



Research Article

SPECIFIC ASPECTS OF CLUSTER ACTIVITY AS A MEANS OF INCREASING COMPETITION IN THE ECONOMY AND AS A MODERN FORM OF INTEGRATION

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ABSTRACT

This article provides scientific opinions and discussions on the significance of new cluster model, the organizational and legal structure of the cluster, the subjects that can be recognized as cluster members, and the necessity of passing legislation addressing these concerns.

KEYWORDS

Doing business, cluster model, organizational and legal form, business entities, integration, synergy, cluster members, association.

INTRODUCTION

The fundamental improvement of the position of Uzbekistan in the Doing Business ranking (in the majority of categories) is one of the significant priorities of our state policy in the area of furthering the development of entrepreneurship.

In this regard, it is crucial to introduce cutting-edge scientific discoveries, innovative ideas, and technologies to the economy, social sector, and governmental sector. Additionally, it is important to gradually adopt “smart” management in state and economic management, which are utilized extensively

in developed foreign countries and provide favorable results.

The cluster model of production is crucial for addressing issues such as introducing new management principles to production process, intensifying structural reforms, employing efficient production techniques, and especially establishing a deep processing chain for agricultural products.

The cluster model was recently introduced in Uzbekistan, certain works are being carried out on its development, several legal documents have been adopted and their implementation is being ensured. However, a special legal document which defines the legal status of clusters in detail, which is an important tool for the development of the economy, has not yet been developed.

What is more, the methodological bases of researching the processes of integration and clustering in production, the experience of foreign countries in implementing cluster policies, international standards, achievements, mistakes and shortcomings have not been studied scientifically and practically. This is making it difficult and problematic to establish mutual relationships with participants in clusters, to strengthen ties and cooperation with pertinent offices and organizations, to adopt internal local documents, to ensure legal protection, to determine liability measures, and other similar problems.

It is well known that any cluster's primary activity is to engage in production, that is, doing business. In order to engage in business activities, the cluster must first be recognized as a legal entity.

Any person must first be properly registered with the state in order to legally engage in business activity. The

cluster must register as a legal entity with the state as long as it is conducting business.

According to the current legislation in Uzbekistan, legal entities engaged in business activity after state registration are divided into two types:

1. Individual entrepreneurs engaged in business activities without establishing a legal entity;
2. Business entities with the status of a legal entity.

The cluster cannot conduct sole business operations because it is an association of several businesses and organizations. That is, it must have the status of a legal entity.

The two types of business entities that have the status of a legal entity are as follows:

1. Legal entities engaged in business activity independently, as a separate legal entity. For instance, joint-stock company, limited liability company, additional liability company, general partnership, private enterprise, farm, etc.
2. Legal entities as an association consisting of an association of legal entities engaged in business activities. For instance, an association, holding company, industrial group, etc.

We should highlight that the organizational and legal structure of the cluster corresponds to the second category of legal entities based on the regulations of the majority of economic countries and the views of legal and economic scientists and experts.

For instance, the American economist M. Porter, who developed the theory of the cluster model, defined the cluster as follows in his book "Competition": A cluster or industrial group is a geographically adjacent group of related businesses that operate in a particular



industry and are distinguished by the unity of their activities and mutual support (complementing each other).

A cluster, as defined by international law, is a grouping of businesses and other organizations and bodies that are involved in cluster activity.

Clusters have as their primary activity the production of complex, multi-stage procedures for a particular product. Our opinion is that the organizational and legal form of clusters should be an association, i.e., an organization with the status of a legal entity. It consists of an association of participants who are each considered independent legal entities, which pursue to coordinate the cooperation between business entities (participants) engaged in such activities and other pertinent organizations.

We believe that operating such an association as a regular corporation, i.e., on the basis of a contract for joint activity, or in some comparable form of association, is appropriate. It is not necessary to create a charter fund if the cluster functions like a regular company.

According to N.A. Larionova, a cluster is an association of economic activity subjects of various interrelated sectors, whose constituents are interconnected and dependent on one another, working together to achieve a common objective, and integrated in a single organizational structure. A single system of activity, a certain incentive, and additional benefits for each of the businesses should result from such reciprocal cooperation.

According to our interpretation, the phrase “association of economic activity subjects of various interrelated sectors” in this definition refers to a complicated form of association. The activities of each

participant in the cluster are interrelated and, in some way or another, are considered dependent on one another in matters like providing money, providing services, and supplying raw materials, even though they all work together to achieve the same goal, which is to produce a product.

Legal entities may join associations (unions) and other associations in accordance with the Law, according to the fifth paragraph of Article 40 of the Civil Code of the Republic of Uzbekistan. A commercial organization may join associations (unions) and other groups, which are non-commercial organizations, in accordance with the provisions of Article 77 of this Code in order to coordinate its business operations and to express and defend its common property interests.

Although a union and other associations are legal entities, they are not liable for their members' obligations and their members continue to have their independent will and legal entity rights.

According to the aforementioned criteria, if the cluster is thought of as an association or association of legal entities, it is first and foremost a non-profit organization, and secondly, it has legal entities as its members.

However, it should be noted that this provision does not require that the association's members be solely legal entities. We believe that any individual business or even an individual can join the cluster if they agree to work together to achieve the activity aim. The most crucial aspect of the cluster's relationships is that they will be civil-legal relationships founded on the idea of reciprocal equality and governed by contracts.

Another conclusion which can be drawn from the above rule is that the cluster as a whole cannot independently engage in entrepreneurial operations.



According to the first part of Article 77 of the Civil Code of the Republic of Uzbekistan, if a cluster is deemed an organization and its members are tasked with carrying out business activities, they must convert into a business company or society in accordance with the law.

Another significant difficulty is that if the cluster has an association as its organizational-legal form, it may be unclear to which type of association it corresponds, such as a holding, cooperative, corporation, concern, industrial group, or another form. We believe that the cluster should be viewed as a distinct new form of association with unique properties. For a variety of distinctive reasons that set it apart from other associations. The list of organizations acknowledged as cluster participants is one of its distinguishing characteristics.

Pursuant to the Presidential Resolution PQ-3279 of September 15, 2017 “On measures to establish a modern cotton growing-textile cluster in the Syrdarya region” (Paragraphs 1 and 2) it was approved to implement the pilot project, which provides for the establishment of a joint venture “Bek cluster” in the form of a limited liability company, in which contemporary processing of competitive products would be carried out.

In addition, the following list of organizations included in the cluster in the form of a joint venture was approved in accordance with the annex:

1. Agricultural organizations for the preparation of cotton raw materials and other agricultural crops.
2. Cotton raw material processing organizations.
3. Organizations for the production of oil products.
4. Organizations for the production of textile products.

5. Organizations for the production and processing of milk, meat, and egg products (livestock and poultry complexes).
6. Organizations for the cultivation of vegetable products and greens (modern greenhouse complexes).
7. Organizations for storage and processing of agricultural products .

The organizations on this list, or the cluster's participants, engage in activities primarily connected to the manufacturing of goods within the scope of the cluster.

Along with the enterprises whose activity is related to product manufacturing, N. Larionova identified scientific-research centers, higher educational institutions, and other organizations as cluster participants. In particular, he expressed the following opinion about cluster participants: “It should be noted that the development of the economy with the help of a on cluster activity - a specific tool of business. A market-oriented society uses laws, interpersonal interactions, the banking sectors, supporting institutions, etc. to shape the rules of its economic entities. Therefore, a cluster that follows these guidelines is a unique organizational setting that promotes the growth of big businesses, small businesses, suppliers of goods (equipment, spare parts, specialized services), infrastructure facilities, research centers, higher education institutions, and other organizations. It is important that the synergetic effect is achieved in the cluster, because the participation of competing enterprises is mutually beneficial .

Some other legal scholars also provide an understanding of cluster participants consistent with this idea. For example, according to N. Semenova, “a regional cluster is an association of firms, universities



and other organizations related to a specific field in a specific area, where synergy is achieved through competition and cooperation among participants” .

Recognizing this viewpoint, it should be underlined that research institutes, higher educational institutions, and other organizations may also take part as cluster participants. For instance, scientific-research institutions can get involved in the development of a new seed for the cluster, the scientific analysis of the causes of the decline in productivity, the study of foreign countries' experiences in a particular area and the drawing of conclusions. Higher educational institutions can participate in the improvement of the skills of the cluster employees and in their retraining.

E.S.Samostroikova discussed how the cluster differs from previous technopolises and regional manufacturing complexes by including state structures in addition to scientific-research facilities, higher education institutions, and other organizations .

One can only agree in part with this opinion. Because such structures are acknowledged as cluster participants in the laws of the majority of foreign countries. They are engaged in supporting or interacting with cluster activities in matters such as concluding contracts with the cluster, allocating land areas to them, allowing them to use infrastructure facilities, tax, mandatory payments, local levies or other types of benefits. In our opinion, it is appropriate to recognize them as indirect participants of the cluster (not direct participants). Because they enter into similar relations with other entities from the point of view of the state's interest, and they are also engaged in other activities within their competence.

We think it is reasonable to divide the cluster participants into the following categories in light of the aforementioned factors:

1. Direct participants of the cluster:

- a) central managing enterprise of the cluster (leader-enterprise);
- b) primary production enterprises;
- c) product processing enterprises;
- d) trade-intermediary enterprises;
- e) supply enterprises;
- f) outsourcing enterprises;
- g) financial institutions;
- h) other types of enterprises (providing transport and technical services, repair, advertising, consulting and legal services, etc.).

2. Indirect participants of the cluster:

- a) district government;
- b) land cadastral organization;
- c) standardization agency;
- d) veterinary organization;
- e) educational and research institutions;
- f) partner business entity or association in a certain direction;
- g) utility service enterprises;
- h) banks and credit institutions;
- i) public service agency and others.

In addition to these cluster participants, it should be noted that there are supplementary organizations that are not cluster participants but engage in civil-legal



relations with the cluster on the basis of a contract. They support the operations of the cluster, and contribute to their growth. These groups, in our opinion, include:

- a) Organizations assisting in the creation of strategic tasks and programs;
- b) Organizations assisting in holding trade fairs;
- c) Organizations offering advice on the implementation of pertinent programs;
- d) Organizations offering advice on legal issues;
- e) Organizations that provide assistance in matters of media coverage and advertising of pertinent information;
- f) Organizations that help establish cooperation with educational and research institutions;
- g) consulting organizations on marketing, credit, investment and import and export of products, etc.

A number of laws pertaining to cluster activity have recently been approved in Uzbekistan, and they provide legal regulations on some of the associated issues. However, the mentioned legal documents do not sufficiently clarify important issues such as specific features of the cluster model (which is considered a new form of production), legal status of clusters, aspects that differ from other economic entities, the order of their organization and termination of clusters, executive bodies of clusters, the rights and obligations of cluster participants. Therefore, when these established clusters carry out their activities, engage in contractual and property contacts with other commercial entities and state authorities, various challenges and misunderstandings develop.

The resolution of the Cabinet of Ministers of the Republic of Uzbekistan No. 733 dated December 4, 2021 “On approval of the regulation on the procedure for organizing the activities of cotton-textile clusters” is one of the normative legal documents intended to clarify the legal status of clusters as widely as possible. With this resolution, the Regulation “On the procedure for organizing activities of cotton-textile clusters” was approved.

The Regulation gives a legal definition to the cotton-textile cluster for the first time: “a production complex that includes the cultivation and (or) purchase of cotton raw materials by one or more organizations on the basis of a contract, including deep processing processes based on cooperation with other economic entities”.

In our opinion, this term does not adequately explain the concept of a cluster. In other words, if the cluster is given the label “production complex”, it raises issues like whether or not to recognize it as a legal body, who should be its members, and what type of organizational and legal shape it should have. Additionally, it must be made clear what is meant by “deep processing processes”, who is meant by “other economic entities” in the definition, and whether or not they are considered cluster players. Furthermore, this legal concept does not clarify whether raw materials should be obtained from cluster participants or from other corporate entities that are not cluster participants based on the terms of the contract.

According to the clause 3 of the Regulation, the cotton-textile cluster is organized in the following three forms:

1. Cultivation of cotton raw material by renting agricultural land plots;

2. Purchase of raw cotton raw materials from farms and other economic entities producing cotton raw materials on the basis of a contract without renting agricultural land plots;

3. Cultivation of raw cotton raw materials by renting agricultural land plots and purchasing raw cotton raw materials from cotton growers on the basis of a contract.

This legal standard only details the process for the cluster's leasing of land plots, farming, and raw material purchases. These forms, however, do not refer to the organizational and legal structure of businesses or the associations that they operate under that are recognized by the law as operating in our country. In other words, the Regulation does not provide a clear response to the question of how a cluster can be constituted in an organizational and legal form.

According to clause 5 of the Regulation, the organization of activities of cotton-textile cluster is carried out by the Cabinet of Ministers based on the decision of the republican commission for coordination of activities of cotton-textile clusters. The procedure for organizing the activities of such clusters is detailed in Chapter 2 of the Regulation.

The final document on the organization of activities of cotton-textile clusters is adopted by the Cabinet of Ministers of the Republic of Uzbekistan (clause 21 of the Regulation).

Based on this document, a thirty-year tripartite agreement on establishing a cotton-textile cluster would be concluded between the Ministry of Agriculture, the Association of Cotton-Textile Clusters of Uzbekistan, the Council of Ministers of the Republic of Karakalpakstan and regional governments, as

appropriate, and the candidate who is organizing the cluster (up to twenty-five years in case the applicant is an enterprise with foreign investments or a foreign legal entity).

According to Article 3 of the Law of the Republic of Uzbekistan “On Guarantees of Freedom of Entrepreneurial Activity”, Entrepreneurial activity (entrepreneurship) is an initiative activity carried out by subjects of entrepreneurial activity in conformity with the legislation and is intended to income generation (profit) at their sole risk and property liability. According to the second paragraph of the first part of Article 8 of this Law, business entities have the right to independently choose a sphere of their activity, suppliers and consumers of their goods (works, services).

In this context, we believe that the procedure for reorganization and liquidation of clusters should also be consistent with the general procedure established for other economic entities for clusters to be voluntarily organized by their founders, for participants to have the right to join and leave the cluster at any time, to carry out joint activities freely. Making a separate agreement with state bodies and placing duties on clusters that are different from those required by law would have a negative influence on how effective their activities are and will lead these bodies to meddle with clusters' activities more frequently.

Furthermore, the Regulation does not adequately address the internal contractual and property-legal relationships of the cluster participants. However, in practice, there are various disagreements, conflicts, disputes between the main, organizing legal entity, which is called “cluster” and “the rest of the members of the cluster”. Civil law states that all corporate entities, including each cluster member, have equal

rights and obligations, but when local governments and other state bodies in the internal economic relations between them is increasing protests among the “remaining participants of the cluster”.

Therefore, it should be highlighted that after studying in depth all the problems, mistakes and shortcomings encountered in practice related to the activity of clusters there is a need to adopt a special law which serves for the further improvement of the legislation related to the field, including the legal norms mentioned in the Regulation and the essence of the cluster model, which determines the guarantee of efficient, equal and free operation of clusters.

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