TRANSNATIONAL CORPORATIONS IN KAZAKHSTAN

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Obviously, transnational corporations (TNCs) with over 50 percent of world industrial production, over 60 percent of international trade, and nearly 90 percent of foreign direct investments under their control exert considerable influence on the world economy. They have essentially all trade in raw materials under their thumb; Kazakhstan, a country rich in mineral wealth, is also within their range of influence. As an independent state, the republic was not only one of the first in the post-Soviet expanse to attract foreign capital by transferring large enterprises of basic industrial branches to trust management, which allowed subsequent privatization and the setting up of new facilities with 100 percent foreign money, but also relied on intensive mining and extraction as its economic cornerstone.

In 1994-1997, the TNCs began their active invasion of Kazakhstan's economy: after supporting "director" or "bureaucratic" privatization, the government placed its stakes on large foreign investments for obvious reasons. Involvement of large TNCs not only placed the country on the economic map of the world and guaranteed a flow of investments, but also ensured domestic stability (due to interest in protecting property rights). This explains the unprecedentedly wide-scale (as compared to other countries with "transition" economies) involvement of large TNCs in the republic's economy.

The government expected that foreign corporations' involvement in the local economy through shares and long-term contracts on oil and gas production[1] would contribute to the country's eco-

[1] For example, under the agreement, the Karachaganak Petroleum Operating B.V. (the shares of the BG Group and ENI are 32.5 percent each; Chevron Texaco, 20 percent, LUKoil, 15 percent) is expected to manage the Karachaganak

nomic upsurge. It was expected that "the new private owners would not only invest in production, but also introduce new marketing and management skills and, especially, new ideas typical of the market economy."[2]

Foreign companies, however, not only and not so much "introduced" "new ideas typical of the market economy" and money, they gained political weight. For obvious reasons, foreign capital created pressure groups. While the country, in the clutches of an economic crisis, badly needed Western money, TNCs, acting as intermediaries between the government and the international financial structures, were primarily lobbying their own interests. Some of them even set up certain public and political movements and organizations. The Civil Party of Kazakhstan, created and supported with the help of the Eurasian Bank,[3] is one such structure.

The following companies, well known across the world, have struck root in Kazakhstan: Glencore International AG (Kaztsink Open Joint-Stock Company), ENI, Total, Royal Dutch Shell, ExxonMobil, ConocoPhillips, Inpex (Agip KCO Joint-Stock Company), Chevron (Tengizchevroil Ltd.), Samsung (Kazakhmys Corporation), «Mittal Steel» (Mittal Steel Temirtau Joint-Stock Company),[4] Philip Morris (Almaty Tobacco Factory Joint-Stock Company), Coca Cola (Coca Cola Almaty Bottlers Joint-Stock Company), and others.[5] After settling in Kazakhstan, they promptly mastered the unofficial rules of doing business and fit into the local economic realities.

As owners of the largest enterprises, TNCs play an important role in Kazakhstan. Some experts believe that their daughter companies control over 80 percent of the republic's production potential. For this reason, when dealing with the country's leaders, they (as distinct from the local business community) are not alien to threats of withdrawing their assets[6] from the country's economy, thus inflicting considerable damage on it. This has happened more than once recently.

Orientation toward the interests of foreign corporations is obvious in many spheres: the TNCs are busy lobbying their interests through official and unofficial channels (through key figures in corresponding structures). In particular, the notorious conflict with Tengizchevroil over construction of a gas processing plant was resolved through open lobbying by the Foreign Investors Board.[7] The Board was involved in another no less notorious case: at the Board's plenary sitting held several years ago in the Mangystau Region, A. Mashkevich, President of the Eurasian Industrial Association, complained to President Nazarbaev that the Antimonopoly Committee and the Ministry of

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project until 2038. This oil- and gas condensate field found in the Western Kazakhstan Region contains over 1.2 billion tons of oil and condensate and over 1.35 tcm of gas.

[2] S. Kalmurzaev, "Peredacha v upravlenie kak odin iz putey pod'ema ekonomiki," *Azia—ekonomika i zhizn,* April 1996.

[3] The Eurasian Bank group controls such export branches as the aluminum and chromium industries—Kazkhrom, Aliuminiy Kazakhstana Joint-Stock Company, the Sokolovsko-Sarbayskiy Ore-Dressing Combine, the Aksu Ferroalloy Plant, the Eurasian Energy Corporation, the Ekibastuz Coal Colliery, the Ermakovo Hydropower Station, several thermal power stations, and some other structures. The Eurasian Bank (A. Mashkevich is chairman of the board of directors) is the heart of this business empire. According to different sources, it controls from 20 to 30 percent of the country's GDP. According to the *Jerusalem Report* of Israel, Mr. Mashkevich controls no less than one-fourth of Kazakhstan's economy, or 70-80 percent of the country's mining complex.

[4] According to the company's heads, the Kazakhstan combine "is one of the world's most profitable steel producers." Experts believe that this was achieved because of low wages: the wage fund accounts for merely 18 percent of the cost structure. Six months after Mittal Steel bought the enterprise, its managers insisted on buying 15 state-owned coalmines of the Karaganda Coal Basin, a power station, and railroad line ends. They argued that the company needed the facilities to cheapen production by creating a closed production cycle. The company acquired them debt-free (these debts were shifted onto the state budget). Recently the company and the labor collective clashed over the dividends: the workers who had ordinary shares received annual dividends of 100 tenges (about $0.7).

[5] According to UNCTAD, there are over 1,600 branches of such TNCs as Chevron, Shell, Agip, Samsung, and Philip Morris registered in Kazakhstan. Together they hire over 18,000 people.

[6] Today, the agreements in the oil and gas sphere alone are worth over $40 billion.

[7] The company is operating under the Production Sharing Agreement and cannot, therefore, enjoy the tax privileges applied within general tax legislation. Moreover, the construction project was envisaged by the Agreement, so the company failed to live up to its obligations.

Transport had raised transportation tariffs for raw materials, thus infringing on the interests of his transnational industrial-financial conglomerate. The decision was promptly annulled on the basis of only one side's arguments. It should be said, though, that all sorts of formal channels of cooperation (councils of foreign investors, recommendations on enterprise and investments, etc.) produce a much weaker impact.

Late in the 1990s, when oil and metal prices were low, the extracting companies managed to alleviate certain ecological restrictions. The process, however, was not reversed when the prices began to climb. In an effort to restore the restrictions, the new cabinet became entangled in a web of economic conflicts and lost on many occasions. There is the opinion that the Law of the Republic of Kazakhstan on Transfer Pricing was also a direct product of the lobbying efforts of the mining TNC.

Taxation policy was no exception: out of four production factors—labor, capital, land, and natural resources—only the first three are taxed. There is the opinion that rent and payments for the right to use natural resources account for about 0.5 percent of the GDP. Some experts believe that the "natural rent" share (which mining companies in the oil and gas spheres have in fact privatized) is over $1 billion; the figure for the entire mineral and raw materials sector is 6-8 percent of the GDP, much more than the amount the oil and gas sector pays to the budget.

The profit tax paid by the companies pumps a lot of money into the budget, but in an effort to prove that cost value differs little from the price, TNCs conceal their profits in their expenses. It is next to impossible to check veritable cost value, since the contracts signed with the government of Kazakhstan do not envisage cost value auditing. For example, the gap between domestic prices (at which the companies sell Kazakhstani oil to their intermediaries) and foreign prices might create a profit of ten and more times higher than the original investments.

An analysis of decisions related to the country's industrial policies suggests that nearly all of them were imposed by large raw-material producers. As a result, the republic suffers, first, from a chronic gap between reproduction of the mineral-raw material base and the growing pace of mining; second, natural resources are plundered: today, only rich deposits are developed, which means that the mineral-raw material base is being rapidly depleted; third, outdated technologies of extraction and processing are used, which leads to incomplete use of natural resources. For example, some of the valuable components of polymetallic ores are wasted, while local inventions designed to utilize all the components are ignored.

Fourth, TNCs are not doing their best to protect the environment while claiming that they are guided by the highest possible standards. However, local experts are of the opinion that this is not always true. Indeed, if Chevron were observing the environmental protection standards, it would be addressing the problem of sulphur utilization rather than stepping up oil production in Tengiz. (Today Tengizchevroil accounts for nearly one quarter of the oil produced in the country, nearly all of which is imported through the CPC pipeline.)

TNCs are using the never-ending discussion of the local environmental standards to put pressure on the republic's government. In the past, the decisions on mining and extraction ignored what the local people thought about these plans (public hearings were, in fact, organized to inform the population about the companies' and the government's intentions). This is going on today as well. At the same time, in an effort to improve their image, the government is trying to smooth things over; it fines at least some of the companies for environmental violations, checks into how their activities are affecting human health, and even brings some of the companies to court. The corporations, naturally, retreat, yet the key provisions of their contracts remain the same, while the small fines they pay for environmental pollution[8] are too small to boost the budget and remedy the situation.

[8] The following figures are relevant in this respect: the value of the Tengiz agreement is $20 billion; the value of three contracts on Shah Denis, Chirag, and Gunashli in the Southern Caspian is about $15 billion.

Both the TNCs and state structures prefer to keep mum about certain urgent issues: reality might look much worse than the official reports supplied by the government and oil companies. Those who cross the Caspian by air can see large oil spills, the sources of which remain undetected: the country has no adequate system for localizing and liquidating such spills.

In an effort to put an end to the "game without rules" in the Caspian, the government of Kazakhstan created laws that allowed TNCs from all countries to carry out intensive geological prospecting on the Caspian shelf. This put an end to the Northern Caspian natural reserve status.[9] We all know that the shallow waters of the Northern Caspian are the place where its biological resources are reproduced (young sturgeon go there to grow). There is a well-substantiated opinion in the Kazakhstani academic community that oil production in the Northern Caspian should be discouraged rather than encouraged and that biological resources should be protected and increased. Indeed, the time has come to organize close regional monitoring of the effects oil production is having on the biological diversity, environment, and human health. However, this measure has been postponed and is being postponed indefinitely: the time may come when there will be nothing to monitor.

At the same time, we cannot say that the government is TNC-dominated: since the late 1990s, it has been trying to revise its previous agreements with foreign investors and place them under stricter control. The state uses the companies' investment and social obligations and energy fuel transportation tariffs as "pressure tools." Recently, the state, in an effort to increase its share in the economy, has cooled off with respect to those foreign companies that violate environmental rules. There are programs and acts implemented at various levels of "import replacement" with locally produced commodities and ensuring "Kazakhstan's share"[10] in oil contracts. We are witnessing how nearly religious veneration of TNCs (which brings to mind the sacred cows of the Hindus) is becoming a thing of the past.

The country has acquired its own oil and gas elite wishing to gain access to the country's raw material resources that remained far too long under foreign control. With this aim in view, several years ago the country adopted a new normative act that annulled Art. 6 of the old Law on Foreign Investments, under which the state pledged not to worsen the investors' situation.

The recent Law on Amendments and Additions to Certain Legal Acts of the Republic of Kazakhstan Related to Mining and Oil Operations in the Republic of Kazakhstan gave the state the preemptive right when it comes to buying shares in large investment projects. It allowed the state not only to repurchase the British Gas share in the Kashagan oil project and 33 percent in PetroKazakhstan, but also to make the Kazakhstani KazMunayGaz Company an automatic member of all oil production sharing agreements after 2004. Thus, we can say there is a trend toward changing the status and position of foreign investors in the eyes of the country's political elite. Hopefully, the policy of inviting investors will become still more differentiated, while the best conditions for foreign investors will be created outside the raw material sector.

It should be said that the foreign TNCs acting on the local market were involved in corruption schemes. According to Transparency International,[11] in 2004 Kazakhstan held 122nd place (which

[9] According to Russian researchers, 3-4 platforms with 10 to 12 wells each increase the risk of pollution by at least 1 MPC (maximum permissible concentration) a year over a quarter of the water area of the Northern Caspian (even taking into account the rate of self-purification).

[10] "Kazakhstan's share in projects" means that the project operators should invite local producers and suppliers to carry out contractual work; materials and equipment should be bought from local producers. For example, in 2003 the Kazakhstan share in Tengizchevroil JV was 42.2 percent. The main part was used to pay for the services and all types of jobs, while the remaining 2 percent was used to buy materials from the local producers. In 2004, Kazakhstan's share in the Karachaganak Petroleum Operating (KPO) consortium was 40 percent.

[11] See: [htpp: //www.transparency.de/documents].

was much worse than in 2003). The arrival of "civilized" Western investors in Kazakhstan did not decrease corruption as expected: in fact, the newcomers fitted well into the corrupted economy. Corruption and misuse of means are possible due to the absence of reliable information about financial transactions between large extracting companies and the government. In the 2005 budget, for example, some of them disappeared without clear explanation from the list of those who pay to the National Fund.

The results of the expert poll on the activities of foreign oil and gas companies in Kazakhstan conducted by the KAZRATING agency in the spring of 2005 look especially impressive: on the whole, the population was very much disillusioned with foreign companies. According to 76 percent of the polled, oil companies are damaging the environment and human health; people did not think highly of the foreign companies' social and economic efficiency either. The polled explained this by the wide gap in the wages paid to local workers and foreigners, as well as by the wage arrears.

Transnational capital in Kazakhstan is concentrated in the oil and gas, as well as in the non-ferrous metal sectors. According to statistics, over 60 percent of foreign direct investments goes to oil production and refining; 10 percent to non-ferrous metallurgy, and 5 percent to each of the ferrous metallurgy, gas, and food industry. The United States, the U.K., Italy, Switzerland, the Netherlands, the Republic of Korea, China, Canada, and Russia are the ten largest investors when it comes to volume of aggregate accumulated investments. They account for over 80 percent of foreign direct investments in Kazakhstan. The foreign companies are mainly operating in their favorite sectors: the Americans prefer the oil and gas sector (American companies participate in almost all the large joint ventures, such as Tengizchevroil, Agip KCO, the CPC, Karachaganak Petroleum Operating B.V., and others), and Dutch investors are operating in transport, communications, and financial services, while all the TNCs concentrate on mining and hydrocarbon production.

By 2015, the Kazakhstani authorities expect to reach an annual oil production figure of 140-150 million tons (about 3.5 million barrels a day) and join the group of ten largest oil producers by implementing the Kashagan and other Caspian projects. However, oil production in the Northern Caspian, which involves the world's largest oil TNCs, is not economically expedient—this is a purely political decision. The Caspian Lowland and the Ustiurt Plateau contain three times more potential oil (calculated in standard fuel) than the republic's explored reserves. It is much cheaper to prospect and produce oil there than on the shelf. By moving to the shelf the government probably wanted to demonstrate that Kazakhstan was a fairly developed country able to work on the shelf, while the TNCs wanted to register their presence in the most promising places.

It seems, however, that neither the wider oil production territory, nor the greater volumes of produced oil will push the country into the front ranks. To accomplish this, Kazakhstan should rid itself of the current role of hydrocarbon supplier and restore control over the entire surplus-value producing line: extraction, and production and sale of high-quality oil products. To achieve this, the republic should encourage investment of Kazakhstani capital in the economies of the countries that use its energy fuels (the post-Soviet republics in particular, as well as Europe and China).

The country's vast hydrocarbon resources are attracting money into oil-related machine building, service companies, production and social infrastructure, oil refining, and petrochemistry. In practice, however, this potential remains untapped: during its years of independence, the country has not acquired new oil refineries, while modernization of one out of the three refineries operating in the republic caused a lot of problems; the possibility of a petrochemical complex is still being discussed.

In the contemporary world, education and the real economy are interconnected, yet in Kazakhstan many of its graduates lack the adequate technological knowledge and technical skills for the simple reason that the locally operating TNCs prefer to use old equipment and obsolete technologies: cheap labor does not require innovations. The labor force is losing its former skills; the share of industrially employed is decreasing (this is especially true of the processing industry), while people are moving to trade and services in great numbers. Meanwhile, no country with a workforce engaged in reselling commodities produced elsewhere can hope to join the group of fifty most competitive countries, something that has been formulated as the republic's goal.

The same applies to science: research institutes cannot reach competitive results, since even if they have highly skilled staffs, they use obsolete equipment and are not certified according to the world standards. Meanwhile, today cheap resources no longer offer competitive advantages: this role belongs to intellectual and scientific-technological potential.

In this way, the TNCs operating in Kazakhstan are influencing every aspect of its life in the ever-increasing way. It is critically important to know the extent to which TNCs affect the legal situation in the country and how faithfully they observe the republic's laws, but this information is carefully concealed. The companies never tire of repeating that they are all law-abiding structures, while their local employees never betray what they think about it: to preserve their jobs they painstakingly avoid any discussions of the subject. In July 2003, the Prosecutor General, however, discovered that several foreign mining companies had seriously violated the labor laws. One wonders why the government failed to detect them. The Kazakhs say in such cases: "He was probably gazing at the moon." When he was informed of this, the head of state instructed the government to remedy the situation in the shortest time possible.[12] Obviously, the TNC heads were not completely sincere.

Deficient laws, inadequate control over their fulfillment, and the absence of legal norms in certain spheres have made Central Asia and the Caucasus "a corporate heaven." This fully applies to Kazakhstan as well.

An analysis of what the TNCs are doing in Kazakhstan has revealed the following trends.

- First, foreign capital is concentrating on the mineral-raw material complex.
- Second, production is stabilizing in the area where TNCs are operating (the means and methods are not discussed).
- Third, TNCs and human rights are one big problem in the absence of independent trade unions. Foreign companies never hesitate to violate the fundamental human rights strictly observed in the West.
- Fourth, the republic cannot regulate TNCs at the international level: today, its rights are limited to the Convention on Transnational Corporations signed by some of the CIS countries and bilateral investment agreements.
- Fifth, information about TNC activities is limited and hardly accessible; Kazakhstan's "raw material strategy" is realized under conditions of strict confidentiality. The nation knows nothing about the oil contract conditions and the way the bonuses, investments, and real oil-produced incomes are distributed. Relevant information remains secret: this primarily applies to all economic indices, including the cost value of products, the main source of TNC superprofits in Kazakhstan.
- Sixth, the national sector has obviously accumulated enough strength to realize its political potential; it is creating new rules and moving into the corridors of power to protect its interests.

[12] See: *Izvestia-Kazakhstan,* 4 July, 2003.

- And, finally, the republic's leaders are doing their best to decrease the country's dependence on Western money by enlarging the number of investors (mainly by relying on Russian and Chinese companies). New forces have obviously joined the process: in the past, it was American investors and lobbyists who played first fiddle in oil-related politics. Today, the Russians and Chinese are coming to the fore: as a result, the oil and gas flows will be turned from the West toward the East.