

# **Agreement between the Swiss Confederation and the Hashemite Kingdom of Jordan concerning the reciprocal promotion and protection of investments**

The Swiss Federal Council

And

The Government of the Hashemite Kingdom of Jordan,

Desiring to intensify economic cooperation in the mutual interest of both States;

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

Recognizing the need to promote and protect foreign investment with a view to promoting economic prosperity of both States;

Have agreed as follows:

## **Article 1. Definitions**

For the purposes of this Agreement:

(1) The term refers "investor with regard to either Contracting Party: natural persons who, according to the law of that Contracting Party, are considered to be its nationals; legal entities, including companies registered partnerships, corporations or other organizations, which are constituted or otherwise organised under the law of that Contracting Party and having their seat together with real economic activities, in the territory of that same Contracting Party; legal entities established in accordance with the law of any country, which are controlled directly or indirectly by natural persons or legal entities, respectively in accordance with subparagraph (a) and (b) above, and who belong to a substantial proportion entités. to such persons or natural persons who, according to the law of that Contracting Party, are considered to be its nationals; legal entities, including companies registered partnerships, corporations or other organizations, which are constituted or otherwise organised under the law of that Contracting Party and having their seat together with real economic activities, in the territory of that same Contracting Party; legal entities established in accordance with the law of any country, which are controlled directly or indirectly by natural persons or legal entities, respectively in accordance with subparagraph (a) and (b) above, and who belong to a substantial part of such persons or entities.

(2) The term "investment" means all categories of assets and in particular, though not exclusively: ownership of movable and immovable property as well as any other rights in rem servitudes, charges, such as movable and immovable property, pledges, usufruits; the actions, shares and other forms of participation in a company; Monetary claims and rights to any performance having economic value; intellectual property rights, including but not limited to copyrights and related rights, trademarks, patents, industrial designs, technical processes, plant varieties, know-how, trade secrets, trade names and goodwill; the rights conferred by law or under contract, including concessions, licences and permits and permis. ownership of movable and immovable property as well as any other rights in rem servitudes, charges, such as movable and immovable property, pledges, usufruits; the actions, shares and other forms of participation in a company; Monetary claims and rights to any performance having economic value; intellectual property rights, including but not limited to copyrights and related rights, trademarks, patents, industrial designs, technical processes, plant varieties, know-how, trade secrets, trade names and goodwill; the rights conferred by law or under contract, including concessions, patents, licences and permits.

(3) The term means the returns derived from an investment amounts and includes in particular, though not exclusively, interests, capital gains, profits, dividends, royalties and fees.

(4) The term territory includes the maritime areas adjacent to the coastal State concerned, to the extent that they may

exercise sovereign rights or jurisdiction in accordance with international law.

## **Article 2. Scope**

This Agreement shall apply to investments made in the territory of a Contracting Party in accordance with its laws and regulations by investors of the other contracting party, before or after its entry into force. It does not apply to claims arising out of events which occurred prior to its entry into force.

## **Article 3. Encouragement , Admission**

(1) Each Contracting Party shall promote as far as possible investments by investors of the other contracting party in its territory and admit such investments in accordance with its laws and regulations.

(2) Once it has admitted an investment in its territory, each Contracting Party shall issue the necessary permits in connection with such investments and with the carrying out of licensing agreements, technical, commercial or administrative assistance. Each Contracting Party shall endeavour to issue, whenever necessary, the required authorisations for the activities of consultants and other qualified persons of foreign nationality.

## **Article 4. Protection , Treatment**

(1) Returns of investments and investors of each Contracting Party shall accord at all times fair and equitable treatment and shall enjoy protection and security in the territory of the other contracting party. No Contracting Party shall in any way hinder by unjustified discriminatory measures or the management, maintenance, use, enjoyment, increased or disposal of such investments.

(2) Each Contracting Party shall accord in its territory to returns of investments and investors of the other contracting party treatment no less favourable than that which it accords to its own and returns of investments or investors to returns of investments and investors of any third State, more favourable treatment to the investor concerned is crucial.

(3) Each Contracting Party shall accord to investors in its territory of the other contracting party, as regards the management, maintenance, use, enjoyment or disposal of their investments, treatment no less favourable than that it accords to its own investors to investors or of any third State, more favourable treatment to the investor concerned is crucial.

(4) If a Contracting Party accords special advantages to investors of any third State by virtue of an existing or future agreement establishing a free trade area, customs union or common market or by virtue of an agreement for the avoidance of double taxation, it shall not be obliged to accord such advantages to investors of the other contracting party.

## **Article 5. Free Transfer**

(1) Each Contracting Party shall accord to investors of the other contracting party without delay the transfer in a freely convertible currency, amounts relating to an investment in particular, though not exclusively:

(a) Income;

(b) Such as loans;

(c) The amounts to be used to cover expenses relating to the management of the investment;

(d) Royalties and other payments deriving from rights enumerated in article 1, paragraph (2), let. (C), (d) and (e) of this Agreement;

(e) The initial capital and additional contributions of capital necessary for the maintenance of the development or investment;

(f) Proceeds from the sale or the total or partial liquidation of the investment, including possible gains;

(g) Payments arising out of the settlement of a dispute relating to an investment;

(h) Other earnings and remuneration of personnel engaged from abroad in connection with an investment.

(2) Unless otherwise agreed with the investor transfers shall be made at the rate of exchange applicable on the date of transfer pursuant to the exchange of regulations in force the Contracting Party in whose territory the investment has been

made.

## **Article 6. Expropriation**

(1) Neither Contracting Party shall take, directly or indirectly, measures of expropriation, nationalization or any other measures having the same nature or the same effect against investments of investors of the other contracting party except for reasons of public interest and provided that such measures are not discriminatory, that they comply with the legal requirements and provide for payment of adequate and effective compensation. the compensation shall amount to the market value of the expropriated investment immediately before the expropriation was taken or they are known to the public, the first of those events in determining. the amount of compensation shall include interest, shall be settled in a freely convertible currency and paid without delay to the person entitled thereto without regard to its residence or its headquarters.

(2) "comply with legal requirements" means in particular the right of an investor of a contracting party aggrieved by expropriation by the other Contracting Party, to obtain a 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 that Contracting Party.

## **Article 7. Compensation for Losses**

(1) Investors of one Contracting Party whose investments in the territory of the other contracting party have suffered losses due to a war or any other armed conflict, revolution, state of emergency, national revolt riot, insurrection or occurring in the territory of the latter Contracting Party, benefit from it, as regards restitution, indemnification, compensation or other settlement, a treatment no less favourable than that it accords to its own investors to investors or of any third State. resulting payments shall be freely transferable at the rate of exchange applicable on the date of transfer pursuant to the exchange regulations in force.

(2) Without prejudice to paragraph (1) of this article, investors of one Contracting Party who, in any of the situations referred to in that paragraph, suffer losses in the territory of the other Contracting Party as a result of:

(a) The requisition of property by their forces or the authorities of that Contracting Party; or

(b) The destruction of property by their forces or the authorities of that Contracting Party, which was not caused in combat or was not required by the necessity of the situation,

Will be accorded adequate restitution or compensation. resulting payments shall be freely transferable at the rate of exchange applicable on the date of transfer pursuant to the exchange regulations in force.

## **Article 8. Principle of Subrogation**

If a Contracting Party or a legal person governed by public or private law duly authorised by it provides, under a guarantee against non-commercial risks, compensation to one of its investors for an investment made in the territory of the other contracting party, the latter Contracting Party shall recognize the subrogation of the first Contracting Party or of a person duly authorised by the Commission in all the rights of the investor under this Agreement.

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

(1) With a view to finding an amicable settlement of disputes between a Contracting Party and an investor of the other contracting party and without prejudice to the provisions of article 10 of this Agreement, consultations will take place between the parties concerned.

(2) If these consultations do not solution within six months from the date of the written request, to initiate the investor may either submit the dispute to the competent courts of the Contracting Party in whose territory the investment has been made or to international arbitration. in the latter case, the investor shall have the choice between:

(a) 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 (1), opened for signature at Washington on 18 March 1965 (hereinafter referred to as the Washington Convention """);

(b) An ad hoc arbitral tribunal which unless the parties to the dispute decide otherwise, is to be established under the

Arbitration Rules of the United Nations Commission on International Trade Law (UNCITRAL);  
or

(c) The arbitration in accordance with the Rules of Arbitration of the International Chamber of Commerce (ICC).

(3) Each Contracting Party gives its consent to the submission to international arbitration to any dispute concerning an investment.

(4) The Contracting Party which is a party to the dispute may, at any stage of the proceedings Regulation or the enforcement of the award, assert the fact that the investor has received pursuant to an insurance contract, compensation covering the whole or part of the damage incurred.

(5) A company which is incorporated or constituted under the laws in force in the territory of one Contracting Party and which, before a dispute arises, was controlled by nationals or companies of the other Contracting Party, shall be treated as defined in article 25 (2) (b) of the Washington Convention, as a company of the other contracting party.

(6) Neither Contracting Party shall pursue through diplomatic channels a dispute submitted to international arbitration unless the other contracting party does not comply with the arbitral award.

(7) The arbitral award shall be final and binding upon the parties to the dispute and shall be executed according to the national legislation.

## **Article 10. Settlement of Disputes between the Contracting Parties**

(1) Disputes between the contracting parties relating to the interpretation or application of the provisions of this Agreement shall be settled through diplomatic channels.

(2) If both contracting parties fail to reach a settlement within six months from the date on which the dispute has arisen, the latter shall be submitted, at the request of either contracting party to an arbitral tribunal composed of three members. each Contracting Party shall appoint an arbitrator. the two arbitrators so nominated shall appoint a chairman who shall be a national of a third State.

(3) If one of the Contracting Parties has not appointed its arbitrator and has not followed the invitation of the other contracting party to make such appointment within two months of the arbitrator shall be appointed, upon request by the latter Contracting Party by the President of the International Court of Justice.

(4) If the two arbitrators cannot reach an agreement about the choice of the Chairman within two months after their appointment the latter shall be appointed upon the request of either Contracting Party by the President of the International Court of Justice.

(5) If in the cases specified in paragraph (3) and (4) of this article, the President of the International Court of Justice is prevented from carrying out this function or if he is a national of either Contracting Party, the appointment shall be made by the Vice-President and if the latter is prevented or if he is a national of either Contracting Party, they will be made by the most senior member of the Court who is not a national of either of the Contracting Parties.

(6) Unless the Contracting Parties decide otherwise, the tribunal shall determine its own rules of procedure.

(7) The decisions of the Tribunal shall be final and binding on the contracting parties.

## **Article 11. Other Commitments**

(1) If the provisions of the legislation of a Contracting Party or rules of International Law accord to investments of investors of the other contracting party to more favourable treatment than is provided for by the present Agreement, the latter shall prevail to the extent that they are more favourable.

(2) Each Contracting Party shall comply with all its obligations in respect of investments made in its territory by investors of the other contracting party.

## **Article 12. Final Provisions**

(1) This Agreement shall enter into force on the day on which the two Governments have notified each other that the legal requirements for the entry into force of international agreements have been completed; it shall remain valid for a period of ten years. if it is not denounced with six months notice in writing before the expiry of this period, it shall be considered on

the same terms as renewed for a period of two years, and so on.

(2) In the event of termination, the provisions of articles 1 to 11 of this Agreement shall continue to apply for a further period of ten years for investments made prior to the termination of the Agreement.

(3) This agreement replaces the agreement between the Swiss Confederation and the Hashemite Kingdom of Jordan concerning the encouragement and reciprocal protection of investments (2), signed at Berne on 11 November 1976 and entered into force on 2 March 1977.

Done in two originals in Amman on 25 February 2001, each in English, Arabic and English languages, all texts being equally authentic. in case of divergence of interpretation, the English text shall prevail.

Pour le Conseil fédéral suisse:David syz

Pour le Gouvernement du Royaume hachémite de Jordanie:Wasif Azar