Agreement

Between the Government of the Republic of Kazakhstan and the Government of the Republic of Armenia on the promotion and mutual protection of investments

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

Recognizing the need to protect investments of investors of one Party in the territory of the other Party on a non-discriminatory basis;

Wishing to promote the expansion of economic cooperation in the field of investment of individuals and legal entities of one Party in the territory of the other Party;

Recognizing that an agreement on the modalities for such investments will stimulate the flow of private capital and the economic development of the Parties;

Agreeing that a stable basis for investment will contribute to maximizing the effective use of economic resources and improve the standard of living,

Recognizing that the development of economic and business ties can contribute to respect for internationally recognized labor rights;

Agreeing that these goals can be achieved without measures of general application that weaken health, safety and environmental protection,

Have agreed as follows:

Article 1. Definitions

For the purposes of this Agreement,

1. The term "investment" means any kind of assets invested or invested by investors of one Party for entrepreneurial purposes in accordance with the national legislation of the state of the other Party in the territory of the latter, and the rights deriving from this, and in particular but not exclusively, may include:

(A) movable and immovable property or any property rights such as leases, mortgages, lien and mortgages;

(B) shares, shares, debentures and any other forms of participation in companies;

(C) monetary claims or any performance under a contract of economic value;

(D) intellectual property rights, including copyrights, trademarks, patents, industrial designs and technical processes, know-how, trade secrets, trade names and good-will;

(E) Concessions that are granted in accordance with the law or under the contract, including concessions for the exploration, development, extraction or use of natural resources.

Any change in the form of investment that occurred in accordance with the national legislation of the state hosting the investment in its territory does not affect their definition as an investment.

2. The term "investor" means an entity of the State of one Party that invests in the territory of the State of the other Party in accordance with the national law of the State of the latter Party and the provisions of this Agreement and includes:

(A) any natural person who is a citizen of a State of any Party and eligible to invest in accordance with the national legislation of his State;

(B) any legal entity established and registered in accordance with the national legislation of the State of the Party and authorized to make investments.

3. The term "income" means the funds received as a result of the investment, including profit, interest, dividends, royalties, royalties and other payments.

4. The term "territory" means the territory of a State of one of the Parties within the land, sea and air borders, including land, water, subsoil and airspace over which the State of the Party in question exercises sovereignty and extends its jurisdiction in accordance with international law.

5. The term "good-will" means:

(A) the conditional value of the company's business links, the value of the accumulated intangible assets, the monetary valuation of intangible capital-the prestige of the brand, the experience of business ties, the stable clientele, and the managerial, organizational and technical resources, the reputation in the financial world, the mechanism for controlling sales activities;

(B) intangible fixed assets, assets, as the difference between the price of the enterprise as a whole and the price of real fixed capital. A negative intangible asset is the difference between the selling and book value of an enterprise.

Article 2. Promotion and Protection of Investments

1. Each Party shall encourage and create favorable conditions in its territory for investments of investors of the State of the other Party and allow such investments in accordance with the national legislation of its State.

2. Each Party in the territory of its state shall provide investment and income from investment of investors of the other Party's state fair and equitable treatment, as well as full, permanent protection and security.

3. No Party in the territory of its state shall prevent unsuccessful, discriminatory or arbitrary measures to increase, manage, conserve, use, own, sell or otherwise dispose of investments by investors of the state of the other Party.

Article 3. Legal Regime

1. Each Party shall provide investors of the other Party's state, their investment and investment income, a regime no less favorable than the regime that it provides to national investors or third country investors and their investments in expanding, managing, maintaining, using, owning, selling Or other disposal of investments.

2. Each Party to this Agreement, in accordance with the national legislation of its state, reserves the right to determine the sectors, spheres and activities in which the activities of investors are limited and / or excluded.

Article 4. Exemption

The provisions of this Agreement shall not be interpreted as obliging the Party to provide investors of the other Party's state and their investments and investment income with the existing or future benefit of any regime, preferential or privilege resulting from:

(A) membership in the free trade area, customs union, monetary union, common market and any international treaty to which the state of any Party is a party and leading to such unions or similar organizations;

(B) any international treaty or national law of the State of the Party relating wholly or mainly to taxation.

Article 5. Expropriation and Compensation

1. Any Party shall not expropriate or nationalize, directly or indirectly, investments of an investor of the State of the other Party or take any such measures (hereinafter - expropriation) with the exception of those taken:

(A) for state and public purposes;

(B) in a non-discriminatory way;

(C) in accordance with an appropriate legal procedure;

(D) with the payment of provisional, adequate and effective compensation in accordance with paragraphs 2 and 3 of this article.

2. Compensation should:

(A) be paid without delay. In case of delay, any loss associated with the exchange rate resulting from this delay will be borne by the receiving Party;

(B) equate to the fair market value of the expropriated investments on the date prior to the date of expropriation. Fair market value should not reflect any change in value due to the fact that expropriation became publicly known before;

(C) be fully implemented and freely transferable;

(D) include interest at a commercial rate established on a market basis for the currency of payment from the date of expropriation to the date of actual payment.

3. An investor of a State of any Party that claims to have suffered from the expropriation of another Party must be entitled to an urgent review of its case, including an assessment of its investment and payment of compensation in accordance with the provisions of this article, by a judicial authority or other competent and independent body The State of the last Party.

Article 6. Compensation for Losses

1. Investors of the State of one Party whose investments in the territory of the State of the other Party have suffered losses as a result of war or other armed conflicts, states of emergency, rebellion, insurrection, rebellion in the territory of the State of the latter Party, the latter Party provides with respect to restitution, compensation, compensation or other settlement, a regime no less favorable than that granted by the latter to its investors or investors of any third state, which is the most favorable for the investor.

2. Any investor of the State Party that, in any of the cases referred to in paragraph 1, bears losses because of:

(A) confiscation of its investments or parts thereof by the forces or authorities of the other Party, or

(B) the destruction of an investment or a part thereof by the forces or authorities of the other Party that was not required by the need of the situation, restitution or compensation must in any event be provided by the latter Party, which in any case must be prompt, adequate and effective. At the same time, compensation must be made in accordance with paragraphs 2 and 3 of Article 5.

Article 7. Transfer of Funds

1. Each Party, in accordance with the national legislation of its State, shall provide to the investors of the State of the other Party the transfer to and from its territory of their investments and transferable payments relating to investments. Such payments should include, in particular, but not exclusively:

(A) initial capital and additional amounts to maintain or increase the contribution;

(B) income;

(C) revenues derived from full or partial sale, or liquidation of investments;

(D) payments made under the contract, including in payment for the loan;

(E) compensation paid in accordance with Articles 5 and 6;

(F) payments arising from the dispute;

(G) salary and other remuneration to personnel employed abroad and working in connection with investments.

2. Each Party shall ensure the transfer referred to in paragraph 1 of this Article in freely convertible currency at the current market exchange rate of the State of the Party in whose territory the investment is made.

3. In the absence of an exchange market for foreign currency, the rate to be applied should be the latest exchange rate for the conversion of currency into the special drawing rights of the International Monetary Fund.

4. Without prejudice to paragraphs 1, 2 and 3 of this article, any Party may limit the transfer by means of a fair, non-discriminatory and fair application of the laws of its State relating to:

(A) bankruptcy, insolvency or protection of creditors' rights;

(B) issuance, trading or operations with securities and derivative financial instruments;

(C) offenses;

(D) financial statements or record-keeping records, where assistance is required to implement the law or financial supervisory bodies;

(E) enforcement of orders or judgments in judicial or administrative proceedings;

(F) non-payment of taxes and other mandatory payments.

Article 8. Subrogation

If the Party or its authorized body makes payments in accordance with the refund, guarantee or insurance contract given in respect of investor's investments in the territory

Of the State of the other Party, the latter Party must recognize the transfer of any rights and requirements of such an investor to the first Party or its designated body for implementation by virtue of subrogation of any rights and claims to the same extent as their predecessor.

Article 9. Disputes between the Investor and the Party

1. Any dispute concerning investments between the State of one Party and the investor of the State of the other Party, if possible, shall be settled through negotiations.

2. If the dispute is not resolved within 3 months from the date of its occurrence in writing, the dispute may be, at the choice of the investor or one of the Parties, sent for consideration:

(A) to the competent courts of the State of the Party in whose territory the investment is made, or

(B) to the arbitration of the International Center for the Settlement of Investment Disputes, established in accordance with the Convention on the Settlement of Investment Disputes between States and Individuals or Legal Entities of Other States, opened for signature at Washington on March 18, 1965 (hereinafter referred to as the International Center), or

(C) to arbitration under the additional services of the International Center, if only one of the Parties is a party to the Convention referred to in subparagraph (b) of this paragraph, or

(D) any "ad-hoc" arbitral tribunal, which, unless otherwise agreed by the parties to the dispute, is established in accordance with the arbitration rules of the United Nations Commission on International Trade Law (UNCITRAL).

3. An investor who has submitted a dispute to a domestic court may nevertheless apply to one of the arbitral tribunals of paragraph 2 (b) referred to in subparagraph 2 (c) or subparagraph (c) of this article if, pending a decision on the subject matter The national court, the investor will announce that he will no longer pursue the matter through national judicial procedures and withdraw the matter.

4. Any arbitration under this article shall, at the request of any Party to the dispute, be conducted in a State that is party to the Convention on the Recognition and Enforcement of Foreign Arbitral Awards adopted in New York City on 10 June 1958 (hereinafter "New York" Convention). The requirements submitted to arbitration under this article shall be considered as arising from commercial (commercial) relations or contracts for the purposes of Article 1 of the New York Convention.

5. Each Party hereby gives its unconditional consent to submit a dispute between it and the investor of the State of the other Party to arbitration in accordance with this article.

6. Neither Party that is a party to the dispute can raise objections at any stage of the arbitration procedures or the enforcement of the award, or point to the fact that the investor that is a party to the dispute has received compensation covering part or all of the losses by virtue of insurance.

7. The decision must be final and binding on the parties to the dispute and must be enforced in accordance with the national legislation of the State of the Party in whose territory the decision is taken by the competent authority of the Party.

Article 10. Settlement of Disputes between the Parties

1. Disputes between the Parties regarding the interpretation and application of this Agreement should, if possible, be resolved through negotiations and consultations.

2. If the dispute can not be resolved in this manner within six (6) months from the date when such negotiations were requested by any Party in writing, it must be submitted to the arbitral tribunal at the request of any Party.

3. Such an arbitral tribunal shall be established for each individual case in the following way. Within two (2) months after the receipt of the request for arbitration, each Party shall appoint one member of the court. Then, these two members must elect a third country national who, after approval by the Parties, must be appointed within four (4) months from the date of appointment of the other two members.

4. If the necessary appointments have not been made within the period specified in paragraph 3 of this article, any Party, in the absence of any other agreement, invites the President of the International Court of Justice to make the necessary appointments. If the President is a citizen of the State of any of the Parties or another circumstance hinders the performance of this function, the next member of the International Court of Justice who is not a national of either of the Parties or otherwise does not interfere with the performance of that function must be invited to make the necessary appointments.

5. The arbitral tribunal shall decide by a majority of votes. The decision of the court must be final and binding on both parties. Each Party shall bear the costs of its appointed member and its representation in the arbitration process. Both Parties undertake in equal parts the expenses of the Chairman, as well as other expenses. The court may decide otherwise on the division of costs. In all other respects, the arbitral tribunal determines its own rules of procedure.

6. Disputable issues relating to the dispute referred to in paragraph 1 of this article shall be resolved in accordance with the provisions of this Agreement and generally recognized principles of international law.

Article 11. Costs

The Parties shall bear the expenses that will arise in the course of their implementation of this Agreement, within the limits provided for by the national legislation of the Parties, unless otherwise agreed in each particular case.

Article 12. Application of other Rules and Special Obligations

1. If the provisions of the law of a State of any Party or international treaties contain rules that are general or specific, providing a regime more favorable than provided by this Agreement to investments made by investors of the other Party's state, the investor of the State of the latter Party shall be granted a more favorable regime.

2. Each Party shall comply with any obligation it may have with respect to a particular investment of the investor of the State of the other Party.

Article 13. Applicability of this Agreement

This Agreement applies to all investments made by investors of the State of any Party in the territory of the State of the other Party both before and after the entry into force of this Agreement, but shall not apply to any dispute or requirement relating to investments that arose and / Is settled before the entry into force of this Agreement.

Article 14. General Exceptions

1. Nothing in this Agreement shall be interpreted as interfering with the implementation by one of the Parties of the actions necessary to protect national security or measures to maintain public order, on condition that such measures will not be applied by the Parties by arbitrary or unjustified discriminatory forms or hidden investment restrictions.

2. The provisions of this Article shall not apply to subparagraph (e) of paragraph 1 of Article 7 of this Agreement.

Article 15. Transparency

1. Each Party shall promptly publish, or otherwise make publicly available its laws and regulations, as well as international treaties that may affect the investments of the investor of the State of the other Party in the territory of the recipient State.

2. Nothing in this Agreement shall require the Party to provide or permit access to any confidential or proprietary information, including information relating to investors and their investments, the disclosure of which would interfere with the enforcement or would conflict with its privacy protection law or would cause damage Legitimate interests of individual investors.

Article 16. Consultations

The Parties, at the request of any of the Parties, shall hold consultations on any disputable issue concerning the interpretation and application of this Agreement. The place and time of consultations shall be agreed by the competent bodies of the Parties through diplomatic channels.

Article 17. Amendment, Entry Into Force and Termination

1. By mutual agreement of the Parties, this Agreement may be amended and supplemented, which are formalized in separate protocols that are integral parts of this Agreement.

2. This Agreement shall enter into force on the first day of the second month from the date of receipt by the Parties of the last written notification through diplomatic channels of the completion of the internal procedures required for its entry into force and shall remain in effect for an indefinite period.

3. This Agreement shall be valid until the expiry of twelve months from the date of receipt by one Party of written notification of the other Party of its intention to terminate this Agreement.

4. With respect to investments made before the date of termination of this Agreement, the provisions of Articles 1-16 remain in force for a further 10-year period from the date of termination of this Agreement.

Done in Astana on November 6, 2006 in two copies, each in the Kazakh, Armenian and Russian languages, all texts are equally authentic. In case of different interpretation of the provisions of this Agreement, the Parties will refer to the text in Russian.

For the Government of the Republic of Kazakhstan

For the Government of the Republic of Armenia