

## **Written evidence submitted by Dr. Horace Yeung and Prof. Flora Huang (ECA0011)**

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### **Executive Summary**

- Kazakhstan, currently the largest economy in Central Asia, is undergoing political and economic transformation amidst an ever changing geo-political landscape.
- One of the country's headline reforms to strengthen its economy has been the establishment of the Astana International Financial Centre (AIFC), launched in 2018. One notable feature of the AIFC is its adoption of an English common law system, independent of the country's civil law regime.
- The AIFC has drawn on the experience of leading financial markets and foreign experts to lay down its institutional foundations. The UK is well placed to capitalise on this opportunity by exporting its successful and long-standing experience in finance and law.
- Furthermore, the UK's world leading reputation in higher education is another potential valuable export to the region.

### **Introduction and Background**

1. This submission addresses multiple areas of concern in the Inquiry, in particular, in relation to the opportunities in trade in services for the UK. It specifically concerns a bespoke financial zone in Kazakhstan, the AIFC, as well as the demand for an 'English' education in the country.
2. We have had extensive experience in the region through our research and education work as well as various roles held at our home institutions in the UK and also local institutions in the region.
3. We have conducted and published research about Kazakhstan. Together with our local collaborators (Zhanyl Bekmurzayeva, formerly with the Academy of Public Administration under the President of the Republic of Kazakhstan; Dina Janaidar, formerly with KAZGUU University), we completed the first ever academic article examining the development of the AIFC. The work was published as 'Institutional Development and the Astana International Financial Centre in Kazakhstan' (2020) 19(1) *Washington University Global Studies Law Review* 53-83. Furthermore, Horace Yeung recently authored 'Economic Development through Taking "100 Concrete Steps" [in Kazakhstan]: An Outsider's Assessment' (2022) 81(2) *Public Administration and Civil Service* 150-160. In this work, he appraised the economic reform package put forward by former President Nursultan Nazarbayev. We are in the process of editing a book about the legal and sustainable development in the region with pledged contributions from a number of highly esteemed scholars.

4. In the current academic year 2023/24, both of us are Central Asian Legal Research Fellows, hosted by Tashkent State University of Law, Uzbekistan. We sit on the editorial board of *TSUL Legal Report*, a journal in Uzbekistan. Also, Horace Yeung sits on the editorial board of *Public Administration and Civil Service*, a journal in Kazakhstan. Moreover, Horace Yeung is International Liaison Officer of Leicester Law School, who has started working with partners in the region since 2017 during his first visit to Kazakhstan as part of a University delegation.
5. This submission has drawn on our first-hand and extensive experience in the region with a view to providing input into the UK foreign policy so as to benefit our future work, as well as stakeholders in the UK and Central Asia. The submission is sent in our personal capacity and in no way represents the view of our home institutions, as well as local partners and collaborators in the region.

#### **After the 2022 Civil and Political Unrest - Towards a new Kazakhstan?**

6. Kazakhstan is the largest country in Central Asia and the ninth largest in the world (in terms of country size). The country's mineral resources and arable lands have long been the major pillars of its economy. Kazakhstan also has a strategic location. Despite being a landlocked country, it links the large and fast-growing markets of China and South Asia and those of Russia and Western Europe by road, rail, and a port on the Caspian Sea.
7. According to the World Bank, Kazakhstan moved from lower-middle-income to upper-middle-income status in 2006.<sup>1</sup> The country is currently Central Asia's largest economy. For a comparison with its neighbouring countries (and the UK), see Table 1.

**Table 1 – Economic Indicators of Kazakhstan and Selected Countries in 2021**

Country	GDP (US\$ bn)	GDP per Capita (US\$)
China	17,734.06	12,556.3
United Kingdom	3,131.37	46,510.3
Russia	1,778.78	12,194.8
<b>Kazakhstan</b>	<b>197.11</b>	<b>10,373.8</b>
Uzbekistan	69.23	1,983.1
Azerbaijan	54.62	5,388.0
Turkmenistan	45.23	7,344.6
Tajikistan	8.74	897.0
Kyrgyzstan	8.54	1,276.7

Data Source: World Bank

8. The energy sector has been the main driver of economic growth. It is estimated that oil and gas contributes around 35% of GDP and 75% of exports.<sup>2</sup> As of 2020, the top two trading partners of the country were, by far, Russia (34.94%/10.44% Import/Export) and China (16.67%/19.18%).<sup>3</sup> Comparatively, the figures for the UK were 0.94%/1.47%. The

<sup>1</sup> World Bank, 'Kazakhstan: Overview' (2023), available at: <<http://www.worldbank.org/en/country/kazakhstan/overview>>. The income groups, divided according to gross national income (GNI) per capita in 2015, are: low income, USD 1,025 or less; lower middle income, USD 1,026-4,035; upper middle income, USD 4,036-12,475; and high income, USD 12,476 or more.

<sup>2</sup> EY, 'Kazakhstan Oil and Gas Tax Guide' (2021), available at: <[https://assets.ey.com/content/dam/ey-sites/ey-com/ru\\_kz/topics/oil-and-gas/ey-kazakhstan-oil-and-gas-tax-guide-2021.pdf](https://assets.ey.com/content/dam/ey-sites/ey-com/ru_kz/topics/oil-and-gas/ey-kazakhstan-oil-and-gas-tax-guide-2021.pdf)>.

top goods exported from the UK were aircraft, mechanical power generators, medicinal and pharmaceutical products and general industrial machinery. Despite not a major partner in the import and export of goods, according to the Department of International Trade (DIT), the UK is ‘amongst the largest foreign direct investors in Kazakhstan.’<sup>4</sup>

9. In order to realise the country’s growth potential, ongoing structural and institutional reforms have been underway, including the ‘100 Concrete Steps’ reform programme, the privatisation agenda aiming to reduce the role of the state in the economy and facilitating the development of a vibrant, modern and innovative tradable non-oil sector.<sup>5</sup>
10. Kazakhstan has long been regarded as a politically stable country in the region. For example, until early 2022 when President Nursultan Nazarbayev was removed from his presidency, he had been one of the longest-ruling leaders in the world, having led Kazakhstan for nearly three decades since the country’s independence in 1991.
11. However, towards the beginning of 2022, Kazakhstan witnessed a large scale of political and social unrest, unprecedented in the former Soviet state’s over three decades of history. The unrest was initially started with some peaceful protests against fuel price rises. The protests then quickly spiralled out of control.
12. According to commentators, the real cause was inequity, when the wealth of the country has been very concentrated in the hands of a few and most Kazakh people were unable to benefit from the exploitation of natural resources in Kazakhstan.<sup>6</sup>
13. In the aftermath of the civil and political unrest, a response dominating the news headline has been a constitutional referendum on 5 June 2022, which ‘aimed at a comprehensive transformation of the entire state model’ and to demonstrate ‘[the country’s] strong commitment to democratic principles’.<sup>7</sup> President Kassym-Jomart Tokayev’s era may open up a new page for Kazakhstan.

### **Astana International Financial Centre (AIFC)**

14. In March 2015, President Nazarbayev unveiled a comprehensive national plan to put forward five key institutional reforms, known as the ‘100 Concrete Steps’.<sup>8</sup> Step 70 outlines the commitment to establishing the AIFC. The AIFC is intended to serve as a

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<sup>3</sup> Data from the World Bank.

<sup>4</sup> Department of International Trade, ‘Doing Business in Kazakhstan: Kazakhstan Trade and Export Guide’ (2022), available at: <<https://www.gov.uk/government/publications/exporting-to-kazakhstan/exporting-to-kazakhstan>>.

<sup>5</sup> World Bank, ‘Kazakhstan’s Economy is Rising – It is Still All About Oil’ (2017), available at: <<http://www.worldbank.org/en/country/kazakhstan/publication/economic-update-fall-2017>>. See also, Horace Yeung, ‘Economic Development through Taking “100 Concrete Steps” [in Kazakhstan]: An Outsider’s Assessment’ (2022) 81(2) *Public Administration and Civil Service* 150.

<sup>6</sup> de Groot, Kristen, ‘Kazakhstan Unrest, Explained’ (10 January 2022) *Penn Today*.

<sup>7</sup> Astana Times, ‘Kazakhstan to Hold Constitutional Referendum on June 5’ (6 May 2022), available at: <<https://astanatimes.com/2022/05/kazakhstan-to-hold-constitutional-referendum-on-june-5/>>.

<sup>8</sup> They are i) creation of a modern and professional civil service; ii) ensuring the rule of law; iii) industrialisation and economic growth; iv) unified nation for the future; and v) transparency and accountability of the state. The full version of the ‘100 Concrete Steps’ in English is available at <<https://afmrk.gov.kz/en/activity/strategy-and-program/100-concrete-steps-towards-the-implementation-of.html>>.

financial hub for the Central Asian region. It will enjoy a special status recognised by law, including notably an independent legal system based on English law principles.

15. In December 2015, President Nazarbayev signed the Constitution of the AIFC, which provides a legal framework for its establishment and operation. According to this legal framework, the governing law of the AIFC would be based on the Constitution of the Republic of Kazakhstan and would have a special legal regime, consisting of its own laws and its own independent judicial system and jurisdiction which would be based on English common law, and standards of leading international financial centres.<sup>9</sup> The current law of Kazakhstan should apply to the extent it does not conflict with the laws adopted by the AIFC. It is believed that the AIFC legal system will have similarities with the principles and standards of the Dubai International Financial Centre in Dubai.<sup>10</sup>
16. The core businesses within the AIFC are expected to include capital market, asset management, private banking, Islamic finance and financial technology. To attract companies and talents from across the world, other than a robust legal framework, there will be a preferential tax regime and a simplified visa regime. For example, there will be a 50 year waiver for corporate tax, individual income tax, property tax and land tax, till the end of year 2066. Citizens of countries of the OECD, Malaysia, the UAE, Singapore and Monaco, as well as a few other countries will enjoy visa-free entry to Kazakhstan for a period of 30 days.
17. It is fairly apparent that the AIFC has transplanted the legislations of the UK in a rather wholesale manner. For example, the seven director duties as provided by the UK Companies Act 2006 Sections 171-177 are reproduced in the AIFC Companies Regulations Sections 77-83 in a verbatim manner. One rare exception is perhaps contract law, which is predominantly common law-based in the UK. In contrast, there is a set of AIFC Contract Regulations.
18. Therefore, the legal skills of the practitioners in the UK are indeed readily transferable in Kazakhstan. Lawyers from the UK have been notably involved in the legal structures of the AIFC thus far. For example, Lord Woolf was the founding Head of the Judiciary of the AIFC Court. Lord Woolf, formerly Lord Chief Justice in the UK, was also the first President of the Qatar Financial Centre Civil and Commercial Court (which arguably has also drawn on the Dubai International Financial Centre model). Following Lord Woolf's stepping down, Lord Mance, a former UK Supreme Court Judge has taken over. All current eight justices in the AIFC Court have an English law background.
19. The English legal profession is very likely to benefit from the AIFC. Since the Dubai International Financial Centre and its Courts, pioneering in adopting an English model, were established, UK lawyers have been in demand in the region.<sup>11</sup> It can be anticipated that the same will happen in Kazakhstan.

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<sup>9</sup> Article 4(1) of the Constitution of the AIFC.

<sup>10</sup> Horace Yeung, Flora Huang, Zhanyl Bekmurzayeva, and Dina Janaidar, 'Institutional Development and the Astana International Financial Centre in Kazakhstan' (2020) 19(1) *Washington University Global Studies Law Review* 53.

<sup>11</sup> The Economist, 'British Lawyers in Dubai: Money for Old Laws' (2013), available at:

## **The UK's Input into Wider Institutional and Capacity Building**

20. In our view, along with the development of the AIFC, the demand for an English legal and business (as well as some other disciplines) education/training has been witnessed. For example, Flora Huang (one of the authors of this submission) is in the process of developing an academic programme with the AIFC Academy of Law, as well as a local University in Kazakhstan.
21. During Horace Yeung's (another author of this submission) visit to Kazakhstan in 2017, he was approached and asked by the Ministry of Justice Kazakhstan to devise a training programme for their employees. In Kazakhstan, continuing professional development is known as an 'internship', which is fundable by their national Bolashak International Scholarship programme. Whilst the Bolashak programme permits enrolment in regular postgraduate degree programmes, these internship offerings may provide additional opportunity for higher education establishments in the UK. The major difference between an 'internship' and an ordinary degree programme is that the former requires a practical element in addition to an academic element. For example, the professional development programmes of the AIFC entail work experience and visits to financial organisations, such as stock exchange, major banks, government departments and law courts. The UK is a preferred destination for many Bolashak scholarship holders.
22. Furthermore, the British Council's 'Creative Spark: Higher Education Enterprise Programme' is another good example of how the UK can play a role in the development of the region. Creative Spark was a five-year initiative (2018 - 2023) to support university and institutional partnerships with the UK to develop entrepreneurship and enterprise skills for students and young entrepreneurs across seven countries: Ukraine, Central Asia (Kazakhstan, Uzbekistan, Kyrgyzstan) and South Caucasus (Azerbaijan, Armenia, Georgia).
23. The University of Leicester (led by the Business School and Dr. Steve Conway, with input from the Law School coordinated by Horace Yeung) was one of the project teams awarded funding from the British Council to carry out entrepreneurship and enterprise skills training in Uzbekistan. In the project, the University of Leicester partnered with the Academy of Public Administration under the President of the Republic of Uzbekistan, and Tashkent University of Information Technologies.
24. The University of Leicester was indeed one of the first movers in exploring the possibility of establishing a satellite campus as early as in 2017 (and therefore the aforementioned University delegation visit). However, this was not going ahead eventually and the idea was incidentally taken up by another University in the city, De Montfort University, which now has a campus in Almaty. A newer development is, Heriot-Watt University will open a branch at the Zhubanov Aktobe Regional University in Kazakhstan. The agreement signing ceremony took place on 1 February 2023 in London during the visit of

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<<https://www.economist.com/news/business/21591583-new-international-courts-dubai-are-giving-british-legal-firms-boost-money-old-laws>>.

Kazakhstan's Minister of Science and Higher Education, Sayasat Nurbek, in a UK-Kazakhstan Intergovernmental Commission event.<sup>12</sup> Flora Huang was invited and participated in the event as a guest.

### **In the Shadow of Big Neighbours: Between Russia and China**

25. The traditional ties between Russia and Central Asian states are undeniable. They were part of the Soviet bloc. Russian language is still widely spoken and used in the region. As indicated above, Russia remains the largest trading partner of Kazakhstan. Central Asian countries also benefit from multilateral agreements and initiatives like the Commonwealth of Independent States Free Trade Area, and the Eurasian Economic Union, both of which are Russian-led. In the beginning of 2022, during Kazakhstan's civil and political unrest, Russia played a notable role in quelling the spiralling situation, under the, again Russia-led, Collective Security Treaty Organisation framework.
26. Meanwhile, amidst the Russo-Ukrainian War, Russia is now subject to different sanctions from the international community. Should these sanctions persist, it is inevitable that Central Asian countries will be distancing themselves from Russia. There is some early sign that it is happening. Despite voting against a UN's resolution demanding Russia stop military aggression and withdraw all its military forces from the territory of Ukraine, and abstaining from other Ukraine-related resolutions, Kazakhstan has refused to recognise the results of referendums organised by Moscow on Ukraine's territories.<sup>13</sup> Would the decline in relations with Russia lead to the rise with another (notably China)?
27. When the Chinese President Xi Jinping visited Central Asia in Autumn 2013, he first unveiled the initiative of jointly building the Silk Road Economic Belt and the 21st Century Maritime Silk Road (and hence the name, Belt and Road Initiative; BRI) at Nazarbayev University, Kazakhstan. This clearly signalled the strategic importance of the country in China's grand ambition.
28. Under BRI, there have been joint projects on key sectors, such as mining, oil and gas, construction, chemical and light industry, and transport have been launched. One example is the oil-and-gas development project in Aktyubinsk region of Kazakhstan. Oil pipelines have been built to allow direct oil exports to China, including the pipeline running from Kazakhstan's Caspian shore to Xinjiang of China. Major participants in the project include the China National Petroleum Corporation and the Kazakh oil company KazMunayGas. Another example is the China-Kazakhstan Khorgos Frontier International Cooperation Centre, which is the first trans-border international free trade zone in the world.<sup>14</sup> Furthermore, China has been determined to turn the country into a crucial transportation hub for accessing Central Asia, which can go hand-in-hand with Kazakhstan's own 'Nurly zhol' programme.

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<sup>12</sup> Astana Times, 'UK-Based Heriot-Watt University to Open Branch in Kazakhstan' (2 February 2023), available at: <<https://astanatimes.com/2023/02/uk-based-heriot-watt-university-to-open-branch-in-kazakhstan/>>.

<sup>13</sup> Reuters, 'Kazakhstan Says It Won't Recognise Referendums in Eastern Ukraine' (26 September 2022), available at : <<https://www.reuters.com/world/asia-pacific/kazakhstan-says-it-wont-recognise-referendums-eastern-ukraine-2022-09-26/>>.

<sup>14</sup> China Daily, 'China-Kazakhstan Zone Creates Jobs, Stimulates Trade' (2017), available at: <[http://europe.chinadaily.com.cn/business/2017-07/03/content\\_29968418.htm](http://europe.chinadaily.com.cn/business/2017-07/03/content_29968418.htm)>.

29. The AIFC and the Shanghai Stock Exchange first signed a Memorandum of Understanding and Cooperation in 2016.<sup>15</sup> The Chinese side became a strategic partner of the AIFC and pledged to provide support to the AIFC to establish a stock exchange. The cooperation between the two sides deepened in June 2017 when the Shanghai bourse signed an agreement to become a primary shareholder of the stock exchange within the AIFC. It was reported that the Shanghai bourse took a 25% stake in their Kazakh counterpart.<sup>16</sup> It is envisaged that the Chinese and Kazakh sides have been determined to develop the AIFC into the regional financial services hub of BRI.

## Conclusion

30. At a time when Russia has shown a sign of decline amidst the Russo-Ukrainian War, it is a crucial time for the UK to capitalise on this opportunity to maintain or even strengthen its influence in the Central Asian region. Although China is active in the region and is one of the biggest trading partners (just behind Russia) of Kazakhstan, there are different reasons for the country (and indeed their neighbours too) to prefer the UK over China. The Department of International Trade identifies five key opportunities for UK businesses in Kazakhstan, namely mining, financial and professional services, agriculture, clean energy and education.<sup>17</sup> This submission provided our first-hand experience in two out of these five opportunities.

31. During our work, we have been fortunate to receive both financial and non-financial support from the UK's presence in the region. For example, we have received funding from the British Council via their Creative Spark programme (as aforementioned), as well as more recently the Economic and Social Research Council's Impact Acceleration Account to engage with stakeholders of the AIFC. We have also benefited from the tremendous support from Rowan Kennedy (former Director of British Council Kazakhstan), as well as Jamilya Gulyamova (Deputy Director of British Council Uzbekistan), as well as more recently, Botagoz Seitbekova (local trade officer of DIT). Therefore, it is a shame to see that the government has cut funding to the British Council.<sup>18</sup> Indeed, in one of our very recent correspondence with British Council Kazakhstan, the writing colleague informed us that her job would be cut soon.

32. To ensure that the UK and its stakeholders can succeed in the region, in our view, the government must ensure that its various relevant operations are adequately resourced. Through this submission, we sincerely hope the government can direct considerable attention to the region and therefore sustain its reputation and historical status as a global power. Perhaps, this present Foreign Affairs Committee Inquiry, as well as our Foreign Secretary the Rt Hon James Cleverly's recent visit to Kazakhstan in March 2023 may indicate the government is heading towards the right direction.

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<sup>15</sup> Shanghai Stock Exchange, 'SSE, Kazakhstan to Co-build Astana Int'l Exchange' (2017), available at: <<http://english.sse.com.cn/news/newsrelease/c/4947745.shtml>>.

<sup>16</sup> *Ibid.*

<sup>17</sup> Department of International Trade, *supra* note 4.

<sup>18</sup> The Guardian, 'British Council to Close 20 Offices across Globe after Cuts and Lost Income' (9 September 2021), available at: <<https://www.theguardian.com/uk-news/2021/sep/09/british-council-to-close-20-offices-across-globe-after-cuts-and-lost-income>>.

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