



# A twist of English law and dispute resolution at Astana International Financial Centre (AIFC)

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# AIFC Statutory Framework

The Constitution of Kazakhstan was amended to create a legal regime for the financial centre in March 2017

AIFC operates since 1 January 2018 on the basis of the Constitutional Statute of the Republic of Kazakhstan on the Astana International Financial Centre of 7 December 2015

## Article 1 of the Constitutional Statute

Astana International Financial Centre is the territory within the City of Nur-Sultan with precise borders determined by the President of the Republic of Kazakhstan where the special legal regime in the financial sphere established by this Constitutional Statute applies

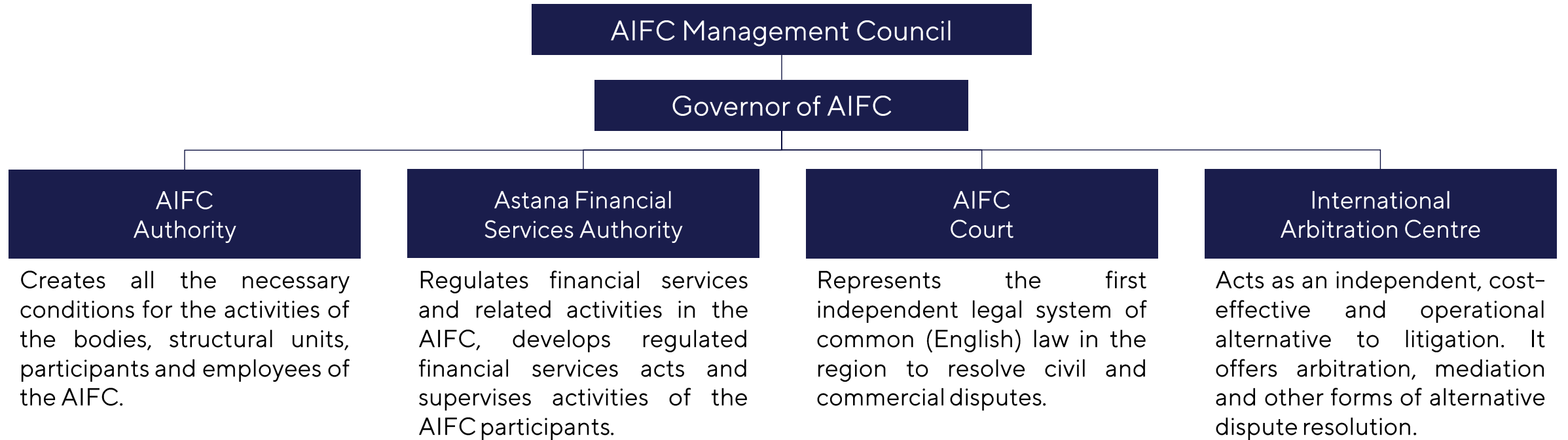
## Article 13 of the Constitutional Statute

Activities of the AIFC Court are governed by the resolution of the Council on the Court of Astana International Financial Centre, which is based on the principles and laws of England and Wales and the standards of leading global financial centres

## Articles 15-16 of the Constitutional Statute

The official language of the AIFC is the English language, which is to be used in all areas regulated by the AIFC in the territory of the AIFC  
AIFC Acts are to be drafted and adopted in the English language

# AIFC Structure



## AIFC Key Players



# Key benefits of AIFC

## Tax exemption

- AIFC Participants:
  - are exempted from corporate tax in relation to income received from providing financial and ancillary services as well as from capital gain
  - are exempted from property tax and land tax in relation to facilities located in the AIFC
- Foreign employees are exempted from individual income tax
- Tax exemptions apply until 1 January 2066

## Legal regime

- AIFC operates within a special legal regime based on common law which regulates the legal relationships between AIFC participants and third parties
- There are the AIFC Court and the International Arbitration Centre (IAC), which operate according to the international standards to resolve civil and commercial disputes in the AIFC

## Currency control

- AIFC Participants are exempted from currency control requirements in relation to registration and notification of currency operations
- AIFC Participants may enter into and perform contracts denominated in any currency

# Acting Law of the AIFC

Under the Constitutional Statute of the Republic of Kazakhstan on the Astana International Financial Centre the AIFC laws consist of:

the Constitutional Statute (CS)

AIFC Acts which may be based on the principles, laws and case law of England and Wales

the laws of the Republic of Kazakhstan which apply to the extent not governed by the CS and AIFC Acts

The following issues should be highlighted:

- AIFC laws are adopted by the AIFC Authority without requirement to be passed by the Parliament
- Direct application of the laws of England and Wales is not allowed
- There are no conflict of laws regulations which sometimes may be necessary for international dispute resolution
- A sufficient legal basis of AIFC has not been established yet

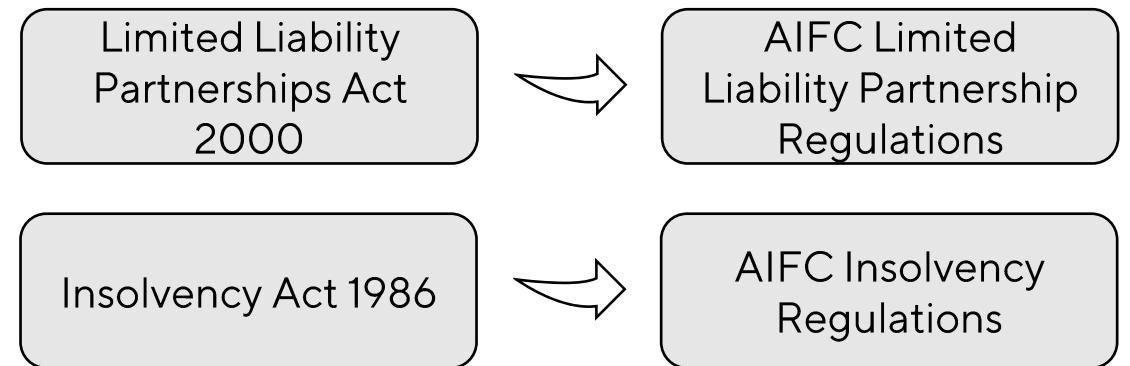
# AIFC Regulatory Acts

More than 20 acts have been adopted within 3 years of AIFC operation, such as:

- AIFC Companies Regulations
- AIFC General Partnership Regulations
- AIFC Limited Liability Partnership Regulations
- AIFC Trust Regulations etc.

Within the framework of the AIFC statute or written AIFC laws, the AIFC laws will be further developed by the judges of the AIFC Court through their decisions in cases at the AIFC Court with application of the legal principles to new circumstances.

Common law is the basis of the AIFC regulations



In accordance with Section 4 of the AIFC Trust Regulations the common law of trust and principles of equity applicable in England and Wales supplement the Regulations, except to the extent modified by the Regulations or any other AIFC Act or by the Court. The statute laws of England and Wales applicable to trust do not, except to the extent replicated in the Regulations, apply in the AIFC

# AIFC Court

## INFO

- is separate and independent from the judicial system of the Republic of Kazakhstan
- has its own procedural rules modelled on the principles and procedures of English common law

## Panel of Justices

- has nine Justices and a Chief Justice
- all of the Justices are among the most experienced and distinguished judges from the common law world with global reputation for independence, impartiality, integrity, unconditional application of the rule of law and incorruptibility.

## Vision

- seeks to be the leading court for the resolution of civil and commercial disputes in the AIFC and the Eurasian region

# Jurisdiction of the AIFC Court

The AIFC Court has exclusive jurisdiction in relation to:

disputes between AIFC Participants, AIFC Participants and AIFC Bodies and an AIFC Participant or AIFC Body and its expat employees

disputes relating to activities conducted in the AIFC and governed by the AIFC laws

disputes referred to the AIFC Court by agreement of the parties

interpretation of the AIFC Acts



# Chief Justice and Justices of the AIFC Court



## The Rt. Hon. The Lord Mance

Chief Justice Lord Mance is the Head of the Judiciary of the AIFC Court. He is former Deputy President of the Supreme Court of the United Kingdom. He retired from the UK Supreme Court in 2018.



## Mr. Christopher Campbell-Holt

Mr. Campbell-Holt is responsible for the day-to-day management and administration of the Court. He has many years of international legal experience gained in the UK, US, Middle East and Eurasia.



The Rt. Hon. Sir Rupert Jackson



The Rt. Hon. Sir Jack Beatson FBA



The Rt. Hon. Sir Stephen Richards



The Rt. Hon. The Lord Faulks QC



Andrew Spink QC



Patricia Edwards



Thomas Montagu-Smith QC



Charles Banner QC



are the members of the Bar of England and Wales



were the judges of the High Court of England and Wales



have graduated Oxford or Cambridge University

# The International Arbitration Centre (IAC)

## INFO

- provides services of settling national and international commercial disputes through arbitration, mediation and other methods of alternative dispute resolution in accordance with the IAC Arbitration and Mediation Rules or the rules agreed upon between the parties of a dispute

## Panel of Justices

- has its own panel of outstanding international arbitrators and mediators who are greatly experienced, independent, impartial and of the highest integrity

## Vision

- to be the number one choice for resolution of civil and commercial disputes by arbitration and alternative dispute resolution in Eurasia

# Panel of arbitrators and mediators



## Ms. Barbara Dohmann QC

Ms. Dohmann is the Chairman of the IAC. She has been one of the UK's leading commercial barristers and an international arbitrator for many years. She was a Deputy High Court Judge from 1994 to 2002.



## Mr. Christopher Campbell-Holt

Mr. Campbell-Holt is responsible for the day-to-day management and administration of IAC. He has many years of international legal experience gained in the UK, US, Middle East and Eurasia.

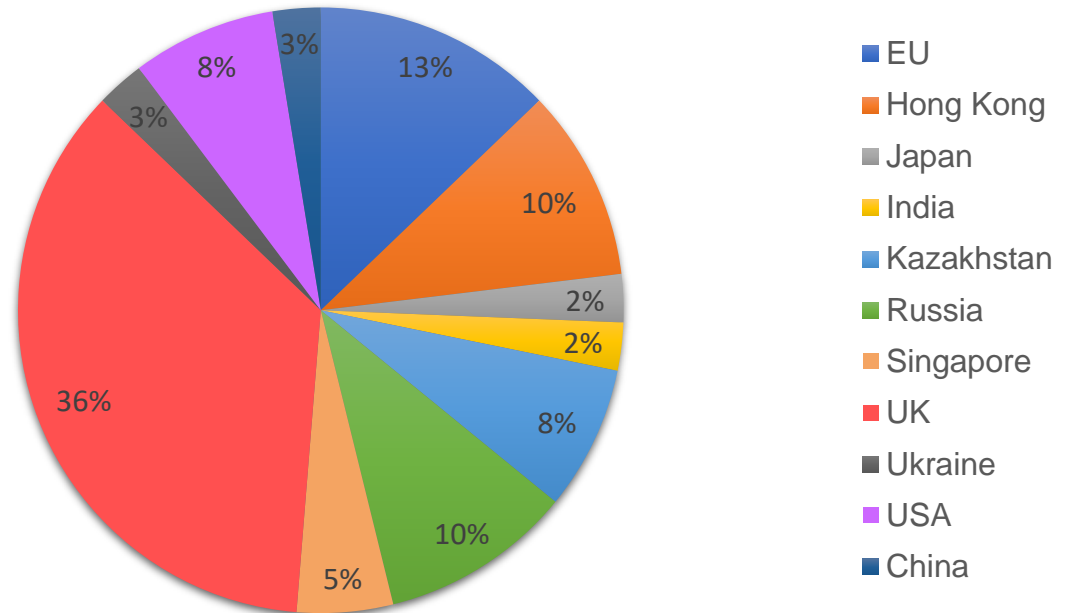


There are 39 arbitrators, most of whom may also act as mediators representing different parts of the world



They all have considerable experience and interactions over many years with commercial entities and individuals who they represented as lawyers. That background gives them understanding of the commercial world and they understand the need for commercial law to reflect the needs of the business community.

### Arbitrators



# Experience in other international arbitration centres

## **Barbara Dohmann QC**

the Chairman of IAC

- was a Judge at the Qatar Financial Centre International Court from 2007 to 2017
- has given expert evidence on English law to courts in the USA, Ireland, France, Germany, Austria and Dubai

## **Christopher Campbell-Holt**

the Registrar and Chief Executive of IAC

- was the Registrar at an international financial centre's commercial court and alternative dispute resolution centre in Qatar under the Presidency of Lord Woolf

## **The Lord Harry Kenneth Woolf**

The former Chief Justice of AIFC Court

- was the first President of the Qatar Financial Centre Civil and Commercial Court, in Doha Qatar

## **Thomas Montagu-Smith QC**

The Justice of AIFC Small Claims Court

- drafted the Rules of the Dubai International Financial Centre Courts and Dubai World Tribunal

# The procedural rules of the AIFC Court and the IAC

## Legal regulation

- AIFC Court Regulations 2017
- AIFC Court Rules 2018
- AIFC Arbitration Regulations 2017
- IAC Arbitration and Mediation Rules 2018

## The procedural rules



were drafted by leading dispute resolution professionals, including Lord Woolf, Barbara Dohmann QC, Tom Montagu-Smith QC and Christopher Campbell-Holt



include all of the modern innovations of other international dispute resolution institutions, but in as short number of rules as possible to avoid unnecessary complexity




offer parties maximum choice and flexibility in choosing the rules and procedures they wish to use to resolve their disputes at the IAC

Parties may agree for the IAC to:

1. Administer their arbitration according to the IAC Arbitration and Mediation Rules
2. Administer their arbitration according to UNCITRAL Arbitration Rules or ad hoc arbitration rules
3. Provide other forms of alternative dispute resolution

# Court and arbitration fees



All applications, administration and hearings at the AIFC Court and IAC are free of charge until 31 December 2021

If the parties enter into a contract before 31 December 2021 and the contract includes either the AIFC Court or IAC for dispute resolution, they will be eligible to receive free administration of any dispute resolution at the AIFC Court and IAC under that contract before and after 31 December 2021

# Enforcement of AIFC Court and IAC decisions and awards

## AIFC Court decisions

In accordance with Article 13 of Constitutional Statute decisions of the AIFC Court are enforced in the Republic of Kazakhstan in the same way, and on the same terms, as judicial acts of the courts of the Republic of Kazakhstan

## IAC awards

Under Article 40 of AIFC Court Regulations IAC arbitration awards are enforced in Kazakhstan under Orders of the AIFC Court. The procedure to convert an IAC arbitration award into an Order of the AIFC Court for enforcement purposes is simple and quick

## Enforcement in other countries

The AIFC Court judgments are enforceable in other countries, including in:

1. the CIS states under the Minsk and Kiev Conventions;
2. other states which have enforcement of court judgment agreements with Kazakhstan (Azerbaijan, China, Georgia, India, Lithuania, North Korea, Pakistan, Turkey, UAE and others);
3. several other countries on a reciprocity basis

Kazakhstan is a party to the New York Convention 1958 and enforcement of the IAC arbitration awards in the countries outside of Kazakhstan is in accordance with the New York Convention

# Some statistics

## Memorandum of understanding

33 MOUs signed with local and international dispute resolution centres, lawyer associations and training partners

## Total amount of disputes in the AIFC Court and IAC

536 cases, including 15 judgments, 39 arbitration awards and 482 mediation settlements

## Lawyers registered with the AIFC Court

281 lawyers from 25 countries

## AIFC Court and IAC dispute resolution clause

is included in more than 5 000 contracts

## Companies registered in AIFC

900 companies from 49 countries





**Thank you**

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