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The Oil and Gas Industry in Kazakhstan's Investment Regimes

Irina Heim and Maxim Romanov

Introduction

After Kazakhstan's declaration of independence, foreign investors, the majority of whom had been attracted to petroleum production activities, contributed US $146,064 billion of FDI (UNCTAD, 2017). Since 2000, oil production in Kazakhstan has increased rapidly due to foreign investment and improvements in production efficiencies, which were contributions from firms with some of the world's best practices who were attracted to the country. Today, a landmark foreign investment in Kazakhstan's oil industry is the TengizChevroil joint venture, owned 50% by ChevronTexaco, 25% by ExxonMobil, 20% by the Government of Kazakhstan, and 5% by LukArco of Russia. International companies

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such as Shell, Agip, Chevron, and Lukoil have developed the Karachaganak natural oil and gas condensate field. Recently, Chinese, Indian, and Korean oil companies have also entered Kazakhstan's oil industry.

Since its independence in 1991, Kazakhstan has never ranked higher than 82nd for its human development index and thus is in the middle of the list of developing countries (see Baldakhov & Heim, 2020, this volume). Worth noting is that Kazakhstan has been referred to as one of the *countries in transition*, being a former Soviet Union country according to IMF classification. At present, Kazakhstan has been widely regarded as an *emerging* nation. What does it mean for the investments in the O&G sector, and how can these dynamics be explained?

Institutional theory is increasingly applied to the study of foreign investments since it provides a rich theoretical foundation for examining a wide range of critical issues and also allows for theorizing at multiple levels of analysis, which is essential for this research (Kostova et al., 2008). In this chapter we will discuss the evolution of the investment regime in Kazakhstan with a focus on the O&G industry investments.

Evolution of the Investment Regime, Subsoil Legislation, and Petroleum Fiscal Systems in Kazakhstan

Early post-Soviet Times: 1991–1993

The period of Kazakhstan's emergence as a new independent state was extremely challenging. Additionally, low hydrocarbon prices contributed to the rupture of existing economic ties, exacerbated by a lack of experience in managing the economy, which led to a sharp drop in GDP (see Fig. 1.1) and an increase in poverty. The decisions taken by the government in these years, and the history of the creation of institutions (see Baldakhov & Heim, 2020, this volume), are examples of the lesson of recent economic history that creative interventions can be remarkably effective even when the investment climate, judged by standard criteria, is poor (Rodrik, 2003). Moreover, to create an attractive environment,

Kazakhstani institutions had to simultaneously solve the issues of supporting small cities, depending on the load of enterprises near which they were located, while also launching privatization programs, creating a new financial system, and so on.

By the time Kazakhstan achieved independence in 1991, the country had inherited Soviet legislation along with Soviet problems. A negative total factor productivity, which exacerbated the political and economic tensions of the late Communist society, was not recovered after the reforms of the mid-1980s, leaving the countries of the USSR in poor economic conditions. Over the decades of Soviet rule, the administrative system implemented consistent cutbacks in investment, which finally led the country to a period of stagnation. The revision of economic policy introduced by Gorbachev's government in the 1980s could not resolve the problem of ineffective distribution. The reforms of so-called *Perestroika* revealed that any attempts to redirect investment from unjustified productive projects to non-productive social projects failed due to weak input-output relationships built into the economic structure over the course of decades. The economic reforms of *Perestroika* could not solve the crisis of the internal investment system, which showed that the economy needed significant resources, along with modern technologies. Such technologies, however, were not available inside the country nor were there conditions for attracting business from the outside. Since this fact revealed the need to create conditions that could allow foreign capital to enter the country, legislation shifted toward the establishment and operation of joint enterprises, with the participation of Soviet organizations.

Post-Soviet Times: Most Favorable Investment Regime and the "Free Entry" Model—1994–1997

Post-Soviet republics, in their first steps toward independence and autonomy, had to face the crucial need of attracting foreign investment, along with creating a welcoming investment regime within the conditions of a fierce rivalry in the post-Soviet arena. As suggested by classical theories of foreign investment, the free-entry model can meet all these goals. In this model, the guarantees provided by the host government should prevail

over requirements set for them (Sornarajah, 2004, 2017). Based on these ideas, Kazakhstan adopted the first *Law on Foreign Investment* in 1994.[1] For the first time, it provided foreign investors with a sound national regime that covered all investment activities. The national law guaranteed equal treatment for foreign investors and residents of the country. The promise of equal treatment was reflected in other legal documents, such as *the Civil Code* and *the Tax Code*. Along with this, it provided several significant guarantees as was suggested by the classical theory on foreign investment law. This reduced investment risks, ranking the country one of the tops among developing states for its favorable foreign investment entry model. The government was seriously concerned about attracting foreign capital into the economy in short-term, rather than in long-term perspective. Thus, those guarantees were assumed to promise a risk-free investment environment by introducing a system of safeguards that complied with the requirements of the free entry model.

There were seven principal initial guarantees outlined in the first law on foreign investment, covering promises of legal stability, protection from state interference, and freedom of financial flows.

1. The first and the foremost was the guarantee of stable legislation. Stability was meant to assure foreign investors that their investment would not be subject to changes in the host country's law. As will be discussed further, however, this guarantee did not really come into effect until ten years later in 2004.
2. The guarantee against expropriation provided a clause stating that the international practice of expropriation could be undertaken by the state only in cases explicitly defined in the statute and, if so, only in accordance with a particular legal procedure and with payment of adequate, prompt, and adequate compensation.
3. In addition, the law defined the principles of compensation for the cases of illegal action of the state or its officials, guaranteeing full compensation for the damage. At the same time, for the claims of damage

[1] Law of the Republic of Kazakhstan dated December 27, 1994, No. 266-XIII *On Foreign Investments.*

to foreign capital caused by *force majeure*, the compensation was to be paid in accordance with the national law.

4. Another important guarantee was that against interference by the state institutions and its officials in the activities of foreign investors. This guarantee was dedicated to the normative acts issued by the state and its officials against compliance with the law, thus worsening the conditions of foreign investment, which would be considered void. This aspect also included the guarantee against unauthorized state inspections, which meant that any state agency or official could inspect foreign investors' activities, but only within the scope of authority vested upon them by law. In this respect, foreign investors had a right not to respond to orders which were issued by the state or an official beyond the duties defined by law. They could also refuse to present information to them that is outside the scope of their authority.
5. Further guarantees were dedicated to the freedom of financial flows associated with investment activities. One of these was the guarantee of free use of dividends earned in the territory of the republic, which gives foreign investors the right of free reinvestment of the dividends received through initial investment for any other objectives which would be not prohibited by the national legislation of the country.
6. Following on from the previous rights listed above, the guarantee of the free transfer of currency abroad was introduced. All payments stipulated by law were guaranteed to be freely undertaken by a foreign investor. Furthermore, foreign investors were entitled to use hard currency to make payments for transactions occurring in the territory of the republic, as well as to pay salaries to the employees.
7. Finally, the law on foreign investment pretended to provide transparency for investment activity, which meant that foreign investors were guaranteed to have open access to all statutes and regulations, as well as court decisions, relevant to foreign investment. The law specified that foreign investors could have free access to information about the registration of juridical persons, on their charters, on the registration of real estate transactions, and on issued licenses. Free access to information did not apply to the data, which would constitute a commercial secret of another business entity or individual. With regard to the oil and gas business, all interested persons were allowed access to

information on the procedures for investment tenders and on their results, as well as information on a contract concluded between the state licensing authority and a winner of a bid. The information, which was agreed by the winner of the bid and a state organization to be confidential, could not be disclosed.

Moreover, the Law on Foreign Investment of 1994 took into account applicable law, which indeed allowed investors to choose an investment regime in favor of a more advantageous relationship between local laws and those in their home country, in the case that a bilateral treaty would be signed between their country of origin and Kazakhstan. At that time, Kazakhstan signed bilateral investment treaties, the vast majority of which were negotiated on so-called mutually beneficial clauses, with major capital exporting developed countries soon after their independence. This attempt to create a favorable investment regime was welcomed by international oil and gas companies, since it allowed them to strive for negotiations of conditions that benefitted them in terms of contract timeframes and production sharing agreements (PSAs), which were mostly based on the Indonesian model (Maulenov, 2005).

The concept of applicable law was reflected to a large extent in contracts in the petroleum sector since the early 1990s (Dosmukhamedov, 2003). At this stage of opening up the economy and attracting foreign investment, investors were understandably wary of Kazakhstan when choosing a recipient country because it had appeared on the world market as a new, previously unfamiliar subject of international economic relations (Esembayev, 2010). As a result, at the first stage, the range of investor countries was somewhat limited, as shown in Fig. 2.1.

Thus, the proclamation of the national regime of treatment of investments, along with the aforementioned guarantees, demonstrates Kazakhstan's willingness to adhere to an open and optimal model of regulation. The focus of the regulator on structural factors, rather than on conduct and control, sets up a facilitative institutional environment in which a foreign investor anticipates a longer commitment on the part of the state. The investing firm is therefore more willing to put down deeper

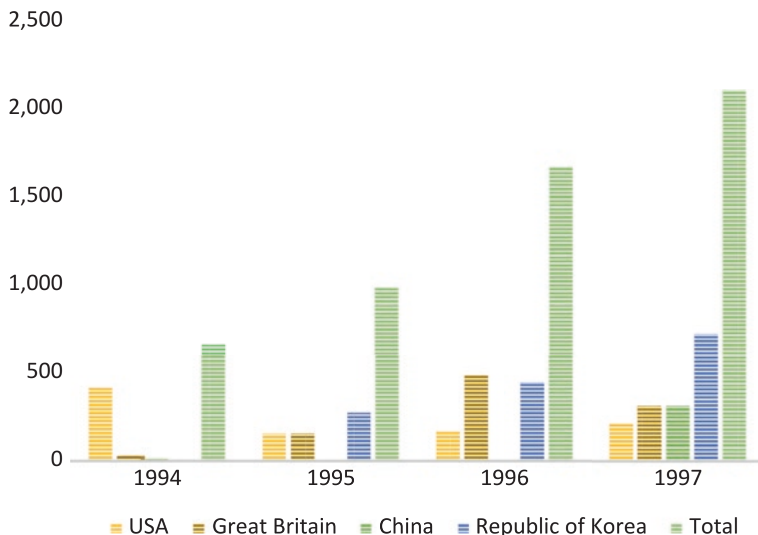

Fig. 2.1 Gross foreign investment inflows 1993–1997, billions USD. Source: Authors' own processed data based on the National Bank of Kazakhstan

roots in the host country. Accordingly, a predicted *spillover*[2] effect is likely to be more rooted in the sense of quality and the spread of knowledge-based assets to be diffused in the local economy. Nevertheless, further examination of the above clauses leads to the opposite conclusion. The first legislation on investment activities at that time was designed with the primary purpose of appearing favorable to foreign investors. In this regard, the government had to create as many guarantees, incentives, and preferences for the entry and presence of foreign capital as was possible within the bounds of adhering to national interests, all while making the climate for overseas capital a priority.

[2] Spillovers (or externalities) are impacts on third parties not directly involved in an economic transaction (Pigou, 1920 in Eden, 2009).

An Increase of Government Bargaining Power: "Negotiation Model"—1997–2003

The next step toward improving the country's investment climate was taken three years later in 1997, when the *Law on the State Support of Direct Investment* was adopted. The government announced that this law was designed to attract investments, borrowing the best international experience of transitional states. The investment legislation undertaken by Malaysia, as one of the fastest growing Asian countries with a transition economy, was suggested as a sample pattern for this purpose. As such, the goal of this shift in legislation was to create a framework for boosting inflows of investments into the backbone sectors of the Kazakhstani economy, the most important of which remained oil and gas. At the same time, a significant shift toward strengthening government bargaining power could be observed in this legislation amendment, with three important signs as evidence of such a shift. In fact, not only do these aspects represent the change in the investment regime, they also show change in the investment regime as a whole.

First, the law defined changes toward ensuring the interests of the state regarding foreign investment activities. Instead of providing guarantees of treatment in line with the national regime to all foreign investors, the new law carried these guarantees out within the boundaries of the national legal system, thus creating a distinctly separate regime for the regulation of foreign investment activities. First and foremost, this confirmed a swing toward the negotiation nature of the investment regime. This meant that, from that time, not all foreign investors were allowed to enter the country, but only those chosen and approved unilaterally by the government. Moreover, the initial terms of the contracts could be negotiated only by the government.

Second, the law replaced the procedure of granting foreign investors incentives, preferences, and grants, which were previously equally available for all foreign investors. From the initiation of this law onward, incentives, preferences, and grants not only became available solely for investors approved by the government, but the terms and volume of them could be varied with such approval.

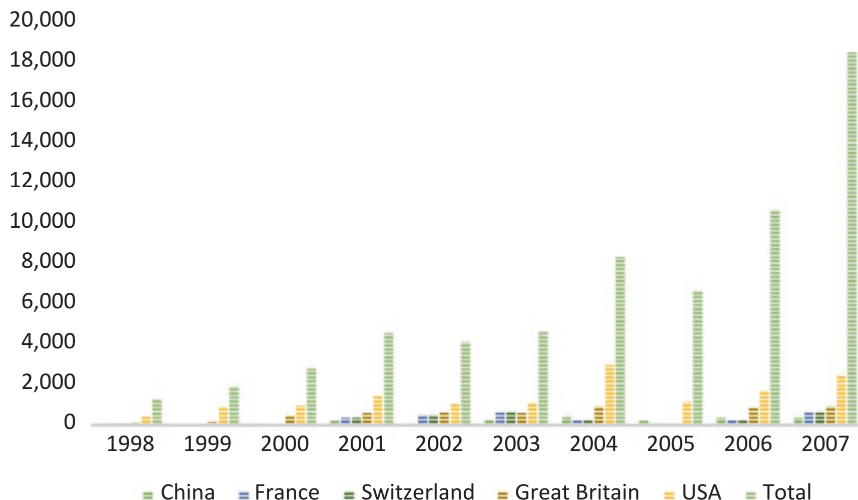

Fig. 2.2 Gross foreign investment inflows 1998–2007, billions USD. Source: Authors' own processed data based on the National Bank of Kazakhstan

Third, the law of 1997 undermined previous attempts to develop equal tax systems throughout all sectors of the national economy and origin of ownership. On the contrary, the law established the basis for so-called "contractual taxes" for individual investors, with particular emphasis on investors in the oil and gas and natural resources industries.

In this period, gross foreign investment inflows demonstrated a moderate increase, as depicted in Fig. 2.2.

Crisis and Post-Crisis Period: "Approval Model"—2003–2014

Since 2003, foreign investment activities in the Republic of Kazakhstan have been governed by the *Law on Foreign Investment*, issued that year.[3] This latest law generally combined contents of the two previous laws of 1994 and 1997; however, it significantly restricted the rights of foreign

[3] The Law of the Republic Kazakhstan from January, 8th, 2003 Nr. 373-II *On Investments.*

investors and curtailed preferences provided by the state, all while reinforcing government bargaining power.

Thereby, the most important amendment of the law of 2003 was that, as opposed to its predecessors, it no longer separated delimited investments into foreign and local categories. Abolishment of these categories meant the elimination of any preferences that were dedicated to attraction and free entry of investments in the country and had earlier been available for foreign capital. Likewise, the difference between direct and portfolio investment in the law was eliminated, thus leveling out treatment for different means of capital being invested into the country.

The law also shortened the list of guarantees ensured earlier, leaving only four. Thus, what remained were the assurances which embraced guarantees for the legal security of investment within the territory of the country, warranties of free use of dividends earned through investment activities, and for transparency of the state authorities' involvement and against nationalization and expropriation. Such an investment policy contributed to a rise in investment inflows and, more importantly, to an increase in the number of investor countries, combined with a decrease in the share of each state in gross investment. As such, the economy's resilience to external shocks was increased.

Regarding preferences, the law of 2003 indicated only the possibility of providing preferences, emphasizing, however, that from that time on, the latter would be negotiated and levied on a common basis for specific investment projects. Three types of preferences remained available with the most recent law, related to taxation, customs fees, and state on-location grants.

The beginning of the period of formation of Kazakhstan's investment regime coincided with the global economic crisis in 2008, followed by the sharp decline in hydrocarbon prices, which led to stagnation and a significant slowdown in growth rates. This did not, however, affect the flow of investment into the economy, including non-primary sectors (see Fig. 2.3). This is the best evidence of the success of Kazakhstan's investment strategy. After 2012, there was a slight decline in investment, but the average annual level for the entire period was kept at around US $20 billion.

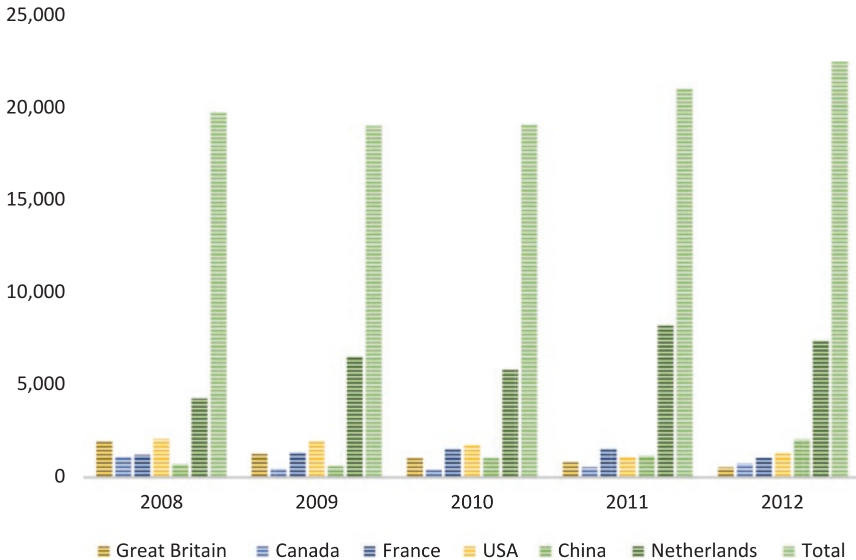

Fig. 2.3 Gross foreign investment inflows 2008–2012, billions USD. Source: Authors' own processed data based on the National Bank of Kazakhstan

The main priority of Kazakhstan's industrial strategy in this period was the introduction of a local content policy (see Baldakhov & Heim, 2020, this volume), reflected in the relevant statutory act.[4] Following this act, the Ministry of Investment and Development of the Republic of Kazakhstan established the *National Agency for the Development of Local Content NADLoC*,[5] which was delegated the authority to form the LCP and monitor the share of local content in procurement and projects. The objective function of the LCP is to mitigate the conflict between the country's need for FDI, the source of which is MNEs, and the need to increase domestic employment, wherein experience and knowledge often do not meet the MNE's requirements. The core of the LCP consists of appropriate and robust host country institutions that can enable the

[4] The Decree of the President of the Republic of Kazakhstan from January 27, 2009, Nr. 733 *On some issues of local content in the procurement of goods, works, and services to be procured by organizations and Government agencies*.

[5] NADLOC has been merged to Qazaqstan Industry and Export Center JSC (QAZINDUSTRY) in 2018.

indigenous labor force to attain a suitable level of training and skills for participation in the global economy. They also help to ensure that the quality and use of human resources, which are inevitable as a country moves up its development path, can be restructured (Dunning & Lundan, 2008).

Currently, the parties participating in investment activity consider the LCP to be standard practice. For example, Chevron invested about US $50 million in the construction of two factories to produce polyethylene pipes and more than US $40 million in a plant to produce valves. There are enough other examples of MNEs adopting the rules established by Kazakhstani institutions; however, practice shows that there are still many unresolved problems that will likely require special attention in the next stage. These problems include the complexity of analyzing oil and gas contracts or supply chains in general, due to limited information and the difficulty of accessing contracts that govern the relationship between operators and main contractors. The parties actively discuss the problem of information asymmetry, since the adequacy of local content assessment depends on this information being available. Even the authors of the policy themselves admit the difficulties associated with the process of collecting data and verifying the conformity of estimates of local content at all levels of contract chains (Ospanova, 2012).

The starting point of the fourth stage of investment reforms in Kazakhstan was the adoption of *The Code on Subsoil and Subsoil Use* in December 2017, which simplified the procedures for granting subsoil use rights, while also increasing the availability of geological information, information on subsoil users, subsoil use conditions, and final beneficiaries. The new code aimed to reduce the risks of non-users due to changes in terms of previously signed contracts. The priority right of the state is retained only in relation to strategic sites for hydrocarbons and uranium. In general, the expert community highly appreciates the investment climate of Kazakhstan, predicting that in the next 3–4 years, the country will receive more than US $100 billion of FDI. At the same time, the share of FDI in sectors oriented toward efficiency growth remains low, and the percentage of reinvested income is low (Muminov, 2018).

The character of the fourth stage of Kazakhstan's investment development will become clearer over time, but there is no doubt that

digitalization will lead to its mainstreaming. While going digital has mostly become the norm, it perhaps makes more sense for O&G companies to seize the opportunity and scale up its impact, especially in today's lower-for-longer environment that requires new operating and capital cost models. With a comprehensive roadmap in hand, the journey may not be so cumbersome after all (Deloitte, 2017). At this stage, we can expect an increase in the influence of state institutions and the stimulation of projects outside the oil and gas sector. One such industry is the information and communication technology (ICT) sector, the development prospects of which are suggested in Ambalov & Heim, 2020, this volume.

Evolution of Subsoil Legislation and Petroleum Fiscal Systems, 1991–2015

The economic literature (i.e., Esembayev, 2010) distinguishes three stages of the investment development of Kazakhstan:

- The first stage (1992–1997) is the transition from a planned, centralized economy to an open market economy and the first attempt to attract FDI.
- The second stage (1998–2007) is the intensification of processes related to investment activities, accompanied by the improvement of legislation.
- The third stage, ongoing at present, began with a period of stagnation and a noticeable slowdown in growth rates (2007–2008). This stage is characterized by the improvement of legislation and the creation of particular quasi-state institutions designed to ensure the harmonization of the interests of MNEs and local enterprises. Such institutions are the *National Welfare Fund Samruk-Kazyna* and the *JSC National Agency for the Development of Local Content*.

At the same time, the government implemented reforms of tax legislation on subsoil use alongside the creation of these institutions, such as the following:

1. 1991–1995: mining contracts determined all tax conditions;
2. 1995–2004: adopted *Tax La*w and Kazakhstan *Tax Code* consolidated basic terms and conditions of the taxation of mineral resources users (principle of tax regime stability, etc.);
3. 2004–2008: tightening of tax legislation (rental tax levy, cancelation of a principle of tax regime stability, etc.);
4. 2008–present: export duty and the enactment of new *Tax Code and Transfer Pricing Law.*

The International Law on Foreign Investment and Reinvestment in the O&G Industry

The O&G industry is one of the most capital expensive in the natural resources business. At the same time, petroleum projects give the highest return on invested capital. High returns create a favorable premise for the involvement of foreign capital in the development of oil and gas deposits all over the world. The most broadly represented form of foreign capital in the petroleum sector is FDI. Foreign direct investment involves the transfer of tangible or intangible assets from one country to another for the purposes of generating wealth under the total or partial control of the owner of the assets (Sornarajah, 2004, 2017). In contrast to portfolio investment, which is normally considered to be the movement of money to buy shares or undertaking overseas investment through other instruments, international law protects direct investments at least in terms of physical property and assets invested through principles of diplomatic protection and the state's responsibility.

The evolution of the term *investment*, which was first initiated with the principal of providing an alien nation with a minimum standard of treatment in order to minimize the responsibility of the state in case of their absence, consequently led to three principal concerns. These concerns are, first, to protect the physical property of the foreign investor; second, to extend protection to intangible rights, giving them the same status as the property; and, third, to include the administrative rights needed for the operation of the investment project within foreign investment.

The formation of the international law on foreign investment appeared during the transition from the colonial to the post-colonial historical periods and the liberation of former British and European colonies in Asia and Africa. Looking back at the history of the phenomena helps to gain an understanding of how emerging countries, which had recently lost centralized command governance of their former dominion, acted according to the reality of the market economy. In the majority of cases, soon after having seceded from a commonwealth or being set free from a protectorate, former colonies or union states joined the list of the developing nations, thus facing the severe problem of searching and attracting foreign investment for reconstructing the damaged economies. Sornarajah (2004, 2017) outlines two alternative views on the approach toward alien nations by the host state that existed during the colonial period. Both of them—whether that state would strive for equal treatment of the nationals or even for some external standard, which was higher than the national one—were alien friendly (see Fig. 2.4). Further development of the self-consciousness of foreign investment hosting states, however, led to two types of taking over of foreign property for political and economic self-determination. These two types included either capricious grabbing of property for the personal advancement of elite groups, as happened in many Latin American states, or the taking of property by a government for the institution of economic reform.

During the post-colonial period, developing countries have been introducing far more welcome policies on foreign investment. The reason here lies in the competition for a limited amount of foreign investments. The successive economic crises that followed in the developing nations of the former Commonwealth of the Independent States (CIS), Asia, and Latin America boosted liberalization, demonstrated as a speedy outflow of foreign funds when the situation turned bad. For many of these investments, this dilemma highlighted the idea that cyclical changes, which would differ on issues such as rights of access, types of treatment of investment, and dispute resolution, were necessary. This aspect has, to some extent, a lot in common with the situation that Kazakhstan faced immediately after having seceded from the USSR and declared its independence in 1991 (Dosmukhamedov, 2003).

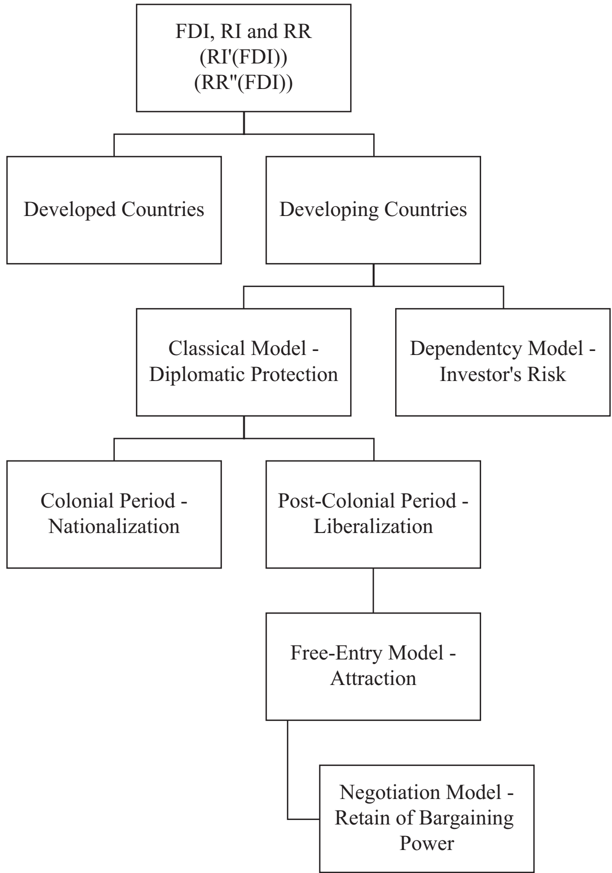

Fig. 2.4 International law on foreign investment and reinvestment. (Source: Adapted from Sornarajah, 2004, 2017)

Governments of resource-rich countries and foreign investors negotiate their interests in one of two primary systems: concessionary and contractual (see Fig. 2.5). The fundamental difference between them stems from different attitudes toward the ownership of mineral resources. The Anglo-Saxon and the French concepts of ownership of mineral wealth are the root beginnings. This ownership issue drives not only the language and jargon of fiscal systems but the arithmetic as well (Johnston, 1994).

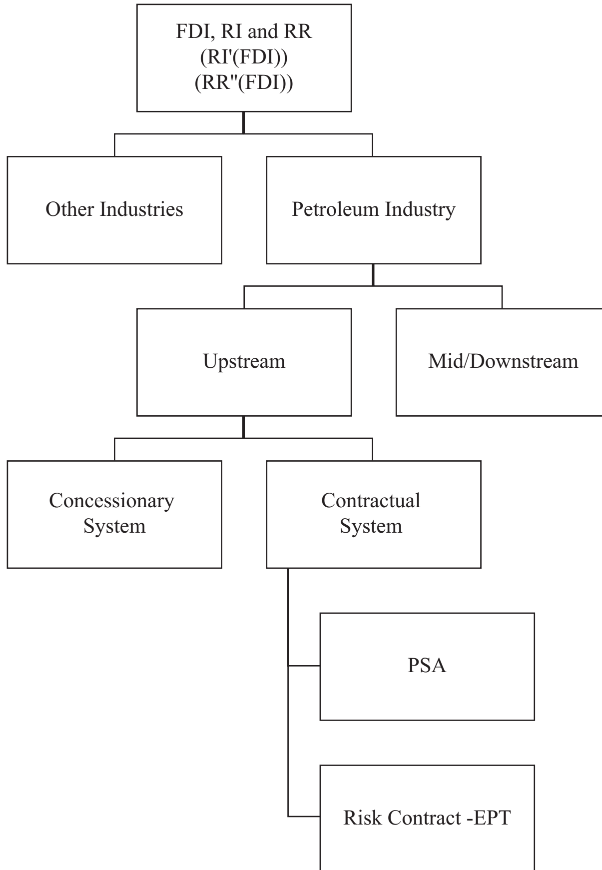

Fig. 2.5 Petroleum fiscal systems and FDI, RI, and RR. (Source: Adapted from Sornarajah, 2004, 2017)

Concessionary systems, as the term implies, allow private ownership of mineral resources. This concept comes from the Anglo-Saxon legal tradition. In most countries, the government owns all mineral resources, but under concessionary systems, it will transfer the title of the minerals to a company once they are extracted. The company is then subject to paying royalties and taxes. Under contractual systems, the government retains

ownership of minerals. Oil companies have the right to receive a share of production or revenues from the sale of oil and gas under a production sharing contract (PSC) or a service contract (Johnston, 1994). Therefore, contractual arrangements are divided into service contracts and production sharing contracts. The difference between them depends on whether or not the contractor receives compensation in cash or in extracted crude. This is a rather modest distinction and, as a result, systems on both branches are commonly referred to as PSCs or sometimes production sharing agreements (PSAs). From a legal point of view, the timing of the transfer of title and ownership is essential. If disputes arise, the closer the contractor is to ownership of the actual physical assets (crude), the stronger their legal position is. As far as ownership is concerned, the contractor ultimately receives a share of production under a PSC and thus claims title to the crude oil. The transfer of title is effectively shifted from the wellhead, under a concessionary system to the point of export, under a PSC.

The Shaping Factors for FDI, RI, and RR in Kazakhstan

Based on the literature review, we have developed a conceptual framework for the correlation of RR amounts in the upstream sector of Kazakhstan and the evolution of investment regimes and petroleum fiscal systems utilized in the country (see Fig. 2.6). Its aim was to empirically explain the fluctuations of the share of RR in the petroleum industry, which were fluctuating cyclically over time, either with peaks or with troughs, falling in the middle of each investment regime. Structured questionnaires completed by legislation scholars, lawyers, and tax and legal consultants in Kazakhstan proved the robustness of the model (Sekaran, 1992; Tharenou, Donohue, & Cooper, 2007).

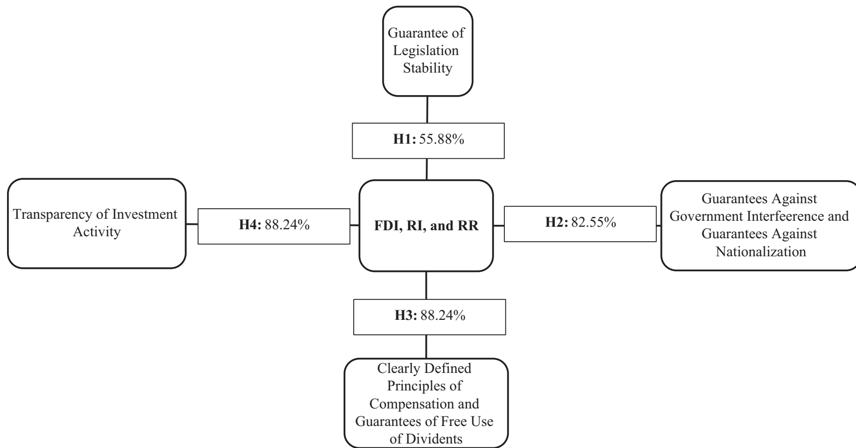

Fig. 2.6 The shaping factors for FDI, RI, and RR. Source: compiled by the authors

Hypotheses Group 1: Guarantee of Legislation Stability

From the group of questions dedicated to the general provisions of relationships between a host country and foreign investors, we generated hypotheses in the form of positive statements. The hypotheses addressed some turning points of the conceptual framework. For this hypothesis group, the responses from the questionnaires revealed the following results: an average "agree" factor of not less than 55.88%.

Hypotheses Group 2: Guarantees Against Government Interference and Nationalization

This group of hypotheses was dedicated to the examination of whether the classic theory of foreign investment could be applicable for Kazakhstan, particularly regarding drafting its investment legislation and developing its framework for FDI attraction. For the second subject group, the responses from the questionnaires revealed the following results: an average "agree" factor not less than 82.55%.

Hypotheses Group 3: Clearly Defined Principles of Compensation and Guarantees of Free Use of Dividends

The following subject group of questions was dedicated to the legal regulation of investment activities and consisted of nine questions. Seven of these questions were dedicated to the general aspects against which an investment regime is assessed, while the last two questions were concerned with some factors of influence within the investment model. For the third subject group, the responses from the questionnaires revealed the following results: an average "agree" factor not less than 88.24%.

Hypotheses Group 4: Transparency of Investment Activity

This subject group of questions was dedicated to the assessment of the evolution of oil and gas legislation regarding contractual bases and fiscal regimes. As derived from the literature review and presumed in the conceptual framework, oil and gas legislation, along with these two significant parameters, are the tools for varying relationships between the government and investors within the invariable investment model and, thus, the primary tool of increased governmental bargaining power (Johnston, 1994). This subject group consisted of four questions, which were meant to trace the whole evolution of Kazakhstan's petroleum legislation, starting from concessions owned entirely by investors, through the period of production sharing contracts shared with the government, and, finally, to the abolition of PSAs and their replacement by service contracts. For the fourth subject group, the responses from the questionnaires revealed the following results: an average "agree" factor not less than 88.24%.

Conclusion

In light of economic upsurge, Kazakhstan's legislation that covered foreign investment and subsoil use activities had been significantly modified during this time, shaping both the investment regime and petroleum production, very differently from how they were first introduced. Thus, the law on foreign investment first adopted in 1994 was estimated to attract foreign investment into the collapsed post-Soviet economy and industry. After amendments in 2003, however, the law changed significantly, now regulating , if not limiting , foreign presence in this strategically important sector. Both the subsoil and the petroleum laws were changed in 2009 from the 1999 laws in almost the same way, thus changing the whole concept of licensing and taxation. The approach changed from being initially valued as investment-favorable (applied from 1999 to 2004), through a so-called mixed transitional approach (applied from 2004 to 2009), to the final approach, evaluated as more regulatory toward foreign participation (in use since 2009).

Comparing the changes discussed above, we can assume that Kazakhstan has been transitioning from a country with a ruined post-Soviet economy to one pretending to host a free market. This transition creates an inevitable demand for the creation of a favorable environment for foreign investment, as well as for guarantees for foreign investors' stable and safe operations in the country in the beginning of such a transition. On the other hand, Kazakhstan has been moving up in the list of the developing nations since the declaration of its independence in 1991, which means that the country has to be concerned about the wealth of its citizens related to benefits from the natural resources. This positive trend creates the demand for future research in terms of analyzing whether the country has been maintaining the balance between providing a favorable investment regime and retaining profits, as well as whether the tools used for shaping investment have had a real impact on financial activities.

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