

Transparency, Participation and Accountability in Kazakhstan

An action-research case
study of the extractive
industry

REPORT SUMMARY



Report summary

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November 2020¹

Extractive (oil, gas and mining) companies incorporated and/or publicly listed in Canada, the European Union, Norway and the United Kingdom are required by law to publish their payments to governments annually for every country of operation.² In Kazakhstan, extractive companies and the government also disclose their respective payments and receipts, with related information about the governance of the sector, under the Extractive Industries Transparency Initiative (EITI).³

1 Please cite this summary as Echo, Civil Expertise, PCQVP France/Oxfam France, PWYP UK and PWYP International Secretariat, Report summary: Transparency, participation and accountability in Kazakhstan: an action-research case study of the extractive industry, 2020.

2 A similar United States law dating from 2010 has not yet been implemented, nor at the time of publication has the recent Swiss law of June 2020.

3 <https://eiti.org/kazakhstan>; <https://bit.ly/2LJfsRg> (EITI international data).

THE STUDY

This case study reports on an action-research collaboration between Echo (www.echo.kz) and Civil Expertise (www.facebook.com/civilexpertise) (both Publish What You Pay member organisations in Kazakhstan), Publiez Ce Que Vous Payez (PCQVP) France/Oxfam France (www.pwyp.org/pwyp_members/france; www.oxfamfrance.org) and Publish What You Pay (PWYP) UK (www.pwyp.org/pwyp_members/united-kingdom). We report on using mandatory payments-to-governments data as a starting point to investigate Kazakhstan's extractive sector and to promote transparency, public participation and accountability in the sector.

The case study focuses on two large joint venture oil and gas fields: **Karachaganak**, jointly operated onshore by Royal Dutch Shell and Eni for the partially state-owned Karachaganak Petroleum Operating (KPO) consortium; and **Kashagan**, operated offshore by the partially state-owned North Caspian Operating Company (NCOC) consortium, with Total as a major partner.

METHODOLOGY

- We compared mandatory payments-to-governments reports with EITI data.
- We made a contextualised assessment of the government's share of gross project receipts for Karachaganak in 2018 and its production entitlements (share of profit oil) for Kashagan in 2017-18.⁴
- We wrote to government ministers and subnational authorities seeking disclosure of fiscal terms and information about subnational social and infrastructure projects ("SIPs").
- We wrote to Shell, Total, Lukoil, KPO and NCOC seeking certain clarifications and advocating contract disclosure.
- Echo and Civil Expertise consulted with Kazakh civil society, and we received helpful insights from other civil society sources.
- We sent a draft version of the report to representatives of the Kazakh government, industry (KPO, NCOC, Shell, Total, Lukoil, Eni) and civil society and took all comments into careful consideration in revising the report for publication.

⁴ Findings for single years or short periods can only be indicative compared with multi-year or full project lifetime analysis or financial modelling.

KAZAKHSTAN COUNTRY CONTEXT⁵

“Kazakhstan’s extractive sector plays an important role in the country’s development, contributing 18.6% to GDP in 2017 [and 35% of total government income in 2016] ... The country has the largest recoverable crude oil reserves in Central Asia ... current oil production is approximately 1.8 million barrels a day ... Kazakhstan has produced ... 86.2 million tonnes of oil since 1991” - EITI.

Natural resource ownership: “Property shall impose obligations, and its use must simultaneously benefit the society ... The land and underground resources, waters, flora and fauna, other natural resources shall be owned by the state” – Constitution of Kazakhstan.



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Extractive Industries Transparency Initiative (EITI) status: Meaningful progress.

NRGI Resource Governance Index: Score (oil and gas) 56/100. Rank 25/89 countries.

NRGI country profile: <https://www.resourceprojects.org/country/Kazakhstan>

Transparency International Corruption Perceptions Index: Score 34/100. Rank 113/180 countries.

POPULATION:

18.5
million



GDP PER CAPITA:
(current USD)

\$9,731.2

UNDP HUMAN DEVELOPMENT INDEX
SCORE

0.817/1.000

RANK

50/189 COUNTRIES

⁵ Full information sources used are provided in the full report and its footnotes and references.

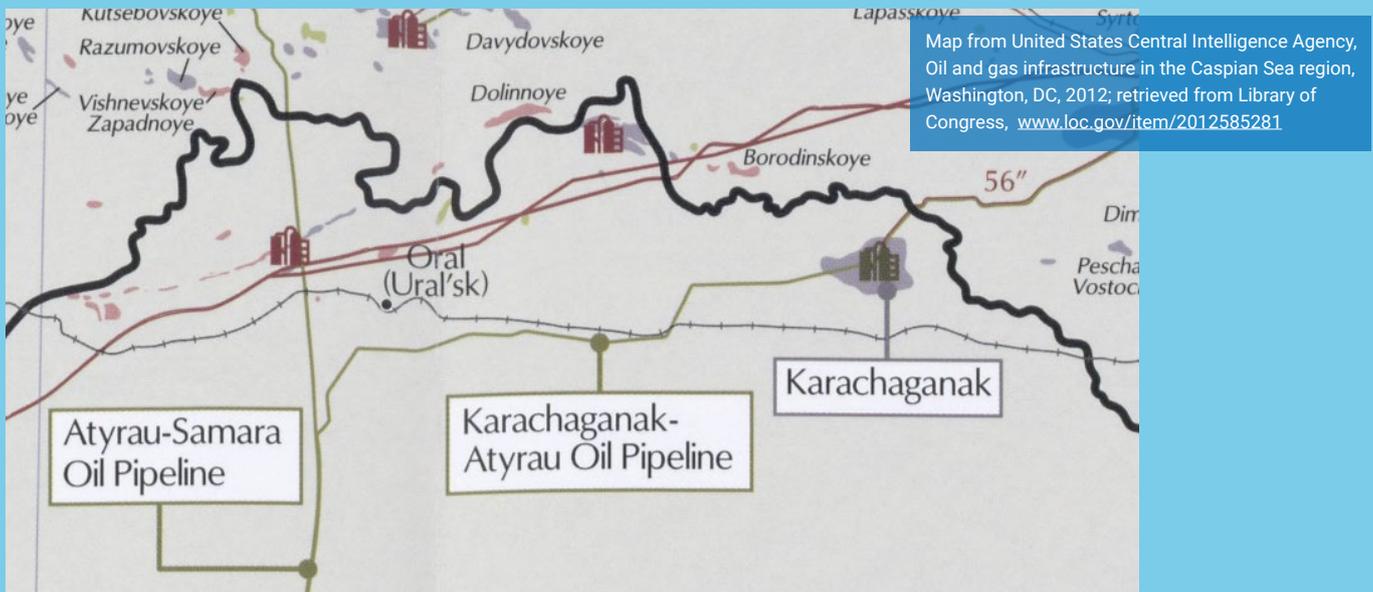
KEY FINDINGS⁶

- The disclosure and accessibility of extractive industry information in Kazakhstan are ambiguous. Various transparency regimes and legal requirements are in place, but implementation by the government and companies does not fully inform stakeholders or sufficiently facilitate public understanding.
- Kazakhstan's fiscal framework for extractives is public, but the terms of production sharing agreements (PSAs) are not.
- Comparison between mandatory payment disclosure data and EITI data yielded few insights but highlighted concerns regarding sector governance, openness and accountability.
- KPO's and NCOC's SIPs are paid for out of operating costs and therefore in effect by Kazakhstan and its citizens, but public consultation around them is limited. Many SIPs deliver questionable value and are suspected to involve corruption.
- A conflict of interest surrounds NCOC, which does not report to the Kazakh EITI but nevertheless was until recently an EITI Multi-Stakeholder Group (MSG) member involved in decisions about how other companies must report.
- Kazakhstan appears so far to have achieved only at best marginal economic benefits from the two fields. The operators and joint venture consortia appear to incur and discount unusually high costs before calculating profit oil from which the government obtains receipts.
- Incorporation in the Netherlands by KPO, NCOC and many of the participating subsidiaries hinders Kazakh citizens' access to company financial information and raises concerns about potential tax avoidance.
- Dialogue with Kazakh civil society highlights a deficit of information and accountability.
- Communities affected by Karachaganak and Kashagan see few benefits, and activists report uncompensated and unremedied environmental and social costs and concerns about civic space and personal security.

⁶ Supporting evidence for points made in this report summary is provided in the full report and its footnotes and references.

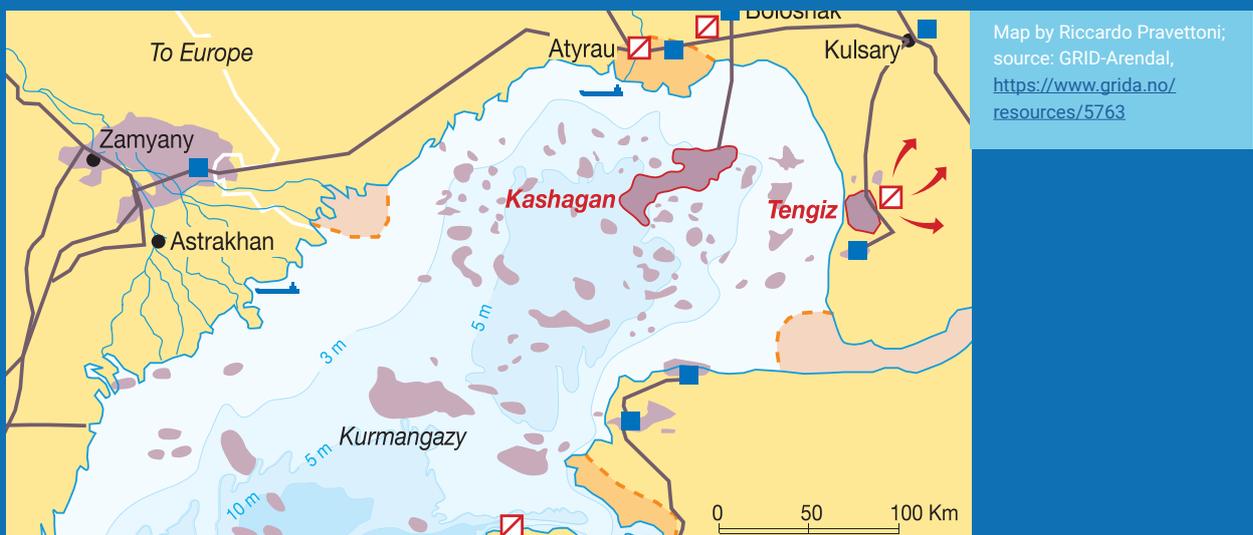
KARACHAGANAK

Located onshore in northwest Kazakhstan, Karachaganak is, with Kashagan and Tengiz, one of the country's three largest oil and gas fields. The project is managed by a joint venture consortium incorporated in the Netherlands as the private company Karachaganak Petroleum Operating BV (KPO). Shell (UK/Netherlands) and Eni (Italy) are, via their respective local subsidiaries BG Karachaganak and Agip Karachaganak, joint operators with a **29.25%** share each in the project. Chevron (US) and Lukoil (Russia) subsidiaries own **18%** and **13.5%** respectively. The Kazakh government owns **10%** via KazMunayGas, a subsidiary of the state-owned Samruk-Kazyna national holding company



KASHAGAN

Located offshore in the Northern Caspian Sea, Kashagan is, with Karachaganak and Tengiz, one of the country's three largest oil and gas fields. One of the largest oil discoveries in the past decades, the project is managed and operated by a joint venture consortium incorporated in the Netherlands as the public company North Caspian Operating Company NV (NCOC). In 2015 NCOC assumed project operator responsibilities as successor to the NC Production Operations Company BV. Total E&P Kazakhstan, subsidiaries of ExxonMobil (US) and Shell, and Eni (Italy) each hold a **16.81%** share in the project, with the rest held by subsidiaries of state-owned KazMunayGas (**16.88%**), China National Petroleum Corporation (CNPC; **8.33%**) and Inpex (Japan; **7.56%**).



KEY RECOMMENDATIONS

To the Kazakhstan government

- Make comprehensive efforts to disclose PSAs and begin a public debate on their terms.
- Strengthen cost control, auditing and public oversight of the extractive industries; determine whether Kazakhstan has incurred losses resulting from companies incorporating abroad; and ensure the effectiveness of anti-abuse provisions governing the double taxation agreement with the Netherlands.
- Maximise transparency and accountability, including consultation with women's groups, relating to the selection, planning, execution and reporting of SIPs.
- Fully and inclusively assess social and environmental impacts and provide appropriate compensation.
- Protect citizens' right to speak out about issues of public concern.

To other governments

- European Union member states and the UK should ensure and maintain timeliness, open and machine-readable data format, and free online public access to fully disaggregated payments-to-governments reporting by extractive companies, with effective compliance monitoring by government.

- EU member states should urge the EU Commission to complete its delayed review of Chapter 10 of the Accounting Directive (reports on payments to governments).
- The US government should ensure that its forthcoming rule for payments-to-governments disclosure (covering such companies as Chevron and Exxon) fully aligns with global extractives transparency standards.

To the KPO and NCOC consortia and partners

- Promote dialogue with the Kazakh government to achieve disclosure of PSAs and fiscal terms.
- Ensure clear, timely, fully disaggregated and proportionate payments-to-governments reporting at both consortium level and participating company (joint venture partner) level.
- Maximise transparency and accountability, including consultation with women's groups, relating to the selection, planning, execution and reporting of SIPs.
- Fully and inclusively assess social and environmental impacts and provide appropriate compensation.
- Use leverage with the government to defend citizens' right to freedom of expression.

To Kazakh civil society

- Campaign publicly for the disclosure of extractive PSAs and of fully disaggregated and proportionate payments-to-governments data at both consortium level and participating company (joint venture partner) level, with free public access.
- Advocate a participatory regulatory framework to prevent corruption and mismanagement relating to SIPs.
- Investigate and document social, environmental, human rights and gender impacts of Kazakh extractive projects and advocate necessary reforms.
- Use data from payments-to-governments disclosures, EITI reports and other sources to promote public dialogue on the extractive industries, the resulting public receipts, fiscal terms, and social and environmental impacts.

International and multilateral institutions and institutional donors

- Use leverage with the Kazakh government to defend citizens' right to freedom of expression.
- Fund more civil society initiatives directed to securing more equitable, accountable and sustainable outcomes from resource extraction.
- Increase support for civil society capacity building on extractive sector issues.
- Speed up the redirection of international funding away from fossil fuels and into the low-carbon energy transition and economic diversification.



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Front cover photo: Kazakh oil refinery and gas processing plant.

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