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Kazakhstan, Nazarbayev, Foreign Investment & Oil*

Gordon Elliot**

I. INTRODUCTION

Fifteen newly independent republics have emerged following the disintegration of the Soviet Union. Five of these are the Central Asian republics: Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan, and Uzbekistan. This article focuses on Kazakhstan. The objective is to inform readers of the republic's location, history, and current political situation and to examine its new legal regime for foreign investment, with particular emphasis on petroleum and minerals. The present leadership of Kazakhstan, under President Nursultan Nazarbayev, seeks to achieve economic reform within a somewhat authoritarian system of government. Although Kazakhstan has its share of problems, it has vast resources and a legal regime which is conducive to foreign investment.

II. KAZAKHSTAN

Kazakhstan covers an area of more than one million square miles, stretching from the Caspian Sea in the west to the Altai and Tienshan mountains on the Chinese border to the east. Its neighbours are the Russian Federation to the north, Turkmenistan, Uzbekistan, and Kyrgyzstan to the south, and China to the east. The terrain is mostly steppe with deserts in the south and centre and mountains in the south-east.¹ To put this in perspective, Kazakhstan is roughly the same size as Argentina or the whole of Western Europe, and about one third the size of the forty-eight continental States of the United States.

This vast expanse is populated by just sixteen and a half million people. Only forty-two percent of these are ethnic Kazakhs, descendants of Turkic nomadic tribes who migrated eastwards during and following

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1. *Kazakhstan*, 1993 Whitaker's Almanack 998 (1993).

the tenth century. Turkic languages are spoken in four of the five republics of Central Asia, the exception being Tajikistan where the language is a form of Persian. The rest of the population of Kazakhstan comprises over a hundred nationalities including Russians (thirty-eight percent), Ukrainians (five percent), Germans, Tatars, Koreans, Uzbeks, Dungans, and Uighurs.²

Kazakhstan did not exist as a separate state until the present century. Russian influence began to spread into northern Kazakhstan in the mid-eighteenth century and the remainder of the territory was conquered and colonised in the mid-nineteenth century.³ Russians and other nationality groups moved into Kazakhstan in several waves. Over a million Russians arrived between 1896 and 1915. More arrived in the 1920s and 1930s (the Kulaks) and again in the 1950s under Khrushchev's programme for settlement of the virgin and idle lands. Volga Germans, Crimean Tatars, and Koreans were forcibly settled there just before and during World War II. Many of the new arrivals settled in the six northern Oblasts or regions, where ethnic Kazakhs are now easily outnumbered by Russians and other nationalities. In fact, many Russians regard northern Kazakhstan as an integral part of Russia.⁴

After the 1917 revolution, Kazakhstan was absorbed into the Soviet Union, becoming a full republic in 1936.⁵ Kazakhstan contains thirty-five percent of the arable land of the former Soviet Union and sixty percent of its mineral resources. The communist government soon recognized Kazakhstan's resources and began to exploit its agricultural and mineral potential.⁶ To this end, Stalin forcibly settled the semi-nomadic Kazakh herdsmen into collective farms. This led to a period of severe famine, bloodshed, and repression. Industrialisation followed during and after World War II, and giant factories such as the Karaganda steel works began to appear. However, the economy was not self-sufficient but was closely integrated with and highly dependent on the Soviet Union. Such reliance produced its share of problems when Kazakhstan's independence was eventually achieved.

Kazakhstan's political development was frozen until the start of the Gorbachev era in the mid-1980s. The first signs of change came in

2. Central Asia Newsfile, Supp. No. 1, Nov. 1992, at S1.

3. See Martha Brill Olcott, *Kazakhstan: A Republic of Minorities*, in Nations and Politics in the Soviet Successor States 313, 315 (Bremner & Taras eds., 1993) for a very informative discussion of the political background of Kazakhstan. Another brief account of Central Asia can be found in Central Asia Newsfile, *supra* note 2, at S1-S4.

4. In 1990, Alexander Solzhenitsyn wrote a long article in the Russian newspaper *Komsomol'skaia Pravda* asserting that the northeastern part of Kazakhstan forms part of historic Russia and should be returned to it. Olcott, *supra* note 3, at 315-16, 323.

5. Central Asia Newsfile, *supra* note 2, at S3.

6. Ernst & Young, *Country Profile: Former Soviet Republics—Kazakhstan* 60 (Nov. 1992).

December 1986 when public protests in Alma Ata were forcibly suppressed. These protests came after Gennadi Kolbin, a Russian, replaced the retiring Dinmukhammad Kunaev as First Secretary of the Kazakhstan Communist Party. This crackdown added to existing Kazakh grievances against the Russians such as having been made a minority in their own republic and having been subjected to famine, near extermination, cultural disruption and the poisoning of their environment.⁷

III. THE NAZARBAYEV ERA

Nursultan Nazarbayev, an ethnic Kazakh, was born in 1940 in the village of Chemolgan, near Alma Ata. He trained in metallurgy at Karaganda and joined the communist party, becoming a full time official in 1969. He rose through the party ranks until 1984 when he became chairman of the Council of Ministers (Prime Minister), a post he held until he succeeded Gennadi Kolbin as First Secretary in 1989.⁸

As First Secretary he performed a difficult balancing act to retain the confidence of both the Russian and Kazakh communities amidst a widening division between the two caused by a number of developments. Nationalist sentiment was becoming more active amongst the Kazakhs. Further, the Nevada-Semipalatinsk anti-nuclear movement was campaigning for the closure of the nuclear testing site at Semipalatinsk and for the removal of ecological hazards caused by forty years of nuclear testing there.⁹

At the same time Nazarbayev could not afford to alienate the Russian community both because of its importance to the economy and because of the necessity to maintain good relations with Russia itself. He therefore remained loyal to Gorbachev while identifying Kazakhstan more clearly as a Kazakh homeland. This is central to the question of the true identity of Kazakhstan: should it be regarded as a society of two communities, a multinational society, or a Kazakh homeland? A key part of this question concerned whether Kazakh should replace Russian as the official language of Kazakhstan.

7. Olcott, *supra* note 3, at 316. The legal consequences of the December 1986 disturbances are still being felt. Two organisations are bringing claims in Kazakhstan's Constitutional Court concerning those events. In January 1993, the court ruled that Mikhail Gorbachev could not be questioned by the court on the grounds that he is a foreign citizen, but that proceedings could continue against Narzarbayev and Talgat Mukashev, a former chairman of the Kazakh Supreme Soviet. The court has asked archives in Moscow for a verbatim report of the Politburo's meeting of December 24, 1986, and has requested that the Kazakh government declassify part of the archives of the KGB in Kazakhstan to assist in its investigation. *Kazakhstan*, British Broadcasting Corporation Summary of World Broadcasts, Jan. 11, 1993, at 1.

8. Central Asia Newsfile, *supra* note 2, at S4.

9. Olcott, *supra* note 3, at 321-22.

In March 1990, a new Supreme Soviet composed of 94.4% communist party members was elected for the republic. One of the first acts of the new legislature on April 24, 1990, was to elect Nazarbayev as the first president of Kazakhstan. His initial programme was one of perestroika whilst maintaining the unity of the Soviet Union. However, in June 1990, the Russian Supreme Soviet voted for sovereignty which in turn forced Nazarbayev to take up the issue of sovereignty for Kazakhstan.¹⁰

He produced a draft bill on sovereignty which did not entirely please either community, because on the one hand it recognized Kazakhstan as the homeland of the Kazakhs with special rights for their language and culture, whilst on the other hand it stated that Kazakhstan was a multinational republic guaranteeing major nationalities permission to use their native languages and preserve their own cultures. Eventually a compromise was reached which, instead of emphasizing Kazakhstan as the homeland of the Kazakhs, referred to the Kazakhs as the first among the republic's nationalities while still providing protection for the legal rights of all citizens.¹¹

In March 1991, Gorbachev called a referendum on the continuation of the Soviet Union, and Nazarbayev was prominent in the "yes" campaign. Nazarbayev also supported the idea of a new treaty creating a union of sovereign republics. At the same time, he was careful to settle political differences with Boris Yeltsin, and in August 1991 they signed a cooperation agreement between Russia and Kazakhstan which recognized the existing boundaries of the two republics.¹²

Shortly after the cooperation agreement was signed, the August coup took place, which attempted to remove Gorbachev from power. Nazarbayev remained neutral for twenty-four hours after the coup, but then condemned the unconstitutional seizure of power by the coup leaders. After the failure of the coup, he continued to support the idea of a loose federation remaining in existence, and in an attempt to reach a consensus on the idea, he hosted a meeting of republic leaders in Alma Ata in October 1991. His support for the union continued until December 10, 1991, two days after the formation of the CIS at Minsk. By that time it was clear that there was no prospect of the union continuing. The Kazakhstan Supreme Soviet passed a Declaration of Independence on December 6, 1991, making it the last of the republics to take this final step.

The communist party was disbanded. A presidential election was held in which eighty percent of those eligible to vote turned out. Although

10. *Id.*

11. *Id.* at 323.

12. *Id.* at 325.

Nazarbayev ran unopposed, he received 98.76% of that vote. The communist party was replaced, but by a socialist party dominated by Russians. Nazarbayev therefore sponsored the creation of the Popular Congress of Kazakhstan, a Kazakh-dominated party. These two officially sponsored parties were set up with a view to delaying the development of independent political parties because Nazarbayev believes that Kazakhstan's population is not yet politically mature enough to maintain a pluralistic party system.¹³

IV. THE PRESENT CHALLENGES

Independence left Nazarbayev with the problem of holding together his large and disparate state whilst transforming its economy from central planning to the free market system. As noted above, he seeks to strike a balance between the concerns of the Russian and Kazakh populations. Although he is a Kazakh, he is thought to be well regarded by the ethnic Russians who view him as the only man who can slow down the development of Kazakh domination of the country.

Under the Soviet system, Kazakhs were allowed to occupy many government positions, but they had little power, as the real power was in the hands of the party organisation controlled from Moscow. With independence and the disappearance of the party, these jobs have become more important. Russians and Ukrainians were entrusted with important jobs which empowered them to control the economy, including the oil industry. With many of these positions vacant, Kazakhs are now seeking these jobs as well. Some Russians are leaving in order to return to Russia, but this is hardly an attractive option when Russia itself has such difficulties. Most Russians therefore prefer to stay in Kazakhstan in the hope that the economic situation will gradually improve.¹⁴

Externally, Kazakhstan continues to maintain good relations with Russia, with which it shares a 3,600-mile border and upon which Kazakhstan has a high degree of economic dependence. The Russian regions adjacent to Kazakhstan account for forty-seven percent of Kazakhstan's national income.¹⁵ Kazakhstan supports the continuation of the Commonwealth of Independent States, but its position is less extreme than that of some republics such as Belarus, which favour close integration with Russia whilst others, such as Ukraine, prefer maximum sovereignty.

13. Olcott, *supra* note 3, at 326-27.

14. *Kazakhstan: Troubled Waters, Just Add Oil*, The Economist, Dec. 5, 1992, at 79.

15. *Russian and Kazakhstan Administration Chiefs Meet in Omsk*, Telegraph Agency of the Soviet Union (TASS), Jan. 9, 1993.

Kazakhstan maintains a balance between Russia and the other neighbouring Central Asian Republics.¹⁶ Although their positions concerning sovereignty vary, the five republics are taking steps to create a common market with common taxation, customs, price, investment, and trade policies.

However, it seems unlikely that they will join together to form a single state. Although all of them are highly dependent on Russia, and form part of the "ruble zone," there are numerous reasons for their remaining separate.¹⁷ Persian-speaking Tajikistan does not want to be closely involved with the Turkic-speaking republics. Gas-rich Turkmenistan sees itself as potentially the wealthiest republic and does not wish to share its prosperity with the others. Similarly, Nazarbayev knows that his thirty-eight percent Russian population would never agree to be merged into a Moslem-dominated Turkic union.¹⁸

Economically, Kazakhstan seeks with external aid to develop its private sector and improve its infrastructure, such as transport and communications. Key industries are being privatised and developments are being promoted in the banking, farming, oil, and other sectors.¹⁹ Foreign investment is accelerating, with at least five hundred joint ventures being registered in 1992, compared with only eight in 1989.²⁰

Water is one of the biggest challenges facing Kazakhstan and its sister republics. The main water supplies come from the Amu Darya or Oxus River and the Syr Darya or Mysterious River, which carry the melted snows of the Himalayas to the Aral Sea, flowing through four of the five republics. So much water is being taken from these rivers that the Aral Sea, once the fourth largest inland sea in the world, is drying up. It has lost sixty percent of its volume since 1960, and its level is dropping by twelve inches per year. Aralsk, once its main port, is now sixty miles inland. The sea is being replaced by a saline desert from which winds deposit an estimated seventy-five tons of salt, dust, and toxin on nearby agricultural land. Twenty out of twenty-four species of fish in the sea have already disappeared. The only way to save the Aral Sea would be to divert water from the rivers of Siberia, but this is not likely to happen now that the republics are independent of each other.

16. Vadim Bordin, *CIS Summit in Minsk: The Fog Lifts Over Commonwealth Relations*, *Commerciant*, Jan. 26, 1993, at 4.

17. Daniel Sneider, *Central Asians to Build Own Common Market*, *Christian Science Monitor*, Jan. 7, 1993, at 2.

18. *Central Asia: The Silk Road Catches Fire*, *The Economist*, Dec. 26, 1992, at 80 [hereinafter *The Silk Road*].

19. *EBRD Ready to Finance Projects in Kazakhstan*, *The Reuter Library Report*, Jan. 7, 1993, at 1.

20. *Facts & Figures: JVs Mushroom in Kazakhstan, Delovye Lyudi—The Letter*, Dec. 16, 1992, No. 29, at 1.

Despite this, there is not enough water being taken out to support the population. There are only 0.5 acres of irrigated land per head of population; 0.7 acres is normally regarded as the minimum in arid or semi-arid areas. Meanwhile, the population is rising and will double by the year 2010, whilst the water supply dwindles. This will lead to conflict between the upstream states (Kyrgyzstan and Tajikistan) and the others unless some agreement can be reached.²¹

V. OIL AND MINERAL RESOURCES

The oil industry will play a key part in Kazakhstan's economic progress. Oil production is expected to increase from twenty-seven million tons per year in 1992 to forty-seven million tons in 1996 and eighty-two million tons by 2010.²² Forty billion dollars in foreign investment is expected over the next forty years. Chevron alone will spend twenty billion dollars developing the Tengiz field in western Kazakhstan. British Gas and the Italian company Agip will invest seven billion dollars to develop the Karachaganak oil and gas field near the north western border. This project alone could be enough to meet Italy's entire oil and gas needs at current levels for the next eleven years. Elf Aquitaine of France plans to spend three billion dollars on the Temir Field between Karachaganak and Tengiz under a five year exploration contract which is extendable to thirty years. Companies from Turkey, Iran, the rest of the Middle East, and China are also showing interest.

Transport of oil is becoming an important issue. Presently, all oil exported from Kazakhstan has to go through the Russian pipeline network, passing through various republics which each charge a tariff on it. A new pipeline is planned going round the north of the Caspian Sea to Grozny on the western side and then to Novorossiysk, a Russian port on the Black Sea. This project was originally devised by Kazakhstan in conjunction with the government of the Middle East State of Oman, but Russia and Azerbaijan have now joined the consortium.

Clear direction from Nazarbayev has enabled Kazakhstan to succeed where similar negotiations in Russia have become bogged down. Once pipelines have been built for these major projects, smaller projects will also become economically viable.²³

21. For a more detailed discussion see *The Silk Road*, *supra* note 18, at 80 and Arun P. Elchance, *Central Asia's Looming Water Wars*, *Christian Science Monitor*, Jan. 11, 1993, at 19. The author of the latter article, Professor Arun P. Elchance of the University of Illinois, is the author of a forthcoming book entitled *Hydropolitics in the Third World*.

22. *Kazakhstan Output Set to Soar*, *The Reuter Library Report*, Dec. 23, 1992, at 10.

23. *Kazakhstan's Oil Industry: Tomorrow's Gusher*, *The Economist*, July 25, 1992,

Apart from oil and gas, Kazakhstan's resources include coal, iron, zinc, lead, titanium, magnesium, chromium, vanadium, tungsten, molybdenum, gold, silver, copper, manganese, bauxites, and phosphates. The quantity and quality of the republic's resources are impressive indeed. The republic is the biggest source of non-ferrous metals in the former Soviet Union and has one of the world's major reserves of iron ore; it is the third biggest producer of gold in the former Soviet Union (after Russia and Uzbekistan); it has reserves of raw materials for ceramics, cement, and building materials; and its bismuth, cadmium, and thallium, which are used in electronics, nuclear engineering, and rocketry, are unequalled in their purity.²⁴

VI. THE SUB-SOIL CODE

So far, four parts of the former Soviet Union have enacted sub-soil legislation. The first was the Komi Republic, an autonomous region within the Russian Federation. This action was followed by the Russian Federation itself, Kazakhstan, and then Turkmenistan.

The normal pattern for such legislation is to have an umbrella law which sets out the broad principles applicable to the sub-soil and then to follow this up with detailed provisions on oil and gas. Kazakhstan has followed this approach. The Code on Sub-soil Resources (the Code) was enacted on May 30, 1992.²⁵ An oil and gas law is before the Kazakh Parliament at the time of writing (February 1993) and is expected to become law by June 1993.

The code shows signs of having been drafted from an economic perspective. For example, the sub-soil is defined as "a part of the natural environment which can be used for satisfying economic and other needs through the separation of its components or for the location of underground installations, confinement of toxic substances and wastes of industry, and the discharge of sewage waters."²⁶ The definition is entirely functional; it does not specify where the sub-soil is located, and presumably anything which does not satisfy one of these functions is not part of the sub-soil at all.

at 76. See also *Energy World*, Lloyd's List, Feb. 10, 1993, at 6 and *Month in Review: Why Kazakhstan Succeeds Where Russia Falters—The Tiger and the Bear*, Russian Petroleum Investor, July 1992, at 7.

24. Arguments and Facts International, *Business Briefs: Kazakhstan 75*. See also Deik Bulletin on Kazakhstan, May 1992, at 1.

25. Its full title is "Code of the Republic of Kazakhstan on the Sub-Soil Resources and Processing of Minerals." It is referred to in this article as "the Code." For a further discussion of it see Uisdean R. Vass, Clyde & Co., *Review of the Code of the Republic of Kazakhstan on the Subsurface and Processing of Mineral Raw Materials*, Oil & Gas Russia & Post-Soviet Republics, Jan. 1993, at xiv.

26. Code of the Republic of Kazakhstan on the Sub-Soil Resources and Processing of Mineral Raw Materials, art. 3 (1992).

“Mineral resources” are defined as “an integral part of the sub-soil and include solid, liquid and gaseous substances which can be extracted and processed in order to be used in the sphere of material production.”²⁷ Again, a notional substance which cannot be processed in order to be used in the sphere of material production is presumably not a mineral at all.

The question of title to mineral resources tends to be very obscure in former communist republics, where concepts of property are hazy and where the sub-soil may be regarded as owned by the government, the republic, or the people as a whole. The code states that sub-soil resources are the exclusive property of the Republic and that the right of ownership is to be exercised by the State Committees of the Republic. Private ownership of resources is not allowed, nor are sale, purchase, gift, or exchange of such resources.²⁸

The state committees in turn delegate the authority to grant extraction rights to the government of Kazakhstan for deposits of “Republican importance” and to the local Councils of People’s Deputies for “deposits of local significance including common minerals”²⁹ (a distinction which is nowhere defined, but presumably oil and gas deposits are of “republican importance”). The question is left open for any foreign investor as to whether its activities should be approved by the president, the government, or the Supreme Soviet.

Sub-soil resources may be used by various categories of natural and juridical persons including foreigners and enterprises with foreign participation.³⁰ The right to extract minerals is granted by a contract between the user and the government or local council. However, a pre-condition of a contract is that the user shall first obtain a “document of mining allotment” after expert assessment by four government departments concerned with mining, the environment, industrial safety, and health care. It is not clear whether the allotment is by nature a contract or a licence, but the language used seems to indicate a licence.³¹

Termination of the right to use sub-soil resources takes place in seven circumstances:³²

- (1) Expiration of a fixed-term contract;
- (2) Possibility of a threat to life or health;
- (3) Breach of contractual conditions;
- (4) Breach of regulations;

27. *Id.* at art. 4.

28. *Id.* at art. 5.

29. *Id.* at art. 13.

30. *Id.* at art. 10.

31. *Id.* at art. 14.

32. *Id.* at art. 21.

- (5) Withdrawal of blocks of sub-soil for other state and public purposes;
- (6) Failure to start to use the sub-soil within two years; and
- (7) The liquidation of the enterprise to which the concession was given.

In the case of breach of contract or regulation, the user is given a month after written notification to remedy the situation before cessation takes effect. In the case of threat to life or health, the cessation takes effect immediately.³³

The fifth ground, withdrawal for "other State and public purposes," is a cause for some concern. The absence of a definition of such "purposes" seems a throwback to the Soviet idea that rights are things which the state can confer and the state can withdraw. The final point, cessation on the liquidation of the concessionaire, may also provide food for thought for western companies contemplating joint venture arrangements. On liquidation, the sale of the concession will not be available as a means of recouping losses.

The code provides that disputes about the ownership, the use and disposal of resources, and the processing of minerals shall be decided by the Courts of Law and Arbitrazh Courts (the Courts of Arbitration) of Kazakhstan.³⁴ Arbitrazh Courts are the successors of the Soviet system of State Arbitrazh for economic disputes. They are part of the court system, however, and should not be confused with arbitration as it is understood in western legal systems. This provision seems to limit the right of investors to have disputes dealt with by international arbitration or even by arbitration within Kazakhstan.

The code is a step forward in opening the way to investment in mineral and oil extraction in Kazakhstan. It still leaves a number of areas unclear, and it is hoped that the new oil and gas law will clarify these and continue the process of encouraging foreign investment.

VII. LAW ON FOREIGN INVESTMENTS³⁵

The Law on Foreign Investments (the Law) sets out in broad terms the framework which is to apply to the introduction of foreign capital, technology, and management experience. It states that its objective is the creation of an open type of economy and the accelerated transfer of the Republic to the economic principles commonly used in world practice.³⁶ It provides that foreign investors may be foreign individuals,

33. *Id.*

34. *Id.* at art. 68.

35. Its official title is "Law on Foreign Investments in the Kazakh SSR." It is undated but was published in *Kazakhstanaskaia Pravda* on January 17, 1991.

36. Preamble, The Law of Foreign Investments in the Kazakh (1991).

foreign corporations, or Kazakh corporations with foreign participation.³⁷

Again, the umbrella principle applies, and the Law states that corporations with foreign participation must be registered with the local Council of People's Deputies, the Ministry of Finance, the Ministry of Foreign Economic Relations, or other agencies as laid down by Kazakh law.³⁸

Foreign investment is permitted only under licence granted by the Ministry of Foreign Economic Relations. Foreign investment may be authorised in any field of economic activity except for the production of items of a military nature.³⁹ A statement must be submitted together with the necessary documents (not defined), and the ministry will inform the prospective investor within thirty days of whether a licence will be forthcoming. The investor must then start operations within a year, failing which his licence will lapse, and he will have to reapply for a new one.⁴⁰

The Law provides that enterprises with foreign participation shall compete on equal terms with local business and will be subject to local laws. They will have access to the currency and securities markets and will be subject to the laws on industrial relations, social security, and intellectual property. There is also an obligation on foreign investors to ensure in-house training of personnel for the purpose of mastering the use of important technology.⁴¹

Businesses with foreign participation must pay tax in accordance with Kazakh law, and the Law provides that double taxation will be avoided by means of international agreements. There are some important tax breaks for foreign investments. Where an enterprise has more than thirty percent foreign participation and is engaged in certain types of business, the enterprise is exempted from the payment of tax on profit for five years after the first declaration of profit and then pays tax at fifty percent of the normal rate for the next five years.⁴² The areas in question are wide and include production of consumer goods, medicines, electronic products, and construction materials, and the processing of agricultural products and industrial and mining wastes.⁴³

There are other important protections for investors. The Law states that the nationalisation of the property of enterprises with foreign participation will not be permitted. Unfortunately, this protection is immediately undercut by a proviso permitting in exceptional circumstances

37. *Id.* at art. 1.

38. *Id.* at art. 14.

39. *Id.* at art. 7.

40. *Id.* at art. 9.

41. *Id.* at art. 11 to 15.

42. *Id.* at art. 19 to 20.

43. *Id.* at app.

requisition of investors' property in accordance with the procedure established by law. As with the Sub-soil Code, this concept harks back to the view that the state has an overriding power to interfere with other interests. It is provided, however, that in the event of requisition the Kazakh government is obliged to compensate the investor for losses.⁴⁴ The Law also provides that foreign investors are guaranteed the right of free transfer abroad of the revenues from their activities as well as from the liquidation or sale of the enterprises in which they have participated.⁴⁵

The dispute resolution procedure provided in the Law on Investment is slightly wider than that provided under the Sub-Soil Code because the former includes a provision for the resolution of disputes by arbitration in accordance with Kazakh law as well as by the Kazakh Courts and Arbitrazh Courts.⁴⁶

VIII. CONCLUSION

Kazakhstan has taken its first steps along the road toward full political and economic independence and the introduction of a modern market economy with foreign participation. Clearly, there is a long way to go before the journey will be completed. Much will depend on the survival of Nazarbayev and the containment of tension between the ethnic groups in the country. At present he is providing strong leadership and his government has a pragmatic approach to the development of the country. The legal and economic foundations for the creation of a new state are in the process of being put in place. If the rest of the structure follows, then the vast resources of Kazakhstan should be successfully developed.

44. *Id.* at art. 25.

45. *Id.* at art. 26.

46. *Id.* at art. 28.

Who's who in Central Asia

Based on 1989 census

	Population (millions)	Titular nationality (%)	Main minorities (%)
Uzbekistan	19.8	71	Russians 8, Tajiks 5
Kazakhstan	16.5	40	Russians 38, Ukrainians 5, Germans 5
Tajikistan	5.1	62	Uzbeks 23, Russians 7
Kirgizstan	4.3	52	Russians 22, Uzbeks 12
Turkmenistan	3.5	72	Russians 9, Uzbeks 9



