

# Investment and the Rule of Law

By **SIR DAVID WOOTTON**

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**SIR DAVID WOOTTON** was the 684th Lord Mayor of London. A graduate of Jesus College, Cambridge, he began his career with the law firm Allen & Overy specialising in corporate transactions and best-practice compliance. With a strong interest in the governance of the City of London he was elected to the Common Council in 2002 and in 2005 was elected an Alderman, becoming Sheriff of the City of London in 2009. He served as Lord Mayor for 2011/2012 and is now Co-Chairman of KBTIC among other senior appointments.

I am delighted that HE Prime Minister Massimov is coming to London. His is an important visit, his first to London, I believe, in some years and one which will mark a further significant step in the development of the trade and investment relationship between Kazakhstan and the United Kingdom.

## **The Prime Minister attending the Global Law Summit**

The Prime Minister has a wide-ranging and busy programme during his three-day visit but there is one feature of his programme that is particularly welcome to me: Mr Massimov is addressing the opening session of the Global Law Summit on the morning of 23 February. The Global Law Summit is being held at the prestigious Queen Elizabeth II Conference Centre in Westminster, London, from 23-25 February, and I am very pleased and honoured to be co-chair, with Henry Bellingham MP, of the board organising the Summit.

The Global Law Summit is a collaboration between Government, business, lawyers, the legal professions and the City of London. It takes the opportunity presented by the 800th anniversary of the sealing of Magna Carta in 1215 by King John of England: Magna Carta was a fundamental step in a fundamentally political process of resolving the balance of power between the monarch, the head of state as we would now say, and other interests, whether powerful, weak, wealthy or poor. It is regarded in western countries as the real beginning of what has become western-style democracy.

## **Magna Carta, 1215**

Magna Carta also contained, however, significant statements which are rightly regarded as the beginnings of what we now call The Rule of Law: equality of all before the law, equal access to justice, the right not to be punished or to have property taken away without due legal process in accordance with the law. These principles have been the foundation of the legal system in the United Kingdom in the centuries since Magna Carta, whose influence spread to many other countries: the countries of the former British Empire, of course, and now the Commonwealth, but perhaps most notably the United States, where the concepts first encapsulated in Magna Carta inspired the authors of the US constitution in 1776.

We see, however, that, in addition to any historical,

political or legal significance Magna Carta may have - and we in the United Kingdom recognise that there are other political and legal systems which have achieved good results - there is a close relationship everywhere between the quality of the system of law in a country - in all respects: laws, legal rights, the enforceability of contracts, courts, judges, legal administration, law teachers, legal skills, lawyers themselves! - everything which is summed up in the words "The Rule of Law" - and the economic and social development of that country. Economic and social progress in any community depends on investment - of time, yes, but also of money.

## **Investment and the Rule of Law**

Countries, of course, have their own money to invest, depending on their own resources and efforts, but nowadays vast amounts of funds are available for investment, and looking for investment opportunities, in other countries. Those many countries which rightly realise that their own resources are insufficient to achieve the development they wish have been keen to attract investment funds from elsewhere and have tended to concentrate their efforts on the "hard" elements of what they have to offer investors: physical infrastructure, land and buildings, production facilities, people and skills, tax and other incentives.

But there is a growing realisation that, at a time when there is much demand for international investment funds and countries have to compete to attract the funds they want, however attractive the "hard" elements of a country's investment offering, investors are keenly interested too in the "softer" elements of an investment proposition, and this is where The Rule of Law comes in: an investor in another country will obviously need, like any business anywhere, to enter into agreements with other parties - will it be clear what those agreements mean and will they be able to enforce those agreements quickly, reliably and reasonably cheaply against the other party, including where that other party is a citizen of that other country, and in particular where the other party is the government of that country?; will the investor's money be safe in the other country?; will the people who work in the other country for the investor and those whom the investor send into the other country be safe too, have their rights respected and have a good quality of life?

### The Global Law Summit again

It is this relationship, between The Rule of Law and economic and social progress, that the Global Law Summit will be exploring, and it is this which has attracted Prime Minister Massimov, with the encouragement of British Justice Minister Lord Foulks, to the Summit. The Prime Minister will be speaking at the opening session of the Summit, alongside a number of other leading world figures, and attending a number of other major events in the Summit programme. The Summit has attracted more than 1500 delegates from (at the latest count) 105 countries and include more 100 holders of senior governmental, judicial or legal offices in their countries. In his innovative and formative way of thinking of the future of Kazakhstan, Prime Minister Massimov sees this link between The Rule of Law and economic and social progress and wishes both to learn from other countries how the nature of the legal system can help to attract international investment to Kazakhstan and to contribute to the international debate on these issues.

### Meanwhile, the Inter-Governmental Commission

In October 2013 I was delighted to attend the signing in London of the agreement between the Governments of Kazakhstan and the United Kingdom establishing the Inter-Governmental Commission to oversee the development of trade and investment between the two countries, following the very successful visit by UK Prime Minister David Cameron to Kazakhstan earlier in that year. I co-chaired the annual meeting of the Kazakh-British Trade and Investment Council

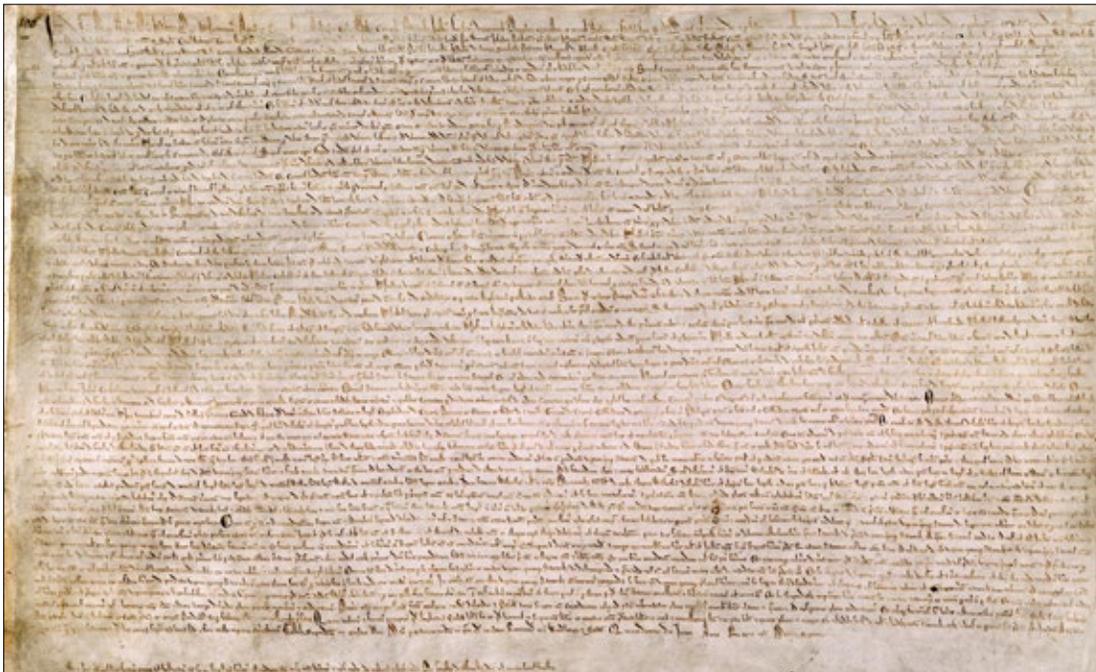
in Astana in September 2013, and again in London in September 2014. The Inter-Governmental Commission (IGC) agreement stipulates an annual meeting and the first of these took place in Astana in November 2014, co-chaired by UK Trade and Investment Minister Lord Livingston and Minister Issekeshv.

The IGC has stimulated much joint activity between businesses in both countries, and this is particularly the case in the mining sector, and in financial services. The Prime Minister's programme includes a meeting at Mansion House with the current Lord Mayor of London, Alan Yarrow, attended by the Deputy Governor of the National Bank of Kazakhstan, to discuss Almaty as a regional financial centre, the role of Islamic Finance, and – picking up a theme of the Global Law Summit – the nature of contract law in Kazakhstan and the possibility of investor-encouraging changes to introduce some elements from English Law. The Prime Minister will also attend a meeting of the very active mining group and will attend a breakfast forum with businesses interested in investing in Kazakhstan, and Minister Issekeshv a meeting on infrastructure.

### Welcome

All this activity shows that trade and investment relations are going very much in the right direction. So much of this article has been factual because there is much fact to report, and the visit of Prime Minister Massimov is very welcome, as he is welcome himself, as a significant boost to the progress being made. We are delighted to see him here, and we hope he and his delegation enjoy their time here. E

**The IGC has stimulated much joint activity between businesses in both countries**



One of only four surviving exemplifications of the 1215 text of *Magna Carta*