

# **AGREEMENT BETWEEN THE GOVERNMENT OF THE REPUBLIC OF ESTONIA AND THE GOVERNMENT OF THE HASHEMITE KINGDOM OF JORDAN ON THE RECIPROCAL PROMOTION AND PROTECTION OF INVESTMENTS**

The Government of the Republic of Estonia and the Government of the Hashemite Kingdom of Jordan and (hereinafter the Contracting Parties);

Desiring to promote greater economic cooperation between them, with respect to investment made by investors of one Contracting Party in the territory of the other Contracting Party;

Recognizing that agreement upon the treatment to be accorded to such investment will stimulate the flow of private capital and the economic development of the Contracting Parties;

Agreeing that a stable framework for investment will maximize effective utilization of economic resources and improve living standards;

Having resolved to conclude an Agreement on the promotion and reciprocal protection of investments;

Have agreed as follows:

## **Article 1. Definitions**

For the purposes of this Agreement:

1. The term "investor" means in respect of either Contracting Party:

a. a natural person, a national of a Contracting Party who makes an investment in the territory of the other Contracting Party;

b. any legal entity including companies, associations of companies, trading corporate entities and other organization which is incorporated or, in any event, is properly organized under the law of that Contracting Party and is actually managed from the territory of that Contracting Party.

2. The term "investment" means every kind of asset invested by investors of one Contracting Party in the territory of the other Contracting Party in accordance with its laws and regulations and shall include in particular, though not exclusively:

a. movable and immovable property as well as any other rights, such as mortgages, liens, pledges, usufructs and similar rights;

b. stock, shares, debentures and other forms of participation in companies;

c. returns reinvested, claims to money or any other rights to legitimate performance having financial value related to an investment;

d. intellectual property rights, as defined in the multilateral agreements concluded under the auspices of the World Intellectual Property Organization, in as far as both Contracting Parties are parties to them, including, but not limited to, copyrights and neighbouring rights, industrial property rights, trademarks, patents, industrial designs and technical processes, rights in plants varieties, know-how, trade secrets, trade names and goodwill;

e. rights to engage in economic and commercial activities conferred by law or by virtue of a contract, including concessions to search for, cultivate, extract or exploit natural resources.

3. Any change of the form in which assets are invested or reinvested shall not affect their character as an investment,

provided that such change is not contrary to the approvals granted, if any, to the assets originally invested.

4. The term returns means income deriving from an investment and includes, in particular though not exclusively, profits, dividends, interests, capital gains, royalties, patent and license fees, and any other fees.

5. The term without delay shall mean such period as is normally required for the completion of necessary formalities for the transfer of payments. The said period shall commence on the day on which the request for transfer has been submitted and should not exceed one month.

6. The term freely convertible currency shall mean any currency that the International Monetary Fund determines as freely usable currency in accordance with the Articles of Agreement of the International Monetary Fund and any amendment thereto.

7. The term territory means the land territory of the Republic of Estonia or the territory of the Hashemite Kingdom of Jordan respectively, as well as those maritime areas adjacent to the outer limit of the territorial sea, including the seabed and subsoil of either of the above territories, over which the State concerned exercises, in accordance with international law, sovereign rights and jurisdiction.

## **Article 2. Promotion and Admission 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. In order to encourage mutual investment flows, each Contracting Party shall endeavour to inform the other Contracting Party, at the request of either Contracting Party on the investment opportunities in its territory.

3. Each Contracting Party shall grant, whenever necessary, in accordance with its laws and regulations, without delay, the permits required in connection with the activities of consultants or experts engaged by investors of the other Contracting Party.

4. Each Contracting Party shall, subject to its laws and regulations relating to the entry, stay and work of natural persons, examine in good faith and give due consideration, regardless of nationality to requests of key personnel including top managerial and technical persons who are employed for the purposes of investments in its territory, to enter, temporary stay and work in its territory.

## **Article 3. Protection of Investments**

1. Each Contracting Party shall extend in its territory full protection and security to investments and returns of investors of the other Contracting Party. Neither Contracting Party shall hamper, by arbitrary or discriminatory measures, the development, management, maintenance, use, enjoyment, expansion, sale and if it is the case, the liquidation of such investments.

2. Investments or returns of investors of either Contracting Party in the territory of the other Contracting Party shall be accorded fair and equitable treatment in accordance with international law.

## **Article 4. National Treatment and Most Favoured Nation Treatment**

1. Neither Contracting Party shall accord in its territory to investments and returns of investors of the other Contracting Party a treatment less favourable than that which it accords to investments and returns of its own investors, or investments and returns of investors<sup>^</sup> of any other third State, whichever is more favourable to the investors concerned.

2. Neither Contracting Party shall accord in its territory to the investors of the other Contracting Party, as regards, acquisition, expansion, operation, management, maintenance, enjoyment, use, sale or disposal of their investment, a treatment which is less favourable than that which it accords to its own investors or to investors of any third State, whichever is more favourable to the investors concerned.

3. Neither Contracting Party shall in its territory impose mandatory measures on investments by investors of the other Contracting Party, concerning the purchase of materials, means of production, operation, transport, marketing of its products or similar orders having unreasonable or discriminatory effects.

4. The provisions of paragraph 1 and 2 of this Article shall not be construed so as to oblige one Contracting Party to extend to the investors of the other Contracting Party the benefit of any treatment, preference or privilege which may be extended

by the former Contracting Party by virtue of:

- a. any existing or future customs union or economic or monetary union, free trade area or similar international agreements to which either of the Contracting Party is or may become a Party in the future;
- b. any international agreement or arrangement, wholly or partially related to taxation.

## **Article 5. Expropriation**

1. A Contracting Party shall not expropriate or nationalize directly or indirectly an investment in its territory of an investor of the other Contracting Party or take any measure or measures having equivalent effect (hereinafter referred to as expropriation) except if the following conditions occur simultaneously:

- a. for a purpose which is in the public interest,
- b. on a non-discriminatory basis,
- c. in accordance with due process of law, and
- d. accompanied by payment of prompt, adequate and effective compensation.

2. Compensation shall be paid without delay.

3. Compensation shall amount to the fair market value of the investment expropriated immediately before the expropriation or impending expropriation became known, whichever is the earlier. It shall be paid without delay, be effectively realizable and freely transferable.

4. An investor of a Contracting Party affected by the expropriation earned out by the other Contracting Party shall have the right to prompt review of its case, including the valuation of its investment and the payment of compensation in accordance with the provisions of this Article, by a judicial authority or another competent and independent authority of the latter Contracting Party.

## **Article 6. Compensation for Damage or Loss**

1. When investments made by investors of either Contracting Party suffer loss or damage owing to war or other armed conflict, civil disturbances, state of national emergency, revolution, riot or 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 the treatment that the latter Contracting Party accords to its own investors or to investors of any third State, whichever is more favourable to the investors concerned.

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 damage or loss in the territory of the other Contracting Party resulting from:

- a. requisitioning of their property or part thereof by its forces or authorities;
- b. destruction of their property or part thereof by its forces or authorities which was not caused in combat or was not required by the necessity of the situation,

Shall be accorded a prompt, adequate and effective compensation or restitution for the damage or loss sustained during the period of requisitioning or as a result of destruction of their property. Resulting payments shall be made in freely convertible currency and be freely transferable without delay.

## **Article 7. Transfers**

1. Each Contracting Party shall ensure that all payments relating to an investment in its territory of an investor of the other Contracting Party may be freely transferred into and out of its territory without delay. Such transfers shall include, in particular, though not exclusively:

- a. the initial capital and additional amounts to maintain or increase an investment;
- b. returns;
- c. payments made under a contract including a loan agreement;

- d. proceeds from the sale or liquidation of all or any part of an investment;
  - e. payments of compensation under Articles 5 and 6 of this Agreement;
  - f. payments arising out of the settlement of an investment dispute;
  - g. earnings and other remuneration of personnel engaged from abroad in connection with an investment.
2. Each Contracting Party shall ensure that the transfers under paragraph 1 of this Article are made in a freely convertible currency, at the market rate of exchange prevailing on the date of transfers and shall be made without delay.
3. The provisions of this Article shall not be construed so as to prevent a Contracting Party from fulfilling in good faith its obligations as a member of an economic and monetary union.

## **Article 8. Subrogation**

1. If one Contracting Party or its designated Agency (for the purpose of this Article: the First Contracting Party) makes a payment under an indemnity given in respect of an investment in the territory of the other Contracting Party (for the purpose of this Article: the "Second Contracting Party"), the Second Contracting Party shall recognize:
- a. the assignment to the First Contracting Party by law or by legal transaction of all the rights and claims of the party indemnified; and
  - b. that the First Contracting Party is entitled to exercise such rights and enforce such claims by virtue of subrogation, to the same extent as the party indemnified, and shall assume the obligations related to the investment.
2. The First Contracting Party shall be entitled in all circumstances to:
- a. the same treatment in respect of the rights, claims and obligations acquired by it, by virtue of the assignment; and
  - b. any payments received in pursuance of those rights and claims

As the party indemnified was entitled to receive it by virtue of this Agreement, in respect of the investment concerned and its related returns.

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

## **Article 9. Settlement of Disputes between a Contracting Party and an Investor of the other Contracting Party**

1. Any investment dispute between a Contracting Party and an investor of the other Contracting Party shall be settled by negotiations.
2. If a dispute under paragraph 1 of this Article cannot be settled within six (6) months of a written notification, the dispute shall be upon the request of the investor settled as follows:
- a. by a competent court of the Contracting Party in whose territory the investment is made, or
  - b. by conciliation or arbitration by the International Centre for Settlement of Investment Disputes (ICSID), established by the Convention on the Settlement of Investment Disputes between States and Nationals of other States, opened for signature in Washington on March 18 th, 1965. In case of arbitration, each Contracting Party, by this Agreement irrevocably consents in advance, even in the absence of an individual arbitral agreement between the Contracting Party and the investor, to submit any such dispute to this Centre. This consent implies the renunciation of the requirement that the internal administrative or judicial remedies should be exhausted; or
  - c. by arbitration by three arbitrators in accordance with the Arbitration Rules of the United Nations Commission on International Trade Law (UNCITRAL), as amended by the last amendment accepted by both Contracting Parties at the time of the request for initiation of the arbitration procedure. In case of arbitration, each Contracting Party, by this Agreement irrevocably consents in advance, even in the absence of an individual arbitral agreement between the Contracting Party and the investor, to submit any such dispute to the tribunal mentioned.
3. The award shall be final and binding; it shall be executed according to the national law; each Contracting Party shall ensure the recognition and enforcement of the arbitral award in accordance with its relevant laws and regulations.
4. A Contracting Party which is a party to a dispute shall not, at any stage of conciliation or arbitration proceedings or

enforcement of an award, raise the objection that the investor who is the other party to the dispute has received an indemnity by virtue of a guarantee in respect of all or a part of its losses.

5. An investor who has submitted the dispute to a national court in accordance with Paragraph 2(a) of this Article or to one of the arbitral tribunals mentioned in Paragraph 2(b) to (c) shall not have the right to pursue his case in any other court or tribunal. The investor's choice to the court or arbitral tribunal is final and binding.

## **Article 10. 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 by negotiations.

2. If a dispute according to paragraph 1 of this Article cannot be settled within six (6) months it shall upon the request of either Contracting Party be submitted to an arbitral tribunal of three members.

3. Such arbitral tribunal shall be constituted ad hoc as follows: each Contracting Party shall appoint one arbitrator and these two arbitrators shall agree upon a national of a third State as their chairman. Such arbitrators shall be appointed within two (2) months from the date one Contracting Party has informed the other Contracting Party, of its intention to submit the dispute to an arbitral tribunal, the chairman of which shall be appointed within two (2) further months.

4. If the periods specified in paragraph 3 of this Article are not observed, either Contracting Party may, in the absence of any other relevant arrangement, invite the President of the International Court of Justice to make the necessary appointments. If the President of the International Court of Justice is a national of either of the Contracting Parties or if he is otherwise prevented from discharging the said function, the Vice-president or in case of his inability the member of the International Court of Justice next in seniority should be invited under the same conditions to make the necessary appointments..

5. The tribunal shall establish its own rules of procedure unless the Contracting Parties decide otherwise.

6. The arbitral tribunal shall reach its decision in virtue of the present Agreement and pursuant to the rules of international law. It shall reach its decision by a majority of votes; the decision shall be final and binding..

7. Each Contracting Party shall bear the costs of its own arbitrator and of its legal representation in the arbitration proceedings. The costs of the chairman and the remaining costs shall be borne in equal parts by both Contracting Parties. The tribunal may, however, in its award determine another distribution of costs.

## **Article 11. Application of the Agreement**

This Agreement shall apply to investments made prior to or after the entry into force of this Agreement, but shall not apply to any investment dispute that may have arisen before its entry into force.

## **Article 12. Entry Into Force, Duration and Denunciation**

1. This Agreement shall enter into force on the date of receipt of the latter notification through diplomatic channels by which either Contracting Party notifies the other Contracting Party that its internal legal requirements for the entry into force of this Agreement have been fulfilled.

2. This Agreement shall remain in force for a period of ten (10) years and shall be extended thereafter for following ten years periods unless, one year before the expiration of the initial or any subsequent period, either Contracting Party notifies the other Contracting Party of its intention to denounce the Agreement. In that case, the notice of denunciation shall become effective by the expiration of current period of ten (10) years.

3. In respect of investments made prior to the date when the notice of denunciation of this Agreement becomes effective, the provisions of this Agreement shall continue to be effective for a period of ten (10) years from the date of denunciation of this Agreement.

4. This Agreement may be terminated by giving notice in writing through diplomatic channels six months beforehand, if the obligations of the Republic of Estonia arising from its membership of the European Union necessitate it, in the condition that the level of protection of investments remains equal to the level provided by this Agreement.

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

Done at Amman on..IP..... May 2010 in two original versions, in Estonian, Arabic and English languages, all three texts being equally authentic. In a case of divergence of interpretation, the English text shall prevail.

FOR THE GOVERNMENT OF THE REPUBLIC OF ESTONIA

FOR THE GOVERNMENT OF THE HASHEMITE KINGDOM OF JORDAN