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Oil and Gas Law in Kazakhstan: National and International Perspectives, by Illias Bantekas, John Paterson & Maidan Suleimenov

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their discussions of theoretical aspects of water pricing (chapter 3), following the development of the properties of average-cost and block-rate pricing, Guideline 2 (p. 76) advises the reader that “[a]verage-cost pricing guarantees a balanced water supply budget but entails a loss in efficiency as it decreases the joint welfare of farmers and water suppliers. Moreover, the farmers carry the burden of the welfare loss,” and Guideline 3 stresses the point that “[b]lock-rate pricing can be used to transfer wealth between water suppliers and farmers, while retaining efficiency.” Comprehensive guidelines developed by the authors in their presentation of alternative policy designs and examples of policy implementation in case study countries are nicely summarized in an overview of policy implications given in chapter 6.

In summary, *Pricing Irrigation Water* is a comprehensive, informative book that takes the reader through the conceptual principles relevant for water pricing, as well as through the related institutional aspects relevant for the design of policies intended to enhance the effective use of a country’s water resources. It is a “must read” work for policy makers charged with the management of water used in irrigation.

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Oil and Gas Law in Kazakhstan: National and International Perspectives. By Illias Bantekas, John Paterson & Maidan Suleimenov. The Hague: Kluwer Law International, 2004. Pp. 500. \$181.00 hardcover.

Wondrously productive arteries of petroleum reside not only in the imagination of international oil companies, hungry nation states, and gasoline consumers, but sometimes they materialize, documented in the dry analyses of geologists’ log books and transmitted to Wall Street. When those things happen, the dreamers of personal wealth, national prosperity, and a cure for world hunger confront the truly harsh realities of the difficult business of oil: the laws that govern actual production of petroleum.

Those harsh realities, in their statutory construction and practical application, are the focus of several studious essays included in *Oil and Gas Law in Kazakhstan: National and International Perspectives* by Illias Bantekas, John Peterson, and Maidan Suleimenov. Bantekas and Peterson, United Kingdom legal “readers” in oil, and Suleimenov, offering a Kazkh perspective, present a rather broad, if sometimes esoteric, collection. But it works. Rarely off-point, the pieces succeed in binding together, offering pointillistic but coherent approaches to understanding the governance, impediments, and potential for

petroleum production in one of the luckier of the five Caspian Sea nations.

Less noticed than some of its former-Soviet sisters in the Baltic region, Kazakhstan has generated great recent global interest for several reasons. To lend context, the editors introduce the historical ramp-up to early twenty-first century petroleum prospecting in Kazakhstan and the Caspian region. First, the bordering Caspian Sea is probably the third largest oil basin in the world. Second, Caspian oil is concentrated more densely toward Kazakhstan than, say, Iran or the Russian Federation, presenting a unique "offshore" reservoir. And third, oil is also plentiful within the actual subsurface of the country's non-seaborne terrain (hence, the "luckier" label).

But just sitting on a golden egg does not automatically make it hatch. There are significant obstacles between knowing where the oil is and making it turn into the basis for corporate and national growth. For example, how reliable, predictable, and stable are the legal constructs that govern petroleum investment? How open, really, is the government to private investments in Kazakh territory? How willing is Kazakhstan to play by generally accepted international rules that govern dispute resolution, the transport of oil, and even the basic law of capture? And moreover, is the heightened "promise" of Kazakhstan's petroleum industry really all that promising?

Acknowledging that all of these questions are complex, the editors break this 500-page book down into discrete areas to help us digest the heavy content: Context, Legal Framework, Investment Issues, Contractual Issues, Dispute Settlement, Transportation and Refining, Taxation, Environmental Issues. Even compartmentalized, the book fails to fully appreciate the impact of certain topics, like the ongoing volatility of Central Asia and the increasing political and economic pressure from Kazakhstan's giant neighbor to the east, China.

For example, in the discussion of the transportation of oil within the Caspian Pipeline Consortium (CPC), the book focuses exclusively on the regulatory scheme among member nations. Yet, many of those member nations face ongoing conflicts that may range beyond just implementation of regulation by Kazakhstan but may directly effect investment within the country. Perhaps such discussion is beyond the scope of the particular article that deals with the CPC. However, that does not remove the influence of war—even the Afghan War, outside of the pipeline's scheme—from the considerations of Kazakhstan's promise. Oil companies often use special methods to deploy in war zones; likewise, the editors might have sought an article that details the economic (not to mention personal or bodily) impacts of ongoing regional conflicts on petroleum law.

The more narrowly focused articles, though, serve their audience well, particularly in outstanding discussion of taxation and contractual schemes in Kazakhstan. The contracts discussion details well the local nuances of petroleum contracts and also provides a good comparative overview of their implementation within that region as a whole. For example, while Production Sharing Agreements (PSA), a common type of oil contract, are effective within Kazakhstan—in comparison to other areas—they may not be as reliable over time as other countries' less effective PSAs. Why? Because there is no law that explicitly governs or enforces them: you are wildcatting, in that there is a more Wild West feel to this new market. (Some companies thrive on this openness, particularly those with a more flexible definition of "business ethics.")

Second, the taxation section is extremely useful for Westerners to get an understanding of how their investment might be effected. In Kazakhstan, there is an overriding incentive to explore, drill, and extract not only oil, but any number of natural resources. The extremely loose tax structure on profits and the lack of regulation with respect to international taxation appear very attractive to those with the means to invest. While beneficial to some degree, this scheme does not wholly appear to the editors and authors of this particular section as entirely good. As policy, they hope for a time and place where more law reigns and better tax contributes to better causes. But perhaps this reflects an academic idealism of providing a world hunger cure from petroleum profits. There will always be those that hunger, even in the best scenarios, just as there are always self-serving purposes behind taxation schemes. The Kazakh self is, then, well served.

The policy driven final chapter hopes for more regulation in the future. The discussion of the environmental impact of petroleum exploration and drilling is less academic than others in the book. Indeed, for the purposes of the audience of this journal and American academia in general, environmental impact is perpetually at the forefront of these discussions. In Kazakhstan, a country ravaged by cruel environmental history, particularly the remnants of a nuclear state that used it as a test ground, the government has found reason to structure its laws to prevent impact from new private companies. Yet, true to its cultural loyalties, less severe penalties are imposed on government companies, if any at all. The question then for companies and investors is, really, how do investors structure their contracts to minimize this expense? And the answer might be, again, that those of more flexible business approaches may be able to minimize best.

Obviously, the major thrust of this collection is to give an economic snapshot of Kazakhstan in 2004, its date of publication. In this way, it is temporal and with each day its relevance decreases as

Kazakhstan changes. However, it is hard to imagine a more comprehensive exposition not only of oil and gas law, but of general investment policies compressed in a discrete realm. Certainly, if anything else comes out of it, this study serves as a primer on Kazakh peculiarities with respect to its own economy since its "freedom" evolved out of a fallen empire.

Underlying the entire discussion throughout the collection, though, is a hope that Kazakhstan is really a positive testing ground for Western economic practices that result in Western-style political structures. America and England partner better with nations who reflect their structures and ideals (and who acquiesce to cultural imposition), and, in turn, those nations reap the most benefits. Theoretically, codification of U.K. and U.S. oil and gas policies necessarily spawns allies and not harsh competitors. But it is worth noting that China borders Kazakhstan, and neither the United States nor the United Kingdom do. Moreover, the Kazakh form of government is that of, essentially, a president for life rather than a periodically elected executive and two other branches or, say, a parliament.

The result is a potentially endless, if classic, East-West tension. Between the cultures and systems arises a relentless vying for resources, prominence, and political influence in a developing market and pliant legal structure. Such battles by huge petroleum consumers make law all but the plaything of supersized governments. And that is, at least in part, a warning imparted (or noted) by some of the works of this collection.

The tension should be considered because in the summer of 2005, the Chinese government bid to buy PetroKazakhstan, a Canadian-owned company that owns the three oil refineries in Kazakhstan. If this purchase were to go through, how would the perspectives on oil and gas law be affected? What way can an Eastern superpower influence a government who has purported to be structured on Western notions? Without the tenets of international dispute resolution as laid out in the New York Convention—discussed within the collection and, notably, never ratified by the Kazakh government—what recourse do investors really have in this region? What impact will the petroleum consuming world have without greater predictability when a developing country is leveraged by greater powers than itself?

We wonder most about the real future of oil in Kazakhstan, if not the nation itself. In the end, what promise can really be held in a country fresh to autonomy and still subject to other governments' economic whims, and what moral stature do investors—and its citizens—have in such an environment? This comprehensive collection lends a strong basis to answering a question that in the end may be unanswerable except by time. But by approaching this difficult area that

has not been approached before, the collection achieves a valuable, if temporal, goal.

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