Agreement between Government of Arab Republic of Egypt and Government of Kazakhstan on Promotion and Protection of Investment

The Government of Arab Republic of Egypt and the Government of Kazakhstan, referred to herein after as the two contracting parties

Endeavouring to promote and consolidate the commercial, economic scientific, and technical cooperation between the two countries.

Desiring to create favourable conditions for the promoting and protection of Investments of investors of either party in the territory of both parties.

Recognizing that the reciprocal promotion and protection of investments shall help in the transfer of capitals and interchanging advanced technologies between both countries and accomplish their economic promotion.

Have agreed as follows:-

Article 1.

For the Purposes of this Agreement,

1- The term "investment" means all kinds of property established in the territories of the two contracting parties which includes investments in accordance with its laws in particular:-

A- Movable and immovable property and any other properties related to.

B- Shares and other forms of participation in companies.

C- The rights of money claims and other performances having and economic value.

D- Intellectual property right including rights with respect to copyrights to projects of Industrial property, trademarks, tradenames the name of company in which the commodity is processed, patents, knowhow and technology.

E- Rights of practicing economic activities, in accordance with laws and agreements, including in particular the right of research for, cultivate, extract and exploit natural resources.

2- The term "investor" means for either of the; two contracting parties:-

• Natural persons having the nationality of the two contracting parties in accordance with its laws.

• Legal persons constituted in accordance with laws inforce in the territory of the two contracting parties.

• Provided that those natural and legal persons whom are authorised in accordance with the laws of that party to establish the investments in the territory of the other party

3- The term "investment activities" shall comprise the establishment, practice and financing of companies and authorities or other organizations with the purpose of fulfiling investment activities, as well as the performance of contracts, agreements property ownership, exploiting and disposal of, any kind of property as it includes intellectual property right, purchase, issuance and selling of shares and other securities in accordance with the laws.

4- The term "Territory" means:

• The territorial lands of the Republic of Kazakhsthan and the territorial lands of Arab Republic of Egypt.

• The territorial waters which constitutes the submarine areas, of both mentioned territories, with international laws.

5- The term "return" means Use money yielded from an investment, it includes in particular though not exclusively, profits, interests, capital gains, dividends, royalities and other fees.

Article 2.

1- Each contracting party shall admit and promote the investments made by investors of the other contracting party in its territory, in accordance with its laws and the provisions of this Agreement.

2- Each contracting party in accordance with its laws, shall offer their help for issuing enteries, labour licences for Investments made on its territory by the investors of the other contracting party.

Article 3.

1- Each contracting party shall accord fair and fair and equitable treatment in its territory for the investments made by the investors of the other party and to activities related there to.

2- The said treatment in the first paragraph of this article shall not be less favourable than that granted to investments made by investors of any third state and activities related thereto.

3- The provision of the first and the second paragraphs of this article shall not construe to privileges and facilities which either contracting party accords to investors of a third state or to investments made in the future on the base of:-

• Its membership in a free trade area, custom or economic union or mutual economic assistance organization, or international agreements which grant facilities anr1 privileges similar to that granted by the contracting parties to members of the said organizations.

• International agreements or other agreements related to matters of taxation.

• Agreement of trade borders.

Article 4.

1- Investments made by investors of either contracting party shall not be nationalized or expropriated or subjected to any other measures with the exception that such measures are taken for public benefit on the basis of non-discrimination and shall include payments of compensations.

2- The compensation referred to in this article shall amount to real value of the investments expropriated in the day before declaring the expropriation decree. Compensation shall be paid without delay in convertible currency from the territory of one of the two contracting parties to the territory of the other.

3- Investments made by investors of one contracting party which suffer losses in the territory of the other contracting party owing to war, a state of national emergency or insurrection or similar cases, shall be accorded by the latter contracting party compensation or other similar settlements, as well the investors shall be granted treatment not less favourable than that accorded to investors of a third state.

Article 5.

Both of the two contraction parties shall I guarantee, in accordance with its national laws for the investors of the other party and after fulfiling all its taxes obligations, and to transfer the following payments related to investments:-

A) The incomes as defined in paragraph 5 of article (1) of this Agreement.

B) Proceeds of sale or liquidation of the whole or any part of the investment.

C) Funds in repayment of loans related to investments.

D) Payments of royalities, And other fees.

E) Wages and other remunerations earned by citizens of the other party against labour and services which are related to investments established in the territory of the former party in accordance to its laws.

Article 6.

Payments provided for in article four and five shall be transferred according to declared exchange rate of foreign currency in the same day of transfer to the party in whose territory investments have been made.

Article 7.

This agreement shall apply to all investments made after its entry into force.

Article (8.

1- Settlement of the disputes arising between the two contracting parties concerning the interpretation or application of this Agreement shall, if possible be settled through diplomatic channels.

If the dispute cannot thus be settled within six months from the begining of the negotiations, it shall, upon the request op either contracting party be submitted to and arbitration tribunal. The arbitration tribunal shall he constituted from threw arbitrators as follows:- If the arbitration tribunal shall not be constituted within five months from date of the written notice of submitting the dispute to the arbitration tribunal, either of the contracting parties may, in case of in other agreement, invite the president of the International Court of Justice to make the necessary appointments, if the president is a national of one of the contracting parties or is prevented from fulfiling the said function the most senior member of the court available who is not a national of either party; shall be invited to make the necessary appointments.

6- The tribunal shall reach its decision by a majority of votes. Such decision shall be final and binding for both contracting parties, as well reasons of decision can be clarified upon request of either party.

7- Both of the two Contracting Parties shall bear the costs of arbiterators appointed on his behalf the cost of the Chairman as well as the other costs will be horn in equal parts by the contracting parties.

Article 9.

1- Any dispute arising between either contracting party and an investor of the other party concerning compensation of expropriation of an investment shall be submitted to arbitration tribunal.

2- This tirbunal shall be constituted for each case in the following manner:

Each party of the dispute shall appoint an arbiterator on his behalf, both of the arbiterators shall appoint a third arbiterator as a Chairman who shall be a notional of a third State. The two arbiterators shall be appointed within two months, the Chairman shall be appointed within four months from the date of the written notice submit the dispute for arbitration. In case the arbitration tribunal shall not be constituted within the specified periods, either party of dispute may submit the case to the President of Internntionn1 Arbitration Institution of the Chambre of Commerce in Stockholm. 3- The arbitration tribunal shall decide the rules of arbitrational procedures, by applying the rules of International Arbitration Institution of the Chambre of Commerce in Stochkholm, in force.

4- The arbitration tribunal shall reach its decision by majority of votes, it shall be final and binding for each party in accordance with its lows.

5- The arbitration tribunal shall issue its decision on the basis of this Agreement and laws of the two contracting parties, which establish investments on its territory and in accordance with the generally acknowledged rules of the international law.

6- Each contracting party shall bear the costs of arbitrators appointed on his behalf, the costs of the Chairman and the other costs shall be born in equal parts by the contracting parties.

7- Both of the two contracting parties may agree on submitting the dispute to one of the other Regional Centers for International Commercial Arbitration.

Article 10.

If each of the contracting parties accorded the investment of the investors of the other party in accordance with its law or the international agreements in which the contracting parties are members, a treatment more favourable than that provided for in this Agreement the treatment more favourable shall previal over this Agreement.

Article 11.

1- Representatives of the contracting parties shall whenever necessary hold consultations with the purpose of:-

a- Studying the cases for fulfiling this Agreement.

b- Exchange information as concerns investment laws for its fulfillment.

c- Settlement of arising disputes concerning investments.

d- Studying the other cases concerning investments.

e- Examining the proposals for adding or making amendments of this Agreement.

2- If either of the contracting parties suggest ho hold consult various concerning the cases provided for in the first paragraph of this Article, the other party shall immediately respond, and consultation shall be, held in Alma Atta and Cairo respectively.

Article 12.

1- The provisions of this Agreement shall be amended or changed as agreed upon between the two contracting parties.

2- This Agreement shall enter into force thirty dayes after the date on which the contracting parties inform each other of its notification according to their respective legislations. It shall remain in force for a period of 15 years.

3- This Agreement shall remain in force for a complete period unless one of the contracting pnrties informed the other party with a written notice for termination of the agreement at least one year before the expiry date provided for in the second paragraph of this article.

4- After the expiry of the first is years each of the contracting party may terminate this Agreement with a written notice expressing their intension for terminating the Agreement to the other party, it shall be valid for 12 months from data of the recieving of the other party.

5- In respect of investments made prior to the date of the termination of this Agreement, the provisions of articles 1 – 12 shall continue to be effective for a further period of 15 years from date of termination of this Agreement.

In witness whereof the duly authorized thereto from their governments have signed this Agreement in Cairo date 14/2/1993 in two orginals in Arabic Kazakh and English Languages, being equally authentic.

In case of divergencies, the English text shall prevail Each text is attached with Russian translation.

For the Government of the Arab Republic of Egypt

For the Government of Kazakhstan