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**Estonia
and
Kazakhstan**

Agreement between the Government of the Republic of Estonia and the Government of the Republic of Kazakhstan on the promotion and reciprocal protection of investments. Tallinn, 20 April 2011

Entry into force: *26 August 2014 by notification, in accordance with article 12*

Authentic texts: *English, Estonian, Kazakh and Russian*

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**Estonie
et
Kazakhstan**

Accord entre le Gouvernement de la République d'Estonie et le Gouvernement de la République du Kazakhstan relatif à la promotion et la protection réciproque des investissements. Tallinn, 20 avril 2011

Entrée en vigueur : *26 août 2014 par notification, conformément à l'article 12*

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[ENGLISH TEXT – TEXTE ANGLAIS]

**Agreement
between
the Government of the Republic of Estonia
and
the Government of the Republic of Kazakhstan
on the promotion and reciprocal protection of investments**

The Government of the Republic of Estonia and the Government of the Republic of Kazakhstan (hereinafter the “Contracting Parties”);

desiring to promote greater economic co-operation between them, with respect to investment made by investors of one Contracting Party in the territory of the other Contracting Party;

recognising that agreement on the promotion and reciprocal protection to be accorded to such investment will stimulate the flow of private capital and the economic development of the Contracting Parties;

agreeing that a stable framework for investment will maximise effective utilisation of economic resources and improve living standards;

have agreed as follows:

**Article 1
Definitions**

For the purposes of this Agreement:

1. The term “investor” means in respect of either Contracting Party:
 - a) a natural person, who is a national of the State of a Contracting Party and who makes an investment in the territory of the other Contracting Party;
 - b) a legal entity which is incorporated or properly organised under the legislation of the State of that Contracting Party and is the owner, possessor or shareholder of an investment in the territory of the other Contracting Party.
2. In respect of the Republic of Estonia the term “investor” also means a legal entity of a Member State of the European Union or of the European Economic Area who, within the context of freedom of establishment pursuant to Articles 49 and 54 of the Treaty on Functioning of European Union, enjoys freedom of establishment as an agency or permanent establishment in the Republic of Estonia.
3. The term “investment” means every kind of asset invested by investors of one Contracting Party in the territory of the other Contracting Party in accordance with the legislation of the latter State and shall include in particular:
 - a) movable and immovable property as well as any other rights, such as mortgages, pledges, usufructs and similar rights;
 - b) stocks, shares and other forms of participation in companies;

- c) returns reinvested, debentures, claims to money or any other rights to legitimate performance having financial value related to an investment;
- d) intellectual property rights, as defined in the multilateral agreements concluded under the auspices of the World Intellectual Property Organization, in as far as both Contracting Parties are parties to them, including copyrights and related rights, industrial property rights, trademarks, patents, industrial designs and technical processes, rights in plants varieties, know-how, trade secrets, trade names and goodwill;
- e) rights to engage in economic and commercial activities conferred by the legislation of the States of the Contracting Parties.

Any change of the form in which assets are invested or reinvested shall not affect their character as an investment.

- 4. The term "returns" means income deriving from an investment and includes, in particular, profits, dividends, interests, patent and any other fees.
- 5. The term "territory" means:
concerning the Republic of Estonia – the land territory and the territorial sea of the Republic of Estonia, as well as those maritime areas adjacent to the external boundary of the territorial sea, including the seabed and subsoil of either of the above territories, over which the Republic of Estonia exercises, in accordance with international law, sovereign rights and jurisdiction;
concerning the Republic of Kazakhstan – the territory of the within the land, sea and air borders, including land, water, subsoil and airspace for which the Republic of Kazakhstan exercises sovereignty and expands jurisdiction in accordance with the standards of the national legislation and international law.

Article 2

Promotion and admission of investments

- 1. Each Contracting Party shall encourage and create favourable conditions for investors of the other Contracting Party to make investments in its territory and shall admit such investments in accordance with the legislation of its State.
- 2. In order to encourage mutual investment flows, each Contracting Party shall endeavour to inform the other Contracting Party, at the request of either Contracting Party of the investment opportunities in its territory.
- 3. Each Contracting Party shall grant, whenever necessary, in accordance with the legislation of its State, without delay, the permits required in connection with the activities of key personnel including top managerial and technical persons, consultants or experts engaged by investors of the other Contracting Party.

Article 3

Protection of investments

- 1. Each Contracting Party shall extend in its territory full protection and security to investments and returns of investors of the other Contracting Party. Neither Contracting

Party shall hamper, by arbitrary or discriminatory measures, the development, management, maintenance, use, expansion, sale and if it is the case, the liquidation of such investments.

2. Investments or returns of investors of either Contracting Party in the territory of the other Contracting Party shall be accorded fair and equitable treatment in accordance with international law.

Article 4

National treatment and most favoured nation treatment

1. Neither Contracting Party shall accord in its territory to investments and returns from investments of investors of the other Contracting Party a treatment less favourable than that which it accords to investments and returns from investments of its own investors, or to investments and returns from investments of investors of any third State, whichever is more favourable to the investors concerned.
2. Neither Contracting Party shall accord in its territory to the investors of the other Contracting Party with regard to acquisition, development, management, maintenance, use, expansion, sale or other disposal of their investment, a treatment which is less favourable than that which it accords to its own investors or to investors of any third State, whichever is more favourable to the investors concerned.
3. Neither Contracting Party shall in its territory impose mandatory measures on investments by investors of the other Contracting Party, concerning the purchase of materials, means of production, operation, transport, marketing of its products or similar orders having unreasonable or discriminatory effects.
4. The provisions of paragraph 1 and 2 of this Article shall not be construed so as to oblige one Contracting Party to extend to the investors of the other Contracting Party the benefit of preference or privilege which may be extended by the former Contracting Party by virtue of:
 - a) any existing or future customs union or economic or monetary union, free trade area or similar international agreements to which either of the Contracting Party is or may become a party in the future;
 - b) any international agreement, wholly or partially related to taxation.

Article 5

Expropriation

1. A Contracting Party shall not expropriate or nationalise directly or indirectly in its territory investments of the investors of the other Contracting Party or take any measures having equivalent effect (hereinafter referred to as "expropriation") except if the following conditions occur simultaneously:
 - a) for a purpose which is in the public interest,
 - b) on a non-discriminatory basis,
 - c) in accordance with due process of law, and

- d) accompanied by payment of prompt, adequate and effective compensation.
- 2. Compensation shall amount to the fair market value of the investment expropriated immediately before the expropriation or impending expropriation became known, whichever is the earlier. It shall be paid without delay, be effectively realisable and freely transferable.
- 3. An investor of a Contracting Party affected by the expropriation carried out by the other Contracting Party shall have the right to prompt review of its case, including the valuation of its investment and the payment of compensation in accordance with the provisions of this Article, by a judicial authority or another competent and independent authority of the latter Contracting Party.

Article 6 **Compensation for damage or loss**

- 1. When investments made by investors of either Contracting Party suffer loss or damage owing to war or other armed conflict, civil disturbances, state of national emergency, revolution, riot or similar events in the territory of the other Contracting Party they shall be accorded by the host Contracting Party treatment, as regards restitution, compensation or other settlement, not less favourable than the treatment that it accords to its own investors or to investors of any third State, whichever is more favourable to the investors concerned.
- 2. Without prejudice to paragraph 1 of this Article, investors of one Contracting Party who in any of the events referred to paragraph 1 of this Article suffer damage or loss in the territory of the other Contracting Party resulting from:
 - a) requisitioning of their property or part thereof by its authorities;
 - b) destruction of their property or part thereof by its authorities which was not caused in combat or was not required by the necessity of the situation,

shall be accorded prompt, adequate and effective compensation or restitution for the damage or loss sustained during the period of requisitioning or as a result of destruction of their property. Resulting payments shall be made in freely convertible currency and be freely transferable without delay.

Article 7 **Transfers**

- 1. In accordance with the legislation of its States each Contracting Party shall ensure free transfer of payments relating to the investments of the other Contracting Party in its territory. Such transfers shall include, in particular:
 - a) the initial capital and additional amounts to maintain or increase investments;
 - b) returns;
 - c) payments made under a contract including loan agreements;
 - d) proceeds from the sale or liquidation of all or any part of investments;