



SOFT POWER: EXPORTING THE RULE OF LAW – COMMERCIAL OPPORTUNITIES

In 2018, a new commercial court, the AIFC Court, and a new international arbitration centre, the IAC, commenced operations at the Astana International Financial Centre (AIFC) in Kazakhstan.

The formation of international financial centres and specialised dispute resolution institutions modelled on the best practices of the English common law has become a common strategic focus for rapidly developing and modernising states.

The presence of such centres assists with the creation and redistribution of world financial income, attracting capital, generating income from taxes, contributing to the innovative development of economies, and increasing the role of states in global governance. By eliminating barriers between domestic and global financial markets, developing ties between them, these centres have been proven to attract foreign investment.

Similar centres exist in Singapore, Hong Kong, Qatar, Dubai, and Abu Dhabi. Other countries inherited common law systems including commercial law from the UK, including Australia, Canada, India, Malaysia, and New Zealand. Like the

AIFC, these jurisdictions have systems of justice which are substantially based on the common law system of justice designed to accord with the rule of law.

Lord Woolf was the first Chief Justice of the AIFC Court. He was supported by nine senior English and Welsh judges including Lord Faulks KC, Sir Robin Jacob, Sir Rupert Jackson, Sir Jack Beatson, and Sir Stephen Richards. The current Chief Justice of the AIFC Court is Lord Mance, former Deputy President of the UK Supreme Court. Barbara Dohmann KC became the IAC Chairman and continues to be supported by an international panel of highly respected arbitrators and mediators.

The AIFC Court and IAC apply commercial laws from different jurisdictions and in multiple languages by consent of the parties to a dispute. The AIFC developed its own common law system modelled on the principles of English common law and international best practice.

Since 2018, the AIFC Court and IAC have completed more than 1,400 commercial disputes via litigation, arbitration, and mediation. Judgments and arbitration awards have been enforced to 100% satisfaction including against the State of Kazakhstan.

The AIFC Court and IAC illustrate how English common law systems of justice increasingly play a significant “soft power” role as rule of law exports and assist frontier and emerging economies to become successful modern commercial centres.

There are no comparable commercial dispute resolution institutions elsewhere in Central Asia. Significant commercial opportunities exist for business people and lawyers in Kazakhstan and other newly emerging economies where such common law dispute resolution institutions operate. More economies will follow this example.

KAZAKHSTAN is a transcontinental country located mainly in Central Asia and partly in Eastern Europe. It borders Russia to the north and west, China to the east, Kyrgyzstan to the southeast, Uzbekistan to the south, and Turkmenistan to the southwest, with a coastline along the Caspian Sea. Its capital is Astana. Kazakhstan is the largest and northernmost Muslim-majority country by land area, and the ninth-largest country in the world. It has a population of 19 million people, and one of the lowest population densities in the world. It dominates Central Asia economically and politically, generating 60% of the region's GDP, primarily through its oil and gas industry; it also has vast mineral resources. Officially, it is a democratic, secular, unitary, constitutional republic with a diverse cultural heritage. It is a member state of the United Nations, the World Trade Organization, and the Commonwealth of Independent States (CIS).