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IV Investors' Voice

The American Chamber of Commerce in Kazakhstan

Kazakhstan's Leading International Business Association

December 2017
HOLIDAY ISSUE
#76

AmCham Advocacy 2017 - Kazakhstan Faces The Future

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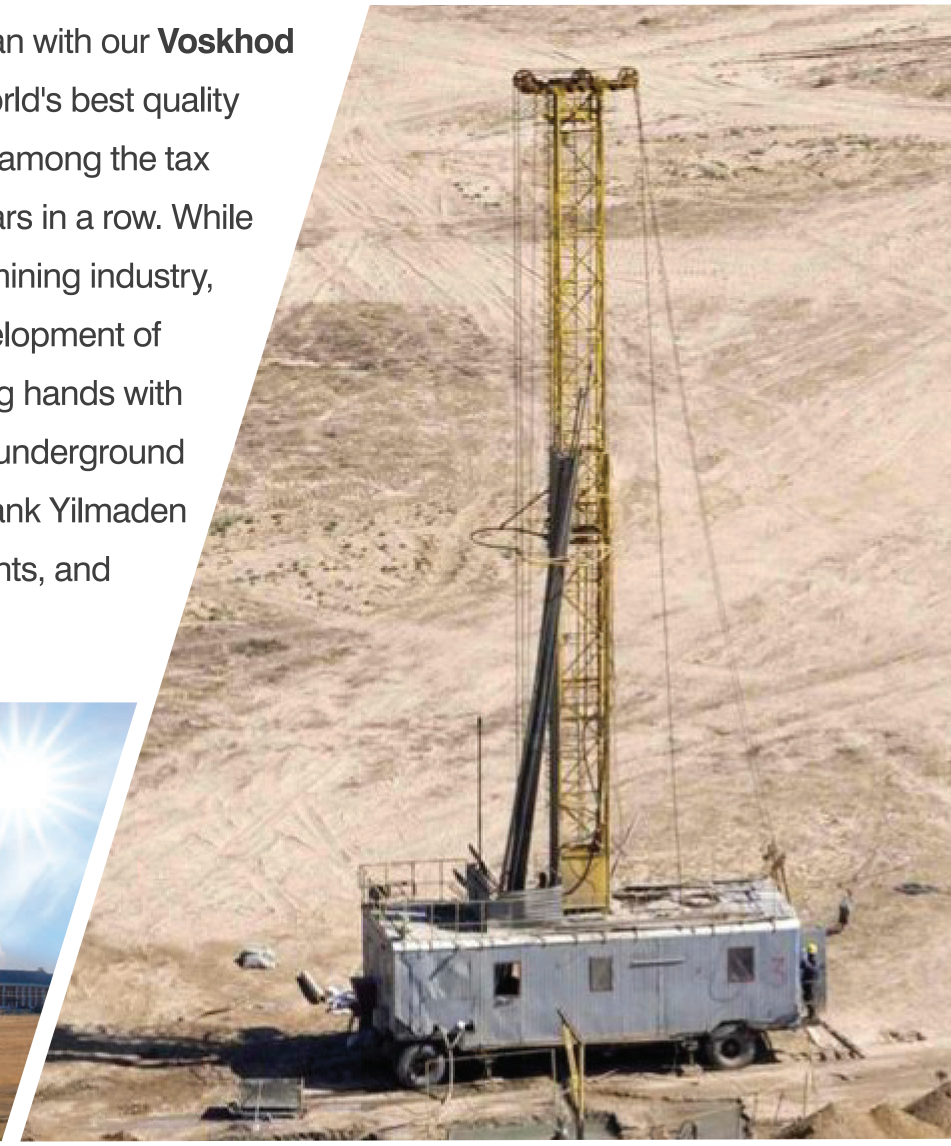

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EDITOR'S NOTE

Dear Readers,

December is always a very special month for AmCham and its members. The Holiday Season is already in full swing with bright lights and decorations lining Almaty's streets, transforming the city into a wonderland. AmCham members are wrapping up their year's work and making Holiday plans centered on family, homeward travel, and exotic destinations. And AmCham itself is taking stock of the year's achievements, both for AmCham and its members.

A tradition has emerged in recent years for AmCham to publish the best advocacy presentations from the *Prime Minister's Council to Improve the Investment Environment*, the monthly dialogue platform created eight years ago by the Prime Minister exclusively for AmCham to advocate for change in Kazakhstan's business and economic environment. Each year brings a new focus, a new set of challenges, and new responses from the Government as it seeks to improve the investment environment for both foreign and domestic investors.

And so AmCham presents in this year's *December Issue* of *Investors' Voice* the 'best of the best' Council presentations by our speakers - both AmCham members and invited guests from organizations such as the OECD, IMF, EBRD, and ADB - in 2017. This year has seen the Council discuss *Privatization, Deregulation, Currency Controls, Local Content, Intellectual Property Rights, Environmental Regulatory Reform,* and *Tax Reform* - all topics represented in the December Issue .

And so, AmCham takes pride in sharing with our December readers the many voices that have articulated unique and informed positions at the Council in 2017, supporting Kazakhstan in its march towards a sound economic future. We hope you will enjoy reading about these topics. We wish all our readers a very Happy Holiday season and a prosperous and successful New Year 2018.

Doris Bradbury
Executive Director

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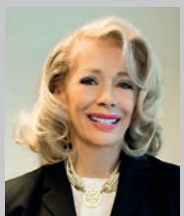

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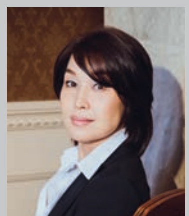

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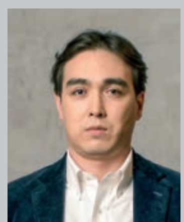

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Dr. Slavova holds a PhD in Economics from the London School of Economics and Political Science.

ENVIRONMENTAL REGULATORY REFORM: A KEY TO IMPROVING THE INVESTMENT CLIMATE

by Kenneth Mack, President
American Chamber of Commerce in Kazakhstan

Environmental Regulatory Reform encompasses a broad range of issues, all of which are vitally important to Kazakhstan's future. In particular, it is important to promote energy efficient industrial development. Kazakhstan's ability to implement environmental regulatory reforms will determine whether it will diversify its economy, achieve its economic growth goals and take its place among the most competitive countries.

Kazakhstan's environmental regulatory system is based on a post-Soviet model shared with many of the other countries of the Former Soviet Union (FSU). The OECD has stated clearly in its recently-published *Multi-dimensional Review of Kazakhstan* that in many respects Kazakhstan's environmental regulatory system does not conform to OECD-member country standards and it is necessary to bring environmental policies into line with the benchmark OECD approach.

1. Environmental Payments

In terms of environmental payments, the underlying concept in OECD countries is the polluter pays. This means polluters should compensate for the actual harm they cause and should bear environmental costs in proportion to the pollution they generate.

In contrast, the environmental payments system in Kazakhstan is implemented to raise money for the state rather than to protect the environment and promote economic development. The OECD has drawn attention to this problem in the following statement from the *Multi-dimensional Review of Kazakhstan*.

"environmental liability in Kazakhstan remains focused on calculating and collecting monetary compensation for the state (essentially serving as a revenue-raising penalty) rather than on preventing and correcting the damage, reducing emissions over time and incentivising the use of BATs [Best Available Techniques]."

2. Targeting Flaring Not Subject to Payments in OECD countries

Modern state-of-the-art oil and gas production projects such as Tengizchevroil (TCO), Karachaganak Petroleum Operating (KPO), and North Caspian Operating Company (NCOC) re-inject or utilize their associated gas. They have eliminated all continuous flaring. They only flare during scheduled maintenance, or start up, or in case of unscheduled upsets/emergencies. Flaring under these situations is not typically subject to environmental penalties in OECD countries.

Gas flaring payment rates in OECD countries are much lower than in Kazakhstan. The penalties are reduced even further or waived entirely for emergency flaring if the operator did not flare intentionally or negligently and if prudent operations were undertaken to minimize flaring during the upset or unscheduled trip event. In Kazakhstan it's the opposite: it is emergency flaring that is expressly subject to damages and penalties under Kazakhstan law, which are rarely if ever waived. Hence, producers are compelled to pay tens or hundreds of millions of dollars of environmental payments each year for unavoidable flaring incidents that would be subject to little or no penalties in OECD-member countries.

3. Imposing Three Payments

Kazakhstan imposes three kinds of payments for gas flaring: *monetary damages, taxes* and *penalties*.

Damages

The first category of payments is monetary damages. To our knowledge, there is no OECD country that has imposed monetary damages for upstream gas flaring.

Monetary damages in OECD countries are not a penalty for fault; they are a measurement of the cost of restoration or clean up and must be used solely for restoration of the environment, not deposited into the state budget as is done in Kazakhstan. Moreover, the indirect method of calculating monetary damages in the *Environmental Code*, whereby damages are calculated based on a pre-determined formula, fundamentally contradicts OECD concepts of damages, which must be based on physical evidence of actual harm.

The OECD recommends adopting a 'polluter pays' model of damages:

"The OECD country experience shows that Kazakhstan should abandon fault-based concepts for damages that tie liability to exceeding a pre-determined limit in an emissions permit and instead adopt the strict liability/polluter-pays model based on evidence of actual harm to the environment."

Taxes

Taxes are the second kind of payment imposed for gas flaring in Kazakhstan. Environmental taxes in OECD countries are imposed to achieve clearly-defined climate change or other environmental objectives and programs. They are not primarily a form of revenue generation.

Moreover, the Tax Code establishes special, higher tax rates for pollutants emitted from gas flaring than the tax rates for the same pollutants emitted by other stationary sources. This is industry discrimination. The OECD's position on discrimination is stated clearly: *"The state should eliminate discrimination against specific industrial sectors...."*

Penalties

Penalties constitute the third kind of environmental payments that Kazakhstan imposes for gas flaring.

In Kazakhstan, penalties are calculated by reference to the tax rates for gas flaring in the Tax Code, so the discriminatorily high tax rates in Kazakhstan for gas flaring results in discriminatorily high penalties for gas flaring.

4. Improper Charges for the Power Industry

The electric power, coal, mining, metallurgy and other domestic industries are generally less energy efficient than the projects operated by the foreign oil and gas companies. But these domestic industries pay less environmental charges per unit of pollution than do the foreign-owned oil & gas companies. Kazakhstan needs to adjust its environmental payments policies to promote investment in energy- efficient technology and apply environmental payments based on the 'polluter pays' principle.

5. Criminal Liability

In OECD countries such as the United States, for air pollution violations to become criminal, the prosecution would need to establish criminal intent, and this would require evidence of egregious conduct, or operating without a permit, typically accompanied by falsification of information.

Decriminalizing above-limit and emergency gas flaring and other non-intentional environmental violations would send a strong signal to the international community that Kazakhstan is safe for investment.

6. Renewable Energy

Kazakhstan needs to make the regulatory changes necessary to give private foreign companies confidence to invest in renewable energy projects. Specialists from the World Bank and other international organizations have made clear that the auction system will not solve the underlying barriers to private investment in renewables. These barriers include the lack of indexation of the whole tariff to a foreign currency, the non-bankability of the power purchase agreement, and the lack of liquidity of the Financial Settlement Centre. The government could and should remedy these problems so foreign investment in renewables can take off.

Conclusion - Looking to the Future

Given the impact of environmental regulation on foreign investment, the American Chamber of Commerce looks forward to working together with the Ministry of Energy, the OECD, and all industries, to develop reforms to Kazakhstan environmental laws and regulations to bring them into convergence with OECD-member country standards.

GREEN ECONOMIC GROWTH IN KAZAKHSTAN: THE ROLE OF BETTER ENVIRONMENTAL REGULATIONS

by Krzysztof Michalak
Senior Program Manager, Green Growth / Global Relations, Environment Directorate, OECD

OECD-Kazakhstan co-operation

Kazakhstan has worked with the OECD since 2000 on an ambitious set of reforms of Kazakhstan's policies and institutions. In 2015 the OECD and Kazakhstan signed the Country Programme which acknowledged Kazakhstan's commitment to a plan of reforms and its willingness and ability to design these reforms taking into account good international policy practices. The *Kazakhstan Country Programme* initially covered the 2015-16 period and was recently extended to the end of 2018.

As part of its cooperation, the OECD reviewed the current system of environmental regulations and presented recommendations for improving their effectiveness and efficiency with the view of accelerating Kazakhstan's transition to a green economy and achieving Kazakhstan's aspiration of becoming one of the top 30 global economies by 2050.*

Some progress made to green Kazakhstan's economic growth…

Over the last decade, Kazakhstan has undertaken several important steps to modernise its environmental policies. The adoption of the *Green Economy Concept* in 2013 and last year's adherence of Kazakhstan to the *OECD Declaration on Green Growth* in 2016 confirmed the country's commitment to green its economy.

There are several examples of environmental regulatory reform that have reduced red tape and provided better incentives for the regulated community to comply. For example, the system of environmental payments was streamlined (for example by reducing the number of pollutants subject to taxation) and the burdens of environmental permits and EIA of industrial operations were reduced. Kazakhstan was one of the first countries that introduced the *Emission Trading System (ETS)* for greenhouse gases. The OECD sees good examples of investments in energy efficiency, renewable energy and pollution reduction.

The OECD welcomes these developments. Further adjustment and accelerated implementation of *Kazakhstan's Green Economy Concept* will enhance resource and energy efficiency, increase environmental productivity, and create new business opportunities. This should be an integral part of the economic diversification and modernisation process.

But several challenges remain.

Despite recent progress, challenges remain. A "top-down" and "command-and-control" approach to regulations, an uncoordinated implementation of environmental requirements, and a high volume of complex environmental regulations based on unrealistic assumptions still make a regulatory environment that is complicated, burdensome, and costly to both the administration and industry. This is often combined with an uneven enforcement, which can be excessive in some cases, or lax due to corruption to avoid heavy-handed non-compliance response.

What is more, the evidence suggests that the system does not lead to actual environmental improvement.

Ways forward to reform environmental regulations that facilitate investment and ensure compliance with environmental objectives

To address some fundamental flaws of the regulatory system and to unlock vast green growth opportunities, the OECD recommended further streamlining and simplification of the regulatory framework so as to set realistic objectives and not compromise environmental ambitions. Better regulation also means designing policies and laws that achieve their objectives at minimum cost.

Reform of the environmental quality standards system is urgently needed…

There is now widespread recognition of the need to reform the environmental quality standards system. Some initial reform has been carried out, but new standards have not been introduced and old ones continue to be used for regulatory purposes. The most serious obstacle to reform comes, paradoxically, from public authorities and those stakeholders that benefit from the current system.

For example, the general public is misled by the arguments that very stringent standards lead to better health and environmental protection. Many of the standards were set in the 1980s from the

** For further details please, consult Towards Better Environmental Regulations in Kazakhstan, Chapter 5: OECD Multi-dimensional Review of Kazakhstan: Volume 2, Paris (2017). www.dx.doi.org* academically - sound scientific theory of maximum absorptive capacity of the environment and atmospheric diffusion of pollution, and are based on the concept of zero risk to humans and the environment during the worst possible circumstances (e.g. worst-case meteorological conditions; most vulnerable part of population).

Transposition of these academic approaches to the legislative and regulatory framework resulted in requirements that in most cases are not feasible for most companies to comply. For example, unlike in the OECD countries, Kazakhstan's environmental standards for soil quality do not differentiate between different land uses and apply the same requirements for industrial use and for children's playgrounds.

The OECD argues that environmental quality standards and related emission limit values can and need to be revised to meet technically feasible and enforceable levels. They should strike a balance between what is desirable from an environmental point of view and what is feasible from a technical and economic standpoint. In this context, the shift to integrated environmental permitting for the largest and "high impact" polluters, as in many OECD countries, would allow linking achieving better pollution control with best available techniques (BATs).

… along with increasing the efficiency and effectiveness of environmental taxes, fines and pollution damage payments.

The other important reform relates to regulations governing environmental taxes, fines and other payments for pollution damages. Despite reform, the setting of pollution payments is still guided by the desire to generate sufficient revenues for the support of regional or local budgets, not to address environmental problems. This creates a perverse incentive to apply excessive non-compliance response.

The OECD argues that reform should focus on making payment rates realistic and consistent with international practice. The non-compliance fees and payments should not punish emissions associated with normal industrial practices using BATs and should not function as a form of taxation. The state should also eliminate discrimination against specific industrial sectors and set rates for taxes and fines, which are uniform for all industry sectors.

In this context, the OECD analysis recommends that Kazakhstan follow the OECD country experience and abandon fault-based concepts for damages that tie liability to exceeding a predetermined limit in an emissions permit, instead adopting a strict liability/polluter-pays model based on evidence of actual harm to the environment.

Kazakhstan should expeditiously move toward smarter enforcement and compliance promotion.

The OECD recommends that Kazakhstan strengthen its environmental enforcement efforts by making them more transparent, even-handed and compliance-promotion oriented. There should be more regulatory guidance provided on what the requirements are and how to comply with them over time.

The OECD suggest also to use market-oriented economic instruments and compliance promotion tools more widely. This can better incentivize companies to invest in pollution reduction and technology modernization. There should be more information-based instruments to recognize compliance efforts.

Next Steps

The OECD and the Ministry of Energy of Kazakhstan have already started a discussion on how to improve the economic mechanisms of environmental management and how to reform the system of environmental pollution charges to follow the "polluter pays" principle. The OECD hopes to achieve concrete results in the form of policy and regulatory reform as part of a joint project that will be launched in January 2018. It is expected that its results will facilitate investment, ensure compliance with environmental objectives, and accelerate the harmonisation of Kazakhstan's policies with green growth policies of OECD countries.

The OECD looks forward to continue its collaboration with Kazakhstan in designing and delivering better and greener policies for better lives.

THE IMPORTANCE OF SOUND REGULATION IN KAZAKHSTAN'S OIL AND GAS INDUSTRY

by Bruno Jardin
Managing Director, North Caspian Operating Company (NCOC)

The North Caspian Operating Company and its investor shareholders felt strongly that it was important to participate in the AmCham-Prime Minister's Council session on Deregulation in May 2017. In a general meaning, deregulation means the simplification or elimination of existing government regulations as well as the withholding the introduction of new regulation. Often, overregulation can distort market signals and create unintended consequences. Therefore, deregulation can be an effective solution to improve the business and investment climate, especially when a policy goal can be met by other means such as market forces, or industry self-regulation, standards, and voluntary initiatives.

There are many examples of regulations in Kazakhstan to which this approach could be applied.

Local Content Rules is one, specific to oil and gas projects. Maximizing local content (the goods, works and services that a foreign company purchases locally) is an important goal for both the host government as well as foreign investors. Market forces, such as cost and business efficiency, primarily motivate investors. Local companies and people, if well-trained and capable of providing the same goods and services, will enjoy a natural competitive advantage in terms of cost and schedule over foreign actors.

Under a *Production Sharing Agreement (PSA)* such as ours, local content is clearly defined and the government is provided with many mechanisms to monitor and influence whether investors are doing all they can to maximize the purchase of local goods, works and services. Nonetheless, the government has twice, in 2010 and again last year, redefined local content. In the language of sports, we would call this "moving the goal-posts."

Most recently, the government added reporting regulations that we refer to as "ninety-five or nothing" – meaning that if a local legal entity has a 95% local headcount, it is considered to have local Kazakhstani content. If a local legal entity has anything less than 95% local headcount, however, then it is not considered to have Kazakhstani content at all.

We advocate a different approach to achieve further growth of industrialization and innovation in Kazakhstan. That is, to use the major oil and gas projects as an initial "beach-head" of demand; and to develop Kazakhstan analogues of those goods and services that have already proven themselves in similar projects around the world, starting with simple import and then increasing the so-called "true value add" within Kazakhstan in a gradual step-by-step process. This requires a long-term approach that identifies demand opportunities early on that are well-suited to increasing Kazakhstan content, and are sustainable (i.e., market opportunities exist beyond one specific oil and gas project). The approach should also incentivize a foreign manufacturer of the goods or provider of the services to partner and/or invest in a local company as a business strategy that raises Kazakhstan content and opens new and sustainable opportunities in the local market. Terms and conditions should be stable, so that the investor eventually realizes greater value from this strategy than from alternative strategies focused on short-term or one-time import.

This is the idea behind a pioneering initiative called *Early Tenders*. NCOC finds locally based suppliers in key areas who will commit to invest and work closely over the long term with us to increase local content by using a "staircase" approach. At each "step" of the staircase, the supplier's business plan increases local content, moving from simply warehousing imported goods in-country, to assembly, testing and certification in-country, then basic manufacturing in-country, and finally advanced manufacturing using raw materials, sourced domestically. Each step in the staircase is a step up in true value added within Kazakhstan. Early Tenders is a voluntary initiative, one of many undertaken during the *2012 Aktau Declaration* in cooperation with the *Ministry of Energy* and other oil and gas operators.

Now perhaps you can see why NCOC views increasingly restrictive regulation on local content as a barrier to foreign investment. While previous rules recognized a variety of valid approaches to defining local content, the new "ninety-five or nothing" definition focuses exclusively on short-term job creation. This is a blunt instrument that demotivates foreign branches from local hiring, and disadvantages many market-based solutions that add "true value" to the economy, and to the project.

Further, many of these regulations may have to be amended or annulled by 2021, the year when Kazakhstan will be bringing its regulation in line with WTO norms. The Industry already strongly supports the government's goal to increase local content, including through voluntary initiatives. We believe these initiatives, in addition to market forces, are sufficient to attain the policy goals that everyone desires.

Environmental and technical examples of overregulation

There are also many examples of environmental and technical overregulation that have a negative impact on the business climate.

For example, it is a well-known fact that there is almost always some positive pressure in the annular space between casings of a well that is being operated during production. This pressure can arise for various technical reasons. It is generally low, but if mismanaged, in rare circumstances significant pressures could build up.

The global oil and gas industry has proven technical standards and experience in managing annular casing pressure, and government regulators in many oil and gas producing nations around the world rely on these same industry standards to assess that pressures are being managed well within safe bounds.

Kazakhstan has taken a different approach, and approved separate industrial safety regulations in 2014 that require that pressure in the annulus between well casings be *always zero*.

Unfortunately, oilmen recognize this regulation is technically impossible to comply with. It would be regrettable if such an important area of industrial safety were turned into a bureaucratic trap, something that industry pretends to comply with and regulators pretend to enforce. In fact the Kazakhstan industrial safety regulator has convened a working group to look at amending this regulation on annular casing pressure management. This is an encouraging sign, and we recommend to them the practice of use of industry standards that has worked well in other parts of the world.

Another example is environmental protection regulations that are designed to control the concentration of wastes discharged into open, natural water bodies. In Kazakhstan, the government applies these regulations to discharges made into an Operator's own waste processing facilities. These waste facilities have closed off and lined evaporation ponds that are located inside industrial areas and have a sanitary protection zone of seven kilometers, making them environmentally safe for waste disposal. Nonetheless, the government regulates these discharges as if they had a negative ecological effect.

Oil and gas production can even be suspended because of waste discharges within an Operator's own waste processing facilities, even though discharges do not reach the environment under any reasonable scenario. Even compared to the strictest of environmental protection measures, this is excessive regulation.

A third example is in the area of "metrology," the requirements around measuring instruments, their calibration and maintenance. NCOC recognizes that some measuring instruments at critical facilities must indeed be subject to government oversight and regulation. But under current law, the definition of "measuring instrument" is overly broad. It can include safety devices (e.g., spark barriers) and even simple one-piece parts that happen to be mentioned in a technical standard (e.g., pipeline diaphragms).

Thus, more than 45 thousand items at Kashagan facilities are considered "measuring instruments," requiring regular approval of their Type, Metrological, or Verification certificates. Most also require annual verification, which can be extremely costly. Verification can mean dismantling the instruments and shutting down production when it calls for emptying of the equipment (pipelines, vessels etc.), and that is by far the more significant impact. State regulatory control should exclude those technical and economic decisions properly left to the user – e.g., manufacturer's recommended maintenance periods, design risk assessments. Overregulation comes at high cost to the user via reduced production, increased safety risks for maintenance personnel and environment, and impacted reliability and integrity of the production equipment, with little benefit to the public.

The good news is that the Government of Kazakhstan has proposed amendments to the Law "On Ensuring Uniformity of Measurements," that could address the problems of overly broad definitions and scope of State regulatory control. We look forward to seeing the results of this work.

In conclusion, NCOC believes that targeted deregulation in these areas would send a positive message to investors in the oil and gas industry. It would have an immediate, beneficial effect on the investment climate in terms of clarity, predictability, and cost while helping to create a level playing field for the industry.

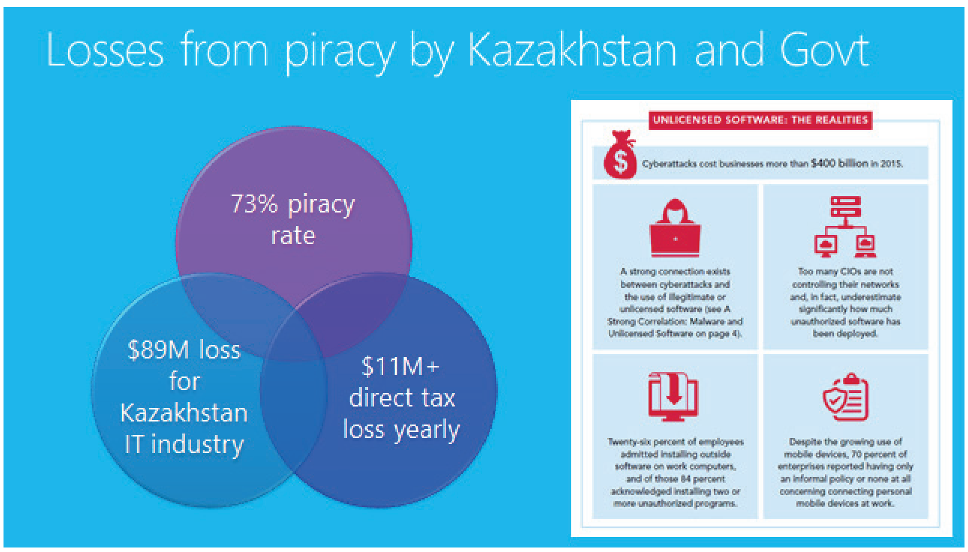
INTELLECTUAL PROPERTY RIGHTS AND THE IT INDUSTRY

by Ronald Binkofski
General Manager, Microsoft CIS

Microsoft needs no introduction as the world's leading IT and biggest software brand that has been present in Kazakhstan for over two decades. In this time, Microsoft has supported the Government of Kazakhstan as well as its educational, cultural, and economic institutions to promote the country's future technological development.

However, with success comes challenges. Kazakhstan currently sufferers from rampant copyright infringements that undermine the country's Intellectual Property Rights (IPR). Currently, the IT piracy rate in Kazakhstan stands at 73%. IPR is protected under Kazakhstan's legislation, but the lack of effective enforcement in the country's courts create a multitude of problems that negatively affect the economy and stymie future growth.

It is an unfortunate fact that pirated Microsoft software programs are found throughout Kazakhstan, and many users make little distinction between genuine products and their counterfeit cousins. However, the differences between these products are crucial. Not only is piracy dangerous for its users, but it costs the Kazakhstan IT industry tens of millions of dollars in lost revenue and the Kazakh government over eleven million USD yearly in direct tax loss. Furthermore, piracy has a harming impact on Kazakhstan's ability to progress towards a Digital Transformation.



It is well known that pirated software entails significant risks to users who have no guarantee of confidentiality or protection against hacking or cyber-attacks. Everyone recalls the malware attacks that caused worldwide disruption and damage over the past year. If Government agencies are unwittingly using pirated software, then the dangers to sensitive government information are clear. The use of licensed and well-protected software products ensure workforce productivity, prevent malware infections, and reduce costs in terms of time, labor, and security.

The protection of Intellectual Property Rights is necessary in order to build a modern and viable Knowledge Based Economy, now a requisite for economic growth. Luckily, the tone on the top is very proper. Government and business elite understand the necessity to improve the situation and position Kazakhstan on the map of modern economies. As with every challenging topic, the magic lies in proper execution that lead to tangible results.

Recommendations

Microsoft recommends the creation of an IPR and Innovation Protection Working Group to address these issues. In such a rapidly changing world, it is necessary to ensure adequate government leadership with regards to IPR and Innovation Protection. Such provisions also need to be regularly updated. In addition, the government should be very visible in the media to ensure transparency and communication in Kazakhstan and in the international community. All of this will promote the creation of a vibrant economy for startup businesses. This, in turn, will develop the local economy and accelerate the creation of a Knowledge Based Economy.

In order to achieve these goals, Microsoft recommends that Kazakhstan implement the following procedures:

- Work through the Ministry of Finance to ensure that IPR infringement is perceived as a tax violation and treated as such by the tax authorities. Poland provides an example for how this can be done effectively.
- Increase law enforcement for IPR violations. In countries like Russia, Poland, and Hungary, the governments filed thousands of IPR cases (over 6000 a year in Russia alone) to lower piracy rates from over 80% to roughly 50-60%.
- Designate digital crime as a priority for police and prosecutors to ensure cyber security and innovative economic growth.
- Initiate an audit of management software in Kazakh government institutions. Currently, there are 10,000 unregistered computers in the regional Supreme Court, 3,000 unregistered computers in the tax bureau, and many more in other institutions.

Overall, Kazakhstan has nothing to lose and everything to gain by enforcing Intellectual Property Rights and strengthening IPR protections. The creation of an IPR and Innovation Protection Working Group would greatly help to facilitate this process, giving Kazakhstan the opportunity to develop and diversify its economy. If Kazakhstan were to adopt these recommended measures, it would send a strong signal to the international community and foreign investors alike that the country is ready to operate by international norms and protect businesses' interests. Lastly, this transition would greatly enhance the security of the country and help Kazakhstan to protect itself in an increasingly digital world.

Success starts with security

Security is the number one focus and priority for organizations today. Protecting your organization continues to be increasingly difficult as employees use their own devices and applications at work and data flows into and out of your business in a variety of ways. Big data is transforming how security experts defend against cyberattacks — and Microsoft is leading the way. Our global reach generates billions of data points that help us diagnose attacks, reverse engineer advanced threat techniques, and apply intelligence to strengthen your security.

Microsoft transforms worldwide security intelligence into products and insights that power and protect our customers' connections. Learn more about how the breadth and depth of our security works for you at microsoft.com/security.

Microsoft

INTELLECTUAL PROPERTY PRIORITIES FOR KAZAKHSTAN

by Andrei Yorsh
Partner, Baker & McKenzie

Kazakhstan's Procurement Law and procurement regulations for state-owned national companies do not currently provide sufficient protection of intellectual property rights (IPR) in the procurement process. Because of this, unauthorized suppliers infringing IPR legislation are able to win tenders, resulting in lengthy litigation by companies holding legitimate IP rights. To increase IPR protection, the *Procurement Law* should be amended to provide clear, enforceable protection for companies holding rights to provide the products and services covered under the tender.

Intellectual Property and The Investment Climate

Unfortunately, Intellectual Property Rights are still not sufficiently protected in Kazakhstan. This inadequate protection, in turn, has a very negative effect on the country's investment climate. The *WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS)* requires its members to protect IP rights to a sufficient degree.

Kazakhstan's court practice and law enforcement of the past two years has raised new issues for discussion. The major problems are Government procurement legislation, the need for an Intellectual Property Court, criminal investigations of copyright infringement, and amendments to the Trademark Law.

STATE PROCUREMENT PROCEDURES

The Procurement Law and procurement regulations of Government-owned national companies do not currently provide sufficient protection of Intellectual Property Rights (IPR) in the procurement process. Although this was the major topic at the September 2016 session of the *Council to Improve the Investment Climate*, nothing has changed since then.

Unfortunately, unauthorized suppliers infringing IPR legislation are able to participate and win tenders. Even Government agencies purchase counterfeit goods, a serious infringement of IP rights and a danger to the country's population in the area of healthcare and consumer products. According to one preliminary evaluation conducted by a major producer of software in 2016, most of the software installed in Government computers is unlicensed.

Furthermore, there has been an increase of smuggling, tax, and customs duties evasion. As for encouraging investment, it has been shown that when counterfeit products are widely available, investors are not interested in the development of local manufacturing and distribution networks. As a result, this leads to lengthy litigation by companies who hold legitimate, lawful IP rights.

An appropriate solution would be to amend the relevant Government procurement legislation (*State Procurement Law, Samruk-Kazyna* procurement rules, *SK-Pharmacia* procurement rules, and other legislation) to require bidders to confirm that they have legitimate rights to any goods and services they are offering under Government tenders protected by IP.

CREATION OF AN INTELLECTUAL PROPERTY COURT

It is very important to unify IP court practices and develop standard solutions for IP disputes. One way to reach these aims is creation of a special *Intellectual Property Court* that would exclusively resolve all IP disputes, including trademark infringements, appeals against trademark and patent registration, patent infringements, and other IP-related cases.

As an alternative to the option above, the *Astana or Almaty Economic Courts* could be provided with the exclusive jurisdiction to resolve IP disputes. The concentration of judges to resolve IP disputes in a sole court would increase the validity of court decisions related to IP disputes.

INVESTIGATION OF COPYRIGHT INFRINGEMENT

In addition to Government procurement procedures, Kazakhstan's IP criminal investigation practices are also inadequate and should be reformed to facilitate prosecution where counterfeit goods and services are offered by suppliers without legitimate IP rights.

Unfortunately, it is crucial, but often impossible to obtain evidence of copyright infringement without police raids on IPR infringers' offices, yet the police cannot conduct raids legally without evidence beforehand. This makes it extremely difficult to investigate copyright infringement, creating loopholes in the system that are exploited. In order to improve IPR in Kazakhstan, this system must be changed.

An appropriate solution would be to amend investigative procedures to allow copyright infringement investigations to be launched based on information provided by legitimate copyright holders without requiring them to obtain evidence beforehand.

PARALLEL IMPORTS

A parallel import is the import of a given product from different sources. In most cases, this would be from different countries which either manufacture or import the product themselves, then export the product to other countries. Usually protection measures against parallel import are implemented in different countries to aid in the development of local industries.

As of today, parallel imports are prohibited by Kazakhstan's *Trademark Law* and the *Eurasian Economic Union Treaty*. This is a step forward in protection of investor rights. However, a Majilis Working Group is currently considering amendments to the Trademark Law that would include an amendment to de-facto legalize parallel imports. This amendment would require trademark holders to buy out grey import goods from grey importers, thus reducing IPR protection in Kazakhstan. It should be excluded from the draft amendment.

Conclusion

Kazakhstan can take many steps to improve the protection of Intellectual Property Rights and, as a result, improve the country's investment climate. By working to update government procurement procedures, improve the capacity to investigate copyright infringement cases, and make amendments to the *Trademark Law,* Kazakhstan can demonstrate its commitment to uphold IP law. These improvements will act as a signal to companies that Kazakhstan is ready for business, bringing wealth and jobs that will support Kazakhstan's economic diversification.

HEALTHCARE RISKS IN COUNTERFEIT HOUSEHOLD / CONSUMER PRODUCTS

by Olga Voronova
General Director, Procter and Gamble

Procter and Gamble (P&G) has operated in the Kazakhstani market since 1996 when it opened its first office in Almaty. Today, P&G sells most of its global portfolio, including its most successful brands (baby care - *Pampers*, laundry - *Ariel*, shaving products - *Gillette* and many others) in Kazahkstan. P&G products - shampoos, detergents, diapers and baby products, and many other household products - are used everywhere and are trusted to be effective and safe.

Consumers' trust in the P&G brand and the quality of the products is the highest priority for the company globally and locally. Unfortunately, P&G faces counterfeit product issues in Kazakhstan. Products are being freely sold in open markets under well-known P&G brands that consumers trust. Counterfeit products contain low quality ingredients, which in turn cause harm to consumer health.

A batch of fake Ariel, Tide, and Myth is seized in South Kazakhstan Oblast

P&G actively combats this issue with its own inspectors who monitor P&G products sold. Under inspection, some P&G products in Kazakhstan are revealed to be counterfeit; they lack quality control and contain dangerous substances. Some of these counterfeit products may even contain carcinogenic (cancer-causing) chemicals that pose grave dangers to human health. Special risks are posed to children and infants whose susceptibility to dangerous substances is heightened. Children and infants exposed to counterfeit products may develop rashes and later can even develop cancer or other serious diseases.

P&G actively cooperates with the Ministry of Finance and the Ministry of Justice in counterfeit cases. P&G confiscates counterfeit products and launches court proceedings against the manufacturers. Unfortunately, we see lack of governmental support to date due to limited human resources and ambiguous legislation, which needs further revision.

P&G sees a particularly large problem with Khorgos, a city where fake P&G products and the equipment to manufacture them are openly sold. Atyrau has also proven to be a center for the distribution and sale of fake P&G products. The problem exists across the country and must be successfully addressed and defeated by customs agencies, law enforcement, the legal system, and the retail sales industry.

Recommendations

- Introduce a fixed compensation for trademark violations
- Allow customs authorities the right to initiate administrative violation cases in accordance with article 158 of the Administrative Code; this will harmonize legislation with the EEU and make it easier for authorities to effectively fight violations
- Simplify the procedure to initiate criminal cases through the Economic Investigations Committee and create an Intellectual Property Department
- Develop regulations for the destruction of seized counterfeit goods; these regulations should allow copyright holders to be included in the procedures as well as mandate that goods be destroyed in an environmentally friendly manner
- Create a commission to develop mechanisms that counteract IP violations in free economic zones (Khorgos).
- Improve customs authorities' computer software and technical equipment to better verify trademark goods and distinguish them from counterfeit products (for instance, *Pampers*, *Fairy*, diapers, and other brands and products).

Procter & Gamble and other companies marketing personal hygiene products depend on the stringent enforcement of trademark protection. Kazakhstan still presents many challenges in this respect; P&G and other companies try to enforce on their own with little support from the police, courts, or public prosecutors. Trademark and brand protection is not a sales and revenue issue, but a public health issue. As such, it deserves to be fully protected, and violators who produce counterfeit goods must be punished and put out of business.

TRADEMARK INFRINGEMENT - A CASE STUDY: KAZAKHSTAN COLA

by The Coca - Cola Company

The Coca-Cola Company has been working in Kazakhstan since the country's independence. In that time, the company has invested over $250 million dollars in Kazakhstan. Coca-Cola very recently opened a second production plant in Astana worth $80 million dollars. As a major foreign investor, the company devotes serious attention to Intellectual Property Rights (IPR) and their enforcement in Kazakhstan. Intellectual Property is necessary to differentiate Coca - Cola products from the products of other companies. It creates value and gives the company reason to continue investing in the country.

Throughout the years, Coca Cola has seen Kazakhstan make significant progress with IPR protection mechanisms. However, further improvements are still required when it comes to IPR infringement, trademark protection, and unfair competition. This is illustrated by the Coca-Cola litigation against UNIX, the producer of a beverage named *Kazakhstan Cola*.

Kazakhstan Cola

A year and a half ago, The Coca-Cola Company filed a court case against UNIX in Shymkent. The company's claim had two parts. The first part was a violation of trademark rights, as UNIX was copying The Coca-Cola Company's registered plastic bottle. Additionally, Coca-Cola also filed unfair competition claims, as the design and presentation of Kazakhstan Cola were deceptively similar to Coca-Cola. UNIX was also copying The Coca-Cola Company's marketing and advertising approaches to promote its product; for example, UNIX uses a similar advertising style on its website and in trade marketing.

The Coca-Cola Company lost the first court case in Shymkent, after which Coca-Cola appealed that decision in the Court of Appeal in Shymkent and lost that case as well. The judges simply ignored the arguments regarding unfair competition and focused on the registered trademarks of UNIX, which were not the object of the dispute.

In March this year, The Coca-Cola Company appealed to the *Supreme Court of Kazakhstan*, which fully considered all materials of the case, cancelled the lower court decisions, and sent the case back to the Court of Appeals in Shymkent. The grounds for this action by the Supreme Court were that both courts in Shymkent had misunderstood the subject of the dispute, disregarded the unfair competition arguments, and ignored the evidence.

However, despite the Supreme Court decision, once again the Court of Appeal in Shymkent disregarded this judicial guidance and rejected Coca-Cola's claims.

Recommendations

In the company's experience, situations like this are common throughout Central Asia and beyond its borders. However, Coca-Cola believes that Kazakhstan, as a regional leader, should aspire to enforce trademark protection, recognize trademark infringement, and protect investors against unfair competition.

- One solution is to continue to educate judges in the fundamentals and obligations of Intellectual Property Rights, especially judges who are involved in settling IP-related disputes. This would ensure they are able to properly assess what constitutes a violation under IPR legislation.

- Coca-Cola suggests that Kazakhstan establish a special *Intellectual Property Court* for cases of this nature. Russia established an IP Court a few years ago, and it has been very successful. IP courts in Turkey have proven very efficient, and Ukraine is now considering creating an IP court as well. An alternative suggestion would be to consider such cases in Investment Courts, but the judges must be trained in IP rights and legislation.

- Another solution could be the development of competition protection laws that would recognize product imitation as a form of unfair competition. Russia did this several years ago. Since then, the *FAS (Russian Anti-Monopoly Authority)* has developed approaches for handling such cases. Businesses are working closely with the FAS to identify ways to develop this practice further, giving businesses a high degree of confidence that their rights will be efficiently protected.

Over the years, Kazakhstan has made great efforts to enhance its image and international standing by implementing large-scale projects, such as EXPO and Universiade. However, if Kazakhstan cannot develop better protection and enforcement mechanisms for Intellectual Property Rights and product trademarks - crucial issues for the ethical conduct of business, Kazakhstan's image as an investment destination will suffer from the continuing violations of investor rights.

Coca-Cola – a long-term sustainable investor in Kazakhstan

Coca-Cola is one of the first multinational companies investing in Kazakhstan. It started operations by establishing Coca-Cola Almaty Bottlers by Turkey-based Coca-Cola Içecek in 1994. That is when we opened our first plant for production of soft drinks, water and juices in Almaty. Our second plant was launched in 2016 in Astana. Both plants fully comply with local regulations as well as internationally recognized quality and food safety management standards.

During the 23 years of our presence in the country, we have invested over USD 250 million and created direct and indirect employment opportunities for over 2,500 Kazakhstanis through our production and distribution chain.

Being a good corporate citizen is integral to the success of our business. We are a transparent taxpayer and responsible employer. We have been continuously optimizing our use of resources and during the past 10 years have reduced the usage of energy in the production process by 44% and usage of water by 30%.

As part of our global sustainability commitments to improve economic, environmental and physical well-being of communities where we operate Coca-Cola implements a number of long-term community programs in Kazakhstan.

We are proud of our 13-year-long partnership in water saving and replenishment projects with UNDP. Our economic empowerment program, “Belesteri” (Stepping Stones), supported by The Coca-Cola Foundation since 2013, has delivered entrepreneurship training to over 7,000 rural women. More than 1 million students from over 6,000 Kazakhstani schools have participated in the annual "Coca-Cola Bylgary Dop" (Leather Ball) football tournament, which has been awarded two UEFA Diplomas, since 2006. Some of these boys have become professional football club players.

Partnering with governmental organizations and NGOs, we are proud to be contributing to Kazakhstan’s economic and social development as a long-term investor and trusted counterpart.

HOW TO MAKE PRIVATIZATION WORK: KEY LESSONS FOR POLICYMAKERS

by Moazzam Mekan
Central Asia Regional Manager, International Finance Corporation

Stefka Slavova
Lead Economist, Private Sector, World Bank

Privatization is the process of transferring ownership of a business, enterprise, agency, public service, or public property from the public sector to the private sector. Privatization is an approach followed by many countries; however, it has had mixed results in the past. Privatizations can become controversial, if not handled properly due to its political nature and social implications. Nonetheless, when clearly defined and communicated to the population, privatizations have been shown to be an effective way to diversify the economy, increase the participation of the private sector, and reduce the role of government. Most importantly, private ownership of business has been shown to be more efficient, and productivity of privatized companies generally improves following privatization.

For Kazakhstan, privatization is not a new phenomenon. From 1991-1992, the country undertook a program of denationalization and privatized state property. From 1993-1995, there was another national program of privatization and, from 2013-2014, Kazakhstan underwent a People's IPO privatization program. Recently, Kazakhstan has again announced an ambitious privatization program, seeking to privatize 65 large state companies and to sell 25% of shares in nine of the largest state-owned companies such as KazMunaiGas, Air Astana, and Kazakh Telecom.

Key Issues in Privatization

There are key issues that need to be addressed for the successful privatization of a State-Owned Enterprise (SOE). Firstly, the privatization program must have clearly defined objectives as well as a clear selection of SOE's, and there should be sequencing of the steps in individual privatization deals. In addition, there are many administrative and legal arrangements required before embarking on privatization. The corporation and commercialization of the enterprise is also necessary, usually followed by restructuring. It can sometimes be difficult to determine whether the government or new private owners should handle restructuring, but most empirical evidence points to the latter. Lastly, it is also necessary to take stock of environmental issues, especially in heavy industry and the oil and gas industry.

General Lessons

In general, political support and commitment is key for privatization success. The transparency of the process (announcement of expressions of interest, bidding process, selection of bids, oversight) is paramount in order to build legitimacy and convince taxpayers. Additionally, privatization is most effective when the effort is part of a broader reform package, including the opening of markets for competition. Reforms on the level of the SOE also aid overall success and replacing SOE management early on can make the company's transition more successful, as does breaking-up monopolies and very large SOEs.

When privatizing an SOE, mitigation measures should be designed in advance and all parties should agree on who will bear the costs associated with worker layoffs and environmental cleanup. In addition, a full transfer of state shares is preferable to partial sales, especially if the state retains a substantial stake. However, the government should focus its initial efforts on one or two visible landmark privatization cases, using financially healthy and reasonably well-run SOEs, so called "*Lightning Rod*" cases. Following this, the government can move on to more difficult and controversial sales. Ultimately, privatization is not a linear process and there are many reversals along the way.

Energy Sector Privatization Lessons

There have been many lessons learned for privatization in the energy sector specifically. For example, the timing of privatization for unbundled electricity companies is crucial. Although the generation, distribution, and retail segments in electricity markets are suitable for privatization, it is necessary to have a sound regulatory framework in place prior to the transfer. As in other sectors, it is preferable to privatize energy sector companies to strategic investors in order to bring in new investment, improve management, and raise efficiency.

If consumer payment discipline is absent, it is better to begin with distribution company privatization. The distribution and retail operators, when private, typically focus on improving collection of electricity bills and payment discipline. So, if payment is an issue, it is good to start with the unbundling and privatization of the distribution segment. Lastly, even in well-thought out privatization transactions, post-privatization conflicts between new owners, regulators, and the government can still arise.

World Bank Group Support for Privatization

The World Bank can offer support for countries that are undergoing privatization efforts. For example, International Finance Corporation (IFC) sector teams can offer specific transaction advice. The IFC can also provide financing as a shareholder and assist with energy sector reforms, corporate governance or minority shareholder protection reforms, and other legal and regulatory reforms that are necessary for privatization.

Additionally, the World Bank can offer support for adopting the best practices in Public-Private Partnership legislation and provide analytical work to study the effects of privatization on productivity and jobs.

Conclusion

Overall, it is crucial that privatizations result in increased economic and financial efficiency. If privatization is to be successful, it is essential to get the right investors and ensure that the new enterprise maximizes revenues to the public sector. In addition, transparency is essential to ensure support from the population and from investors. Finally, proper regulation and competition frameworks should be in place, so as to ensure that both private and state companies compete on a level-playing field.

DIVESTMENT IN STATE - OWNED ENTERPRISES (SOEs)

by Hans Christenson
Senior Economist, Financial and Enterprise Affairs Directorate, OECD

The question of whether or not to privatize any company is necessarily made by national governments according to their economic, social and policy criteria. The OECD generally does not express itself on whether or not a given corporate entity should be sold. According to the OECD's main instrument dealing with state-owned enterprises (SOEs), namely the *OECD Guidelines on Corporate Governance of State-Owned Enterprises*, ownership is not a critical issue because we believe that SOEs can be corporatized and commercialized to the point where they operate virtually like private enterprises.

The Guidelines establish a number of recommendations directed at government officials, addressing the ways in which they act as enterprise owners, the role of SOEs in economic markets, transparency and accountability, as well as the roles of the boards of directors in individual SOEs. They are consistent with commonly accepted good practices in privately-owned, listed companies. However, while privatization is rarely prescribed it follows implicitly from the Guidelines that if a government is not able or not willing to operate SOEs according to high standards of governance and transparency then it should consider divesting them.

Moreover, Chapter I of the Guidelines contain a number of recommendations that would no doubt be applicable to Kazakhstan's current situation. This chapter states that a Government should clarify and communicate the rationale for state ownership of enterprises, and that this review should be conducted at regular intervals.

A key criterion justifying state ownership should be economic efficiency. This does not mean that state-owned enterprises should be profit-maximizing, nor for that matter profitable, because most governments actually have quite a few SOEs that are operated largely for public policy reasons. But it does mean that a government should explain to the public why this can be more efficiently done under state ownership. Moreover, these criteria should be reviewed regularly, and should evolve dynamically over time.

Either government objectives or market criteria may change over time. In each case, this will entail a review of the government position concerning the companies it should own or not own. A recent practical example from within the OECD area was the 2013 privatization, through a public listing of most shares, of the UK postal company, the Royal Mail. The divestment was publicly motivated by a cessation of the rationale for state ownership. Because of the advent of the internet, the number of letters sent within the United Kingdom (an area in which the Royal Mail held a legal monopoly) had dropped sharply.

Conversely, online shopping had boomed, leading to a growing delivery of parcels, which is a market segment where the postal company was in direct competition with a number of private sector logistics companies. In other words, the UK government considered that the state should not own a company that the private sector could operate equally well or better – a view commonly shared among OECD member countries, but not always so among emerging and post-transition economies.

A key element of OECD recommendations is that the state should always develop, discuss with parliament, and make public a state ownership policy. An ownership policy need not be an elaborate document, but it should define why and how the state exercises ownership of companies. Following this, the state or a specialized agency to which this power is delegated, should define objectives for individual SOEs that may encompass both financial and public policy performance criteria. Then when a government plans to embark on large scale privatization, the priorities will follow logically from reviewing the state's overall ownership policy and individual company objectives.

In practice, however, the motivation for privatization may sometimes go a bit beyond this. A recent survey undertaken by the OECD has identified the main priorities to include: 1) raising revenue for the treasury; 2) improving economic or sectorial performance; 3) enhancing the efficiency of individual SOEs; 4) capital markets development; 5) diversifying corporate ownership; 6) attracting outside investment; or 7) opening up markets for competition and improved service delivery.

How large a percentage of SOEs should an economy contain? There is no easy answer to this question, which is of a political, economic, and historic nature. Generally, as countries move toward higher levels of economic development and more sophisticated markets, the need for state ownership is reduced. Currently, no OECD country has more than 8-9% SOE ownership in its economy. The average is in fact closer to 2%.

The OECD is aware of Kazakhstan's objective of lowering that share to 15 %. We would support this as a logical next step in the transition towards further developing and marketizing the Kazakh economy. In many emerging economies, the share of SOEs in the economy is 20%-40%, so 15% seems like a realistic target for Kazakhstan, given the current state of the country's economic reforms and development.

One last question is, how will Kazakhstan get to 15%? The state can consolidate its SOE sector in a number of ways. An important first step is to categorize SOEs as commercial or non-commercial entities according to the roles that they carry out. The most obvious candidates for privatization are those that operate on fully commercial terms. An area where privatization may need to go hand-in-hand with structural reform is SOEs that have mixed objectives - in other words they carry out public policy objectives, but also offer goods or services in a given market that could in principle be carried out by a private operator in order to make profits. In this case, legal and regulatory frameworks often have to be reviewed prior to privatization.

In a second step, the methods for divestment or privatization should be identified. This can range from public share offerings; trade sales; management and employee buy-outs; or issuance of stocks or bonds. The merits and demerits of each option should be balanced and will rely on the company's preparedness for privatization; market conditions; the policy goals behind divestment; as well as the level of structural reform undertaken. Care should be taken to balance revenue maximization with other policy goals. Ultimately, SOE reform will be judged by the level of political commitment and public support it enjoys, transparency and integrity around the process, and its impact on economic efficiency overall.

DEREGULATION IN KAZAKHSTAN'S TELECOM SECTOR

by Arti Ots
Chief Executive Officer, Kcell

Kcell is a public company and mobile operator listed on both the Kazakhstan and London Stock Exchanges. International Investors closely monitor Kcell's activities in Kazakhstan. One of the most important factors for potential investors in the telecommunications industry is regulation transparency.

The Government has always regulated the mobile communications sector, and open dialogue and transparency is key to productive cooperation between the Government and industry. Currently, the Ministry of Information and Communications is considering an initiative to amend industry regulations to allow operators to share the radiofrequencies spectrum. These amendments will increase the speed of rollout by simplifying procedures, reducing the overall regulatory burden on the entire industry.

Kcell is very pleased that the frequencies allocation process for the 4G network that took place last year was clear and transparent. The Government, particularly the Ministry of Information and Communications, organized the process using best practices; Kcell is very appreciative of this approach.

Nonetheless, key challenges continue to face the industry. Despite the fact that mobile operators have paid billions of Tenge for frequencies, these frequencies are still limited in their use. Meanwhile, technical progress forges ahead and brings new technologies while legislation lags behind.

Firstly, Kcell believes that mobile operators should have full discretion in deciding which standard and technology to use for cellular communication services, depending on their technological capabilities, radio frequency spectrum, and their customer demands and needs.

Secondly, although payments for frequencies are high, mobile operators are obliged to extend coverage. These obligations lead to significant challenges, including a lack of proper infrastructure in certain rural areas and remote road areas. In real terms, only fiber-optic links can provide sufficient bandwidth. However, this requires heavy investment.

The Government understands this and compensates state-run companies (Kazakhtelecom and Transtelecom) for laying fiber-optic cables in rural areas, ensuring that mobile operators have affordable and regulated access to these assets. However, Kcell and other mobile operators encounter problems when registering for the rights to use these fiber-optic cables. Therefore, it is very important to have this procedure legally formalized to ensure that all telecommunications companies receive the necessary support to fulfil coverage obligations.

Thirdly, Kcell recommends that the Government take a uniform approach to Value Added Tax (VAT) charges on international telecommunication services. According to the International Telecommunications Union (ITU), international calls, including roaming, are not subject to VAT. Therefore, local Kazakh operators should also be exempt from VAT.

Lastly, antimonopoly legislation is still strict and companies are liable for customer rights violations. In addition to high fines, companies can be forcibly dissolved for such violations. The government is currently reassessing this approach. However despite all these steps, antimonopoly legislation is one of the biggest concerns for foreign investors considering entry into the Kazakh telecommunications market.

Kcell appreciates the transparent and constructive dialogue that exists between the Ministry of Information and Communications and the telecommunications industry.

Kcell urges representatives of other Government agencies to support this constructive approach by speeding up necessary approvals, whether it would be legal acts like the *Rules of Communications Services Provision* or administrative duties like issuing safety certificates for a base station or permits for site allocation. A more coordinated and well-staged approach would result in improved quality and coverage of mobile services not only in cities but also in rural areas, the largest part of Kazakhstan.

Kcell is also are keen to see how it can become a part of the *Modernization 3.0 Program* as part of the *Digital Kazakhstan* project. Overall, the digitalization trend is sweeping across industries and geographies all over the world. A commitment to digitalize businesses and society is the key to unlocking future economic growth, prosperity, and well-being for communities and businesses, both large and small. Together, it is possible to achieve success for all who live and work in Kazakhstan.

NEW CURRENCY CONTROLS AND INTERNATIONAL FINANCIAL REPORTING STANDARDS (IFRS)

by Erlan Dosymbekov
Managing Partner, EY Kazakhstan and Central Asia

The article below covers two recent topics discussed at the Council to Improve the Investment Climate: draft currency controls legislation and the tax authorities' interpretation of IFRS, which entail financial and tax implications of importance to investors.

I. Draft Currency Controls Legislation

The draft new currency law proposed by the National Bank of Kazakhstan (NBK) stipulates some important changes to the country's existing currency regime. Among other points, it envisages assigning resident status to Kazakhstan branches and representative offices of foreign companies. This raises serious concerns among foreign investors, as it entails additional currency risks for those foreign legal entities carrying out operations here through branches. Moreover, the very fact that such changes are being considered leads investors to question the stability of legislation in Kazakhstan.

The delayed introduction date of the proposed currency control regulations - now pushed back to 2019 - is welcome in that it may provide time for additional consultation with investors. However, the legislation is onerous and unnecessary. Kazakhstan already possesses and is successfully implementing currency controls, whereas additional regulations will negatively impact current investors and discourage potential new investors from coming to Kazakhstan.

At the September meeting of the *Council to Improve the Investment Climate*, the National Bank of Kazakhstan delivered a presentation on currency controls that unfortunately does not appear to include any change in the Bank's stance on this issue from the June Council session (i.e. that branches and representative offices of foreign companies should be considered residents for currency control purposes in order to maintain the stability of Kazakhstan's payment balance and increase the applicability of national currency, an argument open to question).

The June Council session, which was devoted entirely to a consideration of the NBK draft legislation, included presentations by foreign diplomats, financial experts, and the International Monetary Fund. The IMF perspective was welcome, but of necessity was limited to addressing the issue on a technical level. It could not consider the impact of the new currency controls on Kazakhstan's investment climate as this is not within the IMF mandate. Serious consultation needs to be undertaken to ensure investors are heard and their views are reflected in such an important policy document.

In the current situation, it is advisable to maintain existing provisions in the currency legislation regarding the status of "non-residents" in cases involving branches and representative offices of foreign legal entities. We believe that issues concerning the monitoring of cross-border capital flows can be resolved through additional reporting measures, if necessary. The foreign investment community is ready to collaborate with the National Bank of Kazakhstan to help develop the appropriate regulations.

II. International Financial Reporting Standards (IFRS)

Kazakhstan's tax legislation states that tax should follow IFRS accounting standards except for cases specifically provided for by the Tax Code. However, there are increasing instances where the tax authorities "reinterpret" taxpayers' IFRS-audited accounts in order to assess additional taxes. This is a critical issue with ramifications beyond accounting procedures. IFRS standards are internationally applied to financial reporting and, if not properly applied, these reinterpretations can compromise internationally accepted financial reports.

The tax authorities and the Finance Ministry should not "reinterpret" IFRS as they see fit when it contradicts IFRS and its international application. This damages Kazakhstan's international perception with foreign investors already operating here or considering future investment.

To help resolve this issue, it would be advisable to establish an independent, professional Council to monitor the quality of audits and settle IFRS disputes that may arise. This Council will be able to not only enhance audit quality but also address a range of issues related to IFRS.

At the October Council meeting, the Ministry of the National Economy indicated that they supported setting up the above Council which, if properly organized and staffed, should in turn help Kazakhstan's application of IFRS in full conformity with international standards. This is a very welcome development, and we await its final implementation.

DEREGULATION OF THE INSURANCE INDUSTRY AS A DRIVER OF DEVELOPMENT

by Ruslan Pogorelov
Chairman of the Board, Centras Insurance

The Kazakhstani insurance sector suffers from over-regulation that stymies development. To solve this problem, it is necessary to deregulate the insurance market in order to stimulate growth. Kazakhstan can achieve this by creating a Self-Regulatory Organization for the insurance sector, reforming current practices for AML/CFT compliance, revising the current Risk-Management System, and developing a legislative base for Professional Liability Insurance.

1) Creation of a Self-Regulatory Organization for the Insurance Sector based on The Insurers Association of Kazakhstan

The creation of a Self-Regulating Organization (SRO) in the insurance sector will allow for the liberalization of the insurance market by delegating certain regulatory powers to market participants. Currently, the level of government regulation for insurance companies and their activities is very high. On one hand, these regulations are designed to protect the rights of consumers. However, the existing rules limit the insurance sector's development.

Thus, the development of an SRO for the insurance sector would help to eliminate many of the unnecessary regulations that are currently restricting the market. The SRO can be developed in cooperation with the National Bank of Kazakhstan (NBK), ensuring maximum transparency between the public and private sectors. Creation of the SRO will help implement the following:

- Delegate certain regulatory powers away from the Government to reduce the bureaucracy in the market, thereby lowering the number of administrative barriers
- Ensure that the insurance market effectively participates in lawmaking and legislative activities
- Standardize insurance company practices under a single apparatus of voluntary insurance contracts for insurance claims and settlements, and coordination with insurance agents.
- Contribute to the development of fair competition; improve professional ethics by engaging insurers through the SRO.
- Improve the quality of professional training. There are currently no specialized institutions dedicated to training insurers. The creation of an SRO would enable professional training of SRO personnel and experience sharing amongst professionals).

2) Legislative Requirements for Anti-Money Laundering/ Combating Financing of Terrorism (AML/CFT)

Current banking legislation requires insurers to identify all clients who conclude insurance contracts, whether legal entities or individuals, in an attempt to combat money laundering and the financing of terrorism. However, the list of documents required to identify these clients is very large, and the procedure raises many questions and creates significant confusion for the customer. Furthermore, this system is directly impeding the development of electronic insurance (e-insurance) as it is impossible to identify clients through electronic, automatic methods alone.

In addition, it is doubtful that most clients would be using insurance contracts to launder money or finance terrorism in the first place, especially contracts for small amounts of money. It would be better to focus on identifying and monitoring specific clients who could potentially be involved in such illegal activities.

3) Revision of the Risk Management System

In addition to compliance procedures for money laundering and terrorism, it would also benefit the insurance sector to revise risk management laws and regulations. It would be advisable to revise regulations to focus on active risk-management, rather than relying on formal requirements for documentation. In particular, there is a current trend to increase the number of requirements and raise the minimum required capital for insurance companies, making the regulations analogous with banks.

These regulations often outpace the development of the insurance market. Insurance companies are not overly concerned with the amount of capital, but rather with the adequate ratio of premiums to capital and the presence of reliable reinsurance protections.

4) Professional Liability Insurance

Finally, in order to reduce the overall regulatory burden on the economy, as well as to give new impetus to the development of the insurance market, it is necessary to develop a legislative base for professional liability insurance.

Conclusion

If adopted, these four measures will help Kazakhstan to eliminate unnecessary regulation and introduce step change in the industry. Kazakhstan's insurance sector has untapped potential for development, and the removal of unnecessary regulation will send a signal to investors that the market is ready for growth.

LOCAL CONTENT POLICY – OBJECTIVES FOR THE GOVERNMENT AND INVESTMENT COMMUNITY

by Dirk Eppner
Financy and Supply Chain Manager, Beiersdorf

Towards the end of 2016, several planned adjustments to Kazakhstan's work permit regime were brought to the attention of the foreign investment community. These proposed changes included several provisions that would make it potentially more difficult to recruit qualified foreign staff for work in Kazakhstan. Among the more obvious problems were the requirement for Kazakh language tests for foreign specialists as well as involvement of the labor authorities in the recruitment process.

The American Chamber of Commerce in Kazakhstan took the lead in addressing these potentially harmful provisions, allowing many of these pressing issues to be resolved quickly before the end of 2016. However, other topics remain open and provide further opportunities to improve Kazakhstan's investment climate. In particular, the requirements for work permits for Intra-Corporate Transfers (secondments) are still unnecessarily burdensome, even though secondments play a crucial role for investing companies in any given country:

At the management level, investors want to ensure that corporate processes are implemented, knowledge is properly transferred, and compliance with corporate rules and guidelines is observed. Therefore, it is a common practice in international companies to second experienced management staff to other countries. Additionally, despite the efforts undertaken by the Government to improve and modernize Kazakhstan's educational system, the local labor market still does not produce sufficient talented, well-educated and experienced candidates for senior positions. The ability to second experienced management staff from established entities abroad to Kazakhstan therefore remains a prerequisite for continuing or increased foreign investment in Kazakhstan.

At the specialist level, secondments are necessary to transfer company-specific, specialized knowledge that is not available locally and cannot be provided by an external expatriate.

Against this backdrop, it is not clear why the government makes it more difficult to obtain work permits for internal secondments than for external foreign staff. Under these circumstances, it would be much more effective to harmonize the rules for Intra-Corporate Transfers and the hiring of external foreign staff. To further improve the investment climate and send a very positive sign to the foreign investment community, the Kazakhstan government should consider:

- Eliminating the requirement to search for local candidates first, particularly in cases where companies are considering a secondment for a position where a local candidate cannot address the company's specific requirements. Companies look for candidates with internal knowledge and experience, as well as independence from local networks and business habits.
- No special conditions for secondments, conditions should be the same as for regular work permits (a fee can be imposed and invested in qualifications).
- Intra-Corporate Transfers should be allowed not only from a mother company (e.g. the Corporate HQ), but also from all companies within the corporate group. In practice, the most suitable candidate may often not be in the direct mother company, but from a different affiliate of the same group. The text of the law should be amended to include transfers from all affiliated companies.
- No limitations on industries or economic activities where Intra-Corporate Transfers are permitted. The government has stated that there are no plans to limit the industries for which Intra-Corporate Transfer Agreements are permitted. The provision should therefore be removed from the law.

For all types of work permits, there are additional changes that would further improve the investment climate in Kazakhstan. Firstly, government authorities should stop checking candidates' formal qualifications or experience. Companies themselves will ensure that people are suitable for the job. If the government insists on continuing this practice, it would be better to focus on experience rather than formal qualification.

The government has, in principle, agreed upon this for Intra-Corporate Transfers, and AmCham has provided a proposal for how this can be implemented in the legislation. One possible solution would be to include confirmation from both the sending and receiving entity that confirms that the company considers the candidate's qualifications and experience as sufficient for the position in question. There should not be any further checks or consequences for such declarations.

Another improvement would be exempting all heads of foreign-invested companies from work permit requirements. Currently, Heads of Branches and Representative Offices are exempt from the requirement to receive a work permit. This exemption was reinstated during discussions towards the end of 2016. The government should consider expanding this exemption to all Heads of foreign-invested companies and further consider exemptions for small organizations as well. There is no clear reason why the Head of a Representative Office does not need a work permit, yet the Head of a foreign-owned local company requires a permit.

One final obstacle is the one-year total ban that prevents companies from receiving visa support in instances where migration registration requirements were violated in even the most minor way without any intention to do so. This ban can severely affect a company's ability to operate in Kazakhstan. An administrative fine would be an adequate sanction, particularly in cases where the company pro-actively corrected the mistake. The government has indicated that these rules will be lifted in a legislative effort by the end of 2017.

The relevant ministries have often indicated at the *AmCham Council to Improve the Investment Climate* and at meetings both before and after Council session that they understand these requests. Progress has also been made to further improve the work permit regime. However, the above proposed changes are still pending. In particular, the provision about an applicant's education and prior experience as judged by local inspectors poses a significant uncertainty in the work permit process.

AmCham will continue to support the Government of Kazakhstan's efforts to develop a competitive work permit regime that supports the policy target of attracting further foreign investment while developing the local labor force.

MINING CODE REFORM IN KAZAKHSTAN: A POTENTIAL TURNING POINT

Mac Canby
Vice-President, Eurasia and Africa Exploration
Freeport-McMoRan

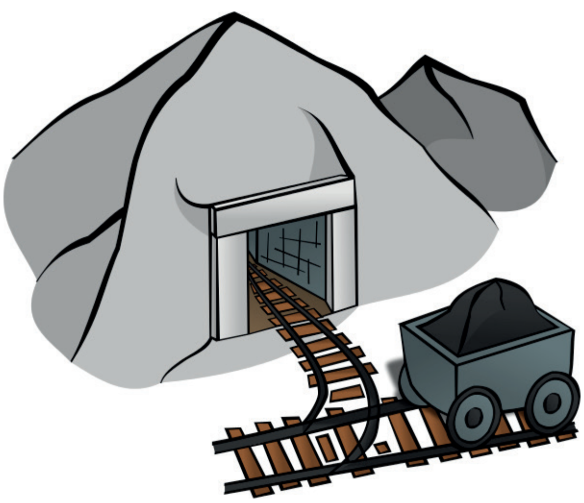
Kazakhstan's efforts to update its Mining Code, based on the Western Australian and similar models, could dramatically transform the rate of investment in exploration and mining, laying a foundation for long-term contributions to economic growth. If this visionary effort (in combination with parallel reforms in other key legislative areas) is successful, it will solidify Kazakhstan's role as a regional leader, attract foreign and domestic investment, and stimulate a local mineral exploration revival. For mineral explorers, the geologic potential of Kazakhstan - or any country - is an important starting point; however, a clear, predictable, and equitable mining code is also absolutely essential to justify early-stage exploration, eventually leading to new mining operations.

When considering early-stage exploration for future mining investments, five key components influence a global mining explorer's investment decisions, ultimately determining a country's attractiveness. These components are:

- *adequate exploration license timeframes*
- *long-term and extendable exploitation licenses*
- *a clearly-defined, balanced mechanism for access to property and other key non-mineral resources*
- *equitable and stable tax and royalty regimes*
- *absence of excessive discretionary authority*

These elements, as determined by a nation's mining code, crucially determine how attractive a country's mineral sector is for foreign investment. If Kazakhstan wishes to improve investment in the extractive sector, it will need to incorporate these components in a mineral code.

The ***first component*** which exploration and mining investors seek is an adequate exploration license timeframe. Explorationists are well aware that, out of every 300 mineral prospects explored and drilled, statistically only three to four of them will qualify for pre-feasibility studies. Only one of those mineral prospects will pass the further technical, economic, environmental, and social hurdles to eventually become a major new mine.



Additionally, as future deposits become harder to find and the constraints on bringing them to production become more demanding, the timeframe between making these discoveries and putting them into production as mines will continue to lengthen. It is now extremely rare for a newly-discovered mineral deposit to pass from initial discovery to production in less than seven to eight years. Most deposits – particularly large, long-life deposits that can have major positive impacts on a nation's economy – require 15 to 25 years to reach production. Amidst these daunting statistics, explorers must be assured that exploration licenses will provide adequate time to make the initial discovery and then bring the deposit into production. For Kazakhstan, it is important that the nation's mining code provides adequate timeframes.

In addition to the exploration license term, a ***second component*** is the ability of a country to guarantee long-term and extendable exploitation licenses. In light of the infrequent discovery rates mentioned above, most exploration investors now focus on finding major, long-term deposits that have the potential to produce for many decades. Only these large deposits can justify the high uncertainty and cost of initial exploration efforts. The cost of putting major new mines into production often ranges from $3-$5 billion dollars, further compelling investors to seek only large deposits to justify such immense investments. These factors ultimately make long-term exploitation rights a critical component of a successful mining code.

The ***third component*** is access and rights to other non-mineral resources which are critical to mining operations. Land, water, physical access, and others supporting resources are essential for major mining investments, and a mechanism to assure their reasonable access must be included in a nation's mining code to attract and retain new investors.

The ***fourth component*** which determines a country's attractiveness is an equitable, balanced and stable tax and royalty regime. Modern mining companies actively seek to ensure that their operation's financial contributions to a host country's economy are transparent and equitable over the long term. The financial rewards to the explorer must be significant in order to compensate for their accepting early-stage exploration risk - and in turn, the state must be guaranteed a reasonable, predictable, and stable revenue stream. The distribution of revenue and other benefits must be mutually beneficial to both the company and state, over long-term fluctuations in prices and costs. If Kazakhstan maintains a reputation for equitability, it will greatly assure and encourage potential investors.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OCTOBER BUSINESS ROUNDTABLE WITH SAMIR TAGHIYEV, ISLAMIC CORPORATION FOR PRIVATE SECTOR DEVELOPMENT (ICD)

Samir Taghiyev, Senior Regional Manager, ICD

The October Business Roundtable Luncheon was held on Tuesday, October 31 in the Rixos Almaty Hotel's Lotus Restaurant and featured a presentation by *Samir Taghiyev, Senior Regional Manager for CIS Countries, Islamic Corporation for Development of the Private Sector (ICD)*. Mr. Taghiyev spoke on how the ICD supports business development in Kazakhstan.

The Islamic Corporation for Development of the Private Sector (ICD) is a multilateral organization and a member of the Islamic Development Bank (IDB) Group. The mandate of the ICD is to support economic development and promote the development of the private sector in its member countries by providing financing facilities and/or direct investments. The ICD operates in accordance with the principles of Shari'ah and plays an instrumental role in enhancing the development of the Islamic finance industry. Over the last few decades, a number of innovative plans and modes of financing have been proposed by the ICD and applied throughout the world; this has led to a rapid development of the Islamic finance industry.

Islamic Finance has experienced tremendous growth over the last few decades and has now moved from its infancy stage to a maturing phase of consolidation (in terms of meeting the key concerns of national regulators and investors). Although Islamic Finance represents only a small portion of global assets (roughly 1%), the total size of Islamic finance assets has surpassed 2.5 trillion USD and it is growing at a rate of 15% per year. Islamic Finance now has a presence in over 80 countries and its geographies are stretching beyond the Middle East to Europe, North America, Asia, and Africa.

The rapid growth of Islamic Finance is mainly due to its inherent features and innovative instruments that make it attractive to any financial system and institution. Islamic Finance is based on Shari'ah, a system of Islamic law. Shari'ah compliant financing seeks to shape financial practices and accompanying legal instruments that conform to Islamic law. Major financial principles of Shari'ah include a ban on interest and uncertainty, adherence to risk sharing and profit sharing, and the promotion of ethical investments that enhance social values that do not violate practices banned in the Qur'an.

However, this does not stop the ICD from engaging in profit-making activities. The bank is allowed to make profits on behalf of their clients as long as the two have set down a sharing agreement on the profit or loss made from the investment. Among other things, the ICD also engages in other joint ventures (through direct investment in equity) and leasing activities for profit.

ICD operations in Central Asia and Kazakhstan

As of today, the ICD has financed approximately 600 million USD to Central Asian countries and plans to double this figure by 2023. In addition to the line of financing extended to both Islamic and conventional financial institutions, the ICD has also established a number of purely Shari'ah compliant leasing and investment companies in Kazakhstan and the broader region. With a diverse group of local and international investors, the ICD established the first Islamic Leasing (Ijara) Company in Kazakhstan with an authorized capital of 36 million USD. In 2013, the ICD announced entry in the Islamic banking sector in Kazakhstan and started converting a local bank into an Islamic Bank, with investment of up to 30% of the bank's capital. Meanwhile, to encourage the development of the SME sector in Kazakhstan, the ICD is to establish an SME Development Fund with a mandate to provide early-stage and growth capital to small and medium-size enterprises.

What the ICD can offer in Kazakhstan

1. The ICD offers direct financing to corporates in Kazakhstan; Fifty-one percent of organizations should belong to private investors, not to a government or to governmental agencies; The ICD can finance projects (with a minimum size of 10 million USD) and provide tender for up to 7 years.
2. The ICD can also offer parallel or co-financing facilities with local banks for clients operating in Kazakhstan under the stated conditions.
3. The ICD provides direct financing to leasing companies, SME funds, and other financial institutions working in the SME sector. The ICD is currently offering in hard currency, however, the bank is exploring the possibility of financing in local currency.
4. In 2016, the ICD developed a global plan for the development of social infrastructure projects in the ICD's 52 member countries. Under this plan, a Public-Private-Partnership (PPP) mode of development called *Design-Finance-Build-Lease-Transfer* (DFBLT) is utilized to meet the funding gap. The PPP is designed to meet social infrastructure needs (such as schools, clinics, adequate housing, water and power supply) in member states like Kazakhstan. Financing under a PPP plan last from 15-25 years.
5. Finally, the ICD can offer alternative funding opportunities to Kazakhstan corporates by issuing Sukuk bonds, an Islamic bond (asset securitization based on Sharia principles), and raising long-term financing for operations in Kazakhstan; Sukuk bonds can be issued with varying degrees of risk and yield, allowing investors to choose a portfolio best suited for their risk management profiles. It is important to note that Sukuk bonds are more difficult to manipulate artificially, thus their value is derived from underlying real assets with provable and tangible value.

AMCHAM NOVEMBER BUSINESS ROUNDTABLE WITH MICHAEL LALLY, MINISTER - COUNSELOR FOR EURASIAN COMMERCIAL AFFAIRS, U.S. EMBASSY MOSCOW

Michael Lally, Commercial Minister - Counselor,
U.S. Embassy Moscow

The June Business Roundtable Luncheon took place on Friday, 17 November in the Rixos Almaty Hotel's Lotus Restaurant and featured a presentation on *Eurasia Business Development: Challenges and Opportunities.* The guest speaker was *Michael Lally, Minister - Counselor for Commercial Affairs in Eurasia, U.S. Embassy, Moscow.*

Eurasia Business Development: Challenges and Opportunities

There are over 1,500 American firms in Eurasia, many of them medium and large size firms. The Energy Sector provides the most vivid examples of American cooperation with firms in Eurasia. The *Tengiz* and *Sakhalin* projects in Kazakhstan and Russian, respectively, are leaders that are well-known and profitable in their extensive work on the Caspian Pipeline Consortium (CPC) and Caspian oil and gas pipelines.

Some important, but lesser known projects include *The International Paper Company,* which is responsible for 60% of copy paper in the CIS region, and *Boeing*, which has provided civil aircraft and developed polar tracking routes that have saved countless hours and fuel. In addition, American legal firms have literally rewritten the book on labor codes, tax legislation, dispute resolution, and accounting principles. The past 20 years have also been marked by promotion of many local personnel into CEO and CFO positions; this culture of achievement and meritocracy cannot be overestimated.

In Eurasia, challenge is opportunity and vice versa. Commodity prices and exports (oil, gas, grain, precious metals, etc.) continue to dominate GDP, but there is a growing awareness of the need for broad-based growth. Both Kazakhstan and Russia target oil at 40 dollars a barrel for their 2018 and future budget projections, a conservative estimate given the likelihood that oil will be closer to 58-68 dollars per barrel. Privatization has also proceeded at different speeds and with varying success throughout the region. Ukraine has launched privatization efforts with the *Odessa Portside Plant* and key regional energy distributers; Kazakhstan has demonstrated on and off efforts to privatize; and Russia has gone in the opposite direction with 70% of its GDP in state hands. All of these trends present opportunities and challenges for American firms.

Russia

Russia hosts the largest economy in the Eurasian region with most potential to diversify. Two major considerations when examining new or expanded projects in Russia are geopolitics and market SWOT (strengths, weaknesses, opportunities, and threats).

US firms have a decent presence in Russia, mostly small and medium size businesses working on a sales/distribution/ agent basis. The Russian economy is predicted to show 2% growth this year, but the country's economy is still commodity-influenced. Some industrials may see double digit growth but construction and consumer spending is still weak. No serious economic reforms are expected until mid-2018 (at the earliest), specifically for pensions, taxes, and the courts. There is a stable exchange rate, ranging from 58-62 Rubles per dollar.

Looking ahead, Presidential elections will be held in Russia in March 2018, as well as the formation of a new GOR. US business continues to adjust targets. Nonetheless, there continue to be commercial challenges but companies are investing and looking at the long term.

Ukraine

Ukraine has shown some small economic progress. The Ukrainian economy is expected to grow by 2%, but this still means that Ukraine will only return to its 2012 GDP by 2030. Still, there have been significant improvements with the *E-VAT system*, *public procurement*, *energy royalty*, *corporate governance in gas SOE*, and the creation of an Ombudsman. Updates to the code of conduct for tax raids are on track with IMF requirements.

Looking ahead, it is unlikely that there will be any progress on continued tax reform/ institutionalization or land reform before the March 2019 Presidential elections in Ukraine. Nonetheless, US business is making investments for the long term.

Kazakhstan

In Kazakhstan, commodity prices clearly play a big role. TCO and the *CPC Future Growth Project* are important to the region. The Kashagan oil field is back online, but privatization efforts have been slow. Kazakhstan represents a relatively small market for US exports (1.1 billion USD in 2016), but there is a larger geocommerical significance to Kazakhstan than numbers portray. Also, there is a need to count investment, third country transit, and third country tax vehicles. The *One Belt One Road* project will produce jobs and add value to assembly manufacturing in Kazakhstan. Lastly, *Intellectual Property Rights* (IPR) concerns remain unresolved and companies need to continue to engage with the government on strengthening IPR.

Conclusion

How the U.S. Embassy works with American firms helps to level the playing field to facilitate business and work closely with partners. There are four key business lines (consulting/advocacy, partner identification/due diligence, trade events and market research) distributed across key industry segments (healthcare, services, IT, and agribusiness, among others). It is crucial that we continue identify discreet opportunities, make strategic introductions, and follow through with our investments.

AMCHAM ALMATY SEPTEMBER SUNDOWNER AT EL PLATO RESTAURANT

On Friday evening, 29 September, AmCham held its monthly Sundowner at Almaty's colorful El Plato Restaurant, an outstanding Spanish restaurant with authentic Spanish cuisine. Originally a wine-tasting tapas bar, El Plato quickly grew into one of Almaty’s favorite restaurants for connoisseurs of paella and other Spanish delights. The restaurant’s intimate atmosphere spreads through three rooms (one room devoted to a large array of outstanding wines) with a glassed-in kitchen where guests can watch the staff prepare each dish before it is served.

The highlight of the evening was a seafood paella prepared under the eyes of the guests, each ingredient added individually before being served hot. A chicken and rabbit paella was served earlier in the evening, along with a panoply of regional dishes.

The El Plato Sundowner restaurant was a great opportunity for guests to celebrate late autumn with delicious food, refreshing drinks, and friendly company. Anyone who wishes to experience an authentic Spanish culinary experience should book a table at El Plato today.

AMCHAM ATYRAU APRIL SUNDOWNER AT THE RENAISSANCE ATYRAU HOTEL

On April 10, AmCham held its Spring Atyrau Sundowner at the Renaissance Atyrau Hotel. AmCham always organizes a Welcome Sundowner to open the North Caspian Oil & Gas Exhibition that is a standard feature in Atyrau in early April. The O&G Exhibition draws industry operators and suppliers from across Kazakhstan and other regions of the world to display their goods and services to the leading oil and gas companies operating in the Atyrau region.

The Sundowner was sponsored by Kazakhstan's leading law firm GRATA International following a GRATA Workshop that took place that afternoon in the Renaissance Atyrau Ballroom. The afternoon Workshop (jointly organized by GRATA and AmCham) discussed workplace labor disputes and resolutions. The event drew a large attendance from industry leaders in the Atyrau community.

Following the Workshop, guests were invited to attend the Sundowner and enjoy a delicious dinner buffet with a wide array of drinks. As always, the Atyrau business community and AmCham's leading oil industry members turned out in force to enjoy the evening, touch base with colleagues and friends, and prepare for the Exhibition opening the following morning..

AMCHAM ATYRAU OCTOBER SUNDOWNER AT THE RENAISSANCE ATYRAU HOTEL

On October 19, AmCham held its fall Atyrau Sundowner at the Renaissance Atyrau Hotel. AmCham's leading member in the Caspian region, Tengizchevroil (TCO), generously sponsored the event with food and drinks. Headed by Chevron, TCO was the first major oil company to explore and confirm the Caspian Sea's vast energy resources, the engine that has driven Kazakhstan's economy for over two decades since the country's independence.

TCO General Director Ted Etchison welcomed guests from across the Caspian region and spoke about the company's operations and plans for the future. Members and guests enjoyed the sumptuous buffet dinner prepared by the Renaissance chef. A luxurious 5-star hotel, the Renaissance Hotel offers impeccable accommodations and services, and is always the first choice for AmCham members travelling to the Caspian Region.

AMCHAM AKTAU OCTOBER SUNDOWNER AT RENAISSANCE AKTAU HOTEL

On October 20, AmCham held its annual Autumn Sundowner at the Renaissance Aktau Hotel for members in the Aktau region. With Thanksgiving approaching, the Sundowner had a seasonal theme with a dinner buffet featuring turkey and pumpkins and an abundant choice of wine, beer, and soft drinks.

Sponsored by ILF Consulting Engineers, a well-known and highly-respected German engineering company with a long-standing history in Europe and in Kazakhstan, this year's Sundowner drew an especially large attendance.

Although Aktau is a smaller city than Atyrau, it has a vibrant business community focused on the oil industry, and is close-knit and friendly. AmCham always enjoys its visits to Aktau, which, with its location on the Caspian shore, is especially picturesque. The Renaissance Hotel, a beautiful 5-star hotel, enjoys unobstructed views over the Caspian Sea.

AMCHAM/CCIFK ALMATY WINTER HOLIDAY SUNDOWNER AT THE ALMATY RITZ - CARLTON HOTEL

This year's Christmas Sundowner was held on Friday evening, 15 December, at the Ritz-Carlton Hotel in Almaty. This glamorous event was jointly organized by AmCham and the *Chambre de commerce et d'industrie France-Kazakhstan (CCIFK)*. AmCham and the French business association have always had a close relationship and many French businesses are also AmCham members. Both Marc Bassot and Renaud Chamonal, CCIFK leaders, are themselves AmCham members respectively through *Checkpoint Talent Solutions* and *Danone Berkut*, both businesses with firm roots in Kazakhstan through their services and local manufacturing facilities.

As expected, French wine and champagne flowed freely, and a special tasting table for Armagnac served guests who wished to taste this delicate brandy from southwest France.

The Ritz-Carlton served an elegant buffet to the 200 guests who joined the Christmas celebration from AmCham, CCIFK, and the UK Business Association.

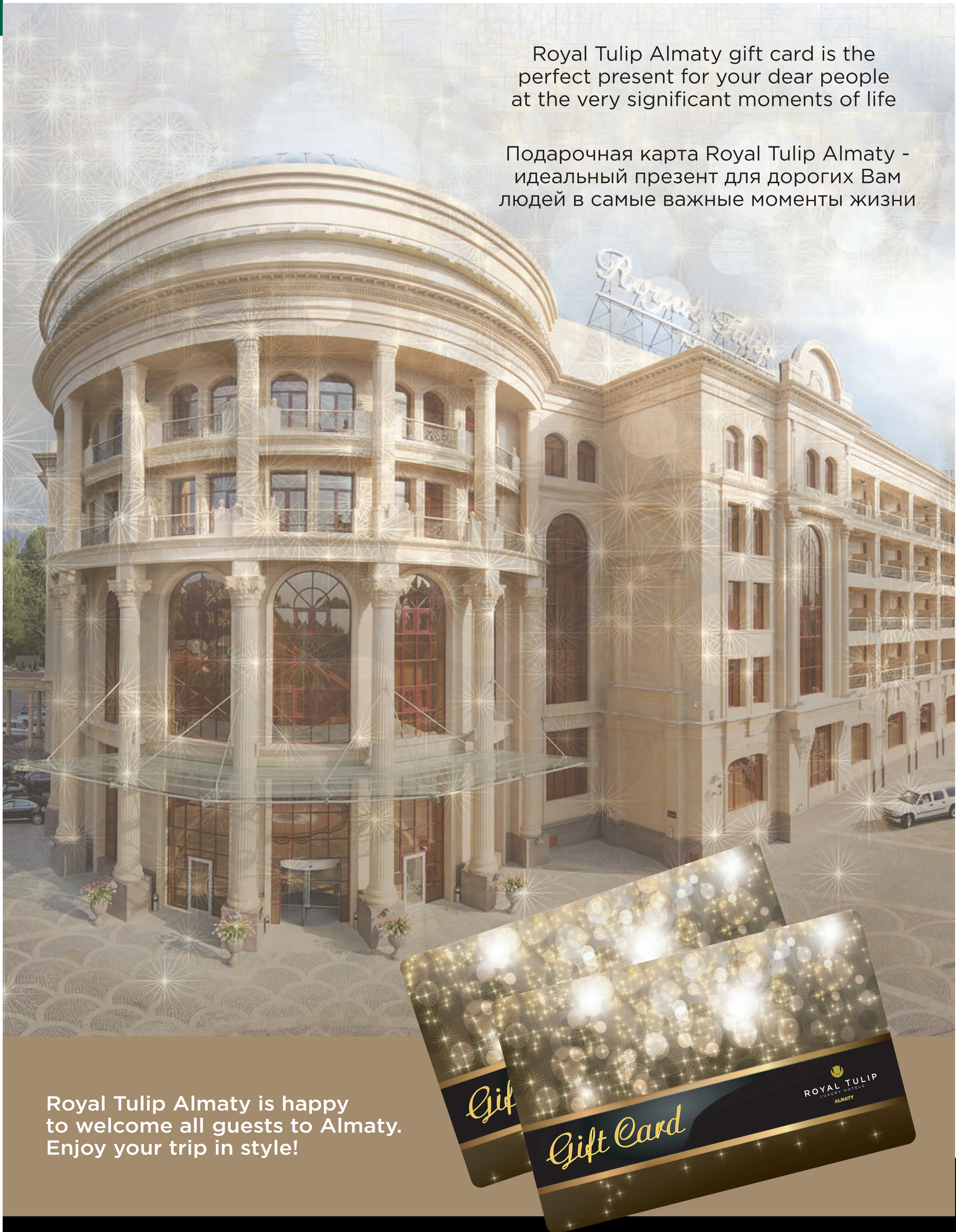
The Coca - Cola Company, sponsored the Holiday Sundowner. A prominent and loyal AmCham member present in Kazakhstan since the country's independance.

Held on the Hotel's 30th floor with an incomparable view from the Vista and Sky Lounges, the evening continued to midnight with music for dancing after 9pm. The French guests led the dancing with their inimitable *joie de vivre*. The evening was a memorable departing gift for the many members of Almaty's foreign community who would soon be departing for Christmas and New Year's in their home countries or in exotic locales around the world.

ALMATY HALLOWEEN SUNDOWNER AT THE ROYAL TULIP HOTEL CIRCUS NIGHTCLUB

The Halloween Sundowner, held this year on Friday, October 27 is a traditional AmCham event in a perfect Halloween location - the Circus Nightclub on the top floor of Almaty's Royal Tulip Hotel. A spooky location in black and gold with a huge screen for projecting Halloween movies, the Nightclub also has a professional DJ station for music throughout the evening. AmCham members return to the Circus each year on Halloween eve.

The Royal Tulip Hotel has proven a perfect host and sponsor for the holiday year after year with a specially designed dinner buffet in the spirit of the occasion. Face-painted waiters and waitresses complete the Halloween environment. Although Halloween costumes are not a feature of the evening, AmCham members enjoy the festivities and even do some business networking between glasses of wine and shots of blood-colored drinks.



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AMCHAM THANSGIVING 2017 AT THE INTERCONTINENTAL ALMATY HOTEL

AmCham believes that it is not only a business association but also a community that brings families together for the major American holidays, an important feature of family life in the United States. No American holiday is more beloved than Thanksgiving, a time when extended families travel across the country to share seasonal abundance around the dinner table.

Each year the AmCham Thanksgiving is a big, happy, and very inclusive family celebration. Children have their own entertainment program for the evening with professional entertainers in costume and makeup; afterwards, children are welcome to join their parents in the InterContinental Hotel Ballroom. The InterContinental Almaty Hotel has demonstrated year after year that it understands the special features of Thanksgiving, producing an ideal Thanksgiving buffet with turkey, autumnal produce, and delicious pumpkin pies.

This year’s welcoming speech was delivered by AmCham President Ken Mack, who spoke on the importance of the holiday. At the end of the evening, the annual Thanksgiving Lottery was held. This year’s top prize was a pair of airline tickets to any destination in Europe, contributed by Air Astana. Other prizes were dinners, brunches, and spa vouchers from AmCham 5-star hotel members. Winning tickets were chosen by children who crowded around AmCham Board Member Paul Cohn, the Lottery’s Master of Ceremonies

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AMCHAM ADVOCACY UPDATE 2017 SEPTEMBER - DECEMBER 2017

The autumn has been an intensive period for AmCham advocacy with three sessions of the *Prime Minister's Council to Improve the Investment Climate*, meetings with Ministers on advocacy and member issues, and preparation of an *AmCham Investment White Paper* to be published in 2018 in follow-up to the *2014 White Paper: Top Ten Barriers to Foreign Investment.* The three Council meetings have been devoted to the following topics:

- *Intellectual Property Rights - Technology, Healthcare, Consumer Products*
- *Tax Reform - A Plan for the Future*
- *Environmental Regulatory Reform*

Each of these advocacy topics raises issues currently under review by the Government as it proposes new legislation confronting investment challenges with the goal of improving the Kazakhstan's investment climate.

Intellectual Property Rights - Technology, Healthcare, Consumer Products (September)

Intellectual property rights (IPR) refers to legal protection governing patents, trademarks, brands, design, advertising, and other use of specific characteristics of a particular product.

Generally speaking (though not exclusively), this refers to technology, healthcare, and consumer products. Counterfeit or pirated products often found on sale in Kazakhstan may range from handbags, luggage, or musical products (innocuous, though illegal products) to medicines, chemical household products, and cosmetics or baby products (products harmful to human health).

Kazakhstan has had good Intellectual Property legislation in place for some time, but it is not well understood or enforced, allowing counterfeit or pirated products to be freely distributed and freely entered into Government tenders. As a result, counterfeit medicines originating for the most part in China and India are found in hospitals, clinics, and pharmacies. This is clearly a dangerous trend.

Fortunately, both Prime Minister Karim Massimov and Prime Minister Bakhytzhan Sagintayev have had a clear understanding of IPR problems and have urged the Government to confront and resolve the serious lapses in IPR enforcement. PM Massimov took the initiative four years ago to create an AmCham IPR Inter-Ministerial Working Group that continues to meet monthly with the Healthcare and Justice Ministries. Pharmaceutical patent protection has been a particular focus for the Group, which sees Kazakhstan's health protection as its main objective.

Pre-Council meetings were held with Justice Minister Marat Beketayev, who showed a good understanding of IPR issues and gave his support to creation of a dedicated IP court with judges trained to handle IP cases, and with Healthcare Minister Birtanov, who briefly discussed pharmaceutical patent protection, but whose knowledge appeared limited. Further meetings with Minister Birtanov will be conducted to secure his full support.

The September Council session was devoted to a presentations by AmCham members from across industry sectors most concerned with IPR infringements. The session began with statements from the four Council Ambassadors, all of whom strongly supported increased IPR protection in Kazakhstan. The European Union was particularly outspoken on the need to strengthen Government procurement regulations to exclude counterfeit and pirated products, and to punish companies manufacturing, distributing, or importing such products.

The lead presentation was delivered by *IPR Working Group Chair Andrei Yorsh*, who specializes in intellectual property law at *Baker & McKenzie*. He also focused on the weakness of Government procurement rules and the difficulties legitimate IP rights-holders encounter in challenging manufacturers of counterfeit products in the procurement process.

Andrei Yorsh stressed the need to change legislation to enable evidence of counterfeit manufacturing to be obtained (investigative and evidentiary laws require change). He also spoke about 'parallel imports', ie importing the same products from different countries or different sources, making it difficult, if not impossible to determine product legitimacy. Legislation currently before the Majilis risks allowing parallel imports to enter the country without safeguards.

Eli Lilly CEO Dmitriy Kozenkov delivered the pharmaceutical perspective, again pointing out weaknesses in the procurement process (without reference to the recent SK-Pharmacia procurement corruption scandal that highlighted the need to revisit and strengthen healthcare procurement). His views are strongly supported by the rest of the pharmaceutical industry.

Microsoft CIS CEO Ronald Binkovsky delivered a presentation on behalf of the IT industry, stressing the importance of protecting this industry if Kazakhstan aims to develop its own technology sector and intends to become a knowledge-based economy in the future.

Microsoft suffers most from pirated products in Kazakhstan. It is estimated that over 75% of Microsoft programs in Kazakhstan are pirated versions that leave companies open to cyberattack and hacking. This percentage includes Government computer programs, seriously compromising the Government confidentiality.

Coca-Cola Bottlers CEO Ahmet Ertin delivered a presentation about trademark infringement involving a counterfeit product entitled Kazakhstan Cola produced in Kazakhstan by a local manufacturer. Although Coca-Cola had litigated against the local manufacturer (UNIX) , the local courts did not appear to understand the evidence or arguments. The Supreme Court returned the case to the local court with instructions to apply the legislation correctly, but the local court again rejected the case. Coca-Cola continues to litigate against the local manufacturer.

Procter and Gamble CEO Olga Voronova presented a slide demonstration showing large trans-border shipments of confiscated P&G household chemical products, some containing carcinogens. She pointed out that P&G employed its own inspectors to monitor border imports and P&G products on sale in local retail outlets since local law enforcement refused to provide support.

The Khorgos border crossing with China was identified as particularly susceptible, and showed large shipments confiscated in Atyrau. Khorgos openly offers counterfeiting equipment on sale, as well as counterfeit products.

The Justice and Interior Ministries requested Ms. Voronova to accompany one of their teams to Khorgos the following day to identify the sources of equipment and products shown in her presentation.

Tax Reform - A Plan for the Future (October)

Tax Reform is a critical issue that AmCham has dealt with annually over the life of the Council. Taxation is always one of the most important issues for AmCham members, as well as for the Government, and there is no lack of tax disputes to present at Council meetings. Some disputes are already in the courts, others are still under negotiation.

The Government announced a new Tax Code to be introduced in January 2018. In fact the Ministries of Finance and the National Economy made only minor changes typical of each year's 'tinkering' with the Tax Code. The major changes announced in 2016 for the new Tax Code - replacing VAT with a sales tax and merging the Customs and Tax Codes - were rejected last year. Although improved VAT implementation was chosen as an alternative to replacement, there has been no noticeable improvement in VAT administration.

Before the afternoon's Council meeting, separate meetings with *Deputy Prime Minister Dosseyev, National Economy Minister Suleimenov* and *Finance Minister Sultanov* took place in the morning.

At the afternoon Council session, two speakers took as their point of departure the *Principles of Good Tax Administration* published by the *OECD Center for Tax Policy and Administration*.

The lead Council speaker was *Canadian EY Partner David Robertson*, a seasoned international tax litigator who had travelled from Calgary for a repeat appearance at the Council. His presentations over the past year have been conclusive in securing important tax policy decisions from the Government and have provided advice on how Canada's tax strategy is used to support and increase foreign investment.

In September, the Canadian Guest Speaker spoke about the principles that should underpin a sound modern tax system. First and foremost, this means tax stability - both legislation and implementation. Further principles are certainty and clarity of tax laws, and impartial, effective, efficient dispute resolution procedures - all elements essential to attract and retain foreign investment.

PwC Tax/Legal Partner Michael Ahern, the second speaker, referred to OECD Principles, stressing the need to align Kazakhstan's tax policies with OECD recommendations.

He encouraged Kazakhstan to avail itself of these models in its efforts to reform the Tax Code as the country prepares for OECD membership. His presentation also outlined a number of technical and accounting policies that the accounting profession is currently prioritizing.

EY Managing Partner Erlan Dosymbekov divided his presentation between two critical financial/ tax issues: *Currency Controls* (revisiting the June Council session which had been entirely devoted to this topic) and *IFRS (International Financial Reporting Standards)*, a model used globally for financial reporting, but that Kazakhstan was debating adapting to its own needs (unacceptable for global financial reporting).

A strong case for rejecting additional Currency Controls was presented (introduction of the new currency legislation has been pushed back by the Government to 2019, a good sign), and retention of the globally accepted IFRS model was supported and accepted by National Economy Minister Suleimenov.

The three tax cases on the Council agenda were for medium-sized companies whose meetings with the State Revenue Committee had been hitherto futile. One case was already in the Supreme Court after multiple appeals had been rejected:

Nostrum Oil & Gas, a company with headquarters in London and operations in Uralsk, was attempting to resolve a transfer pricing tax dispute with the State Revenue Committee (MinFin). The company had been told that their interpretation of transfer pricing hinged on the stability clause in their PSA with the Government that had lost its validity because oil is a strategic asset - a startling assertion that, if true, would affect all the oil companies operating in Kazakhstan.

Central Asia Metals (CAML), a copper mining company with headquarters in London and operations in Balkash, was the sole remaining company from among the 8 companies whose tax cases had been brought to the Council 3 years ago, all of which had been resolved amicably and positively for the companies. CAML had received a partial refund of the VAT in dispute, but was continuing to negotiate for the remainder.

KazakhOil Aktobe (KOH), a JV between *Sinopec* and *Kazmunaygaz,* had a long-standing dispute related to excess profits tax. The company had turned to AmCham late in the judicial process, and was now hoping at the final stage to have the judgment overturned.

Government Responses - *Deputy Prime Minister Yerbolat Dossayev, National Economy Minister Timur Suleimenov, Finance Minister Bakhyt Sultanov, Energy Minister Kanat Bozumbayev, Justice Minister Marat Beketayev*

The Pre-Council meeting in the morning with *Deputy Prime Minister Dossayev* was informative in that he advised that the Government is divided on the need for new Currency Controls proposed by the National Bank. He and other voices agree with AmCham that further currency regulations will discourage foreign investment . Although the Bank is still intent on pushing through the regulations, a one-year planned delay will allow AmCham to continue its advocacy on this issue.

The two meetings with **National Economy Minister Suleimenov** and **Finance Minister Sultanov** occupied most of the morning. As always, both Ministers were very willing interlocutors open to discussing the Council subject from all angles. Minister Sultanov was particularly attentive to hearing out the 3 corporate speakers with tax disputes and offering to resolve the underlying issues.

Minister Suleimenov (National Economy) engaged in discussion with David Robertson and Michael Ahern on the principles that should underpin a modern tax system in view of his mandate to monitor and oversee Kazakhstan's tax policy. The main points were:

- *Full agreement with the 3 features highlighted in David Robertson's presentation as essential to a reliable tax system: stability, certainty, consistency, clarity*
- *Agreement that the Stability Clause in the oil industry PSAs and contracts is essential to Kazakhstan's reputation*
- *BEPS (base erosion and profit shifting) will be more fully implemented in future*
- *Transfer Pricing Law will be changed*
- *CRS (common reporting standards) - Kazakhstan should be a signatory*
- *The Ministry will retain IFRS as its international accounting model*

Minister Sultanov (Finance) conducted a 2-hour meeting reviewing the principles David Robertson stressed for an up-to-date Tax Code and devoted special attention to the 3 tax cases on the afternoon agenda from *Nostrum, Central Asia Metals*, and *KazakhOil Aktobe*.

- *Although VAT refunds are still being issuesin the manual mode, in future introduction of automatic VAT refunds will improve implementation*
- *VAT Online Monitoring is in the new Tax Code, and MinFin is willing to introduce the Block Chain system with assistance from IBM and PwC*
- *The Cash Accounting method will be implemented*

Environmental Regulatory Reform (November)

The Environmental Regulatory Reform Council session is the outcome of an Inter-Ministerial Working Group begun under Environment Minister Nurlan Kapparov, then transferred to the Energy Ministry when Environment was absorbed into the Energy mandate. It is focused on the energy industry, and for the purposes of the November Council meeting included the oil and power industries. Recent OECD attention to environmental regulatory issues have strengthened the focus of this Working Group.

The Council discussion focused on the harm to the investment climate caused by Kazakhstan's regulations and practices pertaining to oil & gas flaring emissions, which contradict OECD standards. Further harm is caused to the investment climate by Kazakhstan's taxing and penalizing emergency gas flaring by the oil & gas industry at a discriminatorily higher rate than emissions from other stationary sources. Decriminalizing unintentional environmental emissions would likely improve the investment climate.

Two pre-Council meetings were held with *Minister of National Economy Timur Suleimenov* and *Minister of Energy Kanat Bozumbayev*. *Minister Suleimenov* was upbeat and positive, supportive of improving the investment climate, and he agreed that Kazakhstan needs to align its environmental legislation with OECD standards. In response to our inquiry, he confirmed that if a new Working Group is formed around the OECD/Kazakhstan project to conform KZ environmental payments regulations with OECD norms, a delegate from his Ministry would actively participate.

Minister Bozumbayev was also positive, although he resisted agreeing to reforms on produced water discharge rules (an issue raised by NCOC). However, he showed support for development of Working Group to support the OECD environmental law reform initiative. In this regard, he indicated that a WG already existed for this purposem, though it is unclear which Group he is referring to. The main point is that he embraced AmCham/industry involvement.

Krzysztof Michalak (OECD) in his presentation indicated that "*uncoordinated implementation of environmental requirements together with the high volume of complex environmental regulations based on unrealistic assumptions have resulted in a regulatory environment that is complicated, burdensome and costly to both the administration and industry.*" He noted that "*environmental liability in Kazakhstan remains focused on calculating and collecting monetary compensation rather than on preventing and correcting damage, reducing emissions over time and incentivising the use of best available techniques (BATs)*."

EBRD Associate Product Director Vincent Duijnhouwer discussed EBRD's activities to support development of the Green Economy Concept in Kazakhstan, including in respect of supporting renewable energy projects.

NCOC Managing Director Bruno Jardin emphasized that NCOC and its foreign investors "*strongly support the environmental regulatory reform recommendations contained in the OECD's Multidimensional Country Review of June 2017*." He provided examples from NCOC oil-and-gas industry experience to explain why such reforms are urgently needed in natural-gas flaring for safety purposes, and for introduction of Best Available Technology.

AES Group Global Vice-President Mark Green outlined an introduction and short history of AES in Kazakhstan, worldwide trends in environmental technology and regulation, the situation in Kazakhstan regarding renewable penetration and generation, and ideas on what needs to be done to attract more foreign investors.

Prime Minister Sagintayev said that issues raised by the speakers, in connection with oil & gas and mining industries, have been brought to his attention by local experts and the public, and there was now a need to find solutions as quickly as possible, based on the principle of non-discrimination.

Minister Bozumbayev said that gas flaring volumes were very high in 2016, far above the permitted threshold, even though this was extended to take into account resumption of production at the Kashagan field. He asserted that this was due to the fact that companies had not made the necessary investments to reduce their flaring needs (an argument not supported by the evidence).

Regarding reform of the environmental regulatory framework, *Minister Bozumbayev* announced that over the next two years (2018 – 2019), the 'polluter pays' principle will finally be implemented in law. On the unrelated, but topical issue for the consumer products industry of *Extended Producer Responsibility* (environmental tax for packaging recycling), he explained that although the target for implementation remains January 1, 2018, in practice, no importer will be required to pay until the necessary infrastructure is put in place (i.e., until the designated recycling company is up and running). On de-carbonization of the Kazakh economy, *Minister Bozumbayev* confirmed that ETS would be relaunched as of 1 January, 2018; he promised to work with OECD and to implement its ETS recommendations ETS.

PM Sagintayev resumed speaking to discuss gas flaring. He rejected the argument that environmental fines were not used to remedy environmental damage. He explained that money from fines was used to build hospitals for the people affected by air pollution due to gas flaring. He asserted that harm is caused to the environment and the health of the population by continuous gas flaring (a practice that the major foreign-owned oil & gas companies do not engage in). On decriminalization of actions causing environmental damage, he said that the matter deserved a closer and more in-depth look by experts.

WORKING GROUP UPDATE SEPTEMBER - DECEMBER 2017

Almaty

Almaty Healthcare Reform Working Group

September On September 29, the Almaty Healthcare Reform Working Group met in the AmCham Boardroom. Over the past few months, *Baker & McKenzie Partner Andrei Yorsh* has attended multiple meetings with *Deputy Healthcare Minister Alexei Tsoy*. The next step is to develop an action plan to target issues pharmaceutical and nutritional companies experience in the market. *Maussyr Makhmatov, Pfizer Country Manager*, discussed Direct Supply Agreement (DSA) management, and *Elvira Bolotova, Country Senior Manager* at Herbalife Nutrition, discussed regulation issues in Kazakhstan.

Almaty Healthcare Reform Working Group

October On October 27, the Almaty Healthcare Reform Working Group met in the AmCham Boardroom. Over the last month, Pfizer has developed a position paper to discuss the Direct Supply Agreement (DSA). The paper cited some of the main grievances that pharmaceutical companies have with current DSA management and listed recommendations for the Ministry of Healthcare, including that DSAs be binding for three years in terms of volume and contract price. Herbalife Kazakhstan also discussed their concerns with limitations imposed on the distribution and sale of Biologically Active Food Supplements (BASFS).

Almaty Trade and Customs Working Group

October On October 31, the Almaty Trade and Customs Working Group opened with an introduction by *WG Chairman Siddique Khan, President of Globalink*. Recently, the Kazakhstani government released details on the new Kazakh Customs Code., which includes modifications to procurement regulations. The Code is currently under consideration in the Mazhilis (lower chamber of Parliament). The Group decided that WG members should conduct a technical review of the Code from a variety of business sectors. The Group will reach out to Trade and Customs WGs from other cities (Astana, Aktau, Atyrau, and Skymkent) in order to be as inclusive as possible.

Almaty Technology and Innovations Working Group

November On November 2, the Almaty Technology and Innovations Working Group met in the AmCham Boardroom under *WG Chairman Ronald Binkofski, General Manager, Microsoft CIS*. Discussion focused on technology trends that drive the IT industry and how they affect the Kazakhstani business climate. Unfortunately, Kazakhstan's technology sector is impeded by ambiguous legislation that hurts the country from both a data privacy and security perspective. There is a significant misunderstanding of modern security concepts in the market, especially within government institutions. The ITWG will use the upcoming year to lobby for adoption of legislation to develop a modern and progressive IT Industry.

Almaty Tax Working Group

November On November 20, the Almaty Tax Working Group met in the AmCham Boardroom. Following introductions, *Deloitte Assistant Manager Orynsha Kerim* gave a presentation on the introduction of new Controlled Foreign Company (CFC) rules. CFC rules are mechanisms for limiting artificial tax deferral. The new CFC rules will be included in the new Tax Code, set to be implemented in a restricted version on 1 January 2018. Ms. Kerim also spoke on court practices relating to tax deductions, expense capitalization, and tax treatment for interest-free loans. Lastly, *Baker & McKenzie Counsel Igor Kolupayev* gave a presentation on the *Taxation of Foreign Employees* under the current and draft Tax Codes.

Almaty Corporate Social Responsibility Working Group

December On December 5, the Almaty CSR Working Group met in the AmCham Boardroom. This was the first meeting under the new *CSR Working Group Chairman, Kamran Iskenderov*, who serves as *Country Manager for the Coca-Cola Company*. The December meeting served as an opportunity to prepare an agenda for 2018. The meeting also featured *Guest Speaker Meiram Suyundykov* from the *Almaty Akimat* who outlined Almaty's social development priorities.

Atyrau

Atyrau Tax Working Group

October On October 19, the Atyrau Tax Working Group met in the Atyrau TCO office. *Liliya Kalbayeva, Deloitte Assistant Manager*, delivered a presentation on Controlled Foreign Companies (CFC), followed by *Aliya Tokpayeva, Deloitte Senior Manager*, who spoke about expense related deductibility and tax disputes in Kazakhstan, highlighting recent tax dispute cases.

Atyrau Trade and Customs Working Group

October On October 19, the Atyrau Trade and Customs Working Group met in the Atyrau TCO office under *WG Chairperson and EY Senior Associate Samat Karmys*, who discussed the new Kazakhstan Customs Code, expected to come into force on 1 January 2018. He outlined important changes like the transition to electronic declarations. The presentation also discussed conditionally - released goods, custom duties, and AEO status.

Atyrau Human Resources Working Group

October On October 19, the Atyrau Human Resources Working Group met in the TCO office for a presentation by guest speaker Marina Kolesnikova, Labor Law Specialist from GRATA International. The presentation discussed investigation procedures, legal documentation, and compensation for injured employees under the Kazakhstani Labor Code. The speaker also discussed investigative commission structures and outlined the legal duties of employers.

Aktau

Aktau Tax Working Group

October On October 20, the Aktau Tax Working Group met in the OMV Petrom office. *Liliya Kalbayeva, Deloitte Assistant Manager*, gave the first presentation on Controlled Foreign Companies (CFCs) - discussing the mechanisms behind CFC rules and their importance in limiting artificial tax deferral. *Vyacheslav Yarov, Deloitte Senior Advisor*, gave a presentation on expense - related deductibility and tax disputes.

Aktau Trade and Customs Working Group

October On October 20, the Aktau Trade and Customs Working Group met in the OMV Petrom office under *WG Chairperson and EY Senior Associate Samat Karmys*, who discussed important issues with Kazakhstan's Customs Code, set to come into force on 1 January 2018. The presentation also touched on the status of Authorized Economic Operators (AEOs) as well as conditionally-released goods and custom duties.

Aktau Human Resources Working Group

October On October 20, the Aktau Human Resources Working Group met in the OMV Petrom office under *WG Chairperson and Maersk Oil HR Director Gulmaral Bokayeva*. The guest speaker for the meeting was *Nurbol Kissembayev, Grata International Partner*, whose presentation outlined specific types of labor disputes and their underlying causes.

Astana

Astana Human Resources Working Group

October On October 23, the Astana Human Resources Working Group met in the EY office under *WG Chairperson and EY Manager Damir Deminov*. Guest speaker *Ilyas Yechshanov, EY Senior Consultant,* discussed Employer Branding in Kazakhstan. The presentation was based on results of a 2017 survey among students and young specialists examining workplace values and highlighted popular industries for potential employees.

Astana Tax Working Group

October On October 30, the Astana Tax Working Group met in the GE Astana office under *WG Chairperson and Deloitte Partner Anthony Mahon*. *Deloitte Assistant Manager Liliya Kalbayeva* gave a presentation on Controlled Foreign Companies (CFC) rules and explained the criteria, purpose and conditions of their application in Kazakhstan. Following this, the floor was given to Aliya Tokpayeva, Deloitte Senior Manager, who outlined several deductibility court cases between local tax authorities and taxpayers.

Astana Foreign Investment Working Group

October On October 30, the Astana Foreign Investment Working Group met in the GE Astana office. The guest speaker was *Talgat Abilgazi, Deputy Director of the Energy Ministry Electric Power and Coal Industry Department*, who gave a presentation on energy legislation reform. Mr. Abilgazi discussed these reforms and their origins in President Nazarbayev's speech, *A National Plan*. The presentation also discussed specific energy tariffs and requirements to be imposed on energy organizations.

Astana Trade and Customs Working Group

November On November 1, the Astana Trade and Customs Working Group met in the EY office under *WG Chairman and EY Senior Associate Samat Karmys*, who spoke about the new Kazakhstan Customs Code, set to come into force on 1 January 2018. Also, *Sholpan Dossymkhanova, Deloitte Customs Manager*, discussed legislative amendments regarding the temporary storage of goods and regulations for conditionally released - goods.

MEMBER NEWS

Mislav Mikasek Appointed General Manager of the Renaissance Aktau Hotel

The Renaissance Aktau Hotel would like to announce the appointment of Mislav Mikasek as General Manager of *Renaissance Aktau Hotel*.

Mislav Mikasek first began his career in hospitality management with Marriott Hotels in the United Kingdom where he worked as an Assistant Housekeeping Manager. Following this, Mr. Mikasek was promoted to Food & Beverage, Housekeeping and Front Office Manager. After two years in the UK, Mikasek moved to Shanghai to work as a Front Office Manager; he was later promoted to Director of Rooms and then promoted again to Operations Director.

After four and a half years in Shanghai, Mislav was promoted to General Manager and managed the opening of the first Marriott hotel in the Balkans Region. He served in the Balkans for roughly two years. Following this position, Mr. Mikasek was transferred to Budapest to work as Cluster Operations Manager for the Marriott Executive Apartments & Courtyard Hotel. Following his time in Budapest, Mr. Mikasek was promoted to his current position, General Manager for the Renaissance Aktau Hotel.

Guy Godet Appointed General Manager of the Renaissance Atyrau Hotel

The Renaissance Atyrau Hotel would like to announce the appointment of Guy Godet as *General Manager* of the *Renaissance Atyrau Hotel* and *Marriott Executive Apartments Atyrau*.

Guy Godet has had a lengthy, eventful career in hospitality management. Prior to working for Marriott Hotels, Mr. Godet worked for *Shangri-la Hotels* in *Jakarta* and *Kuala Lumpur*. Additionally, he worked for *Royal Garden Resorts*, *Bangkok*, and *Hilton Hotels & Resorts* in *Taipei* and *London*.

Guy Godet started his career with Marriott in 1999 as *Resident Manager* of *JW Marriott Hotel* in *Seoul*. Following this, he served as *General Manager* of the *Busan Marriott Hotel in Korea*. He then transferred to Indonesia, where he managed a stunning new property under the Renaissance brand, the *Renaissance Bali Resort & Spa*, which opened late 2005. He also served as *General Manager* at the *JW Marriott, Baku* and later at the *Marriott Noviy Arbat in Moscow.* Finally, he was transferred to his current position where he serves as *General Manager* for the *Renaissance Atyrau Hotel* and *Marriott Executive Apartments Atyrau*.

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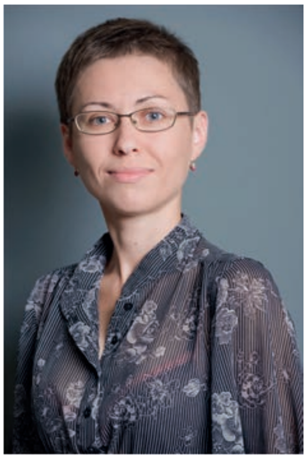
MEMBER NEWS

Olga Voronova appointed General Director of Procter & Gamble (P&G) in Central Asia



Olga Voronova was recently appointed General Director, P&G in Central Asia; she is based at the company's central office in Almaty, Kazakhstan.

Olga Voronova started her career in P&G back in 2004, working various positions in sales departments and collaborating in joint business developments with key retail customers and distributors in Ukraine. Ms. Voronova has vast experience working with both local and international retailer chains like Metro Cash & Carry, Auchan, and Watsons. Effective work, dedication and a passion for winning advanced Olga to the upper management levels of P&G in Ukraine faster than any other employee in the history of that department.

In 2013, Olga moved to P&G Russia and took over the role of Commercial Operations Leader for Baby Care and Feminine Care products in Eastern Europe and Central Asia. Olga's professional approach and knowledge have brought the business to new heights.

Olga graduated from Odessa National Economics University, Ukraine with a major in International Economics. Ms. Voronova also studied Business in the United States as a finalist under the US Freedom Support Act. In addition, Olga Voronova successfully completed various business courses in management and economics, including at the University of Western Ontario, Canada and European Economics University . Lastly, Olga Voronova successfully completed an internship in the House of Commons in Canada, as well as an exchange program at Goethe Institute in Berlin.

Can Göktaş appointed General Manager of The Ritz-Carlton, Almaty

The Ritz-Carlton, Almaty would like to welcome Mr. Can Göktaş as the hotel's new General Manager. Mr. Göktaş will continue to grow the hotel's prominent position within the local, regional and international markets.

At The Ritz-Carlton, Almaty, Can Göktaş is responsible for managing hotel operations and maintaining the unparalleled service excellence that is synonymous with The Ritz-Carlton brand, for guests to create indelible memories. His main focus will be further development of the hotel.

Can Göktaş has extensive experience working in hospitality. He began his career in the hotel business in 1996 immediately after graduating from the Bosporus University with a degree in tourism and hotel management. Before joining The Ritz-Carlton, Istanbul in 2015, which he headed for more than two years, Mr. Göktaş held the position of Regional Sales Director at Kempinski Hotels for Turkey and South Europe. During his time at Kempinski Hotels, he was recognized with the CEO Award in 2013 for his contribution to the company's development. In 2012, he won the Best Sales Award for securing the highest profit. Can Göktaş played a significant role in the opening of The Ritz-Carlton, Istanbul in 2001, where he worked as Sales and Marketing Director for a total of 9 years.

"I am delighted to join The Ritz-Carlton family in a region that is new for me. I am confident that with the support of a strong and diligent team of professionals – our Ladies and Gentlemen – who create indelible memories for every guest each day, we will achieve even greater heights. I see significant opportunities for the hotel's further development on the market and I am truly inspired by the prospects we have here," said Can Göktaş.

Mr. Göktaş holds an MBA from the NEOMA Business School in Paris, where he specialized in luxury brand marketing.

MEMBER NEWS

Lufthansa Charity Event

To celebrate the 25th anniversary of Lufthansa's operations in Kazakhstan, local neighborhood clubs collaborated with the Baganashyl orphanage to organize a charity performance titled: *Pushkin Stand-Up*. The show was organized for local teenagers and performed by Veronica Nassalskaya, founder of the Bata Theater.

The event was held with support from the *State Fund for the Youth Activities Development in Almaty*.

One hundred and twenty children arrived for the event from all over the city. Guests gathered at the *SmArt. Point Coworking Center* where they were treated to an assortment of sweets, juices, cakes, and festive souvenirs. Next, the children waited for the main event of the day: *Pushkin Stand-up*.

The young audience watched as Veronica Nassalskaya performed the famous Alexander Pushkin fairy tale, *The Tale of the Fisherman and the Fish*. It was a unique interpretation of the Pushkin fairy tale, where each line was delivered freshly. The lightness of Pushkin's verse along with the wit and irony of the dialogue gave the children a wonderful spectacle. This was the first time that the children saw a theatrical solo performance involving the eternal themes of love, generosity, loyalty, and criticism of human vices like greed and envy.

"Is Pushkin still relevant today?" Veronica asked the audience at the end of the performance. The audience answered her in affirmative with a unanimous chorus of children's' voices.

GRATA International in UlanBaator, Mongolia

As a further step in GRATA International's strategy designed to provide comprehensive coverage in the Eurasian region, the firm is pleased to announce the expansion of its Mongolian desk into a significant presence in Ulaanbaatar. Absolute Advocates, a full-service law firm, began operating as an associate firm of GRATA International as of November 10, 2017.

Grata is very happy to welcome the Absolute Advocates team led by Vladimir Bolormaa, Co-head of the Grata Mongolian desk for the last 5 years. This will enable GRATA International to provide seamless and enhanced service to its clients with business interests in Mongolia.

In keeping with GRATA International standards of excellence, Absolute Advocates will be providing specialist legal services in the practice areas of Natural Resources, Infrastructure, Telecommunication, Banking and Finance, Retail, and Pharma. For more detail s on Grata capabilities in Mongolia, please visit the Grata International website.

Vladimir Bolormaa, Partner at Absolute Advocates:

"We are proud to be a part of GRATA International. It is the next step in our cooperation with GRATA International but with much wider opportunities and responsibilities. Our team is able to meet the high standards that clients have come to expect from GRATA International over the last 25 years. I am also delighted that Mongolian clients will have access to the best law firm in the Eurasian region with over 250 professionals operating in 17 countries."

Aidar Sarymsakov, Senior Partner at GRATA International:

"Mongolia has always been an important market for us and for our clients who see a lot of opportunities there. We have invested time in order to generate an experienced and reliable team to enable us to convert our Mongolian desk into a full-service law firm. I congratulate my colleagues and friends at Absolute Advocates. We are very proud to have them representing GRATA International. We will continue our regional expansion to follow our clients' business needs.."

MEMBER NEWS

KPMG Holds Blockchain Seminars in Astana and Almaty

In early November, KPMG in Kazakhstan and Central Asia held Blockchain seminars for over 100 participants. Blockchain is a list of records that makes up a core component of the digital currency Bitcoin.

In Astana, the seminar was organized jointly with the Astana International Financial Centre (AIFC) and focused on KPMG's vision of how Blockchain technology can be implemented in the government sector. IT Advisory professionals Yernat Yestekov, Zarina Kazhmaganbetova, and Konstantin Aushev gave a brief overview of Blockchain technology and discussed Blockchain pilot cases, as well as efficiency calculation and case selection.

The seminar also featured a panel discussion with representatives from the Astana International Finance Center (AIFC), Zerde National Infocommunication Holding, the Development Bank of Kazakhstan, the State Revenue Committee of the Ministry of Finance, KPMG Head of Management & Risk Consulting in Kazakhstan Saken Zhumashev, and KPMG Tax & Lenior Manager Altynshash Zhussipova. During the active discussion of Blockchain and Cryptocurrency, current AIFC projects were outlined, including Cryptocurrency legislation, creating an ICO (Initial Coins Offering) platform, and stimulating FinTech development in Kazakhstan.

In Almaty, the seminars discussed the legal and technical aspects of organizing an ICO, gave a demonstration on the capabilities of Smart Contracts, and selected a practical case for Blockchain implementation in the financial sector. The event was attended by representatives from the Kazakhstan National Bank, as well as from some of the largest financial and payment market organizations.

The high attendance rate once again proved that Blockchain is an important subject for the Kazakhstan market.

Almaty Invest Forum at the Ritz-Carlton Hotel

At the October 5 *Almaty Invest Forum* in the Ritz Carlton Almaty Hotel, education featured among the topics of discussion. A prominent speaker was *Ian Hunt, Chairman of the Haileybury School Board in Kazakhstan*, who discussed the importance of investing in education with *Almaty Akim Baurzhan Baibek*, as well as in a parallel session on *Educational Investments*.

Ian Hunt noted that as the world becomes smaller and smaller, there is a growing need to prepare students in Kazakhstan to adapt to a global environment. An investment in high quality education is an investment in our future. Although children can be educated remotely in their own homes, Haileybury aims to develop rounded, confident and talented young people. The opportunity for Haileybury students to enter world-class universities opens them to a world of knowledge, and afterwards gives them the opportunity to return to Kazakhstan to pass on their education and skills.

The global pace of change is rapid; students need to be given the capacity to keep up with that pace and become leaders in their field. Haileybury offers scholarships to the brightest children, irrespective of their ability to pay. The school currently has over 50 scholarships available to a student body of 575 students.

Although students have the option of studying abroad, Haileybury provides quality secondary education in Kazakhstan so that students retain their Kazakh roots, culture, and understanding in a non-profit environment. Under these circumstances, students are much more likely to return to Kazakhstan after university. All surpluses are reinvested into the school to further its development and implement innovative technologies.

WELCOME ADDITIONS TO THE CHAMBER

Hilton Astana

CORPORATE A

Stephan Reiter
General Manager

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Astana, Kazakhstan

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Fax: 7 (717) 264 99 01

Email: astana.info@hilton.com
Website: *www.hiltonastana.hilton.com*

Hilton Astana is a state-of-the-art hotel located within the futuristic EXPO-2017 exhibition complex. Host meetings, conferences and grand celebrations with your choice of 9 event spaces. Our 771 sq. m. ballroom with 6.4-meter-high ceilings is an especially beautiful venue for conventions and social events of up to 900 guests.

Measuring a spacious 32-35 sq. m., our modern guest rooms feature complimentary WiFi, Hilton Serenity beds, large panoramic windows, walk-in shower and bathtub. Choose a suite for a separate living area and a terrace.

Hilton Astana boasts an array of relaxing activities for your stay. Pamper your senses at the eforea spa, home of indulgent massages, beauty treatments, several saunas and a Turkish bath, indoor pool or a workout in the fully equipped fitness center.

Don't miss our rooftop lounge, Cloud9, where Asian cuisine and grilled meats are served under the stars or meet at AXIS bar during the day.

Hilton Astana is located within minutes of the city centre with convenient access to nearby corporate offices and prominent Kazakh government departments and agencies. It is also a 10 minute drive from the Astana International Airport.

IHS Markit

CORPORATE A

Dena Sholk
Head of the Astana Office

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Astana, Kazakhstan

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Email: dena.sholk@ihsmarkit.com
Website: www.ihsmarkit.com

IHS Markit is the product of a recent merger between two companies (IHS and Markit). Together, IHS Markit has the deepest sources of information, analytics and solutions for major industries, financial markets, and government actions that drive the global economy.

The firm's analytics and experts reveal interdependencies across complex industries to understand why things happen. By seeing the big picture and all the connections, IHS Markit's customers receive insights and perspective on what really matters. This is the New Intelligence.

IHS Markit serves over 50,000 customers, including 85% of the Fortune Global 500, in over 140 countries, including Kazakhstan. It has a long history working in the energy, chemical, defense, and financial sectors throughout the former Soviet Union.

Notably, in Kazakhstan, IHS Markit's Russian and Caspian Energy team wrote the KAZENERGY National Energy Report in 2015 and 2017.

IHS Markit opened a local presence in Astana, Kazakhstan in October 2016 in order to better serve its existing client base and fortify new relationships.

Negal Galaxy

CORPORATE B

Fatih Uzunoglu
CEO

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Almaty, Kazakhstan

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Website: www.negal.nl

Negal Galaxy is an investment company based in the Netherlands. Negal focuses on the production of UPVC window profiles, aluminum profiles, window and door accessories, plastic pipes, and fittings. Negal has a very strong presence in the windows, doors, and facades market in Eurasia

Negal operates factories located in Almaty and uses its production capacity in Kazakhstan to export its products to neighboring countries: Kyrgyzstan, Tajikistan, Uzbekistan and Afghanistan.

In addition to Kazakhstan, the Group has offices in The United Arab Emirates, Germany, The Netherlands, Turkey, and Kyrgyzstan. Negal plans to expand to India, Vietnam, and East Africa in 2018.

Overall, Negal employs over 1000 people full time and an additional 5,000 people through strategic partnerships, dealers, sub-contractors, and window makers.

MEMBER COMPANIES

OIL & GAS • BAKER HUGHES • BG KAZAKHSTAN • CATERING INTERNATIONAL & SERVICES • CHEVRON • ERSAI • EXXONMOBIL • HALLIBURTON • INPEX NORTH CASPIAN SEA • KARACHAGANAK PETROLEUM OPERATING (KPO) • KAZAKH OIL AKTOBE • KELLOG BROWN & ROOT • LLOYD'S REGISTER • MAERSK OIL • MOL (FED) KAZAKHSTAN • NCOC • NOSTRUM • OMV PETROM • PARKER DRILLING • SCHLUMBERGER • SHELL • TENGIZCHEVROIL (TCO) • WEATHERFORD • **MINING & ENERGY** • AES KAZAKHSTAN • ARCELORMITTAL TEMIRTAU • CAMECO • CENTRAL ASIA METALS • FREEPORT-MCMORAN • KAZ MINERALS MANAGEMENT • RIO TINTO • YILMADEN HOLDING • **ENGINEERING & INDUSTRIAL EQUIPMENT** • BASF • BORUSAN MAKINA • CENTRAL ASIA METALS • DOW EUROPE • DUPONT KAZAKHSTAN • EMERSON ELECTRIC • EURASIA GROUP KAZAKHSTAN • FLUOR • GE INTERNATIONAL • HONEYWELL • ILF • KAZAKHSTAN KAGAZY • KARAGANDA PROMSTROYPROEKT • KB ENTERPRISES • SCHNEIDER ELECTRIC • SEWON VERTEX HEAVY INDUSTRY • WORLEYPARSONS • **CONSUMER PRODUCTS** • 3M • ALD AUTOMOTIVE • AMERICANA GROUP • AMWAY • AVON COSMETICS • BEIERSDORF • BRITISH AMERICAN TOBACCO • BURGER KING • CARLSBERG • CASPIAN MOTORS • COCA-COLA • COLGATE-PALMOLIVE • DANONE BERKUT • EFES • HERBALIFE • KIMBERLY-CLARK • JOTUN KAZAKHSTAN • MARS • METRO CASH AND CARRY • NESTLE • PEPSICO • PHILIPS KAZAKHSTAN • PHILIP MORRIS • PROCTER & GAMBLE • SAMSUNG • RAMSTORE • RG BRANDS • STARBUCKS • WRIGLEY • **BANKING & FINANCE** • AL-HILAL ISLAMIC BANK • BANK OF TOKYO-MITSUBISHI • CENTRAS SECURITIES • CITIBANK • EURASIAN BANK • MASTERCARD • SOCIETE GENERALE • VISA • **ACCOUNTING & TAX** • CROWE HORWATH • DELOITTE • EY • KPMG • PRICEWATERHOUSECOOPERS • TMF GROUP • **INSURANCE** • CENTRAS SECURITIES • EUROPEAN INSURANCE COMPANY • KAZKOMMERTS-POLICY • NOMAD INSURANCE • OIL INSURANCE COMPANY • **LAW FIRMS** • AEQUITAS • BAKER & MCKENZIE • CENTIL LAW FIRM • DECHERT • DENTONS • GRATA LAW FIRM • KINSTELLAR • LINKAGE & MIND • MACK LAW • MORGAN LEWIS • SIGNUM LAW FIRM • WHITE & CASE • **COMMUNICATIONS TECHNOLOGY & INFORMATION** • BEELINE • CISCO • DICOSTA TECHNOLOGIES • ERICSSON KAZAKHSTAN • HEWLETT PACKARD ENTERPRISE • GANTEK • IBM • K'CELL • MICROSOFT • RBC GROUP • TELE2 • XEROX • **FREIGHT FORWARDING & LOGISTICS & STORAGE** • ARCAS LOGISTICS • BERTLING LOGISTICS • EMEX/FEDEX • GLOBALINK LOGISTICS GROUP • ICT LOGISTICS • IFC COLOS • M AIR CARGO • OSG RECORDS MANAGEMENT • UPS (UNITED PARCEL SERVICE) • **TOURISM & HOSPITALITY & TRAVEL** • AIR ASTANA • AVIS RENT A CAR • INTERCONTINENTAL ALMATY HOTEL • KLM • LUFTHANSA • MARRIOTT ASTANA HOTEL • PRIME AVIATION • RADISSON ASTANA • RADISSON PARK INN ASTANA • RAMADA ALMATY HOTEL • RENAISSANCE AKTAU HOTEL • RENAISSANCE ATYRAU HOTEL • RITZ CARLTON ALMATY • RITZ CARLTON ASTANA • RIXOS ALMATY HOTEL • RIXOS BOROVOE HOTEL • RIXOS KHADISHA SHYMKENT • RIXOS PRESIDENT ASTANA • ROYAL TULIP HOTEL • WYNDHAM GARDEN HOTEL • **CONSTRUCTION & REAL ESTATE** • AECOM CAPITAL PARTNERS • ESTATE MANAGEMENT COMPANY • HEIDELBERG CEMENT • OFFICE SOLUTIONS KAZAKHSTAN • STEPPE CEMENT • TURKUAZ • TURNER INTERNATIONAL • **HEALTH PRODUCTS & SERVICES** • ABBOTT LABORATORIES • ABBVIE BIOPHARMACEUUTICALS • ABDI IBRAHIM GLOBAL PHARM • DR. REDDY'S • ELI LILLY • GLAXOSMITHKLINE • MEDTRONIC • MERCK • NOVARTIS • OCTAPHARMA • PFIZER • INTERNATIONAL SOS • PSI CENTRAL ASIA • SANTO • SANOFI • **CONSULTING & TRAINING & RECRUITMENT** • BOOZ ALLEN HAMILTON • BOSTON CONSULTING GROUP • BUREAU VERITAS KAZAKHSTAN • CAREER HOLDINGS • CHECKPOINT TALENT SOLUTIONS • FIRCROFT • NEOTECH GLOBAL • PBN HILL KNOWLTON • SHNEIDER GROUP • SMART SOLUTIONS PERSONNEL • QUALITY MANAGEMENT CENTER • WE PARTNERS • **EDUCATION** • ALMATY INTERNATIONAL SCHOOL • AMERICAN COUNCILS FOR INTERNATIONAL EDUCATION • COLUMBIA SCHOOL OF SOCIAL WORK • HAILEYBURY SCHOOL ALMATY • KIMEP UNIVERSITY • **INTERNATIONAL ORGANIZATIONS & IFIS** • AMERICAN RED CROSS • ASIAN DEVELOPMENT BANK • EUROPEAN BANK FOR RECONSTRUCTION AND DEVELOPMENT • INTERNATIONAL FINANCE CORPORATION • INTERNATIONAL SCIENCE AND TECHNOLOGY CENTER • ITIC • ICD • RED CRESCENT • UNHCR • USAID • UN WOMEN • **FOUNDATIONS & FUNDS & GOVERNMENT PROJECTS** • ARGO CIVIL SOCIETY DEVELOPMENT ASSOCIATION • US-KAZAKHSTAN BUSINESS ASSOCIATION • **MASS MEDIA & PUBLISHING** • KAZAKHSTAN PRESS CLUB • POLYGON INTERNATIONAL • **INDIVIDUALS** • KEVIN WHITE • MARTHA OLCOTT

AMERICAN CHAMBER OF COMMERCE IN KAZAKHSTAN

MEMBERSHIP APPLICATION

ABOUT THE AmCham

Registered in Kazakhstan as a non-profit organization in March of 1999 with 36 charter members, the **American AmCham of Commerce** in Kazakhstan currently represents over 200 member companies including US, multinational, and local businesses in 30 industry sectors. Their collective investment in Kazakhstan's economy is several billion USD. The AmCham in Kazakhstan is a member of the US AmCham of Commerce in Washington D.C. and has working relationships with many regional business associations.

BENEFITS OF MEMBERSHIP

- ✓ AmCham members participate in an organization existing solely to serve members
- ✓ AmCham actively advocates for reform of the business environment with Kazakhstan Government at senior levels
- ✓ AmCham Members may attend 17 Working Groups in 5 cities
- ✓ Monthly speaker luncheons with senior government and business leaders are reserved for AmCham members
- ✓ Seminars, conferences, monthly social networking events and charitable activities are organized for AmCham members
- ✓ AmCham membership contact lists are available exclusively to AmCham members
- ✓ Economic, political, legal, social, charitable and business development information is distributed to members
- ✓ Member companies provide exclusive discounts on products and services to other AmCham members
- ✓ Access to the Members' Only section on the AmCham Website
- ✓ Publishing opportunities are available in the AmCham magazine, *Investors' Voice*, the *Annual Membership Directory*, and in Special Publications

MEMBERSHIP APPLICATION

Company Name: ______

Industry Area: ______

CEO Name, Signature, Email: ______

Contact Individual: ______

Title(s): ______

Address: ______

Tel.: ______ **Fax:** ______ **E-mail:** ______

Please include us in the following Working Groups:

Almaty (7)

- ☐ Foreign Investment
- ☐ Human Resources
- ☐ Tax
- ☐ Technology and Innovation
- ☐ Corporate Social Responsiblity
- ☐ Healthcare Reform
- ☐ Trade and Customs

Atyrau (4)

- ☐ Tax
- ☐ Human Resources
- ☐ Trade and Customs
- ☐ Corporate Social Responsiblity

Aktau (3)

- ☐ Human Resources
- ☐ Tax
- ☐ Trade and Customs

Astana (4)

- ☐ Foreign Investment
- ☐ Tax
- ☐ Trade and Customs
- ☐ Human Resources

Shymkent (1)

- ☐ Foreign Investment

WORKING GROUPS

Working Groups made up of representatives from our member companies provide comment, discussion and submission of positions and represent the united interests of the business community in Kazakhstan by identifying challenges faced by investors and proactively addressing them. Each group meets regularly, providing a forum for networking and the exchange of information. Groups are formed on an as-needed basis at the request of our membership.

GOVERNANCE

The Chamber is governed by a Board of Directors elected annually from and by the membership. Directors currently and in the past have included individuals from the following company members:

AES
AIG Insurance
Baker & McKenzie
BASF Central Asia
Bracewell & Giuliani
BG Group
Capital Bank
Chevron
Citibank
Conoco Phillips
Coca–Cola
Dechert
Deloitte
DUCAT
EBRD
Ernst & Young
GE International
Halliburton
Honeywell
HSBC
Hyatt Hotel
Intercontinental Almaty Hotel
KIMEP
KPMG
LeBoeuf, Lamb, Greene & MacRae
Nestle
PetroKazakhstan
Philip Morris Kazakhstan
Philips Kazakhstan
PricewaterhouseCoopers
Procter & Gamble
Raytheon
Scot Holland CBRE
Tengizchevroil
USAID
Visor Capital
White & Case

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Togzhan Smagulova
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OMV Petrom
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Haymish Paulse
Tengizchevroil
Resident Representative, Atyrau
HPaulse@tengizchevroil.com

Roman Kempe
HeidelbergCement
Resident Representative, Shymkent
Roman.Kempe@heidelbergcement.kz

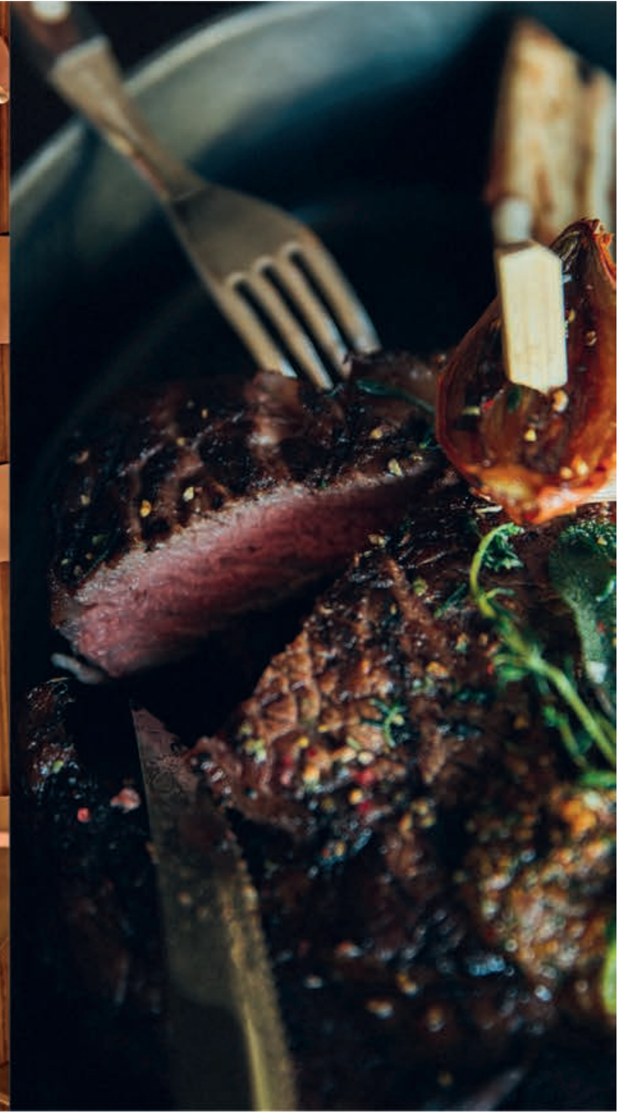
MEMBERSHIP CATEGORIES AND ANNUAL FEES

Corporate A	(Worldwide revenues in excess of 100 million USD)	$5,000 USD
Corporate B	(Worldwide revenues between 2-100 million USD)	$3,800 USD
Corporate C	(Worldwide revenues not exceeding 2 million USD)	$2,700 USD
Non-Profit		$1,500 USD
Individual**		$500 USD

Corporate membership entitles a company to delegate 3 individuals as AmCham voting members. The number of persons from each company participating in working groups, forums, and business roundtables is usually not limited.

**Individual memberships are available only under special circumstances, for persons not associated with a company.

All applications for membership must be approved by the Board of Directors of the American Chamber of Commerce in Kazakhstan. For further information about membership benefits, the application process, or Investors' Voice magazine, please contact: info@amcham.kz



CRAFT YOUR DINING EXPERIENCE
TO AN UNFORGETTABLE
CULINARY JOURNEY

The Ritz-Carlton, Almaty is place where traditions of fine cuisine meet opulence of modern gourmet trends.

LT Bar and Grill caters for the most sophisticated taste offering immense selection of meats, sushi and seafood from the world-renowned Chef Laurent Tourondel.

VISTA Restaurant, where Mediterranean cuisine is elevated to its perfection is the place for your gatherings on any occasion, while enjoying family event on Sunday Brunch or getting together with your friends on Turkish or Italian nights.

BAR & GRILL
LAURENT TOURONDEL

For reservations please call:
7.727.332.8852

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Al-Farabi Avenue Almaty,
050040