

AGREEMENT BETWEEN THE GOVERNMENT OF THE HASHEMITE KINGDOM OF JORDAN AND THE GOVERNMENT OF ROMANIA ON THE MUTUAL PROMOTION AND PROTECTION OF INVESTMENTS

The Government of the Hashemite Kingdom of Jordan and the Government of Romania, hereinafter referred to as "the Contracting Parties", desiring to develop the relations of economic cooperation existing between the two countries and to create favourable conditions for investors of one Contracting Party in the territory of the other Contracting Party,

Conscious about necessity to create and maintain a stable framework, in order to stimulate the investments and maximum effective utilization of economic resources of either country,

Recognizing that the encouragement and reciprocal protection of investments, according to the present Agreement, will be conducive to initiative in this field and will increase prosperity of both countries,

Have agreed as follows:

Article 1. Definitions

For the purposes of this Agreement:

(1) The term "investment" means every kind of assets owned by an investor of one Contracting Party, including goods, rights and financial means, invested in the territory of the other Contracting Party in accordance with its laws and regulations.

The term includes in particular, but not exclusively:

- (a) Movable and immovable property rights as well as any other rights in rem;
- (b) Shares, stocks and debentures and other forms of participation in companies incorporated in the territory of one Contracting Party;
- (c) Reinvested returns;
- (d) Claims to money and other rights relating to performance having economic or financial value;
- (e) Intellectual and industrial property rights, including rights with respect to copy rights, trademarks, trade names, patents technological processes, know-how, goodwill, and other similar rights;
- (f) Concessions conferred by law or by virtue of a contract particularly the concessions related to prospection, exploration, extraction and exploitation of natural resources, including those in the sea areas under jurisdiction of one of the Contracting Parties.

Any alteration of the form in which assets are invested or reinvested shall not affect their character as investment.

(2) The term "investor" means:

- (a) In respect of Jordan: any natural person holding Jordanian citizenship, in accordance with the laws in force as well as any legal entity constituted under the Jordanian laws and having the head office in Jordan;
- (b) In respect of Romania: any natural person holding Romania citizenship, in accordance with the laws in force as well as any legal person constituted under the Romanian laws and having the head office in Romania.

(3) The term "returns" means amounts yielded by an investment and in particular, though not exclusively, includes profits, dividends, interests, capital gains, royalties, management, technical assistance or other fees, irrespective of the form in which the return is paid.

Article 2. Promotion and Protection of Investments

(1) Each Contracting Party shall encourage and create favourable conditions for investments made in its territory by investors of the other Contracting Party.

(2) Investments shall be admitted with legal provisions of the Contracting Party in the territory in which the investment is made and shall enjoy the protection and guarantees provided for in this Agreement.

(3) Each Contracting Party undertakes to provide in its territory a fair equitable treatment for investments of investors of the other Contracting Party. Neither Contracting Party shall in any way impair by arbitrary, unreasonable or discriminatory measures the management, maintenance or use of investments as well as the right to disposal of these.

(4) Investors of either Contracting Party shall be permitted to engage top managerial and technical personnel, of their choice, regardless of nationality, to the extent permitted by the laws of the host country. Subject to the laws relating to the entry and sojourn of aliens, nationals of their Contracting Party shall be permitted to enter and to remain in the territory of the other Contracting Party for the purpose of establishing and administering their investment.

(5) Each Contracting Party undertakes to provide effective means of asserting claims and enforcing rights with respect to investment agreement, investment authorizations and properties. Each Contracting Party shall not impair the right of the investor of the other Contracting Party to have access to its courts of justice, administrative tribunals and agencies and all other bodies exercising adjudicatory authority.

(6) Each Contracting Party shall public all laws and regulations that pertain to or affect investments in its territory of investors of the other Contracting Party.

Article 3. Most Favoured Nation Treatment

(1) Each Contracting Party shall accord to the investments made in its territory by investors of the other Contracting Party a treatment not less favourable than that which in accords in like situation to investments of investors of any third State.

(2) Each Contracting Party shall accord to the investors of the other Contracting Party, as regard management, maintenance, use or disposal of their investments, a treatment not less favourable than that which it accords to investors of any third State.

(3) The provisions of this Agreement relating to the granting of the most favoured nation treatment, shall not be construed so as to oblige one Contracting Party to extend to the investors of the other Contracting Party the advantages Party the advantages resulting from:

(a) Any economic or custom union, a free trade area or region economic organization, to which either of the Contracting Party is or may become a Party.

(b) Any international or regional agreement or other arrangement relating wholly or mainly to taxation or any domestic legislation relating wholly or mainly to taxation.

(4) Each Contracting Party shall observe all other obligation entered into with regard to investors of the other Contracting Party, their investments and profits.

Article 4. Exportation and Compensation

(1) Investments made by investors of one Contracting Party in the territory of the other Contracting Party shall not be expropriated, nationalised, or subjected to other measures having similar effect (hereinafter referred to as "expropriation") unless the following conditions are fulfilled:

(a) The measures are adopted in the public interest and in accordance with due process of law;

(b) The measures are not discriminatory compared to the measures taken against the investment and investors of third countries;

(c) A proper procedure is established to determine the amount the amount and method of payment of compensation.

(2) The compensation shall correspond to the value of the investment subjected to one of the measures mentioned in paragraph (1) of this Article and should be prompt, adequate and effective.

(3) The amount of compensation shall be determined in accordance with recognized principles of valuation, such as the fair value of the investment on the date of expropriation.

In case the market value cannot be easily ascertained, the compensation shall be determined on equitable principles taking into account, inter alia, the capital invested, its appreciation or depreciation, current returns, replacement value and other relevant factors.

(4) Upon the request of the concerned investor, the amount of compensation can be reassessed by a tribunal or other competent body in framework of the jurisdiction of Contracting Party in the territory of which the investment has been made.

(5) The amount of compensation finally determined shall be promptly paid to the investor, who has right to transfer without delay these amounts, in freely convertible currencies. In the event that payment of compensation is delayed the investor shall receive interest for the period of any undue delay in making payment.

Article 5. Compensation for Losses

Investors of one Contracting Party whose investments made in the territory of the Contracting suffered losses owing to a war or other armed conflict, a state of national emergency, revolution, revolt, insurrection or other similar events, including losses occasioned by requisitioning, shall be accorded by the latter Contracting Party, as regard the measures taken to cover the losses a treatment not less favourable than that it accords to the investors of any third State. The amounts resulting from this Article, if any, shall be freely transferable.

Article 6. Transfers of Currency

(1) Each Contracting Party guarantees to the investors of this other Contracting Party, in respect of their investments, subject to its laws and regulations, the transfer of,

(a) The current returns resulting from an investment,

(b) The proceeds accruing from the total or partial sale, alienation or liquidation of an investment;

(c) The payments made for the reimbursement of the credits for investments and interest due;

(d) An adequate portion of the earnings of the citizens of the other Contracting Party deriving from their work and service in connecting with an investment in its territory;

(e) Compensation referred to in Articles 4 and 5.

(2) Each Contracting Party shall issue, after fulfillment of the legal obligation pertaining to the investors, the necessary licenses in order to ensure the execution without delay of the transfers.

(3) The above transfers shall be made in the convertible currency in which the investment has been made or in any other freely convertible currency, if so agreed, at the rate of exchange in force at the date of the transfer.

(4) "Without delay", in the meaning of this Article are considered the transfers which are made within a period normally required to prepare the formalities of transfer. The time runs from the date when the application together with necessary documents were submitted, in the proper way, to the competent authorities and should not exceed, in any case a period of two months.

Article 7. Subrogation

If either Contracting Party (or its designated Agency) makes payment to one of its investor under a guarantee it has given in respect of an investment or any part thereof invested in the territory of the other Contracting Party, the latter Contracting Party shall recognize:

(a) The assignment, whether under law or pursuant to a legal transaction of any right, claim and obligation from that investor to the former Contracting Party or its designated Agency; and

(b) That the former Contracting Party or its designated Agency is entitled by virtue of subrogation to exercise the rights and enforce the claims of that investor and shall assume the obligations related to the investment including payment of taxes and fees.

The former Contracting Party shall accordingly, if it so desires be entitled to assert any such right or claim to the same extent and subject to the same restrictions as its predecessor in title.

Article 8. Settlement of Investment Disputes

(1) Any dispute between one Contracting Party and an investor of the other Contracting Party concerning an investment of that investor in the territory of the former Contracting Party shall be settled, as far as possible amicably, by consultations and negotiations between the parties to the dispute.

(2) If the dispute cannot be settled by consultations and negotiations within three months from the date request for settlement, then the dispute shall be submitted for settlement in accordance with the specific dispute settlement procedures upon which a Contracting Party and an investor of the other Contracting Party have previously agreed.

(3) In the event that an investment dispute between an investment of one Contracting Party and the other Contracting Party, in the territory of which the investment has been made, continues to exist after the final decision of the national tribunal or of another competent body from the country in which the investment has been made, either of them is entitled to submit the dispute, for conciliation or arbitration, within two months after the exhaustion of domestic remedies, to the International Center for the Settlement of Investment Dispute, according to procedure provided for in the Convention on the Settlement of Investment Disputes between States and Nationals of other States, opened for signature at Washington on 18 March 1965.

(4) However, the condition under paragraph (3) of this Article relating to the exhaustion of the ways of remedies provided for in the legislation of the Contracting Party in the territory of which the investment has been made, cannot be opposed by Contracting Party to the investor of the other Contracting Party after a term of six months running from the date of the first act of judicial procedure for the settlement of this dispute by the tribunal.

(5) The Contracting Party which is a party to the dispute shall at no time whatever during the procedures involving investment dispute assert as a defense its immunity as well as the fact that the investor has received compensation under an insurance contract covering the whole or part of the incurred damage or loss.

Article 9. Settlement of Disputes between the Contracting Parties

(1) Disputes between the Contracting Parties concerning the interpretation or application of this Agreement shall be settled, as far as possible, through negotiation between the two Contracting Parties. If such a dispute cannot thus be settled within six months after the commencement of the negotiations, it shall, upon the request of either Contracting Party, be submitted to an arbitral tribunal, in accordance with the provisions of this Article.

(2) The arbitral tribunal shall be constituted for each individual case in the following way: each Contracting Party shall appoint one arbitrator; the two arbitrators shall then select a national of a third State who on approval by the two Contracting Parties shall be appointed Chairman of the tribunal. The arbitrators shall be appointed within three months and the Chairman within five months of the receipt of the request for arbitration.

(3) If within any of the periods specified in paragraph (2) the necessary appointments have not been made, either Contracting Party may invite the President OF THE International Court of Justice to make any necessary appointments. If the President is a national of either Contracting Party or if he is otherwise prevented from discharging the said function. The Vice-President of the International Court of Justice shall be invited to make the necessary appointments. If the Vice-President is a national of either Contracting Party or if he too is prevented from discharging the said function the Member of the International Court of Justice next in seniority who is not a national of either Contracting Party shall be invited to make the necessary appointments.

(4) The arbitral tribunal shall reach its decision on the basis of the provisions of this Agreement and of other agreements concluded between the Contracting Parties as well as on the general principles and rules of international law. The decision shall be reached by a majority of votes. Such decision shall be final and binding.

(5) Each Contracting Party shall bear the cost of the arbitrator it has appointed and of its representation in the arbitral proceedings. The cost of the Chairman and the remaining costs shall be borne in equal by the Contracting Parties.

(6) The arbitral tribunal shall determine its own procedure.

Article 10. Application

This Agreement shall also apply to investments made by investors of either Contracting Party in the territory of the other

Contracting Party prior to the entering into force of this Agreement and accepted in accordance with the legal provisions in force of either Contracting Party. However, the Agreement shall not apply to the disputes arising until the entering into force of this Agreement.

Article 11. Preservation of Rights

This Agreement shall not supersede, prejudice or otherwise derogate from laws and regulations of either Contracting Party, international legal obligations or commitments assumed by either ContractParty, including those contained in an investment agreement or investment authorization, that entitles investments to treatment more favourable than that accorded by this Agreement in like situations.

Article 12. Entry Into Force, Duration and Termination

(1) This Agreement shall be ratified according to the legal procedures of each Contracting Party and shall enter into force after exchanging notes which state that legal requirements have been met.

(2) The Agreement shall remain in force for a period of ten years and thereafter shall be extended tacitly for further period of ten years except the case of denunciation in writing by one of the Contracting Parties one year before the expiry date. After the expiry of the initial period, the Agreement may denounced any time with not less than one year written notice.

(3) In respect of investments made whilst the Agreement is in force, its provisions shall continue to be effective for a further period of ten years from the date of termination.

Done at Bucharest on July 2-nd 1992 in two original copies, in the Arabic, English and Romania languages.

In case of doubt as to the interpretation of this Agreement the English text shall prevail.

FOR THE GOVERNMENT OF THE HASHEMITE KINGDOM OF JORDAN

FOR THE GOVERNMENT OF ROMANIA