Protocol

At the signing of the Convention between Japan and the Republic of Kazakhstan for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income (hereinafter referred to as "the Convention"), Japan and the Republic of Kazakhstan have agreed upon the following provisions, which shall form an integral part of the Convention.

1. With reference to paragraph 2 of Article 9 of the Convention:

In case where Kazakhstan makes adjustment referred to in that paragraph, nothing in the provisions of that paragraph shall be construed as imposing on Kazakhstan the obligation to agree to the profits to be adjusted.

2. With reference to paragraph 3 of Article 9 of the Convention:

Nothing in the paragraph shall be construed as preventing Kazakhstan from changing the profits of an enterprise of Kazakhstan derived from the use of subsurface under a contract thereon in accordance with the provisions of paragraph 1 of the Article before the end of the five year period from the date on which the period of the contract is completed.

3. With reference to paragraph 2 of Article 12 of the Convention:

(a) in the case of royalties arising in Kazakhstan, the term "the amount of the royalties" means the amount equal to 50 per cent of the gross amount of the royalties;

(b) in the case of royalties arising in Japan, the term "10 per cent of the amount of the royalties" means 5 per cent of the gross amount of the royalties.

4. With reference to paragraph 5 of Article 25 of the Convention:

A Contracting State may decline to supply information relating to confidential communications between attorneys, solicitors or other admitted legal representatives in their role as such and their clients to the extent that the communications are protected from disclosure under the domestic law of that Contracting State.

5. Nothing in the Convention shall be construed as preventing a Contracting State from imposing an additional tax on the profits (other than those derived from the operation of ships or aircraft in international traffic) of a company, being a resident of the other Contracting State, attributable to a permanent establishment of the company situated in the first-mentioned Contracting State, in addition to the tax which would be chargeable on the profits of a company, being a resident of the first-mentioned Contracting State, provided that any additional tax so charged shall not exceed 5 per cent of the amount of such profits. For the purpose of this paragraph, the profits subjected to the additional tax shall be determined after deducting from the profits attributable to the permanent establishment during the taxable year concerned all taxes, other than the additional tax, imposed in the first-mentioned Contracting State during the taxable year concerned.

IN WITNESS WHEREOF the undersigned, being duly authorised thereto by their respective Governments, have signed this Protocol.

DONE in duplicate at Tokyo this nineteenth day of December, 2008, in the English language.

For Japan:

中曽根弘文

For the Republic of Kazakhstan:

A. Kamaldinov