

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

The Government of the Hashemite Kingdom of Jordan and the Government of the Republic of Tunisia, hereinafter referred to as "the Contracting parties", desiring to develop the relations of economic cooperation existing between the two countries on long term basis and to create favorable conditions for investors of one Contracting party in the territory of the other Contracting Party.

Recognizing the need to protect investments of the two Contracting Parties and to stimulate the flow of capital and individual initiatives in business with view to the economic prosperity of both states.

Have agreed as follows:

## **Article 1. Definitions**

For the purpose of this agreement:

1- The term "Investment" means every kind of properties and more particularly though not exclusively:

A Movable and immovable property rights as well as any other rights in rem; such as mortgages, lines and pledges and guarantees.

B Shares, stocks and debentures and other kinds of interests in companies.

C Debts, that is each service for money as a result of a contract.

D Intellectual and industrial property rights, including rights with respect to copy rights patents, trademarks, industrial designs, trade secrets, know-how and goodwill;

E Business concessions conferred by law or by virtue of a contract, including concessions to search for, develop, extract or exploit natural resources.

The term investments referred to in paragraph (1) means exclusively all investments conducted in accordance of the applicable laws and regulations of the two Contracting Parties. Any change in the invested funds form, which has no effect on their classification as investments provided that such change shall be in accordance with the applicable laws and regulations.

2- The term "returns" means amounts yielded by an investment and in particular, though not exclusively, includes profits, interests, dividends, capital gains, and other proceeds.

3- The term "Investor" means

A Any physical person holding nationality or permanent residency of Contracting Party according to the laws and regulations of that party;

B Any legal person established or incorporated under the applicable laws and regulations of a Contracting Party.

4- The term "territory" means the territories of each Contracting party which is under its sovereignty including the territorial waters and the seabed and other marine zones, in which the Contracting Party has sovereign rights and jurisdiction according to the international law.

5- The term "free currency" means any convertible currency or any other currency in common use. For cash payments in

international transactions in circulation in main international exchange markets.

## **Article 2. Promotion and Protection of Investments**

- 1- Each Contracting Party shall encourage and create favorable conditions for investments made in its territory by investors of the other Contracting party, and accepts such investment according to its laws and regulations.
- 2- Investments of investors from any of the two Contracting Parties shall be treated at all times with fair equitable treatment and enjoy complete and adequate protection and security in the territory of the other Contracting Party.

## **Article 3. Most Favored Nation Treatment**

1. Each Contracting Party shall accord to the investments made in its territory by investors of the other Contracting Party with a treatment fair and not less favorable than which it accords in like situation to investments of investors of any third State.
2. Investors of one Contracting Party whose investments made in the territory of the other Contracting Party suffered losses owing to a war or other armed conflict, revolution, a state of national emergency, revolt, insurrection, disturbances in the other party territory, shall be accorded by the other Contracting Party, a treatment not less favorable than that it accords to its investors or the investors of any third state.
3. The provisions of this agreement relating to the granting a treatment not less favorable than that granted to the investors of any third state, shall not be construed so as to oblige any Contracting Party to extend to the investors or the other Contracting Party the advantages or custom union currently exists or to be established in future, a free trade zone or regional economic organization or monetary union, to which either of the Contracting party is or may become a Party.

## **Article 4. Expropriation**

Any Contracting Party is not allowed to take expropriation or nationalization measures against the investments of any investor from the other Contracting party, unless the following conditions are fulfilled:

- 1- The measures are adopted for legal purpose and in accordance with due process of law.
- 2- The measures are not discriminatory.
- 3- These measures shall be accompanied with allocations for prompt and effective payment of compensation provided that the compensation shall be equal to the value of the investment prevailing in the market at the time of expropriation decision announcement to the public and the compensation shall be transferable in freely convertible currency with the other Contracting Party.

## **Article 5. Free Transfer**

- 1- Each Contracting party shall allow to the other Contracting Party nationals without undue delay the free transfer in any freely convertible currency:

A Net profits, dividends, returns, technical assistance, technical fees and interest and other current income resulted from the investments of the investors of the other Contracting Party.

B The proceeds accruing from total or partial sale or liquidation of an investment of the investors of the other Contracting Party.

C Funds allocated for settlement of legally concluded debts and loans.

D Earnings of employees of either Contracting Party allowed working in connection of investment in the territory of the other Contracting Party according to the applicable laws and regulations.

- 2- The rates of exchange applied on transfers mentioned in paragraph (1) of this article are the same rates of exchange in force at the date of the transfer.

- 3- The two Contracting Parties undertakes to accord the transfers mentioned in paragraph (1) of this article a treatment similarly favorable to that it accords to investors of any third party.

## **Article 6. Settlement of Disputes Relating to Investment between a Contracting Party**

## **and an Investor of the other Contracting Party**

If any dispute referred to in paragraph (a) arrives, the Contracting Party and the relevant investor shall such to solve the dispute through consultation and negotiation. But, if the dispute could not be solved in this manner during three months and the relevant investor agrees in writing to refer the dispute to the Center for settlement through re conciliation or arbitration, then either of the dispute parties may go a head with the procedures by submitting an application to this effect to the secretary general of the Center as stated in Articles 28 and 36 of the Convention.

In case of difference on the fact that the appropriate procedures are the reconciliation or arbitration procedures, the opinion of the relevant investor shall be the decisive opinion, and the Contracting Party (party to the dispute) shall not have the right to prosecute in the way of defense or through the right of opposition or the right of set-off at any stage of the procedures or of the execution (enforcement) of the award, on the basis that the investor who, is the other party to the dispute, has received or will receive the result of an insurance contract (policy) or a guarantee as a compensation in any from for all or part of his losses.

Each Contracting party shall agree to resort to the International Center for the settlement of Investment Disputes, hereinafter referred to as the "Center", for settling the dispute through reconciliation or arbitration, in conformity with the Convention for the Settlement of Disputes between the States and citizens of other countries, which was presented for signing at Washington (D.C.) on 18 March 1965. However, any dispute arising between that Contracting Party shall include:

A commitment arising between a Contracting Party and on investor form the citizens of the other Contracting Party, concerning an investment made by such investor.

Or, encroach upon a right granted or created by this Agreement, in respect of an investment made by the investor.

A company formed or established under the law in force in the territory of a Contracting Party, and in which citizens or companies of the other Contracting Party own the majority of shares before the emergence of the dispute, shall be treated in accordance with Article 25 (2) (b) of the Convention, and for its objectives as a company of the other Contracting party with respect to those shares.

Neither Contracting Party shall have the right to follow-up any dispute referred to arbitration or jurisdiction (legal courts) through diplomatic channels, unless:

The other Contracting Party has not abided by any award issued by an arbitration panel or jurisdiction, or has not acted accordingly.

The relevant investor shall be entitled to refer the dispute to local juridical, or administrative authorities of the Contracting Party hosting the investment, regarding any difference of statutory mature arising between it and this Contracting Party concerning the investment made in the territory of this latter Party.

If the relevant investor chooses to resort to either the local arbitration or jurisdiction (litigation) stipulated under paragraphs 1 and 5 of this Article, he would not be able thereafter to refer it to the other authority.

## **Article 7. Settlement of Disputes between the Two Contracting Parties**

1- Disputes as to interpretation or application of provisions of this agreement shall be settled by means of negotiations through diplomatic channels.

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If such a dispute cannot thus be settled through diplomatic channels, it shall, upon the request of either Contracting Party, be submitted to a special arbitral tribunal.

3- 3- Unless the two contracting parties agree on a specific arbitration mechanism. The arbitral tribunal formed in for each case separately in the following manner: within two months from the date receiving the arbitration request each Contracting Party shall appoint one arbitrator and these two arbitrators shall nominate a chairman for the arbitral tribunal who shall be a national of a third state. When the two contracting parties approved him, and the arbitral tribunal shall be appointed within two months from the appointment of the two other members.

4- If within any of the periods specified in paragraph (3) of this article the necessary appointments of the arbitral tribunal members have not been made, either Contracting Party may invite the president of the International Court of Justice to make any necessary appointments, unless he is a national of either Contracting Party or if he is otherwise prevented from discharging this function, the Vice-president of the International Court of Justice shall be invited to make the necessary

appointments, if he is a national of either Contracting Party or if he is otherwise prevented from discharging this function the most senior member of the international court of justice who is not a national of either contracting party to make the necessary appointments.

5- The arbitral tribunal decisions shall be reached by majority of votes, and such decisions shall be final and binding for each Contracting Party and each Contracting Party shall bear the cost of the arbitrator it has appointed and of its representation. The cost of the Chairman and the remaining costs shall be borne equally by the Contracting Parties. However, the arbitral tribunal may include in its decision order to either contracting party to bear a higher rate of the cost, and such decision shall be binding upon the two contracting parties and the arbitral tribunal shall determine its own procedures.

## **Article 8. Transfer of Rights**

Where one Contracting Party has granted any financial security for any of his investors in respect of an investment, then, the other Contracting party without prejudice to the rights of the first Contracting party mentioned in article (6), shall recognize the transfer of any rights or ownership of the first Contracting Party and for the first Contracting Party to substitute national or company in the right or the ownership.

## **Article 9. Application Scope on Investments**

This Agreement apply to investments invested or to be invested by investors from either Contracting party in the territory of the other Contracting party effective from the first of January 1957 according to its legislations, laws and regulations prior to the effective date of this Agreement shall have no effect on disputes occurred prior to the date of its entry into force.

## **Article 10. Entry Into Force Duration and Termination**

1- This Agreement shall enter into force thirty days after the receipt of the later of notifications showing the completion of both parties the constitutional requirements required for the entry into force of this Agreement.

2. This agreement shall remain in force for ten years and shall be extended tacitly for further similar period unless terminated according to paragraph three of this article.

3. Each Contracting Party has the right to terminate this agreement at the end of its duration or at any time after the expiry of the initial ten years period by a written notice served to the other Contracting party one year prior to the intended termination date.

In witness whereof the under signed, being duly authorized thereto by their respective Governments have signed this convention.

Done in two originals in Arabic, both texts being equally authentic, in Tunis on 27th of April 1995.

For the Government of The Hashemite Kingdom of Jordan

Eng. Ali Abu Al-Raghib

Minister of Industry and Trade

For the Government of The Republic of Tunisia

Moh'd Al Ganoshi

Minister of International Cooperation and Foreign Investment.