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## **World Wide Minerals achieves right to arbitrate its expropriation and international law claims against Republic of Kazakhstan**

**January 2016**

An arbitral tribunal convened under the UNCITRAL Arbitration Rules has held that Kazakhstan is a legal successor to the 1989 Agreement between the Government of Canada and the Government of the Union of Soviet Socialist Republics for the Promotion and Reciprocal Protection of Investments (the "Canada/USSR BIT"). As a result, eligible Canadian investors with potential claims against the Government of Kazakhstan for actions taken by the State since the dissolution of the USSR can bring them to arbitration under that Treaty, even though a new treaty between Canada and an independent Kazakhstan remains elusive.

Jones Day client, World Wide Minerals Ltd. ("WWM"), a Toronto-based mining company, has been attempting to redress the expropriation of its assets in Kazakhstan for almost 20 years. Based upon its multi-million dollar investment in 1996-1997, WWM managed and operated one of the largest uranium-processing facilities in the former Soviet State. It entered into a number of agreements with the Republic of Kazakhstan whereby the Government promised its full cooperation in the venture, and WWM invested millions of dollars to repair and modernize the country's uranium processing facilities and to finance mineral production. Soon thereafter, the Republic of Kazakhstan breached its contractual obligations to WWM and imposed upon it bureaucratic restrictions that frustrated the object and purpose of those contracts—ultimately leading to the suspension of operations at WWM's facility, and the bankruptcy, confiscation, and forced sale of its assets by the State. According to WWM's President and CEO, Paul A. Carroll, a citizen and resident of Canada and also a Claimant in the matter, the arbitral claim seeks to "hold Kazakhstan accountable for its deliberate acts and omissions that deprived WWM of its substantial investment in the country."

Retained as counsel to WWM in November 2013, Jones Day teamed up with Judge Stephen M. Schwebel, former President Judge of the International Court of Justice, and Professor Malcolm Shaw Q.C. of Essex Court Chambers, a leading scholar on the issue of State succession, to argue the legal point of Kazakhstan's obligations under the Canada/U.S.S.R. BIT. The Government of Canada also intervened in the matter with an amicus submission, supporting the conclusion that Kazakhstan succeeded to the Treaty. The Tribunal is comprised of Sir Franklin Berman QC, Professor John Crook and Professor William W. Park.

One of the most important aspects of the Tribunal's decision is the

door it opens for other Canadian investors with potential claims against Kazakhstan. Moreover, the former Soviet Union signed Bilateral Investment Treaties with a number of other states besides Canada, and investors from those states with grievances against Kazakhstan (or potentially other former Soviet Republics), can conceivably take advantage of those treaties, even if there is no treaty in force with the now-independent CIS State.

The Jones Day team was led by Global Disputes partners Baiju S. Vasani (London), Melissa S. Gorsline (Washington) and Charles T. Kotuby Jr. (Washington). The team included Sylvia Tonova in London; James Egerton-Vernon, Lindsay Reimschuessel, and Maria Pradilla Picas, all in Washington; and Anastasiya Ugale in Paris.

**For additional information about this matter, please contact:**

[Baiju S. Vasani](#), [Melissa Stear Gorsline](#), [Charles T. Kotuby Jr.](#)

**Client(s):** World Wide Minerals Ltd.

**Practice(s):** Global Disputes

**Office(s):** London, Washington