Agreement between the Republic of Hungary and the Hashemite Kingdom of Jordan for the promotion and reciprocal protection of investments

The Republic of Hungary and The Hashemite Kingdom of Jordan (hereinafter referred to as the "Contracting Parties"),

Desiring to intensify economic cooperation to the mutual benefit of both Contracting Parties,

Intending to create and maintain favourable conditions for investments of investors of one Contracting Party in the territory of the other Contracting Party, and

Being conscious that the promotion and reciprocal protection of investments, according to the present Agreement, stimulates the business initiatives in this field,

Have agreed as follows:

Article 1. Definitions

For the purposes of this Agreement:

1. The term "investment" shall comprise every kind of asset invested in connection with economic activities by an investor of one Contracting Party in the territory of the other Contracting Party in accordance with the laws and regulations of the latter and shall include, in particular, though not exclusively:

a. Movable and immovable property as well as any other rights in rem such as mortgages, liens, pledges and similar rights;

b. Shares, stocks and debentures of companies or any other form of participation in a company;

c. Claims to money or to any performance having an economic value associated with an investment;

d. Intellectual and industrial property rights, including copyrights, trade marks, patents, designs, rights of breeders, technical processes, know-how, trade secrets, geographical indications, trade names and goodwill associated with an investment;

e. Any right conferred by law or under contract and any licenses and permits pursuant to law, including the concessions to search for, extract, cultivate or exploit natural resources.

Any alteration of the form in which assets are invested shall not affect their character as investment on condition that this alteration is made in accordance with the laws and regulations of the Contracting Party in the territory of which the investment has been made.

2. The term "investor" shall mean any natural or legal person of one Contracting Party that has made an investment in the territory of the other Contracting Party.

a. The term "natural person" shall mean any natural person having the nationality of either Contracting Party in accordance with its laws.

b. The term "legal person" shall mean with respect to either Contracting Party, any legal entity incorporated or constituted in accordance with its laws having its central administration or principal place of business in the territory of one Contracting Party. In the case of the Republic of Hungary, this term also includes any body of persons having no legal personality but considered as a company by its laws, i.e. unlimited (kkt) and limited partnerships (bt).

3. The term "returns" shall mean amounts yielded by an investment and in particular, though not exclusively, includes profits, interest, capital gains, dividends, royalties or fees.

4. The term "territory" shall mean:

a. In the case of the Republic of Hungary, the territory over which the Republic of Hungary exercises, in conformity with international law, sovereignty, sovereign rights or jurisdiction;

b. In the case of the Hashemite Kingdom of Jordan: The territory of the Hashemite Kingdom of Jordan, as well as, those maritime areas adjacent to the outer limit of the territorial sea, including the seabed and subsoil, over which the Hashemite Kingdom of Jordan exercises, in accordance with the international law, sovereign rights and jurisdiction.

5. The term "freely convertible currency" means the currency that is widely used to make payments for international transactions and widely exchanged in principal international exchange markets provided it is not contrary to the regulations of either of the Contracting Parties.

Article 2. Promotion and Protection of Investments

1. Each Contracting Party shall encourage and create favourable conditions for investors of the other Contracting Party to make investments in its territory and, shall admit such investments in accordance with its laws and regulations.

2. Investments and returns of investors of either Contracting Party shall at all times be accorded fair and equitable treatment and shall enjoy full protection and security in the territory of the other Contracting Party.

3. The Contracting Party shall not encourage investment by lowering domestic environmental, labour or occupational health and safety legislation or by relaxing core labour standards. Where a Contracting Party considers that the other Contracting Party has offered such an encouragement, it may request consultations with the other Contracting Party and the two Contracting Parties shall consult with a view to avoiding any such encouragement.

Article 3. National and Most-favoured-nation Treatment

1. Each Contracting Party shall in its territory accord to investments and returns of investments of the other Contracting Party treatment which is fair and equitable and not less favourable than that which it accords to investments and returns of investment of its own investors or to investments and returns of investments of any third State whichever is more favourable.

2. Each Contracting Party shall in its territory accord to investors of the other Contracting Party, as regards management, maintenance, use, enjoyment or disposal of their investment, treatment which is fair and equitable and not less favourable than that which it accords to its own investors or investors of any third State, whichever is more favourable.

3. The National Treatment and Most-Favoured-Nation Treatment provisions of this Agreement shall not apply to advantages accorded by a Contracting Party pursuant to its obligations as a member of a customs, economic, or monetary union, a common market or a free trade area.

4. The Contracting Parties understand the obligations of a Contracting Party as a member of a customs, economic, or monetary union, a common market or a free trade area to include obligations arising out of an international agreement or reciprocity arrangement of that customs, economic, or monetary union, common market or free trade area.

5. The provisions of this Article shall not be construed so as to oblige one Contracting Party to extend to the investors of the other Contracting Party, or to the investments or returns of investments of such investors the benefit of any treatment, preference or privilege, which may be extended by the former Contracting Party by virtue of:

a. Any forms of multilateral agreements on investments to which either of the Contracting Parties is or may become a party;

b. Any international agreement or arrangement relating to taxation.

Article 4. Compensation for Losses

1. When investments or returns of investors of either Contracting Party suffer losses owing to war, armed conflict, a state of national emergency, revolt, insurrection, riot or other similar events in the territory of the other Contracting Party, they shall be accorded by the latter Contracting Party treatment, as regards restitution, indemnification, compensation or other settlement, not less favourable than that which the latter Contracting Party accords to its own investors or to investors of any third State whichever is more favourable.

2. Without prejudice to paragraph 1 of this Article, investors of one Contracting Party who in any of the events referred to in that paragraph suffer losses in the territory of the other Contracting Party resulting from:

a. Requisitioning of their investment or a part thereof by its forces or authorities;

b. Destruction of their investment or a part thereof by its forces or authorities which was not caused in combat action or was not required by the necessity of the situation

Shall be accorded by the Contracting Party, in whose territory the losses occurred, just, adequate and effective restitution or compensation.

Compensation shall include interest at a commercially reasonable rate from the date of occured losses until the day of payment.

Article 5. Expropriation

Investments or returns of investors of either Contracting Party shall not be nationalised, expropriated or subjected to measures having effect equivalent to nationalisation or expropriation (hereinafter referred to as "expropriation") in the territory of the other Contracting Party except for a public purpose. The expropriation shall be carried out under due process of law, on a non-discriminatory basis and shall be accompanied by provisions for the payment of prompt, adequate and effective compensation. Such compensation shall amount to the market value of the investment expropriated immediately before expropriation or impending expropriation became public knowledge (whichever is earlier), shall include interest at a commercially reasonable rate from the date of expropriation to the date of actual payment and shall be made without delay, be effectively realizable and be freely transferable in a freely convertible currency.

Article 6. Transfers

1. The Contracting Parties shall permit the free transfer of payments related to investments and returns. The transfers shall be made in a freely convertible currency and in accordance with the laws and regulations of the Contracting Party where investments were made without any restriction and undue delay. Such transfers shall include in particular, though not exclusively:

a. Capital and additional amounts to maintain or increase the investment;

b. Returns as defined in paragraph 3 of Article 1 of this Agreement;

c. The amounts required for payment of expenses which arise from the operation of the investment, such as payment of royalties and license fees or other similar expenses;

d. Payments in connection with contracts, including loan agreements;

e. Proceeds of the total or partial sale or liquidation of the investment;

f. The wages or other similar earnings of natural persons engaged from abroad in connection with an investment subject to the laws and regulations of the Contracting Party, in which investments have been made;

g. Compensations owed pursuant to Articles 4 and 5 of this Agreement;

h. Payments arising out of settlement of a dispute under Article 8 of this Agreement.

2. The transfers shall be made after fulfilment by the investor of its all related financial obligations according to laws in force of the Contracting Party in the territory of which investment is made.

3. For the purpose of this Agreement, exchange rates shall be the rate published — in accordance with the laws and regulations of the Contracting Party, which has admitted the investment — by the financial institution effecting the transfer unless otherwise agreed. Should such rate not exist the official rate has to be applied unless otherwise agreed.

Article 7. Subrogation

1. If a Contracting Party or its designated agency makes a payment to its own investors under a guarantee or insurance it has accorded in respect of an investment in the territory of the other Contracting Party, the latter Contracting Party shall recognize:

a. The assignment, whether under the law or pursuant to a legal transaction in that country, of any right or claim by the investor to the former Contracting Party or its designated agency, as well as,

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.

2. The subrogated rights or claims shall not exceed the original rights or claims of the investor.

Article 8. Settlement of Investment Disputes between a Contracting Party and an Investor of the other Contracting Party

1. Any dispute which may arise between an investor of one Contracting Party and the other Contracting Party in connection with an investment on the territory of that other Contracting Party shall be subject to negotiations between the parties in dispute.

2. If any dispute between an investor of one Contracting Party and the other Contracting Party can not be thus settled within a period of six months following the date on which such negotiations were requested in written notification, the investor shall be entitled to submit the dispute either to:

a. The competent court of the Contracting Party in the territory of which the investment has been made; or

b. The International Centre for Settlement of Investment Disputes (ICSID) having regard to the applicable provisions of the Convention on the Settlement of Investment Disputes between States and Nationals of other States opened for signature at Washington D.C. on 18 March 1965, in the event both Contracting Parties shall have become a party to this Convention; or

c. Ad hoc arbitral tribunal established under the Arbitration Rules of the United Nations Commission on International Trade Law (UNCITRAL). The parties to the dispute may agree in writing to modify these Rules.

3. Once a dispute has been submitted to one of the tribunals mentioned in paragraph 2 a. – c. the investor shall have no recourse to the other dispute settlement fora listed in paragraph 2 a.–c.

4. An investor may submit a dispute as referred to in paragraph 1 to arbitration in accordance with paragraph 2 only if not more than three years have elapsed from the date on which the investor first acquired, or should have first acquired, knowledge of the alleged breach and knowledge that the investor has incurred loss or damage.

5. The award shall be final and binding on the parties to the dispute and shall be executed in accordance with the law of the Contracting Party in the territory of which the investment has been made and the award is relied upon, by the date indicated in the award.

Article 9. Settlement of Disputes between the Contracting Parties

1. Disputes between the Contracting Parties concerning the interpretation or application of this Agreement shall, if possible, be settled through consultation or negotiation.

2. If the dispute cannot be thus settled within six months, it shall upon the request of either Contracting Party, be submitted to an Arbitral Tribunal of three members, in accordance with the provisions of this Article.

3. The Arbitral Tribunal shall be constituted for each individual case in the following way. Within two months from the date of the receipt of the request for arbitration, each Contracting Party shall appoint one member of the Tribunal. These two members shall then select a national of a third State who shall be appointed the Chair of the Tribunal (hereinafter referred to as the "Chair"). The Chair shall be appointed within three months from the date of appointment of the other two members.

4. If within the periods specified in paragraph 3 of this Article the necessary appointments have not been made, a request may be made to the President of the International Court of Justice to make the appointments. If the President happens to be a national of either Contracting Party, or if the President is otherwise prevented from discharging the said function, the Vice-President shall be invited to make the appointments. If the Vice-President also happens to be a national of either Contracting Party or 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 appointments.

5. The Arbitral Tribunal shall reach its decision by a majority of votes.

6. The Tribunal shall issue its decision on the basis of respect for the law, the provisions of this Agreement, as well as of the universally accepted principles of international law.

7. Subject to other provisions made by the Contracting Parties, the Tribunal shall determine its procedure.

8. Each Contracting Party shall bear the cost of its own arbitrator and its representation in the arbitral proceedings; the cost of the Chair and the remaining costs shall be borne in equal parts by both Contracting Parties. The Arbitral Tribunal may

make a different regulation concerning the costs.

9. The decisions of the Tribunal are final and binding for each Contracting Parties.

Article 10. Application of other Rules and Special Commitments

Nothing in this Agreement shall be taken to limit the rights of investors of the Contracting Parties from benefiting from any more favourable treatment that may be provided for in any existing or future bilateral or multilateral agreement to which they are parties.

Article 11. Applicability of this Agreement

This Agreement shall apply to investments made in the territory of one of the Contracting Parties in accordance with its laws and regulations by investors of the other Contracting Party prior to as well as after the entry into force of this Agreement, but shall not apply to any dispute or claim concerning an investment which arose, or which was settled before its entry into force.

Article 12. Consultations

Upon request by either Contracting Party, the other Contracting Party shall agree to consultations on the interpretation or application of this Agreement. Upon request by either Contracting Party, information shall be exchanged on the impact that the laws, regulations, decisions, administrative practices or procedures, or policies of the other Contracting Party may have on investments covered by this Agreement. The consultations provided for in this Article shall include consultations concerning any steps that a Contracting Party may consider are necessary to ensure compatibility between the Agreement and the EC Treaty.

Article 13. General Exceptions

1 . Nothing in this Agreement shall be construed to prevent a Contracting Party from adopting or maintaining reasonable measures for prudential reasons, such as:

a. The maintenance of the safety, soundness, integrity or financial responsibility of financial institutions; and

b. Ensuring the integrity and stability of a Contracting Party's financial system.

2. a. Nothing in this Agreement shall be construed to prevent a Contracting Party from adopting or maintaining measures that restrict transfers where the Contracting Party experiences serious balance of payments difficulties, or the threat thereof, and such restrictions are consistent with paragraph b.

b. Measures referred to in paragraph a. shall be equitable, neither arbitrary nor unjustifiably discriminatory, in good faith, of limited duration and may not go beyond what is necessary to remedy the balance of payments situation. A Contracting Party that imposes measures under this Article shall inform the other Contracting Party forthwith and present as soon as possible a time schedule for their removal. Such measures shall be taken in accordance with other international obligations of the Contracting Party concerned, including those under the WTO Agreement and the Articles of Agreement of the International Monetary Fund.

3. Nothing in this Agreement shall be construed:

a. To prevent any Contracting Party from taking any actions that it considers necessary for the protection of its essential security interests

(i) Relating to the traffic in arms, ammunition and implements of war and to such traffic and transactions in other goods, materials, services and technology undertaken directly or indirectly for the purpose of supplying a military or other security establishment,

(ii) Taken in time of war or other emergency in international relations, or

(iii) Relating to the implementation of national policies or international agreements respecting the non-proliferation of nuclear weapons or other nuclear explosive devices; or

b. To prevent any Contracting Party from taking action in pursuance of its obligations under the United Nations Charter for the maintenance of international peace and security.

4. A Contracting Party may deny the benefits of the Agreement to an investor of the other Contracting Party that is an enterprise of such Contracting Party and to investments of such investors if investors of a non-Contracting Party own or control the enterprise and the enterprise has no substantial business activities in the territory of the Contracting Party under whose law it is constituted.

5. A Contracting Party may deny the benefits of the Agreement to an investor of the other Contracting Party that is an investment of such Contracting Party and to investments of such investor if investors of a non-Contracting Party own or control the investment and the denying Contracting Party adopts or maintains measures with respect to the non-Contracting Party that prohibit transactions with the investment or that would be violated or circumvented if the benefits of the Agreement were accorded to the investments of investors.

6. All references in the Agreement to measures of a Contracting Party shall include measures applicable in accordance with EU law in the territory of that Contracting Party pursuant to its membership in the European Union. References to "serious balance-of-payments difficulties, or the threat thereof," shall include serious balance-of-payments difficulties, or the threat thereof, in the economic or monetary union of which a Contracting Party is a member.

7. A Contracting Party's essential security interests may include interests and measures deriving from its membership in a customs, economic, or monetary union, a common market or a free trade area.

8. The dispute settlement according to Article 8 shall not be considered as treatment, preference or privilege.

Article 14. Final Provisions, Entry Into Force, Duration, Termination and Amendments

1. This Agreement shall apply without prejudice to the obligations deriving from the membership in the European Union, and subject to those obligations. Consequently the provisions of this Agreement may not be invoked or interpreted neither in whole nor in part in such a way as to invalidate, amend or otherwise affect the obligations of the Republic of Hungary arising from the Treaties on which the European Union is founded as well as from the primary and secondary law of the European Union.

2. The Contracting Parties shall notify each other that their internal procedure requirements for the entry into force of this Agreement have been complied with. This Agreement shall enter into force sixty days after the date of the last notification.

3. This Agreement shall remain in force for a period of ten years, afterwards automatically prolonged for consecutive ten-years periods, until one of the Contracting Parties notifies the other Contracting Party in writing about the termination of the Agreement at least one year before the end of the actual ten-year period.

4. In respect of investments made prior to the termination of this Agreement, the provisions of this Agreement shall continue to be effective for a period of ten years from the date of termination.

5. This Agreement may be amended by written agreement between the Contracting Parties. Any amendment shall be inalienable part of the Agreement and enter into force under the same procedure required for entering into force of the present Agreement.

In witness whereof, the undersigned duly authorized have signed this Agreement.

DONE in duplicate at Budapest, this 14th day of June 2007, in the Hungarian, Arabic and English languages, all texts being equally authentic. In case of any divergence of interpretation, the English text shall prevail.