Agreement on the Promotion and Reciprocal Protection of Investments between the Government of the Slovak Republic and the Government of the Republic of Kazakhstan

The Government of the Slovak Republic and the Government of the Republic of Kazakhstan, hereinafter referred to as the "Parties",

In order to intensify economic cooperation for the mutual benefit of both Contracting Parties,

With a view to creating and maintaining favorable conditions for investors of the State of one Contracting Party who invest in the territory of the State of the other Contracting Party,

Recognizing that the promotion and reciprocal protection of such investments under this Treaty is an incentive for entrepreneurial initiatives in this field,

Have agreed as follows:

Article 1. Definitions

For the purposes of this Agreement:

1. The term "investment" means any type of property invested by investors of the State of one Contracting Party in the territory of the State of the other Contracting Party in accordance with its national law and includes in particular, but not exclusively:

(a) movable and immovable property, as well as all property rights, such as liens, leases or guarantees,

(b) shares, securities and bonds of companies and other forms of participation in the company,

(c) cash receivables or other performances with economic value on the basis of contracts,

(d) intellectual property rights, including rights related to copyrights, patents, industrial designs, technical processes, trademarks of trade goods or services, trade names and know-how and good-will and other rights under the national law of the Contracting Parties,

(e) concessions with an economic value granted by law or by contract, including concessions for research, cultivation, extraction or use of natural resources.No change in the form in which the asset is invested or reinvested affects its nature as an investment.

2. The term "return" means the amount derived from investments which includes, but is not limited to, profits, interest, dividends, royalties, royalties and other fees.

3. The term "investor" means any natural or legal person of the State of one Contracting Party who invests in the territory of the State of the other Contracting Party in accordance with the national legislation of that Contracting Party and the provisions of this Agreement:

(a) the term "natural person" means any natural person who is a national of one of the Contracting Parties and who is authorized under its domestic law to make investments; and

(b) the term "legal person" means any legal person established and registered under the national law of one Contracting Party.

4. The term "territory" means:

as regards the Slovak Republic, the territorial territory, the internal waters and the airspace above them, over which the

Slovak Republic exercises its sovereignty, sovereign rights and jurisdiction in accordance with international law;

as regards the Republic of Kazakhstan, the territory of a State bounded by land, sea and air borders, including land, water, inland and airspace, over which the State exercises its sovereignty and jurisdiction in accordance with international law.

5. The term "freely convertible currency" means a currency that is commonly used in payment transactions in international transactions and is commonly exchanged on major international foreign exchange markets.

Article 2. Promotion and Protection of Investments

1. Each Contracting Party shall, in the territory of its State, promote and create favorable conditions for investments by investors of the State of the other Contracting Party and shall facilitate such investments in accordance with its domestic law.

2. Each Contracting Party shall, in the territory of its State, accord to the investments of investors of the State of the other Contracting Party and to the proceeds thereof fair and equitable treatment as well as full protection and security.

3. Neither Contracting Party shall in any way restrict the management, maintenance, use, exploitation or other treatment of investments of investors of the State of the other Contracting Party in any way by disproportionate or discriminatory measures.

Article 3. National Treatment and Most Favored Nation Clause

1. Each Contracting Party shall accord in the territory of its State to investors of the State of the other Contracting Party and to their investments and the proceeds thereof in respect of the dissemination, management, maintenance, use, use, sale or other disposition of their investments, no less favorable treatment than which it provides to its own investors or to investors of any third country and to their investments.

2. Each Contracting Party shall accord to investors of the State of the other Contracting Party and to their investments and the proceeds thereof the treatment which is more favorable, in accordance with paragraph 1 of this Article.

3. The provisions of paragraphs 1 and 2 of this Article shall not apply to all current or future benefits of treatment accorded by either Party on the basis of its membership or obligations in a customs, economic or monetary union, common market or free trade area to its own investors, investors of Member States. such a union, common market or free trade area or any third country.

4. The provisions of paragraphs 1 and 2 of this Article shall not apply to any advantages granted by a Contracting Party to investors of any third State under a double taxation agreement or any other agreement which relates wholly or mainly to taxation.

Article 4. Compensation for Losses

1. Investors of a State of one Contracting Party whose investments suffer losses as a result of war or other armed conflicts, revolution, insurrection, insurrection, state of emergency or civil unrest in the territory of the State of the other Contracting Party shall be compensated by the other Contracting Party in respect of restitution. , compensation or other forms of settlement, treatment no less favorable than that accorded by that other Contracting Party to its own investors or to investors of any third State, whichever is more favorable to investors.

2. Notwithstanding paragraph 1 of this Article, investors of the State of one Contracting Party who, in any of the cases referred to in this paragraph, suffer losses in the territory of the State of the other Contracting Party as a result of:

(a) the seizure of their property by the other Contracting Party, or

(b) destruction of their property by the other Contracting Party, which was not caused during the combat action or was not caused by the necessity of the situation,

restitution or appropriate compensation shall be provided which is no less favorable than restitution or compensation which would be granted in the same circumstances to an investor of the State of the other Contracting Party or of any third State.

Article 5. Expropriation

1. Investments of investors of the State of one Contracting Party shall not be expropriated, nationalized, confiscated or subject to other measures having an effect equivalent to expropriation, nationalization or confiscation (hereinafter "expropriation"), except in the public interest, on a non-discriminatory basis. basis in accordance with national law, and in that case with immediate, adequate and effective compensation.

2. The compensation shall correspond to the market value of the expropriated investments on the day preceding the day on which the expropriation took place or became public knowledge, whichever is the earlier. This compensation will also include interest at the rate of the commercial interest rate set on a market basis for the period from the date of expropriation to the date of payment of the compensation. The compensation shall be paid in the currency in which the investor made the investment, or with the investor's consent in another currency. Reimbursement will be immediately feasible and freely transferable without restriction and without undue delay.

3. An investor of a State of any Contracting Party affected by the expropriation shall be entitled to have his case reviewed without delay and his investment valued by a judicial or other competent and independent body of the other Contracting Party in accordance with the principles of this Article.

4. If a Contracting Party expropriates the assets of a company which is incorporated or constituted under the national law of that Contracting Party and in which shares are held by investors of the State of the other Contracting Party, the provisions of this Article shall apply to the extent necessary to ensure immediate, adequate and effective compensation.

Article 6. Transfers

1. Each Contracting Party shall guarantee to investors of the State of the other Contracting Party, after the fulfillment of their financial obligations, the free transfer of payments, including principal and returns, related to their investments. These transfers will include, but are not limited to:

(a) initial capital and any additional capital for the maintenance and development of the investment,

(b) revenues,

(c) proceeds from the sale or total or partial liquidation of investments,

(d) payment made on the basis of a contract, including payment made on the basis of a credit agreement,

(e) the compensation provided for in Articles 4 and 5,

(f) payments made in connection with the settlement of disputes,

(g) income and other remuneration of foreign employees employed in connection with the investment.

2. Each Contracting Party shall guarantee the execution of transfers pursuant to paragraph 1 of this Article in a freely convertible currency, at the rate applicable on the day of the transfer in the territory of the Contracting Party where the investment took place.

3. In the absence of a foreign exchange market, the exchange rate used for the last incoming investment shall be used, or the rate determined in accordance with the rules of the International Monetary Fund.

4. Notwithstanding paragraphs 1, 2 and 3 of this Article, each Party may prevent or restrict a transfer on the basis of fair, non-discriminatory and bona fide application of its national law in relation to:

(a) the adoption of safeguard measures for the necessary period, which may be taken in exceptional circumstances, such as serious macroeconomic difficulties or serious balance of payments difficulties of the host counterparty,

(b) bankruptcy, insolvency or protection of creditors' rights,

(c) the issuance, trading and execution of transactions in securities, futures, options or derivatives,

(d) with criminal offenses,

(e) financial reporting or records of transfers, in so far as they are necessary for the exercise of the law or the activities of financial regulatory authorities,

(f) with a foreign exchange operation,

(g) ensuring the enforcement of judgments, orders or decisions in court proceedings,

(h) with unpaid taxes or other compulsory payments.

5. Measures pursuant to paragraph 4 (a) (a) they shall not be applied arbitrarily or in a discriminatory manner, they shall be of limited duration and shall not be applied beyond what is necessary to resolve balance of payments difficulties. A Contracting Party which introduces measures pursuant to this Article shall immediately notify the other Contracting Party of their application.

Article 7. Subrogation

1. If a Contracting Party or an agency designated by it makes a payment to its own investors under a guarantee or indemnity provided in respect of investments in the territory of the State of the other Contracting Party, that other Contracting Party shall recognize:

(a) the assignment of any right or claim of investors to the first counterparty or an agency designated by it; and

(b) that the first counterparty or the agency designated by it is entitled, by virtue of the assignment, to exercise the rights and assert the claims of those investors.

2. The assigned rights or claims shall not exceed the original rights or claims of the investors.

Article 8. Settlement of Investment Disputes between a Contracting Party and an Investor of the State of the other Contracting Party

1. Any dispute between a Contracting Party and an investor of the State of the other Contracting Party concerning the investment shall be settled as amicably as possible by the parties to the dispute.

2. If it is not possible to resolve such a dispute within six (6) months from the date of notification of the dispute by a party, the dispute shall, at the request and choice of the investor or party to the dispute, be submitted:

(a) the locally competent court of the Contracting Party in whose territory the investment was made,

(b) the International Center for the Settlement of Investment Disputes (ICSID) established by the Washington Convention on the Settlement of Investment Disputes between States and Nationals of the Other State of 18 March 1965 (hereinafter referred to as the "Washington Convention"), or

(c) an international arbitration tribunal established on an ad hoc basis under the arbitration rules of the United Nations Commission on International Trade Law (UNCITRAL).

3. However, an investor who has submitted a dispute to a court of local jurisdiction may also apply to the arbitral tribunal referred to in paragraph 2 (a), (b) or (c) of this Article, if the investor, before ruling on the subject-matter of the court with jurisdiction over the subject-matter of the main proceedings, declares that he does not intend to pursue the case through national court proceedings and withdraws his application.

4. Without prejudice to Article 26 of the Washington Convention, each Contracting Party hereby agrees to submit a dispute between that Contracting Party and an investor of the State of the other Contracting Party for settlement in accordance with the provisions of this Article.

5. The arbitral award shall be final and binding on the parties to the dispute. Each Party shall promptly implement such a decision and take measures for the effective enforcement of such decisions within the territory of its State.

Article 9. Settlement of Disputes between the Contracting Parties

1. Disputes between the Contracting Parties concerning the interpretation or application of this Agreement shall, so far as possible, be settled by negotiation.

2. If the dispute cannot be settled within six (6) months from the date on which a Party requests such a hearing in writing, the dispute shall be submitted to an ad hoc arbitral tribunal (hereinafter referred to as the "arbitral tribunal") in accordance with the provisions of this Article.

3. Such an arbitral tribunal shall be constituted for each individual case as follows: within two (2) months from the date of receipt of the request for arbitration, each Party shall appoint one member of the arbitral tribunal. The two members shall then select a national of a third State who, after approval by both Parties, shall be appointed Chairman of the arbitration panel. The Chairman shall be appointed within four (4) months from the date of the appointment of the other two

members.

4. If the necessary appointments are not made within the time limits laid down in paragraph 3 of this Article, and unless otherwise agreed, any Contracting Party may request the appointment of the President of the International Court of Justice. If the President is a national of one of the Contracting Parties or for other reasons is unable to perform this function, the oldest member of the International Court of Justice, who is not a national of any Contracting Party, shall be requested to make the necessary appointments.

5. The arbitral tribunal shall reach its decision by majority vote. Such decision shall be binding on and final for both parties. Each Contracting Party shall bear the costs of its own arbitrator and of its representation in the arbitration proceedings. The costs of the chairman and other expenses shall be borne in equal amounts by both parties. However, the arbitral tribunal may, at its discretion, order that most or all of the costs be borne by one of the parties. In all other matters, the arbitral tribunal shall determine its own procedure.

6. All questions relating to a dispute under paragraph 1 of this Article shall be settled in accordance with the provisions of this Treaty and the general principles of international law.

Article 10. Consultations

At the request of either Contracting Party, the other Contracting Party shall immediately enter into consultations on the interpretation and/or application of this Agreement.

Article 11. Application of other Rules and Specific Obligations

1. If the provisions of the domestic law of a Contracting Party or of international agreements to which the States of both Contracting Parties are parties contain general or specific rules authorizing investments made by investors of the State of the other Contracting Party to more favorable treatment than that provided for in this Treaty, more favorable treatment shall be accorded.

2. Each Contracting Party shall be liable for compliance with the obligations it has entered into in relation to investments of investors of the State of the other Contracting Party.

Article 12. Application of this Agreement

This Agreement shall apply to all investments made by investors of the State of either Contracting Party in the territory of the State of the other Contracting Party before and after the entry into force of this Agreement, but shall not apply to any investment dispute or claim arising and / or settled before entry into force.

Article 13. Final Provisions

1. This Agreement shall enter into force on the 90th day after the date of receipt of the last notification through diplomatic channels by which the Contracting Parties inform each other in writing that all the national conditions necessary for the entry into force of this Agreement have been fulfilled.

2. This Agreement shall remain in force for a period of ten (10) years and shall continue in force indefinitely unless either Party notifies the other Party in writing 12 months in advance of its intention to terminate this Agreement.

3. For investments made prior to the termination of this Agreement, the provisions of Articles 1 to 12 shall remain in force for a further period of ten (10) years from the date of termination.

4. This Agreement may be amended by mutual consent of the Parties in the form of written protocols which shall form an integral part of this Agreement.

In witness whereof the undersigned, being duly authorized thereto, have signed this Agreement.

Done at Bratislava on 21 November 2007 in two originals, each in the Slovak, Kazakh, Russian and English languages, all texts being equally authentic. In case of divergence of interpretation of the provisions of this Agreement, the English text shall prevail.

For the Government of the Slovak Republic:

Ján Počiatek

For the Government of the Republic of Kazakhstan:

Gakym Orazbakov