

CASE STUDY

KAZAKHSTAN: UPSTREAM LINKAGES

PROMOTING LOCAL PROCUREMENT THROUGH CERTIFICATION AND E-GOVERNMENT

OVERVIEW

LEVEL OF OPERATION:

National

GOVERNMENT ROLE:

Regulator, program facilitator

FOR MORE INFORMATION:

See [e-procurement portal](#), [state information on procurement](#), and [State Program for Innovative Industrial Development of Republic of Kazakhstan 2015-2019](#)

KEY COMMODITIES:

Major deposits of petroleum, natural gas, coal¹

TOTAL NATURAL RESOURCE RENTS (AS % OF GDP) (2015):

9.2 per cent²

NATIONAL EXTRACTIVES COMPANY:

National Company KazMunayGas

UNDP HUMAN DEVELOPMENT INDEX VALUE (2016):

0.794 (Global Rank 56)³

Kazakhstan has introduced a combination of demand- and supply-side options, including a requirement to buy goods and services locally within 20 per cent of a foreign bid price, annual reporting of procurement plans and training (Law on Subsoil and Subsoil Use of 2010 Art. 78.2).

SUMMARY OF POLICY OPTIONS IN KAZAKHSTAN

DEMAND-SIDE POLICY OPTIONS

- Provision that local goods and services will be given preferential treatment or purchased to the extent feasible
- Requirement to provide a local procurement plan

¹ Central Intelligence Agency (CIA). (2017). *The world factbook*. Washington, DC: CIA. Retrieved from <https://www.cia.gov/library/publications/the-world-factbook/fields/2111.html>

² World Bank Group. (2017). *Total natural resource rents (% of GDP)*. Washington, DC. Retrieved from <https://data.worldbank.org/indicator/NY.GDPTOTL.RT.ZS>

³ United Nations Development Programme. (2016). *Human Development Reports: Kazakhstan*. Geneva, Switzerland. Retrieved from <http://hdr.undp.org/en/countries/profiles/KAZ>



SUPPLY-SIDE POLICY OPTIONS

- Supplier development programs

DEFINING “LOCAL” PROCUREMENT

In Kazakhstan, “local” procurement is focused on “national suppliers” or “Kazakh producers,” which covers suppliers of works, services and manufacturers of goods. For suppliers of works and services, local is defined as:

- “The Republic of Kazakhstan citizens and Kazakhstani legal entities which ≥ 95 % of employees are the Republic of Kazakhstan citizens have the status of a national (Kazakhstani) supplier of works, services.”

For manufacturers of goods, local is defined as those certified as such:

- “The Republic of Kazakhstan citizens and Kazakhstani legal entities which manufacture goods, for which a CT-KZ certificate is issued have a status of a national (Kazakhstani) manufacturer of goods. Such certificate is issued with regard to goods totally manufactured or which passed substantial processing on the Republic of Kazakhstan territory (i.e., which passed the last substantial processing of the goods sufficient for making the good have its characteristic features)”⁴

In other words, local goods require a certificate of origin that attests that a good was “made in Kazakhstan.” However, there have been issues regarding the ability to gather information for auditing and verification of these certificates across all levels of contracting supply chains. Concerns regarding the possibility of corruption during the certification process have also been raised,⁵ along with questions over the reliability of the calculation of local content shares in a given product.⁶

DEMAND-SIDE POLICY OPTIONS

PROVISION THAT LOCAL GOODS AND SERVICES WILL BE GIVEN PREFERENTIAL TREATMENT

The Law on Subsoil and Subsoil Use (2010) specifies that preferential treatment should be given to Kazakh producers of goods, services and works. If the bid of a national supplier is within 20 per cent of a foreign bid price, the national supplier must be favoured.⁷

Additionally, other sections of the law emphasize that local suppliers should be prioritized for the purchase of local goods and services:

- “9) be sure to use the equipment, materials and finished products manufactured in the Republic of Kazakhstan, provided that they meet the requirements of competition and the laws of the Republic of Kazakhstan on technical regulation;
- 10) necessarily involve Kazakhstani producers works and services during the mining operations, including the use of air, rail, water and other transportation modes, if these services meet the standards of price and quality characteristics of homogeneous work and services rendered to residents of the Republic of Kazakhstan.”⁸

In addition to a specific preferential local procurement requirement, the law specifies how purchases must be carried out. This is further elaborated in subsequent Rules for Procurement Goods, Works and Services in the Course of Subsurface Use Operations (2013). Importantly, the government is emphasizing an e-procurement system to support tracking and monitoring of items that companies are purchasing locally. Companies must provide all procurement opportunities through this portal including advertisement, tender documentation, draft

⁴ Government of Republic of Kazakhstan (2015). *Kazakhstan: Procurement and National Suppliers*, p. 2. Retrieved from http://www.gratanet.com/uploads/user_7/files/Kazakhstan_Procurement%20and%20National%20Suppliers.pdf

⁵ Atemekeh. (2016). *Manufacturers voluntarily withdraw their “CT-KZ” certificates*. Retrieved from <http://atameken.kz/en/news/21734>

⁶ Ibid.

⁷ Government of Republic of Kazakhstan (2010). *Law on Subsoil and Subsoil Use*, 78 (1) & (2). Retrieved from <http://www.eisourcebook.org/cms/Kazakhstan%20Law%20of%20Subsoil%20and%20Subsoil%20Use%202010.pdf>

⁸ Ibid.



procurement agreement and results of tenders.⁹ For the government, this process is advantageous, as claims that the procurement rules have been violated can be quickly investigated as all documentation is centralized.¹⁰

REQUIREMENT TO PROVIDE A LOCAL PROCUREMENT PLAN

Performance details on contract obligations must be public. This includes disclosure of: local procurement plans; local procurement of goods, works and services; the cost of training Kazakh specialists; the cost of social and economic development initiatives in the region; and infrastructure investments.¹¹

The reporting requirements are detailed below, as highlighted in Article 76 of the Law on Subsoil and Subsoil Use:

- “17) annually ... to submit to the competent authority ... forms and annual program of purchasing goods, works and services for the coming year;
- 18) annually ... to submit to the competent authority ... forms and procedure for medium-and long-term program of purchasing goods, works and services in the coming period;
- 19) on a quarterly basis ... submit to the competent authority ... in order forms and records of purchased goods, works and services and the performance of obligations for the local content in frames; ...
- 21) annually ... submit to the competent authority a report on the implementation of commitments to local content in frames;
- 22) to report, confirmed by the audit report in accordance with the requirements of the Transparency Initiative Extractive Industries in the manner approved by the Government of the Republic of Kazakhstan; ...

- 31) register with the goods, works and services used during mining operations, and their manufacturers, except those specified in paragraph 7 of Article 77 of this Act;
- 32) for changes and (or) additions to the annual program of purchasing goods, works and services within five working days to provide the competent authority approved by the Government of the Republic of Kazakhstan in order forms and information about these changes and (or) additions;
- 33) at the request of the competent authority in the terms established by the present data, information and documentation regarding the implementation of subsurface contractual obligations;
- 34) keep records, including internal documents, as well as state transactions made in writing, in Kazakh and Russian languages with an application to the appropriate translation into other languages.”¹²

Claims that the procurement rules have been violated can be quickly investigated as all documentation is centralized.

SUPPLY-SIDE POLICY OPTIONS

SUPPLIER DEVELOPMENT PROGRAMS

The state program on local content development is the State Program of Industrial-Innovative Development of Kazakhstan for 2015–2019, implemented by the Ministry of Industry and New Technology.¹³ It aims to accelerate economic

⁹ HG.org. (n.d.). Kazakhstan: *New local content approach*. Retrieved from <https://www.hg.org/article.asp?id=25973>

¹⁰ Ibid.

¹¹ Government of Republic of Kazakhstan (2010). Id. note 7, 78 (3).

¹² Government of Republic of Kazakhstan (2010). Id. note 7, 76 (17), (18), (19), (21), (22), (31), (32), (33), (34).

¹³ Government of Republic of Kazakhstan (2014). Decree of the President of the Republic of Kazakhstan dated August 1, 2014 No. 874. Retrieved from <http://invest.gov.kz/uploads/files/2015/12/03/state-program-of-industrial-innovative-development-of-kazakhstan-for-2015-2019.pdf>



diversification of the national economy, focusing on 14 priority secondary industrial sectors, including the following mining-related sectors:

- Ferrous metallurgy
- Non-ferrous metallurgy
- Production of machinery and equipment for mining industry

Each of these has been further disaggregated into priority economic activities and commodity groups, with plans for major government investment in projects aimed at bolstering the sector. In the area of production of machinery and equipment for the mining industry—arguably the most relevant to the context of upstream linkages and mining procurement—there are no specific projects envisioned, but the goal within a five-year period is to “implement projects focused on manufacture of pit and special transport, underground mining machines and equipment in Almaty city, Karaganda, East-Kazakhstani oblasts.”

Overall, the program aims to increase secondary industrial production by 43 per cent by 2019 (relative to 2012 levels), and increase gross value added in secondary industry by 1.4 times.

KEY LESSONS

- While the certification program has the potential to provide a clarified definition regarding what constitutes as “made in” Kazakhstan, the process to determine this must be clear and transparent, to deter problematic practices and any confusion. Issues related to the gathering of information for auditing and verification of these certificates across all levels of contracting supply chains have been noted, as well as the susceptibility of the certification process to corruption.¹⁴ Additionally, concerns over the reliability of the calculation of local content shares in a given product have been raised.¹⁵
- The Government of the Republic of Kazakhstan is placing clear emphasis on monitoring and enforcement, a key prerequisite to local procurement policies, through their reporting requirements which have the potential to improve public accountability, as well as similar implementation of an e-procurement system.

¹⁴ Manufacturers voluntarily withdraw their “CT-KZ” certificates (2016). Retrieved from: <http://atameken.kz/en/news/21734>

¹⁵ Ibid.



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