Executive Summary

Kazakhstan has made significant progress toward creating a market economy since it gained independence in 1991, and has achieved considerable results in its efforts to attract foreign investment. As of December 31, 2013, the total stock of foreign investment in Kazakhstan reached $209.1 billion. Of that total, net Foreign Direct Investment (FDI) constituted $129.5 billion, with portfolio and other investments comprising the remaining $79.6 billion. The majority of foreign investment is in the oil and gas sector, and the United States is a leading source of investment capital with around $31.4 billion invested in Kazakhstan during the period 2005-2013.

The government continues to make incremental progress toward its goal of diversifying the country's economy away from an overdependence on extractive industries by improving the investment climate. Kazakhstan's efforts to remove bureaucratic barriers have yielded some progress, and the World Bank in 2013 ranked the country 50 out of 189 in its annual "Doing Business" report. In spite of these incremental changes, however, corruption and bureaucracy remain challenges for foreign investors working in Kazakhstan. Attracting FDI in the underdeveloped manufacturing sector remains difficult and requires more concrete actions from the government.

The government maintains a dialogue with international investors and is committed to improving the investment climate. President Nazarbayev himself has publicly pledged to create a favorable climate for foreign investors in order to spur domestic innovation and the use of new technologies, and in early 2014 threatened to form a new government if reforms remained stalled. He made good on his threat in April 2014, and appointed a new prime minister with a clear mandate to improve the country's investment climate.

The country's vast hydrocarbon and mineral reserves continue to form the backbone of the economy, and foreign investment continues to flow into these sectors. Despite this growing investment, concerns remain about the government's tendency to challenge contractual rights, to legislate preferences for domestic companies, and to create mechanisms for government intervention in foreign companies' operations, particularly in procurement decisions. Together with vague and contradictory legal provisions that are often arbitrarily enforced, these negative tendencies feed the perception that Kazakhstan's investment environment is less than optimal. The government is also optimistic that further integration with Russia and Belarus will make the country more attractive to foreign investors by expanding access to those countries' markets.

Although Kazakhstan has so far not realized the gains it sought when it joined the Customs Union with Russia and Belarus, economic integration will likely continue to deepen following the May 29, 2014 signing of a treaty to create a single economic space to be known as the Eurasian Economic Union.

1. Openness To, and Restrictions Upon, Foreign Investment

Attitude Toward FDI

Kazakhstan has attracted significant foreign investment since independence. As of December 31, 2013, foreign direct investment in Kazakhstan totaled $129.5 billion, primarily in the oil and gas sector. Kazakhstan is widely considered to have the best investment climate in the region, and numerous international firms have established regional headquarters in Kazakhstan.

Although Kazakhstan's government has incrementally improved the business climate for foreign investors overall, as explained below its efforts to support local content requirements have restricted foreign investment, especially in the extractive sector.

Other Investment Policy Reviews

Kazakhstan announced in 2011 its desire to join the Organization of Economic Cooperation and Development (OECD). To meet OECD requirements, the government will need to amend its investment legislation. The OECD presented its Investment Policy Review on Kazakhstan in March 2012 (http://www.oecd.org/countries/kazakhstan/kazakhstan-investmentpolicyreview-oecd.htm). In brief, the OECD review recommended corporate governance reforms at state-owned enterprises (SOEs), increased private participation in infrastructure, easier access to agricultural land for foreign investors, and better financing support for small and medium enterprises (SMEs).

Laws/Regulations of FDI

The following legislation affects foreign investment in Kazakhstan: 1) the 2003 Law on Investments; 2) the Civil Code; 3) the Tax Code; 4) the 2003 Customs Code and the Customs Code of the Customs Union (in force since July 2010); 5) the Law on Currency Regulation and Currency Control; and 6) the Law on Government Procurement. These laws provide for non-expropriation, currency convertibility, guarantees of legal stability, transparent government procurement, and incentives for priority sectors. Inconsistent implementation of these laws and regulations at all levels of the government, combined with a tendency for courts to favor the government, create significant obstacles to business in Kazakhstan.

The 2003 Law on Investments established a single investment regime for domestic and foreign investors, and thus in principal codifies non-discrimination for foreign investors. It guaranteed the stability of existing contracts at the time of its passage, with the qualification that new contracts will be subject to amendments in domestic legislation, certain provisions of international treaties, and domestic laws dealing with "national and ecological security, health, and ethics." The Law on Investments contains incentives and preferences for government-determined priority sectors, providing customs duty exemptions and in-kind grants which are more fully explained in Part 5.2 (Performance Requirements and Investment Incentives). The law also provides for dispute settlement through negotiation, use of Kazakhstan's judicial process, and international arbitration. In general, U.S. investors have expressed concern about the law's narrow definition of investment disputes, its lack of clear provisions for access to international arbitration, and certain aspects of investment contract stability guarantees.

The tax code that Kazakhstan adopted in 2009 lowered corporate income and value-added taxes (VAT), replaced royalty payments with a mineral extraction tax, and introduced excess profit and rent taxes on the export of crude oil and natural gas. Accordingly, the corporate income tax rate has dropped from 30% to 20%. The government gradually reduced the VAT from 16% in 2006 to 12% in 2009, where it is expected to remain in the near term. Kazakhstan applies a flat 11% social tax to employers based on employees' earnings, and a personal income tax rate of 10%. The tax rate for non-residents varies between 5% and 20% depending on the type of income. Subsurface users may be subject to additional taxes, such as signing bonuses, commercial discovery bonuses, and historical cost reimbursements.

Experts consider Kazakhstan's tax laws among the most comprehensive in the former Soviet Union. It is common for Kazakhstan’s tax authorities to invoke the national Tax Code provisions over International Financial Reporting Standards (IFRS). At times this can lead to double taxation, especially when employing IFRS standards for deducting expenses between a company’s home office and its branch office in Kazakhstan (see Section 4 on Dispute Settlement).

In 2001, Kazakhstan adopted transfer pricing legislation which gives tax and customs officials the authority to monitor export-import transactions, and which since 2009 have codified the "arm's length principle" embraced by the OECD. Amendments to the law made in 2010 further clarified the rights and liabilities of government agencies by providing private parties contracting with the government the right to justify applied prices to state agencies and to appeal tax inspection results. According to the law, the Ministry of Finance has the right to monitor companies’ transactions by surveying the prices of transactions and analyzing companies’ reports. Foreign investors have noted the new law is more closely aligned with international standards, but remain concerned that the law will be applied not only to transactions with related parties, but all international transactions.

Industrial Strategy

The government’s primary industrial development strategies, such as the Concept for Industrial and Innovative Development 2015-2019 and the national program to attract investments, prioritize diversifying Kazakhstan's economy away from its overdependence on extractive industries. In order to facilitate the work of foreign investors, especially in targeted non-extractive industries, the government has announced plans to improve visa and work permit acquisition procedures, as well as to streamline customs clearance and cross-borders processes.

The government maintains a dialogue with foreign investors through the Foreign Investors’ Council under the president, the Council for Improving the Investment Climate chaired by the prime minister, and a recently created Investment Ombudsman. The government is drafting a bill on the investment climate that would reportedly remove obstacles to increased foreign investment and expand incentives for investors, including simplification of work permit procedures, optional tax exemption, and long-term contracts with national companies.

President Nazarbayev in February 2014 publicly pledged to create a favorable climate for foreign investors in order to spur domestic innovation and the use of new technologies, and threatened to form a new government if investment climate reforms remained stalled. In April 2014, he made good on his threat, appointing a new prime minister with a clear mandate to improve the country's investment climate. At the time of this writing, it is unclear whether the new Prime Minister can implement the necessary reforms to increase foreign investment in Kazakhstan. Nevertheless, these events show that top officials are focused on investment climate issues.

Limits on Foreign Control

Although no sectors of the economy are legally closed to investors, restrictions on foreign ownership exist, such as a 20% ceiling on foreign ownership of media outlets, a 49% limit in domestic and international air transportation services, and a 49% limit in telecommunications that does not apply to mobile operators. The government has indicated that it will remove restrictions in the telecommunications sector upon Kazakhstan's accession to the World Trade Organization (WTO). No constraints limit the participation of foreign capital in the banking and insurance sectors, but foreign bank and insurance company branches are forbidden to operate in Kazakhstan. The government requires foreign banking and insurance companies to form subsidiaries incorporated in Kazakhstan, and restricts foreign ownership of agricultural land.

Privatization Program

By law and in practice, foreign investors can participate in privatization projects. The government and parastatal National Welfare Fund "Samruk-Kazyna" (SK) are currently preparing 103 SOEs for privatization from 2014-2016. These companies are mostly subsidiaries of large national companies operating in the energy, mining, transportation, and service sectors. SK plans also to conduct so-called People's Initial Public Offerings (IPO) from 2014-2016, the terms of which would allow citizens and institutional investors to buy up to 10% of the stock of national companies, such as those that operate Kazakhstan's electrical grid (KEGOC) and national railway system (Kazakhstan Temir Zholy).

Screening of FDI

Foreign investors have complained about the irregular application of laws and regulations, and interpret such behavior as efforts to extract bribes. Some investors report harassment by the Financial Police via unannounced audits, inspections, and other methods. At times, the authorities have used criminal charges in civil disputes as a pressure tactic.

Many foreign companies say they must vigilantly defend investments from a steady stream of decrees and legislative changes, most of which do not exempt or "grandfather in" existing investments. Foreign investors also complain about arbitrary tax inspections, as well as problems in finalizing contracts, delays and irregular practices in licensing, and land fees. Foreign companies report that the authorities at the local and national level arbitrarily impose environmental fines which are then placed in the general budget, as opposed to directly offsetting any alleged environmental damage. As a result, they argue that environmental fines are assessed to generate additional revenue rather than to punish companies for breaching environmental regulations. Some foreign firms have expressed concern that the government's failure to pay for services on time can prevent the foreign partner from advancing its investment program. In the past, the government has used such disputes as a pretext for alleging non-performance, enabling it to cancel a contract.

The government regulates foreign labor at macro and micro levels. Foreign workers must obtain work permits, which can be difficult and expensive. The government limits work permits to boost local employment based on the area of specialization and geographic region. From 2003-2008, the quota for foreign labor steadily increased from 0.14% to 1.6% of the total workforce, but was reduced by half on the heels of the economic crisis in 2008. In 2013, the foreign labor quota grew to 1.2% of the active labor force, but shrank in 2014 to 0.7%. A February 2011 amendment to Kazakhstan's Expatriate Workforce Quota and Work Permit Rules required medium and large businesses to have 90% local content in their workforce for technical personnel and 70% for company executives as of January 2012. Following a concerted campaign led by Western oil companies, Kazakhstan passed an October 2011 decree exempting Kazakhstan's three largest hydrocarbon projects – Tengiz, Karachaganak and Kashagan – from the requirement for three years. Other foreign businesses find it difficult to meet the local content demands, especially in technical fields where Kazakhstan cannot supply skilled workers in sufficient numbers.

The 2011 Law on Migration allows foreign citizens with legal residence in Kazakhstan to work without seeking additional permission and without being counted against labor quotas. Kazakhstan has also opened its labor market for its Common Economic Space partners Russia and Belarus, and labor migrants from those countries may stay in the country for 90 days without registering with the migration police.

Competition Law

A law on competition which came into force in 2009 targets cartel agreements, unfair competition, and uncompetitive actions by state agencies.

Investment Trends

Eurasian Economic Integration

Kazakhstan submitted its Memorandum on the Foreign Trade Regime (MFTR) to the WTO in 1996, and the first round of consultations on accession took place in 1997. Kazakhstan has made significant progress in implementing the legal framework necessary for WTO accession and has signed bilateral protocols on market access for goods and services with the bulk of working party members. Multiparty talks have been more contentious, with difficult negotiations centering on agricultural subsidies, sanitary and phytosanitary standards, local content requirements, export duties on petroleum, tariff rate adjustments, and enforcing intellectual property rights for pharmaceuticals. Despite domestic opposition to compromising on these issues, the government has vowed to satisfy working party concerns in order to accede to the WTO as soon as possible.

Russia, Belarus, and Kazakhstan officially entered into a Customs Union on July 1, 2010. Kazakhstan's trade policy is now heavily influenced by regulations promulgated by the Customs Union and its governing body the Eurasian Economic Commission, a supra-national body located in Moscow. As a condition of membership in the Customs Union, Kazakhstan almost doubled its average import tariff and introduced annual tariff-rate quotas (TRQs) on poultry, beef, and pork. U.S. exporters have expressed frustration about the trade-limiting effects of these TRQs, and the way they are calculated and distributed.

On May 29, 2014 Kazakhstan and its Customs Union partners signed a treaty to create a common economic space to be known as the Eurasian Economic Union (EEU). The EEU is expected to further integrate their economies, and provide for the free movement of services, capital and labor within their common territory. The legal basis of the EEU will be the legislation of the Customs Union and 17 agreements of the Common Economic Space, a precursor to the Eurasian Union. The government of Kazakhstan has asserted that CES agreements comply with WTO standards.

Kazakhstan's government is optimistic that further integration with Russia and Belarus will make Kazakhstan more attractive for foreign investment by expanding market access to those countries. A new law with a serious package of incentives for investors is scheduled to be presented to the Parliament by June 2014. Some proposed incentives include state reimbursement of investment costs related to industrial facility commissioning, corporate income tax exemptions, and executing long-term contracts with national companies.

Foreign Investment in the Energy & Mining Industries
Despite growing investment in Kazakhstan's energy sector, concerns remain about the government's tendency to challenge contractual rights, to legislate preferences for domestic companies, and to create mechanisms for government intervention in foreign companies' operations, particularly in procurement decisions. Together with vague and contradictory legal provisions that are often arbitrarily enforced, these negative tendencies feed the perception that Kazakhstan's investment environment is less than optimal.

Business associations and investment advisors are concerned that Kazakhstan's tax code could undermine tax stability clauses in existing and future subsoil contracts. The government has stated that it will only guarantee tax stability for existing production sharing agreements (PSAs) and for the one major hydrocarbon project that has a tax and royalty contract (Tengiz). Furthermore, in December 2011, the minister of finance publicly stated that only tax rates, but not tax filing/collection procedures, will be held stable. Contracts for the Tengiz, Kashagan, and Karachaganak fields include tax stability clauses that theoretically shelter the operating companies from changes to the tax code or customs regime.

In April 2008, Kazakhstan introduced a customs duty on crude oil and gas condensate exports that on April 1, 2014 stood at $80 per ton. Companies that pay taxes on mineral or crude oil exports are exempted from export duties. Revenues from the export customs duty are not deposited into the National Fund, which accumulates much of the government's proceeds from the commodity sector, but instead go directly into the government budget. Government officials stated recently that export customs duties add about $3 billion to the budget, 95% of which comes from oil and oil products.

The 2010 Law on Subsoil and Subsoil Use contains explicit requirements for purchasing local goods and services related to offshore oil and gas exploration and production. The December 2009 Local Content Law (LCL) also requires companies to set a minimum percentage of local content for goods and services in contracts, but did not address pre-existing contracts. The government's local content strategy is widely considered to discriminate against foreign investors. International oil companies complain that implementation is uneven, irregular, and non-transparent, particularly at the local level. Representatives of international service companies also report it is difficult to obtain Kazakhstani certificates of origin. According to the LCL, a product must carry a Kazakhstani certificate of origin to meet the local content criteria, and the lack of such a certificate constitutes a legal violation. U.S. businesses have reported pressure from the government to rewrite contracts to include revised local content standards. The LCL allows the state to revoke the subsoil production rights of companies that do not meet local content requirements during a project's exploration phase. The National Agency for Local Content Development under the Ministry of Industry and New Technologies (MINT) has threatened to unilaterally terminate subsoil use contracts over alleged violations of local content requirements; no contracts are known to have been annulled.

The government is currently drafting an Action Plan on Enhancement of Local Content in Procurements for Major Subsoil Users and Strategic Mining and Petroleum Companies that would require companies to utilize 50% local content for front end engineering Design work, ban the export of geological information (core samples, rocks and reservoir fluids) and place a MINT representative on the Boards of Directors of key subsoil use projects. Kazakhstan's Foreign Investors Council was allowed to express industry's concerns with the Action Plan, the status of which is still pending.

The Subsoil Law also allows the government to unilaterally amend existing contracts of "strategic significance," and to terminate contracts deemed to threaten Kazakhstan's economic security or national interests. In April 2012, the government issued a new decree listing 361 hydrocarbon fields and mineral deposits as having "strategic significance." Companies must also obtain the government's permission to conclude combined exploration and production contracts. In addition, the Subsoil Law shortens the time limits for exploration contracts, enhances the government's authority to terminate contracts not in compliance with the law, requires parliamentary approval for tax stability clauses in individual contracts, and prohibits the future use of PSAs. Moreover, the law treats draft work plans containing cost and production volume projections as formal contractual commitments. Companies must establish equal terms, conditions, and pay for Kazakhstani and foreign workers, and the government can evaluate subsurface resource bids based on proposed social spending plans. The Law also severely reduces gas flaring quotas and imposes harsher penalties for environmental violations.

The Subsoil Law reaffirms the state's preemptive right to participate in equity transactions involving subsurface user rights in oil and gas or mining operations, including but not limited to the purchase of shares in new exploration and production projects. The Subsoil Law establishes transparent procedures for state and private companies to exercise subsurface rights, and clearly defines when the state can exercise its priority right. A December 2010 regulation established an interdepartmental committee to advise whether and how to exercise the government's preemptive rights in extractive projects. The 2012 Law on Natural Gas and Gas Supply regulates gas transportation, distribution, and pricing, and creates a state-owned monopoly for buying natural gas.

Despite effective dispute resolution mechanisms for most commercial activity, foreign investors have expressed serious concern about the lack of explicit provisions in the Subsoil Law for international arbitration. International law firms worry that the government might not include such provisions in future subsoil contracts, although the Ministry of Justice does have a special legal department to defend the country's interests in international courts. Parliament is also reviewing proposed amendments to the Subsoil Law aimed at improving offshore oil spill response measures and better differentiation between mining and oil and gas operations.

An April 2014 amendment to the Administrative Code reduces by 50% the size of potential penalties for exceeding permissible greenhouse gas emissions, and will exempt industrial firms from paying over $1 billion of greenhouse fines assessed in 2013. It also provides relief for greenhouse penalty charges for the first half of 2014. Several international oil companies, however, believe that the government targets them with environmental fines to recoup revenue losses caused by stagnant, declining, or delayed production.

TABLE 1: The following chart summarizes several well-regarded indices and rankings.

Measure	Year	Rank or value	Website Address
TI Corruption Perceptions index	2013	(140 of 177)	http://cpi.transparency.org/cpi2013/results/
Heritage Foundation's Economic Freedom index	2013	(67 of 178)	http://www.heritage.org/index/ranking
World Bank's Doing Business Report "Ease of Doing Business"	2013	(50 of 189)	http//doingbusiness.org/rankings
Global Innovation Index	2013	(84 of 142)	http://www.globalinnovationindex.org/content.aspx?page=gii-full-report-2013#pdfopener
World Bank GNI per capita	2012	USD 9,780	http://data.worldbank.org/indicator/NY.GNP.PCAP.CD

2. Conversion and Transfer Policies

Foreign Exchange

The National Bank of Kazakhstan (NBK) regulates the national currency by means of a managed float exchange rate regime. In February 2014, the NBK devalued the tenge 19% from 155 to 185 to the U.S. dollar. According to the NBK, growing speculative pressure on the tenge and other emerging currencies, highly volatile world commodity markets, and the depreciation of the Russian ruble fueled this decision. Since devaluation, the NBK has pledged to maintain the tenge at 185 to the U.S. dollar, plus or minus 3 tenge, and promised to pursue policies designed to mitigate sharp fluctuations and short-term volatility of the exchange rate. Although this is the third such devaluation in the past 15 years, the tenge remains generally stable and the government has ample currency reserves to defend it within the designated corridor. Kazakhstan's total international reserves, including the NBK's foreign currency and gold reserves, equaled $99.3 billion (at current prices). The NBK monitors the currency operations of select subsidiaries or joint ventures of foreign corporations, primarily in the oil and gas, construction, and mining industries on the grounds that such practices improve statistical data on balance of payments and external debt.

Kazakhstan is bound by Article 8 of the International Monetary Fund's Articles of Agreement, adopted in 1996, which forbids the government to restrict currency conversions or the repatriation of investment profits. No distinction is made between residents and non-residents in opening bank accounts, but all account holders must have a Kazakhstani tax identification number. Money transfers associated with foreign investments, whether inside or outside of the country, are unrestricted. Article 16 of Kazakhstan's Law on Currency Regulation and Currency Control (hereafter the "currency law"), has since June 2005 permitted employers to pay non-residents their wages in foreign currency, and foreign investors may convert and repatriate earnings. However, since 2012 the government requires all companies in the electricity generation sector to reinvest all profits and amortization to improve their respective plants. This regulation is expected to expire in 2015, but the government has not yet announced the follow-on regulation. Only one foreign company is known to be effected by this regulation. The currency law likewise prohibits restrictions on money transfers, and allows individuals to take up to $10,000 in cash out of the country without documenting its origin. The Customs Union has further liberalized money transfer rules by removing the requirement for a member state central bank to certify the origin of amounts exceeding $10,000. On January 1, 2007, Kazakhstan eliminated licensing requirements and procedures for foreign currency operations except the licensing of exchange operations. Banks conducting transactions in a foreign currency are still required to notify the NBK of their operations once certain thresholds, $100,000 for capital outflow operations and $500,000 for capital inflow operations, are reached.

The NBK's registration regime also governs export-import credits and financial loans with terms longer than 180 days. Banks must register these transactions and notify the NBK before completing them. Legislation stipulates that non-fulfillment of payment obligations related to export-import contracts can trigger administrative or criminal charges. Administrative penalties are applied for non-payment of up to $50,000, above which criminal charges are applied. Following December 2011 legislative amendments to the currency law, the NBK no longer requires so-called transaction passports for export-import operations, but requires commercial banks to issue contract registration numbers for currency imports and exports. A registration number is required for all transactions exceeding $50,000, and the procedure to receive a registration number can take several days.

The currency law allows the government to create a "special currency regime" in the event the country's economic and financial stability are in jeopardy. Measures may include requirements for companies to retain a certain percentage of their foreign currency profits in the NBK or other authorized banks, the mandatory sale of foreign currency earnings, and limits on the use of foreign bank accounts.

Remittance Policies

The U.S. Embassy is not aware of any concerns with regard to remittance policies or the availability of foreign exchange conversion for remittance of profits. However, Kazakhstan's 2012 Law on Electricity Generation could be used to require electricity generators to reinvest all of their profits into infrastructure upgrades, thereby negating foreign investors' opportunity to realize profits or take them out of the country.

A 2011 Financial Action Task Force (FATF)-style peer review conducted by members of the Eurasian Group on Combatting Money Laundering and Terrorist Finance found Kazakhstan compliant or largely compliant with 13 recommended preventive measures, partially complaint with 18 recommended preventive measures, and not complaint with 16 preventive measures, including recommendations that regulators pay close attention to suspicious or unusual transactions or transactions concerning certain foreign countries deemed to be high-risk for money laundering or terror financing. The report, available at http://www.fatf-gafi.org/countries/j-m/kazakhstan/, recommends that the government further strengthen legislation in order to comply with these recommendations.

3. Expropriation and Compensation

The bilateral investment treaty between the United States and Kazakhstan requires the government to provide compensation in the event of expropriation. The 2003 Law on Investments allows the state to nationalize or requisition property in emergency cases, but fails to provide clear criteria for expropriation or require prompt and adequate compensation at fair market value.

4. Dispute Settlement

Legal System, Specialized Courts, Judicial Independence, Judgments of Foreign Courts
Kazakhstan's Civil Code establishes general commercial law principles. The 2003 Law on Investments defines an investment dispute as "a dispute ensuing from the contractual obligations between investors and state bodies in connection with investment activities of the investor," and states such disputes can be settled by negotiation, litigation, or international arbitration. Aggrieved investors can seek dispute settlement in Kazakhstan's courts or international arbitration. Although some analysts believe the government prefers litigation to arbitration, courts will enforce arbitration clauses in contracts. Any court of original jurisdiction can consider investment disputes and bankruptcy cases. Under Article 28 of the Civil Code, however, the Almaty Financial Court retains jurisdiction over civil suits concerning financial institutions. Monetary judgments are normally made in domestic currency.

Bankruptcy
A 2014 bankruptcy law improves the insolvency processes by permitting accelerated business reorganization proceedings, extending the period for rehabilitation or reorganization, and expanding the powers of – and making more stringent the qualification requirements to become – insolvency administrators. The law also eases bureaucratic requirements for bankruptcy filings, gives creditors a greater say in continuing operations, and introduces a time limit for adopting a rehabilitation or reorganization plans, and adds court supervision requirements. In part due to these changes, the World Bank ranked Kazakhstan 54th for ease of resolving insolvency in its latest “Doing Business” report. The World Bank’s report indicates the average business bankruptcy in Kazakhstan takes 1.5 years on average, costs 15% of the debtor’s assets, and the average outcome is breakup and sale. The average recovery rate is 43 cents on the dollar.

Investment Disputes

A number of investment disputes involving foreign companies have arisen in the past several years linked to alleged violations of environmental regulations, tax laws, transfer pricing laws, and investment clauses. Some disputes relate to alleged illegal extensions of exploration schedules by subsurface users, as production sharing agreements with the government usually make costs incurred during this period fully reimbursable. Some disputes involve hundreds of millions of dollars. One ongoing dispute relates to the non–payment for services rendered by a U.S. company to a government-owned enterprise. Problems arise in the enforcement of judgments, and ample opportunity exists for influencing judicial outcomes given the relative lack of judicial independence.

In an effort to encourage foreign investment, the government has developed dispute resolution mechanisms aimed at enabling aggrieved investors to seek redress without requiring them to litigate their claims. In 2012, every regional government set up an Investors' Service Center, and the national government in 2013 established an Investment Ombudsman, who it is hoped will be able to resolve foreign investors' grievances by refereeing inter-governmental disagreements that hamper investors' activities. Although other countries have benefited from creating Investment Ombudsman, it is a new institution for Kazakhstan which has yet to demonstrate its efficiency.

Kazakhstani law provides for government compensation for violations of contracts that were properly entered into and guaranteed by the government. However, where the government has merely approved or confirmed a foreign contract, the government's responsibility is limited to the performance of administrative acts (for example, concerning the issuance of a license, granting of a land plot, or mining allotment, etc.) necessary to facilitate the investment activity in question. In such a case, litigation or commercial arbitration may be needed to remedy the alleged violation.

International Arbitration

Despite effective dispute resolution mechanisms for most commercial activity, foreign investors have expressed serious concern about the lack of explicit provisions in the Subsoil Law for international arbitration. International law firms worry that because the Subsoil Law does not expressly provide for international arbitration, the government might choose not to include such a provision in future subsoil contracts, although the Ministry of Justice does have a special legal department to defend the country's interests in international courts.

ICSID Convention and New York Convention

Kazakhstan has been a member of the International Center for the Settlement of Investment Disputes (ICSID) since December 2001 and ratified the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards in 1995. By law, any international arbitral award rendered by the ICSID, a tribunal applying the UN Commission on International Trade Law Arbitration rules, Stockholm Chamber of Commerce, London Court of International Arbitration, or Arbitration Commission at the Kazakhstan Chamber of Commerce and Industry is enforceable in Kazakhstan.

Duration of Dispute Resolution

Even when investment disputes are eventually resolved in accordance with contractual conditions, the process of reaching a resolution can be very slow and require a considerable investment of time and resources. Many investors therefore elect to handle investment disputes privately, rather than make their cases public. The U.S. Embassy advocates on behalf of U.S. firms with investment disputes.

Additionally, the U.S. Ambassador participates in every meeting of the Prime Minister's Council to Improve the Investment Climate. The Council was created with the goal of paying special attention to questions related to foreign investors, including protection of their rights and interests. The Council has proved to be an efficient forum for foreign companies to raise concerns about doing business in Kazakhstan to the country's ministers and decision makers. In 2012-2013, the Council discussed various issues, including tax administration problems, decriminalization of administrative violations, the rule of law, judicial independence, and the arbitrary application of environmental fines.

5. Performance Requirements and Incentives

Investment Incentives

The 2003 Law on Investments and 2008 Tax Code provide for tax preferences, customs duties exemptions, and in-kind grants as incentives for foreign and domestic investment in priority sectors. The Investment Committee under MINT makes decisions on customs duties exemptions (with notification to customs authorities) and in-kind grants on a case-by-case basis. The Investment Committee also ensures that investors meet their contractual obligations. Regional tax authorities have the discretion to extend tax preferences, but the law also allows the government to rescind incentives, collect back-payments, and revoke an investor's operating license if an investor fails to fulfill contractual obligations.

The government is using preferences to help diversify its economy away from the extractive sector. Priority sectors include agriculture, agricultural chemistry, agricultural machinery manufacturing, construction materials, metallurgy, chemistry, food production, oil refining, oil and gas machinery manufacturing, transport, electric equipment, and mining. The government's preference system applies to new and existing enterprises, and the duration of tax preferences increases with the size of investment.

In light of Kazakhstan's Accelerated Industrialization and Innovation Program, the government in 2012 amended the Law on Investments in 2012 to extend preferences to "strategic investment projects." If a project helps develop the high-tech industry or exceeds $50 million of investment in an economically depressed region, it is eligible for property and land tax exemptions and/or subsidies for electricity and gas.

More information on preferences and incentives is available at www.invest.gov.kz.

Performance Requirements

Local content requirement is one of the government's major performance requirements, and especially affects the work of foreign investors in energy and mining industries, as well as suppliers of goods and services to national holding companies like Samruk-Kazyna. The Ministry of Oil and Gas, MINT and SK monitor local content compliance in respective companies. The government has promised to reduce local content requirements upon accession to the WTO.

6. Right to Private Ownership and Establishment

Private entities, both foreign and domestic, have the right to establish and own business enterprises, buy and sell business interests, and to engage in all forms of commercial activity.

Kazakhstan's constitution provides that land and other natural resources may be owned or leased by Kazakhstani citizens. The 2003 Land Code allows citizens and Kazakhstani companies to own agricultural and urban land, including commercial and non-commercial buildings, complexes, and dwellings thereupon situated. Amendments to the Labor Code in 2011 permit foreigners to own land to build industrial and non-industrial facilities, including dwellings. Foreigners may rent, but not own, agricultural and forest service land for up to 10 years. Foreigners may, however, own agricultural land through either a Kazakhstani-registered joint venture or a full subsidiary. The Land Law does not allow private ownership of the following types of land:

- land used for national defense and national security purposes;
- specially protected nature reserves;
- forests, reservoirs (lakes, rivers, canals, etc.), glaciers, swamps, etc.;
- designated public areas within urban or rural settlements;
- main railways and public roads;
- land reserved for future development and construction of national parks, railways and public roads, subsoil use and power facilities, and social infrastructure.

7. Protection of Property Rights

Real Property

Secured interests in property (fixed and non-fixed) are recognized under the Civil Code and the 2003 Land Code. All property and lease rights for real estate must be registered with the Ministry of Justice through its service centers distributed throughout the country. According to the "Doing Business Report", Kazakhstan ranks 18 out of 189 countries in terms of the ease of registering property. In 2014, Kazakhstan introduced new procedures aimed at expediting property transfer and registration.

Intellectual Property Rights

To facilitate its WTO accession and attract foreign investment, Kazakhstan continues to improve its legal regime for protecting intellectual property rights (IPR). The Civil Code and various laws, in principle, protect U.S. intellectual property.

In 2010, the government amended its trademark legislation to comply with WTO guidelines on trade-related aspects of intellectual property rights (TRIPS), and in 2010 joined multiple international agreements intended to strengthen trademark protection. Kazakhstan has ratified 18 of 24 treaties endorsed by the World Intellectual Property Organization (WIPO). http://www.wipo.int/wipolex/en/profile.jsp?code=KZ). Trademark violation is a crime in

Kazakhstan. Although trademarks are protected in Kazakhstan, counterfeit goods can still be found at local markets. Registration fees charged to foreign trademark applicants are significantly higher than those charged to domestic applicants. Applications for trademark, service mark, and appellations-of-origin protection must be filed with the National Patent Office and approved by the Committee for Intellectual Property Rights. Trademarks and service marks are afforded protection for 10 years from the date of filing. In December 2011, Kazakhstan simplified procedures for trademark registration.

The 1996 Law on Copyrights and Related Rights largely conforms to the requirements of the WTO TRIPS Agreement and the Berne Convention. Importantly, the Copyright Law allows licensed vendors to seek damages from unauthorized dealers selling pirated merchandise. Article 184 of the Criminal Code and Article 129 of the Administrative Code define the punishments for copyright violation, and the law also permits the government to target Internet piracy and shut down websites unlawfully sharing copyrighted material, provided rights holders register copyrighted material with Kazakhstan's IPR Committee. U.S. companies and associated business groups have alleged that 76% of software used in Kazakhstan is pirated, and criticized the government’s enforcement efforts.

Patent protection is available for inventions, industrial designs, prototypes, novel processes and products with industrial applications. The National Institute of Intellectual Property performs formal examinations of patent applications. Patents for inventions are granted for 20 years, whereas patents for utility models are granted for a five year period with a possible three year extension. Prototype patents are granted a 10 year initial period of protection, with the possibility of an additional five year extension. Kazakhstani law permits an "innovation" patent valid for an initial three-year period with a possible extension for two years. Unsuccessful applicants can appeal the National Institute of Intellectual Property’s decisions to the Committee for Intellectual Property Rights. Kazakhstan is a member of the Moscow-based Eurasian Patent Bureau and the Munich-based European Patent Bureau.

Disclosure of trade secrets as well as the production, purchase, transportation, storage or sale of unregistered or counterfeit pharmaceuticals are prosecuted by the Administrative Code and the Civil Code, although enforcement of these prohibitions is considered lax.

Contact at the U.S. Embassy in Astana: InvestmentClimateKZ@state.gov

Country/Economy resources: The American Chamber of Commerce (AmCham) in Kazakhstan: http://www.amcham.kz
For additional information about treaty obligations and points of contact at local IP offices, please see WIPO’s country profiles at http://www.wipo.int/directory/en/.
Local lawyers list:
http://kazakhstan.usembassy.gov/uploads/b8/LE/b8LEmttSzlth6cJkiKwuWQ/List-of-attorneys-in-Kazakhstan_June-2009.pdf

8. Transparency of the Regulatory System

The non-transparent application of laws remains a major problem in Kazakhstan and an obstacle to expanded trade and investment. Foreign investors complain of inconsistent standards and corruption. In spite of the government's efforts to encourage foreign participation in the economy, some foreign investors point out that the government is not always evenhanded and sometimes reneges on its commitments. Although the Investment Committee of the MINT was established to facilitate foreign investment, it has been largely unable to address the concerns of foreign investors, and the recently-created Investment Ombudsman has yet to prove effective.

Kazakhstan has steadily improved its business environment since independence. It has streamlined some bureaucratic practices, provided accelerated business start-up procedures, reduced minimum capital requirements for businesses, and simplified the procedures for registering property and getting construction permits. As a result, the World Bank in 2013 moved Kazakhstan up 3 places to 50 out of 189 countries in its "Doing Business" report.

9. Efficient Capital Markets and Portfolio Investment

Liquidity, Credit, Banking System, Hostile Takeovers

Kazakhstan has created a sound financial system and stable macroeconomic framework. Official policy supports credit allocation on market terms and the further development of legal, regulatory, and accounting systems that are consistent with international norms.

Most domestic borrowers obtain credit from Kazakhstani banks, although foreign investors often find margins and collateral requirements onerous, and it is usually cheaper and easier for foreign investors to use retained earnings or borrow from their home country. Kazakhstani banks have since 1998 placed Eurobonds on international markets and obtained syndicated loans to support domestic lending. Leading Kazakhstani banks were able to obtain reasonably good ratings from international credit assessment agencies until the global financial crisis struck. Kazakhstan has 38 commercial banks. As of February 1, 2014, the five largest banks (KazKommertsBank, HalykBank, BTA bank, Bank CenterCredit and Sberbank-Kazakhstan) held assets worth approximately $46.8 billion, or about 54% of the banking sector's total assets. Although Kazakhstan's banking system remains stable, it has not yet recovered due to the poor and deteriorating quality of many banking assets, capital constraints, and the aggressive growth of consumer lending, in 2013 in particular. In spite of the government's efforts, local banks have been unable to overcome a high rate of toxic assets. Loans overdue by more than 90 days reached nearly $23.7 billion as of February 1, 2014, and comprised just over 32% of the total. BTA bank, which has defaulted on its debt obligations twice in the past few years, "leads" Kazakhstan's banks with $11.4 billion worth of non-performing loans on its books.

Kazakhstan's Stock Exchange (KASE), which has operated since 1993, is an insignificant source of investment. The number of listed companies dropped from 354 in 2010 to 131 in 2013. The government's 2013 decision to consolidate all pension savings into a single state-owned pension fund practically froze the stock market, as private pension funds, which until that time were Kazakhstan's main institutional investors, ceased to operate. Trading is dominated by block trades, and the spreads are extremely wide. In 2013, 57% of KASE trades were in foreign exchange, repo transactions comprised a further 37%, and government securities trading accounted for roughly 4% of KASE volume. In December 2013, the stock market capitalization was $28.2 billion, and bond market capitalization was $35.2 billion. The newly created Single Pension Fund has accumulated nearly $22 billion. Its largest investment positions are in Kazakhstani government securities (47.4%) and corporate bonds of Kazakhstan-based companies (21.4%). The Single Pension Fund is not listed, and does not trade, on the KASE. As the KASE is not fully developed, decreased capitalization and diminished transaction volumes have not impacted financial markets or the overall economic situation.

As there are relatively few publicly traded firms, few hostile takeovers have occurred in Kazakhstan. Defensive measures against takeovers are not targeted toward foreign investors in particular. The Civil Code requires a company that has purchased a 20% share in another company to publish information about the purchase.

10. Competition from State-Owned Enterprises

Officially, private enterprises compete with public enterprises under the same terms and conditions. In reality, however, SOEs generally enjoy better access to natural resources, markets, credit, and licenses than private entities.

The law on state property defines national companies, national holding companies, and national managing holding companies. A national company is a government-created joint stock company which operates in "fundamental industries" or facilitates regional economic development, and in which the state holds a controlling interest. A national holding company is a government-created entity which holds shares in national companies. A national managing holding company is a government-created entity which manages the government's interest in national holding companies, national development institutes, and other legal entities. As of April 2014, Kazakhstan had three national managing holding companies, two national holding companies and 33 national companies. The law requires all SOEs to publish annual reports and submit their books for independent audit.

National Welfare Fund Samruk-Kazyna (SK) is Kazakhstan's largest national holding company, and manages the state-owned companies that dominate the oil and gas, energy, mining, transportation, information and communication sectors. By some estimates, SK controls more than half of Kazakhstan's economy, and is the nation's largest buyer of goods and services. Created in 2008, SK's official purpose is to facilitate economic diversification and to increase effective corporate governance; however, it spent its first two years spearheading the government's efforts to respond to the global financial crisis of 2008. The Prime Minister chairs SK's board of directors, and several other ministers and the Head of the Presidential Administration also serve on the board, alongside three independent directors. President Nazarbayev endowed SK with special rights, such as the ability to conclude large transactions between members of its holdings without public notification. SK enjoys a pre-emptive right to buy strategic facilities and bankrupt assets, and is exempt from government procurement procedures. Critically, the government can transfer state-owned property to SK, easing the transfer of state property to private owners. Although domestic and foreign companies can sell their products and services to SK, local content requirements may distort free competition. The government in 2013 created a national managing holding company called Baiterek to provide financial and investment support to non-extractive industries, drive economic diversification, and to improve corporate governance in its subsidiaries. Baiterek is comprised of the Development Bank of Kazakhstan, the Investment Fund of Kazakhstan, the Housing and Construction Savings Bank, National Mortgage Company, National Agency for Technological Development, Distressed Asset Fund and other financial and development institutions. Like SK, the Prime Minister is Chairman of the Board, assisted by several cabinet ministers and independent directors.

Other notable SOEs include KazAgro, which manages state agricultural holdings such as the government’s wheat purchasing agent the National Food Contract Corporation, farm equipment subsidy provider KazAgroFinance, the Agrarian Credit Corporation, and an agricultural insurance company. National company Parasat is charged with stimulating domestic scientific research and development in the high-tech sector, and manages several scientific institutions and funds, while holding company Zerde is charged with creating modern information and communication technologies and to stimulate investments in the communication sector.

Although the government has announced plans to conduct IPOs to spur domestic private investment in national companies, the number of state-owned enterprises has increased in recent years. In addition to creating Baiterek in 2013, the government also established National Company Astana Expo-2017 that is responsible for Expo-2017 preparations. (Expo-2017 is an international exhibition designed to showcase “Future Energy” in Kazakhstan’s capital, Astana.) The government also created KazAvtoZhol to operate a planned toll road network. Analysts consider these national companies to be quasi-sovereign entities due to their strong affiliation with the government. International investment ratings of national companies are usually tied to the sovereign rating. National holding companies and national companies pursue investment policies consistent with the government’s official industrial policy. The government considers national companies tools for accomplishing its economic goals, and supports them accordingly. For example, since 2008 SK has several times received substantial subsidies and contributions from the government via its National Oil Fund.

Sovereign Wealth Funds

Kazakhstan's sovereign wealth fund is called the National Oil Fund, and was established by presidential decree in 2000. The fund exists to reduce the country's budgetary dependence on fluctuating world oil prices and to accumulate savings to benefit future generations. The Fund receives all direct taxes and a percentage of revenues from the oil sector, revenues from the privatization of state property in the mining and manufacturing industries, proceeds from sales of farmlands, as well as the Fund's investment income. The Ministry of Finance owns the National Fund, while the NBK acts as trustee and selects external administrators from internationally recognized investment companies or banks to oversee the fund. Information on external administrators and the assets they manage is confidential. In addition to preserving wealth for future generations, the Fund is also used to support the government’s political and economic objectives. The Fund extended a $4 billion loan in 2012 to Kazakhstan's state-owned oil company KazMunayGas (KMG) to support its participation in the Kashagan oil field. In 2014, President Nazarbayev decided to invest around $5.5 billion from the Fund to stimulate economic diversification and small business development. The Fund also invests in the domestic economy through official transfers to the state budget, which currently vary from $6.8 billion to $9.2 billion annually. President Nazarbayev has decreed that the Fund should retain a minimum balance of no less than 20% of GDP. The NBK has directed the investment of $5 billion over the next five years into private equity, hedge funds, real estate, and infrastructure projects abroad to diversify the Fund's assets and increase returns. As of April 1, 2014, the National Fund's assets totaled $72.8 billion.

11. Corporate Social Responsibility

OECD Guidelines for Multinational Enterprises

Kazakhstan continues to make steady progress toward meeting OECD Guidelines for International Investment and Multinational Enterprises, and the government actively promotes corporate social responsibility. President Nazarbayev has repeatedly asked foreign investors and local businesses to implement corporate social responsibility (CSR) projects, to provide occupational safety, pay salaries on time, and invest in human capital. The President presents annual awards for achievements in CSR. Foreign Investors report that local government officials regularly pressure them to provide social investments in order to achieve local political objectives. These local officials also attempt to exert as much control as possible over both the selection of and the subsequent allocation of funding for the projects. A survey conducted in 2013 by a well-regarded NGO found that large companies are better practitioners of CSR principles than their small and medium-size counterparts, although there is a likely correlation between resources and CSR outlays.

12. Political Violence

There have been no incidents of politically motivated violence against foreign investment projects, and politically motivated civil disturbances remain exceptionally rare. In 2012, Kazakhstan experienced several isolated incidents in which individuals or groups associated with Islamic extremists launched small-scale violent attacks against government offices, with most concentrating on police and national security organs. Foreign investment or foreigners working in Kazakhstan have not been targeted. Kazakhstan enjoys generally good relations with its neighbors, although the government is concerned that the borders with Kyrgyzstan and Uzbekistan are vulnerable to penetration by extremist groups.

In the January 15, 2012 parliamentary elections, the president's party Nur Otan won 80% of the vote, Ak-Zhol won 7.47%, and the Communist People's Party won 7.19%. All three parties elected are generally considered supporters of President Nazarbayev. While the Organization for Security and Cooperation in Europe (OSCE) asserted that the election did not meet Kazakhstan's OSCE commitments or international standards for democratic elections, and opposition groups denounced the election as fraudulent, no significant demonstrations against the results occurred.

13. Corruption

Although the Kazakhstani Criminal Code contains special penalties for accepting and giving bribes, corruption is common throughout Kazakhstan. The President issued an anti-corruption decree in April 2009 that provides whistle-blower protection, punishes state officials who fail to report corruption cases, and tries to prevent conflicts of interests. Amendments to the anti-corruption law were signed on December 7, 2009 which increased punishments for corruption, instituted mandatory asset forfeitures, broadened the definition of corruption to include fraud committed by government officials, and criminalized the acceptance of bribes on behalf of a third party. The law also extended the definition of a government official to include managers of companies in which the government stake exceeds 35%.

Resources to report corruption
The Ministry of Interior, Financial Police, Disciplinary State Service Commission, and Committee for National Security (KNB) are responsible for combating corruption. However, questions of jurisdiction and competition between the Financial Police and KNB have occurred recently.

Transparency International (TI) maintains a national chapter in Kazakhstan. Kazakhstan's rating in TI's annual Corruption Perceptions Index is 26/100, ranking Kazakhstan 140 out of 177 countries rated – a relatively weak score but the best in Central Asia. TI has pointed out that corruption is particularly prevalent in the judiciary, police, customs, land registration, licensing, and construction projects. The government has signed on to the Extractive Industries Transparency Initiative (EITI) and EITI’s International Board has designated Kazakhstan as “EITI compliant” country.

U.S. firms have cited corruption as a significant obstacle to investment. Law enforcement agencies occasionally have pressured foreign investors who are perceived to be uncooperative with the government, a practice that is made possible by the fact that many errors or omissions that would constitute routine civil violations in OECD countries are treated as criminal cases in Kazakhstan. The government and local business entities are aware of the legal restrictions placed on business abroad, such as the Foreign Corrupt Practices Act and the UK Bribery Act.

14. Bilateral Investment Agreements

The United States-Kazakhstan Bilateral Investment Treaty came into force in 1994, and the United States and Kazakhstan signed an Investment Incentive Agreement in 1992.
In 1996, a Treaty on the Avoidance of Double Taxation between the United States and Kazakhstan came into force. Since independence, Kazakhstan has signed treaties on the avoidance of double taxation with 44 countries, and bilateral investment protection agreements with 47 countries (and ratified 30), including Great Britain, Germany, Italy, France, Russia, South Korea, Iran, China, Turkey, and Vietnam. In 2012, Kazakhstan signed investment agreements with Macedonia and Afghanistan, and joined the investment protection agreement of the Eurasian Economic Community (EVRAZES) in 2006. Some foreign investors have charged that Kazakhstani tax authorities are reluctant to refer double taxation questions to the appropriate bi-national resolution bodies.

15. OPIC and Other Investment Insurance Programs

The Overseas Private Investment Corporation (OPIC) and the government of Kazakhstan signed an Investment Incentive Agreement in 1992, and OPIC has been active in Kazakhstan since 1994. OPIC seeks commercially viable projects in Kazakhstan's private sector and offers a full range of investment insurance and debt/equity stakes. Kazakhstan is also a member of the

Multilateral Investment Guarantee Agency (MIGA), which is part of the World Bank Group and provides political risk insurance for foreign investments in developing countries.

16. Labor

Kazakhstan has an educated workforce, although the proportion of highly technically competent workers is fairly small. Demand for skilled labor generally exceeds local supply. Technical skills, management expertise, and marketing skills are all in short supply. Many large investors rely on foreign workers and engineers to fill the void. The Kazakhstani government has made it a priority to ensure that Kazakhstani citizens are well represented in foreign enterprise workforces. In 2009, and as noted above, the government instituted a comprehensive policy for local content, particularly for companies in the extractive industries. The government is particularly keen to see Kazakhstanis hired into the managerial and executive ranks of foreign enterprises. Local content regulations require a minimum of 1% of a project budget be earmarked for training programs and workforce development, including overseas assignments with the lead operator. Employers' reliance on foreign labor in the face of poverty in rural Kazakhstan has become a political issue in recent years. The current minimum wage as of April 2014 is approximately $109.70 per month, and the minimum pension is $114.20 per month. As of February 2014, the government estimates the unemployment rate is holding steady at 5.2%. The quota system which restricts the hiring of foreign employees and local content requirements create additional burdens for employers. Several American and other foreign employees doing business in Kazakhstan have informed the U.S. Embassy that immigration authorities continue to closely scrutinize foreign work permits. U.S. companies are strongly advised to contact Kazakhstan-based law and accounting firms and the U.S. Foreign Commercial Service in Almaty for current information on work permits.

The Constitution and 2007 Labor Code guarantee basic workers' rights, including the right to organize and the right to strike. Workers can exercise this right if all arbitration measures defined by law are exhausted. Strike votes must be taken in a meeting where at least half of workers are present, and strikers are required to give five days' advance notice to their employer, include a list of complaints, and tell the employer the proposed date, time and place of strike. The court has the power to declare a strike illegal at the request of an employer or the General Prosecutor's office. Workers who participate in illegal strikes are subject to penalties. The Labor Code prohibits lockouts. The government is drafting a new law on Labor Unions which several international organizations and labor unions believe will unduly restrict workers' freedom of association by requiring previously independent unions to affiliate with larger unions. Several rights groups have also expressed concern that proposed amendments to Kazakhstan's Criminal Code would increase penalties for participating in strikes that are deemed to be illegal, which is of special concern given Kazakhstan's lack of an independent judiciary. Kazakhstan joined the International Labor Organization (ILO) in 1993, and has ratified key ILO conventions pertaining to minimum employment age, prohibition on the use of forced labor and the worst forms of child labor, prohibition on discrimination in employment, equal pay, and collective bargaining.

17. Foreign Trade Zones/Free Trade Zones

The 2011 Law on Special Economic Zones allows foreign companies to establish enterprises in special economic zones (SEZs), simplifies procedures to attract foreign labor, and establishes a special customs zone regime not governed by Customs Union rules. A system of tax preferences exists for foreign and domestic enterprises engaged in prescribed economic activities in Kazakhstan's ten SEZs. The SEZs are located in the New Administrative Center in Astana, the Seaport of Aktau, the Alatau Information Technology Park (near Almaty), the Ontustik Cotton Center in south Kazakhstan, the international tourism zone "Burabay" (a resort area 300 kilometers from Astana), the Atyrau National Industrial Petrochemical Techno park, SEZ "Saryarka" in the Karaganda region, a transport and logistics zone in Khorgos at the Kazakhstan-Chinese border, and SEZ "Pavlodar", and SEZ "Chemical Park Taraz".

18. SUMMARY OF INVESTMENTS AND TABLES

TABLE 2: Key Macroeconomic data, U.S. FDI in Kazakhstan

	Host Country Statistical Source*		U.S. Government or International Source		Source of Data
Data	Year	Amount	Year	Amount	
GDP (*Million USD)*	2012 2013	203,521 224,413.6	2012 2013(est)	203,500.0** 204,614.5	http://www.worldbank.org/en/country/kazakhstan Economist Intelligence Unit
FDI	Host Country statistical source *		U.S. Government or International Source		Source of Data
U.S. FDI (*Million USD)*	12/31/2013	13,794.8	12/31/2012	12,869.0**	http://elibrary-data.imf.org/public/FrameReport.aspx?v=3&c=11666796&pars=Country%2c916
Kazakhstan FDI in the U.S. (*Million USD)*	12/31/2013	611.7	12/31/2012	579.0**	http://elibrary-data.imf.org/public/FrameReport.aspx?v=3&c=11666796&pars=Country%2c916
Total inbound stock of FDI as % host GDP	6.2%	2013	6.3%	2012	

* - Local source is the NBK of the Republic of Kazakhstan: http://www.nationalbank.kz/?docid=679

** - Latest available data

TABLE 3: Sources and Destination of FDI
Kazakhstan, 2012*

Direct Investment from/in Counterpart Economy Data					
From Top Five Sources/To Top Five Destinations *(US Dollars, Millions)*					
Inward Direct Investment			**Outward Direct Investment**		
Total Inward	120,074	100%	Total Outward	21, 228	100%
Netherlands	51,268	43%	Netherlands	11,718	55%
United States	12,869	11%	United Kingdom	4,271	20%
France	8,421	7%	Switzerland	835	4%
People's Republic of China	5,312	4%	Russian Federation	594	3%
Virgin Islands, British**	5,277	4%	United States	579	3%
"0" reflects amounts rounded to +/- USD 500,000.					

Source: http://cdis.imf.org
*Although the NBK of Kazakhstan published the data as of the end of 2013 only, general results in terms of key foreign investors in the country and main destinations of Kazakhstan's outward direct investment are consistent;
** Tax heavens like Virgin Islands, British Cayman Islands, or Luxemburg have always been among top ten and top twenty sources of inward investment and destinations of outward investment.

TABLE 4: Sources of Portfolio Investment
Kazakhstan as of the end of June 2013*

Portfolio Investment Assets								
Top Five Partners (Millions, US Dollars)								
Total			**Equity Securities**			**Total Debt Securities**		
All Countries	67,371	100%	All Countries	9,638	100%	All Countries	57,733	100%
United States	34,508	51%	United States	4,846	50%	United States	29,662	51%
United Kingdom	4,348	6%	United Kingdom	946	10%	Germany	3,788	7%
Germany	4,141	6%	Japan	870	9%	United Kingdom	3,401	6%
Japan	3,915	6%	Switzerland	401	4%	France	3,345	6%
France	3,707	6%	France	362	4%	Japan	3,045	5%

Source: http://cpis.imf.org/
*Although the NBK of Kazakhstan published the data as of the end of 2013 only, results of Kazakhstan's portfolio investment assets are consistent;

19. Contact Point at Post for Public Inquiries

InvestmentClimateKZ@state.gov