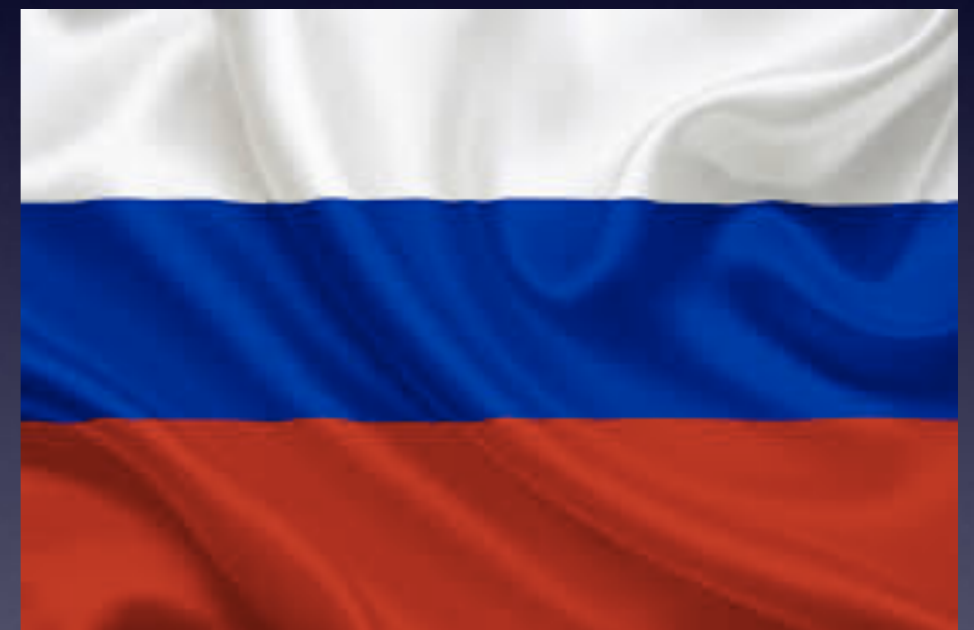


# INVESTMENT RELATIONS IN ENERGY

## KAZAKHSTAN - RUSSIA



▲ - МЕСТОРОЖДЕНИЕ НЕФТИ

8.5 - РАЗВЕДАНЫЕ ЗАПАСЫ НЕФТИ



**TREATY BETWEEN THE GOVERNMENT OF THE REPUBLIC  
OF KAZAKHSTAN AND GOVERNMENT OF RUSSIAN  
FEDERATION CONCERNING THE ENCOURAGEMENT  
AND RECIPROCAL PROTECTION OF INVESTMENT |  
6 JULY 1998**

- Based on the Investment Agreement dated 24 December 1993

Preamble:

- Favorable terms for investors
- mutual benefit in trade, economy and scientific technological cooperation

- Reference to right to regulate (e.g. regulatory autonomy, policy space, flexibility to introduce new regulations) **No**
- Reference to sustainable development **No**
- Reference to social investment aspects (e.g. human rights, labour, health, CSR, poverty reduction) **No**
- Reference to environmental aspects (e.g. plant or animal life, biodiversity, climate change) **No**

# Treaty Provisions 1

- Asset based definition of investment (Article 1)
- Each country guarantees legal protection to investors of the other country (Article 2)
- FET qualified (Article 3)
- No discrimination preventing investment management or disposal
- Both MFN and NT

# Treaty Provisions 2

- Reservations: Free trade zones, customs or economic union and DTT / Double tax treaties.
- Personnel: all individuals that are investors or employees of investors (top managers, administrative and technical) are allowed to enter and stay for the investment activities (Article 4)
- MFN and NT for compensation in the event of wars or civil riots.
- Open and accessible legislation
- No expropriation and nationalisation. Compensation in free trade currency and subject to interest rate / LIBOR (Article 7)
- Subrogation: Agency that made payment to the investor on the basis of guarantee from non-commercial risks can conduct investor's rights as if it was the investor (Article 9)

# Forums for dispute settlement between State and investor / Article 10

Any dispute must be notified in writing to be resolved via negotiations / 6 months. If not,

- A. court or Arbitration in Kazakhstan or Russia
- B. international arbitration at the chamber of commerce, provided that both parties agree
- C. ad hoc arbitration using UNCITRAL

# Forums for dispute settlement between States / Article 11

Any dispute must be notified in writing to be resolved via negotiations. If not, then upon claim of any State

A. ad hoc Arbitration where Kazakhstan or Russia appoint each 1 arbitrator and then these 2 appoint the third (foreigner) / 2 months. If not..

B. Chairman of the ICJ provided such Chairman is not citizen of any Party



# Other provisions

- Applicability: As of 16 December 1991
- If other treaties between KZ and RUS then whichever provide better terms
- Investment contracts that have better terms prevail over the Treaty
-

# Sunset Clause

- 15 years - initial period
- 12 months as of notification
- Survival - 15 years as of termination.

# Agreement/Protocol between the Russian Federation and Kazakhstan on delimitation of the deep seabed of the Northern Part of the Caspian Sea for the purpose of the exercise of sovereign rights to subsoil management 6/7/98

1) The seabed of the Caspian Sea and its subsoil under the condition of maintaining the common use of the surface water, including guarantee of free navigation, shall be delimited by the midpoint which shall be based upon the coordinated equidistance from mainline (art. 1).

2) The Parties shall exercise sovereign rights as regards exploration, mining and management of the resources of deep seabed and subsoil of the Northern Part of the Caspian Sea within the proper boundaries up to the demarcation line (art. 2).

3) The Parties pledge to protect and conserve ecosystem of the Caspian Sea and to undertake all the necessary measure for the conservation of biological diversity and prevention of pollution.

The Parties shall prohibit any activity damaging marine environment of the Caspian Sea (art. 6).



# Integration stages

1. **Free trade zone.** Documentation April 1994 until October 2011
2. **Customs Union.** Approx. 40 agreements between 1995 - 2010. Transformation to Eurasian Economic Union.  
Customs duties: Russia - 85,33 %, Kazakhstan — 7,11 %, Belorussia — 4,55 %, Kyrgyzstan — 1,9 %, Armenia — 1,11 %. No work permits needed.
3. **Eurasian Economic Space.** 1 July 2010 - No customs borders and free movement of persons, goods, services and capital (Russia, Kazakhstan, Belorussia, Kyrgyzstan and Armenia). Ceased to exist.
4. **Eurasian Economic Union.** 1994 - May 2014. Integrated single market of **180 million people** and a gross domestic product of over **USD5 trillion**.



# Main bodies

- Supreme Eurasian Economic Counsel (5 presidents)
- Eurasian Economic Commission (over 1,000 members)
- Court of the Eurasian Economic Union.

# Other agreements

- Agreement on measures to secure parallel functioning of electric energy systems in Russia and Kazakhstan
- Integrated program on cooperation between Kazakhstan and Russia on using nuclear energy for peaceful purposes

