

AGREEMENT ON THE RECIPROCAL PROMOTION AND PROTECTION OF INVESTMENTS BETWEEN THE HASHEMITE KINGDOM OF JORDAN AND BOSNIA AND HERZEGOVINA

The Hashemite Kingdom of Jordan and Bosnia and Herzegovina, hereinafter referred to as the Contracting Parties;

Desiring to further promote economic cooperation between them regarding investments of investors of either Contracting Party in the territory of the other Contracting Party;

Recognizing that reaching an agreement to promote such investments will encourage the flow of private capital and increase economic development for both Contracting Parties;

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

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

Have agreed as follows:

Article 1. Definitions

For the purpose of this agreement:

1. 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 funds as well as any other rights, such as mortgages, liens, pledges, usufructs and similar rights;
- b. company stocks, bonds, shares and any other form of participation in companies; c. claims to money and claims to performance;
- 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 neighboring rights, industrial property rights, trademarks, patents, production processes, rights in plant varieties, craft 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;

Any change to the form in which assets are invested shall not affect their character and nature as investments, provided that such change is not contrary to the granted approvals, if any, to the originally invested assets.

2. The term "investor" means:

a. To the Hashemite Kingdom of Jordan:

- 1. a natural person holding the nationality of the Hashemite Kingdom of Jordan who makes an investment in the territory of Bosnia and Herzegovina;
- 2. a legal person incorporated, constituted or legally recognized under the laws and regulations of the Hashemite Kingdom of Jordan, having its seat and performing real business activity in the territory of the Hashemite Kingdom of Jordan and makes an investment in the territory of Bosnia and Herzegovina.

b. To Bosnia and Herzegovina:

1. a natural person who earns his status as a citizen of Bosnia and Herzegovina under the applicable law of Bosnia and Herzegovina, where this person has a permanent residency or main business center in Bosnia and Herzegovina.
2. a legal person established under the applicable laws of Bosnia and Herzegovina who has a registered location, its headquarters or main business center in the territory of Bosnia and Herzegovina.
3. The term "returns" means income derived from an investment and includes, in particular though not exclusively, profits, dividends, interests, capital gains, rent, patent royalties and license fees, and any other fees.
4. The term "without delay" means the time period normally needed to complete the procedures for the transfer of payments. This time period starts from the day the transfer request is submitted, and shall not exceed one month in any case.
5. The term "freely convertible currency" means any currency that the International Monetary Fund determines, from time to time, as freely usable currency in accordance with the Articles of Agreement of the International Monetary Fund and any amendment thereto.
6. The term "territory" means:
 - a. To the Hashemite Kingdom of Jordan: the territory of the Hashemite Kingdom of Jordan in addition to the maritime area adjacent to the outer limit of the territorial sea, including the seabed and subsoil, over which the Hashemite Kingdom of Jordan exercises its sovereign rights or authority according to international law.
 - b. To Bosnia and Herzegovina: all the territory of Bosnia and Herzegovina, territorial sea, entire seabed and subsoil, the airspace above it, including any marine area between the territorial sea of Bosnia and Herzegovina, whether it is currently defined or what will be defined in the future, in accordance with the law of Bosnia and Herzegovina and under international law as an area over which Bosnia and Herzegovina exercises its sovereign rights or authority regarding the seabed, subsoil or its natural resources.

Article 2. Promotion and Admission of Investments

1. Each Contracting Party shall encourage and create favorable 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 inform the other Contracting Party, at the request of either Contracting Party, of the investment opportunities in its territory.
3. Each Contracting Party shall grant, whenever necessary, in accordance with its laws and regulations, and without delay, the required permits in connection with the activities of consultants or experts engaged by investors of the other Contracting Party.
4. Each Party shall, subject to its laws and regulations relating to the entry, residence and work of natural persons, examine the requests submitted by key personnel in good faith and give them due consideration, regardless of their nationality, including top management and technical staff who are employed for the purpose of investments in its territory to enter, temporarily stay and work in its territory and work on the investment. Immediate family members of such key personnel shall also be granted similar treatment with regards to the entry and temporary stay in the host Contracting Party.

Article 3. Protection of Investments

1. Each Contracting Party shall grant 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, disposal, enjoyment, expansion, sale and, if necessary, 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 and Most Favored Nation Treatment

1. Neither Contracting Party shall, in its territory, accord investments and returns of investors of the other Contracting Party treatment that is less favorable than that which it accords to investments and returns of its own investors, or investments and returns of investors of any third state, whichever is more favorable to the concerned investors.
2. Neither Party shall, in its territory, accord investors of the other Contracting Party as regards the acquisition, expansion,

operation, management, maintenance, enjoyment, use, sale or disposal of their investments, treatment that is less favorable than that which it accords to its own investors or to investors of any third state, whichever is more favorable to the concerned investors.

3. Each Contracting Party shall accord to investors of the other Contracting Party and their investments and returns the appropriate treatment required under Paragraphs (1) and (2) of this article, whichever is more favorable to the investors, their investments and returns.

4. Neither Contracting Party shall, in its territory, impose mandatory measures on investments of investors of the other Contracting Party as regards the purchase of materials, means of production, operation, transport, marketing of its products, or other similar requirements having discriminatory and unreasonable effects.

5. The provisions of Paragraphs (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, economic or monetary union, free trade area or similar international agreements to which either 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. Neither Contracting Party shall, in its territory, expropriate or nationalize, directly or indirectly, investments of investors of the other Contracting Party, or subject them to any measure/s having a similar effect to expropriation (hereinafter referred to as "expropriation") except:

a. for a purpose which is in the public interest

b. on a non-discriminatory basis

c. in accordance with due process of law

d. accompanied by payment of prompt, adequate and effective compensation

2. Compensation shall be paid without delay.

3. Compensation shall be equivalent to the fair market value of the expropriated investment immediately before the announcement of the expropriation decision. The fair market value shall not change the value because the expropriation had become publicly known earlier.

4. Compensation shall be freely transferable in a freely useable currency.

5. The affected investor shall have the right to prompt review of his case or status, in accordance with the law of the Contracting Party that took the expropriation decision, including the value of his investments and the payment of compensation in accordance with the provisions of this article, or by a judicial authority, or another competent or independent authority of that Contracting Party.

Article 6. Compensation for Damage or Loss

1. When investments made by investors of either Contracting Party suffer loss or damage in the territory of the other Contracting Party owing to war or other armed conflict, civil disturbances, state of national emergency, revolution, riot, unrest or other similar events in the territory of the other Contracting Party, this Contracting Party shall accord them, as regards restitution, indemnification, compensation or another settlement, treatment that is not less favorable than treatment provided by that Contracting Party to its own investors or to investors of any third state, whichever is more favorable to the concerned investors.

2. Without prejudice to the provisions of 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. expropriation of their property or part thereof by the forces or authorities of the other Contracting Party;

b. destruction of their property or part thereof by the forces or authorities of the Contracting Party that was not caused in a war or was not required by the necessity of the situation;

shall be accorded prompt, adequate and effective compensation or restitution, where the resulting compensation shall be freely transferable and in a freely usable currency without delay.

Article 7. Transfers

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

- a. capital and the additional amounts required to maintain or increase the investment;
- b. Capital returns;
- c. payments made under a contract including a loan agreement;
- d. proceeds from the full or partial sale or liquidation of an investment;
- e. compensation allowance under Articles (5), (6) and (8) 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 guarantee that 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 the transfer, and are made without delay.

3. Each Contracting Party shall guarantee that the interest rate is the adopted interest rate between banks in London calculated on the compensation for the period starting from the occurrence of events under Articles (5), (6) and (8) until the date of transfer, and payments are to be made in accordance with the provisions of Paragraphs (1) and (2) of this article.

4. Each Contracting Party shall accord transfers of investors of the other Contracting Party treatment that is not less favorable than the treatment accorded to transfers of investors of a third state.

Article 8. Transfer of Rights

1. If either Contracting Party or its designated agency (for the purpose of this agreement: "First Contracting Party") makes a payment under an insurance guarantee against noncommercial risks given in respect of an investment or part thereof in the territory of the other Contracting Party (for the purpose of this agreement: "Second Contracting Party"), the Second Contracting Party shall recognize:

- a. the assignment to the First Contracting Party, by law or by legal business transaction, of all the rights and claims of the compensated party; 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 compensated party, and shall assume the obligations related to the investment.

2. The First Contracting Party shall, in all circumstances, have the right to receive:

- a. the same treatment in respect of the rights, claims and obligations acquired by it by virtue of the assignment; and
- b. any payments in pursuance of those rights and claims;

as the compensated party was entitled to receive these amounts by virtue of this agreement, in respect of the concerned investment and its related returns.

Article 9. Application of other Obligations

1. If the provisions of the law of either Contracting Party or international obligations existing at present or established thereafter between the Contracting Parties, in addition to the present agreement, contain a rule, whether general or specific, entitling investments by investors of the other Contracting Party to treatment that is more favorable than is provided for by the present agreement, such rule shall to the extent that it is more favorable prevail over the present agreement.

2. Each Contracting Party shall observe any other obligations it may have entered into towards approved investments of

investors of the other Contracting Party it in its territory.

Article 10. 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 through negotiations.
2. If a dispute could not be settled according to Paragraph (1) of this article within six months from the date of a written notification, the dispute shall be settled, upon the request of the investor, as follows:
 - a. by a competent court of the Contracting Party; or
 - b. through 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 18 March 1965. In case of arbitration, each Contracting Party irrevocably consents in advance by virtue of this agreement, even in the absence of an individual arbitration agreement between the Contracting Party and the investor, to submit any such dispute to the Centre. This consent implies the renunciation of any requirements set by the internal administration or judicial proceedings; or
 - c. through arbitration by three arbitrators in accordance with the Arbitration Rules of the United Nations Commission on International Trade Law (UNCITRAL) and its amendments, as in the last amendment that should be accepted by both Contracting Parties at the time of the request for initiation of the arbitration procedure. In case of arbitration, each Contracting Party irrevocably consents in advance, by virtue of this agreement, even in the absence of an individual arbitration agreement between the Contracting Party and the investor, to submit any such dispute to the mentioned tribunal; or
 - d. through arbitration under the Arbitration Rules of the International Chamber of Commerce.
3. The award shall be final and binding, and shall be executed according to the national law. Each Contracting Party shall guarantee the approval and enforcement of the arbitral award in accordance with the relevant laws and regulations.
4. A Contracting Party that is a party to a dispute shall not, at any stage of settlement, arbitration or enforcement of an award, raise objections to an investor, who is the other party to the dispute, who has received compensation by virtue of a guarantee to cover all or part of his 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 (2)(d), shall not have the right to pursue his case in any other court or tribunal. The investor's choice of a court or arbitral tribunal shall be final and binding.

Article 11. Settlement of Disputes between the Contracting Parties

1. Disputes between the Contracting Parties concerning the interpretation or application of this agreement shall be settled through negotiations, where possible.
2. If a dispute could not be settled according to Paragraph (1) of this article within six months it shall, upon the request of either Contracting Party, be submitted to a special arbitral tribunal.
3. Such arbitral tribunal shall be constituted as follows: each Contracting Party shall appoint one arbitrator and these two arbitrators shall choose a national of a third State as their chairman. The arbitrators shall be appointed within two months from the date one Contracting Party informs the other Contracting Party of its desire to submit the dispute to an arbitral tribunal. The chairman shall be appointed within two further months.
4. If the tribunal could not be constituted within the periods specified in Paragraph (3) of this article, either Contracting Party may, in the absence of any other 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 Contracting Party 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 may be invited, under the same conditions, to make the necessary appointments.
5. The arbitral tribunal shall establish its own procedures.
6. The arbitral tribunal shall reach its decision by virtue of the present agreement and pursuant to the rules of international

law. It shall reach its decision by a majority of votes. Such 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. However, the tribunal may decide on a different cost distribution.

Article 12. Application of the Agreement

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

Article 13. Entry Into Force, Duration and Termination

1. The present agreement shall enter into force from the date of receipt of the latter of the notifications, through diplomatic channels, where either Contracting Party informs the other Contracting Party of the completion of the internal legal procedures required for the agreement's entry into force.

2. The present agreement shall remain in force for ten years and shall be automatically renewed for another ten years, unless either Contracting Party informs the other Contracting Party of its intention to terminate the agreement, one year before the end of the initial or following period. In this case, the termination notification shall enter into force from the end date of the current ten (10) year period.

3. With respect to investments made or acquired prior to the date of termination of the present agreement, all the provisions of the other articles of this agreement shall remain in force for a period of ten years from the date of termination.

In witness whereof the undersigned duly authorized have signed this agreement.

Done at Amman, on 2 July 2006, in two versions, in the Arabic, Bosnian/Croatian/Serbian and English languages. All texts are originals and are equally authentic. In case of divergence in interpretation, the English text shall prevail.

For the Hashemite Kingdom of Jordan

For Bosnia and Herzegovina