



LEGAL REGULATION OF INTERNATIONAL LEASING AGREEMENTS IN ACCORDANCE WITH UNIDROIT

Nurullayeva Nilufar Saydulla Kizi

Master's student at the University of World Economy and Diplomacy

Cherkashina Irina Aleksandrovna

Scientific adviser: PhD in Law, Assistant Professor of the International Civil Law and International Private Law Department

Annotation: *In modern conditions, with the expansion of economic cooperation, as well as the development of international financial transactions, the use of cross-border leasing has contributed to the rapid spread. International leasing has proven to be a valuable means of financing for companies that export capital goods and develop new production units abroad.*

Key words: *rent; leasing; international leasing; leasing agreement; tenant; landlord; international agreement; UNIDROIT; Ottawa Convention; financing; company*

In modern conditions of development of the world economy, financial leasing has become widespread, since it is associated with the attraction by business entities of various countries of additional sources of financing in production and other areas.

Leasing is a set of economic and legal relations that arise in connection with the implementation of a leasing agreement, including the acquisition of the leased asset. Any leasing transaction involves the tenant optimizing the costs of purchasing property necessary for the implementation of business tasks. In the case of purchasing foreign-made machinery or equipment, international leasing can provide additional benefits.

International leasing is a financial lease of property for a certain period with the subsequent transfer of the leased asset into the ownership of the lessee, where the parties to the transaction are residents of different countries. The most obvious advantage of this form of financing is the ability to reduce the cost of purchasing foreign-made machinery or equipment. Also, in some cases, international leasing allows the tenant to receive more favorable financing conditions compared to what is offered by domestic leasing organizations [3].

In the case of concluding a leasing agreement, mutually interconnected tripartite relations arise. The main act regulating leasing relations in international trade practice is the UNIDROIT Convention on International Financial Leasing, which was signed in 1988 in Ottawa (therefore, in the literature it is often referred to as the Ottawa Convention). In addition to the draft of this UNIDROIT Convention,



which primarily contains unified standards, this international organization has also prepared a model leasing agreement. The parties to the Convention are France, Italy, Spain (since 1995), Hungary (since 1996), Panama, Latvia (since 1998), Russia (since January 1, 1999), Belarus (since March 1, 1999.), Uzbekistan (since February 1, 2001) and other countries [2].

The 1988 Ottawa Convention applies to leasing parties in cases where the lessor's (lessor's) and lessee's (lessee's) places of business are in different states. The state of the commercial enterprise supplier of the equipment being the subject of leasing must also be a party to the Convention. International leasing involves the participation of legal entities from different countries in the transaction, and any of the parties can be a representative of a foreign state. Since Uzbekistan signed and ratified the UNIDROIT Convention on International Leasing, it also became part of the legislation of Uzbekistan regulating international leasing operations.

Chapter 34 of the Civil Code of the Republic of Uzbekistan "Property lease" contains paragraph 6 "Leasing (financial lease)", which defines the basic rules that govern legal relations arising in the field of leasing. The paragraph contains the concept of leasing, the concept of the object and subject of leasing, their rights and obligations, as well as the concept of subleasing and lease payment [1].

There are the following schemes for concluding an international leasing agreement:

- Direct leasing – the parties are legal entities from different countries who, during the transaction, either purchase imported goods or transfer domestic property for use to a foreign lessee.
- Indirect leasing – the parties are residents of the same state, and at least one of the parties to the transaction has foreign participation in the capital or is a branch of an international corporation.

In turn, international leasing is differentiated depending on various parameters of leasing relations. Thus, the form of organization of the transaction determines the following types of financial lease:

- Financial leasing is a financial lease of property for the period of its useful operation, after which the residual value of the leased asset is close to zero, and it becomes the property of the lessee. It follows from the Ottawa Convention that financial leasing is a transaction formalized by two types of agreements: a purchase and sale (supply) agreement between the lessor and the supplier of equipment selected according to the specifications of the lessee, and a leasing agreement between the lessor and the lessee, on the basis of which the lessee uses the equipment in exchange for payment of periodic payments.

The subject of financial leasing is, as a rule, movable property (equipment): production equipment, including components and means of production. In addition, they can be vehicles of any kind, as well as equipment that is closely related to real



estate and is part of the land plot or property attached to the land plot (for example, a drilling rig). During the term of the financial leasing agreement, the owner of the leased property remains the lessor, whose rights are protected in the event of bankruptcy of the lessee. This property cannot be foreclosed upon by the claims of the lessee's creditors.

- A leaseback is a financial lease of property in which the original owner is the lessee. As a result of the transaction, the leased asset comes into temporary possession of the leasing organization for the duration of the contract and is leased to the lessee. And after the expiration of the leasing agreement, the property again becomes the property of the tenant. Companies resort to leaseback to replenish working capital.

- Leverage is a form of financing that is used to undertake large-scale and long-term projects. A feature of leverage is that a large number of parties are involved in the transaction: several shareholders, creditors and sellers. Thus, with proper structuring of the transaction within the framework of one project, the leverage leasing model allows you to receive tax benefits in several states at once (depending on the number of parties). In addition, the ability to use elements of trade finance, factoring or fortification when implementing a project significantly simplifies and speeds up the turnover of funds.

Matters not expressly regulated by the Ottawa Convention shall be determined in accordance with the general principles on which it is based or, in the absence of such, in accordance with the law applicable under private international law. The Convention itself provides for separate conflict of laws rules, with the help of which the applicable legal rules governing real rights to various types of property are determined.

In particular, in cases where the subject of leasing is equipment attached to a land plot or that has become an accessory of the land plot, the question of whether or not the specified equipment has become such an accessory (or has been attached to the land plot), and the legal consequences arising in connection with this for the lessor and the holder of real rights to this land plot, the location of this land plot is determined by the law of the state [4].

Depending on the form of payment, international leasing is:

- With cash payment, when payments are made in cash;
- Compensatory, when payment is made in goods that are produced on leased equipment;
- Mixed, when payments are made partly in cash, partly in goods or services)

[5].

There are also types of international leasing depending on the volume of servicing of the property presented for financial lease:



- Clean, in which the maintenance of leased machinery or equipment is carried out by the lessee at his own expense;

- Wet, in which maintenance of the leased property is carried out by the lessor.

Under the terms of the transaction, the responsibilities of the leasing organization may also include training qualified personnel, supplying raw materials, etc.

The conditions for executing a transaction within the framework of international leasing, in addition to the requirements of the lessor himself (terms, interest rates, maximum amount, etc.) are determined by such factors as:

- International treaties that regulate investments and customs regime between states;

- Legislative acts of countries regarding leasing activities;

Features of the parties to the transaction: their residency, presence of shareholders, etc.

- The procedure for registering a leasing transaction depends, first of all, on its type and can take place in several stages. As a rule, in international leasing, cooperation between the parties is carried out according to the following scheme;

- A potential tenant selects a leasing organization and sends it an application for cooperation;

- The lessor conducts an expert assessment of the solvency and legal status of the company, studies its activities, country of origin and other parameters, for which the applicant may be required to submit an appropriate package of documents;

- If necessary, the leasing organization applies to a bank in the country of location to obtain a loan for the purchase of the leased asset;

- After receiving borrowed funds, the lessor enters into a contract with the manufacturer of the machinery or equipment;

- The goods are sent to the lessee, and the lessor pays for it with the manufacturer or supplier;

- After transferring the leased property for use to the lessee, he makes regular payments to the account of the leasing company in accordance with the terms stipulated by the terms of the transaction.

As we can see, the procedure for drawing up an international leasing agreement is some what different from a standard leasing transaction. These features should be taken into account at the stage of selecting the leased asset and a potential transaction partner.



BIBLIOGRAPHY:

1. Civil Code of the Republic of Uzbekistan, Section III. Law of Obligations, Chapter 34. Property lease (lease) §1. General provisions. www.fmc.uz.
2. Legislation of the Republic of Uzbekistan / Civil and family legislation / Certain types of contracts / Leasing / UNIDROIT Convention on International Financial Leasing (Ottawa, May 28, 1988, accession of the Republic of Uzbekistan in accordance with the Decree of the OM of the Republic of Uzbekistan dated May 26, 2000 N 84-II, entry into force for the Republic of Uzbekistan on February 1, 2001).
3. Law of the Republic of Uzbekistan, dated 02/06/2019 No. ZRU-518, from 06.02.2019 г. № 3PY-518.
4. CONVENTION UNIDROIT CONVENTION ON INTERNATIONAL FINANCIAL LEASING (OTTAWA, 28 MAY 1988) www.unidroit.org/instruments/leasing/convention.
5. Leasing and standard leasing agreement, unsdg.un.org/resources/standard-lease-agreement.