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**Austria
and
Kazakhstan**

Agreement for the promotion and reciprocal protection of investment between the Government of the Republic of Austria and the Government of the Republic of Kazakhstan. Vienna, 12 January 2010

Entry into force: *21 December 2012, in accordance with article 29*

Authentic text: *English*

Registration with the Secretariat of the United Nations: *Austria, 29 January 2013*

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**Autriche
et
Kazakhstan**

Accord entre le Gouvernement de la République d'Autriche et le Gouvernement de la République du Kazakhstan relatif à la promotion et à la protection réciproque des investissements. Vienne, 12 janvier 2010

Entrée en vigueur : *21 décembre 2012, conformément à l'article 29*

Texte authentique : *anglais*

Enregistrement auprès du Secrétariat de l'Organisation des Nations Unies : *Autriche, 29 janvier 2013*

[ENGLISH TEXT – TEXTE ANGLAIS]

**Agreement for the Promotion and Reciprocal Protection of
Investment between the Government of the Republic of Austria and the
Government of the Republic of Kazakhstan**

The Government of the Republic of Austria and the Government of the Republic of Kazakhstan, hereinafter referred to as "Parties",
recognising that agreement upon the treatment to be accorded to investors and their investments will contribute to the efficient utilisation of economic resources, the creation of employment opportunities and the improvement of living standards;
emphasising that fair, transparent and predictable investment regimes based on the rule of law both complement and benefit the world trading system;
desiring to strengthen their ties of friendship and to promote greater economic co-operation between them with respect to investment by nationals and enterprises of one Party in the territory of the other;
emphasising the necessity for all governments and civil actors alike to adhere to international anti corruption efforts, most notably the UN Convention against Corruption (2003);
acknowledging that investment agreements and multilateral agreements on the protection of environment, human rights or labour rights are meant to foster global sustainable development and that any possible inconsistencies there should be resolved without relaxation of standards of protection;
have agreed as follows:

**ARTICLE 1
Definitions**

For the purpose of this Agreement

(1) "investor of a Party" means:

(a) a natural person having the effective nationality of a Party in accordance with its applicable law making or having made an investment in the other Party's territory, or

(b) a legal person, constituted or organised under the applicable law of a Party, whether or not for profit, and whether private or government owned or controlled, e.g. a corporation, partnership, joint venture, enterprise or any other association, as well as a trust, a sole proprietorship, or a branch located in the territory of a Party and carrying out substantive business there, making or having made an investment in the other Party's territory.

(2) "investment by an investor of a Party" means every kind of assets in the territory of one Party, owned or controlled, directly or indirectly, by an investor of the other Party. Investments are understood to have specific characteristics such as the commitment of capital or other resources, or the expectation of gain or profit, or the assumption of risk, and include in particular:

(a) a legal person as defined in subparagraph (1) (b) of this Article;

(b) shares, stocks and other forms of equity participation in an enterprise as referred to in subparagraph (2) (a) of this Article, and rights derived there from;

(c) bonds, debentures, loans and other forms of debt instruments and rights derived there from;

(d) any right or claim to money or performance whether conferred by law or contract, including turnkey construction, management or revenue-sharing contracts, and concessions, licences, authorisations or permits to undertake an economic activity;

(e) intellectual property rights and intangible assets having an economic value, including industrial property rights, copyright, trademarks, trade dresses; patents, geographical indications, industrial designs and technical processes, trade secrets, trade names, know-how and goodwill;

(f) any other tangible or intangible, movable or immovable property, or any related property rights, such as leases, mortgages, liens, pledges or usufructs.

(3) "returns" means the amounts yielded by an investment including profits, interests, capital gains, dividends, royalties, licence fees, management fees, technical assistance fees and other fees.

(4) "without delay" means such period as is normally required for the completion of necessary formalities for the payments of compensation or for the transfer of payments. This period shall commence for payments of compensation on the day of expropriation and for transfers of payments on the day on which the request for transfer has been submitted. It shall in no case exceed one month.

(5) "territory" means with respect to either of the Parties, the land territory, internal waters, maritime and airspace under its state sovereignty, including internal waters, the territorial sea, the exclusive economic zone and the continental shelf where the Republic of Austria and the Republic of Kazakhstan respectively exercises jurisdiction, in conformity with international law,

(6) "New York Convention" means the United Nations Convention on the Recognition and Enforcement of Foreign Arbitral Awards adopted in New York on June 10, 1958.

ARTICLE 2

Promotion and Admission of Investment

(1) Each Party shall, according to its applicable law, promote and admit investments by investors of the other Party.

(2) Any alteration of the form in which assets are invested or reinvested shall not affect their character as an investment provided that such alteration is in accordance with the applicable law of the Party in whose territory the investments were made.

ARTICLE 3
Treatment of Investments

(1) Each Party shall accord to investments by investors of the other Party fair and equitable treatment and full and constant protection and security.

(2) A Party shall not unduly or discriminatory impair the management, operation, maintenance, use, enjoyment, sale and liquidation of an investment by investors of the other Party.

(3) Each Party shall accord to investors of the other Party and to their investments or returns treatment no less favourable than that it accords to its own investors and their investments or to investors of any third State and their investments or returns with respect to the management, operation, maintenance, use, enjoyment, sale and liquidation as well as dispute settlement of their investments or returns, whichever is more favourable to the investor.

(4) No provision of this Agreement shall be construed

(a) as to prevent a Party from taking any action in pursuance of its obligations under the United Nations Charter for the maintenance of international peace and security;

(b) as to prevent a Party from fulfilling its obligations as a member of an economic integration agreement such as a free trade area, customs union, common market, economic community, monetary union, e.g. the European Union, or as to oblige a Party to extend to the investors of the other Party and to their investments or returns the present or future benefit of any treatment, preference or privilege by virtue of its membership in such an agreement or any multilateral agreement on investment;

(c) as to oblige a Party to extend to the investors of the other Party and to their investments or returns the present or future benefit of any treatment, preference or privilege resulting from obligations of a Party under an international agreement, international arrangement or national legislation regarding taxation.

ARTICLE 4
Investment and Environment

The Parties do not encourage an investment by weakening the requirements of its national legislation in the field of environment.

ARTICLE 5
Labour laws

(1) The Parties do not encourage an investment by weakening the requirements of its national legislation in the field of labour.

(2) For the purposes of this Article, national legislation in the field of labour is directly related to the following internationally recognised labour rights:

- (a) the right of association;
- (b) the right to organise and to bargain collectively;
- (c) a prohibition on the use of any form of forced or compulsory labour;
- (d) labour protections for children and young people, including a minimum age for the employment of children and the prohibition and elimination of the worst forms of child labour,
- (e) acceptable conditions of work with respect to minimum wages, hours of work, and occupational safety and health,
- (f) elimination of discrimination in employment and occupation.

ARTICLE 6
Transparency

(1) Each Party shall promptly publish in accordance with its national legislation and otherwise make publicly available, its laws, regulations, procedures, as well as international agreements which may affect the operation of the Agreement.

(2) Each Party shall promptly respond to specific questions and provide, upon request, information to the other Party on any measures and matters referred to in paragraph (1) of this Article.

(3) No Party shall be required to furnish or allow access to information concerning particular investors or investments the disclosure of which would impede law enforcement or would be contrary to its laws and regulations protecting confidentiality.

ARTICLE 7
Expropriation and Compensation

(1) A Party shall not expropriate or nationalise directly or indirectly an investment of an investor of the other Party or take any measures having equivalent effect (hereinafter referred to as expropriation) except:

- (a) for a purpose which is in the public interest,
- (b) on a non-discriminatory basis,
- (c) in accordance with due process of law,
- (d) accompanied by payment of prompt, adequate and effective compensation in accordance with paragraphs (2) and (3) of this Article.