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**Japan
and
Kazakhstan**

Agreement between Japan and the Republic of Kazakhstan for the promotion and protection of investment. Astana, 23 October 2014

Entry into force: *25 October 2015, in accordance with article 26*

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**Japon
et
Kazakhstan**

Accord entre le Japon et la République du Kazakhstan relatif à la promotion et à la protection des investissements. Astana, 23 octobre 2014

Entrée en vigueur : *25 octobre 2015, conformément à l'article 26*

Texte authentique : *anglais*

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[ENGLISH TEXT – TEXTE ANGLAIS]

AGREEMENT BETWEEN
JAPAN AND THE REPUBLIC OF KAZAKHSTAN
FOR THE PROMOTION
AND PROTECTION OF INVESTMENT

Japan and the Republic of Kazakhstan (hereinafter referred to as "the Contracting Parties"),

Desiring to further promote investment in order to strengthen the economic relationship between the Contracting Parties;

Intending to further create stable, equitable, favourable and transparent conditions for greater investment by investors of a Contracting Party in the Area of the other Contracting Party;

Recognising the growing importance of the progressive liberalisation of investment for stimulating initiative of investors and for promoting prosperity in both Contracting Parties;

Recognising that these objectives can be achieved without relaxing measures and standards applicable in the Areas of the Contracting Parties in the field of health, safety and environment;

Recognising the importance of the cooperative relationship between labour and management in promoting investment between the Contracting Parties;

Wishing that this Agreement will contribute to the strengthening of international cooperation with respect to the development of international rules on foreign investment; and

Believing that this Agreement will further deepen economic partnership between the Contracting Parties;

Have agreed as follows:

Article 1

For the purposes of this Agreement,

(1) The term "investments" means every kind of asset owned or controlled, directly or indirectly, by an investor, including:

- (a) an enterprise and a branch of an enterprise;
- (b) shares, stocks or other forms of equity participation in an enterprise, including rights derived therefrom;
- (c) bonds, debentures, loans and other forms of debt, including rights derived therefrom;
- (d) rights under contracts, including turnkey, construction, management, production or revenue-sharing contracts;
- (e) claims to money and to any performance under contract having a financial value;
- (f) intellectual property rights, including copyrights and related rights, patent rights and rights relating to utility models, trademarks, industrial designs, layout-designs of integrated circuits, new varieties of plants, trade names, indications of source or geographical indications and undisclosed information;
- (g) rights conferred pursuant to laws and regulations of a host State or contracts such as concessions, licences, authorisations and permits, including those for the exploration and exploitation of natural resources; and
- (h) any other tangible and intangible, movable and immovable property, and any related property rights, such as leases, mortgages, liens and pledges;

Investments include the amounts yielded by investments, in particular, profit, interest, capital gains, dividends, royalties and fees. A change in the form in which assets are invested does not affect their character as investments.

(2) The term "investor of a Contracting Party" means the following person or enterprise that seeks to make, is making or has made investments in the Area of the other Contracting Party:

- (a) a natural person having the nationality of that Contracting Party in accordance with its applicable laws and regulations; or

- (b) an enterprise of that Contracting Party;

Note: It is understood that an investor of a Contracting Party seeks to make investments in the Area of the other Contracting Party only when the investor has taken concrete steps necessary to make investments, such as when the investor has made an application for a permit or licence which authorises the establishment of investments.

(3) The term "enterprise of a Contracting Party" means any legal person or any other entity duly constituted or organised under the applicable laws and regulations of that Contracting Party, whether or not for profit, and whether private or government owned or controlled, including any corporation, trust, partnership, sole proprietorship, joint venture, association, organisation or company;

(4) The term "investment activities" means operation, management, maintenance, use, enjoyment and sale or other forms of disposal of investments;

(5) The term "Area" means with respect to a Contracting Party:

- (a) the territory of that Contracting Party; and
- (b) the exclusive economic zone and the continental shelf with respect to which that Contracting Party exercises sovereign rights or jurisdiction in accordance with international law; and

(6) The term "freely usable currency" means freely usable currency as defined under the Articles of Agreement of the International Monetary Fund.

Article 2

1. Each Contracting Party shall promote as far as possible investment by investors of the other Contracting Party and, subject to its rights to exercise powers in accordance with its applicable laws and regulations including those with regard to foreign ownership and control, admit such investment.

2. Each Contracting Party shall take appropriate measures to further improve investment environment in its Area for the benefit of investors of the other Contracting Party and their investments. In this regard, each Contracting Party shall endeavour to reduce or eliminate its restrictive measures, existing on the date of entry into force of this Agreement, vis-à-vis the investors of the other Contracting Party and their investments with respect to investment activities as well as the establishment, acquisition and expansion of investments.

Article 3

1. Each Contracting Party shall in its Area accord to investors of the other Contracting Party and to their investments treatment no less favourable than the treatment it accords in like circumstances to its own investors and to their investments with respect to investment activities.

2. Notwithstanding paragraph 1 above, each Contracting Party may prescribe special formalities in connection with investment activities of investors of the other Contracting Party in its Area, provided that such special formalities do not impair the substance of the rights of such investors under this Agreement.

Article 4

1. Each Contracting Party shall in its Area accord to investors of the other Contracting Party and to their investments treatment no less favourable than the treatment it accords in like circumstances to investors of a non-Contracting Party and to their investments with respect to investment activities and the matters relating to the admission of investment.

2. The provisions of paragraph 1 above shall not apply to:

- (a) matters related to the acquisition of land property;
- (b) any treatment accorded by a Contracting Party to investors of a non-Contracting Party and to their investments on the basis of reciprocity; and
- (c) any preferential treatment resulting from the memberships of any bilateral and multilateral international agreement involving protection of new varieties of plants, aviation, fishery and maritime matters.