tutor and a group of students. Here it is clear that synchronous and asynchronous learning fundamentally different, but they are interlinked and reinforce each other.

The idea of learning from others at a distance is not new. In 1840 Isaac Pitman through the mail began to teach stenography students in the United Kingdom, becoming, thus, the ancestor of the first distance education course. In the 50's of XIX century in Germany, Gustav Langenshaydt published his "educational letters" as a tutorial in the language for adults.

An opportunity to receive higher education at a distance appeared in 1836, when in the United Kingdom University of London was founded. Students that had been studying at the accredited educational institutions were allowed to pass examinations conducted by the University. Beginning with 1858, these examinations were open to candidates from around the world, regardless of where and how they were educated. This situation led to a number of colleges offering courses by mail in accordance with the university program.

In the 70's of XIX century in America several steps to distance learning were taken, for example in 1873, Anna Eliot Ticknor (Ticknor's Society), took as a basis the British program «Society for the

Encouragement of Home Study», and in 1874, a training program was offered by Illinois State University.

In Pennsylvania, a daily newspaper entitled "Koleri Inzhinie" started publishing educational materials aimed at improving the technology of mining and preventing accidents in mines. These publications were popular and had a great success; so in 1891 there was designed an independent course, which served as a model for training programs to mail a variety of subjects. William Rainey Harper is considered America's "father of education by mail» in 1892 established the first university department of distance learning at the University of Chicago, began experimenting with extra-curricular teaching at the Baptist Theological Seminary. In 1906, teaching by mail was introduced at the University of Wisconsin.

Quite early distance education appeared in Australia. In 1911, the university-level courses began its work in the University of Queensland in Brisbane. In 1914 training was provided by mail to the program of primary school children living away from regular schools. Students of Teachers' College in Melbourne conducted their lessons, using e-mail. Soon this practice spread to secondary schools and technical colleges. Similar systems have been used for students in Canada and New Zealand. In 1938, in Victoria (British Columbia, Canada) the first meeting of International Council for Correspondence Education was hosted.

After the 1917 revolution distance education began to develop in Russia. It offered various courses at various levels. A special "consultative" model of distance education was developed in the Soviet Union, the name of which literally meant "education without visual contact (accelerated degree program). By the 60's of XX century in the USSR there were 11 accelerated degree universities and many accelerated degree faculties in traditional uni-

versities. After the Second World War, the Soviet Union followed the example of other countries in Central and Eastern Europe.

A State Center for distance learning via mail services was established in Western Europe, France in 1939, for the purpose of training children who could not attend school, (Centre National d'Enseignement à Distance, CNED). Now, this center has become the largest institution of distance education in Europe. In 1946, University of South Africa, UNISA made a transition to distant learning.

Founded in 1969 Open University of the United Kingdom, UKOU has had a tremendous impact on the system of distance education: educational institutions, leading distance learning, appeared in a number of countries mainly in Europe and Asia. Among them there is Universidad Nacional de Educación a Distancia (UNED) in Spain (1972), Allama Iqbal Open University (AIOU) in Pakistan (1974), Sukhothai Thammathirat Open University (STOU) in Thailand (1978), Korea National Open University, (KNOU) in Korea (1982), Universitas Terbuka (UT) in Indonesia (1984) and Indira Gandhi National Open University (IGNOU) in India (1985).

History courses by mail and distance learning demonstrate the existence of several stable characteristics of this form of training. Distance education provides a full range of skill levels from basic to higher education and is aimed at people of different ages: from infants to middle-aged people. Range of disciplines taught this way is unusually wide. Methods applied are no less varied and include correspondence, the use of printed materials, radio and television, workshops and public examinations. Distance education systems are organized in both developed and developing countries, in large as well as in small countries.

Problems, social and historical tur-

moil that caused the emergence of these systems are different: the geographically dispersed or displaced populations, imperialism and independence, wars and revolutions, industrialization. In the new millennium because of the movement of humanity towards the informational society distance education will play an increasingly significant role, demonstrating its flexibility and variety of forms.

If we look at the history of distance education at a certain angle, we can see that the progress made in the course of its development achievements belongs to several "generations". Garrison (1985) and Nipper (1989) were among the first who used the term "generation" to describe the three stages of development of distance education, "which are historically associated with the development of production, transport and communication technologies."

The most of "first generation" distance education were handwritten and printed material. Manuscripts were used for many centuries. The emergence of printing made it possible to issue low-cost textbooks. Since the middle of the XIX century, extensive railway system and rapid and efficient public postal service would deliver educational materials to a large number of geographically dispersed students. In addition to shared textbooks a limited edition of special teaching aids was issued, which included lists of required literature and sample questions selected by the leading teaching instructors in the mail.

The invention of radio in the 20's of XX century led to the radio courses consisting of a series of interviews. Sometimes these courses were supplemented by printed materials and classes. In the 50's television courses were actively developed and coupled with the release of textbooks, classroom, and from time to time exam supervision.

The emergence of Open University

of the United Kingdom, UKOU in 1969 marked the beginning of the "second generation". At this point distance education began to adopt an integrated approach to learning using the variety of tools, where printed materials had a dominant position. Open University of the United Kingdom developed a huge number of high-quality teaching materials specifically designed for distance learning. One-sided interaction of University with students was done via printed material, supplemented by radio and TV shows (audio tapes were extended later). Two-way interaction between tutors and students was carried out through correspondence, face to face consultations, and short courses domiciliary. This model was highly valued in the preparatory phase. However, after all the necessary materials and training programs for each new student were created, that did not require a lot of expenditures.

"Third generation" of distance education based on the active use of information and communication technologies, offered two-way communication in various forms (text, graphics, sound, animation) both synchronously ("in the same time" - in the form of video or audiographic conferences, that was equally popular in North American educational institutions) and asynchronously (not at the same time - using the e-mail, Internet or teleconferencing). These technologies can be used as a supplement to a course in first-and second-generation, or used independently. In both cases, they can facilitate the interaction between mentor and student, between student and student and between student and different types of learning resources. Reducing the initial investment in the development and implementation of technology, the model of distance education can reduce the initial fixed costs, however, variable costs (for example, for each student) will be higher than the distance education for the second model.

Development of distance education

is experiencing a significant influence of various factors, among which there are efforts to spread higher education, the emergence of distance education of the second generation and increased government spending. Some impact is also changing the nature of the workforce: to improve career opportunities for people seeking a second degree or upgrade their skills. Obvious solution to this situation can be distance format of education.

Relatively new phenomenon is the involvement of the state in the active planning of higher education. Up until the mid XX century, efforts were focused on universal coverage of secondary education. This problem was basically solved in most (alas, not all) countries in the mid 60's. Since that time the goal was set to improve access to higher education for the masses, expanding continuing educational programs, improving professional skills and training. Equally essential tasks required for innovative solutions served as impetus to searching for new, innovative forms of organization in higher education.

In the 60's attention of those responsible was drawn to look for opportunities to make education more democratic and professional. Distance education was a means of providing educational services to a wide range of people who want to learn, but who are unable or unwilling to devote their time to teaching in the traditional form. Didactic foundations of higher education could be greatly expanded to include alternative initiation to knowledge, in which the students were trained to self-control and supervision of institutions of higher education.

The main factor in determining the status and quality of distance education has been the creation of Open University of the United Kingdom. This event was important for the practice of distance learning and demonstrated the implementation of the media in the learning process.

In September 1963 Harold Wilson, a

leader of Labor Party, proposed the idea of creating "Essential University", which would have combined learning with capabilities of radio and television. This idea came after Wilson met with the organization of distance learning in the USSR and television education in the U.S., which enjoyed great success. However, the proposal did not receive support and was even ridiculed.

In spite of many opponents, in June 1969 the royal charter left, giving the University the status of an independent and autonomous institution with the right to issue diplomas and academic degrees. In January, 1971, 25,000 students were enrolled at the first year of the University.

The emergence of Open University of the United Kingdom and its recognition as a full and competent university was the impetus in many countries whose governments had a powerful argument in favor of non-traditional ways of development of higher education. This argument was used extensively in discussions with supporters of academic traditions. Educational institutions, similar to Open University of the United Kingdom, began to appear in different parts of the world, and the state played a leading role in their creation.

Later, under pressure from the government and as a result of competition for students, many traditional universities revised their structure, curriculum and programs, forms and methods of learning, realizing the necessity of using new technologies and introduction of distance learning courses.

Increased public spending, public pressure and demands of time resulted in the 60's – 70's in increase of government allocations for higher education. The apparent success of widespread implementation of distance forms of teaching through the establishment of Open University of the United Kingdom, persuaded the governments of different countries to invest in the development of both new and tradi-

tional educational institutions, contributing to the spread and diversification of teaching methods.

Attitude toward education in society also changed. It came to be regarded as a major factor of economic growth and social development, contributing to solving national and global issues. Both developed and developing countries have seen in education the formation of a guarantee of their future prosperity. While developed countries have tried to retain and strengthen its position in the global market, developing countries had a task to overcome the chasm that separates them from developed countries in economic and social plans. The processes of globalization and economic competition between countries led to competition in technological and scientific fields and create a need for skilled manpower. Field of education is one of the first places in the list of investment priorities, involving both public and private investment.

The history of distance education clearly demonstrates the adequacy of its new needs of society, associated with education, and relevance in different countries.

It also worth pointing that it is just one model of the historical development of distance education. There are others that represent alternatives to the development of distance education.

It is believed that the first attempt to create a distance form of education was undertaken by Jan Comenius 350 years ago, when he introduced illustrated books into a broad educational practice. He also created the basis for a systemic approach to education, wrote his Great didactics. Many researchers acknowledge his ancestor of distance education.

At the end of XIX century there was correspondent training that was a progenitor of distance education. Now the student could send their written work to teacher and receive comments and a new batch of

books by e-mail. These changes occurred because of the appearance of regular mail service. To those who lived far from major cities and could not learn in conventional schools this way of teaching was popular. For many people it was the only way to get a serious education.

The history of distance education has the Soviet roots. During the contacts between the countries of the former coalition, UK scientists were interested in the Soviet experience of distance education. In Britain, it was decided to form such a system of education. The British Government has allocated significant investments for this project. Curricula, programs, training manuals and educational technology were developed.

Prime Minister Harold Wilson took personal control over the project of the world's first University of Distance Education - Open University. The Open University was established by the Queen and the Speaker of the House of Commons was appointed as the rector. Everything was done for the university to become both massive and prestigious.

Currently, the development of distance learning is influenced by two major factors: access to the Internet and its quality. Typically, millions of users simultaneously use the Internet. The higher is the number of people working simultaneously on the Internet the worse is the performance. However, those students who have the advanced quality of Internet connections are able to work with volume graphics Web-sites, good quality audio, and even a small amount of video data. These people will have the best quality. However, the material to reach each individual student should be mostly in the form of text, but in some cases it is too restrictive. There are also people who do not have access to the Internet because they do not have it at all, or a place where they can access the Internet, is not a good fit for study.

Another issue is that distance learning should be interactive. Students should be able to communicate with teachers. In the analysis of many existing learning systems is often found that the interaction is limited to an opportunity to move through the system, and postal communication with the lecturer and other students. At present, the possibility of a good quality connection is not sufficient.

But, despite all the pros and cons, today we can say that the emergence of distance learning as a new and efficient technology in education are located in Kazakhstan at the stage of intensive, but a complex development. Many universities of the republic to some degree or another are involved in the process of creating conditions for development of distance education. Naturally, Kazakh American Free University has been active in introducing into the learning process of modern educational technologies. Since 2003 Kazakh American Free University provides opportunity of taking distance learning courses from such universities as Seattle Pacific University, Indiana Wesleyan University, Letourneau University, and receiving as a result a certificate of a Western type. Also in 2006 Kazakh American Free University began to cooperate and to continue working on the distance form of learning with Tyumen State University, one of the most dynamic classical universities of Russia, based on the best traditions of national science and education.

To sum it up, we can say that distance learning is now in demand and, consequently, will develop rapidly as a modern, affordable and efficient way to gain knowledge. This is the essential component in the standard training at Kazakh American Free University, which will further strengthen the position of the university in the education market, since this has all the possibilities, both technically and intellectually.

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CHARISMATIC LEADERSHIP AND THE PHENOMENON OF THE NATIONAL LEADER

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Charismatic leadership theory is the extension of attribution theory. It says that followers make attributions of heroic or extraordinary leadership abilities when they observe certain behaviors. Studies on charismatic leadership have been directed at identifying those behaviors that differentiate charismatic leaders from non-charismatic counterparts. Several authors have attempted to identify personal characteristics of the charismatic leader. Robert House has identified three: extremely high confidence, dominance, and strong convictions in his or her beliefs. Warren Bennis, after studying ninety of the most effective and successful leaders in the United States, found that they had four common competencies:

1. They had a compelling vision or sense of purpose;
2. They could communicate that vision in clear terms that their followers could readily identify with;
3. They demonstrated consistency and focus in the pursuit of their vision;
4. They knew their own strengths and capitalized on them.

The most recent and comprehensive analysis has been completed by Jay Conger and Rabindra Kanungo at McGill University. They propose that charismatic leaders have an idealized goal that they want to achieve and a strong personal commitment to that goal, are perceived as unconventional, are assertive and self-confident, and are perceived as agents of radical change rather than managers of the

status quo. They identified the following characteristics of charismatic leaders:

1. Self-confidence. Charismatic leaders have complete confidence in their judgment and ability;
2. Vision. They have an idealized goal that proposes a future better than the status quo. The greater the disparity between this idealized goal and the status quo, the more likely that followers will attribute extraordinary vision to the leader;
3. Ability to articulate the vision. They are able to clarify and state the vision in terms that are understandable to others. This articulation demonstrates an understanding of the followers' needs and acts as a motivating force;
4. Strong convictions about the vision. Charismatic leaders are perceived as being strongly committed and willing to take on high personal risk, incur high costs and engage in self-sacrifice to achieve their vision;
5. Behavior that is out of the ordinary. They engage in behavior that is perceived as being novel, unconventional, and counter to norms. When successful, these behaviors evoke surprise and admiration in followers;
6. Appearance as a change agent. Charismatic leaders are perceived as agents of radical change rather than as caretakers of the status quo;
7. Environment sensitivity. They are able to make realistic assessments of the environmental constraints and resources needed to bring about change.

Charismatic leaders are those leaders who, by force of their personal abilities, are capable of having a profound and extraordinary effect on followers. There is an increasing body of research that shows impressive correlations between charismatic leadership and high performance and satisfaction among followers. People working for charismatic leaders are motivated to exert extra work effort and because they like their leader, express greater satisfaction. One study found that followers of charismatic leaders were more self-assured, experienced more meaningfulness in their work, reported more support from their leaders, worked longer hours, saw their leaders as more dynamic, and had higher performance ratings than the followers of noncharismatic but effective leaders. Another study found that people working under charismatic leaders were more productive and satisfied than those working under leaders who relied on the more traditional transactional behaviors of initiating structure and consideration. If charisma is desirable, can people learn to be charismatic leaders? Or are charismatic leaders born with their qualities? While a small minority still think that charisma cannot be learned, most experts believe that individuals can be trained to exhibit charismatic behaviors. Table 15. For example, researchers have succeeded in actually scripting undergraduate business students to “play” charismatic. The students were taught to articulate an overarching goal, communicate high performance expectations, exhibit confidence in the ability of subordinates to meet these expectations, and emphasize with the needs of their subordinates; they learned to project a powerful, confident, and dynamic presence; and they practiced using a captivating and engaging voice tone. To further capture the dynamics and energy of charisma, the leaders were trained to evoke charismatic nonverbal characteristics: they alternated between pacing and

sitting on the edges of their desks, leaned toward the subordinate, maintained direct eye contact, and had a relaxed posture and animated facial expressions. These researchers found that these students could learn how to project charisma. Moreover, subordinates of these leaders had higher task performance, task adjustment, and adjustment to the leader and to the group than did subordinates who worked under groups led by noncharismatic leaders. There are some ways to define whether you have the potential to be a charismatic leader.

Charismatic leadership may not always be needed to achieve high levels of employee performance. It may be most appropriate when the follower’s task has an ideological component. This may explain why, when charismatic leaders surface, it is more likely to be in politics, religion, or a business firm that is introducing a radically new product or facing a life-threatening crisis. Mahatma Gandhi took India out of the British Empire. Martin Luther King Jr. was unyielding in his desire to bring about social equality through peaceful means. Steve Jobs achieved unwavering loyalty and commitment from the technical staff he oversaw at Apple Computer during the late 1970s and early 1980s by articulating a vision of personal computers which would dramatically change the way people lived. When Jobs recruited John Sculley to head Apple, Sculley was hesitant about leaving his job as chief executive of PepsiCo to join the much smaller and much less prestigious computer company. Jobs’ famous remark to Sculley turned the tide. “Do you want to spend the rest of your life selling sugared water,” he asked, “or do you want a chance to change the world?”

But charismatic leaders can become a liability to an organization once the crisis and need for dramatic change subsides. Why? Because the charismatic leader’s overwhelming self-confidence often be-

comes problematic. He or she is unable to listen to others, becomes uncomfortable when challenged by aggressive subordinates and begins to hold an unjustifiable belief in his or her “rightness” on issues.

In 1993, no list of charismatic business leaders would have been complete without the names of John Scully, Jack Welch, and Ted Turner. They personified the contemporary idea of charisma in the corporate world. But are these men authentically charismatic figures or self-created images? Each of these men employs a public relations firm or has public relations specialists on his staff to shape and hone his image. John Scully has promoted the vision of the take-charge executive who came to Apple Computer from PepsiCo and introduced marketing expertise and professional management into a company that had been run by a group of “techies” who wanted to change the world. Jack Welch relishes his reputation for reshaping General Electric by buying and selling dozens of businesses. Ted Turner has worked hard to project his “to hell with tradition” image in the popular press. One view of these men is that they are authentically charismatic leaders whose actions and achievements have caught the fancy of the media. This view assumes that these leaders couldn’t hide their charismatic qualities. It was just a matter of time before they were found out and gained the public’s eye. Another view – certainly a more cynical one – proposes that these men consciously created an image that they wanted to project and then purposely went about doing things that would draw attention to, and confirm, that image. They are not inherently charismatic individuals but rather highly astute manipulators of symbols, circumstances and the media.

Charisma is a Greek word meaning “gift”; the charismatic leader’s unique and powerful gifts are the source of his or her great influence with followers. In fact, fol-

lowers often view the charismatic leader as one who possesses superhuman or even mystical qualities. Charismatic leaders rely heavily on referent power and charismatic leadership is especially effective in times of uncertainty. Charismatic leadership falls to those who are “chosen” (born with the “gift” of charisma) or who cultivate that gift. Some say charismatic leaders are born, and others say they are taught. Some charismatic leaders rely on humor as a tool for communication. Charismatic leadership carries with it not only great potential for high levels of achievement and performance on the part of followers but also shadowy risks of destructive courses of action that might harm followers or other people. Several researchers have attempted to demystify charismatic leadership and distinguish its two faces. The ugly face of charisma is revealed in the personalized power motivations of Adolf Hitler in Nazi Germany and David Koresh of the Branch Davidian cult in Waco, Texas. Both men led their followers into struggle, conflict and death. The brighter face of charisma is revealed in the socialized power motivations of US President Franklin D. Roosevelt. Former presidents Bill Clinton and Ronald Reagan, while worlds apart in terms of their political beliefs, were actually quite similar in their use of personal charisma to inspire followers and motivate them to pursue the leader’s vision. In each case, followers perceived the leader as imbued with a unique vision for America and unique abilities to lead the country there.

Despite the warm emotions charismatic leaders can evoke, some of them are narcissists who listen only to those who agree with them. Whereas charismatic leaders with socialized power motivation are concerned about the collective well-being of their followers, charismatic leaders with a personalized power motivation are driven by the need for personal gain and glorification. Charismatic leadership

styles are associated with several positive outcomes. One study reported that firms headed by more charismatic leaders outperformed other firms, particularly in difficult economic times. Perhaps, even more important, charismatic leaders were able to raise more outside financial support for their firms than noncharismatic leaders, meaning that charisma at the top may translate to greater funding at the bottom.

The phenomenon of the national leadership is closely connected with charisma.

Among the Kazakhstan charismatic leaders we can suggest the personality of the president of the Republic of Kazakhstan Nursultan Nazarbaev. The notion of the national leadership goes back to the post-soviet period. This is a new type of political leadership, which was molded in the political culture and in the system of new independent states of CIS. The notion of a national leader deals with two terms – “leader” and “nation”. In the 20th century these two fundamental notions as “nation” and “personality” made a unit and transformed into one notion “the national leader” or the leader of the nation. Consequently “national leadership” is the capability to propose to the nation the perspective and persuasive course of the country development. The real leader of the nation, who is the head of the state, directs the activity of all the branches of power and other state institutions to provide the national interests, to defend the welfare and development of his nation. The political leader defines the actions and plans for a short-term period; the national leader does the same but for a long-term perspective. In the history of the 20th century there are a lot of examples of national leaders: G. Washington, A. Lincoln, Mahatma Ghandi, Charles de Gaulle and others. All these great people in the interests of their states made really historical deeds; they raised the level of their countries’ development which contributed to the positive

and global changes in the society. These national leaders are different but they have some common features:

1. Initially all of them had to confront very complicated work conditions. As a rule, it was the time of the turning point of the state development (for example, the Great depression in the USA, the consequences of the “cultural revolution” in China).

2. The period of the state formation or independence acquisition (for example, the war for independence in the USA, the anti-colonial resistance in India, fascist occupation in France).

3. Absolute support on the part of the society. The president of the Turkish republic Mustafa Kemal Atatürk was elected president in 1923, and then was reelected in 1927, 1931, 1935; Li Kuan U was the prime minister of Singapore since 1959 till 1990.

4. The national idea of the future development. For example, the strategic plan “Vision 2020” in Malaysia, the industrialization of Singapore and Japan. What is more important here is not only the idea, but the political willpower of the leader for its successful realization.

5. The international recognition. The scale of the activity of all the national leaders deviated from the framework of their country only. Their opinion and active position made a great influence on the international politics.

The theme of national leadership is very close and up-to-date for Kazakhstan. At present a lot of discussions are being held to decide whether the president of the republic of Kazakhstan Nursultan Nazarbaev is worth being called the national leader. Without any doubt Nursultan Nazarbaev possesses all the enumerated features of a national leader. The first president headed the country during a very complicated period. The independence of Kazakhstan is closely connected with the name of Nursultan Nazarbaev. Due to the

realization of the strategy “Kazakhstan 2030” our country achieved success in the formation of the economically developed state. The leader of Kazakhstan is the author of many global initiatives. Nowadays in our country and with the participation of our country great international Forums are organized, within the frame of such organizations as CIS, OSCE, UNESCO and others. Kazakhstan initiated and arranged three Congresses of the world and traditional religions. The chairmanship of Kazakhstan in OSCE in 2010 and in the Organization “Islamic Conference” in 2011 prove the recognition of Kazakhstan, its real changes, and impressive success of the projects headed by Nursultan Nazarbaev by the international society. Nursultan Nazarbaev is the head of the multinational state. The most significant thing is that the leader of the country is considered a uniting force for all the Kazakhstan society. N.Nazarbaev solved a lot of complex strategic tasks, touching economical, political, social and cultural spheres. In 1990s a new term was introduced and spread all over the country; it is the “Phenomenon of Nazarbaev”. This term symbolized dynamism, the inculcation of the centrism politics, the absence of extremes, the unique combination of pragmatism and high effectiveness.

Thus, despite all the discussions we can't deny the presence of such term as “the phenomenon of the national leader” in the history of Kazakhstan. Nowadays the content of this phenomenon is broadened. It includes solidity, the success of the implemented reforms, the realization of the national interests, innovations. The basis for this phenomenon is the elaboration of the general course of the country development. All the theses he proclaimed turned into independent theses and priorities of the Kazakhstan society. They became the foundation for the public ideology. It implies the stable development, interethnic consent, and national unity. These are basic values for the Kazakhstan society. Nazarbaev for Kazakhstan is a national leader whose status is indisputable.

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REALIZATION OF THREE-LEVEL SYSTEM OF CONTROL AND MANAGEMENT OF QUALITY OF PRODUCTION THROUGH AUTOMATION OF TECHNOLOGICAL PROCESS

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Under the current stages of economic development, optimal and efficient control of fixed assets is viewed as one of the main tasks in the development of any industrial enterprise in any country.

Modern control methods are suitable

for increasing production capabilities of such enterprises by employing information technologies, which are often used for modernization of industrial processes without the need of acquiring new expensive equipment.

As a rule, these technologies are tightly integrated with automatic control systems for technological processes, and by doing so we are able to reduce the cost of service of fixed assets, increase production capabilities of the manufacturing processes, reduce equipment down time, achieve better personnel management and better control of the entire enterprise.

Therefore, automation of the industrial processes is one of the most important directions of the technological progress as it leads to improvement, modernization, and intensification of industrial processes [1].

Currently, physical and chemical processes used in industrial production of tellurium are very well known and have been tested by many years of practice. Obtaining tellurium from lead-containing products in the industrial environment is viewed as a very sophisticated physical and chemical process.

It requires special control systems to maintain all technological regimes within pre-defined bounds, and the associated state observation and regulation relies on a large number of devices, sensors and actuators [2].

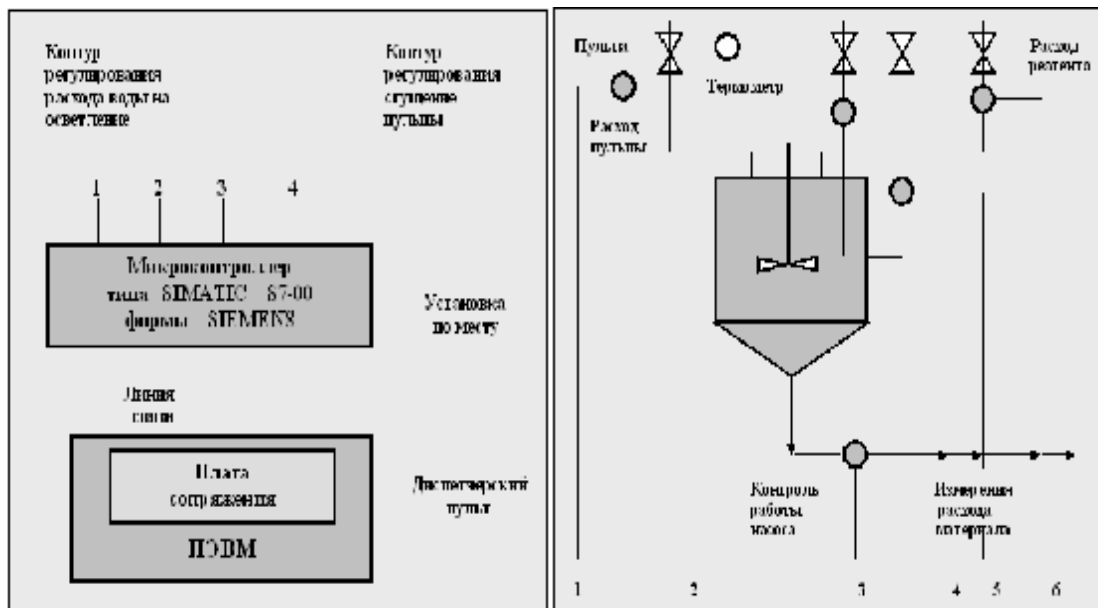
The technological process of tellurium production includes a number of stages, which require automatic regulation of many parameters with a high degree of precision. Some of the parameters, for example, the flow of technological fluids, the level of technological fluids in a reactor,

the color of pulp during the sulfation process, weight characteristics of dry materials on different technological levels, must be controlled.

In previous practice, a widely used regulation approach relied on controllable valves and pumps working at full capacity for supplying fluid components at the required rates, dry products were typically measured on the scales, and control of the color of pulp was based on visual estimation by the operator involved in the industrial process [3].

Without full compliance with the requirements of technological discipline, incorrect measurements of the liquid components, error in estimation of the quantities of dry products, and other errors, can lead to improper balance of materials in the physical and chemical processes, which, in turn, results in lost valuable products or sub-standard quality. Under this technological control approach, the purity of the commercial product cannot exceed 99.96%, which is insufficient, for example, for the metals used in semiconductor devices.

In this work, we analyze and propose a unified concept of application of modern means of automation that can be used to build a three-level hierarchical control system intended for assuring the product quality [3]. It can be viewed as having three levels of control. It is demonstrated on the picture 1.



Picture 2

Implementation of “intelligent” automated work stations for technological personnel requires the third level of automatic control, which is based on modern personal computers, network applications for PCs, and appropriate software support.

Those components are used to maintain continuous monitoring of the technological equipment, to track major dynamic characteristics of the physical and chemical processes, to display graphically the current state and working regimes of the main technological equipment, to extrapolate the state of technological process with an emphasis on possible emergency situation.

The automation system of the third level can be integrated into a centralized system that analyzes the state of metallurgical processes and can be used to perform optimal control of production of lead and zinc-containing products across the entire metallurgical complex [4].

In this paper, we present a complex approach to the problems of first-, second-, and third-level, formulate and demonstrate the need to create a complex automation system with a three-level hierarchy for monitoring and control of a single technological process and of the entire

plant.

This approach is required to stabilize parameters of different regimes of the technological process, to obtain objective information about the state of the process, and to increase control efficiency of the technological cycle.

This theoretical solution and scientific formulation of the existing problem can be used to improve many technological processes used in the metallurgical complex and to increase the quality of end products [5].

As a result of this research and analysis, we offered a unified concept of realization of modern automation techniques by employing three-level hierarchical monitoring and control of manufacturing processes.

The obtained theoretical results were tested and proposed for implementation in a chemical metallurgy line of refining and affinage, where higher ratios of extraction of useful components were confirmed.

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DISTANCE EDUCATION AS A FORM OF INNOVATION IN HIGHER EDUCATION

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The sphere of human activity and education cannot be free of global evolutionary and revolutionary processes in the political, economical, cultural, educational, technological, informational and other environments that are necessary for the development of any society. There had been drastic changes in the world by the end of 20 century in all environments that were closely interrelated and globally ensured human activity. The transition from primary sources of revenue to the intellectual resources in the economic environment had been made in all developed countries. Money as a tool in the geoeconomic segment receded into the background and gave a way to technology, which in turn led to the rapid development of the technological environment. Since the early 90's «high-tech» technology began to occupy leading positions in many

industries, but today they are relying on the rapid development of information environment, and increasingly giving a way to the «high-hume» technologies – methods of creating technologies. As a consequence there is now a significant dependence between the society and the conditions of its informational structure. All these processes led to the fact that modern developed society became a society of education. That education is the cornerstone of economy. Reported trends are global in nature and, on the one hand, are forcing the international community to reform education, and on the other hand, leading to distinct imbalances, manifested in the intellectual expansion of some countries on others. As the result, there is an outflow of the intellectual potential in the form of people and ideas. Kazakhstan, unfortunately, falls under this category and

as a result of discrepancies between the high intellectual potential of the country and a very slow pace of its development; it needs a qualitative leap in the way of changes in technology, science, industry and business.

Kazakhstan now needs fundamentally different specialists from those who graduate from institution of higher education in very large quantities. For a powerful qualitative leap the country should grow an army of professionals who are ready for active and creative activities, have professional skills and creative abilities to implement them, and then develop a high level of professional competence, but also have social tolerance, and be communicative. These principles lie in the development of standards for the third-generation of higher education.

Embodiment of the declared principles compels educational institutions of all levels to follow the path of changes in educational technologies. For many years, education in Kazakhstan was based on object-oriented methodology, assuming a passive assimilation of large amounts of knowledge. As a result, which is contrary to expectations, the graduates have not only weak skills, but often general scientific erudition which does not equal to the proper amount of knowledge invested in the student during the study at higher education institution.

The need to move from object-oriented to student-centered learning process that requires a radical revision of approaches to educational technology becomes obvious.

Innovations that are vital for any professional person naturally become the subject of study, analysis and implementation. Innovations do not appear out of nothing, they are the result of scientific research and advanced educational experience of individual teachers and entire communities. This process cannot be chaotic, it needs to be managed. [3]

In the context of innovation strategy integrated in pedagogical process in higher education, the role of president, deans and faculty heads significantly increases as a direct carrier of innovative processes. Taking into account all the diversity of educational technologies: teaching, computer, problem, modular, and others - the implementation of pedagogical processes should be done by teachers. With the introduction of the educational process of modern technology, a teacher increasingly develops as a consultant, advisor. This requires special psychological and pedagogical training, as not only the specific, substantive knowledge in the field of pedagogy and psychology, educational technology is realized in the professional activities of teachers. On this basis the readiness of perception, evaluation and implementation of pedagogical innovations is being formed.

The concept of "innovation" means originality, novelty, change; innovation as the means and process involves the introduction of something new. With regard to the pedagogical process in higher education, innovation means the introduction of new objectives, contents, methods and forms of education, organization of joint work of teachers and students. [3]

In recent decades, a new problem for education has appeared. Knowledge ages every 3-5 years, and technological knowledge - every 2-3 years. It won't be long until it is 1,5-2 years. The knowledge of university graduates is doubling every 3-4 years. If you do not change the educational technology, the quality of training will lag behind the desired objective in the labor market. Assimilation of knowledge by students using information and communication technologies on the lowest is estimated at 40-60% faster or more, per unit time, than with conventional technologies (for the same period are given more knowledge or fashionable to shorten courses in Universities).

Educational-methodical base, educa-

tional and information technologies of any university do not depend on the full-time education, accelerated degree program or remote study. If knowledge, training material and all the didactic components are collected and formalized in computers, they still can be applied to the audience (or equipment) or any user located outside the institution.

One of the types of innovations in the organization of higher education is the introduction of distance education.

In recent decades, distance education technologies have received intensive development.

Distance education is the educational system of the 21st century. People have great expectations about this system. Results of social progress, previously concentrated in the Technosphere, today are concentrated in the infosphere. The era of informatics has come. Experienced by the phase of its development can be characterized as telecommunications. It is the phase of communication, the phase of transfer of information and knowledge. Today education and work is synonyms: professional knowledge age very quickly, so they must undergo continuous improvement - this is an open education! Today the global telecommunications infrastructure provides the opportunity to create systems of mass continuous learning, global exchange of information, regardless of the spatial and temporal zones. Distance education has entered the XXI century as the most effective system of training and maintaining a high qualification level of specialists.

The term "distance education" is not yet fully succumbed in Russian and in English language teaching literature. There are options such as "distant education", and "distant learning ". Some foreign researchers, highlighting the special role of telecommunications in distance education, define it as teletraining. But still the term "distance education" is most often used. [4]

Distance education as accelerated degree program originated in the early XX century. Today in absentia one can obtain not only higher education but also learn a foreign language, prepare oneself for entering higher education institution and so on. However, due to poorly adjusted interaction between teachers and students and lack of control over training activities part-time students during the periods between sessions of the examination quality of such training is worse than what can be obtained by full-time education.

Modern computer telecommunications are able to provide knowledge transfer and access to a variety of educational information on a par, and are sometimes much more effective than traditional teaching tools. Experiments have confirmed that the quality and structure of training courses, as well as the quality of teaching in distance education, is often much better than that of traditional forms of education. New electronic technologies such as interactive discs CD-ROM, electronic bulletin boards, multimedia hypertext, accessible via the Internet using Mosaic and WWW interfaces can not only ensure the active involvement of students in the learning process, but also allow managing this process in contrast to most traditional learning environments. The integration of sound, movement, image and text creates a new unusually rich in its capabilities learning environment with the development which will increase the degree of involvement of students in the learning process. Interactive features that are used in distance learning programs and delivery systems information allow adjusting and even encouraging feedback, to ensure dialogue and continuous support, which is impossible in most traditional systems of education.

The term "interactivity" is widely used in domestic and in overseas educational literature. In the narrow sense (for the user interacts with software in general)

interactive communication – it is a dialogue of a user with the program, i.e., exchange text commands (requests) and responses (the invitations). With more advanced means of dialogue (such as having to ask questions in any form, using the "key" word in the form of a limited set of characters) allows to select options for the content of educational material and mode of operation. The more there are opportunities to manage the program, the more active the user is engaged in a dialogue, the greater is interactivity. In a broad sense, interactivity involves all stakeholders into a dialogue with each other using available means and methods. This assumes an active part in the dialogue on both sides - the exchange of questions and answers, the management course of a dialogue, monitoring the implementation of decisions, etc. Telecommunications environment, where millions of people communicate with each other, is essentially an interactive environment. Teachers and students will act as subjects in an interactive collaboration in distance education, and e-mail, newsgroups, conversations in real time will be implementing a similar interaction.

By 2000 according to foreign experts, higher education had reached the minimum education level required for the survival of humanity. Education of such a mass of students on full-time (daytime) form is unlikely to survive the budgets of even the most affluent countries. It is no accident for the past decade that the number of students in non-traditional technologies is growing faster than the number of full-time students. The global trend of transition to unconventional forms of education is traced in the increasing number of universities, conducting preparation of these technologies.

A long-term goal of distance education system in the world is to enable every student living in any place, to take a course of any college or university. This

implies a shift from the concept of the physical movement of students from one country to the concept of mobile ideas, knowledge and training to spread knowledge through the sharing of educational resources.

Experts believe that the interactive teaching telecommunications cost 20-25% cheaper than the traditional teaching. Microsoft believes that the cost of network training can be reduced at least twice as much as traditional as the teacher in a position to give lessons from anywhere in the world, and even special computer equipment is not required. Savings can be achieved and due to other factors. Adopting a system of distance education, training department can be confident that all students enjoy the same and, moreover, the most recent teaching materials. Because training manuals are updated with Internet much easier. An interesting observation is that while training in distance education system it is easier to produce screenings weak students. Passive behavior at the usual seminars is easy, and at the electronic is impossible. As a result a larger number of students drop out in distance courses than in traditional ones.

Distance education within the system of higher education is such an organization of educational process in which a teacher develops a curriculum which is mainly based on self-study student. Such a learning environment is characterized by the fact that the student is often separated from the teacher in space or in time, so students and teachers have the opportunity to dialogue with each other by means of telecommunication. Distance education allows teaching village people who do not have other opportunities for education or access to university professors or specializations.

Since the mid 70's in many countries a new type of educational institutions started to appear, they were called differently - "open", "distance" university, "elec-

tronic", "virtual" college. They have the original organizational structure, use the original set of pedagogical methods, economic operation mechanism.

Characteristic trend of distance education is just the union of the organizational structures of universities. There are basic types of organizational structures of the university distance education, which include:

- units of accelerated degree program (distance education) in traditional universities;
- a consortium of universities;
- open universities;
- virtual universities.

Thus, in recent years a new type of organizational structure of distance university education - a consortium of universities - has begun to develop. Distance education services are provided by a special organization that integrates and coordinates the activities of several universities. University Consortium offers a suite of courses which are developed at various universities - from college courses to courses for degrees. In the 70's and 80's, many countries established national public universities. They used many of the organizational principles of accelerated degree programs. But in general, open education brought many new things in the educational system. The principle of openness of education means freedom of enrollment in the number of training courses, the individual making the curriculum and the freedom of time, place and pace of learning. In an open education there is a rich and elaborate educational environment in which the learner is guided entirely independently, desiring to achieve his educational purposes only.

At the heart of the new educational system based on the principle of openness, which is applicable to higher education there is:

- an open admission to higher education, i.e waiver of any conditions and re-

quirements for admission, except for reaching the required age (18 years);

- joint planning of training, i.e freedom of making individual courses by choosing from a system of courses;

- freedom in the timing and pace of learning, that is, admission of students to higher education throughout the year and no fixed terms of education;

- freedom to choose the place of study: the students are physically absent from the classroom most of training time and be able to choose where to study.

Carrying out the principle of openness has led to significant organizational innovations that have become feasible precisely because of the introduction of new technologies of storage, processing and transmitting information. For example, in the 90's a new model of distance education appeared, based on technology of teleconferencing. This model is called telelearning or teleeducation. In this case, teleconferencing, which may be in real time, is the main form of interaction between teacher and student, expanding this interaction, previously carried out mainly by mail. This teleconference can be carried out both between teacher and students and between learners. This can be audio, audio graphical, video and computer conferencing.

Model of distance education has appeared recently, but it leads to radical changes in the organization of modern education. This is evident in the fact that on the basis of this model there began to develop a new organizational form of modern education - virtual universities. This form of training is considered a new, just incipient model of education. In this model, a fully implemented those potential restructuring of the education system that are characteristic of teleconferencing technology used for training purposes. These technologies enable groups of students and individual student to meet with teachers and other students, being at any distance

from each other. Such modern communication tools are supplemented by computer training programs, which replace printed texts, audio-and videotapes. The emergence of such a model of distant education leads to the fact that education is conducted not only at a distance, but regardless of any institution. Such a model has not been yet fully implemented. It faces significant challenges, in particular, the problem of obtaining public recognition and the right to issue diplomas and certificates, to assign the appropriate level (the problem of accreditation of a virtual university). Overcoming these difficulties and full development of a model of virtual university will mean profound changes in the organizational structure of modern education. [6]

However, despite all the above advantages of distance education at the moment there are a number of problems. One of the key problem is attracting teachers to the training content. Because of low salaries, teachers tend to perform as much as possible the amount of training load, and the result they devote less time for preparation of educational and methodical support courses. However, the majority of teachers demonstrate a serious interest in using distance education technology. The solution to this problem could be either a decline in the number of hours teaching load for teachers using distance educational technologies, or their incentives.

The second problem is more general and goes beyond one institution. The introduction of distance education technology is a process which requires considerable expenses. Therefore, it seems expedient to combine in this way the efforts of several institutions with similar educational programs. However, as a rule, content developed in one institution is difficult to adapt to another because of different standards for the formation of content and process management systems of distance education. It is important that the

various universities had the opportunity to share training and educational materials with each other. Way of solving this problem lies in the use of international standards for creating courses, so that an effective means of learning, developed in one university could be used by other universities, without changing the existing infrastructure of distance education.

Distance education technology, applying audio, video, forums and chats allows creating effective training courses, but there is a problem with the preparation of teachers to work with these technologies. But mastering these technologies is no guarantee of quality teaching disciplines. It is well known that the main character, must possess a teacher learning (tutor) is the ability to perceive the student as a colleague, send a text form, not only knowledge but also emotions, keep communicating, in an entertaining way to represent knowledge. For the development of precisely those qualities it is necessary to organize training and retraining of teachers. It becomes necessary to conduct training on the content of such courses and teaching in an e-learning environment, where the distance learning technology is used in an educational process that enables teachers to be in the role of student and to pass through the course themselves.

Departments should be involved in the process of distance education to connect undergraduate and graduate students to problems solving associated with the introduction of distance education technology.

A huge number of facts, examples above show the need for the establishment and expansion of distance education in Kazakhstan, as an essential factor in the development of skilled, intelligent, highly professional society.

Distance education offers students access to nontraditional sources of information, improves the efficiency of independent work, gives completely new op-

portunities for creativity, discovery and consolidation of various professional skills, teachers can implement fundamentally new forms and methods of teaching with the use of conceptual and mathematical modeling of phenomena and processes.

Thus, distance education as a new socio-important information services already exists in reality and will have great prospects in the future, both for learners and suppliers of the service.

Distance education is becoming one of the most important tools to improve the educational system as a whole, starting from governing to educating and ensuring access to education. Distance education is one of the main tools for the implementation of open education, providing for substantial expansion of educational content, methods of obtaining educational services, forms certification, covering the concept further, accelerated degree program and

continuing education.

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WORKING OUT THE UNIVERSAL ALGORITHM OF CONSUMED CHARACTERISTICS CALCULATION FOR CONTROL AND MANAGEMENT OF DISCHARGED PRODUCTION

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The basis of any automation system is devices to control the technological parameters which determine the course of technological process. Such parameters are temperature, pressure, discharge and amount, chemical formulation, concentration, density etc.

As we know, while controlling the technological process the information goes from sensors set on technological conduits to logical controller (the drop of pressure on narrowing device, temperature and pressure in conduit). The values of flow rate of substances and energy loss are determined.

Considering this, in this work was set the target to create the universal algo-

rithm for calculation the flow rate and the software to determine the mentioned above parameters which are fundamental as in the process of tellurium extraction so in other technological processes of metallurgical complex. [1-2].

The task of work included studying the process of measuring the pressure drop on narrowing device and the behavior of measuring substances at this process. The following results were acquired after construction of algorithm for calculation the flow rate of substances and energy with some of them and summarizing some authors' research data:

1. The algorithm of calculation the flow rate of steam, condensed air, cold and

hot water and thermal energy accumulated with steam and hot water was worked out and realized on computer.

2. The behavior model of liquids and gaseous substances at passing through narrowing device of flowmeter was analyzed.

Developed in the course of this work and realized on computer algorithm on IBM provides an opportunity to get precise data for calculation the fundamental consumed characteristics of technological processes of metallurgical complex with maximum speed which lets in turn to optimize and automate the process of control and quality management of discharged production.

The created interface visually reflects calculated data, considers given peculiarities of controlled process and is maximally comforted to consumers' needs.

The showed below calculation formulas as the methods of calculation are valid for all narrowing devices including standard diaphragm. But the values of

flow rate coefficient Q_m and corrective multipliers Q for change of gas or steam density will be different for various narrowing devices. However, most commonly used narrowing device is a diaphragm representing itself a thin disc with round hole with diameter d axis of which coincides with axis of pipe.

Calculation formulas. For the comfort of calculation showed above formulas (19) and (20) for massive Q_m and volume Q were modified.

First of all, the square of hole of narrowing device F_0 should be found through diameter d coming from equality $F_0 = \pi d^2/4$. It is necessary to keep in mind that initial units of measurement in formulas (19) and (20) are: kilogram (kg), meter (m), and second (s). It is more convenient to measure diameter not in meters but in millimeters and time not in seconds but in hours. Then mentioned formulas should be multiplied by 3600 and divide by 106.

Considering that

$$3600 \frac{P}{\sqrt{4}} 10^{-6} = 3,9986 \cdot 10^{-3} \approx 4 \cdot 10^{-3} \quad (1),$$

We will get

$$\left. \begin{aligned} Q_m &= 4 \cdot 10^{-3} a e d^2 \sqrt{r(p_1 - p_2)} \\ Q &= 4 \cdot 10^{-3} a e d^2 \sqrt{\frac{p_1 - p_2}{r}} \end{aligned} \right\} \quad (2).$$

In these equations d is in *millimeters*, p in kg/m^3 and $(p_1 - p_2)$ in Pa .

Till present time devices which measure pressure are calibrated in kg/m^2 or kg/sm^2 and so are the maximum drops of differential pressure gages working in compliance with narrowing devices. So we

transformed the equation of flow rate that the pressure drop would be in kg/m^2 . In order to this we must multiply equation (2) by $(9.81)^{1/2}$.

If $4 \cdot 10^{-3} \cdot (9.81)^{1/2} = 0,01252$ we will get:

$$Q_m = 0,01252 a e d^2 \sqrt{r(p_1 - p_2)}$$

$$Q = 0,01252 a e d^2 \sqrt{\frac{(p_1 - p_2)}{r}} \quad (3).$$

These formulas are basic when calculating narrowing devices.

When measuring volume flow rate of gas it is reasonable to bring the results to normal conditions ($p_n=760$ mm of m.c., $T_n=293$ K). Let's call the adapted flow rate of gas through Q_n and density of dry gas at normal conditions through ρ_n . Then we can write that

$$Q_n = Q\rho / \rho_n = Qp_1T_n / (p_nT_1K), \quad (4),$$

Where:

k is the coefficient of coercibility 121 characterizing its failure from laws of perfect gas.

Using this expression and also changing density p to $\rho_n p_1 T_n / p_n T_1 K$ in equation of flow rate we will get from formula (2) the following:

$$Q_n = 2,151 * 10^{-4} a e d^2 (p_1(p_1 - p_2) / \rho_n T_1 K)^{1/2} \quad (5),$$

$$Gr = 0,2019 a e K_i^2 d_{20}^2 \sqrt{\frac{< PP}{r_{nom} TK}} \quad (7),$$

Here:

a is the coefficient of flow rate of diaphragm with angular way of selection

$$a = \frac{1}{\sqrt{1-m^2}} \left(0,5959 + 0,0312m^{1,05} - 0,184m^4 + 0,0029m^{1,25} \left(\frac{10^6}{Re} \right)^{0,75} \right) \quad (29),$$

Here:

Where:

p_2 is in Pa.

Then from formula (24) we will get:

$$Q_n = 0,2109 a e d^2 (p_1(p_1 - p_2) / \rho_n T_1 K)^{1/2} \quad (6),$$

Where:

p_1 is in kgs/sm²,

$(p_1 - p_2)$ is in kgs/m².

In both previous equations Q_n is expressed in m³/h, d - in mm, and p_n in kg/m³. Yet it would be more proper to start measuring the massive flow rate of gas Q_m instead of accepted now measuring the volume flow rate Q (as it is done while measuring the low rate of steam). Adjusting of volume flow rate to normal conditions doesn't always provide necessary accuracy of result (especially when adding different gases).

The flow rate of gas (condensed air).

The flow rate of gas is being measured using the following basic formulas:

< P and sharp entrance edge;

Number Re is in limits $Re_{min} \leq Re \leq 10^8$,

Re_{min} has the following values depending on m :

$$\begin{aligned} 0,05 \leq m \leq 0,20 & \quad Re_{min} = 5 \cdot 10^3, & \longrightarrow \\ 0,20 < m \leq 0,59 & & \longrightarrow \quad Re_{min} = 10^4, \\ 0,59 < m \leq 0,64 & & \longrightarrow \quad Re_{min} = 2 \cdot 10^4, \end{aligned}$$

m is relative square equals to:

$$m = \left(\frac{d_{20}}{D_{20}} \right)^2 \quad (8),$$

e is corrective multiplier for change of density of measuring medium;

$$e = 1 - \left(0,41 + 0,35 \frac{d_{20}^4}{D_{20}^4} \right) \frac{< P}{10000 P c} \quad (9),$$

Where:

d_{20} is the diameter of the hole of diaphragm at temperature 20°C , mm ;

D_{20} is the inner diameter of conduit at temperature 20°C , mm ;

$< P$ is the pressure drop on diaphragm, kg/m^2 ;

P is the absolute pressure on diaphragm, kg/cm^2 ;

c is the indicator of adiabatic curve;

K_t is the coefficient showing temperature expansion of the material of diaphragm:

$$K_t = 1 + \beta_t (t - 20) \quad (10),$$

Here:

β_t is the average coefficient of linear thermal expansion of the material of narrowing device; (steel 1X18H10T - $\beta_t = 0,165 \cdot 10^{-4}$);

ρ_{nom} is the density of gas at normal conditions, kg/m^3 ;

T is the absolute temperature, K ($T = t + 273,15$);

K is the coefficient of gas condensability.

The flow rate of steam. The main formula for calculation the flow rate of steam:

$$Gm = 0,01252 a e K_t^2 d_{20}^2 \sqrt{< P r} \quad [кг / мин] \quad (11),$$

Here:

$$\begin{aligned} r &= \frac{1}{v} \quad [кг / м^3] \\ v &= \frac{t + 273,15}{212,45512P} + A_1 + A_2 t + A_3 P + A_4 t P + \frac{A_5}{t^2} \quad [м^3 / кг] \quad (12), \end{aligned}$$

Where:

t is the temperature of steam, $^{\circ}\text{C}$;

P is the absolute pressure of steam, kg/cm^2 ;

$A_1 - A_5$ are coefficients having under pressure 1.6-7 kg/cm^2 the following val-

ues:

$$\begin{aligned} A_1 &= -8,394429 \cdot 10^{-3}, \\ A_2 &= 1,426259 \cdot 10^{-5}, \\ A_3 &= -5,3654771 \cdot 10^{-4}, \\ A_4 &= 1,9958847 \cdot 10^{-6}, \\ A_5 &= -223,7858. \end{aligned}$$

Assessment of flow rate of thermal energy with steam. Charges of thermal energy with steam are calculated with formula:

$$Q_n = G_m * H, \quad [kJoule/kg] \quad (13),$$

Where:

H is the specific enthalpy of super-heated steam:

$$H = B_1 + B_2 t + B_3 P + B_4 t P + \frac{B_5}{t^2}. \quad (14).$$

When $P = 1,6-7$ kgs/sm² coefficients B_i has the following values:

$$B_4 = 3,375952 * 10^{-2},$$

$$B_5 = -237066,5.$$

$$B_1 = 2503,798,$$

$$B_2 = 1,895008,$$

$$B_3 = -12,067877,$$

The flow rate of water. The basic formula of massive flow rate of water looks this way:

$$G_m = 0,01252 a e K_t^2 d_{20}^2 \sqrt{< Pr} \quad [кг / мин] \quad [kg/min] \quad (15).$$

The density of water determined by formula approximates table data in the range of temperature 0-150 °C:

$$r = \frac{10^9}{998792,53 + 95,232446t + 3,4743522t^2} \quad (16).$$

The assessment of flow rate of thermal energy with hot water is made with formula:

which approximates table data in the range of temperature 0-150 °C and is calculated with formula:

$$Q_B = G_m * H, \quad [кДж/ч] \quad [kJoule/hour] \quad (17),$$

$$H = B_1 + B_2 t + B_3 t^2 \quad (18),$$

Where:

H is the specific enthalpy of water

Here:

B_i are coefficients with the following values:

	B_1	B_2	B_3
When $t = 0-90$ °C	$8,1909182 * 10^{-1}$	4,1793106	$5,6818181 * 10^{-5}$
When $t = 91-150$ °C	7,318027	4,0298544	$9,0537089 * 10^{-4}$

Determination of Reynolds' number Re . The Reynolds' number Re for conduit with diameter D while knowing the volume flow rate Q at working conditions is calculated with expressions:

$$Re = 0,0361 Q \rho / (D \mu) - \text{при } \mu = [кгс * с / м^2] [kg * s / m^2] \quad (19)$$

And

$$Re = 0,354 Q \rho / (D v) = Q \rho / (D \mu) \text{ при } \mu = [Па * с] [Pa * s] \text{ и } v = [м^2 / с] [m^2 / s] \quad (20),$$

Here:

Q is the volume flow rate;

M is the dynamic viscosity of measuring medium at working conditions.

For determination the coefficient of correction of flow rate to the number Re we calculate first flow rate of substances Q at its working parameters and assuming

that $Re = 10^6$ (in this case $k_{Re} = 1$, and $a_y = a_y^*$, a_y^* is the coefficient of flow rate with $Re = 10^6$).

The Reynolds' number Re is determined depending on the value of flow rate Q . Then we find the real number Re with formula:

$$Re = \frac{Re^* C}{a_y^* \left\{ 1 - S \left[1 - S (1 - S)^{1,75} \right]^{1,75} \right\}} \quad (21),$$

Where:

$$C = (0,5959 + 0,0312m^{1,05} - 0,184m^4) / (1-m^2)^{1/2},$$

$$S = S_1/S_2^{1,75}.$$

At the same time S_1 and S_2 are determined with formulas:

$$S_1 = B Re^* / (a_y^* 10^6) \quad (22),$$

$$S_2 = C Re^* / (a_y^* 10^6) \quad (23),$$

Where:

$$B = 0,0029 m^{1,25} / (1-m^2)^{1/2} \quad (24).$$

Then we calculate the corrective coefficient to number Re in order to get real amount of flow rate of substances:

$$k_{Re} = (C + B(10^6/Re)^{0,75}) / (C + B) \quad (25).$$

So the real flow rate of substances is determined as value equal to:

$$Q = Q^* k_{Re} \quad (26).$$

Thus, in this part of work have been introduced a mathematical model and a program for calculation the consumed characteristics and parameters of technological processes allowing to measure different flow rates of substances and energy, their quantity and levels. Thanks to these developments the management of techno-

logical cycle of metallurgical complex can be done more effectively.

The developers provided fast obtaining precise data of the course of the technological process and visual demonstration using created interface of obtained calculated characteristics considering given peculiarities of controlled process. [5]

Acquired information lets optimize the process of management of all technological production and provides significant economical effect at production of rare metals.

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THE “GOLDEN SHARE” CONCEPT IN KAZAKHSTAN

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The Law of the Republic of Kazakhstan “About Joint Stock Companies” of 13 May 2003 (article 13, clause 5) introduced the concept of a “golden share” into the current legislation about joint stock companies:

“The foundation meeting (decision of the sole founder) or general meeting of shareholders may introduce one ‘golden share’ which does not participate in the formation of the authorized capital and receipt of dividends. The holder of a “golden share” shall have the right to veto decisions of the general meeting of shareholders, board of directors and executive body on issues defined by the company's charter. The right of imposition of veto certified with the “golden share” shall not be subject to transfer” [1].

In Kazakhstan the “golden share” appeared for the first time in article 22, clause 4 of the Law “About Joint Stock Companies” of 1998 in the same wording.

After entry of the law to force it became clear that it had many defects and problems. In connection with the fact that “golden share” concept was adopted from European countries’ legislation it is necessary to study European experience on this issue and how concept developed in Europe.

In 1970-1980’s in many countries in important sectors of economy like transportation, public utilities, natural resources, energy, financial services state owned companies dominated. In a number of countries governments initiated privatization programs for different reasons. Unregulated sale of such enterprises in important industries to private sector raised the possibility of failing of these enterprises to foreign ownership and control, thereby threatening existing national control over vital economic interests. As a re-

sult, privatizations of publicly owned companies often involved restrictions on foreign ownership. To demonstrate different scales of control we will review the examples provided by French and UK privatization programs in 1980’s.

In the United Kingdom government retained control over certain matters in privatized companies by way of the so called “golden share”. By this device, the government has one special right redeemable preference share held by itself or its nominee in the privatized company. The company’s articles of association specified that certain issues are deemed to be a variation of rights of the special share and can only be effective with the written consent of the special shareholder [2].

In certain strategically important companies the “golden share” was used specifically to restrict foreign ownership. These restrictions raised objections from the European Commission on the grounds that they could be used as a means of discriminating against the participation of nationals from other EC Member States in the capital of British companies, contrary to the article 221 (now article 294) of Treaty of Rome.

In France, after the widespread nationalizations in the early 1980’s, the government of Jaques Chirac introduced a major program of privatization in 1986. As a part of that policy, the control over foreign participation in privatized companies was placed in legislation.

In accordance with articles 9 and 10 of Law № 86-912 of 6 August 1986, no individual or corporation could acquire more than 5 per cent of the shares transferred at the time of sale of the shares by the state, and the sum total of the shares sold directly or indirectly by the state to foreign individuals or corporations, or to

those under foreign control, should not exceed 20 per cent of the capital of enterprise.

Article 10 of Law № 86-912 continued by laying down the legal regime for a creation of state “golden share” in newly privatized companies. This governed foreign shareholding in privatized companies after the initial sale of shares by the state. For each company subject to the Privatization Law of 1986 the Minister of Economy, after consultation with privatization Commission, would determine by decree whether the protection of national interests, “requires that a common share held or acquired by the Government be transformed into a extraordinary share bearing rights defined in this present article” [3].

The principal right attached to the extraordinary share was that of permitting holdings by one or several individuals or corporations acting in concert to exceed 10 per cent of the capital. The extraordinary share could be converted back to a common share at any time by decree of Minister of Economy. It expired by operation of law after five years. The extraordinary share was less powerful than the British “golden share” given its limited duration and the absence of powers to block disposals of assets. Furthermore, it was not used as often [4].

Other EC Member countries also adopted their own versions of “golden shares” or imposed limits on foreign ownership in privatized industries. These laws were subjected by the European Court of Justice (ECJ) in a series of major cases involving Portugal (EC Commission v. Portugal (C-367/98) 2002), France (EC Commission v. France (C- 483/99), 2002, 2 CMLR 1249), Belgium (EC Commission v. Belgium (C- 503/992) 2002, CMLR 1265), UK (EC Commission v. United Kingdom (C- 98/01) 2003, 2 CMLR 598), Spain (EC Commission v. Spain (C- 463/00) 2003, 2 CMLR 557), Italy (EC Commission v. Italy (C- 174/04)

judgment 2 June 2005) [5].

In these cases European Commission stated that “golden share” and other similar statute based powers violated articles 43 and 56 of the EC Treaty, which protects free movement of capital by discriminating against investors from other Member States. Such restrictions can only be justified in cases where the vital public policy, public security, or public health considerations are applied. In none of the cases did the Commission see indicated considerations existing. The ECJ ruled in favor of the Commission in all but the case against Belgium. From these decisions the following approach can be discerned. Direct investment in the form of participation in an undertaking by means of a shareholding, or by the acquisition of securities in capital markets, constitutes capital movement within the EC Treaty countries. As accepted by the Commission, the retention of a certain degree of influence over privatized undertakings is justifiable where these are involved in the provision of services in public interests or strategic services.

However, such restrictions can only be taken in accordance with the reasons set down in Article 58 (1) (b) of the EC Treaty, which permits measures “to prevent infringements of national law and regulations, in particular in the field of taxation and the prudential supervision of financial institutions, or to lay down procedures for the declaration of capital movements for purposes of administrative or statistical information, or to take measures which are justified on grounds of public policy or public security” [6]. In very limited cases restrictions can also be taken by overriding requirements of the general interest. Restrictions have to apply equally to all persons and companies pursuing an activity in the territory of the host Member State. They are subject to a test of suitability in relation to the securing of the objective in question, and should not go

beyond what is necessary in order to attain it so as to accord with the principle of proportionality.

In addition, any restriction has to conform to essential requirements of precision and clarity, and should be subject to duty to state reasons and an opportunity for judicial review [7].

These principles do not prohibit “golden shares” directly but establish strict limits on their use. Most of the new East European EC Member States are now in process or already abolished or limited “golden shares” in accordance with these legal requirements.

Taking into account the fact that in rare cases new Member States governments use “golden share” further cases can be expected if measures to restrict “golden shares” will not provide positive results.

In addition, now there is a new tendency in Europe about “golden shares” connected with sovereign investment funds. The main aspect here is investor’s structure of ownership and purposes of investment. Earlier all investments in European companies from abroad were private and private investors wanted to maximize their profits. In the beginning of the 21st century new investment institutions emerged – sovereign investment funds, which in essence were state owned. Their purposes is not always getting profit as it is in case with private investors, but frequently getting access and sometimes control over host country’s natural resources, technologies, know how, etc. Thereby purchase by sovereign investment fund of a large company in an important sector of economy will practically mean control over this sector not by private investor, but indirectly by foreign government.

For example, EU Trade Commissioner Peter Mandelson suggested that so-called “golden shares” could be used to protect strategically important European companies against foreign takeovers.

Mandelson told business daily *Hundelsblatt* - "Europe's interest in maintaining control over important and politically sensitive key industries could be achieved via the instrument of the “golden share”, "We must find ways for the EU to maintain control over key industries on the one hand, but still remain attractive for foreign investors, including state-owned funds" [8].

The reason of EU Trade Commissioner’s speech was purchase of UAE’s Dubai International Capital of 3, 12% share of European airspace and defense holding EADS. Analysts also note that Russian bank VTB already owns 5% of EADS shares. Before that French President Nikola Sarkozy and German Chancellor Angela Merkel discussed how to defend EADS from foreign takeover and mechanism of “golden share” was considered as one of the priorities.

There is growing unease in Europe about the growing clout of state-financed investment funds from Russia, China and the Gulf states in European industries. Some German, French and other politicians and experts concerned that these state-financed investment funds could try to get important technologies from companies they invest to.

Moreover, now European Commission realizes danger because of which “golden shares” were seriously restricted. According to EU Trade Commissioner they violate the principle of free movement of capital and are frequently used for national protectionism, but there are new challenges that should be dealt with.

Peter Mandelson proposed to divide responsibility for adoption of “golden shares” between European Commission and EU Member States. Thereby “golden shares” will not be right of separate state, but rather a common European concept of defense of strategically important sectors of economy against undesirable takeover, i.e. practically common European “golden

share”.

However, some analysts warned that when concerning about strategic companies like EADS Europe may create mechanism which can cause misuse. Analysts note that the main part of the foreign investments is very beneficial for EU but there appears a question who and how will choose which companies are strategic and which are not. Local European companies will want to defend themselves and probably most of the cases will presume that foreign takeover is undesirable. In addition, between EU Member States there is no common view which economic sectors have to be defended. France concerns about airspace and energy industries, Germany concerns about banks and public post.

At the same time EU Trade Commissioner Peter Mandelson criticized US system when US authorities on foreign investment could veto takeovers from foreigners, even deals with European investors.

It was assumed that debates in European institutions about introduction of common European “golden share” will begin soon, but because of the global economic crisis they were suspended.

Lawmakers in Kazakhstan adopted “golden share” concept from European countries’ legal systems. While adopting a “golden share” concept lawmakers apparently supposed that identical circumstances existed in Kazakhstan. On the contrary, conditions of use of “golden shares” in Kazakhstan and European countries were different.

First of all, “golden share” in legislation of some European countries was adopted during the privatization era when entire sectors of economy were transferred from state to private investors. Probably, introduction of “golden share” to Kazakhstan legislation would be more logical in the beginning of the 1990’s at the time when in Kazakhstan there was a large

scale privatization. At the moment of introduction of this concept to the Law “About Joint Stock Companies” of the Republic of Kazakhstan privatization program in all sectors of economy was completed. On the contrary, recently government restored state ownership fully or partially in oil and gas industry and purchased the majority of shares in some banks in fear of bankruptcy.

Secondly, in legislation of European countries owner of “golden share” usually stands for the government. The purpose of “golden share” were to ensure that the government retains a certain degree of control over the company, even in case when the company had been privatized and sold to foreign owners.

The Law of the Republic of Kazakhstan “About Joint Stock Companies” does not prescribe that the owner of “golden share” could be only the government or agency which is delegated by the government. In accordance with article 13, clause 5 of the above mentioned Law “golden share” could be introduced by the foundation meeting (decision of the sole founder) or general meeting of shareholders of any joint stock company without clarification about private or state ownership.

Thirdly, legislation of European countries regulates “golden share” issue in detail. In the Law of the Republic of Kazakhstan “About Joint Stock Companies” “golden share” issue is fragmentary mentioned just a few times which demonstrates insufficient clarity of the law in that issue. Insufficient clarification of the law and absence of subordinate acts which can explain application of “golden share” can be the reason for different interpretation and therefore misuse.

Introduction of “golden share” in Kazakhstan did not receive a warm welcome by scholars. A famous expert in this field Popelyushko indicates that “introduction of “golden share” is not clear as the law already has a definition of a major

shareholder. In addition, “golden share” was in the old law and it did not justify itself. Introduction of “golden share” is a backward step, it can happen that the owner of “golden share” may be a shareholder who can block work of the company” [9].

Another expert Lobkov said that “significantly complicates economic activity the fact that decision of executive body, in relation to which there is veto right has to obligatory concur with the owner of “golden share”. We need to admit that “golden share” stipulated in old legislation was not used in practice and it has not perspective in development of joint stock companies movement” [10].

As it was mentioned, in accordance with article 13 (5) of the Law “About Joint Stock Companies” foundation meeting (decision of the sole founder) or general meeting of shareholders may introduce one “golden share”. The owner of that share has veto right for certain issues, defined in charter.

However, article 12 (4) indicates that shares of a certain class, shall provide each holder with the rights equal to the rights of other holders of that class, unless it is otherwise specified by this Law. Practically this article established the principle of equality of shareholders.

Thus article 13 (5) went too far, making principle of equality of shareholders written in article 12 (4) of the Law “About Joint Stock Companies” to its opposite. Hereby unequal treatment is not that any shareholders can have veto right but is that unequal treatment can be possible irrespective of amount of shares of shareholder.

This provision can has practical meaning if its usage is limited by government as shareholder as it happened in Russian law. However Russian law has the same problem, Russian Law “About Joint Stock Companies” has not any restrictions for “golden share” owner. Taking into ac-

count the fact that investors consider “golden share” as a risk there is a point in regulation of “golden share” in a maximum clear way – what prerequisites exist when “golden shares” can be provided, what purposes they have, if veto right can be challenged etc.

It can also be said that some experts have another opinion. In accordance with article 36 of the Law “About joint stock companies” “golden shares” can be introduced and annulled by simple majority, so in practice they will not have significant meaning. Thus concerns of investors about sudden introduction of “golden share” should not be significant as it can be introduced only on general meeting of shareholders in public and transparent manner.

At last, “golden share” issue was one of the issues in changes in the Law “About Joint Stock Companies” in accordance with the Law “About introduction of amendments and additions to legislative acts of the Republic of Kazakhstan on issue of defense of rights of minority shareholders” of 19 February, 2007.

Lawmakers among other changes introduced definition of a public company. According to article 4-1, clause 1 of the Law “About Joint Stock Companies” a public company is a company which meets the following requirements:

“1) A company shall realize allocation of ordinary shares on unorganized and (or) organized securities market and propose these shares to unlimited circle of investors”;

2) not less than 30% of total amount of ordinary shares shall belong to shareholders, every of them shall own no more than 5% of ordinary shares from the total amount;

3) the amount of trade of ordinary shares shall correspond to requirements established by a normative legal act of an authorized body;

4) shares of company shall be in category of list of stock exchange that

works in the territory of the Republic of Kazakhstan for inclusion and stay in which internal documents of stock exchange establish special (listing) requirements to securities and their issuers or they included in list of special trade center of regional financial center of Almaty”.

In addition, based on clause 2 article 4-1 of the Law “About Joint Stock Companies” the charter of a public company shall stipulate presence of:

- 1) code of corporate governance;
- 2) position of corporate secretary;
- 3) corporate web site;
- 4) prohibition of “golden share”.

Thus according to the current law a significant part of Kazakhstan’s large joint stock companies are public companies. The law indicates that the charter of a public company shall prohibit “golden share” and because majority of largest joint stock companies are public companies, “golden share” shall be prohibited in these companies. By these amendments lawmakers probably wanted to shatter the concerns of investors about “golden share”. Finally, although “golden share” remained in the Law “About Joint Stock Companies” lawmakers significantly restricted the

scope of its use.

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MAJOR DIRECTIONS IN THE ESTABLISHMENT AND DEVELOPMENT OF INVESTMENT LAW IN KAZAKHSTAN

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Today it is quite an authentic fact that one of the most important directions of the governmental policy in the sphere of economic development is attracting national and foreign investment. It is an overall observation that the Republic of Kazakhstan has developed and is strengthening the complex of economic, legal and organizational measures aimed at protecting national and foreign investments. This complex of measures is designed as a set

of rules and norms according to which there is an opportunity for creating favorable conditions for mutual investments.

Investment resources are always limited and that is why they should be spent purposefully, which is becoming especially important in conditions of the economic crisis. Due to this fact purposeful spending is one of the significant factors of stabilization and a consequent rise of economy. Investment policy, being an

instrument of overcoming negative economic circumstances, should play an important role in economy management and help to solve problems with financial flows in accordance with the state interests under current social and economic conditions.

The state determines investment policy because it is allotted with political authority and is capable of implementing its will in normative legal documents, regulating investment flows. The state influence on this process is quite necessary; the state should be capable of protecting its interests, which represent the destiny of the whole nation [1, p. 15].

To determine general patterns and tendencies of investment law of our country it is necessary to examine the history of its emergence and development as a separate legislation branch.

Legal investment regulations exist on both international and domestic levels. Investments can be classified according to different principles into direct and indirect investments (portfolio investments, i.e. those which do not presuppose direct participation in company management), property and non-property investments, state and private investments (depending on a source of investment). International experience shows that model agreements have recently gained popularity; these are the agreements that regulate specifics of the state in relation to foreign investment regulations.

Effective development of investment became possible only in the mid of the 80s of the 20th century. The countrywide developing perestroika affected foreign economic activity. The 1986 resolution of SPCU Central Committee Politbureau permitting establishment of joint ventures made it possible for the state economy to accept foreign investments. This decision was connected with two resolutions of CPSU Central Committee and USSR Council of Ministers # 991 and #992 as of

August 19, 1986 "About the measures to improve foreign economic relations" and "About the measures to improve economic and scientific and technical collaboration with socialist countries". These documents determined the transition to realizing reforms in the sphere of foreign economic activity and forming a national system of investment legislation [2, p.29].

Adopted on December 10th, 1990 by the Supreme Council of the USSR the law "Fundamentals of legislation of investment activity in the USSR", stated that agreement should become a principal document, regulating relations between two entities of investment activity. Kazakhstan like other republics of the Soviet Union adopted foreign investment and investment activity laws. The USSR law "About foreign investments" as of July 5th, 1991 provided the republics with the right to use their own legislation in case it doesn't contradict current USSR constitution and legislation. During that period Kazakhstan made the first investment agreement, the parties of which were the Soviet Union and the American corporation Chevron [2, p. 30].

At the same time, soviet investment legislation didn't last long; it was the time when the Soviet Union started to fall apart and new independent states started to appear. This period, though it was quite short, played a definite, or probably the most decisive, role in development of national investment legislation of the former soviet republics in general and that of Kazakhstan in particular. It was the time that determined the fundamentals of current investment activity.

In the Republic of Kazakhstan like in other former socialist countries the formation of national system of investment legislation became possible only during the period of their development as independent states and transition to market economy.

The first stage is the stage of forma-

tion of investment law, initially as a law about foreign investments. This process was initiated with the adoption of the Law of the Kazakh Soviet Socialist republic "About foreign investments in Kazakh SSR" as of December 7th, 1990, which was aimed effective attraction of foreign investments, advanced technology and managerial experience provided that there would be certain guarantees for foreign capital [3, p.473]. The purpose of the law was to create an open type economy in the republic and was to assist the fast transfer of the country to generally accept in the world methods of management. At the same time, this legislative act had severe drawbacks in investment relations regulation because it didn't consider all peculiarities of the development of the Republic of Kazakhstan in conditions of market economy and didn't reflect the interests of Kazakhstan people in conditions of gaining independence. But its adoption had certain positive moments: first of all, it was the first document, that legally consolidated existing investment relations in the republic; secondly, during a four-year period this legislative act determined the order of attracting investments into the economy of Kazakhstan which had an overall stimulating effect on foreign investment inflow; thirdly, it was the first time that the foreign capital had certain guarantees for its operation activities, unlike the legal acts of the 20s, according to which the Soviet state allowed foreign investments but didn't take the responsibility to protect and safeguard it. Inclusion of the article devoted to foreign investments guarantees increased the interest of potential investors and influenced their activity.

Thus, this period is the first stage of market relations development in the Republic of Kazakhstan and the initial stage of development of a new legislative system of independent sovereign state in genera and national system of investment law

in particular.

The second stage in development of investment law started with the adoption of the Republic of Kazakhstan law "About foreign investments" as of December 27th, 1994, which cancelled the previous aw about foreign investments in Kazakh Soviet Republic. The new law determined major legal and economic fundamentals of attracting foreign investments into economy of Kazakhstan, strengthened state guarantees to foreign investments and established organizational and legal forms of their existence and procedure of settlement of disputes with the foreign investors involved.

The peculiar feature of the second stage in investment law development is the fact that most of the acts and laws adopted those days were of temporary character. At the same time, this period marked the creation of legal basis for the current legislation which regulates market relations in the Republic of Kazakhstan.

The adoption of the Republic of Kazakhstan law "About state support of direct investments" on February 28th, 1997 signaled the beginning of the third stage of investment law development and improvement. The law is quite important because with its adoption, first, there started the formation of special direct investment legislation of the Republic of Kazakhstan; second, investment law moved to another quality stage of its development. There were three major directions:

- domestic investments were finally put on a par with foreign investments (previously this regulation, though included into investment activity law, was not used in practice due to its declarative character);

- the law legally vested the necessity of state support to foreign investments made in priority spheres of economy;

- there were determined the priority spheres of economy to attract intensively foreign investments in order to boost eco-

conomic growth and increase effectiveness of the state economy.

Before adoption of direct investment law the legislation, first of all, served the interests of foreign investors and created extremely favorable conditions for them, which violated not only the interests of domestic investors but those of the state, since it was attracting foreign investments by any means, which in the final analysis turned absolutely inefficient and of no advantage for the republic, as foreign investments were mostly made into subsoil usage, which was of little importance for the state economy development and resulted only in increased expansion of subsoil by foreign investors. Also we should not forget that foreign investors are attracted not by subsoil per se, but by minerals deposits located on the territory of the republic. We should also remember that minerals differ from other natural resources by being limited in quantity and by being nonrenewable. This does not mean that we should reject participation of foreign investors in subsoil usage, but we should consider first of a national investors if a other conditions and parameters are equal.

Direct investment law signaled the emergence of new investment policy in the Republic of Kazakhstan, aimed at elimination of privileges and advantages given to foreign investors.

Thus, the main peculiarity of the third stage of investment aw development in the Republic of Kazakhstan consisted in adopting a block of special investment laws: direct investment law, foreign investment law and stocks investment law. At the same time there was adopted the law on state investments (including direct state investments, state borrowings and national debt and others).

Consequently the period between late 1990s and early 2000s marked the significant development of investment law in Kazakhstan legislation. This historical

for Kazakhstan period was characterized by activation of policy in the sphere of external economic relations, which is undoubtedly one of the conditions that assure economic growth and by increased role of the state in investment policy implementation.

National economy treats the external factor not only as the possibility to take a certain place in the world economy but also as an opportunity to influence the development of different branches of industry, that is why the problem of increasing effectiveness of using external economic resources and improvement of external economic relations has always been and remains the focal point of attention of the state [4, p. 95].

On January 8th, 2003 the Republic of Kazakhstan adopted the investment aw, the main advantage of which was consolidation of norms regulating the investment relations and establishment of general legal order for foreign and domestic investments. At the same time some peculiarities of foreign investment legal regulations and direct investments were preserved. As positive consequences we can mention providing guarantees for foreign investors operating in the Republic of Kazakhstan. In particular legal protection of investors on the territory of the Republic of Kazakhstan (absolute and unconditional protection of rights and interests of the investors by the law and other legal acts of the Republic of Kazakhstan and also by international treaties ratified by Kazakhstan; right to compensation of losses occurring as a result of adoption of inappropriate act of a state body and also as a result of activity (inactivity) of executives of those state bodies in accordance with the civil legislation); guarantees for using income; investors' rights guarantees in case of nationalization or requisition [5].

So, adoption of the Republic of Kazakhstan law "About investments" as of January 8th, 2003 was quite logical. There

was a necessity to have an integrated investment law, which would consolidate in itself all special acts regulating investment relations and referring to different legislation branches prior to its adoption. Starting with the moment of adoption of Direct investments state support law it was clear that the first step towards legal equalizing of foreign and domestic investors had been made.

The fourth stage in investment law development can be characterized in the following way – it was the stage of establishment of investment law as a separate legislation branch with all inherent features and characteristics.

At the same time this period can be given a different characteristic – the period of equal opportunities for foreign and domestic investors. We should not forget though that sustainable development could not be achieved without optimal combination of state interests and those of foreign and domestic investments – the primary importance should be given to mutually beneficial investments. Without appropriate legal support of foreign and domestic investment it will be very difficult to maintain existing investments and attract new investments into the economy of the country (and foreign investments in the first place).

Around the investment law there grouped other legal acts the branch belongingness of which had not been determined, which resulted in a final shaping of investment law as a separate branch of the Republic of Kazakhstan legislation.

Analysis of the system of law resources in the Republic of Kazakhstan after adoption of the current constitution leads as to the following conclusions:

- legal system of contemporary Kazakhstan is most close to European continental legal system. We have the same legal resources as the states of continental Europe. Under these conditions it is hardly possible to change the legal system radi-

cally according to the model of the USA or the UK legal system, including the introduction of case law;

- globalization of world processes places before the states the necessity of integration to solve global problems of humanity, that is why appeals “to go our own way” are not promising. We have to live not in a “special global system”, but in unity and cooperation with other world countries;

- Kazakhstan legal system should orientate itself on the legal standards adopted by leading world countries, European countries in particular, at the same time we should take into consideration accumulated prior experience, traditions and customs of Kazakhstan;

- orientation for the market economy, developed civil society and heading for establishment of law-governed state place a greater importance on normative agreement as a legal source. The same happens in European continental legal system.

International normative agreements in the law sphere are paid a special attention in the Republic of Kazakhstan. This is explained by the fact that a normative agreement regulates mostly international legal relations, and the theory of international agreements originated in the time of Spinoza and Grotius whilst the theory of internal normative agreement is evolving right now, and it is connected with the establishment of the civil society, law-regulated state and market relations development.

Today one of the major sources of investment law are international agreements. At that most of them are bilateral agreements about encouragement and mutual protection of capital investments. Only two acts have universal meaning: Convention about regulation of investment disputes between the states and between the citizens of other states (Washington, March 18th, 1965) and Convention about

the establishment of investment guarantees multilateral agency (Seoul, October 11th, 1985), which were ratified by the Republic of Kazakhstan. Washington convention established an international procedure of investment disputes settlements between the state on the one part and a individual and/or a legal entity of the other state on the other part through establishment of International Centre for Settlement of Investment Disputes (ICSID). ICSID goal is to provide mechanisms for conciliation and arbitration in reference to investment disputes.

The main goal of Multilateral investment guarantee agency (MIGA) established by Seoul convention is to stimulate investment flows among the countries – MIGA members and especially investment flows into the economy of developing countries, complementing the activity of the World Bank, International Financial Corporation and other international organizations of financial development. To realize this MIGA provides guarantees including joint and recurring non-commercial risks insurance concerning foreign investments made on the territory of the developing countries. Non-commercial risks covered by Seoul convention include currency transactions, expropriation or similar activity, agreement violations, war and civil disturbances.

Thus, Washington and Seoul conventions concern only two particular issues: investment disputes settlement and foreign investors insurance and consequently cannot provide an overall settlement of international investment relations.

Within the frame of international legal regulations settlements on a regional level are realized in accordance with the following agreements – CIS agreement “About collaboration in the sphere of investment activity” as of December 23rd, 1993. Among bilateral agreements, which are a more flexible instrument of investment relations regulation, it is worth men-

tioning an agreement about mutual encouragement and protection of foreign capital investments. The main goal of such agreements is in providing equally favorable conditions for capital investments, establishment of possibilities for unimpeded withdrawal of a part of an income and non-commercial risks guarantees.

International legal investment protection is more effective for attracting investments than having similar guarantees fixed in national legislation. But, nonetheless, another constituent part of foreign investments regulations is a national legal part.

In spite of development of investment law, there are unfortunately some drawbacks and gaps remaining. Thus, we cannot but mention the fact that there hasn't been created an effective legal basis for realization of the Republic of Kazakhstan law “About investments” and international normative legal acts ratified by the country.

From the point of view of T. Sokolova “the significant unresolved issue is the creation of the set of normative legal acts and programs that reinsure foreign investments through decreasing juridical and political risks guarantees” [6, p. 41].

These kinds of problems, as we think, demonstrate to the investors the interest or the absence of interests of the state executive organs in attraction and protection of investments and consequently the investors. Currently assessment of state investment attractiveness is determined by the level of investment legislation development, while the key element in assessment is existence of legal acts describing preferences and guarantees of both legal and financial investors, who implement investment projects in priority sectors of economy.

We have to state the fact that general declamations are not enough since to generate an inflow of foreign investments it is necessary to have an integrated legal, eco-

conomic and political stability.

Besides, there is a negative influence of the lack of integral state policy of attracting foreign investments, in particular on the legislation level there are no fixed priorities concerning branches and types of investments, there are no defined mechanisms of guarantees especially concerning types of property. [6, p.41].

Of no small importance is the factor of law enforcement practice, which currently negatively affects investment activity starting from false bankruptcy and ending with failure to implement judicial decisions and other juridical acts.

Analysis of major stages of investment law development showed that one of the problems is a wrong interpretation of law and its norms. Considering this we should share the point of view of Y. Abdassulov according to which "the reason causing this fact is that law enforcement practice getting more complicated due to fast development of social political and economic relations in all states." Emergence of new states on the world political map and significant changes in constitutional systems on the one hand and an active process of word and regional integration on the other hand determined the necessity of developing new approaches to interpretation and implementation of legal norms, in the basis of which there should lie absolutely different criteria of interpretation results truth considering priorities of human rights and freedoms, new methods and techniques of revealing the contents of legal norms. Law interpretation is one of the traditional problems of juridical science, since interpretation of legal norms is the process that occurs in any case when it is necessary to define the meaning of normative statutes. Interpretation of law results in juridical consequences not only in the sphere of law enforcement, but in law realization in general. Moreover, interpretation exceeds the frames of law reinforcement, since interpretation is impor-

tant not only for law reinforcement but also for lawmaking, scientific and educational law analysis» [7, p.3].

Fundamental elements of Kazakhstan current legislation improvement should be as follows:

- adaptation and unification of Kazakhstan national legislation laws to the conditions of factual participation in international investment organizations, expansion of practice of bilateral and multilateral agreements on investment guarantees and mutual protection;

- reconsideration of the system and mechanism of state support for domestic and foreign investors, including the support during the whole period of the investment project realization;

- determination of opportunities for emergence latent risks which occur during investment projects insurance;

- detailed regulation of investment project business plans, its structural elements, standards, legal peculiarities of its realization as a fundamental stage of investment projecting;

- reconsideration of the procedure of investment disputes settlement, assertion of Kazakhstan to all international mechanisms of investment disputes settlement.

There is no doubt, however, that everything mentioned above is just a part of all important elements providing stability to Kazakhstan legal system in the sphere of investment activity.

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KAZAKHSTAN AFTER POST- CONSTITUTIONAL REFORMS: NEW CHALLENGES OF THE POLITICAL SYSTEM

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Abstract

The focus of the present paper is to examine the evolution of the political system of Kazakhstan after post-constitutional reforms (1993, 1995) using history and comparative analysis as a guide. The current development stage is characterized by intensification and growth of democracy in the political system of the country. In addition, Kazakhstan is the first of the newly independent states of the former Soviet Union being in charge of chairing the Organization for Security and Cooperation in Europe now. In this perspective, the paper discusses the question when and how a unique “Kazakhstani model” of democratic development emerged (A.C. Bowyer, 2008); how the allocation of constitutional powers between an executive presidency and the legislature of a democratic republic coexists, and if Kazakhstan copes with the strict requirements mandated by the OSCE itself. An answer to these questions also sheds light on the set of problems like compatibility between capitalism and democracy, “unemployment”, “migration and migrants”, “interethnic relations”, “transparency” of parliament and executive decision-making, “access” to public opinion research data; and “modification” of the

electoral code.

Moreover, the paper argues that the country’s norms and values influenced development of the political system; as a result, it provides evidence for the conclusion that policy choice rather than cultural values played a determining role in the formation of the renewed political system in Kazakhstan. This argument rejects the assumption of cultural determinism, but does provide a nuanced interpretation of the continuing influence of cultural values on the process of policy. The paper is based on published materials, including official, historical documents, and archival materials from Library of the Presidential Centre of Culture and Astana State Archive.

Introduction

There are two constitutions in the history of independent Kazakhstan – the 1993 Constitution and the 1995 Constitution. The first Constitution of independent Kazakhstan was accepted at XIII session of the Supreme body of Kazakhstan of XII convocation on January 28th, 1993. Working out, discussion and its acceptance have poured out in infinite search of the compromise formulations arranging various, at times contradictory positions. As a result,

the conclusive text of the Constitution differed by its vaporous style, excessive desire for universality when one side declared by the pursuit of what has reached modern human civilization, on the other hand, the old system of socio-economic and political-legal relations was actually preserved.

At the same time, the 1993 Constitution laid the foundation for the construction of national and state independence, marked the beginning of structural socio-economic and political reform. Structurally it was divided into a preamble and 4 sections consisting of 21 chapters and 131 articles. The Constitution incorporated many of the legal norms adopted after Kazakhstan gained sovereignty: national sovereignty, the independence of the state, the principle of separation of powers, the recognition of the Kazakh language as the state language, the recognition of the President as the head of the state, and the organs of the court: the Supreme, Constitutional and Supreme Arbitration Courts and others.

A model of presidential - parliamentary republic laid down in the basis of the 1993 Constitution. Despite all the above-described advantages and progressiveness compared to the Constitution of the USSR and Kazakh SSR, in this Constitution there was a significant flaw that outweighs all of its dignity – in the conditions of crisis the political system built on it could not function effectively. There were several inter-related reasons: first - the constant coordination of government actions, the president and the parliament were required and secondly – a huge number of the Supreme Council (360 members) elected during the Soviet era whose members were very different people who did not have the skills and experience required for this activity. As a result, the Supreme Council could not in the required time to make decisions. Constant conflicts between the executive and legislative branches of government

and individual deputies of the Supreme Council among themselves led to a constitutional crisis. Moreover, the Supreme Council of XII convocation itself was dismissed, and the newly elected Supreme Council of XIII convocation was recognized by no legitimate decision of the Constitutional Court on March 6, 1995. Under these conditions, a New Constitution drafting began. Constitutional reform, which began in April 1995, was marked by the adoption of a new Constitution of the Republic of Kazakhstan by a referendum on August 30, 1995. By form of government Kazakhstan became a presidential republic, but for variety and flexibility of elements of this board, approved by the constitutional practice of developed democracies, the Kazakh presidential form of government acquires logically complete form of the special separation system and the functioning of the unified state power in society.

Institution of the presidency "is not built in" in the executive branch now, as it was in the 1993 Constitution, but is intended to embody and implement the state unity of the people of Kazakhstan. The President, as the head of state is, firstly, the symbol and guarantor of the unity of the people and government and, secondly, ensures the coordinated functioning of all branches of the government, as well as the responsibility of its organs before the people of Kazakhstan. In accordance with this standard all the remaining elements of the system of government forming a harmonious mechanism of checks and balances are lineup.

Thanks to the new status of the President the potential of the Kazakhstan parliamentarism and independence of an executive vertical considerably amplify, and also independence of the judicial power is more full guaranteed. For the first time in history of the Kazakhstan constitutionalism the democratic institute of impeachment or dismissal of the head of the

state from a post is established. The Constitution provides to what officer in the state passes through the discharge of duties of its head in case of remission or dismissal from a post of the President of the republic, and also in case of his death.

Established by the 1995 Constitution the unitarity and territorial integrity of the state, also the republican form of ruling cannot be changed under any circumstances. Thus, defaults of existing system have been eliminated and the vector of the further development of the state is set. Hereinafter, changes in 1998 and in 2007 have been made to the effective Constitution. The first changes were brought on October 7, 1998. The essence of changes came to the following: further accretion of the President's power (increase in duration of terms of staying in office from 5 till 7 years, the appointment of heads of local executive boards is exercised by President); involving to a legal field of political parties (increase in Mazhilis of Parliament from 67 to 77 benches, on these 10 benches the elections were carried out by the party lists). Changes made on May 21st, 2007 were more essential: the term of presidential powers decreased from 7 till 5 years; the government apportionment of liability before parliament increased; the amount of members in both Chambers of Parliament essentially increased (Mazhilis – from 77 to 107, herewith 98 deputies were elected by the party lists, 9 were elected by Assembly of the People of Kazakhstan; the Senate – from 39 to 47 deputies).

It is possible to make the following number of conclusions from these changes: firstly – the political parties have become the main subjects in a political field; secondly – Parliament positions (as a consequence from the first) have strengthened, that is a pledge of political stability and democracy development in the long-term prospect. Nevertheless, it is necessary to notice, that presidential powers as a

whole have not decreased – the nominee of the prime minister is offered by the President, heads of local state bodies are still appointed by the President; the same applies to the appointments of NSC Chairman and Procurator General. A combination of these two at the first sight mutually exclusive things – the strong presidential power and the developing parliamentarism – also generates that system which A.C. Bowyer (2008) called «the Kazakhstan model» of developments. It is the combination which allows implementing the democratic transformations without social and economic shocks. «The Kazakhstan model» of political and economic development has allowed realizing the necessary reforms in all vital areas. It has also been recognized at the international level – Kazakhstan, becoming the single candidate from member countries of CIS on the post of OSCE chairman, further it was elected the Chairman of OSCE for 2010 at Foreign affairs Council Meeting in Madrid in 2007.

Before the inauguration Kazakhstan was to get through a number of reforms in the field of human rights, freedom of speech, mass-media etc. These reforms were successfully got through, and on January 1st, 2010 Kazakhstan assumed office of OSCE Chairman. This presidency means not only that Kazakhstan complies with all norms and standards of this organization, but also can introduce something new to this organization. This could include the experience of Kazakhstan in the field of interethnic and interreligious harmony, the success of economic and political reforms under difficult conditions.

For a multinational and multi-religious Europe in terms of financial crisis, it is especially important. However it is necessary to note a few things that bother OSCE member states: firstly, presence in the Majilis of only one party, and secondly, lack of organized opposition to the existing regime and an alternative to

the presidential Nur Otan. For elimination of these things the following steps were undertaken: amendments to the Law on the elections, excluding the variant of one-party parliament, creation of a platform for interparty dialogue on the basis of public chamber under the President of the Republic of Kazakhstan. The western experts add here some more recommendations. For example, the same A.C. Bowyer (2008) recommends lowering a selective barrier in the Majilis from 7 to 5 %, to enter the mixed electoral system etc. Also it is necessary to consider the influence of culture and national mentality on formation of internal and foreign policy, consequently, its possible inclusion into the Main Law of the country.

Historically, the Kazakhs developed as nomadic people with advanced tribal relations, in other words, tribalism. Many Western experts tend to exaggerate the national factor and the historical character of the people and, therefore, individuals in both political and economic decision-making. Of course, there is an element of cronyism, but it is not medieval tribalism, but rather a group of like-minded unity of common goals. To some extent, it is natural, because one person cannot achieve some significant results alone, without support. The influence of cultural traditions and features there, but it is manifested mainly at the household level (e.g.: thanks for the successful birth midwife and so on) and does not constitute any meaningful sense when making strategic decisions.

It is promoted by following factors:

1. Legislation - discrimination of citizens on ethnic, religious and other discrimination is prohibited; to work in directly subordination to the relatives is forbidden.
2. The need for efficiency – a corrupted system tied on consanguinity, is not

viable.

3. At the present stage it is understood by most of the people who make strategic decisions.

4. Large time span (since 1930) pale Kazakhs, which destroyed much of the prevailing at that time tribal relations.

Conclusion

From the above written we can conclude that - despite all the changes, fluctuations and upheavals of the political process, the Constitution proved its viability and is a cornerstone of the legal field of Kazakhstan, giving impetus to further development of Kazakhstan's political system.

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THE JUDICIAL BRANCH AND ITS ROLE IN THE STATE POWER MECHANISM

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The basic world tendency of the 21st century is the law-governed state model priority and the theory of power division.

Power division arose at the earliest stages of state formation and resulted in the specialization of different individuals' and institutions' power. There were discovered two settled tendencies: the concentration of power in single hands and the necessity to divide power, labor, and responsibility. Hence, the dual attitude towards power: on the one hand, the fight of the separated institutions against its division, on the other hand, the tendency to regulate the relations between the separated powers and to remove the threat of conflicts between them.

The formation, functioning and development of the independent judicial power are the priorities of the democratic and law-governed state. Two principles are at the base of the state: supremacy of law and power division to legislative, executive, and judicial branches. It should be noted, the principle of law supremacy will not be realized completely if the bodies of the judicial do not take notable position in the state power mechanism. It points to the necessity of the judicial branch to be autonomous and independent for its normal functioning and reformation.

The realization of the latter principle (power division) is not to be realized in isolation from checks and balances. Nowadays any state seeks to objectify checks and balances in national legislation. The given system would be practical and interfere with the despotic influence of a unitary power branch.

Power division is a principle or a theory proceeded from the fact that independent power branches are necessary for normal functioning of a state. They are the

legislative, the executive, and the judicial. The legislative is to belong to parliament, the executive – to government, and the judicial – to court.

In legal science there are different approaches and theories revealing the point of the above-mentioned principle.

The idea of power division originates from the ancient times and the Middle Ages. It was mentioned first by Aristotle. Further it was developed by John Locke (1632 - 1704). As a classical example it was worked out by Charles Luis Montesquieu (1689 - 1755). Its modern form was developed by Alexander Hamilton, James Madison, and John Jay (the authors of "Federalist").

The power division principle originated theoretically and practically in Ancient Greece and Ancient Rome. The analysis of political patterns and forms of government made by Plato, Aristotle, and other ancient thinkers paved the way the substantiation of the given principle at the age of the Enlightenment.

Theoretically the principle was developed in the Middle Ages. First of all, it was evolved in the work of an English philosopher John Locke "Two Treatises on State Governing". In the given study Locke focuses his attention on the necessity of law supremacy, power division, and the recognition of an individual's natural rights and liberties. His idea of power division into the legislative, the executive, and the judicial branches is very interesting, as it impedes the despotism displayed at the power concentration in single hands. It must be noted that John Locke inclined towards the legislative power supremacy.

The today's doctrine of power division in its classical form was formulated by Charles Luis Montesquieu. In his paper

“On the Spirit of Laws” published in 1748 Montesquieu wrote, “There are three powers in a state: the legislative, the executive (managing the problems of an international law), and the executive (managing the problems of a civil law). By virtue of the first power, a sovereign or an institution develops a law. By virtue of the second one, a sovereign or an institution declares war or makes peace, sends or receives ambassadors, guarantees security, and averts invasion. By virtue of the third branch, a sovereign or an institution punishes crimes and solves the conflicts of private individuals. The latter may be called a judicial one, and the second – just an executive power of the state”.

Montesquieu developed the point of checks and balances, as he thought the division would not be effective without it. He stated, “It is necessary to keep the order under which different powers could control each other mutually”.

The practical “balance” between the power branches is attained by mutual limiting measures established by law.

The ideas of power division were developed further in the works of James Madison (1751 – 1836). He took the USA as a model. Madison convincingly proved that “the authority of the body must not be realized directly or indirectly by another one”. He also proved that “the excessively grown and comprehensive prerogative of the hereditary executive branch of power, supported by the hereditary legislative” is very dangerous for people’s freedom and independence. The unlawful seizure of power by the law-makers results in the same tyranny as the usurpation of governing by the executive branch”.

Madison developed the system of checks and balances. Due to it each branch of power is relatively equal to others. The given mechanism of checks and balances is still functioning in the USA till now. According to Madison, the partial coincidence of all power branches is called

checks and balances.

Marxism evaluating the classical doctrine about the division of power proceeded from the ideological reasons of its origin in the age of the first bourgeois revolutions, i.e. the compromise of class forces being reached at the certain stage of the bourgeoisie struggle for the political rule. K. Marx considered the division of power to be the prosaic business division of labor applied to the state mechanism for the purpose of simplification and control. K. Marx was sure in the unscientific nature of the theory of power division. He thought two sovereign power branches to be unable to function in the same state.

E. Kaliskarov noted that the theory of power division was evaluated in the Soviet jurial literature in a peculiar way. The Soviet doctrine absolutized the given aspect and contrasted it with the theory of Soviet’s sovereignty, people’s sovereignty, etc. In fact, this was the theoretical covering of the totalitarian regime. At the base of the Soviet system of state power there were the views of K. Marx, F. Engels, and V. Lenin. They considered the autocratic mechanism (the functions and authorities of all power branches were concentrated in it) to be the most optimal model of state power. They did not admit the necessity of power division into legislative and executive. The postulate of the Soviet sovereignty uniting the legislative, executive and controlling functions thought to be invariable in the Soviet period - the period of the dictatorship of the proletariat. The formal independence was recognized only per court [1].

Thereby, the branches of state power function independently. Any interference of a branch into the jurisdiction of another is not allowed. At the same time, the branches are the components of the unitary state power. The division of power is not the invariable state of isolated structures. It is a functioning mechanism achieving unity on the basis of the complicated proc-

ess of agreement and special juridical procedures of the possible conflicts overcoming.

In the Republic of Kazakhstan the consolidation of the power division principle first took place in “The KazSSR Supreme Soviet Declaration on the State Sovereignty” (approved on October 25, 1990) and in the constitutional law of the Republic of Kazakhstan “On the State Independence of the Republic of Kazakhstan” (approved on December 16, 1991). They proclaimed the Republic of Kazakhstan an independent, democratic, and under-the-law state. The Declaration Article 7 established the realization of the state power according to the principle of its division into the legislative, executive and judicial branches.

The given principle was further developed in the Constitution of the Republic of Kazakhstan (approved in 1993 and 1995) using the system of checks and balances. According to the present Constitution of the Republic of Kazakhstan the above-mentioned principle is considered to be the basis of the constitutional system.

It should be mentioned, that the term “the judicial branch of power” had not been used before the approval of the Constitution of 1993, since court was seen as a purely administrative body. As a matter of fact, the concepts “judicial power” and “judicial system” were identified but the objectives set before courts and the types of their authorities were different. “Judicial power” and “justice” are related but not identical concepts. According to K. Mami, justice is one of the most significant displays of the judicial power but the latter does not come to the same. The concept “judicial power” must not come to its organizational aspect – the presence of special bodies possessing an appropriate set of authority.

In the given context it also should be mentioned while studying the essence and role of the judicial it is necessary to pay

attention to its definition. According to K.Kh. Khalikov, the judicial power is a special activity of the state aimed at the protection of citizens’ rights, liberties, and legal interests; the bodies’ rights and legal interests protection; the guaranteeing of execution of the Constitution, laws, different regulatory acts, international treaties on the principles of democracy, social justice, humanism, and legality. The given concept covers almost every protection elements. It also may include the compulsory protection of the rights and interests not only of a citizen, but a person - party of social relations, as in real there might be the rights of other individuals encroached.

K.Kh. Khalikov defines the concept “justice” as a special type of the state activity aimed at the protection of public relations realized by means of the law used to concrete public conflicts. If necessary, serious measures of state compulsion may be used here [2].

The given definition clearly displays the essence of justice administration only by court. In the science of law there are lots of state bodies administering the compulsion measures but only the court has its peculiar authorities. For example, according to the present legislation, only the court has the right to administer such punishment as imprisonment, confiscation, etc.

As a branch of the state power, the judicial possesses the features common for a unitary state organization:

- 1) It is based on the Constitution of the Republic of Kazakhstan;
- 2) It functions all over the territory of the country;
- 3) The judgments are taken strictly within the framework of the competence;
- 4) The judgments are obligatory for all state bodies, officials, citizens, and their associations;
- 5) The judicial bodies facilitate the strengthening of law and order.

As a special branch, the judicial has its peculiar features. Its exclusiveness is its significant feature. Neither other branches (the legislative, the executive) nor the President of the Republic of Kazakhstan have the judicial authority. Only the court administers justice. It is mentioned in the Constitution of the Republic of Kazakhstan. The Constitution Article 75 says, "The justice in the Republic of Kazakhstan is administered only by court". According to the Constitutional Law "On the Judicial System and the Judge Status in the Republic of Kazakhstan" (approved on December 25, 2000) it is forbidden to enact laws providing for the court powers delegation to other bodies.

The judicial system law has imposed a new norm: appeals, applications, and complaints subjected to consideration under court proceedings cannot be examined or taken under control by any other bodies or officials.

Disputable cases are examined only by court. Unauthorized realization of actual or supposed rights disputed by another individual or organization having caused a serious damage to the rights and interests of other people or organizations, or to the interests of the state secured by law is considered to be crime.

Another specific feature of the judicial power is a special procedure of the authority exercise. In a federative state consisting of relatively sovereign parts there may be different civil, criminal, administrative, and procedural legislation. They function within the framework of corresponding state bodies and have their specific features. In the unitary state of Kazakhstan there approved and function common civil procedure, criminal procedure, and administrative legislation. They regulate procedural court activity in details [3].

One of the features of the judicial is a special status and the regime of judges' functioning. Judges are a special category

of statesmen. According to the Constitution of the Republic of Kazakhstan, the citizens of the republic attained the age of 25, obtained legal education, having at least two years of practical experience, and having passed the qualification exams can hold the given position (article 79). The Constitution also says that additional skill requirements may be established by law. Such additional requirements are established by the Law "On Judicial System and Status of Judges".

The peculiarities of the judge functioning regime are shown in the constitutional provisions, such as their independence and subordination only to the Constitution and law. The law establishes the irremovability and immunity of judges. Undoubtedly, it is necessary to protect judges by means of their immunity guaranteeing.

The jury also should be mentioned. A new provision "in cases stipulated by law the criminal courts proceedings are carried out with the participation of the jury" (article 75) is brought in the Constitution of the Republic of Kazakhstan in October, 1998. The given innovation is the result of taking into account of the public opinion about the necessity of the judicial functioning democratization.

A specific feature of the judicial is a peculiar system of its functioning internal control. As the courts are reported to the Constitution and laws only, the bodies of either the legislative or the executive have no right to exercise control over the legality of their decisions. The control over the functioning of courts is exercised by means of the judicial and prosecutor's supervision. The Supreme Court examines the cases considered by the inferior courts in the exercise of supervisory powers.

It is suggested that the prosecutor's supervision is the vestige of an administrative-command system. The given opinion is not without reason, as the court independence is established by the Constitu-

tion. But it should be taken into account that judicial supervision is the inner concern, so the danger of departmental approach to the inferior courts functioning evaluation is still preserved. The public prosecutor's office supervises the executing of laws, the decrees of the President, and other regulatory acts on the territory of the republic. In other words, the public prosecutor's office supervises courts for avoiding the opposition of reasonability to legality.

A peculiar judicial system is established in the Constitution of the Republic of Kazakhstan. It takes into account a unitary system of the state. The judicial system of the Republic of Kazakhstan is the whole set of the country's courts. It consists of the unitary system of judicial bodies: courts of general jurisdiction (examining civil, commercial, administrative, and criminal cases), the Supreme Court of the Republic of Kazakhstan, oblast and regional courts. Military tribunal is the part of the common courts system.

In the Constitution of the Republic of Kazakhstan there established the principles of justice for a judge to be guided with at the law execution (article 77). For example, a person is considered innocent until he/she is found guilty according to the imposed sentence; a person having committed a single crime cannot be subjected to a penalty twice; a person's suitability having stipulated by law cannot be changed without his/her agreement; everyone has the right to be heard out; the accused has not to prove his/her innocence, etc.

The functions of the judicial determine its role and place in the state power mechanism. Thereupon, it is necessary to consider the functions of the judicial in details.

The judicial branch in the Republic of Kazakhstan carries out a number of important functions. Their legal bases are established in the Constitution. The func-

tions characterize the judicial firstly as an independent branch of the state power; secondly, as a system of state bodies possessing the mechanism of checks and balances as regards to other branches of the state power; thirdly, as a branch functioning on the basis of specific principles, forms and techniques; in addition, as the bodies administering justice [4].

Ideally, the judicial branch has to fulfill the function of control and restriction of the legislative and the executive. The given function is determined by the essence of the judicial itself. Justice in a broad sense is an activity aiming at the finding the correspondence of citizens' behavior, state bodies' activity, and private organizations to law and legal regulations. Therefore, there is justice only when the judicial has a legal opportunity to evaluate the state bodies functioning from the point of view of the present law. The function in question consists in the fact that courts must work in accordance with the Constitution. If laws or other normative acts contradict the Constitution, courts should not apply them no matter which body they are executed. The constitution of the Republic of Kazakhstan says if court sees that a law or a normative act infringes upon citizen's rights, it must stay proceedings and apply to the Constitutional Council with the proposal to recognize the act as invalid. The given right is granted to all courts, either to local ones or to the Supreme Court, and is used by them as the checks and balances mechanism of the unconstitutional rule-making either of the Parliament or of other state bodies authorized to approve normative acts.

Speaking about the importance of the checks and balances mechanism of the legislative and the executive branches it should also be mentioned the imperfection of the function. The Constitution of the Republic of Kazakhstan recognizes the individual, his/her life, rights and liberty as the most important valuables of the

state. Therefore, controlling and limiting of the legislative and the executive actions infringing upon the citizens' rights result from the constitutional regulation. Courts are to protect the state in general. The analysis of the constitutional regulations helps to determine the fact that the state's interests are also to be defended in legal form. Besides, the interests of the state may be defended either by means of appealing to the Constitutional Court or by means of recognizing the organizational and practical measures infringing upon them as unconstitutional.

So, courts have to protect the fundamental principles of the state functioning, such as: public harmony and political stability; economic development for the welfare of the people; Kazakhstan patriotism; and democratic methods of the state life. In criminal, administrative, and civil legislation there are measures to be applied regarding to the individual encroaching on the given principles. According to Article 39 of the Constitution any actions capable of breaking the international harmony are recognized as unconstitutional. Courts are also to protect the sovereignty of the republic. There are inner and outer sovereignties. Therefore, there may be inner and outer actions aiming at the limiting of the state sovereignty. In certain cases the actions may be the subject of the judicial review [5].

According to the Constitution the state secures the integrity, inviolability, and inalienability of its territory. The actions and decisions from the part of public organizations and local bodies aiming at the infringement of the territorial integrity and inalienability also may be the subject of the judicial review. The unitarity and the presidential form of government established by the Constitution cannot be changed. There were repeated attempts to change the unitary form of the government system. Such attempts can be presented as normative acts (the decisions of local bod-

ies and local referendums).

Thus, the Constitution of the Republic of Kazakhstan provides for the necessity to protect the rights and interests of the state, which can be infringed by separate state bodies and public organizations.

The most important function of the judicial is the execution of justice. It is the authority of courts, established by the Constitution and laws that characterize them as an independent branch of the state power capable to form and develop a legal and democratic state. Courts are to function as an arbitrator when conflicts between the members of the society, between them and the state, and between the state bodies in any sphere of public life regulated by law. The legal basis of such arbitration is the Constitution and law. In accordance with them courts decide the case about legality or illegality of actions, the claims for citizens' rights and interests' infringement. On behalf of the state courts examine and decide criminal, civil, administrative, and commercial cases and disputes. The judicial spreads to all cases and disputes arising at the basis of the Constitution, laws, normative acts, and international treaties of the republic. It should be mentioned here that justice in the Republic of Kazakhstan is executed on the basis of the Constitution in the first place. While examining a case courts are to examine the applied normative act in accordance with the Constitution.

It is necessary to remember that according to the Constitution the purpose of the judicial is to protect the rights, liberties and legal interests of people and organizations; to provide for the execution of the Constitution, laws, other normative acts, and international treaties of the republic [6]. The protection of citizens' and organizations' (state and private) rights and liberties is of major importance.

The Constitution does not allow restricting of citizens' rights and liberties caused by political reasons, some personal

rights and liberties (Article 39). Therefore, while applying the law limiting citizens' rights and liberties courts have to rely on the constitutional norms of the state. If the court did not examine the constitutionality of the applied normative acts, it might give unconstitutional judgment.

The increase of court's role in the society and the recognition of the judicial independence on the constitutional level have required the theoretical justification and the development of the state policy in the sphere of justice.

Thereby, from the theoretical point of view the sphere of the judicial is not narrower than the sphere of justice. Any deviation from it is to be considered as a direct breach of the principle of justice executing by court.

The democratic society development, the legality consolidation, the citizens' rights, liberties and interests expansion make it necessary to extend the sphere of the judicial.

Power division implies that any branch of power has its own major and cannot carry out the functions of others. Article 75 of the Constitution stipulates the justice administering as a peculiar type of state activity and an independent function. Only courts are dedicated to execute laws. The transfer of the justice functions to other bodies is unconstitutional and inadmissible. In other words, in Kazakhstan there are no and might not be any other state and social bodies except courts to

have the right to examine civil, criminal and other cases.

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INTERNATIONAL INVESTMENT ARBITRATION AS AN ALTERNATIVE TO THE DISPUTE RESOLUTION PROCESS IN THE REPUBLIC OF KAZAKHSTAN

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Investments is a rope,
which can not be pushed,
it can only be hauled upon.

I.Z. Farhutdinov

In the present-day world economic relations does an integral part in the strengthening of international cooperation, mutual understand, both between countries and between other subjects of international law?

At the present stage the development of foreign policy activity of countries promotes the formation of a complex system of international relations. Rates to attract foreign investments in Kazakhstan led to an increase in the number of investment disputes. Bilateral investment agreements provide investors with a direct right to submit the dispute to arbitration against the State, violating the laws and agreements - even if investors do not have agreements with the State.

Alternative dispute resolution procedures are becoming more common in international practice. Previously there were allocated three main types of alternative dispute resolution procedures: 1) negotiation (negotiation) - settlement of the dispute directly to the parties without the involvement of other persons; 2) Mediation (mediation) - settlement of disputes by an independent neutral mediator who helps parties reach agreement, and 3) arbitration (tribunal) - the resolution of the dispute by an independent neutral person - the arbitrator who makes a binding decision on the parties.

However, in recent years, more and more new types of alternative dispute resolution procedures are developing. American lawyers now exclude the arbi-

tration from alternative dispute resolution procedures, but at the same time there are about twenty dispute settlement procedures. The most common forms of alternative dispute resolution procedures are mediation, conciliation, mini-trial, non-binding arbitration or expert opinion, and others [1, p. 78].

As we know, there are several types of international arbitration - international commercial arbitration, international investment arbitration, and arbitration between states. Since Kazakhstan gained independence in 1990 the country had laws that allowed developing courts of arbitration.

In the development of commercial arbitration Kazakhstan has entered a new stage. On December 28, 2004 the long-awaited laws of the Republic of Kazakhstan "On Arbitration courts" and "On International Commercial Arbitration" were finally adopted as well as the Law of the Republic of Kazakhstan and also the Law "On making amendments and addenda to some legislative acts of the Republic of Kazakhstan on issues of arbitration courts and tribunals "(hereinafter - the Law on Amendments). Arbitration courts in Kazakhstan have been in limbo since the state courts denied enforcement of their decisions. Entrepreneurs no longer apply to the arbitral tribunals, their activity was paralyzed. Therefore, new laws are urgently needed to revive the arbitration courts in Kazakhstan, which were almost destroyed as a result of ill-conceived pol-

icy of Republic Government. There is no doubt that the new laws will play a positive role.

At the same time in the adopted laws there are certain ambiguities and contradictions, therefore, problems arise in applying those laws.

First of all, we must clearly understand that the arbitral court and arbitral tribunal - are one and the same. In the English language the word "arbitration court" interpreted as an "arbitral tribunal". The essence of arbitration court (arbitral tribunal) that a non-governmental body established by the parties themselves to resolve the dispute. Accordingly, the terms "commercial arbitration", "arbitration," and "arbitration court" are equally applicable to arbitration and to international commercial arbitration. At the same time it must be considered that in the adopted laws, the term "arbitration" applies only to international commercial arbitration.

Equally important place today is taken by the issue of delimitation of competence of the arbitral court and international commercial arbitration in the Republic of Kazakhstan.

Arbitration (tribunal) courts may be permanent (institutional) and formed specifically to address a specific dispute (arbitration «ad hoc») (see item 2) Article 2 of the Law on arbitration courts, paragraph 1 Article 2 of the Law on International Commercial Arbitration).

As rightly pointed by O. Skvortsov, genetically arbitration occurs in the private and the substantive law on the basis of the contract (arbitration agreements) and transformed into a system of procedural rules governing the relationship of the parties to a dispute [2, p. 121].

Distribution of powers between the court of arbitration and international commercial arbitration shall not be held between the specific arbitral bodies (only one court of arbitration, the other only to arbitration), but the nature of disputes.

That is, any arbitration court (tribunal) may consider domestic disputes, and international as well, and any natural or legal persons (both resident and nonresident) can go to any arbitral tribunal, no matter how it might be called: "arbitral tribunal" or "international commercial arbitration". In this case, depending on the nature of the dispute law on arbitration courts or the Law on International Commercial Arbitration will act. Distribution of powers enshrined in Item 4 of Article 6 of the Law on International Commercial Arbitration, under which:

"In the arbitration agreement of the parties may submit disputes arising from civil contracts between individual and legal persons as well as commercial and other organizations," if at least one of the parties is a nonresident of the Republic of Kazakhstan. "

In accordance with paragraph 9 Article 2 of the Law on International Commercial Arbitration a Commercial entity refers as a legal entity of Kazakhstan or a foreign organization whose primary purpose is to deliver revenue. Explanation why foreign organization is separately allocated from the entity is that in some countries participation in public circulation of organizations that are not legal persons is allowed (e.g., a general partnership in the UK).

In accordance with Item 3 of Article 1101 of the Civil Code of the Republic of Kazakhstan, a civil legal capacity of foreign organizations that are not a legal entity under foreign law is determined by the law of the country where the organization is established.

If the law of the Republic of Kazakhstan is applicable such organizations follow the rules of the Civil Code, which regulate the activity of individuals who are commercial entities, unless otherwise follows the laws of the Republic of Kazakhstan or the obligation.

On the this basis an interpretation of

paragraph 4 of Article 6 of the Law on International Commercial Arbitration is the following: the parties to the dispute may be individuals or legal entities, as well as the organization of the number of residents who are not legal entities, but to which the provisions of the Civil Code of commercial organizations are applicable.

Appeal to arbitration (tribunal) proceedings as provided by the law of the Republic of Kazakhstan dated December 28, 2004 on "International Commercial Arbitration" (hereinafter - the Law on International Commercial Arbitration), and "On arbitration courts" (hereinafter - the Law on Arbitration Courts) is one way of protecting civil rights and is possible only if properly entered into between the parties to the arbitration (tribunal) agreements, which is by its legal nature the civil contract. According to Section 2, Art. 2 of the Civil Code of the Republic of Kazakhstan (hereinafter - CC) individuals and legal entities acquire and exercise their civic rights of their own free will and in their own interests. They are free to establish their rights and obligations under the contract and identify any which do not contradict the law of contract. By virtue of paragraph 1 of Art. 8 of the Civil Code citizens and legal entities at its discretion dispose of their civil rights, including the right to defense, which is in accordance with paragraph 1 of Art. 9 of the Civil Code are administrated by the Court, Arbitral Court or the Arbitral Tribunal. With regard to the matter, this means that above a properly executed arbitration clause only the parties of this clause can be initiators of arbitration proceedings.

On this occasion, Basin Y.G. and Suleimenov M.K. noted that "the members of the plaintiffs and defendants cannot be beyond outside of signatories of the arbitration clause, because agreement of the parties to the dispute to its proceedings in the arbitration court is an indispensable condition for making the case for arbitra-

tion proceedings. Forcibly, without consent granted by the signing of an arbitration clause in any other lawful manner, no one can be brought to the arbitration court as plaintiffs or defendants. This also applies to those who are really seriously involved in the conflict that occurred, and are interested in a favorable arbitration decision for themselves (the mortgagor, guarantor, guarantors, etc.). Exceptions are allowed only in cases where an international treaty, member of which is the Republic of Kazakhstan, directly establishes the right of one party to the dispute, to apply to the arbitration of the defendant country under certain conditions, even without obtaining the consent (e.g., Article 3.4 of the Kiev 1992 Agreement on the procedure for resolving disputes related to economic activity).

Thus, the parties to the arbitration (tribunal) are those persons who have concluded an arbitration (tribunal) agreement. Meanwhile, in certain cases, the subjects of arbitration (tribunal) process relationships may also be a third party. In the legal literature on the possible involvement of third parties in the arbitration (tribunal) proceedings is controversial and poorly studied, despite the fact that "the consideration and resolution of the case to arbitration may be at risk of violation of their rights and legitimate interests" [3, 46].

What is the international investment arbitration and what are its peculiarities? It is fast growing in popularity dispute resolution between foreign investors and public authorities. It is unique in that it gives investors an opportunity to claim compensation for material damage or breach of obligations by the government itself and to do so outside the judicial system of any of the state. The arbitrators are usually lawyers and attorneys with the global name and reputation, who are chosen specifically for each process by the parties or appointed by one of the international organizations that provide their services in this

area. Thus, the difference in investment arbitration from commercial arbitration is in the fact that the respondent was usually the state, and the plaintiff - a private citizen, citizen of another State, and, as a rule, there is much money involved. It must be stressed that in order to dispute dealt with in international arbitration, it's necessary to have prior approval for both sides. In commercial relationships such consent is often achieved by including in the contractual relationship of the arbitration clause, i.e., prior agreement of the parties that all disputes relating to this contract shall be settled through international arbitration. In the context of investment arbitration agreement by the Government is usually witnessed in the investment agreement between the investor's country and the country to attract investment. Kazakhstan is a party to 39 such agreements. These agreements stipulate the rights which are endowed with investors of different states such as the right to compensation for expropriation or discriminatory attitudes by the authorities. What is or is not a discriminatory attitude, which should pay compensation - the arbitrators decide on the basis of the specific facts of each case and applicable law.

According to the Law on Investment, an investment dispute is a dispute arising out of contractual obligations between investors and government authorities in connection with investment activities of the investor. In our point of view, the definition of an investment dispute in the existing Law on Investments is not entirely successful, and worsens the position of investors compared to the old Law on Foreign Investment.

Firstly, the category of Investment Disputes ruled out non-contractual disputes on the relationship between the competent authority of the State and the investor. Thus, it can be considered only in state courts, while the old Law on Foreign Investment in Article 27 will transfer

it to international arbitration, even without the consent of the State. Secondly, it is clear that the existence of any dispute can justify the violation of the law of one of the parties to the dispute, and, thus, the definition of an investment dispute raises the risk of transmission of disputes between state and investor in Kazakhstan's courts since the foundation of such a transfer could serve as a charge state investor in violation of the law.

Important is the definition of an investment dispute. There are two definitions of "investment dispute". Investment disputes in a broad sense refer to any disputes related to investments. This may be economic, technical, technological, administrative and legal nature disputes between the different subjects and the economic, technical, technological and administrative disputes can have an independent nature, but also serve an integral part of legal dispute. The Russian legislative does not explicitly use the term "investment dispute" in practice. The definition of investment dispute as long as it does not apply to the current legal acts, has a collective and doctrinal significance. However, due to the international character of investment relations, as well as the international character of the mechanisms for resolving investment disputes and enforcement of the decision must take into account international laws and jurisprudence. In this connection it should be mentioned that the Washington Convention on the Settlement of Investment Disputes between States and Nationals of Other States on March 18, 1965 year. Article 25 of the Washington Convention as an investment disputes determines the legal disputes arising directly from the relations relating to investments between the state (or any authorized agency of the state) and the person (physical).

Thus, in the narrow sense of investment disputes it is necessary to understand the legal disputes between the state and

private foreign investors related to investments on the territory of the latter first. In legal doctrine disputes in the narrow sense are usually called investment. This is due to the presence of aggravating circumstances: first, to the special composition of parties in a dispute (a State on the one hand, and private foreign investors – in another) and, consequently, the specifics of the subject and a special procedure for settlement of investment disputes. Investment disputes can be called the disputes about definitions, because the main difficulties in solving them are connected with different interpretations of terms, not only in different order, but also within the same order.

As is known, under Article 9 of the Law of the Republic of Kazakhstan on Investments No.373-II dtd. January 8, 2003, provides that investment disputes can be resolved through negotiation, in the courts of Kazakhstan, or in accordance with previously agreed by the parties' dispute settlement procedures that include international arbitration, determined by agreement of the parties. On the one hand, the Law on investments as though is not specifically regulated, in what arbitration should be referred to a dispute, as it was in the old Law on Foreign Investment, and leaves it to the discretion of the parties, but on the other hand, in my opinion, the arbitration agreement should exclude the jurisdiction of the state court.

However, despite the existing mechanism for protection of investors, each of them is worried about the enforcement of arbitral awards.

At present in Kazakhstan a legal framework for recognition and enforcement of international arbitration is created. Kazakhstan has joined and ratified almost all major international and regional conventions and agreements related to arbitration. Today they are all positive law of the Republic. In particular, the adoption of internal regulations: Laws of the Republic

of Kazakhstan on International Commercial Arbitration, on Arbitration Courts, on Amendments to some legislative acts of the Republic of Kazakhstan on issues of arbitration courts and tribunals, in particular, to the Civil Procedural Code of the Republic of Kazakhstan.

Kazakhstan has also joined the New York Convention on Recognition and Enforcement of Foreign Arbitral Awards of June 10, 1958, the European Convention on International Commercial Arbitration dtd. April 21 1961, ratified the Washington Convention on the Settlement of Investment Disputes between States and individual and legal persons of Other States on March 18, 1965. Kazakhstan is a party to the Agreement on the procedure for settling disputes related to economic activity dtd. March 20, 1992, the Agreement on the order of mutual enforcement of arbitral awards, business and economic courts of the territories of States - members of the Commonwealth dtd. March 6, 1998. By acceding to these conventions and agreements, with national legislation, our government is obliged to recognize the power of arbitration agreements and clauses in contracts of investment on the order of dispute resolution, as well as to recognize and execute the decisions of both foreign and international and Kazakh courts of arbitration. The list of grounds for refusing recognition or enforcement of an arbitral award, provided by the Law of the Republic of Kazakhstan On International Commercial Arbitration correspond to the list established by the New York Convention.

Thus, Kazakhstan has recognized arbitration awards made in another State party to the Convention.

Consequently, the grounds for refusal of enforcement of the law on arbitration courts are only procedural violations and contrary to public policy.

The order of enforcement is established by the Law on Amendments and separately for arbitration and international

commercial arbitration. Chapter 1.18 "Enforcement of arbitral awards, as well as Articles.425-1, 425-2, 425-3 for the enforcement of an arbitral award are included in the Civil Code of RK (Section 5 of the International Process, Chapter 45 "Proceedings involving foreign persons").

In addition, when addressing the issue of exclusive jurisdiction of the Kazakhstan courts must take into account provisions of international treaties. If investment disputes relating to the definition of real estate rights and other matters referred to Article 417 of the Civil Code of RK is a subject to international treaties that provide investment disputes by arbitration, so then the norm of the exclusive competence of Civil Code should not apply to them.

International conventions are very important for the protection of foreign investments, such as Washington Convention dtd. March 18, 1965, entered into force on October 14, 1966 on the Settlement of Investment Disputes between States and Nationals of Other and the Seoul Convention of the year 1985, which entered into force on April 12, 1988 on establishing the Multilateral Investment Guarantee Agency, in which Kazakhstan is one of the members. In addition to the Convention mentioned above, international legal regulations of investment relations are administrated by a number of regional treaties and bilateral agreements between states and nations and international organizations.

Washington Convention was adopted to protect investors (individuals and legal entities) from the "immunity" of the state of the recipient (the State in whose territory the object of investment). This protection provides for the removal of investment disputes under the action of national courts and transfers it to the specially established International Centre for Settlement of Investment Disputes. As part of this center it provides the implementa-

tion of two types of proceedings: conciliation and arbitration procedure.

Seoul Convention was adopted in order to protect foreign investors against noncommercial risks (political). It was established by an intergovernmental organization dedicated insurance investment risk - The Multilateral Investment Guarantee Agency, which deals with insurance for investors. The aim of all types of insurance is to stimulate investment activity in less developed countries. Warranty is the economic soundness of investments. After appropriate compensation for the investor, the Agency acquires the right to claim these sums from the state of the recipient.

There are not so many arbitration courts in Kazakhstan. The exact number is unknown, since a single center and statistics of arbitration does not exist. We can assume that the total number is over twenty; mostly the centers are in Almaty city.

The first arbitration courts, which were established in Kazakhstan in 1992-1993 are the Arbitration Commission at the Union of Chambers of Commerce of the Republic of Kazakhstan and the International Arbitration Court «IUS». Later on the territory of our republic there is Kazakhstan International Arbitration (KIA) in English Kazakhstani International Arbitrage (KIA), which is for four years of existence, has become a leading arbitration (tribunal) court in Kazakhstan.

Rules of Arbitration of KIA are developed in accordance with the laws on arbitration and international commercial arbitration, as well as the regulations of the leading institutional arbitration in the world.

The quality of arbitration depends not only on well-developed procedural mechanisms, but also on the qualifications of the arbitrators. So the list of Arbitrators KIA consists of leading local and international experts in the field of law, who are a recognized authority not only in academic

circles but also among practitioners.

In recent years, such a mechanism of alternative dispute resolution, as mediation is increasingly recognized around the world. At mediation the mediator offers options for the parties to mutually resolve the dispute, but does not make binding on the parties. Mediation proceedings shall be conducted in accordance with the rules of mediation KIA.

According to the developed Rules of Administration of arbitration (tribunal) proceedings under the UNCITRAL Rules can help the parties who have chosen as a tool to deal with dispute arbitration ad hoc, as the competent authority or in providing administrative services to secretarial, technical nature.

Kazakhstan International Arbitration has established partnerships with leading arbitration institutions in different countries. Among them there are Chinese Foreign Trade and Arbitration Commission (CIETAC), Japan Commercial Arbitration Association, International Commercial Arbitration Court at RF Chamber of Commerce, The Korean Council for Commercial Arbitration (KCAB), the International Court of Arbitration of the International Chamber of Commerce and others.

Summarizing mentioned above, it should be emphasized that the main direction of economic policies in the regulation of investment activities should be harmonization of legal documents, legislative approximation of the common economic space. This experience of international cooperation shows that the most effective tool for creating an optimal legal framework is a conclusion of international treaties, conventions and agreements on the protection and guarantee of mutual investments. An example is the Washington

Convention on the Settlement of Investment Disputes between States and citizens of other States, operating since the year 1966; the Convention provides formation of the International Center for Investment Disputes at the International Bank for Reconstruction and Development.

International rules indirectly regulate the activities of investors, limiting the possibility of nationalization, to determine the requirements for environmental protection and preventing the laundering of illegally obtained funds.

The investment management is much widespread at the international level, both in the form of bilateral agreements and within the various integration groupings. International legal protection of investments is more efficient to attract investment than a consolidation of similar safeguards in national legislation. But, nevertheless, the other component, which determines the regulation of foreign investment, is a national law.

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DEVELOPMENT OF MINORITY SHAREHOLDERS CONCEPT IN LAW «ABOUT JOINT STOCK COMPANIES» OF KAZAKHSTAN

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The law «About Economic Partnerships and Joint Stock Companies» of July 21, 1991 was the first separate law of Kazakhstan about joint stock companies. Although this law with only 77 articles was very brief it established foundation on which later laws were developed. Defense of shareholders was mentioned for the first time in this law.

The first codification was in the Decree of the President «About Economic Partnerships» of May 2, 1995 № 2555 which replaced the Law «About Economic Partnerships and Joint Stock Companies» in companies regulation. The decree had a lot of deficiencies and soon a new Law «About Joint Stock Companies» in 1998 was adopted. This law for the first time included regulations about defense of shareholder's rights as one of the most important in law. However, topic of this work is not all issues of joint stock companies' regulation, only minority shareholders will be considered.

Defense of rights of minority shareholders is one of the important problems in legislation about joint stock companies as it is an important term for investment. Investors invest in developing countries if their rights and capitals are protected. Legal protection of minority shareholders is an important issue to get foreign direct investment.

A famous scholar Shram notes that as management control, defense of minority shareholders from major shareholders decisions made with abuses is one the main legal issues in corporate law. On this issue in the US and Europe there are different methods of regulation. In the USA the government tries to solve this problem with special emphasis on stock markets and provided minority shareholder with an

opportunity in specific circumstances (danger of sale of company, limitation of rights or reorganization) to sell shares to the owner / major shareholder or the company itself.

On the contrary, lawyers in Europe are less inclined to provide shareholders with an opportunity to leave the company, and by this action to deprive the company of a capital. In European concept there is a point that a joint stock company should not defend only its interests. If a holder of majority shares violates this obligation that causes responsibility to the company and it can demand compensation for damage. In addition, special rules for defense of rights of minority shareholders were developed like special requirement of majority of votes during voting, obligatory voting in different groups of shareholders, detailed regulation of procedure of challenging of decisions of general meeting [1].

It has been long debated among European lawyers which of these concepts is better. At present time in common European doctrine there is a compromise in accordance to which both ways of regulation can exist simultaneously [2].

The law «About joint stock companies» of 1998 demonstrates movement from European model to more US model in relation to these principles, although it is still debatable which model is better.

Taking into account problems of defense from redistribution of property in the Law «About joint stock companies» of 1998 new measures of defense were developed like major transaction approval and obligation of publication. The new issue here was that the law establishes legal consequences in case of violation. This law prescribed that in case rules about ma-

major transactions and «conflict of interest» are violated concluded transactions shall be recognized invalid. It is interesting to mention that different from Russian law issue of knowledge of partner in transaction about violation if internal regulation was considered. But for coming of invalidity of transaction as legal consequence detailed description of circumstances of case is required, when there is a major transaction and when there appears a «conflict of interest». Lawmakers in 1998 tried to solve this problem by detailed definitions [3].

Alongside with conceptual changes the Law of 1998 strengthened rights of minority shareholders. Shareholders who own minimum 5 % of shares got special authorities and special rights – preemptive right for share purchase and right to demand extraordinary inspection of financial reporting. In addition, process of organizing general meeting was regulated in detail and also election of members of board of director's cumulative voting became obligatory.

Soon 1998's Law's deficiencies became clear, many important issues were missed. In 2001 a lot of changes and amendments were proposed, and in 2002 they became open for public discussion. During debates and discussions it became clear that editorial changes will not be enough and there is a need for a new law which will better define legal status and activities of a joint stock company, rights and duties of shareholders (especially minority shareholders) and other important issues. Initially the purpose of amendments was to improve the 1998 Law «About Joint Stock Companies» and as a result of numerous proposals there appeared a new law.

On May 13, 2003 the effective Law «About Joint Stock Companies» was adopted and the old law of 1998 was cancelled.

As in 1998 law the rights of share-

holders are listed in article 14. In addition to existing rights the new law added a right of separate shareholder: right to propose candidates for election to board of directors, in case of qualified participation to propose conduct of audit for own expenses, and also a right to propose additional issues to agenda of general meeting. It should also be mentioned that in the new law only major shareholders rights were differentiated.

The principle of formal equality of shareholders was written more clearly than in the old law. Now this principle could be challenged only on basis of law, not on the basis of charter as it was before. The principle of equality of shareholders has an important function as it allows shareholder to defend against actions of joint stock companies in court, referring to shareholder was treated differently in comparison to other shareholders. Deviations from this principle are allowed only in definite, prescribed by law situations.

A preemptive right for announced shares of minority shareholder is written in article 16 of the effective Law «About Joint Stock Companies». Partially this right was indicated in the Decree «About Economic Partnerships» of 1995 (now cancelled), in article 83 of the Civil Code and in article 3 (4) of Law About Joint Stock Companies» of 1998 (now cancelled), but without details which soon led to interpretation problems. Now this right is written more clearly including procedure and mechanism how this right should be exercised.

Voting procedures also changed in accordance with the old law. The limit of making decision by qualified majority was raised from two thirds to three quarters of voting shares. Now qualified majority is needed not only for making decision to change the charter and for reorganization, but also for decision to change the amount of quantity of announced shares [4]. As legislation develops changes of July 8,

2005 added approval of corporate governance code (as well changes and amendments) to issues which shall be approved by qualified majority.

By a numerous detailed improvements rights of shareholders on general meeting of shareholders were strengthened. Among other issues prescriptions about calling extraordinary general meeting were specified. As a place of general meeting now it is clearly states «locality where executive body located», notification for general meeting shall be by publication in mass media, and procedure of amendments to agenda by proposal of shareholder regulated more precisely.

Improvement of defense of shareholder is in the center of 1998 law (cancelled), as well as of the current law. In a new version these rights are indicated in articles 14, 27, 74 of acting Law «About Joint Stock Companies» are arguably of high standard. It seems that problem of defense of rights of shareholder is also about efficient realization in practice.

For example, the right of shareholder to get information is interesting. The current law does not include any regulation which happens if a company violates obligation to provide information. As a possible decision regulator can be given special authorities to satisfy this requirement –for example to fine in case the company will violate its obligations [5].

Another reason of insufficient realization of shareholders rights is expenses distribution. Shareholders right to require conduct of audit by joint stock company is a good example. Because shareholders act in joint stock company's interests there should be an opportunity to make the company cover expenses on the basis of court or regulator decision.

Similar problem appears in judicial claims by shareholders to benefit the company in liability cases. There is an interesting regulation in article 53 of the Law of Georgia «About Economic Enterprises»

where in case of abuse the court is given an opportunity to make plaintiff cover expenses for company's damage.

Right of shareholder in specific circumstances to require share purchase from the company also could be the basis for disputes. It is important here that contrary to the old law a shareholder can demand purchase of shares if the shareholder voted against conclusion of major transaction on general meeting. In accordance with the old law it was enough if a shareholder did not participate in voting. The improvement made it clear, this regulation makes this right more efficient. Different opinions, especially about price of purchased shares are the remaining part of debates. One of the solutions is to entrust this issue to a special court or arbitration tribunal under the securities regulation body. In addition, some conflicts could be solved by prescribing obligatory audit inspection in major cases, especially during reorganization.

Moreover, changes in legislation about joint stock companies introduced a new norm. Purchase of announced shares by a joint stock company based on demand of a shareholder shall be realized in accordance with methods of definition of cost of shares during redemption, approved by general meeting of shareholders. Undoubtedly, these methods will make it easier for shareholders in purchase of their shares by the company. However, this norm does not oblige joint stock companies to accept these methods, and the majority of joint stock companies did not approve these methods on general meeting.

The preemptive right of shareholders for share purchase in case of issue of shares has great importance. A new regulation of this issue seems to be right but it misses that different situations possible, for example admission of strategic investor to company. In this situation the preemptive right could be used to damage company's interests. European law in this

issue advises that in these situations general meeting should possess the right to make decisions in specific circumstances about exclusion of preemptive right [6]. These specific circumstances include in particular requirement of qualified majority and also obligation of management to substantiate its decision.

The right of shareholders to challenge management decisions in court is one of the most efficient shareholder defense measures. However, this issue is not sufficiently covered by law and in practice existing regulation could be interpreted differently.

Next, especially in comparison to Russian Law, there is an interesting point that Russian Law better regulates rights of shareholders to make propositions to agenda as well as the right of shareholder to learn the list of shareholders who can participate in general meeting [7].

Both these regulations of Russian Law «About Joint Stock Companies» of December 25, 1995 conform to analogous European countries legislation. In this particular case Kazakh lawmakers could accept this Russian experience taking into account own legislation.

Cumulative voting obligatory prescribed in Kazakhstan and Russia is another important issue. Efficiency of this procedure is in direct relation to quantity of members of board of directors. Therefore indicated in article 54 (5) of the Law «About Joint Stock Companies» the minimum quantity could be insufficient. On the other hand, in East European countries, for example in Poland, simpler procedures were chosen. According to article 385 of the Law of Poland «About Trade Companies» shareholders whose part in general amount of votes corresponds to correlation of one mandate to general amount of mandates of Supervisory Council, could elect representatives to themselves [8].

It should be added that obligatory

cumulative vote procedure is widely criticized, especially in the US. It is considered that votes count is a complex procedure and mistakes could be made. This frequently leads to situation when directors are responsible not to all shareholders but only responsible in relation to defined groups of shareholders and sometimes minority shareholders interests are abused.

The Law «About Joint Stock Companies» in initial release of May 13, 2003 was an important step in improvement of rights and duties of shareholders. However soon it became clear that legal status, rights, duties of shareholders are not protected fully and adequately and some changes were needed.

Very important changes in legislation of Kazakhstan are made according to the Law «About changes and amendments to legislative acts of the Republic of Kazakhstan on issue of defense of rights of minority shareholders» of February 19, 2007. Thus defense of rights of minority shareholders was recognized as a separate challenge in legislation about joint stock companies which deserved separate changes.

As this work focuses on minority shareholder defense, the main conceptual change of this legislative act was an introduction of definition of minority shareholder, which was done for the first time in Kazakhstani legislation.

In accordance with a new definition of minority shareholder in article 1, clause 17 of the Law a minority shareholder is a shareholder who has less than 10% of voting shares of a joint stock company. This change of legislation is very valuable for the defense of minority shareholders as it was for the first time written in legislation and was a basis for other improvements.

With the purpose of defense of rights of shareholders other changes and amendments were introduced in the Law «About Joint Stock Companies».

One of the important issues is an in-

roduction of definition and concept of a «public company». Before changes, in the initial version of the Law «About Joint Stock Companies» there was a definition of «people's joint stock company». The definition itself was a part of the Soviet tradition and meant that a joint stock company of that size has a lot of shareholders. In addition also due to this fact in mid 1990's some companies gave part of their shares to its employees. According to the law «people's joint stock company» is a company, which charter capital is not less than 1 000 000 times the size of the monthly assessment index established by the law in a corresponding year where a number of shareholders is five hundred or more. There were no special requirements on transparency, openness etc.

It should be noted that the concept of a public company is established in accordance with international standards and defend investors much better than the previous concept of people's joint stock company that just established a status of a large joint stock company and did not have any special features. The concept of a public company finally strengthens minority shareholders rights.

In compliance with a new concept, a public company shall conform to some important criteria, in particular publicity. Publicity of the company by its definition comes from the fact that shares are proposed to an unlimited number of investors on securities market. Also, to increase the number of shareholders it is established that not less than 30% of common amount of purchased ordinary shares of the company shall be owned by shareholders, every of whom owns no more than 5% of ordinary shares from common amount of purchased ordinary shares of the company.

It is also established that a competent state body establishes requirements on the amount of trade of ordinary shares and that shares shall be in the list of stock market that works on the territory of the

Republic of Kazakhstan for inclusion and staying in which internal documents of stock exchange establishes special (listing) requirements to securities and their issuers or securities are included in the list of a special trade center of the regional financial center of Almaty».

In addition, based on clause 2 article 4-1 of the Law «About Joint Stock Companies» the charter of a public company shall stipulate presence of:

- 1) code of corporate governance;
- 2) position of corporate secretary;
- 3) corporate web site;
- 4) prohibition of «golden share».

The Law also establishes the order of recognition of a company as public, withdrawal of that status, loss of that status.

After changes in law concept of corporate governance the code appeared, this document now regulates relations in the process of management of company. Now presence of a corporate governance code in the company became obligatory that also promotes a more efficient corporate governance of the company and a better defense of shareholders.

Novation in the law is a requirement of availability of corporate secretary in a joint stock company. Article 1, clause 12 of the Law «About Joint Stock Companies» now provides definition of a corporate secretary – «employee of joint stock company who is not a member of the board of directors or executive body, appointed by the board of directors and accountable to the board of directors, in his work controls preparation and conduct of meeting of shareholder and the board of directors of the company, provides composition of material to agenda of general meeting of shareholders and materials for meeting of board of directors, directs control to provide access to materials».

Undoubtedly, availability of a separate official responsible for corporate governance increased level of responsibility of

employees and will promote better defense of a shareholder.

In public companies availability of a corporate web site became necessary in accordance with law. It affixes some expenses for the company but beneficial for transparency of decisions. In particular public companies should publish on a corporate web site decisions on dividend payments and in case 30% and more shares are purchased in corresponding order. In addition, public companies must publish on a corporate web site the majority of issues that affect interests of shareholders of the company.

Prohibition of «golden share» in the public company's charter should be another guarantee for investors \ shareholders as some of them believe that «golden share» holder can unexpectedly use it to damage or alter decision making and intervene with management of the company. This prohibition confirms the principle of equality of shareholders claimed previously in the law. Before the principle did not work as «golden share» had priority over all other shares. Now this prohibition defends rights of major and minority shareholders better.

Another change in the Law «About Joint Stock Company» states that a minority shareholder can apply to registrar of the company with the purpose of consolidation with other shareholders on making decisions indicated in agenda of general meeting of shareholders.

To defend a shareholder from unexpected changes in agenda of general meeting recent changes in the law establish that points for discussion in agenda with broad understanding like «different issues», «other issues», «miscellaneous items» and analogous wording is prohibited. This regulation guarantees that at general meetings of shareholders there will not be considered issues which were unexpected and issues shareholders did not have opportunity to prepare for discussion. This nova-

tion conforms to international practice and undoubtedly will stop previous practice when any issue could be added to agenda of general meeting of shareholders.

Moreover, with the purpose of informing shareholders responsibility of officials of the company was clarified. In particular now they bear responsibility for damage as a result of providing misleading or knowingly wrong information and violation of order of providing information. Previously in article 63 of the Law «About Joint Stock Companies» only general responsibility of executive body was indicated without specification.

All indicated changes are recognized as innovation comparing to previous legislation. Amendments of February 19, 2007 changed other regulations on purchase of shares, annual general meeting and committees of the board of directors.

Considering development of minority shareholders 2007's changes of the Law «About Joint Stock Company» are very important because they are specifically directed to defend minority shareholders. This changes and amendments implemented a lot of international corporate standards and norms to the Law «About Joint Stock» like concepts of corporate secretary, public company, minority shareholders and definite mechanisms of execution of these norms. As a result the current Law «About Joint Stock Companies» meets international standards and demonstrates progress in development of defense of rights of shareholders, corporate governance, voting procedures, equality of shareholders and many other issues.

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TRANSLATION: ETHICS, IDEOLOGY, ACTIONDabaghi Azizollah, *University of Isfahan, Iran*Meiramova Saltanat, *Eurasian National University in honor of L. Gumilyov, Kazakhstan*

The writings in this paper on "Translation as Resistance" examine key translations and translation movements from various parts of the world that were instrumental in changing their societies. They participated in ideological dialogue and even struggle in their respective contexts. In "The Resistant Political Translations of Monteiro Lobato", J. Milton shows how the translations of J.B. Monteiro Lobato promoted the modernization of Brazil and resisted the policies of the Getulio Vargas dictatorship in the 1930s and 1940s. Beginning with the same period and continuing into the second half of the twentieth century, translation of Western literary classics into Russian was used as a counter discourse to some of the most culturally repressive policies of the former Soviet Union, as B.J. Baer demonstrates in "Literary Translation and the Construction of a Soviet Intelligentsia". By contrast, Nitsa Ben-Ari illustrates in "Suppression of the Erotic: Puritan Translations in Israel 1930-1980" how a variety of translation types, ranging from pornography to medical manuals, insured that the erotic would have a vocabulary and be validated in Israeli culture, countering the puritanical ethos of dominant Israeli cultural nationalism as the state of Israel was taking shape. Finally, in "Translation and Activism: Emerging Patterns of Narrative Community", M. Baker discusses contemporary associations of translators who translate documents silenced by Western news sources and who interpret for non-profit voluntary associations that oppose dominant multinational, globalizing, and military interests, so as to further a more balanced exchange of ideas in the world at large; Baker offers as well a theoretical framework for understanding all such ac-

tivist translation movements.

How have we arrived at a position where translations are read and discussed in this way, as records of cultural contestations and ideological struggles, rather than as simple linguistic transpositions or literary creations? How have scholars come to explore translations as means of fighting censorship, coercion, repression, and political dominance? In these essays translations are recognized as central elements in cultural systems rather than as derivative and peripheral ones. Translation is seen as an ethical, political, and ideological activity rather than as a mechanical linguistic exercise. Even when the literary art of translation is recognized as fundamental, the ideological implications of literary creativity and innovation are also sounded. Traditionally, in Western culture translation has been conceived of as a process of intercultural transference, essentially a communicative process in which material is transmitted from one language to another. This conceptualization is reified in the English word translation, which comes from Latin roots meaning 'to carry across'; the English word, as well as Latin *translatio*, was used originally in the concrete sense of moving things through space, including objects such as the relics of saints and cultural phenomena such as learning and power. Its meaning was extended lately, during the 13th and 14th centuries, and applied to the activity of interlingual translation [14].

Translation was seen by Cicero, for example, as a process by which Greek oratory and its rhetorical devices might be transferred to and communicated in Latin, thus enriching the Latin language and Roman culture. Similarly, the sacred scriptures of Christianity could be conveyed

through translation to those who did not speak Greek, first into Latin and then gradually into the many vernaculars of the world, communicating the good news to humanity. The preservation of Greek science and its transfer to the rest of the world was likewise posited as a process in which the content was carried across language boundaries and thus preserved from oblivion. For almost two thousand years, western writing about translation based on such assumptions about communication and transference took the form of normative and prescriptive statements about the process and products of translating. World War II challenged these views, introducing new complexities and diverse perspectives from many parts of the world. Theory and practice of translation were equally affected, and the emergence of the modern international discipline of translation studies dates from the postwar period.

A central factor in the new thinking about translation was the necessity of negotiating more linguistic and cultural boundaries than ever before because of the global reach of the conflict. Beyond the obvious fact of having to accommodate more types of cultural and linguistic difference, however, two major preoccupations shaped thinking about translation during the war: first, the imperatives of "cracking" the codes of both enemies and allies; and second, the construction of cultural products that would mold public opinion in the many cultures of the world. In short, many people with interests in translation were involved in gathering intelligence, negotiating cultural differences, and producing propaganda. It is not surprising, therefore, that the early schools of translation studies after World War II stressed linguistic and functionalist aspects of translation, as well as machine translation; these schools attempted to make intelligence gathering a cost-effective process, to reduce the ambiguous linguistic and cultural aspects of translation to manage-

able and reliable protocols, and to enhance the social impact of a translated text. Within a decade, however, as translation studies were consolidating into an academic discipline, approaches began to expand significantly, steadily widening the purview of the field.

Beginning with questions about language, codes, and strategies for achieving specific functions, inquiry expanded to consider philosophical questions, sociological considerations, sociolinguistic questions, systems analyses of translated texts, literary questions about the nature and role of translated literature, and issues pertaining to politics and power. These expansions in the field have traced a trajectory away from technical questions about how to translate per se toward larger ethical perspectives on translating as an activity, the role of translation products in cultures, and the nature and function of specific translations. Implicit in many of these discourses are questions of ideology, including the constructivist aspects of translation, the role of representation, and the transculturation of cultural forms and values. Translation studies have demonstrated that translation is more than intercultural transfer as well; interest has shifted in many investigations to the intracultural functions of the products and processes of translation. These approaches have converged on the ethics, politics, and ideology of translation, not unlike the focus on ideology in contemporary literary studies and other fields as well. Post-positivist views of knowledge in translation studies, as in other fields, have moved inquiry away from simple questions of how to translate "correctly" to larger questions involving the perception of and self-reflexivity about differences related to the nature and role of translation in diverse cultural contexts. These shifts and expansions have not been the fruits of scholarly investigations alone. In many cases the insights of scholarship have coalesced

with the values and programmatic of actual translation practices that have been ethically engaged and ideologically motivated in shaping societies, struggling with asymmetrical power relations, and participating in resistance movements. Within literary domains the activity of modernist translators such as Ezra Pound and his followers constitutes such a practice that was articulated, well-defended, and integrated with other literary projects promoted and promulgated by those prestigious literary figures. The translations by such writers and their views on translation contributed significantly to redirecting literary practices from the 1920s onward. Other notable practices that have been influential in reconceptualizing the role of translation and the modes of textual transposition emerged in other parts of the world. Canada offers important examples. There are major cultural figures such as Michel Tremblay contributed to cultural nationalism in Quebec, furthering separatist discourses and shaping identity politics through translation. Similarly, an empowered feminist group, including Nicole Brossard and Susanne de Lotbiniere-Harwood, has emerged in Canada, using the mode of translation within a bicultural and bilingual society to advance feminist critiques and feminist cultural projects that ramify into other artistic, intellectual, and political domains.

A significant step in rethinking the nature of translation was the development in the 1970s and 1980s of descriptive translation studies, a movement that attempts to describe actual translation products and practices in relation to their cultural and political contexts. A main branch of descriptive studies has used systems of theory to analyze the role that translations play within larger literary and cultural systems. Theorists such as Itamar Even-Zohar [4, p.67] have shown that literary systems include components of translated literature, whose functions should be recog-

nized as such. Much of what "we" consider "our" literature is in fact, a translated literature: in European and American cultures, for example, people think of the Bible and Greek literature as part of their literary system, even though, very few people read in Hebrew or Greek. Within social systems, translation functions as an invisible means of cultural grounding and cultural appropriation, serving to construct identities and affiliations. Moreover, the role of translation across systems is far from uniform: it is correlated with dominance and power. Thus, in dominant cultures such as the United States, translations play a smaller role and constitute a smaller percentage of the total field of publication than is the case in cultures such as Italy or Norway. This reconceptualization of literary systems within translation studies presents a challenge to all branches of literary studies as they are conceived in university settings: all disciplines must begin to include in their concept of a particular literary system the texts that have been translated into the language(s) of the system and that have played a significant role in its shaping. This becomes ever more imperative as media translation inserts quantities of material from dominant societies into the social space of cultural systems across the globe. What has become apparent from descriptive studies - in some cases shockingly apparent - is how many shifts in translated texts are attested in the historical record: many more shifts and more radical ones than can be explained simply by linguistic anisomorphisms and cultural asymmetries. Descriptive studies have correlated translation choices and strategies with the larger historical and geopolitical context, revealing artistic and ideological constraints on the translator's choices as well as initiatives undertaken by the translator, demonstrating clearly that translation is not a simple matter of communication and transfer. In turn, as interest in and

presumptions about linguistic fidelity and the communicative values of translation have given way to a deeper understanding of how translations work within cultural systems and how they are shaped by sociopolitical and historical frameworks, the role of translators as active figures in history, art, politics, ideology, and belief systems has become ever more manifest.

Interventions of translators can be traced through the shifts they introduce into the texts they produce, including shifts in content, literary forms, politics, and ideology. What is not translated in a particular context is often as revealing as what is. Thus, gaps in specific translated texts or the non-translation of particular texts (zero translation) are significant in assessing the politics of translation in a particular cultural system. Through such analyses, descriptive studies have documented how translation has been used to change social systems and social structures, as well as how translation is limited by constraints within specific contexts. For more than a quarter century, it has been generally agreed that translation is a text about a text or, to put it another way, a form of metatext. If we look at the ideological implications of this seemingly innocuous observation, then we must recognize that the ideology of translation is quite complex. First, a translation's ideology is determined by the content of the source text, but only partially so. This is true even when the content—the subject and the representation of the subject—is itself overtly political and enormously forceful, with locutionary, illocutionary, and perlocutionary aspects of the source text all contributing to the ideological effect in the source context. In translation the ideological value of the source text is further complicated and complemented by the fact that translation is a metastatement, a statement about the source text and its content that constitutes an interpretation of the source text. This is true even when that

metastatement is seemingly only a form of reported speech [6, p.233] or quotation uttered in a new context. In quoting a source text, a translator actually creates a text that is a representation with its own proper locutionary, illocutionary, and perlocutionary forces that are determined by factors in the receptor context. Even in a simplified model, therefore, the ideology of a translation will be an amalgam of (1) the subject of the source text and the source text's representation of that subject, (2) the various speech acts instantiated in the source text relevant to the original context, (3) layered together with the translator's representation of the source text, (4) its purported relevance to the receptor audience, (5) the various speech acts of the translation itself addressing the target audience, and (6) resonances and discrepancies between these two "utterances" [21].

As we said, the ideology of a translation is complex. Descriptive studies have investigated the relationship between translations and other forms of metatexts, particularly textual refractions. Increasingly translation studies has recognized the continuity between translation and the many other text types that represent source texts, including editions, anthologies, literary criticism, summaries, retellings (such as retellings for children and other specialized audiences), and film versions [7]. Such investigations demonstrate the one-to-many nature of translation, as texts are adapted to new contexts, audiences, technologies, media, and so forth. Within such a framework the distinction between translations, versions, and imitations becomes elided, for they all are amenable to similar analyses of the representation and manipulation of source texts. Such distinctions have also been effaced by other types of descriptive studies demonstrating the wide variety of translation types attested in the historical record in the West and elsewhere, as well as the multiplicity of functions in translations that go beyond trans-

fer and communication. One culture's translation is another culture's version or imitation, and vice versa. As a consequence of the trajectory outlined above, translation studies in the postwar period have moved steadily away from prescriptive stances. The skepticism in the field about normative approaches to translation processes and products has also been underscored by the increasing internationalization of the field. With English emerging as the dominant language for commerce and international affairs, translation has become a major enterprise across the globe. The result has been the inverse of the experience during World War II, when the dominant centers associated with Axis and Allied forces reached out toward other areas of the world, interfacing with many cultures and languages and gathering data about translation in the process.

In the current wave of internationalism spurred by globalization, schools of translators and teachers of translation around the world are interrogating the Eurocentric development of the discipline and making correctives. Other cultures have seen translation in very different ways from intercultural communication and transfer. These perspectives are signaled by the words used for the process of translation in different languages. For example, the Arabic word for translation is *tarjama*, originally meaning 'biography', connected perhaps with the focus of Syriac Christian translators on the Bible, patristic texts, and lives of saints in the third to fifth centuries of the Common Era. The association of the word for 'translation' with a narrative genre, biography, indicates that the role of the translator was seen as related to that of a narrator; in turn this suggests the powerful potential of the translator's agency as one who "tells" and hence frames the material "told". The early Syriac translators eventually turned to other subjects, becoming major conduits of Greek science and philosophy to their

contemporaries; this learned movement underlies the later great tradition of translation into Arabic, initiated and patronized by the Abbasid caliphate, as well as the subsequent flowering of mathematical and scientific texts and translations in Arabic. There is a broader range of translation that is perhaps related to a second meaning of *tarjama* which is 'definition'. This second meaning is relevant to the later involvement of Syriac translators with Greek learned texts, especially scientific and mathematical ones, as well as the flowering of Arabic translations of these subjects, for such texts are heavily involved in defining, analyzing, and explaining elements of the natural and conceptual worlds. In this light, it is also important to understand Syriac and Arabic practices, for translators who did not merely convey Greek learned texts unchanged. When scientific and mathematical knowledge had progressed, translators augmented the Greek texts with their own culture's supplementary frameworks and advances, merging and recasting the Greek material so that the subject matter became better articulated and better defined in the translations than in the source texts [10, p.61-137]. Other words used for translation stress its importance as a form of storytelling. In the Nigerian language Igbo, the words for translation are *tapia* and *kowa*. *Tapia* comes from the roots *ta*, 'tell, narrate', and *pia*, 'destruction, break [it] up', with the overall sense of 'deconstruct it and tell it (in a different form)'. *Kowa* has a similar meaning, deriving from *ko*, 'narrate, talk about' and *wa*, 'break in pieces'. In Igbo therefore translation is an activity that stresses the viability of the communication as narration, allowing for decomposition and a change in form rather than one-to-one reconstruction. The freedom of translation in this paradigm is illustrated by the domestication in Nigerian tradition of the narrative about Adam and Eve as a story in which Adam becomes a great

farmer in African style.

Still another conceptualization is indicated by the most common Chinese phrase for translation, *fan yi*, which means 'turning over', represented using the character for *fan*, which means 'turning a leaf of a book' but also 'somersault, flip', and the character for *yi*, which means 'interpretation', a homonym of the word meaning 'exchange'. The concept of *fan yi* is linked to the image of embroidery: if the source text is the front side of an embroidered work, the target text can be thought of as the back side of the same piece. Like the reverse of an embroidery—which typically in modern Chinese handwork has hanging threads, loose ends, and even variations in patterning from the front—a translation in this conceptualization is viewed as different from the original and is not expected to be equivalent in all respects. At the same time, of course, the "working side" of embroidery teaches much about its construction. Both images—embroidery and turning a page—suggest that in China text and translation are related as front and back of the same object, or perhaps as positive and negative of the same picture if the embroidery technique produces a similar pattern with reversed colors on the back. These examples imply that the words for translation in languages throughout the world are not actually synonyms of translation. They have a wide range of semiotic associations that diverge radically from those of the English word and indeed words for 'translation' in all the Indo-European languages of Western Europe. These distinctions are very difficult to signal with scholarly textual conventions, for ironically, if we accept the idea that meaning is strictly speaking language specific, as most post-positivist thinkers believe, then the Chinese term *fan yi* or the Arabic *tarjama* cannot simply mean 'translation': they do not have the same Western European associations for translation as a process of transference or carrying across, not to

mention the specific historical association with moving relics or the migration of power.

Any theoretical formulation of the concept translation in a cross-cultural study must be able to accommodate the varied semiosis and wide-ranging set of meanings of all the words used internationally for practices and products of translation. Internationalism in translation studies is, thus, detaching the field from presuppositions about the concept translation associated with and limited by the meanings of specific Western words. In the 1990s, partly in connection with the convergence of translation studies and cultural studies, partly in response to the achievements of various translators such as the feminists and nationalists in Quebec, partly in recognition of the cultural interventions of translators throughout history documented by descriptive studies, and partly as an outgrowth of the growing interest in ideology and power in translation studies, there were calls for translators to become activist agents of social change. The work of Antoine Berman [1992], Philip Lewis [1985], and especially Lawrence Venuti [1992, 1995, 1998a, 1998b], among others, is notable for these calls to action. The result has been a lively discussion of strategies that are appropriate and effective in activist translation practices. Venuti called for translators to become "visible", eschewing what he saw as the presumptive invisibility of the translator in dominant Western literary and commercial practices. The essays in this volume are part of the ongoing conversation about power, ideology, and agency in translation. Borrowing the term "resistance" from the clandestine movements that opposed Fascism and the occupying forces of Germany and Japan during World War II, Venuti also based his notion of activist translation on the concept of literature engage, widely promoted by twentieth-century writers such as Jean-Paul Sartre.

There is a problem with the terms resistance and resistant when applied to translation, however. During World War II and similar agonistic conflicts, the enemies of resistance movements were and still are obvious. In the case of translation, by contrast, there is no obvious opponent or ideological target to which resistance in general can be presumed to refer. Case studies generated by Venuti and others often discuss resistance as if the antagonist were obvious, but in fact, the object of resistance is highly variable: colonialism, capitalism, neoimperialism, Western domination, specific regimes, specific oppressive social conditions, the patriarchy, bourgeois norms, Christianity, dominant discourses, dominant literary conventions, linguistic norms, and many others. No *prima facie* agreement exists among translators (or scholars) as to what should be resisted; resistance as it pertains to translation seems to be an open-ended enterprise without a defined target. Because of the potential open-endedness of a translator's agenda, cultures have tried in various ways to control translators, whether through official appointment (as in the case of the *latimers* in England and later Ireland after the Norman Conquest), censorship (as in many dictatorships, for example), credentialing processes (such as those common in Europe at present), state oversight of translation (for example, in the former Soviet Union in official publishing houses), or effacement or enforcement of cultural ideologies through official translation protocols (for example, in the group translation processes of the People's Republic of China before the opening of the country at the end of the 1970s or the group protocols of contemporary Bible translators).

The necessity of controlling translators and an indication of their cultural power are equally summed up in an Italian aphorism equating the translator with the traitor: *traduttore, traditore*. Translators

must make choices: they cannot capture all aspects of a source text, and their choices establish a place of enunciation, as well as a context of affiliation. Because of anisomorphisms of language and asymmetries of culture, because meaning is both open and over determined, because texts make contradictory demands that cannot all be simultaneously satisfied (say, the demands of complex content and spare form), and because the information load associated with a source text is excessive, among other reasons, translators must set priorities for their translations. They must make choices about what to translate and what to silence. Translation is thus a metonymic process. Similarly resistance is a metonymic process: a person cannot effectively resist everything objectionable in any culture. Activists set priorities, make choices, choose strategies, and pick their fights. Resistance in translation stands at the intersection of two metonymic systems: the normal metonymies of translation and the metonymies of resistance. Resistance in translation is thus complex, and it involves complex textual and ideological constructions. Translators must choose what (if anything) to resist in situations where the social antagonist is not predefined. Moreover, translators' strategies for accomplishing their social or ideological goals are legion, highly localized in time and space, shifting as culture shifts. Translators and interpreters shape their words to the needs of the moment. To a large extent the partisanship of the translator results from partiality in translation, an inescapable aspect of the task of the translator and the metonymic process of translating. Not all calls for resistance in translation have recognized these complexities. Some have assumed that the object of resistance was a given and have prescribed specific strategies to be privileged in resistant translations. Venuti, for example, promotes a strategy that he calls "foreignization", which disrupts target-language cultural

codes and registers the linguistic and cultural differences of the foreign text [23, p.42, 81]. Foreignization may be appropriate for dominant cultures such as the United States, but it is not suited to subaltern cultures that are already flooded with foreign materials and foreign language impositions. Foreignization has also been rightly criticized as a potentially elitist strategy, more appropriate to a highly educated audience than a broad readership. One of the most important factors in current readings of translation, contributing particularly to the understanding of activist translations, has come from postcolonial theory. Some studies have identified mechanisms by which colonizers used translation as means of imperial control and expropriation [3, 13], but others have shown how activist translators in colonized nations have effectively pursued cultural nationalism (including the creation of national literatures), self-determination of their peoples, and national independence. As with resistance during World War II, the oppositions and polarized struggles of postcolonial cultures are generally sufficiently clear to make the object of resistance manifest and even self-evident. Postcolonial translation studies are particularly interesting because of the centrality of ideology and ethics, activism and resistance in these contexts. Postcolonial situations involve asymmetrical power relations and are thus, pertinent to the mechanisms of both censorship and self-censorship that circumscribe resistance in translation. They set in relief the material constraints exerted by colonizers (and other powers) over translation. They also exemplify in rather clear ways the oppressive and coercive aspects of discursive formations and the temptations of collusive involvement in discursive fields that can disrupt resistance and result in self-censorship. Nonetheless, the historical record of translation in postcolonial contexts reveals the manifold possibilities for crea-

tive resistance.

Sustained exploration has illuminated activist practices and resistance in translation, challenging many received conceptions about translation. Postcolonial studies make it clear that translation does not usually take place between two equal cultures as a means of free exchange or transfer of information, and they show that translation is not simply or even primarily a question of communication. Dominant models assume that a translator must "know" the two languages and cultures involved. Postcolonial contexts challenge this view, showing that translation has a fundamental epistemological dimension: it does not merely reflect existing knowledge, it can also precede knowledge. It can be a mode of discovery used to create or amass knowledge, and in this role it can have marked political and ideological dimensions, becoming a mode of spying or intelligence gathering used for the purposes of domination, or, by contrast, a mode of counterespionage, resistance, and rebellion. Postcolonial situations also set in high relief the fact that translations are not uniform and consistent. Postcolonial translations cannot normally be usefully defined in terms of the descriptive binaries that translation studies has depended upon - literal vs. free, formal-equivalence vs. dynamic-equivalence, adequate vs. acceptable, or domesticating vs. foreignizing - and they do not generally fall on a continuum between such polarities. Instead postcolonial translations are complex, fragmentary, and even self-contradictory, as translators position their work through a metonymic process to achieve very specific strategic goals, prioritizing particular aspects or elements of the source texts for specific activist effects and ends. Such metonymies are an essential aspect of the ability of translations to participate in ideological struggles, to be engaged and partisan. Thus, paradoxically, the polarization of postcolonial contexts facilitates

theoretical insight into the process of translation by setting in sharp relief the significance of the featured, functional, and contextual aspects of translators' metonymic choices. Postcolonial translations also indicate that a translation is not merely a text but an act, where the function is as important as the product itself. Hence fidelity may not be of paramount importance in situations involving asymmetry of cultural power or imperative political aims, even when the translator's fundamental allegiance lies with the source culture.

Translation as an act normally also has a very public dimension in a postcolonial context. Far from being invisible, postcolonial translators are frequently prominent cultural figures, highly visible and publicly engaged in the assertion and creation of resistance to oppression. Thus, postcolonial contexts model many of the values associated with calls for activist modes of translation. Finally, consideration of actual translation movements in post-colonial situations illuminates the ironies resulting from activist translation movements. Case studies indicate not only the possibilities for the activist use of translation but also the necessary conditions for the success of resistance and its limitations as well. A case in point is the important and highly successful translation movement in Ireland at the turn of the twentieth century that translated early Irish literature into English. Led by prominent Irish cultural figures, the translation movement was an important element in securing (partial) independence for Ireland and establishing the Irish Republic; it helped to demonstrate the existence of an independent Irish culture and played an important role in identity formation at the time. Ironically, the skewed representations of early Irish culture in translations (regarding heroism and sexual purity, for example) also helped to create a mythos about Irish identity that was written into

law after 1922, making Irish cultural configurations some of the most regressive and repressive in Western Europe. The representations also were later used to validate the ethos of the IRA during the troubles in the second half of the twentieth century. In a sense, Ireland became a victim of its own self-representation and self-construction. Valuable and instructive as postcolonial studies have been, therefore, they have limited use in modeling all activist translation and resistance in translation. For one thing, the social models underlying postcolonial theory are not fully applicable to all situations of conflict, coercion, or oppression. Although some writers think of post-coloniality in existential or ontological terms, postcoloniality is best seen in terms of a particular configuration of political circumstances involving such factors as conquest and dispossession; the subjection of a local culture within an empire or an imperial network, that is, dominance by a political, economic, linguistic, and cultural "center"; the presence and interface in the colonized setting of at least two languages and cultures, of which one at least antedates the advent of imperialist conquest; the absence of self-determination, instantiated not only by lack of choice of leadership and autonomy of the polity, but also by the absence of an independent army or the right to bear arms. Obviously, this is merely a suggestive list, not one meant to be definitive or complete: post-colonial situations differ significantly in their characteristics. As is clear from this list, the problems of postcoloniality are thus, not precisely those of people in diasporas, of minorities within a pluralistic society, or of women who are oppressed the world around. By lumping such divergent cases together, we actually learn less about conditions of oppression and means of resistance; our conclusions about the data become less reliable as well. In part post-colonial theory has been popular because

it filled a theoretical gap after the fall of the Soviet Union and the consequent diminished confidence in Marxist analyses. The trajectories of translation theory and other fields suggest that new theories of power are needed, as are new theories of resistance and activism, theories that will be more flexible and more applicable to a broader range of cultural contexts than postcolonial theory can of its nature be. It is often seen through consideration of concrete case studies such as those included in this paper that the contours of new theories begin to emerge. The group of essays in this issue of is part of a larger collection that Dr. Dabaghi is editing with Edwin Gentzler, to be published as *Translation and Resistance*. Essays done here respond to the calls for activism in translation studies, illustrating how resistance has been undertaken historically and how it can be effected at present. The ethical and ideological focus of the essays is central, demonstrating how translators can be agents of social change. These studies indicate the wide range of targets of resistance and the many motivations for activism among translators, as well as the variety of forms and the flexibility of textual strategies employed. The essays also illustrate how discourses about resistance have evolved since the first calls for action were sounded. The importance of activist translation in shaping a receiving culture is evident, as is the willingness of translators to introduce significant shifts into their texts, manipulating the source texts in radical ways. The essays also indicate that translations constitute a distinct and significant element in literary and cultural systems, with translations often at the leading edge of a system. Illustrating that translation goes well beyond communication of content, these studies show that activist translation often has affinities with the semiotic associations of non-Western words for translation discussed above. Each essay relates to some of the issues

discussed above.

In "Translation and Activism" Mona Baker offers a theoretical model for the formation, motivation, and assessment of activist translators and the translation movements, and she writes about contemporary activist translators who are handing together in activist communities; her essay shows that activist and resistant translation is most effective as a collective endeavor in which individual translators take highly visible roles. In "Suppression of the Erotic", Ben-Ari shows that zero translation is highly significant in analyzing cultural configurations, and she demonstrates that activist translation can take many different forms from pulp fiction to medical manuals in supplying cultural gaps; Milton discusses the many activist roles of Monteiro Lobato in "The Resistant Political Translations of Monteiro Lobato", including publishing, active lobbying for specific political outcomes, defying government regulations, and so forth. Milton's essay is an excellent case study of the relationship between translation and other forms of activism; illustrating as well the continuity between translation and various forms of refraction, he shows the significant role that metatextual reframing plays in activist and ideological strategies. Baer's work on "Literary Translation and the Construction of a Soviet Intelligentsia" demonstrates that the content of translation is often secondary to the act itself as a sign of resistance to cultural constraints.

In wartime the critical value of translation has long been recognized as a matter of national security and survival, and language expertise has commanded a privileged role: it is essential to have translators who are loyal and reliable rather than potential traitors. In the United States waves of renewed interest in translation and language study can be correlated with World War II, the Korean War, and the Vietnam War, as well as the protracted Cold War. Because of the so-called

war on terrorism, in our own time certain aspects of translation have again become central to public discourses. In peacetime by contrast it is easy to stereotype and dismiss translation as a secondary activity, a process that can be undertaken by anyone with a good bilingual dictionary. The essays that follow are reminders that in peace as in war, translation always has a potentially radical and activist edge, that it is driven by ethical and ideological concerns that it participates in shaping societies, nations, and global culture in primary and central ways. Translation can change the world.

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IMPLICIT LACUNAS AS A FACTOR OF COMMUNICATIVE DISHARMONY

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The analysis of narrative (literal) communication in the sphere of effectiveness of speech communication shows that there are several factors which make the “author-addressee” dialogue ineffective, being implicit for the addressee.

Giving definition to the notion of effective communication A.K. Mikhalskaya points out a significant difference in its interpretation from the point of view of a new culture concept: “not only a correct interpretation of a message by an addressee, but also a *genuine mutual understanding* between the members of a communication process can be acknowledged as the result of effective communication, psychological manifestation of which is *gladness*. Successful communication also causes esthetic emotional experience similar to that caused by works of art” [Mikhalskaya 1990, 5: 56-57]. Such kind of a dialogue between the author and the reader leads to achieving *harmony* which can be viewed as the desirable communicative effect in artistic communication.

Contemporary works of literature are aimed directly at this type of communicative effect. However, it would not be an exaggeration to say that harmony is something that any communicant who is involved in a dialogue wants to achieve. “A communication can be called harmonious if it gives the communicants not only the information to think over, but presents the reader with the feeling of the beautiful, satisfaction and joy of empathy. Thus, harmonization can be defined as intellec-

tual, emotional and esthetic empathy of communicants, which presupposes creative activity of not only the addressor, but also the addressee” [Bolotnova 1992, 4:77].

There is no doubt that it is especially relevant when a narration has some special conditions – “secondary informative ways” which include allusion, reminiscence, parody and other types of statements, which “presuppose that the readers have certain knowledge of history and philology” [Akhmanova, Gyubbenet 1977, 3: 47]. They are also can be called “vertical context”. These elements require extensive speech and cognitive activity from the reader. “Vertical” and “horizontal” conjugacy of various textual stimuli and associations in the opinion of the author of a literary work should arouse certain associations, which help to identify and reveal allusions which enrich the text to be perceived. If textual stimuli and associations remain unread, there will be no effect that the author counted for.

The ability to sense the vertical context is in itself a criterion of reader differentiation (naïve/sophisticated). A priori we can assume that it is easier to sense and understand the allusions for a “sophisticated” reader, since he is well-read which is a necessary condition for sensing a vertical context and influences the effectiveness of literary communication (allows achieving harmony).

However, the experiment, during which the informants were offered to in-

terpret sentences with different types of allusions, showed paradoxical¹ results: there was one clearly designated type of allusions which was not *sensed* by the first group of informants. In other words communication of these readers with the author not only wasn't harmonious, but also had no communicative effect whatsoever (i.e. there was disharmony noticed). There was formed a control group of readers members of which didn't sense any other types of allusions, but errorlessly found and revealed this very type.

Here are some examples of texts offered to informants: *keep Thy promise to Peter: do what Thou said. Strengthen her gates, fix her locks, erect her horn, uplift her. (St. Ephraim the Syrian A Spiritual Psalter: or, Reflections on God, Ps. 86); I yielded to temptation and went backward: stretch thy arm to me and I shall rise like the sinful woman in the house of Simon, like the thief on the cross (Ps. 91).*

Some excerpts from G.K. Chesterton's works:

If you doubt the penitence as a practical fact, there are your knives and forks. You are The Twelve True Fishers, and there are all your silver fish. But He has made me a fisher of men." (The Queer Feet); "We must surrender," he said. "You could do nothing against fifty thousand tons of water coming down a steep hill, ten minutes hence. We must surrender. Our four thousand men might as well be four. Vicisti Galilae! Perkins, you may as well get me another glass of wine." (The Napoleon of Notting Hill); Men who have escaped death by a hair have it, and men whose love is returned by a woman unex-

pectedly, and men whose sins are forgiven them. (The Ball And The Cross).

Or there is one of his entire works:
*When fishes flew and forests walked
 And figs grew upon thorn,
 Some moment when the moon was blood
 Then surely I was born;
 With monstrous head and sickening cry
 And ears like errant wings,
 The devil's walking parody
 On all four-footed things.
 The tattered outlaw of the earth,
 Of ancient crooked will;
 Starve, scourge, deride me: I am dumb,
 I keep my secret still.
 Fools! For I also had my hour;
 One far fierce hour and sweet:
 There was a shout about my ears,
 And palms before my feet. (Donkey)*

Here are some excerpts from K.S. Lewis's works:

Solomon... for the first time in many years the bright solar blend of king and lover and magician which hangs about that name stole back upon her mind. For the first time in all those years she tasted the word King itself with all its linked associations of battle, marriage, priesthood, mercy, and power. Next moment she was once more the ordinary social Jane, flushed and confused to find that she had been staring rudely (at least she hoped that rudeness would be the main impression) at a total stranger. But her world was unmade. Anything might happen now. (That Hideous Strength); Now of a sudden they all began talking loudly at once, each, not contentiously but delightedly, interrupting the others. A stranger coming into the kitchen would have thought they were drunk, not soddenly but gaily drunk: would have seen heads bent close together, eyes dancing, an excited wealth of gesture. What they said, none of the party could afterwards remember... Never in her life had she heard such talk — such eloquence, such toppling structures of double

¹ In the capacity of informants there were two groups: the 1st group – faculty, graduate students and senior students of university philological department (sophisticated readers; adequate text interpretation is one of their core professional skills). Control group – readers non-philologists of different education and erudition levels (naïve readers).

meaning, such sky-rockets of metaphor and allusion. A moment after that and they were all silent (*That Hideous Strength*); In this way also it may be hard for "the rich" to enter the Kingdom. And yet, I believe, the necessity for the conversion is inexorable; at least, if our natural loves are to enter the heavenly life. That they can enter it most of us in fact believe... (*The four loves*) and others.

Thus, on the one part, there are readers philologists, who sensed no allusions in 32 reading excerpts, 27 of which were taken from the texts of the authors of the 20th century, who are our *contemporaries* (it was decided not to take into account those 5 passages that were taken from the texts of the 4th century writers – some of them have been mentioned earlier in the article: their specific character and archaic language can make them difficult to understand even by philologists. On the other part there is a group of naïve readers who easily detected allusions *in all* texts (out of 42 texts offered to them) *including* the texts of the 4th century authors (which they didn't find difficult to comprehend, and moreover, the informants gave lots of additional information about the meaning of the "promise given to Peter", and about what particular Peter the author wrote, they knew the name of the "sinful woman in the house of Simon", and they indicated what *complex life situations or his own sins* the author meant; they errorlessly named the holiday mentioned in the poem "Donkey")

There was a hypothesis voiced about the reasons that brought such result, about its being not connected with traditional division of readers into sophisticated and naïve. In such case what parameters made a primary influence on the result?

Some measurements (such as age, sex, native language, education level, profession, living standards, interests and so on) in the group of informants were leveled to a maximum extent. There was a

single measurement in which the informants differed. The control group (aged from 26 to 72) consisted of Christians (of different ethnicity, all of them belonging to the congregation of the same orthodox church). Unlike them, the first group's representatives (aged 19 to 68) were people of the postsoviet culture, non-religious, though nominally Christians (christened), but not attending church and not accustomed to church sacraments.

As readers both groups developed under identical conditions of state atheistic upbringing and education, in traditions of soviet culture. The soviet reader educated on the literature of social realism was deprived of the ability to get acquainted with the achievements of world philosophy, culture and literature: they were inaccessible for the reader, on the one hand, due to censure that safeguarded atheistic views, and, on the other hand, even when the reader had access to it he could not understand them to the full extent due to developed atheistic world outlook (it would be honest to say that the soviet reader didn't need it).

So, the only significant difference between the two groups of informants is the fact that the first group had a developed religious mind and an appropriate world outlook, and the second group didn't. Besides this perception of the world should be called "*Christian*" (not Russian unlike the Russian *linguistic* picture of the world, and not orthodox, which is supported by the given examples in other languages– passages from the works of *English* writers of the 20th century and from works in *Greek*, written in the 4th century by an ethnic *Syrian*). For, as it is known, the spiritual experience of Christians of all times is *identical*.

Christian readers (the 2nd group) sense the allusion (and appropriate meaningful layers) not only because they know the Gospels as a precedent-related text (also known to men of religion) but be-

cause everything mentioned in the text is familiar to every believer as a spiritual experience, an experience which more than once was felt (as a personal confession) and voiced in confessions. This is a *qualitatively different type of knowledge and consciousness*.

The first group not just lacks linguistic and/or extralinguistic knowledge (background knowledge which can be gained from cultural and historical commentary), but also knowledge which form the world outlook, that knowledge and experience the lack of which requires clarification of every detail and symbol.

It results in required constant intellectual efforts from the reader with non-developed religious conscience not only when they read texts of the Holy Writ and Holy Tradition (patristics), but also when they read fiction containing allusion to these texts. When they read them there appear lacunas similar to those emerging in cross-cultural communication in perception of a foreign text. Figuratively speaking these lacunas “gulp” the religious content. At the same time “when it comes to psychological, *human* (italics of the author of the article – L.K.) meaningfulness of the religious contents compared to any other type of information which can circulate within human society, it is of *maximum value*” [Mechkovskaya 1998: 39].

Studying lacunas always leads to assumptions about a certain level and direction of culture scientization of this or that society. Our case is not an exception: it illustrates not only the level and direction of soviet culture scientization, but also shows what kind of information turned out to be in “neglected” part of a cultural fund of some recipients, including educated ones.

Usually a person realizes the fact of presence/absence of knowledge which makes religious content quite understandable (using introspection the reader can prove it). But sometimes it can be ob-

served that this fact slips away from the reader’s attention (it is implied), which leads to disappointing mistakes in text interpretation. The mistakes become even more disappointing when they are made by professionals – philologists, linguistic culture experts, writers, and etc. lets consider one of the examples.

Literary expert V.V. Savelyeva analyzing some aspects of N.S. Leskov’s novel in her book “Artistic anthropology” writes: “Using mythonyms as proper names leads to the problem of bringing into correlation of a certain character and a mythological character. In this case either other personalized or non-personalized elements should subdue mythonyms or mythonyms will absorb all nominations. For example, the deacon in N. Leskov’s novel “Islanders” has the name of **Achilla** (highlighted by V.V. Savelyeva – L.K.) and is characterized by a great physical strength. When trying to find sense in the image of the character the reader has the right to speak about somewhat contradictory image of the character, combining features of a pagan character and an orthodox righteous man” [Savelyeva 1999: 84].

In fact there is no and cannot be any “internal contradiction” as well as “combination of features” of paganism and orthodoxy. The researcher, provided he is a religious person, wouldn’t miss the fact of “joyful religiousness” of N.S. Leskov (as he defined it), which presupposed sincere and warm faith (orthodox in this case) and absolutely excludes the ability of appearance of thoughts which could lead to “combination” of such features (in the mind of the author of the 12th century literary monument “The Song of the Igor’s campaign” these features could match not only in terms of ethics, morality and dogmatism – here the author has an unshakable Christian position, but rather in terms of folk poetical figurativeness of the language). In the mature orthodox mind of a 21st century man it is hard to find other

two things so “incompatible” and even mutually exclusive (and thus having no chance for “being combined”. Though in the mind of the soviet reader – even a professional reader – such an opportunity exists) as Christianity and paganism. We can mention their historical antagonism which has a twenty-century long tradition.

N.B. Mechkovskaya writes: “Studying the history of Christianity perception by people we cannot fail to notice the fact that in the Russian language (the only language among all Slavic) the name of the estate which represented the majority of population is motivated by the name of the religion: *крестьяне* (peasants) derived from the Old Slavonic **крестианинъ** (Christian). In other Slavic and non-Slavic languages of Europe the nomination is motivated differently... (for example, *селянин* (peasant, villager) comes from the ancient Slavic verb ‘сидеть’ (to sit) – L.K.). Similarly only in Russian the name of the seventh day of the week is motivated by a Christian symbolism: *воскресение* (*Sunday, in Russian - Resurrection*); in other Slavic languages this is a free from work day... In this light there is another interesting fact: Old Slavic word **поганъ** (pagan) in all east European languages acquired additional extremely negative meaning of “dirty, filthy, nasty” having lost its original meaning” [Mechkovskaya 1996: 57]. Even soviet philologists cannot but know these facts.

Besides, if we consider that all known in history cultural areas to some extent preserve religious consciousness traditions (and the soviet cultural area which succeeded from pre-revolutionary Russian is not an exception), then, as it may seem, it is a well-known fact for all Russians that in Christian families (especially in the families of clergymen – and the novel character comes from this kind of family, which is clear from his ecclesiastical rank of deacon: in an orthodox church clergy is, as a rule, represented by

the whole dynasties. Though this is true for other estates, too) the name to a child is given during the Sacrament of Christening and, by all means, after some Christian Saints (both Russian and western, whose names were canonized before 1054), whose names are registered in Orthodox Church calendar. As a result of this act a Christian acquires a heavenly patron, which is quite important for his perception of the world. If we turn to church calendar we will find the name of Achila there (which is spelled differently from the variant suggested by V.V. Savelyeva). It was the name of a monk of Kiev-Pecherskaya Laura (14th cent.) who, by the way, like Leskov’s character had a rank of a deacon and was canonized as the Reverent (remembrance January 4/17), whose relics have been still lying in Feodossiyevev Caves of Kiev-Pecherskaya Laura. Such motivation of the character seems to be more realistic. It is disappointing that a mistaken motivation (from the name of the ancient Greek myth hero Achilles or Achilla²) described by V.V.Savelyeva in her doctoral thesis was assumed as one of her basic theoretical propositions. At the same time the situation is explained by a deep implicit lacuna.

Lacunae that we registered have not been described and included by researches into known classifications of culturological lacunae (in other words they have remained lacunae for several generations of researches of the soviet period) and, consequently, are not being studied. It is reasonable to try defining their place in such classifications (we shall take the classification of I.Y. Markovina and Y.S. Sorokin as the basis) [Antipov 1989: 130-145].

Depending on what status we assign

² Information about this hero of antique epos turned out non-lacunized in this author’s works. At the same time Christianity categorizes it as “Hellenic intricacy” which is invariably scornfully and pejoratively treated by Holy Fathers of the ancient times.

to cultures-communicants any lacunas can be identified as *intercultural* or *intra-cultural*. In our case this indicator is rather ambivalent and there are two approaches to its assessment depending on what status we assign to interacting cultures.

1) Lacunas can be called *intercultural* provided that Christian and atheistic subcultures that coexist within the frames of local Russian culture are considered two separate independent cultures. Presence of different groups of recipients *consciously* belonging to this or that culture gives rise to the following assumptions: some representatives of one linguistic cultural community (in our experiment these are readers of group 2) make a conscious choice and, having refused the official ideology, enter somewhat marginal for official ideology cultural area characterized by “cherished by the humanity ideas” (N.B. Mechkovskaya), bind with these ideas their life goals (altering the previous ones), means of their achievement, ideals, beliefs, value system and hierarchy, preferences, interests, way of living and so on and so forth. Under conditions of the soviet state this move required certain efforts since it lead to desocialization of an individual. However what was marginal for the soviet culture has always been in the center of universal culture. Thus, the move which leads a person out of the frames of one (soviet atheistic) culture, brings him into the other culture which is beyond the ethnos - a Christian (or Muslim) culture. At the same time national priorities lose their importance for the individual (what we have tried to illustrate, emphasizing “unity in one main thing” of Christians of all times and nationalities. This is also true for representatives of other religions). In this respect a Christian of any nationality is in antagonistic relations to its national culture if it is *non-Christian* (which is the case on the post-soviet territory), since he cannot fail to notice that his culture rejects (on a scale from indifference to mockery,

blasphemy and defilement) everything which is sacred for him. Materialistic atheistic culture and mentality inevitably forms a system of negative sense and semantic fields around the notions connected with God, faith, church, Christian virtues. At best the competent bearers of this culture realize *optionality* of this knowledge compared to scientific knowledge – examples mentioned above, in our opinion, should illustrate this statement (the reader can use introspection to check the correctness of our statement). And vice versa this culture is characterized by tolerance and indifference towards notions that are associated in the mind of a Christian with something inadmissible, sinful, dishonorable (take for example legalizing in the contemporary culture of popularization of violence, pornography, different types of occultism, activization of totalitarian sects, pour moral and artistic level of some TV programs and/or movies, principles and civic stand of mass media and so on). It is natural for a religious man to distance himself from this culture and to minimize contacts with this culture. In such interpretation ideological lacunas can be considered *intercultural*.

2) Lacunas can be called *intracultural* if there is a national component of a cultural heritage present, and two temporal periods – pre-soviet Christian (orthodox) and soviet atheistic are considered to be two periods in the development of *one* Russian culture (taking into account the degree of “merit” of both of them). Level and direction of scientization at the second stage lead to a “mass” oblivion of the first one and emergence of “cultural heritage” lacunas of considerable depth and hard to fill in.

We can choose any of the approaches to define the status of the cultures-communicants, thereby the lacunas can be characterized as *intercultural* or *intracultural* (and every time we should provide an explanation). Regardless of it,

every lacuna can be classified at several levels and according to several criteria.

At the first stage they should be referred to as *cultural* lacunas, the sublevel of *cultural heritage* lacunas, the variety of *world outlook* lacunas.

Cultural heritage lacunas are considered to be *absolute* “if in one of the cultures compared there are no realias characteristic of other cultures”. World outlook lacunas should be called *absolute*: belongingness of an individual to this or that culture results in lack in the culture of one group of recipients of some categories needed in the outlook of the other.

According to the next principle of classification – size – all lacunas can be divided into confronting (vigorous, deep) and contrastive (weak, shallow). In our case all lacunas are confronting.

Perception of the text by recipient allows classifying lacunas according to the implicit character. The analysis of interaction of the reader and the text (of a different culture or containing an allusion to realias characteristic of other cultures) shows that against the background of an easily interpreted text there are some things which are *perceived* by the reader as strange, unusual, mistaken or *left* in the “insensibility” zone. Depending on this we can divide all lacunas into *explicit* and *implicit*. Observations show that lacunas analyzed by the author appear to be in the zone of *absolute* insensibility, i.e. beyond the “the bright area of the consciousness” (Baudouin de Courtenay) for the recipients, whose representatives formed group 1 of informants in our experiment (lacunized information being absolutely clear and transparent for group 2 of the informants). This allows us referring to world outlook lacunas as mostly *implicit* ones.

The *depth* of lacunas can be estimated intuitively: it depends on existence of the possibility to *compensate or counterbalance* them in each separate case.

Summarizing everything mentioned

above we can come to a conclusion that all lacunas identified during the experiment for a non-Christian recipient should be characterized as *deep* in most cases *implicit confronting inter- (intra-)cultural lacunas of cultural heritage, a world outlook variety, mostly absolute*.

If we turn to our examples in each case we can state what array of information happens to be lacunized for the reader grown up in the soviet culture period and simultaneously sensed and understood by the Christian reader [Kotova 2007: 128-133], which once again proves the assumptions about major directions and levels of this culture scientization and developing a mentality with deep implicit world outlook lacunas within several generations of soviet people regardless of higher education or research degree. At the same time presence of these lacunas prevents them from understanding authors with a different world outlook in a proper way, and this type of world outlook is characteristic of not only Russian literature (beginning from the 11th cent. and up to the 20th cent.), but for the world literature in general.

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ETHNIC-LINGUISTIC IDENTIFICATION OF REPATRIATES IN MODERN KAZAKHSTAN

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While studying issues of ethnic-linguistic identification of a personality we will make an attempt to trace the origin and development of the concept of identification, to draw a demarcation line between the concepts 'identity' and 'identification', to define factors which influence the ethnic-linguistic identification of repatriates, to define the role of the language and linguistic processes in ethnic identity.

Identity is a broad concept which includes all properties of combinations of personalities and which is conditioned by a great number of biological, psychological, social and cultural factors. According to the data provided by an identity researcher G.I. Marcia there have been conducted more than 300 scientific studies in the field of psychological science in the past 25 years. There has also been formed a scientific direction or school called psychology of identity (7, 1). In the second half of XX century this term entered the scientific circulation and became an object of inter-disciplinary research. There are lots of works dedicated to identity by psychologists, philosophers, sociologists, historians, political scientists and specialists of many other fields.

In the present work we have made a strong accent on the concept of identity and in its basis there are two things: language and ethnos.

Now let us trace the formation of the concept of identity in the light of fundamental works in the field of psychology, philosophy and sociology dedicated to this

subject matter.

It is common knowledge that the scientist, who introduced the concept of identity to the world, is E. Erickson. In his work "Identity: Adolescence and Crisis" which is devoted to the problems of pre-adult age related to the social development of a personality, the author tracks down individual life cycles, the succession of generations and structure of the society. The fundamental notion elaborated by Erickson is the notion of identity. It means a firmly mastered and personally adopted image of oneself in all possible relationships of a personality with the surrounding world. Identity is above all an indicator of a mature (adult) personality whose background is concealed at the previous stages of ontogenesis. It is such a figuration which integrates constitutional predisposition, peculiarities of libido, preferable potentials, active protective mechanisms, successful sublimations and roles being realized.

According to Erickson's theory, a person through his life experiences a number of psychosocial crises. The scientist singles out eight stages of development of identity, and at each stage a person chooses between two alternative phases of decisions and solutions in age-related and situational challenges of his own development. The pattern of choice has an impact of his whole further life in terms of its successfulness and unsuccessfulness.

At the first stage an infant has to decide a fundamental, first important issue of

his whole further life – if he trusts the world around him or he doesn't. The progressing autonomy of an infant (and first of all the ability to make progress by creeping, later by walking; development of speech, etc.) enables him to move onto the decision and solution of the second important life task – achievement of independence (alternative / negative variant – uncertainty in himself or lack of self-confidence).

At the third stage (at the age from 4 to 6) there is a choice to be made between initiative and feeling of guilt. In this age range the space of life activity becomes wider and a child starts setting his own goals, finds activities, and demonstrates his ingenuity and resourcefulness in speech and fancy.

The fourth stage (at the age from 6 to 11) is associated with proficiency in various skills (including efficiency of reading) as well as with the system of cultural symbols. Here he forms a feeling of competence and a negative process results in the inferiority feeling. While mastering rudiments of knowledge children start identifying themselves with representatives of specific professions. A very important thing for them now is public approval of what they are doing and their activity in general.

The fifth stage (at the age from 11 to 20) is a key stage for obtaining a feeling of identity. At this period of time a teenager hesitates between the positive side of identification ("I") and the negative side of confusion of roles. A teenager faces a new challenge to combine everything he/she knows of himself/herself in the capacity of a son or a daughter, a schoolchild, a sportsman, a friend, etc. He/she has to combine all this into a single entity, to understand it, to connect it with the past and project it for the future. If the crisis of juvenile age is running successfully, a feeling of identity is formed with a young man or a young woman. But if this process is

not favorable they obtain a mixed or confused identity coupled with tormenting doubts concerning oneself, one's place in a group or team, in society and uncertainty of life prospects. Here Erickson introduces or coins quite an original term – "psychological moratorium", which means a crisis period between adolescence and adulthood. During this moratorium there are multidimensional complicated processes of adult identity and a new attitude towards the world. This crisis gives rise to the state "diffusion of identity" which forms the basis of specific pathology of adolescence or juvenile age.

The sixth stage (at the age from 21 to 25) is signified by Erickson as a transition to facing quite adult challenges which have been formed by psychosocial identity. Young people enter into friendly relationships, or enter into a marriage and have children. They solve a global issue of a very fundamental character when they choose between establishing these friendly or family relationships with a view to bringing up a new generation – and isolationism which is typical of people with a confused identity and other even earlier mistakes which may happen in the course of their development.

The seventh stage (in the age range between 25 and 50/60) which takes up the lion's share of human life is concerned with contradiction between the ability of a man to be developing which he acquires during previous stages and personal stagnation which is a slow regress of a personality in the process of everyday life. The reward for obtaining an ability to self-develop is the formation of human individuality and uniqueness.

The eighth stage (after the age of 60) terminates life course and here reaping the fruits of his spent life a person either finds peace and balance which is the result of integrity of his personality or finds himself doomed to hopeless and irreparable despair as the result of confused life.

So in the course of adolescence every person in one way or another experiences a crisis concerned with the necessity of self-determination in the form of a whole range of social and personal choices and identifications. If a young man cannot solve these issues in time then there is an inadequate identity formed within him. Diffusion or vague identity is a state when an individual has not yet made a responsible choice, for example, in his job or world outlook which makes his "I" image quite blurred, indistinct and uncertain. An unsettled or unpaid identity is a state when a young man has adopted some specific identity having escaped from complicated and tormenting process of self-analysis. He is already included in the system of adult relationships but this choice is made not consciously but under an influence or according to already existing standards.

As Erickson says it was W. James who laid the foundations in understanding identity. Although he has not yet used this term and called it a character or a manner, but this rather subjective, inspirited writhing sensation of identical equation and integrity is experiencing of identity rather than a character or manner in the common meaning of this word. W. James wrote: "The character of a person is seen in his mental and moral state when he is experiencing a deep and intensive feeling of his own activity, energy and vital force. In such moments his inner voice tells him the following: "This is my real self!" Such experience always presupposes "an element of active tension, some steadfastness and belief in the fact that external circumstances will help him but without being fully confident about that. In case he is fully confident this state changes into something inert, sluggish and blunt. Take away my confidence and I will experience (provided I am in this energetic state) some rapturous enthusiastic bliss, bitter resolution to do everything I need and to

overcome it... and even though it is just a mood or emotion which couldn't be expressed in words or speech, it is the deepest foundation for my practical and theoretical aspirations (1, 26).

There are also other definitions of identity found in works of Z. Freud. It is true to say that this scientist in his various works gave a varied understanding of this notion. First of all in his "Interpretation of Dreams" he uses the term 'identity' for the first time in the following context: "A patient has a heightened sensation level; as a result of an early experience and on the basis of his subconscious expectations he from the outset pays a special attention to everything that favors reiteration and creates perceptive identity". In the second case Freud in his later works uses the notion of identity in some ethnic meaning. "Conscience of inner identity" according to what Freud is saying includes a feeling of bitter pride which is preserved by persecuted, dissipated, absent-minded and often hated people. And the third understanding of identity by Freud can be found in his "Project of Scientific Psychology" which was published posthumously in 1950. "Thus the purpose and completion of all mental processes is an achievement of the state of identity". "Let us suppose that an object in our perception reminds of a subject – we mean a person. If it is so, the theoretical interest [it attracts or provokes] can also be explained by the fact that an object like this was at the same time the first satisfying object [for the subject] and further his first hostile object as well as his only source of help and assistance. Therefore a person gets to know first of all namely human fellowman. In this case perceptive complexes which originate from this human fellowman will be partially new and unmatched, for example, his features in visual sphere; but the subject's other visual perceptions, for example, movement of hands, will coincide with recollections of a quite similar

visual impressions related to himself and his own body [recollections], which is associated with recollections of movement he had been doing himself. Other moments of the object's perception (for example, a shriek or a shrill) will arouse his recollections of his own suffering from pain (1, 98).

Among well-known and outstanding philosophers, culture experts and sociologists paid tribute to the same scientific problem the following people should be mentioned: K. Popper, J. Habermas, V. Hesley, A. Giddens, M. Serto.

K. Popper while studying identity (selfness) says that "selfness has a biological sense. It serves the purpose of adaptation: in overcoming difficulties, finding adequate decisions, in choosing irregular ways of actions, in realizing control over the system of actions. A person doesn't come to this world with selfness; he acquires selfness while developing an inborn disposition to language acquisition. Only language enables a person to see himself in his imaginations as an object, evaluate himself and react to reflexes. Both in phylogenesis and in ontogenesis selfness develops in parallel with language acquisition and an ability to operate with ideal objects..." (8, 112)

According to the theory of the German philosopher J. Habermas a determinative technique in establishing a balance between social identity and personal identity is language (4, 32).

V. Hesley calls the determinative component in identity the preservation of an object in time (5, 114). This opinion is shared by E. Husserl. "Observations over 'one's own I' cannot be included in observations over other subjects. We cannot say that mental condition is positioned in space. Time is a substantial characteristic. Temporal and non-spatial nature of conscience breeds specific principles. While real identity of a physical object presupposes a continuous existence of his inner

structure, identity of a mental act is based on other conditions... A mental act doesn't take place in space, it can extend its existence only in another mental act" (3, 18).

Problems of ethnicity as a whole and of ethnic identity have been studied by a great number of researchers. At the same time it should be mentioned that all these works are characterized by a variety of theoretical concepts, methodological approaches and logical schemes.

In social and philosophic sciences there are three fundamental theoretical approaches to studying ethnicity and ethnic identity: primordialism, constructivism and instrumentalism.

Representatives of primordialism examine and scrutinize ethnicity as an objective fact, in some way an initial (primordial) characteristics of mankind (for example, P. van de Berge, K. Girts, E. Shills, A. Smith, and others). The essence of the theory is in the fact that 'ethnicity' is a fundamental category of a person as of a social and even biological creature. From the point of view of primordialism ethnicity is first of all a cultural community shared by its members and having objective characteristic features: territory, language, economy, race type, religion, worldview and even mental make-up.

An instrumental school appeared in the 70s of the last century. Its fundamental thesis is the determining role of social interests in the formation of ethnicity (D. Khorovits, A. Koan, R. Brubaker and others). Instrumentalists were above all looking for reasons which give rise to ethnicity and make it an important social factor. From their point of view ethnicity is a new social construction and doesn't have any cultural roots. Those cultural features which it uses as ethnic symbols don't have any organic origins, they are somehow snatched out or withdrawn from culture and are nothing more than just signs of ethnic solidarity.

During the same years one more school was being formed – constructivism. The basic distinctive features of this approach – ethnos and other substances associated with them – are regarded as ideal models, constructions which are created by political elite in order to achieve some purposes (F. Bart, E. Gellner, B. Anderson, A. Hobsbaum and others).

In this work we define language as a fundamental component of ethnic identity.

As scientists assert, in the process of identification of ethnic-cultural norms the greatest importance is given to language which being one of the factors of general ethnic identity is reflected in it as cultural ideas of an ethnic language (2, 300).

Sharing the opinion of the Finn scientist S. Iskanius we understand linguistic identity as a process of comparing a mother language with a language of an ethnic majority and with speakers of a native nationality (6, 32).

Making use of a rather rich theoretical basis of the research we are trying to analyze the process of the formation of ethnic-linguistic identity of repatriates that live or belong to Kazakhstan.

It is common knowledge that since 1993 the Republic of Kazakhstan has been taking great pains and doing a lot of work

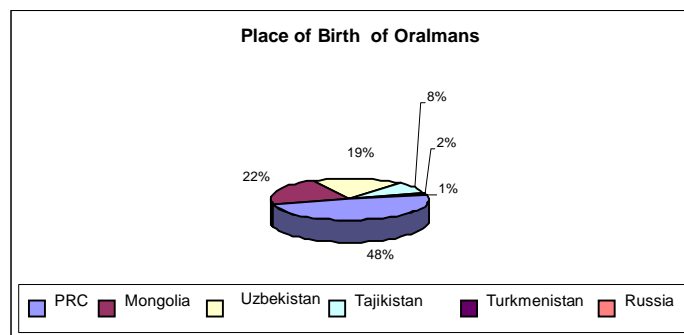
in order to return ethnic Kazakhs to their historical motherland. As of today the number of repatriates makes up around a million of people and is an essential “influential force” in a multinational country with sixteen million people. That is why we think that there is a long-felt need to hold research into the ethnic-linguistic identification of repatriates of Kazakhstan. Here we have a purpose – to reveal problems, propositions and recommendations for eliminating drawbacks or introducing changes into the policy of the state.

We have conducted a social-linguistic experiment among oralmans which was made up of the following phases:

1. Holding or conducting a social-linguistic survey (questionnaire poll, interview);
2. Writing “ethnic autobiographies” by repatriates devoted to the theme “Who am I?”

The age of repatriates was from 17 to 25 (According to E. Erickson’s theory, these are fifth and sixth stages of development – “identity crisis” and “a formed psychic-social identity”). Level of education is secondary. Place of birth of repatriates is shown in Diagram 1.

Diagram 1



In accordance with Diagram 1 the greatest part of repatriates returned to their motherland Kazakhstan from China (48%), Mongolia (22%), Uzbekistan (19%), Tajikistan (8%).

Place of birth plays an important role in the analysis of ethnic-linguistic identity of repatriates at the initial stage. It is significant from the point of view of linguistic policy of states towards national

minorities, the role of Kazakhstan in the development and support of Kazakh diasporas and the state language outside the Republic.

Thus in Uzbekistan there are 522 schools where teaching is held in the Kazakh language; 234 schools of them are Kazakh proper, the rest are mixed or co-educational. It means that the Kazakh diaspora has all opportunities to choose a language of education and teaching.

The greater part of the Kazakh diaspora of China speaks Kazakh in their everyday life and uses written language based on Arabic graphics. The majority of Chinese Kazakh citizens know the basic dialect of the Chinese language, and many village residents know Chinese as well. The major part of Kazakhs of China profess Islam. The assimilation which is taking place between Chinese people and Khan people is accompanied by replacement of religious beliefs for atheistic or Buddhist denominations. In all institutions of higher education of China classes are given in Chinese, which is why a lot of Chinese Kazakhs choose so that their children can get higher education from institutions of higher education of Kazakhstan.

The government of China is trying to turn all national minorities into «Zhunguo zhemin» and by this people are torn away from their mother language and religion. The situation of the Kazakh diaspora is very complicated and full of conflicts. In the Internet resources there are now addresses of representatives of the young generation of Kazakh nationality who live in China to our President N. Nazarbayev. Young people write about the fact that the Kazakh diaspora in China is the most educated compared with other national minorities. It has also completely preserved its originality and uniqueness – the native language, customs and traditions. But recently we have been witnessing a reverse process – the language policy of China has its own course during which

the greater part of young people found themselves unemployed. We can see another sorrowful fact that nowadays city Kazakhs one and all choose for their children schools with Chinese language of teaching and thus next generations are deprived of their roots. The case with country people is no better – these people can see and understand that even with higher education their children won't probably get a regular job they simply stop educating their children after secondary school and in this way they choose a living death for themselves. The continuation of the things said above makes the future of Kazakhs in China vague and uncertain of whether there is a future at all.

In Mongolia there are Kazakh schools in a small number, the Kazakh language is chiefly taught to children in their families and at home. In places of disperse settlement of Kazakhs there is a partial mongolization observed. Kazakhs of Mongolia generally profess Islam of Sunit sense. However those Kazakhs who have been assimilated with the native Mongolian population profess Buddhism (as well as Tuvints).

Experts also write about the fact that Kazakh intellectuals who live and reside in Mongolia are trying to preserve customs and traditions of Mongolian Kazakhs who have practically no spiritual connection with their motherland in particular due to the lack of periodicals from Kazakhstan. There are problems with Kazakh primary, secondary, infant and nursery schools.

Kazakhs in Tajikistan as well as Kazakhs who live and reside in other adjacent states of the region start getting assimilated with the local population and losing their roots and origins. In Tajikistan there is no opportunity for Kazakhs to receive higher education in their own mother language. In the past Kazakhs lived near to each other and they were more compact. Nowadays they have changed it and now live by 5-15 families in various villages of

Tajikistan. Due to this reason there is now a chance to open a Kazakh school. Kazakh children go to a Tajik, Russian or Uzbek school.

Starting from the next year teaching in secondary schools of Turkmenistan will be done only in the Turkmen language. The Government of Turkmenistan has made a decision to put into effect practice of “bilingual” school starting from the next year (for example, Russian-Turkmen, Turkmen-Uzbek, Turkmen-Kazakh). These schools are very scarce in their number – around only 20 round the whole country. In “bilingual” schools the introduction of the state language was gradual but not forceful. In institutions of higher education teaching is carried out only in the Turkmen language where there are a lot of restrictions of opportunities for students whose mother language is different from that of local. In “bilingual” schools the number of hours of teaching national languages has been steadily decreasing for a long period of time already. An only exception is Turkish schools financed by the Government of Turkey where the basic language of instruction is Turkish but there are also English and Turkmen languages taught there. Representatives of the Kazakh diaspora state that the situation has become even worse as now ethnic Kazakh schools are deprived of the right to teach their children in their own mother language and to preserve ethnic originality. Besides all schoolboys no matter what their nationality or religion is have to attend school in a Turkmen national cap

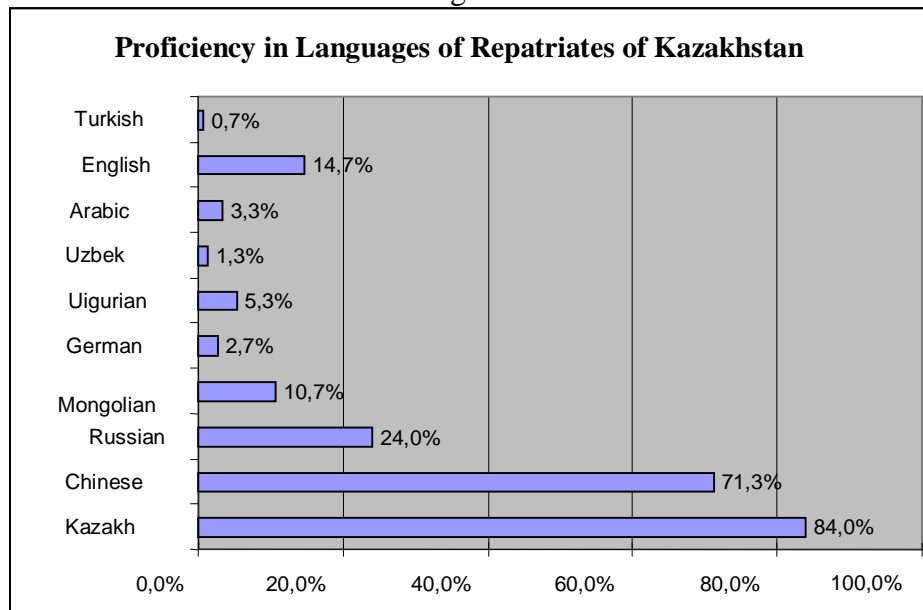
(which is called “takhiya” in Turkmen language) and schoolgirls have to wear a dress with national embroidery and study “Rukhnam” which is a manual of norms of Turkmen people written by the President Saparmurat Niyazov.

There are around 30 thousand ethnic Kazakhs who live and reside in Turkmenistan. These Kazakhs as well as Turkmen people are Turkic Muslim – and in the past nomad – people. They differ from Turkmen people in their language, history and traditions. A few years ago the Kazakh diaspora in Turkmenistan numbered up to 90 thousand people.

Therefore the formation of Kazakh identity of linguistic as well as ethnic repatriates occurs in different ways depending on their place of birth and residence. It also depends on linguistic as well as extralinguistic factors. Linguistic and social-economic situation in states where the Kazakh diaspora live and reside the work of state bodies of Kazakhstan concerning ethnic Kazakhs in the near and far abroad – all these make up a number of factors. We can refer to the use of writing based on Cyrillic alphabet, Roman alphabet, Arabic graphics in one or another region as linguistic proper factors.

One more important sign which in our view influences the ethnic-linguistic identification of repatriates is proficiency in languages. According to Diagram 2 oralmen speak Kazakh language (84 %), (84%), Chinese language (71,3%), Russian language (24%), English language (14,7%), Mongolian language (10,7%).

Diagram 2



The analysis shows that the majority of ethnic Kazakhs to a sufficient degree know the state language – Kazakh language, repatriates from China to a deficient degree know written standards of the Kazakh language based on Cyrillic alphabet due to the use of Arabic graphics in China. This circumstance makes the process of reading literature in Kazakh even more difficult and of course hampers any successful adaptation of repatriates from China. As experts say “Kazakhs that live and reside in China and Mongolia write using Arabic graphics. In Kazakhstan since 1928 Kazakhs have been using Cyrillic alphabet. As a result ethnic Kazakhs do not know the writing in their mother language, they now have problems while receiving their documents” (Makhmudova Sholpan, www.easttime.ru).

We find it interesting that many oralmen from Mongolia and China do not as well know either Mongolian or Chinese language. This can be explained by the attempt of ethnic groups to preserve their own culture, language and traditions abroad choosing Kazakh speaking schools for their children of there are any and using their mother language in everyday life.

As we have already said before it is

very difficult for ethnic Kazakhs to preserve ethnic and linguistic identity which happens due to the national policies of these countries. It is common knowledge that in a number of states there is a chauvinist attitude of a certain layer of local population to ethnic national minorities. As the survey has known many ethnic Kazakhs have to face the problem when their rights and freedoms to choose language, religion, etc. are restricted. In Diagram 3 we can see the fact that among oralmen 46 % of respondents have witness and experiences cases of nationalism in the countries where they had lived and resided before they became repatriates. First of all it is related to the lack of conditions to get education in the Kazakh language, great difficulties in obtaining information from the Internet and mass media in their mother language.

Thus a respondent who has arrived from Turkmenistan says: “I have had everything in Turkmenistan: a house, a decent piece of land of about half a hectare, two camels, five cows, and I never counted my chickens and turkeys. With local people who were just as simple as we were, we went on quite well. We have never had any conflict situation in our everyday life.

We enjoyed our life as it was, we had bread, meat, milk, vegetables, melons and watermelons. I would never have left this country but only for my children. There were no prospects in Turkmenistan for them. All Kazakh-speaking schools had been closed up including one in Yzmyk-

shir. Kazakh, Uzbek and Russian children were forced to study Rukhnam, to wear Turkmen national clothes, and those who were not Turkmen in their nationality were being driven out of state bodies and law enforcement agencies.

Diagram 3



The analysis of the situation shows that oralman now have a greater interest in preserving and developing traditions and cultures of the Kazakh people; while speak they prefer to do it in their mother tongue – Kazakh. In their “ethnic autobiographies repatriates write that “in their sole, body and thought” they are Kazakhs.

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CONCEPTUALIZATION AS A WAY OF REPRODUCING ETHNO-CULTURAL COGNITION

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At present the problem of representation of reality as the linguistic picture of the world and national-cultural concepts is more definitely concerned with the problem of systematization of semantic units, which is stipulated by the recognition of fundamental properties of the human language – anthropocentrism and systemacy and the need to take them into account as fundamental principles of its description. In this concern the attention to the problem of conceptualization and discretization of the world is becoming more aroused in the way it is represented by means of natural language; there is also a quest going for special and peculiar features of conceptualization of objects which are defined by trivial ideas of people; there are also ideas said about the variety of pictures of the world in spatial-temporal extend; there are attempts being made to describe an individual linguistic picture of an individual and “a collective linguistic personality” (U.D. Apressyan, G.A. Brutyan, A. Vezhbitskaya, U.N. Karaulov, G.A. Klimov, E.N. Krasilnikova, L.P. Kryssin, V.V. Kolesov, E.S. Kubryakova, V.I. Postovalova, B.A. Serebrennikov, N.I. Sukalenko, Z.K. Tarlanov, V.N. Teliya, A.A. Uphimtseva, E.S. Yakovleva, etc.).

There is an increase in the number of articles devoted the cognitive aspects of the language, to mechanisms of the formation of meaning related to cognitive activity of the human being – and it is natural as meaning and knowledge in ontology reveal an indissoluble connection. A significant role in this is given to the study of how namely a human being perceives and conceptualizes reality, which factors of objective and subjective orders have a conclusive importance in the formation of the picture of the world of a certain eth-

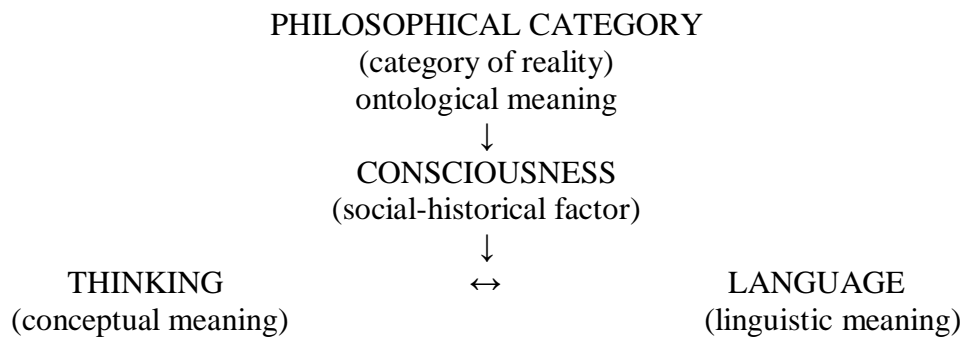
nos. But on the whole, as researchers mention, there is just starting to form itself a kind of cognition of conceptualization as some “through” process for various forms of cognitive activity in structuralizing knowledge in accordance with a range of characteristic syntactical and semantic norms. That is why there are insufficiently elaborated researchers which would explicit both correlation of concepts with such cognitive factors as category and presentation, image and idea as well as their mutual relation to the process of conceptualization. There is also lack of a well-elaborated system of ideas (to say nothing of the theory), process of conceptualization (3; p.3).

Issues we have touched upon in our article arise first of all due to interpretation of linguistic data proper, and still the notion of conceptualization of the world cannot be full without necessary information and beyond linguistics. That is why at the modern stage of the research of linguistic phenomena we cannot avoid mentioning an evident involvement of boundary fields of human knowledge into the circle of interests of a linguist and researcher. For the solution of topical issues which arise before modern linguistics it is urgent to discuss a number of theoretical problems, and at least a part of these issues still remains unsolved in the framework of linguistics, psycholinguistics, culturology, etc, which are studied on their own account that is as separate sciences. Thus the problem of interrelations of language and most compound categories of cognition, thinking, perception of the world and world outlook, mentality of a nation, psychology of culture without any doubt must be attributed to the category of namely such issues which must be solved in complex.

Without going into deep detail of this problem, in our article we have made an attempt to describe the problem which being in the rank of such topical directions for modern linguistics as ethnic linguistics, linguistic culturology and cognitive linguistics, it all the same remains being a problem which has not been given enough attention by linguists and researchers. We mean comparison of ways of generalizing human experience (conceptualization) which hides itself in linguistic signs, particularly in adjectives of color of various languages.

Notions about the surrounding world of a human being are formed on the basis of processes of conceptualization and categorization which have both verbal and

nonverbal nature. That is why the process of cognition by the human being of the surrounding world consists in “the development of his abilities to orientate himself in the widest meaning of this word in the world of concepts, about the object of cognition as a process of building up information about them. This information concerning the topical or possible situation of things in the world... is that which we call “meaning” or “concept” (1; p.102). It is possible to understand or master concept if only we study “integral structure of organizing linguistic phenomena as a conceptual picture of the world of a language speaker” (the same source; 240). For a visual illustration of this thesis we suggest the following scheme.



The scheme given above defines natural laws of conceptual organization of meaningful spaces as a basic form of representing knowledge in a linguistic code designated in cognitive linguistics as a process of conceptualization. Summing up already existing views upon this approach, U.D. Apressyan singles out basic regulations of conceptualization of linguistic phenomena:

1. Each natural language reflects a certain way of perception and organization (=conceptualization) of the world. Meanings represented in it are assembled in a single system of viewpoints, which can be called in a way a kind of collective philosophy which is imposed as compulsory for all speakers of the language.
2. The way of reality conceptualiza-

tion (view of the world) which is characteristic of a language is partially universal, and partially nationally specific, so speakers of various languages can see the world in somehow different ways, in the light of their own languages.

3. On the other hand, it is “naïve” in the sense that in many essential details it is different from the scientific picture of the world. At the same time naïve notions are not at all primitive. In many cases they are no less compound and interesting than scientific ones (1; p.350).

In the world of the language there are two kinds of conceptualization (and categorization): initial and secondary. Through initial process we can show signs and properties of the real world, and secondary ones include signs of a certain lan-

guage. The process of initial conceptualization is realized in the logical basis. That is why during any variation of linguistic worlds they preserve a unity of real world and it gives an opportunity, for example, for an adequate translation from one language into another. Secondary conceptualization is stipulated of the world of language and very often its results are very difficult to explain from their logical basis.

Differences in perception and conceptualization of the world of linguistic means in various languages can turn out to be quite considerable notwithstanding their affinity. In other words, in various languages pictures of the world can have their own peculiarities. According to A.V. Kravchenko, it is stipulated by the following: “designated function of linguistic signs appears not due to any direct correlation with the outer world but due to correlation with human experience which is the basis of knowledge. Differences in experience lead to differences in knowledge, and thus to different pictures of the world. “Consequently, – the author states, – study of the linguistic picture of the world must make a start from defining types of knowledge given in language, sources and ways of representing it in linguistic forms, so it is necessary to hold a detailed study of laws and mechanisms of linguistic categorization” (5; 61).

The way how one or another outlook of the world is represented in language is directly related to physiology and psychology of perception. Thus, on the one hand, as A.V. Kravchenko states, perception, segmentation and conceptualization of the world are reproduced in existence of universal conceptual categories which are typical of various languages. “These categories reflect that which we see” (the same source; p. 62). Here we are speaking of perception as a psycho-physiological process of “an objective nature”. At this stage of consciousness a component which forms the national linguistic view of the

world is a sensory-receptive component which is responsible for perception and conceptualization of informs sense perception. Lexicalization of any of existing types of sensibilities (color, taste, sound) will conform one and the same thing: similar outer influences upon organs of sense of a human will in general be the same, will in the same way be perceived by brain at neuro-physiological level and then through the stage of categorization they will turn into national-specific concepts of perception which will be given new names in language which means they will be lexicalized. That is why in every language there is a system of specific concepts which is typical of only this certain language. Such notions reflect the way we see the world. In this way we mean a subjectified process of imposing conceptual structures upon objects and relations of reality which are being perceived at the moment. The logical-conceptual component of linguistic consciousness in a rather greater way that sensory-receptive influences the national singularity of verbalization of spatial-temporal continuum as namely it is responsible for conceptualization of discreet outer environment as a result of which the informational flow which is perceived by sensory-receptive components of consciousness turns into a combination of so-called informational condensations (or informs) which then become concepts of national linguistic consciousness as soon as they are given an adequate name. One and the same component of informational continuum can be divided by thy logical-conceptual component of various linguistic consciousnesses in quite different ways (4; p.183).

Revelation of ways of discretization and conceptualization of reality represents by itself a complex linguistic operation which demands, on the one hand, taking into account the formation of some semantic space – ideal matter, created by the human of “secondary reality”, and on the

other hand – using semantic units (linguistic and speech facts) as material for defining the character and ways of representing the world through signs. The notion of ideal matter is related to the stock of meanings which appears in the result of practical and intellectual activity of subjects, emotional perception of some part of reality and which represents by itself complex social experience of people. Stocks of meanings accumulated by people in the process of cognition and mastering the world have their independent reality but in their manifestation they appear as invariably related to materiality of a different nature – with a surrounding world and sign system (6; p. 38).

While studying conceptual spheres of one or another category (spatial, time, color) which is fixed in consciousness by a word or word group, we think it necessary to understand how and why there happen changes in meanings of a certain word, the way they are interconnected and the way they form a mutual concept; if new meanings expressed by the word are occasional or natural and what influence they produce upon the concept as a whole. “In the natural language – linguists T.V. Bulygina and A.D. Shmelev write, – extra-linguistic reality represents a world borrowed from the interpretation of its people together with their attitudes to each other. And in this meaning the “ontology” of phenomena, as it is represented by the language, is defined by the way how people of this language conceptualize non-linguistic activity; on the other hand, any cobwebs are possible only on the background of a certain assigned way of linguistic conceptualization of the world” (2; p.7). That is why, developing the idea that one of the main functions of a language consists in translation of meaning which represents the basic measure of human existence and consciousness, researchers ask the same question what exactly defines the way of linguistic conceptualization.

The national image of the life of people forms first of all natural conditions, fauna and flora surrounding it. Nature stipulates the kind of labor of people (crafts and trades), customs and traditions of society. And in the process of practical reality nations work out their own moral categories in understanding the role and place of humans in the world (attitude to labor, interrelations in society, in family, ideas of good and evil, beauty, truth, etc.).

As it was shown in our research of the conceptual contents of color adjectives in the Kazakh language, in the process of conceptualization of the following categories there have been involved quite different in their essence layers of national consciousness (from subconscious to national psychology), world outlook, various types of knowledge (from mythic, sacral to domestic). Color is one of the constants of culture which can serve as a peculiar model of its development and which can reproduce and reflect ways of formation, mastering, consolidation in cultural memory of not only common but nationally colored culturally important concepts. A lot of phenomena of culture cannot be understood without taking into consideration semantics of color. It plays one of the most important and pivotal categories of culture which registers unique information about the color of the surrounding nature, originality of the historical way of people, interactions of various ethnic traditions, peculiarities of the imagery view of the world. As an unchangeable component of culture, color becomes overgrown with a certain system of associations, semantic meanings, interpretations, and it becomes an embodiment of various moral and aesthetic values.

Color in culture is not only another objective reality of emotions, but as emotionality rich with various associations which are fixed in linguistic and social-cultural practice. Color in its “laid-up” type expresses the attitude of people to

phenomena of the surrounding and own nature. It becomes a kind of substantive first element of culture due to which we can define and describe objects, social establishments, moral and aesthetic notions. Axiological aspect of color becomes evident when it “correlates with a certain subject contents as a result of stable meaningful associations which express important for people values of both biological and social essence as well as those reproduced in the form of spiritual experience”.

Per se, view of color is an unusual fanciful combination which reflects spatial-temporal, cultural, historical environment where Kazakh people and Kazakh language live and speak. That is why we find it interesting and perspective to compare and find any similarities and differences, conceptualization of basic colors, at least of two languages – Kazakh and Russian.

Thus, as we see it, there are substantial grounds to suppose that conceptualization of color in Kazakh (wider – Turkic) and Russian (Slavic) linguistic model of the world has differences which touch upon the deepest layers of consciousness and which reflect national culturally stipulated peculiarities.

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SPECIFICS OF RISK MANAGEMENT OF INDUSTRIAL INVESTMENT PROJECTS

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A consistent transition of the economy of Kazakhstan onto a path of innovational development is determined by a set of internal and external factors and circumstances.

First of all, integration into a global economy requires increase of its competitive capacity which assumes the necessity for innovation in all spheres and directions of development of economic activity. The world economic experience proves that economic and social prosperity of a country can be achieved through innovational development which in turn discovers new ways of manufacturing goods, new fields, new goods and exporters.

Second, transition of the economy from a recovery stage to more extensive growth means accumulation of real opportunities in its potential for a global application of innovations.

Third, the presence of locations and hubs of innovational development in the structure of the national economy (major regional, sub regional and transnational corporations which are competitive in the world market) turns out to be a powerful platform for engaging small and mid businesses into the sphere of their innovative activity. It also favors the propagation of their accumulated positive experience of innovation development and application into other sectors of economy and regions.

Thereupon, the recognition and activation of the innovational-investment potential of key agents of the economy of Kazakhstan becomes relevant. Such industrial enterprises focus on the development of mechanisms and managerial technologies of their strategies of development in agreement with the plans of the national economy. Scientific and technological advance and economic development accel-

eration in general are directly connected with competitive industrial enterprises in domestic and world markets, their innovation potential and resources to implement innovations, flexibility of intraproductive policy, ability to respond to market changes, and their ability to quickly and actively adapt to new environment.

The practice of the functioning of industrial enterprises proves that effective mass introduction of innovational technologies may have a huge social, economic, demographic, ecological and other impacts since it stimulates people to rehabilitate and get back to active labor and social activities. At the same time, monitoring of this process is not always conducted optimally. These difficulties specifically relate to enterprises that are constricted with investment opportunities which lead to a lack of investment resources for the introduction of innovational activity.

Nowadays, with the presence of the problem of restructurization of not only corporate businesses, but also small and mid businesses, the problem of development under conditions of high level of uncertainty arises when both quantitative financial, economical factors and qualitative factors' impact are being considered (1, p.27). It is the question of the necessity of risk factors assessment which should be considered in investment projects realization.

Specifics of risk management of enterprise investment projects in Kazakhstan defines the uniqueness of projects developed by industrial enterprises and a third person within the branch sector. Investment project is not an incomplete complex of components (purposes, resources, events etc) because according to a chosen

way of this project organization it may possess different characteristics. For example, inefficient consistency of events may lead to an increased period of realization i.e change of one of its most important characteristics.

Taking into account current conditions and tendencies of the economy development of Kazakhstan as a whole and industrial economy, in particular, the risk management part becomes the key component in making forecasts in developing mechanisms of protection from unfavorable consequences that come with realization of investment projects.

Risks of economic environment are the most difficult in investment projects management. Their influence becomes significant mostly at the stage of project realization, although should be taken into consideration at other stages as well (for instance, during risk assessment). Due to this, application of complex approaches to risk management of investment projects within unstable conditions of domestic industry development leads to a necessity of working mechanism and risk management activization of different levels of their regulation and control.

In contrast to other types of risks which may be avoided by a single use of such methods as insurance, guarantees, etc, economic risks require consistent analysis on all stages of investment projects realization and introduction of necessary correcting methods into the system of risk management as the need for significant changes arises. Application of static methods of management does not take into consideration changes which appear constantly and lead to negative consequences for investment projects of industrial enterprises.

Goals, resources, forms and methods of risk management consider a small portion of aspects and directions, do not examine current tendencies of domestic economy which are characterized by a

significant increase of risk and undefined way of development due to changes in the world economy.

Despite of a diversity of kinds of investment projects, specifics of investment requirements of industry define a different level of urgency of some kinds of investment projects under current conditions. Besides, investment projects are differentiated by the level of risk sustainability. Due to this problem, there appeared a necessity of defining those types of projects which on the one hand mostly correspond to specifics of a contemporary level of enterprise working development, and on the other hand are most likely to become subjects to different risk types, i.e. require application of special management strategies.

A distinct character of practically all investment projects of the enterprise is a high risk level (See pic. 1). More than that, tendencies of development of leading sectors of industry which are characterized by intensifying innovational activity define displacement innovational priorities into an area of projects with high level of risk intensity.

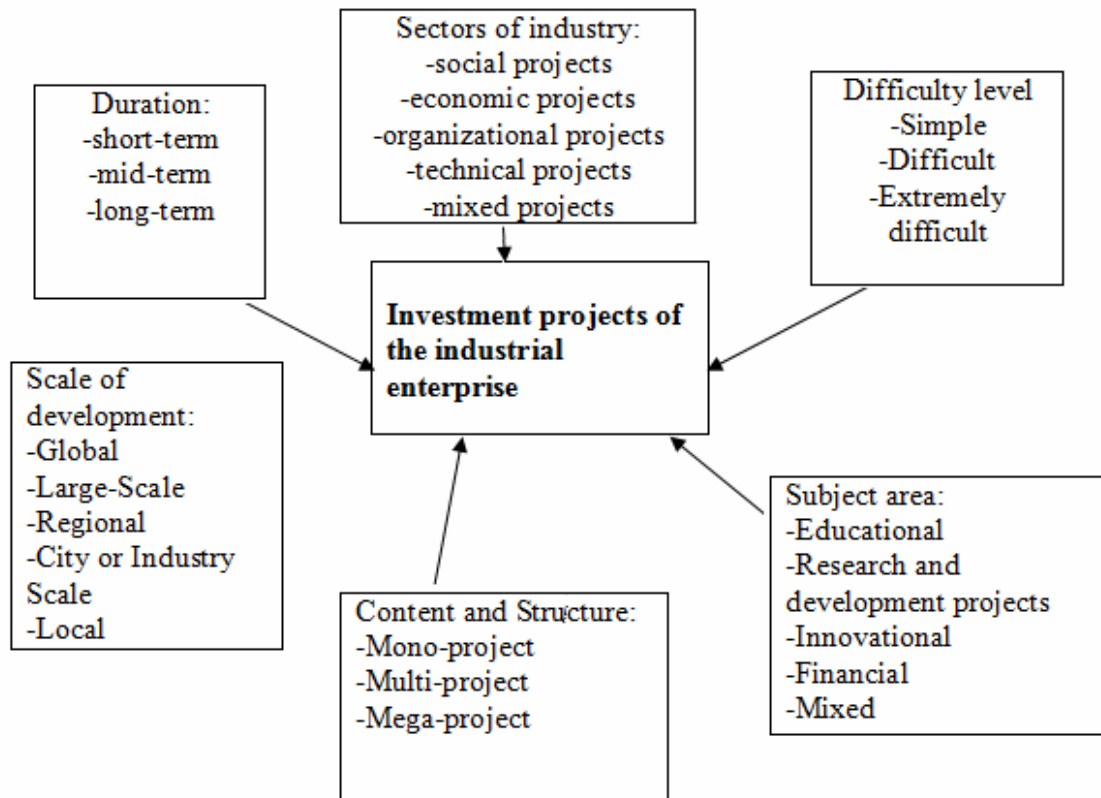
Mentioned conditions caused the essence of application of protection mechanisms from risks during investment projects realization. Taking into consideration the fact that the effective risk-management is based on understanding the essence of risks and application of analytical procedures that guarantee high level of forecasts reliability, the article provides the results of a research made by an author, i.e there have been emphasized those risks which cause the development of investment projects of industrial enterprises of the Republic of Kazakhstan.

Depending on sources of risks of projects it has been suggested to divide them into the following categories: technological risk, market and operational risk, financial risk, risk of political and regulation instability, legislative and lawful

right, ecological risk, risk of conditions of insuperable force effect (2, p. 185).

Considering tendencies of development of the domestic economy in general and industry in particular this group of

risks plays a key role in forecasting and development of protection mechanisms from unfavorable consequences of investment projects realization.



Direction (general purpose):
 - Projects focused on technological and technical renovation of equipment, fixed assets replacement, modernization of equipment for quality and efficiency improvement of produced goods and production;

- Projects directed to increase the volume of production and nomenclature of produced goods for a better demand satisfaction, market expansion, increase of revenues;
 - Projects directed to goods and services penetrating market, creating new market segments.

Picture 1 - Classification of investment projects

In most cases investment projects of current industrial enterprises have to do with modernization of production processes and due to those following types of projects should be considered: transition to less cost inducing technologies, replacement of depreciated equipment, production of goods new to the enterprise, staff training. However, these investment projects are not alternative in a classic way - for instance, production of goods news to the enterprise will most likely be followed

by equipment replacement and switch to other technologies; staff training will have to follow each of mentioned directions. Therefore, it is better not to mention alternative projects, rather alternative directions of investments - it is unlikely for a full investment to happen in all directions at once due to scarce resources.

Major tendencies of risk management of investment projects include the following.

First of all, reduction of a life cycle

of innovations due to acceleration and strong dynamics of scientific-technical progress, adds creativity to activities of many managers, which deals with risks since a creative process is characterized by specifics of introduction of innovations into practical life.

Second, work activity of both managers and staff workers has been obtaining more and more entrepreneur traits. This causes unclearness and uncertainty in getting an expected final result, and therefore, the level of risk increases, since market - is a strong system which requires one to be physically and intellectually strong.

Third, due to transformation of economy enterprises found to be in a very unfavorable situation due to a long period of stagnation in renewal of major funds. Financial position of enterprises aggravated due to balancing beyond the point of make-out, ignorance of the need for serious marketing researches for support of production of new products.

Fourthly, presence of current global problems raises a question of essence of a global risk of investment projects. Here we may include a risk of business globalization both globally and inland. The consequence of this is the loss of control over strategic directions of development.

Research on current trends of risk management of investment projects of enterprises showed the following: only the combination of different techniques and approaches to risk management will lead to successful accomplishment of investment projects with a nominally high level of risk and receive an income not lower than predicted.

Procedures of mechanism formation of organization of interaction of major participants of investment projects in their risk management consist in a consistent accomplishment of the following procedures:

1. Setting a goal which should be accomplished as a result of a research

made using a reason-consequence method (for instance, assessment of efficiency of interaction of major participants of investment projects can be a goal)

2. Development of criteria which describe the examined category in the best way. For instance, this might be the assessment of the final status of major participants of the investment project, competitiveness and efficiency of the object for investment for the enterprise. After that, we can graphically show the initial version of a diagram "Reason - consequence".

3. Further it is recommended to apply the "brain attack" method, during which experts suggest choices of second level criteria.

The expert assessment of criteria, removal of criteria that were not supported by the majority of experts, classification of approved ones which influence the efficiency of major participants of investment projects interaction in their risk management the most represent procedures of the next step.

This way, this mechanism of major participants of investment projects interaction in their risk management can be used for project assessment when risks and uncertainty are present. This suggestion should be used as one of the existing methods of investment strategy realization. Major directions of this strategy realization include increase of competitiveness and stability of the enterprise activity due to the use of new science intensive and resource-saving technologies, producing new goods and services with a paying capacity demand, development of industry diversification, etc.

A specific trait of government regulation and control of investment activity of the enterprise for a higher efficiency of project risk management is a transition from distribution of budget allocation between branches and regions to selective financing of objects thus forming the

structure of objects on the basis of competition.

During the research process there have been distinguished *types of enterprise behaviors depending on structure and use of its risk management system*:

1) Active risk management type which determines the accumulation of reliable resources on a current investment activity status and certain ways which minimize the loss of risk and stabilize the enterprise profitability.

2) Reactive risk management type which is characterized by the delay of reaction of management with the start of rational activation on preventing risks. Usually, in this case the loss will be greater than with active risk management and accordingly will demand a better investment guarantee for financing instruments of risk project localization.

3) Planned risk management type uses non-extra polar forecast of technologies, structural changes and scenarios of possible deviation exposures development. Forecast results provide with information which helps the enterprise to finish the activity until possible threat can cause damage. This type of risk management is preferable for industrial enterprises and should be considered when choosing the system of risk management.

The system of risk management is formed according to hierarchical principle. The process of risk management operates on two subordinate levels - executive and coordinative. On the executive level two major functions are being performed: first of all, consistent control of risk level emerging during the process of investment risks realization which is related to decision making on all levels and correction of strategy development of the enterprise. Functions of executive level guarantee performance of certain risk analysis procedures during realization of accepted decisions on investment strategy realization and creating conditions for a long-term

enterprise development in terms of a risk management system application as well as during making new important decisions.

The core of a risk management system is a "risk management service" which fulfills the planning and organization in terms of localization and forecasting of investment activities' risks of the enterprise.

The risk management system does the following:

- Maintenance of interconnection between the management of the enterprise and other structures;

- Defines the periodicity of conducting checkups of the enterprise operation risk control;

- Defines the structure of checkups of a control and management cycle (defining the "type" of risk analysis, ways of securing results);

- Defines a start point of a trial solution risk analysis checkups;

- Organizes interconnection of executive and informational groups of the enterprise.

Modeling of risk situations and formation of effective risk management of investment projects technologies should be based on methods of existing economical-mathematical apparatus of mathematical modeling, analysis of theoretical and methodological developments on risk issues, application of logical and comparative analysis principles, experimental and actual calculations' results of investment activities of industrial enterprises (3.p. 206).

The major criteria of risk situations modeling and development of effective risk management technologies is its efficiency in goal accomplishment - potential loss minimization. Therefore development of risk situation model is based on the main point of "investment project risk", which proposes us to two major categories:

- Potential loss minimization which

happens due to risk event (for instance, when choosing alternative investment projects with different risk level that has to do with a different level of instability of project environment);

- Susceptibility of enterprise risk events (for instance, investment stability decrease).

It is not recommended for industrial enterprises to use five major technologies of effective risk management and take into account five major foundations which would let them find the most optimal way of modeling risk situations and effective risk management approaches (see table below).

Table - Foundations and technologies of risk situations modeling and effective risk management technologies formation

Foundations	Technologies
The complex of all factors which influence explanations and choices of decision making	Based on refusal from high-risk projects, search for new guarantees
Systematic unity of methodological foundations of an aggregate of chosen methods and decision making models considering risk level; role assessment of each of them in final results achievement. A choice of alternative methods of risk assessment of investment projects according to methodology of risk management process should not only explain chosen models which assist in alternative decision making, but also determine the influence of each of them on the investment potential of the enterprise.	Based on collaboration with specialized structures, development of new units for new high-risk projects accomplishment.
Modularity of development of information technologies tools. For every alternative decision there is an imitational model which is formed from a given aggregate of basic standard mathematical, heuristic modules and corresponding relationships between them. This helps form a derivative model depending on a decision making goal and level of environment stability of the industrial enterprise. Application of module principle helps form a dynamic developing imitational foundation of the investment process.	Based on diversification of management zones, investment diversification, and distribution of the investment risk in time.
Compatibility, i.e. presence of the unity of informational, mathematical, linguistic, program and technical compatibility on all levels of the enterprise situation's risk model choice and explanation	Based on the system of goal-oriented monitoring and marketing
Invariance and simplicity of application which assume universality of models and methods for solving problems of the same type when choosing and explaining solutions taking into account investment projects' risks of the industrial enterprise	Based on insurance of separate parameters of investment activity

Combination of different ways of each management decision assessment will favor the choice of the most effective way of protection from potential losses having the least expenses. This positively

affects the productivity and effectiveness of economic activity of the enterprise in general.

Approaches to risk management of investment projects mentioned in this arti-

cle are developed to guarantee a reasonable goal setting, on-time planning and rational resource maintenance of the enterprise projects oriented for the best final result.

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THEORETICAL BASIS OF THE CONCEPT OF "MOTIVATION"

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It is known that the transition from a command to a market economy requires changes in all spheres of economic activity, mainly the transition to new, more efficient management techniques. Therefore the problem of production organization presents qualitatively new requirements for the process of human resources management.

Everyone is working for something. Some people strive for money, others for fame, some people want power, and others just love their job. These and many other circumstances that encourage people to be active are called motives, and their application is called motivation. Reasons that lead a person to give the work maximum efforts are difficult to define; they are very diverse and complex. What should we do to make people work better and more productive? How can we make work more attractive? What makes a person want to work? These and similar questions are always of interest in any sphere of business. The company's management can develop excellent plans and strategies, install the most modern equipment, use the best technology, but it can be ineffective if its employees do not cope with their responsibilities, strive to achieve development of the company. Mechanical enforcement for labour can not produce positive results.

Effective management is impossible without understanding motives and human needs.

Motive («motif» – driving force, a reason for this or that action) is a set of psychic driving reasons for behavior, action and human activities. In the basis of motives there are needs, interests, aptitudes and beliefs. Motive not only encourages people to act, but also defines in what way that action will be taken. Understanding motives makes it possible to understand motivations driving the subjective reasons that guide people in their actions.

Human behavior is determined not by one motive, but by its totality, in which motives may be in a certain respect for each other in terms of their impact on human behavior. Status of various motivations that lead to human behavior makes the motivational structure. Each person is individual and is characterized by many factors: level of wealth, social status, qualifications, post, values, etc. Motivational structure of the individual has a certain stability. However, it can vary, in particular, deliberately in the process of getting education. Knowing what motives underlie people's actions, we can develop an effective system of forms and methods of people management.

Motivation is at the heart and foun-

dation of human control. Motivation is a process of human exposure in order to encourage them for certain actions by awakening in them of certain motives.

Irritation of the motives arises under attention of incentives («stimulus» – a pointed stick, which was used for hurrying animals in Rome). Incentives serve as a leverage or carrier "irritation, causing the effect of certain motives. As the stimulus argument is that people would like to receive as a result of certain actions. There are 4 basic types of incentives: enforcement, material and moral encouragement and self-esteem. The process of using various incentives to motivate people is called stimulation. Stimulation is fundamentally different from motivation; the essence of this difference lies in the fact that stimulation is one of the methods of motivation. The concept of stimulation is based on the use of incentives such as external influences on a person to coordinate his activities (for example, using of punishment, encouragement, promotions, etc.).

Theory of motivation was actively developed in the twentieth century, though many motives, incentives and requirements had been known since ancient times. Currently, there are several theories of motivation: the original, substantive and procedural [1, 2, 3, 4].

Initial theories of motivation are added based on analysis of historical records of people and the use of simple incentives of enforcement, material and moral incentives. The most famous and widely used so far is the policy of "carrot and stick". "The stick" was most often used and aroused the fear of death or expulsion from the country for failure to comply with the king or a prince, and "carrot" acted as wealth ("half the kingdom") or kinship with the ruler ("princess"). This theory of motivation was widely used in fairy tales and legends.

With regard to the management of

economic activity for the first time the problem of motivation and incentives was posed by Adam Smith, who believed that people are run by selfish motives, permanent and ineradicable tendency of people to improve their financial situation. But Adam Smith meant primarily motivated entrepreneur, and as to the motivation of workers, members of the production process, Adam Smith was not interested in them at all.

This gap was filled by an American theorist F.W Taylor. He claimed: "Coercive force of administrator is the main drive of production and the main motivation to work." Everyone tends to work less and get more, for what an entrepreneur must meet the policy of "pay less and demand more."

Despite the fact that public opinion has shown the inadequacy of the method, some of its provisions are reflected in the motivational model of «X», «Y», «Z». The theory of «X» was originally developed by F. Taylor, and then developed and supplemented by D. McGregor, who added a theory of «Y». Theory «Z» was offered much later, in the 80's by W. Ouchy (model behavior and human motivation).

Each of the theories describes a certain group of employees in enterprises. The "X" theory describes reluctant, poor workers who dislike work. Therefore, it is natural to use financial incentives as the main stimulus for coercion and support. Model of the "Y" theory represents an advanced, creative, active part of society. Incentives of work are reflected in the following order: recognition of the moral and material incentives, coercion. It is obvious that the proportion of these workers is low. Theory «Z» describes a good worker who prefers to work in a group, and has goals for the long term perspective. Incentives to labour of such employees are effective in the following order: financial incentives, moral encouragement, recognition, en-

forcement. Thus, workers, described by «X», «Y», «Z» theories, form a different group of people who are guided by different motives. Initial theories of motivation identified areas for further development of theories of motivation.

Modern theories of motivation can be divided into 2 types: substantive and procedural. The application of this concept is situational, then what is the best motivation for some people is completely unsuitable for others. Content theories of motivation analyze factors that influence motivation. They describe the structure of needs, their content and in what way the requirements relate to human motivation. The best-known theories of motivation of this group are: Maslow's pyramid, the theory of acquired needs by McClelland, ERG theory by Alderfer, the theory of Herzberg's factors.

In accordance with the theory of Maslow's hierarchy of needs, people always have different needs, which can be combined into groups that are in a hierarchical relation to each other. These groups of Maslow needs are presented in the form of a pyramid. The first level is the physiological needs in order to satisfy human basic survival - food, housing, recreation, etc. To do this requires a minimum level of wages and satisfactory working conditions.

The second level is represented by needs of security and confidence in the future, satisfied with wages exceeding the minimum level, which already allows you to purchase an insurance policy to make contributions to the pension fund, as well as through work in a reliable organization to receive certain social benefits. Without satisfying the first and second level, called the primary, there cannot be a normal human life.

At the third level Maslow placed the need for social support from others: the merits of a man belonging to a particular community. To satisfy this need a person

needs participation in group work, team work, attention from the leader, respect from colleagues. The fourth level is formed by needs of self-affirmation, recognition from others. They are satisfied through the acquisition of competencies, gaining credibility, leadership, popularity, receiving public recognition. Finally, the fifth stage of Maslow's hierarchy of needs is the need of people to express themselves, realize their potential. To meet these needs a person should have maximum freedom of creativity, choice of means and methods of solving problems.

There are a number of weaknesses in Maslow's concept. He did not consider the impact of situational factors on the needs, insisted on a rigid sequence in the transition from one level of needs to another just from the bottom-up approach [1, 2, 3].

In some cases, the theory of Maslow is challenged by other supporters of the substantive approach, J. McClelland being among them. He advanced the theory, which shows the external levels of Maslow's needs, and without the hierarchy. McClelland theory of acquired needs describes the requirements that are acquired and developed on the basis of learning and life experience and have a major impact on human behavior. He identifies three types of needs: achievement, participation and dominion. Need for achievement is manifested in the pursuit of human to achieve their goals more effectively. At that the work will only be effective if the goals are achievable and the result is guaranteed. It should also be noted that the goals of the employee are achieved with greater activity.

Need of complicity is manifested in the form of desire for friendly relations with others. People with a high degree of this need wish to receive the endorsement and support from others; they are concerned with what other people think about them. For the successful organization of team members it is necessary to create

conditions that allow them to receive such information.

Need to dominate are seen in the desire to control resources and processes. Individuals with a high level of this need can be divided into 2 groups. The first group comprises those who seek power for power itself. They are attracted by the opportunity to command others, but the interests of the organization for them are often overshadowed and lose their meaning. The second group includes those who seek power for the sake of solving the organizational tasks and the responsible management experience. In this case, the dominion is a means to achieve organizational goals. McClelland believes that of the three needs considered in the concept (achievement, participation and dominion) the need of ruling the second type is of the greatest importance for the success of the business.

A relatively new concept in a meaningful approach to motivation is the theory of ERG Alderfer. In contrast to Maslow's hierarchy of needs he identifies three groups of needs. Firstly, these are existence needs corresponding approximately to the two bottom levels in Maslow's pyramid. Secondly, there are needs of communication, aimed at maintaining contacts, recognition, affirmation, finding support, group security, covering the third, and partially the second and fourth of Maslow's stages. Thirdly, there are needs of growth, manifested in man's desire for recognition and affirmation, mostly equivalent to the two upper steps of the pyramid of Maslow. Like Maslow, Alderfer considers needs as a certain hierarchy, but unlike Maslow he considers it possible to move from one level to another in different directions. In the case of unsatisfied needs top-level increases the degree of demand at a lower level, which tends to focus people on this level. Thus, there is movement both from top to bottom and from bottom to top.

Another concept in the framework of a meaningful approach is the theory of Herzberg's two factors. On the basis of his model Herzberg suggested two "schools" that show the change in the state needs: a school 1 - from satisfaction to no satisfaction, and school 2- from the lack of frustration to frustration.

Herzberg needs themselves can be divided into 2 groups: motivational factors or factors of satisfaction (these are achievement, recognition, responsibility, advancement, opportunity for growth) and "hygiene" factors or factors of working conditions (these are wages, workplace safety, status, rules, regulations and mode of operation, quality control by management, relationships with colleagues and subordinates). According to the theory of Herzberg, better working conditions will not motivate employees, in his opinion for the stimulation people need rewards of recognition, personal and professional growth.

As can be seen, there is no single approach to explain human motivation. Although the theory of Mac-Clelland, Alderfer and Herzberg motivation consider different points of view, they are usually based on Maslow's theory, which gives an idea about the content of motivation [3, 4, 5].

The main drawback of all theories of the content of the concept is that they pay attention to the analysis of the factors explaining the motivation, but do not consider the mechanism of its activity. This shortcoming is overcome by the authors of the process approach. Procedural theories of motivation, consider the dynamics of interaction of different motives. These theories can teach how to construct a process of motivation and how to motivate people to achieve the desired results. There are three basic procedural theory of motivation: V. Vroom, Adams and E. Locke, as well as bringing together all the concept model of the Porter-Lawler.

Vroom Expectancy theory is based on the fact that a person expects to meet its needs, and in accordance with the expected result, plans level of effort. In his concept Vroom attempts to explain why a person makes this or that choice, when faced with multiple possibilities, and how much effort he is prepared to make to get results. People's perceptions about the extent to which their actions lead to certain results are called out. It is determined based on the analysis of the situation, knowledge, experience, intuition, the ability to assess the situation and their possibilities and has a significant effect on the activity of man, and his desire to achieve this goal. Since the expectation is probably a category of its numerical characteristic varies from 0 to 1.

V. Vroom distinguishes the expectations of 2 types:

- expectations of the person that the projected level of effort will lead to achieving the desired result. These expectations are called waiting for the results. In this case, Vroom emphasizes the relationship: labor costs - the results.

- expectations of a fair reward for the achieved level of results. It emphasizes the relationship: results – reward.

In addition, to explain the motivation to work out the theory introduces the concept of valence. Valence is satisfaction or dissatisfaction with compensation, valuation fees. If the ratio of reward to the negative, the valence of the negative; if the remuneration has value - positive and if it is indifferent - is zero.

Another concept within the process approach is a theory of justice. J. Adams argues that human motivation is largely affected by the validity of its current activities and its results as compared with previous periods and, most importantly, the achievements of others. People subjectively determine the ratio of the result, or compensation for expended effort, and then correlate it with the remuneration of

other people doing similar work. If as a results of the comparisons he concludes that there is no violation, the motivating factors are normal, but if violations are found, then the person is demotivated, which results in reduced efficiency of labor and the person begins to "restore justice" - to reduce business activity, demand higher wages and better working conditions, promotions, etc. Equity theory suggests important implications for the practice of managing people. The manager must not only strive to be fair, to create an atmosphere of equality, but also know whether workers believe that the reward is fair and equitable.

E. Locke's theory of setting goals also belongs to the process approach theories. The theory assumes that people are subjective to some degree of perceived goal of the organization as their own and strive to achieve it, getting satisfaction from the performance required for this work. Moreover, its effectiveness is largely determined by characteristics such as commitment to the purposes, their acceptability, complexity, etc. If the goals are real, then the higher they are the greater results the person achieves in the process of achieving them, otherwise the target is no longer the means of motivation. Striving for high results leads to clarity and certainty objectives, clarity and specificity in their formulation. At the same time, their vague, amorphous causes fragmentation of efforts.

L. Porter and E. Lawler developed a comprehensive procedural theory of motivation, incorporating elements of theories of expectations and fairness. Theory of the Porter-Lawler is based on the assumption that the work itself is a source of satisfaction of needs, but stresses the importance of remuneration for work as a motivating element.

Thus, the foregoing suggests that there is no single doctrine, explaining what lies at the heart of human motivation

and how it is defined. The theory of expectations, equity, goal setting and the Porter-Lawler model help to explain how to influence people to encourage them to productive work, give the head of the key to building an effective system to motivate people. Despite the fundamental difference, all four theories have a lot in common, which allows to draw certain conclusions for the creation of an effective incentive system.

In the practice of American companies such as Ford, General Motors the use different methods of work motivation, many of which are related to monetary rewards. They often use the so-called analytical system of wages, i.e. differential evaluation of a scale degree of complexity of work with regard to the qualifications of performers, physical effort, working conditions, and others. In this case, the variable component of wages, which serves as a reward for improving product quality, increased productivity, cost of raw materials up to 1 / 3 of salary. It was widespread in the British company to receive financial incentives in the form of gifts. So, in the company «British Telecom» they award valuable gifts and travel vouchers [6].

One form of motivation, which has found wide application in the practice of foreign enterprises, is the introduction of flexible work schedules. In the institutions of Oxfordshire (UK) at the beginning of 90's as an experiment there was introduced a new form of labor organization, giving employees a substantial degree of freedom: the ability to work both at the workplace and at home. Thus, contract chief accountant of one of the agencies assumes the following distribution of working time: 75% (30 hours per week) - in the institution, 25% (10 hours per week) - at home. Head of Accounting at home basically works on the computer, verifyin the digital data of financial instruments, and in the institution participates in meetings and is

engaged in other jobs that require contact with staff. Work performed at home at a computer is called telecommuting. For some categories of workers who are burdened with family responsibilities, such a form of labor organization is preferable. The experiment met expectations and was picked up by other companies [6].

Analyzing theories of motivation can derive a set of rules that are necessary for an effective incentive system:

- setting clear and achievable objectives for the members of the teams, deciding which of them each worker would be individually concerned with. According to the theory of goal setting, E. Locke, a man committed to the objectives of the organization will recognize them as their own and strive to achieve them. Individual employee's interest is the ideal tool to motivate.

- Creation of conditions under which all employees are aware of the importance of their work in the overall process of production ("self-actualization" by Maslow).

- Appointment of remuneration which is commensurate with the effort expended. According to the theory of expectations by Vroom level of the effort will depend on the expected reward.

- Ensuring equitable distribution of income among members of the team (the theory of equality by J. Adams).

- Providing some degree of self-employment, in which each of the workers can most fully express him/herself ("self-expression by Maslow").

- Ensuring conditions for growth: the opportunity to learn and improve, career planning, career development (Alderfer's demand growth).

- Ensuring the necessary conditions. According to the theory of Herzberg there must be "hygiene factors" in the organization. These include the following factors: a) protecting public health and safety and working conditions (physiological needs

and security needs on Maslow), b) social contact - an opportunity to interact with others (communication Alderfer needs, McClelland need for participation).

- Timely information to employees about the economic and strategic objectives.

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THE INFLUENCE OF DESTRUCTIVE FORCES ON CORPORATE SAFETY

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The emergence of new economic and social structures and the appearance of a large number of non-governmental organizations of different types and forms of property resulted in the development of a new form of activity which is corporate safety assurance. Nevertheless, the research devoted to studying this problem is quite limited.

What is safety? There have been considerable and lengthy debates about the issue, which are likely to continue for some period of time. Different sources devoted to this problem see it in different ways. Some of them define safety as a system of quality which determines its self-preservation ability. Other sources see it as a system of guarantees that provide sustainable development and protection from internal and external threats.

Judging from the definitions mentioned above safety is aimed at safeguarding the system and providing for its regular functioning. And by saying system here we may mean a state, any of its gov-

erning agencies, a commercial structure or an individual.

One of the recent forms of activity that has appeared as a result of market relations development is corporate safety assurance. In accordance with current views corporate safety consists of the following basic components:

- 1) Safeguarding organization facilities and objects of material value;
- 2) Safeguarding personnel;
- 3) Safeguarding information flows;
- 4) Safeguarding external contacts and activities.

G. Grachev defines corporate safety as safeguarding the organization (social group or social layer) from threats of psychological character, conditioned by different factors that influence people's psyche.

A. Draga defines corporate safety as protection of essential interests of the company from unfair competition, illegal activity of criminal organizations and individuals, ability to withstand internal and

external threats and maintain sustainability in functioning and development of the organization in compliance with its charter.

According to A.Sukhov, the definition corporate safety is providing safety through eliminating threats coming from outside of the organization.

Thus, corporate safety is safeguarding the company and its personnel from external and internal threats during the whole period of its functioning.

Currently both governmental and commercial organization management pay significant attention to corporate safety since both of them pursue the same goal – safeguard the company from potential threats, mostly external. Therefore the most acute problem they face today is providing for an optimal level of corporate safety. Hence there arises the necessity of introduction of a safety department into the organizational system, whose functions are connected with searching for up-to-date methods and techniques of providing safety and safety monitoring. These functions of safety department personnel are reflected in the concept of corporate safety.

A corporate safety concept is viewed as the visioning of an integral and systematic understanding that provides methods for eliminating external threats that may effect the company from the outside since its activity is connected with more general political, economic and social processes, and also as determining ways of eliminating threats that come from within the company caused by certain specific internal processes.

Safety concept development and implementation consist in providing a set of special tools that help to develop deliverables like a document describing a concept or action plan aimed at guaranteeing organization external and internal safety taking into consideration technical, physical, financial, legal, informational, psychological and special provisions.

Transition to new political and economic development levels determined new types of organization activity such as industrial espionage and unfair competition especially in commercial structures, where such kinds of activity do not only diminish, but tend to grow. Under such conditions to protect the interests of the company it should develop a special system of safety assurance.

The main purpose of safety system is protecting company commercial interests from being damaged through financial or material theft, material values and facilities destruction, information disclosure, leak, misrepresentation or loss, derangements in company management system, in facility operation, including information technology malfunctioning, and personnel detriment.

Company safety system is an organized totality of special bodies, means and activities, providing secure operation of the company in general, which means it provides safeguarding of key company interests from internal and external threats, i.e. from a combination of factors and conditions that threaten company's commercial interests.

Security system objectives:

1) opportune detection and elimination of threats to personnel and resources, elimination of causes and conditions resulting in financial, material or moral damage to commercial enterprise interests and malfunctioning in its operation and breaches in its development;

2) Determination of the security level of certain documents (professional secrecy documents, commercial classified information, and other types of confidential information liable to protection from illegitimate use), determination of threat level of other resources;

3) Development of a mechanism of timely response to different kinds of threats and emergence of negative tendencies in a company operation;

4) Effective suppression of encroachment on the resources and threats to personnel in accordance with legal, organizational and technical regulations and using different means of security assurance;

5) Creation of conditions for maximum possible compensation and localization of detriments made by illegal acts of individuals, legal entities and criminal structures.

An important role in solving problems connected with corporate safety assurance is played by a human factor. This is explained by the fact that human factor is characteristic of any sphere of activity, whether it is providing economic, information or other type security in any type of social groups or organizations. The system of corporate safety is aimed at providing security not only to company facilities and its financial and legal documents and information, but also to its immediate participant – an individual and his labor activity. Thus it is quite natural for a person to choose this or that organization based on the level of security the organization can provide.

There is no doubt that security is the fundamental human need, which is thoroughly studied in multiple psychological theories. In particular, Maslow’s hierarchy of needs shows that higher human needs like self realization, recognition and belongingness needs are realized only after basic physiological and safety needs are satisfied.

Safety need is one of the most important needs for a person, and satisfying this need is the necessary condition for normal existence and development of the person, and it is satisfied through certain organization forms, stable structures of social interaction, cooperative activities, which transform into the system of interrelated personal and group interests and methods to achieve them.

Like Maslow’s hierarchy, C. Alderfer’s existence – relatedness- growth theory originates from the assumption that physiological needs, safety need in particular, are fundamental in the process of developing and maintaining of psychological safety of a man.

These types of needs as a rule become apparent and are satisfied through paying sufficient salary which provides everything necessary for life and providing secure labor conditions.

Currently much attention is paid to the problem of systemic (complex) safety, though there is still some kind of bias towards technical means of security providing, and there is such bias even in this systemic approach. This article considers safety as a rather capacious system which provides all aspects of vital activities and development of any structure. And along with economic and informational security within a system of corporate safety we distinguish psychological security of the personnel.

Table 1.1 contains detailed classification of threats to corporate safety
 Table 1.1 Classification of threats to safety.

Committing crimes parties		
Originating from a favorable situations, including secure situations	Originating from a desire to get income from selling stolen goods	Committed to order
Types of threats to security		
Physical	Technical	Intellectual

<ul style="list-style-type: none"> - Theft; - Robbery, assault; - Property destruction; - Acts of terror; - Emergency situations. 	<ul style="list-style-type: none"> - Information interception; - Information misrepresentation; - Information loss; - False information introduction. 	<ul style="list-style-type: none"> - Responsibility evasion; - Fraudulent operations; - Human intelligence; - Psychological influence.
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Threat to security may also come from social acts. Threat to the company operations may come from such techniques as lie, deception, half-truth, information leak, gossip, incomplete or partially twisted information, false report, biased cultural context of information (including true and neutral in their context), misinformation, speculation, provocative and manipulative information, attempts of “reflexive manipulation” (V. Lefevour’s term) of randomly (or purposefully) chosen groups of people, inadequately chosen information source, phoney authorities and so on.

Today it is very popular to get necessary information through using manipulative techniques. The number of techniques influencing the sub-consciousness and especially the unconscious is constantly growing.

Thus, speaking about a corporate safety we should remember that corporate safety currently doesn’t have a monosemantic meaning and is understood as the following:

a) Generally corporate safety stands for providing safety to individuals and legal entities in the sphere of commercial activity, which doesn’t reflect the specific of the notion to the full and can be brought to correlation with the safety of the corporation. In this meaning the notion of corporate safety is used as a synonym of the safety of the corporation, understood as a common name for different types of unions characterized by internal organization, which consolidates its members into all-in-one-piece, and which is the entity of rights and obligations, a legal entity.

б) At the same time the notion of

corporate safety as opposed to the safety of the corporation is to a greater degree associated with the phenomenon of corporate unity as a social and psychological phenomenon. Taking this in account, protecting company safety from threats of psychological character, conditioned by influence of different factors on people’s psyche.

According to the contemporary views corporate safety is formed from the following components:

- Economic safety;
- Information safety;
- Social safety;
- Protection of material values, objects and individuals.

Let us consider the components of corporate safety in detail.

1. Economic intelligence – organization of acquisition of information for the company management to make more rational decisions in issues of financial and operational activity, corresponding to emerging circumstances, strategic goals and tactical objectives, which allow avoiding failures in operation.

Collection, analysis and processing of information is one of the most important links of not only security system, but is also a core of marketing, because based on the information the company develops its policy.

2. Economic counter-intelligence and internal security:

- resistance to internal corruption, attempts to damage the company and its personnel, and here we speak not only of theft but also of incompetence;
- investigation of facts of internal forgery, theft and other damage to com-

pany;

- resistance to criminal threats;
- detecting sources providing information to organized crime and industrial espionage among company employees;
- checkup of people being hired by the company and periodical preventive checkup of company personnel loyalty;
- providing physical security to company management and personnel (strongarm and operational);
- preventing negative processes among company personnel, which may lead to emergency situations;
- safeguarding movable and immovable property of the company.

3. Information analytical efforts.

This dimension provides gathering, research based generalization and analysis of information in different directions of company safety accompanied by determination of both positive and negative trends in the process of providing company security and, based on it, generating proposals either for further development of those trends or their neutralization. In regions that may be done by one or two people, who constantly communicate with the center, gather information and evaluate the situation in the field.

4. Information security (protecting information which is considered commercial classified information or of key importance in providing regular operation of information collections):

- organizational security measures in working with confidential information in all its form (hard and soft copies and other);
- counteraction to private technical intelligence;
- a complete range of measures to provide security to local computers and internal computer worknets, providing safe Internet access;
- providing safe communication channels.

5. Interaction with local authorities

and law enforcement agencies.

This interaction is based on the following principle: main security departments – executive bodies and central apparatus of the Ministry of Internal Affairs; field security departments – territorial or regional departments.

6. Personnel training in adopted programs in accordance with organizational structure and performed official duties, major directions in providing company corporate safety.

7. Propagandistic provision of company policy (“active measures”).

Entities of company corporate safety process provision are the following:

- Company leaders;
- Security manager;
- Personnel of the firm, company or organization;

- Personnel service staff;
- Security department personnel.

Protected objects include:

- economics;
- material resources;
- information flows;
- leaders;
- personnel;
- security department personnel.

Security of any company in the final run is the function of its adaptive capabilities and peculiarities of the environment in which it operates. In its turn both the environment and the company itself a priori contain certain threats, i.e. certain elements which, if activated, can damage irreparably company’s most important components.

Any company can be treated as a separate case of an open system. In fact, to produce a product or a service an organization should interact with environment and other players on the market. In external environment there are two groups of factors: positive, which make contribution to company development, and negative, which hinder its development. The latter are often referred to as threat factors since

they present certain danger to a company.

The specific thing about threat factors is that they, being objective, do not give in to being managed by security services. Thus, business structures need to develop an effective system of measures to counteract threat factors in case of their

activation.

The indicator of the corporate safety effectiveness is its ability to resist two groups of destructive factors (processes) – internal and external.

This is the outline of how it looks:

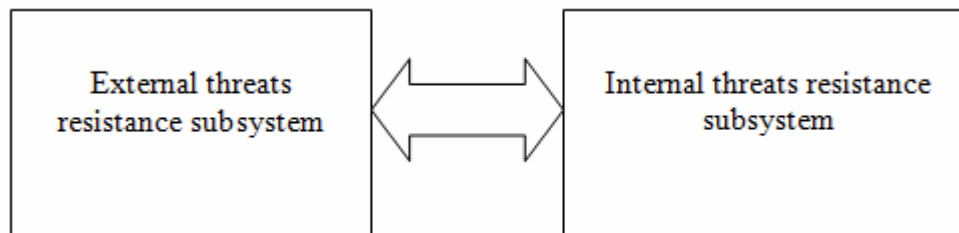


Figure 1.2 Subsystems of corporate safety resisting threat factors

This subdivision of corporate safety into two subsystems is determined by the fact that a certain object (human factor) is simultaneously influenced by two types of destructive forces: external and internal.

The category of external forces in our opinion includes in the first place:

- competitors;
- criminal structures;
- government institutions corrupted element;
- natural and anthropogenic disasters.

These are the most active factors of threats according to the results of the survey of over 35 companies. Most of businessmen place their competitors above all other threat factors. It needs to be mentioned that competition is a natural and even necessary process of market relations. But, depending on the methods used, competitive activity can be divided white, grey and black.

“White” competition is a fair competition; it is realized within the current legal framework.

“Grey” competition is rivalry, the first stage of unfair competition; it is realized through using techniques and methods, aimed at discrediting the competitor, good and services produced and provided by the competitor.

“Black” competition is contention; it is aimed at eradication of the competitor and is realized through techniques and methods which are in conflict with the legal framework.

In its turn, unfair competition gives rise to two new threat factors:

- Industrial espionage;
- Raid (unfriendly take-over activities).

These factors in themselves are passive and are activated at the moment of receiving an order for such services. Industrial espionage is, as a rule, a sphere of specialization of private detective agencies. Raid is the sphere of activity of special business firms and companies.

Significant negative influence on the development of small and medium sized businesses is made by corrupted staff of multiple auditing and supervising bodies, which are ready to become blind when they come across certain faults and violations for certain compensation. In cases of unhealthy competition representatives of this threat factor can become accomplices of one of the parties using administrative resources.

What concerns criminal structures, business people of different levels consider this factor being of less significance and quite predictable.

Statistic figures of the recent years indicate that businessmen pay insufficient attention to such threat factor as anthropogenic disasters.

It is accepted that issues of providing economic security is the prerogative of security departments, but besides them there are other people and services involved into this process:

- Top management;
- Internal audit service;
- Information analysis service;
- Personnel service;
- Legal service.

Similar situation is observed in respect to information and social security. This fact determines the necessity to revise approaches to developing both security system itself and principles of its management.

Each of these factors also contains a human factor. Protection from them requires development of specific influence methods including psychological ones. However, the factual level and degree of threats is not always adequately treated by the company leader and its security department due to certain subjective reasons.

Besides external threat factors there are also internal threat factors that make a destructive influence on the level of corporate safety. They are of objective nature and exist in the environment of any company. When activated they have a complex structure and require the same amount of attention. Internal threat factors have a marked subject character. Behind each of them there is a certain individual or a group of people, while one and the same person can represent two or more threat factors.

We suggest treating the following as internal threat factors:

- Tension which develops among team members due to wrong relationship within the vertical and horizontal structure, and due to dissatisfaction of people with the results of their work and the way

management evaluates them;

- Unfair competition among certain employees and departments;
- Role conflicts;
- Insufficient competence of managers of different levels;
- Low professional and personal trustworthiness of the personnel.

Thus, those who are to ensure corporate safety can become the source of the threat.

Internal threat subjects require a complex evaluation. Depending on a situation they can simultaneously function as a threat source and a protection objects. The real threat to corporate safety of a business firm, company or organization can be a result of unqualified activity of certain subjects of the corporate safety provision process.

Among the subjects of external threats the highest degree of danger comes from unfriendly activity of competitors and criminal structures.

Certain subsystems of corporate safety should provide effective resistance to those components of an overall threat which they are aimed to counteract to. Mutual activity of these subsystems should result in integral corporate safety as a type of systemic feature. Integral effect is achieved through assistance provided by separate subsystems in solving problems of each other. In fact, it is impossible to provide economic security ignoring its information and social components. A great significance in providing social security is given to economy and information protection.

Let us attract your attention to two relevant facts.

Each subsystem has a backward linkage, which allows to adjust its effectiveness due to use of internal resources in cases when a factual safety level is lower than the targeted level.

In its turn each subsystem is a mini-system consisting of a large number of

elements.

What concerns partners and governmental structures they can be referred to as factors of latent or indirect threat.

External threat factors are treated in most cases quite adequately while internal threats are not always treated appropriately though they have no less but, in some cases, a greater degree of destructive influence.

Separate subsystems, performing independent functions, coexist interpenetrating each other.

Today providing complex security is not just the experience of operational activity but also knowledge of economy, audit, contemporary information technologies and a lot more. This is the reason why these structures tend to hire young perspective civilians, especially those having a degree in economics or in technical education.

Another important thing which is worth mentioning: the whole functioning of corporate safety system from top to bottom is built on trust to each other. If the company management does not rely on its security system, then its information is worthless and all its multilateral activity has no sense.

If a security system worker does not have trust of the immediate superior he is

not supposed to work in this system. Every member of a security department should have an absolute confidence that he is trusted, should value this trust and should never abuse it. However trust does not exclude but involves control over all elements of security system, and in manpower policy it involves development of criteria of assessing each employee. These criteria are to stimulate employee performance, favored his performance assessment, promotion and keep from abusing his authority.

Thus, developing a system of corporate safety is developing company's protection from negative influence of external and internal factors, destabilizing factors, which provides sustainable realization of company's commercial interests and chartered goals.

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GOVERNMENTAL PROGRAM ON ACCELERATED INDUSTRIAL-INNOVATIVE DEVELOPMENT OF THE REPUBLIC OF KAZAKHSTAN AS A KEY TO IMPROVING THE ECONOMIC SITUATION IN THE POST-CRISIS PERIOD

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Governmental Program on Accelerated Industrial - innovative development of the Republic of Kazakhstan (hereinafter - the Program) was developed in response to the request of the President of the Republic of Kazakhstan on May 15, 2009.

The program is aimed at ensuring sustainable and balanced economic growth by diversifying and increasing its competitiveness. The program is a logical continuation of the Policy of economic diversification, and has integrated the basic ap-

proaches of the Strategy of Industrial and Innovation Development for 2003-2015, the Program "30 Corporate Leaders of Kazakhstan", as well as other policy instruments in the field of industrialization.

For the period until the year 2015 the main priority of the forced industrialization will be the implementation of major investment projects in the traditional export sectors, with the multiplication of new business opportunities for small and medium-sized businesses through the purposeful development of Kazakh content, subsequent conversion and processing.

National Welfare Fund "Samruk-Kazyna", fuel, energetic and metallurgical companies, as well as foreign strategic investors will become the initiators in promoting national large-scale projects.

The Government will support the initiative of Kazakhstan's small and medium businesses in order to transfer advanced technology, attract foreign investors and build modern import-substituting industries, aimed at developing their orientation on export.

In order to build the foundations of post-industrial economy, the development of the national innovation infrastructure and supporting scientific and technological entry points that can be commercialized is planned to be continued. In general, governmental support of economic diversification will be implemented through the implementation of systematic measures of economic policy at the macro and sectoral levels, as well as selective support measures for specific sectors and projects.

Systemic measures of economic policy will focus on the creation of a conducive macro environment and investment climate, measures to improve productivity and competitiveness of the national economy.

Selective measures will be implemented through a combined package of financial and nonfinancial support to priority sectors and projects.

The government will systematically build its interaction with business through the formation of effective institutions of cooperation, both at the national and regional levels.

Adequate to the condition of economic policy, the trajectory of industrialization by 2015 will have an internal consistency with the resource, infrastructure, institutional and technological constraints.

The systemic nature of the mechanisms built-in the Program that encourage diversification and technological upgrading of the economy, will provide:

- enabling macroeconomic environment;
- improving business climate and encouraging inward investment;
- massive technological upgrading and development of the national innovation system;
- improvement of the human capital quality.

Concentration of resources of state and business on the development of priority sectors will be accompanied by an interactive process of congruence of government and business solutions, using modern information systems for monitoring and implementation of specific instruments.

When analyzing the current situation, we can mention what was implemented during past few years. The policy of Industrial and Innovation Development, chosen in early 2000, strategically identified the main risks of Kazakhstan's economy: the chosen way was concentrated on economy diversification and moving its away from raw-materials dependence.

During this period, the following basic institutional foundations of industrialization were created:

- the National Fund that provides stability of the economy;
- National Welfare Fund "Samruk-Kazyna" that consolidates state capacity to implement cutting-edge areas;

- development institutions, accompanying the process of diversification;
- interactive platform for interaction and coordination between state and business.

As a part of the investment policy the improvement of the legislative framework that defines the legal and economic framework for investment promotion has been evident. These measures helped to ensure adequate growth of the non-oil sector of the economy, provide conditions for the further establishment of small and medium businesses in the period of active growth associated with an increase in oil and gas sector. Although some outstanding results were achieved, the policy of diversification and innovation development has not been fully realized due to the presence of a number of systemic effects, objectively inherent in the resource economics emerging markets:

- symptoms of "Dutch disease" of the economy, contributing to the reproduction of the effect of redistribution of resources (investment, employment) in the commodity sector;
- market mechanism in this period was unable to give the signals to prevent "overheating" of certain sectors and could not help the state build a "correct" structure of the economy;
- policy of diversification faced the lack of the necessary critical mass for its promotion.

The scale of the emitted public investments for diversification were insufficient and scattered, which could not lead to any serious structural changes. As a result, the economy kept its focus on raw materials, and the employment structure can be characterized by low efficiency of labor potential. In 2008, when employment in agriculture was 31,5% of the population, the share of this sector in the GDP amounted to only 5,8%. During the period from 2000 to 2008 the share of manufacturing in GDP has declined from

16,5% to 11,8%, while the share of mining has increased from 13% to 18,7%.

The extensive nature of the development of Kazakhstan's largest businesses that are oriented towards a quick profit from the export of raw materials, did not allow switching to higher conversion stages and the domestic market in the changing world market conditions.

Initiatives of the Government did not receive an adequate support of the business community, as a young national business has not fully grown to the extent to become an active player in the diversification and to build a new, innovative business in Kazakhstan, to break through and compete in the global market, attract global leading companies as strategic partners.

The specifics of Kazakhstan's national small and medium business are determined by its ability to occupy the vacant niche, guaranteeing a fast return on investment (domestic non-tradable sector of the economy: real estate, trade, the local construction industry, trade, mediation and service sectors).

Accordingly, the business priorities were not correlated with the priorities of the government on the development of the industries manufacturing goods with a high added value. These tendencies were reflected in a corresponding portfolio of investment projects, in the development institutes and banks. The crisis that took place in the past couple of years has forced the national economy to look for new markets and innovational products. The most optimal way to be chosen for a post-crisis development is a forced industrialization.

International experience suggests different approaches to industrialization: the strategy of "catching up", "traditional specialization", "post-industrial development. Based on the structure of Kazakhstan's national economy, at this stage of development the most appropriate strategy

for industrialization of the economy of Kazakhstan is the strategy of "traditional specialization" that is commodity-based with a subsequent shift of primary production to higher conversion stages. Today, as competition increases in emerging markets and it is important to quickly seize the markets, both internal and external, maximize and implement the potential of the Customs Union with an accessible market - 170 million people. In addition, the unique geographical position of Kazakhstan makes it possible to carry out and win the position of an effective global intermediary in Asia and the CIS (Russia, Central Asia, China, Iran, and India). In order to expand available markets for the active presence of the enterprises of the Republic of Kazakhstan it is necessary to provide an intensive support for non-commodity exports of agriculture, textiles and tourism.

The main condition for successful implementation of the industrial policy should become an increase in factor productivity and competitiveness of national economy. The upcoming industrialization will require transition from an even policy of regional development to a point approach of urban development and areas with high growth potential and high economic activity.

The effectiveness of the industrial policy depends on the consolidation of efforts of business and government on the development of priority sectors, as well as the development of effective institutions and mechanisms of their interaction. For the coming period the industrialization policy will focus on rapid development of non-extractive industries sector through development of "traditional specialization", which will become catalysts for industrial innovation processes.

The Government's efforts will focus on developing the following priority sectors:

- traditional: oil and gas, mining and smelting complex, nuclear and chemical

industries with the subsequent transition of primary production to higher stages;

- based on the demand for subsoil users, domestic companies and the state: engineering, construction industry, pharmaceuticals;

- production of a non-commodity sector that is focused mainly on the export, that are: agro-industry, light industry, tourism;

- sectors of the "Economy of the Future", which will play a dominant role in the global economy over the next 15-20 years: information and communication technology, biotechnology, alternative energy, space activities.

The list of these sectors is not exhaustive and will be supplemented in the implementation of the Program.

In the process of diversifying the economy, the state will oppose the implementation of inefficient projects, so the main criteria for selecting projects for support will be the productivity, efficiency and export orientation, associated primarily with the possibility of realizing the potential of the Customs Union.

When implementing the Program, the support of the industries with export potential is an issue of a great importance. Tourism is one of the industries that has a big potential for development in the framework of the Program. In recent years, the positive dynamics of development of tourist industry of the country could be generally observed: in 2008, the total number of visitors compared to the year 2007 increased by 3,1%, the volume of domestic tourism grew by 8,2%, outbound tourism grew by 15.3%. The investments in the development of tourist facilities increased from 47 billion tenge in 2005 to 97 billion tenge in 2007 and in the year 2008 this figure rose to 129.3 billion tenge.

One of the factors that led to the reduction of the number of tourists entering the Republic of Kazakhstan was a low at-

tractiveness of the tourist industry's objects because of their moral deterioration and the lack of infrastructure. A small number of placements in line with world standards leads to underutilization of capacity to provide a full range of services to incoming tourists, and as a consequence a comparatively low level of economic returns. Efforts to create a tourist image of Kazakhstan and the promotion of national tourism products to the world market were undertaken. For these purposes, provided the participation of Kazakhstan in the largest international tourism exhibitions in Madrid, Berlin, Beijing, Seoul, Tokyo and London was provided. In the framework of the Program, the main task for the economy in this sector is to improve the competitiveness of the tourism industry and the attractiveness of Kazakhstan as a tourist destination. The targets will be to increase the total income of organizations providing services in the field of tourism activity by 2015 by no less than 12% of the level of 2008.

The industry development will be directed at the creation of competitive infrastructure of the tourism industry, the formation of national tourist products, promotion of domestic and international markets.

As a part of a competitive tourism infrastructure the following questions are planned to be worked out:

- allocation of land by local executive bodies for the construction of roadside infrastructure along the transport corridor;
- establishment of engineering and communication infrastructure in the newly created objects of the tourism industry;
- developing a model of a project construction of roadside infrastructure;
- funding interest rates for financing the investment projects of national tourism cluster along the transport corridor "Western Europe - Western China".

The tourist industry needs to be provided with a high-qualified human re-

sources. Staffing requirements for the tourism industry for 14 qualifications will be met through training in universities and 77 specialized schools and colleges. The conditions for improving the quality of education in tourism major will be created by auditing a public university for certification the quality of tourism education «UNWTO-TedQual» and the development of professional standards in the tourism industry.

In order to promote the competition at the market of providing services for tourists, the following measures will be undertaken:

- ensuring the establishment of legislative conditions for the consolidation of tourist operators;
- establishing the centers of tourist information in the regions with the potential to develop a tourist sector.

Developing the sectors of the "Economy of the Future" also has a very important meaning to the Program on accelerated industrial-innovative development.

Large-scale introduction of information and communication technology (hereinafter - ICT) is a prerequisite for increasing productivity and creating conditions for the integration of domestic enterprises in the global economy.

The growing demand of business and population for telecommunication services has led to a significant increase in revenues of telecommunications operators. According to preliminary results of 2009, revenues from the provision of telecommunication services amounted to 430 billion tenge, or 7.5% higher compared to 2008.

The most dynamically developing service is providing Internet access (an increase of 22% in the year 2009 compared to the year 2008), local telephone connection services (19%) and the mobile segment (9%). The greatest growth was possible due to the development of back-

bone networks of fiber-optic communication Kazakhstan's operators and the unique geographical location of the country.

In order to maintain high growth and accelerate the development of the ICT sector in the Republic of Kazakhstan it is necessary to solve a number of existing problems:

- administrative barriers for companies working in the field of information technology (imperfect customs clearance procedures and registration of information products);

- low percentage of "local content" in the purchase made by public institutions and companies with state share that are related to information technology;

- issue of personnel recruitment in ICT companies;

- low investment activity in attracting venture capital for financing innovations.

In the ICT sector the Republic of Kazakhstan is planning to develop the following areas:

- improving the system of "electronic government";

- creating a communication infrastructure for information exchange within the Customs Union;

- installing electronic services, including the services in the sector of social security, health, transport and communications sector and in agriculture.

In the educational field it is planned to double the number of state grants for studying for information communication major compared to the number of such government scholarships in the year 2009. The educational programs for these majors

are planned to be modified in compliance with the international standards of education.

Successful implementation of the Program on accelerated industrial-innovative development will contribute to sustainable and balanced growth through its diversification and increasing competitiveness in the long run. The main qualitative results of the program will be:

- the increase of production factors in an industrial field;

- developing and strengthening the national innovation system;

- reducing the concentration of the economy and the role of small and medium enterprises in the industrialization process;

- efficient organization of the productive forces of industrial sectors,

- the growth of human capital.

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THE PSYCHOLOGY OF LEADERSHIP

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It is quite obvious that some people are born with the quality of superiority which enables them to influence other people and makes them leaders. This phenomenon is typical of any society, under different circumstances, at all cultural levels. Leadership is for those who know what to do in a particular situation. Consequently, those who aspire to lead others need to have thorough theoretical basis and experience; although knowledge is not everything. There are people possessing good professional education, practical skills in the field of their work but they are not recognized as leaders. At the university level this phenomenon is clearly seen when highly qualified, well experienced and knowledgeable professors are respected but not considered to be leaders. There should be something else to become a real leader. A good leader indicates the direction, sets an example, shares dangers and difficulties of others and tries to deserve their support. A real leader (a man or a woman, it does not matter) must be able to deserve respect without pursuing the popularity. There is a difference between such notions as management, administration, planning, control and leadership. A good leader can do all these things but he has one priority – he knows the secret of how to obtain the enthusiastic support of other people to fulfill the set aims. Encouragement is a very important principle of leadership. There are some integral signs connected with leadership in any field, they are enthusiasm, honesty, which engenders respect, energy, firmness and strength which help to gain the recognition of a leader. SWOT analysis (the definition of the strong and weak points, opportunities and threats) can help the leader to identify his problematic zones and perspectives. People having a big potential of

a leader by nature can become successful leaders if only they work hard to achieve the set aim. People start to learn leadership when they feel the necessity to combine experience and practice on the one hand, and principles and theory – on the other. The first without the second will not be fruitful. Leadership can be learned by experience when reflecting on some vital issues which leads to further actions. The example of other renowned people can play a very significant role in this process. Leadership can be learned when putting it into practice. Nothing can replace the inevitable period of experiments, trials and mistakes, success and failure followed by reflections and reading. If a person follows this way he may become such an effective leader that people will think that he or she is destined to lead not knowing how difficult this way was.

The way to leadership is open for everyone. A real leader should provide the three circles of people's needs:

- 1) to fulfill the common task;
- 2) to work friendly in a group with mutual understanding and support;
- 3) to satisfy the needs of every employee.

An effective leader should:

- work with knowledgeable people;
- deserve their respect, positive attitude;
- arouse the desire to obey;
- create good relationships with colleagues;
- set a good personal example of energy and zeal

A leader should not only have necessary leading qualities and knowledge but he should be well aware of the steps to undertake for the leadership to be effective. What are these capacities and skills?

- 1) the choice of suitable people (the

art to understand people);

2) encouragement and punishment (justice);

3) the gift to earn the followers' good attitude (motivation);

4) the talent to get on well with other people (team-building);

5) the capacity to be the embodiment of hard work and energy.

A leader can develop some of these qualities but he cannot change his character and nature given him by birth.

The threat for a leader is the arrogance and self-centeredness. Sometimes it can even lead to despotism. The only antidote against arrogance is humility. Leadership should develop in harmony with nature. We can't force the events to happen – we should let them go naturally. Leadership lives inside, in the soul of every person. We should express it without odd self-conceit, pride, superiority. A real leader can not only listen but also keep silent. That person can speak well who would prefer to keep silent. It is impossible to become a good leader without learning to obey first.

The leader who seems to be at the background will actually always be ahead. Humble people are the most reliable.

The root of the word "leader" goes back to the notion defining road and way. This word deals with action and movement. So if the organization is stagnant and does not develop, there is no need to have a leader, it will be enough to have a manager. The leader is not always a man going ahead. The leader is expected to model the way, to keep the team's unity, to take care of every employee in the course of common activities.

The leader is like a shepherd and his employees are his herd. The shepherd leads the herd in the right direction, keeps its unity and cares about every animal. All the employees want to know where they go in the period of fulfilling their common task; they want to be a united team; every

person has his personal interests which must be satisfied.

Team building is a very important process in leadership as the success of the organization depends on it. The ideal team can be represented as a mechanism all the parts of which ideally match each other. A good leader thinks not only about the satisfaction of the main physiological needs of his employees, their sense of security but also about their self-actualisation.

The motivational states of all employees are importantly affected by unexamined assumptions that are embedded in culturally generated values. Conceptualizations of motivation in different societies are quite different. For example, we have common notions of what work means, what we should 'get out of it', how 'satisfied' we should be, and whom to blame if we do not derive sufficient rewards from it. We usually compare our own lot with others', and these comparisons very often determine not only the state of our mental well-being but also the effort we are willing to devote to various tasks.

A leader gives orders but they should be correct. For this purpose he should possess the ability of practical thinking which can be inborn or acquired and is revealed in the capacity to think clearly and make the right decisions. The Greek called it phronesis which can be translated as common sense.

A leader thinks independently but he also listens to the ideas of the team members. He evaluates all the pros and cons and after that the most correct decision is made. Decision follows reflection and this decision leads to action. According to the circumstances especially in critical situations the leader should know when the debates must be finished and the actions should be put into practice.

Intuition is the vision of an unclear situation in the genuine light. The reliability of the intuition can be distorted by the anxiety or fear; intuitive ideas should al-

ways be controlled and checked with the help of logical thinking and experiments. There is a good saying that in the world of blind the one-eyed is a king. Sometimes it happens that a leader can rely on his intuition depending on the situation.

Imagination is also a very important aspect of leadership as new circumstances need new ideas. The leader should possess a developed imagination but it is more significant for him to stimulate the figurative imagination of all the team members of his organization.

Encouragement and active position of the leader can contribute to a better development of the organization. Any task will be carried out faster if the leader is capable of creating a positive atmosphere where everybody works with enthusiasm in a calm and friendly way. Sense of humor can be very useful in critical situations, helps the leader to give people the moments of joy; joke is synonymous of rest. It is up to the leader to make people get pleasure from work.

Leading functions need a two-way connection. It implies the ability to speak and listen. That person who wants to have fruitful contacts explains what he wants to say clearly in a simple and vivid way using the most suitable means of connection – tête-à-tête conversation, telephone talk, presentation, report or letter.

A leader capable of listening is a rare case. To succeed in it the leader should not just perceive the information given but he should try to catch the feelings of his interlocutor. The leader should listen not only with his ears but also with his eyes as more information is transferred through the non-verbal means of communication.

The leader should not just speak; with his words he should arouse enthusiasm in people. There is no need for him to give them his own energy, his task is to reveal theirs.

Everyone can stand at the steering-

wheel when the sea is calm but the leading qualities will be tested when the sea is stormy, when changes come and people lose orientation, are at a loss. A real leader can inspire hope when all people around are full of doubts. If the person feels his importance for the company's success in achieving the common aim the organization will flourish.

In leadership trust and good attitude go hand in hand. Where there is mutual trust and understanding there is no need to conceal bad news. The more trustworthy you are going to be the more people will trust you and support you. There is a good saying the bird carries the wings and the wings carry the bird. Truth is the best connection.

Leaders who are never seen and heard but for the election period can hardly be called effective leaders not speaking about great leaders.

It is natural for a man to have the desire to be superior over others and the leader is often responsible for revealing this hidden grandeur. Great leaders can stimulate and make ordinary people do their job perfectly. Great leaders inspire people with their own example – sharing difficulties with them. Wise leaders can gain support of their employees due to the fact that they aspire to come to an agreement when making decisions. If the leader considers himself the first among the equals he will gain the reputation of a great leader. Practice what you preach is the vital point for a successful and respected leader.

Good systems of education make all the necessary conditions to foster a real leader. Valuable lessons in the field of leadership can be taken when studying the life of great historical public figures, their character. Even back in 1555 the main classical qualities of the leader were determined; they are justice, common sense, self-control, moral strength, courtesy. The leader grows from a strong personality.

Power belongs to those who have corresponding capacities and knowledge regardless of the background and origin.

Charisma is a certain quality of a person, due to which this person is considered outstanding and renowned and is treated as having extraordinary and exceptional abilities and opportunities. Consequently, charismatic influence comes from the inside – from the ability to arouse and support belief in it as a source of knowledge and power.

Charisma is a kind of person's attractiveness which can be defined by the piercing look and charming voice; although charisma is not the essence of leadership. Certainly some leaders possess such a magnetic force; they can arouse people's admiration and desire to follow them but a real leader can be seen by the results of his efforts judging by the fulfillment of the set aims, successful team-building, and satisfaction of people's needs.

Greek word "charisma" means "gift" and comes from the word "charis" meaning "favor". Charisma is the personal magic or charm which arouses people's devotion and loyalty.

Charismatic leader can be ascribed almost a supernatural personal power regardless of those who have this power and influence due to their knowledge or social status.

As a form of personal power or influence having sometimes a hypnotic effect on others, charisma can be used both with good and bad intentions. Hitler is the example of the second one.

Leaders become real leaders due to those who follow them. You may be chosen a director or a manager in this or in that hierarchical system but you will not become a leader until you gain the authority with the minds and hearts of your employees.

The phenomenon of charisma is the extension of this principle meaning that

people who believed in their leader can ascribe to him some superhuman abilities. Some leaders can subconsciously provoke such a reaction with their appearance or manners alone. The same holds good with voice and look.

To gain the respect the leader must be able to treat team members as equals, relying on their knowledge and individuality. A leader should be very self-confident to have such a position. In this case people will feel it. They will understand whether the leader is able to indicate them their way and lead them.

Leadership is realized at different levels – commanding, operating, strategic, national, and worldwide. Leadership philosophy can be applied to all these levels at any time in any place regardless of the people's nationality who are led. Why? Because the nature of the person is the same at any time.

It can happen that the big potential given by nature by birth may not reveal in the majority of people. It depends upon the situations people have to deal with and their leadership giftedness. Everyone can and should aspire to become one of the best.

Real superiority goes hand in hand with humbleness, which is rather a rare leader's quality. It implies the ability to see your real face value and readiness to perfect your mastery as a leader; moreover, it includes the ability to see others' values. The task of the leader is not to lead the person to the perfection but to reveal it because it is already inside.

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COMPARATIVE ANALYSIS OF BANKING SYSTEMS OF KAZAKHSTAN AND THE USA

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It is well known that the banking system is one of the most important and integral structures of a market economy. The organizational structures of the banking systems of various countries depend on many factors which include both historical and national traditions, the development stage of commodity-money relations in a country, the total level of economic growth, the regulation methods of currency circulation, etc. The uniqueness of the system is conditioned by national traditions and historical experience. Historically, national peculiarities of a banking system's development are shown in the fact that in some countries there are no clear differences between commercial and investment banks, with some defining the latter as part of the stock market.

There are also significant differences in the control systems of commercial bank activities and banking system levels (one-, two- and three-level). Three groups of countries can be defined which differ in their methods of control structures and the place and role of Central Bank (CB) in these structures: countries where the surveillance is held by CB; countries where the surveillance is not held by CB, but other authorities; countries where the surveillance is held by CB together with other authorities.

The modern banking system of the Republic of Kazakhstan developed under difficult conditions. When Kazakhstan

was one of the Soviet Union's countries, the banking system was introduced as branches of the State Bank and the Industrial Bank, and later as branches of other banks. The State Bank, being a commission institute, at the same time was the center of short-term crediting supplying cash services to the economy. The combination of emission functions and functions of providing cash services to clients, a monopolistic allocation to one bank, made it an authority of state government and control [1].

The State Bank performed functions of both central and commercial banks. In this one-level banking system legal tenders were not divided between separate banks. Each bank had a right to use joint mass of legal tenders according to limits devoted by credit and cash plans. In the frame of the limits it didn't have problems of liquidity. While credit distribution lending rates were not taken into account, and in the politics of central bank the indirect instruments were absent. The Central Bank totally depended on the government and was deprived of independence, therefore, was not able to make independent monetary policy. It fulfilled an alien function of crediting national economy and account service, and also committed existing deficits of state budget by means of monetary emission.

For countries with a developed economy, a two-level banking system is a

common one. The same system started to be formed in Kazakhstan before the fall of the USSR. In 1987 according to a joint decree of CPSU CC and Soviet Ministries No. 821 it was decided to form a two-level banking system (central emission bank and other special banks). In spite of efforts taken to improve the credit system it was rather conservative. Established state special banks – Promstroibank, Agroprombank, Zhilsochbank, and Sberegatelny bank – in reality inherited many negative features peculiar to the system of that period when in the country only three banks functioned – Gosbank, Stroibank and Vneshtorgbank.

In 1988 after acceptance of the union law “About cooperation” on the share basis the first cooperation banks started to function which consequently founded the basis for formation of market relations in bank activity. This is the time when the first stages of the development of the Kazakhstan banking system started to evolve. The first such bank in Soviet Union was “Souyzbank” in Chimkent.

The significant fact which determined the further development direction of credit-banking system of Kazakhstan was the acceptance of new laws in April 1993: “About National Bank of Kazakhstan”, “About banks and bank activity in Kazakhstan”, and “About currency regulation in Kazakhstan”. It was stipulated by a range of factors among which the priority importance was given to the formation of a sovereign country, acceptance of Kazakhstan in the world community, and the development of an independent national banking system.

The previous law “About banks and bank activity in Kazakh SSR” absolutely didn’t correspond to new economic and political realities, as it was too general, didn’t separate functions of central and commercial banks, and didn’t define their law status which led to the violation of existing law. The functions and tasks of

Kazakhstan Gosbank, which were being formed according to its status of republic office of Gosbank USSR, in reality didn’t obtain enough rights to control surveillance over the activity of new commercial banks and using corresponding measures in necessary cases.

The Law “About National Bank of Kazakhstan” strengthened... the independence of the National Bank from government and other government authorities and made it obliged... to the Supreme Court of Kazakhstan and the President [2]. The Law “About banks and bank activities” clearly defined the functions, rights and liabilities of second-level banks and their legal status [3]. It was aimed to increase the responsibility of commercial banks, contribute to the regulation... system of the country, and its quick recovery and further development. The significant difference of the new Law was the establishment of higher requirements to the rules of bank formation according to international bank experience. It was stipulated by the necessity to increase the responsibility of banks to clients and the rush towards strong security of clients’ interests. The requirements to personal characteristics of bank administration were also increased.

At present time Kazakhstan has a two-level banking system represented by the National Bank and a range of state, private, joint stock, combined and foreign banks, or by so called banks of second-level. According to the Law “About National Bank of Kazakhstan” the National Bank of Kazakhstan is a central bank of Kazakhstan and represents the supreme level of banking system in the republic. The National Bank is a legal body possessing separate properties, which include money resources including its own gold currency resources and other material values. The resources forming the property are incomes received from bank activity, incomes from stock market, and subsidies

from corresponding budgets [2].

Commercial banks are the oldest and the largest group of credit establishments performing most of the financial operations and services known in the practice of entrepreneurship in market economy. Authority authorized to control and monitoring of bank activity in our country is Agency of the Republic of Kazakhstan for regulation and monitoring financial market and financial organizations. The Agency is a state authority directly subordinate and reporting to the President of Kazakhstan, performing state regulations and monitoring financial market and financial organizations.

The core of the USA banking system is Federal Reserve System (FRS) which consists of 12 Federal Reserve banks and of large quantity of bank-members (more than 70 thousands). According to the Federal Reserve act of 1913, which founded modern banking system, all bank-members of FRS should contribute 6% of their own capitals as a share contribution to the original capital of Federal Reserve banks, and also to save in the last one 3% of the time deposit sum and from 7% to 13% of call deposit sum. Federal Reserve banks were obliged to have gold and legal tender reserves in the amount of 35% of deposits. Thus, liabilities of Federal Reserve banks consists of own capitals created at the cost of bank-members' share contribution; banknote emissions; bank deposits represented reserves of FRS bank-members [4].

Building up the money reserves of commercial banks at the Federal Reserve banks was a factor of money economy. Besides the formation of FRS strengthened the centralization of the USA banking system and domination of large banks of financial tycoons. Since the end of 1915 to August 2007 ratio of FRS in the total amount of American commercial banks increased from 28% to 41%, and in total amount of deposits – from 48% to 78%.

Although many banks are members of FRS, only small amount of large and the largest banks have ultimate influence.

In August 1935 there was the law accepted which brought some organizational changes to FRS including further centralization of the USA banking system. All state banks with the deposits no less than 1 mln. dollars were obliged to get membership of FRS during a definite period of time. The rights of central authorities of FRS were significantly enlarged; at the head of FRS there was the Management Board which was entitled to define accounting rates of Federal Reserve banks, to change norms of obligatory reserves of bank-members, to establish the norms of financing for capital assets, to approve the directors boards chosen by reserve banks. Also there was created a special Committee for operations in the open market, all Federal Reserve banks should follow its instructions while performing the operation in the open market [5].

The resources of Federal Reserve banks are made up by means of banknote emissions – Federal Reserve tickets; deposit acceptance mainly from bank-members and from Treasury. An insignificant part of Federal Reserve Bank resources is made up from their own capitals (paid and additional). Since the governmentalization of gold resources in 1934 Federal Reserve banks stopped being keepers of gold resources of the country, but in their balance there were gold certificates which were paper signs of gold localized in state Treasury. The main active operation of Federal Reserve banks is purchasing of state capital assets. In comparison to that the leasing of federal bank to bank-members makes an insignificant amount. Federal Reserve banks are creditors of the country. But the resources contributed to state capital assets consequently are used in the corporation interests as are significantly spent by the government for payment of state orders and

goods purchasing.

Apart from emission (Federal Reserve) banks, the USA banking system includes commercial banks, investment banks, mutually-saving banks, bankers' houses.

According to their juridical status the commercial banks are divided into national and state. The former operate according to the federal laws and mandatory become members of FRS as a bank-member. The latter operate according to the laws of separate states and become members of FRS at their own preference [6]. Of all commercial banks some largest banks are outlined. Their resources grow faster than amounts of resources of other banks. In its turn from the list of the largest commercial banks a group of bank-giants can be pointed out – “Bank of America”, “First National City Bank of New-York”, “Chase Manhattan Bank”, “Manufactures Hanover trust Ko”, “Morgan Guaranty trust Ko”. These banks either manage strong financial industrial groups or act a big role there. They represent bank holdings created by means of joining large banks [4].

In the middle of XIX century in the USA banking system there appeared a special branch which specialization was to buy and sell capital assets. Further, till the crisis of 1929-1933, the border between investment and commercial banks was less visible, as in XX commercial bank also took active part in emission and placing capital assets and invested large amounts to these papers. After the crisis of 1929-1933 the activity fields of commercial and investment banks were officially (as per Law 1933) divided. Under modern conditions the investments of banks consist of 9/10 of capital assets of the USA Federal Government, states and local authorities. As for capital assets of industrial and other companies, their emission and placement is up to investment banks. Doing so investment banks widely use the resources

loaned by commercial banks for investment to capital assets. The list of the largest investment banks includes: “First Boston Corporation”, “Laman brothers”, “Merryl Linch”, “Phinner and Smith” and etc. [6].

As it was mentioned at present time in Kazakhstan the banking system is two-level: First level – National Bank, Second level – commercial banks and financial – credit establishments. At present time (as of 1 January 2008) in Kazakhstan there are 35 banks of second level [7]. As opposed to Kazakhstan the USA banking system includes many thousands banks.

Despite the fact that today in the USA the total amount of bank is decreasing, it seems that the USA has decentralized banking system. It seems so because the fact that bank branches network in the USA is more restricted that in Kazakhstan. During a long period of time American banks, as opposed to those of Kazakhstan, had no right to create the branches. Later the right to create branches was given to them (according to the Laws of 1927 and 1933), but with significant restrictions. Therefore the banks can have branches only within a definite state, and in some states the banks cannot create their branches at all. Although the quantity of the bank branches dramatically increased of late (from 4 168 in 1945 to 56 513 in 2009), the total quantity of bank branches in the whole country is just 1.5 times as more as the quantity of all the banks [4].

However, behind the seeming atomism of Banking system in the USA the domination of small group of bank giants is hidden. The same situation is peculiar to Kazakhstan as well, in our country there are three large bank comprising the system (JSC “BTA”, JSC “Kazkommertsbank”, JSC “Halyk Bank”) [7].

One of the display of bank concentration in the USA is the so called local concentration, i.e. concentration of the main bank resources in several points

.Thus the banks of 5 states (New-York, California, Illinois, Pennsylvania and Texas) obtained ½ resources of all American banks; only one New-York state had about 18% of all resources of bank-members of FRS. Thus local concentration in both countries is combined with the concentration of bank resources in several large banks.

The clear expression of bank concentration in the USA is merger of the banks. The quantity of such mergers dramatically increased after the World War First: during 1910-1920 there was 1 523 mergers which involved 2 968 banks, and during 1921-1931 – 5094 mergers involved 538 banks.

The form of canceled concentration of banks is the so called system of directors interlocking including mutual participation of one bank directors in management of other banks. In our country, there is rather interlocking of bank directorate with directors of affiliated companies, for example, insurance companies.

Another peculiarity of the USA banking system is the system of chain link. In this case the complete “chain” of banks cooperates with the temporary agreement about joint performance in some financial operations or with the permanent agreement about mutual support and mutual exchange of shares, performing the same credit policy and etc. In our country due to the unitarity such kind of measures are not possible.

An important form of invisible concentration of banks in the USA is the system of bank groups. It consists in combining several banks under the control of one joint stock company purchasing their shares and usually called “the community for shares holding” [6].

Both in the USA and in Kazakhstan we can observe in intense state interference into bank activity. Central emission banks of the country (Federal Reserve banks), as opposed to those in Kazakhstan,

are not the property of the government. However they are ruled by the government and in general they contribute to the state capital assets. Federal Land Corporation of trade credit and export-importing bank are the property of the government. Both in Kazakhstan and in the USA as a result of financial crisis the requirements towards the obligatory resources and obligatory norms for banks of second-level and other financial-credit institutes were tightened.

Thus, in the analysis of forming the banking system of Kazakhstan and the USA there can be found both similarities and differences. In Kazakhstan and in the USA there is a two-level banking system, but in Kazakhstan the functions of central bank are performed by... National Bank, and in the USA it is up to Federal Reserve System (FRS) represented by 12 federal banks. Twelve Federal Reserve banks have main features (they are firstly central banks, secondly they are banks of bankers).

Management Board of FRS is a main authority of state policy towards the whole banking system. Seven member of the Board are assigned by the president with the approval of the Congress for the validity period of 14 years, but each year one member of the Board is replaced.

In Kazakhstan National Bank is a legal body in organizational and legal form of state establishment, which has independent balance and together with its branches, representatives and organizations makes one single structure. Authorized capital of National Bank of Kazakhstan belongs to the government.

Thus, in Kazakhstan as well as in the USA there is a two-level banking system. In Kazakhstan the supreme (first) level of banking system is represented by National Bank of Kazakhstan which is the central bank of the country. The lower (second) level is generally represented by commercial banks and some financial – credit institutes which have no serious influence on

the market. Banks of the second-level in Kazakhstan are represented by the branches in each regional center and even in small inhabited settlements. In the USA the functions of the central bank are... represented by 12 federal banks. The second level is represented by many thousands of commercial banks and other financial-bank institutions, but in fact the banks of the second level have no right to create their branches, and can operate only on the territory of the state.

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