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BELT AND ROAD INVESTING IN THE CASPIAN REGION



— THOUGHT LEADERSHIP

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BELT AND ROAD INVESTING IN THE CASPIAN REGION

Standing at the crossroads between Asia and Europe, the Caspian region has a key part to play in China's Belt and Road Initiative (BRI). The governments of Azerbaijan, Kazakhstan, Uzbekistan, Turkmenistan and Georgia, in particular, are actively courting Chinese investors and Chinese finance in relation to a range of domestic and cross-border transportation, energy and information infrastructure projects.

Kazakhstan

Often referred to as the "buckle" in the belt and road policy, Kazakhstan has taken great strides in aligning its domestic policies with BRI and seeking to create an attractive environment for FDI.

Kazakhstan is the largest and most oil-rich country in Central Asia, with a territory the size of Western Europe. Its oil, gas, coal and uranium reserves rank amongst the largest in the world, making it strategically important for China's energy security. Its relative proximity to China and safety of the transportation routes between the two countries means that, long before President Xi Jinping officially announced BRI in Astana in 2013, China had been making significant investments in Kazakhstan's oil and gas infrastructure.

Take the Kazakhstan-China Oil Pipeline project, for example. This is a 2,800km export pipeline running from the Caspian Sea to Xinjiang in China. It is China's first direct oil pipeline with central Asia, and was developed by CNPC and the Kazakhstan national oil company, KazMunayGaz. It opened in 2006, and in 2017 pumped 12.3 million tonnes of crude to China (up 23 per cent year-on-year).

Oil and gas

Kazakhstan has been an oil producer for more than a century and the oil and gas industry has traditionally been the engine of Kazakhstan's economy. However, it was slow to invest in its offshore zones and, although the huge Kashagan field started commercial production last year, the project was beset with various financial, shareholder and technological problems which resulted in the project being completed more than ten years

behind schedule. Significant new investment is required and the Kazakhstan government has recently released proposals for the exploration of its Northern Caspian offshore zone at depths of more than 10,000 metres. A shortlist of Russian and Chinese firms has been drawn up to help drive this forward.

Mid-stream transportation projects, such as the Kazakhstan-China Oil Pipeline, are key to helping Kazakhstan secure alternative routes to market and to reduce its reliance on Russia as purchaser of its hydrocarbons.

But widening its focus goes beyond hydrocarbons to transportation and logistics more generally. Kazakhstan is the world's largest landlocked country and needs to build better connections with other parts of the world so that its products can reach their markets more quickly and safely. It also plans to leverage its geographic location to become the largest business and transit hub in the Central Asian region.

The inbound investment opportunities presented by BRI are therefore, to a large extent, complementary to existing domestic plans. For example, Astana's "Nurly Zhol" (Bright Path) initiative, announced by the President in 2014, is a US\$9 billion economic stimulus programme which envisages, amongst other things, the modernisation of Kazakhstan's road and rail networks in order to increase trade along the ancient Silk Road, and to place Kazakhstan in the top 30 developed nations by 2050.

Astana International Financial Centre

In January 2018, the Astana International Financial Centre (AIFC) opened its doors for business. Modelled on the DIFC in

Dubai, it is part of the country's long-term strategy to accelerate the diversification of its economy away from oil and gas and become a regional financial services hub.

Companies registering in the AIFC will benefit from a range of privileges designed to attract the inflow of FDI and expertise to Kazakhstan, including an exemption from local taxes for 50 years, free movement of capital in and out of the country, and favourable lease terms. The Development Bank of China recently became AIFC's tenth participant.

In order to foster an attractive environment for investment, the AIFC has been set up as an independent legal and regulatory system based substantially on English law. Participants in the AIFC have two options for resolving disputes with third parties. The first is the AIFC Court, headed by Lord Woolf, the former Lord Chief Justice of England and Wales. Or companies can turn to the AIFC Arbitration Centre, which is currently staffed by a number of senior international arbitrators. Each is designed to facilitate an effective and efficient resolution of disputes (the AIFC Court has a fast-track small claims procedure, for example) with the aim of creating a stable and predictable business environment.

Key to the success of the AIFC Court and AIFC Arbitration Centre will be the ease with which AIFC judgments or awards can be enforced "onshore" in Kazakhstan or abroad.

Regarding the former, the Kazakhstan Constitution has been amended to recognise the jurisdiction of the AIFC. It provides that AIFC judgments can be enforced in the domestic courts in the same way as ordinary Kazakh judgments. This is likely to be a major selling point for the AIFC in enabling parties to circumnavigate the complex Kazakh court system.

For enforcements against foreign assets, Kazakhstan is party to various conventions which provide for the mutual recognition of judgments between former Soviet states. It has also entered into a treaty with the People's Republic of China

which potentially allows the mutual recognition and enforcement of judgments between these two countries (including those emanating from the AIFC) although it remains to be seen how this will operate in practice.

Astana International Exchange

To support the AIFC's goal of developing the financial services industry in the areas of capital markets, fintech, Islamic and green finance, the Astana International Exchange (AIX) has been established to provide a regional trading platform. This has the backing of the Shanghai Stock Exchange (with a 25 per cent stake) and NASDAQ (who will be providing technological support with regard to the development of Fintech products and e-commerce).

The first wave of major activity on the AIX is expected to come in the form of IPOs of some of Kazakhstan's state-owned enterprises, including the national oil and gas company, railway operator and the world's largest uranium producer. Astana has announced a significant privatisation programme which aims to reduce the government's stake in the economy to 15 per cent by 2021.

Clifford Chance in the Caspian Region

Clifford Chance has been active in the Caspian region for many years, during which we have developed a detailed understanding of the cultural and legal norms within the main jurisdictions. We have a reputation for getting complex, often first-of-their kind, deals over the line.

Examples of our recent mandates include advising lenders in relation to three hydro IPPs in Georgia, SOCAR on the upgrade of its refinery in Baku, and Southern Gas Corridor on its debut Eurobond issuance of US\$1 billion notes guaranteed by the Republic of Azerbaijan. We make regular trips to the region and have developed close working ties with leading local counsel.



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