



Jordan – U.S. Bilateral Investment Treaty (BIT)

Fact Sheet, Last Update: June 2009

- A Treaty signed by the governments of Jordan and the U.S. for promotion and reciprocal protection of investment, consistent with highest international investment protection standards, and with U.S. principal objectives in bilateral treaty negotiations.
- The treaty was signed on July 2, 1997, ratified by the Jordanian Parliament in 1998, and by the US Senate in 2000. The instruments of ratification were exchanged on May 13, 2003, bringing the Treaty into force after a period of 30 days (i.e. June 11, 2003).
- BIT protects investors from performance requirements, restrictions on transfers and arbitrary expropriation. It promotes private sector development by providing a open and secure investment environment.

Treatment and protection of investments

- National and MFN Treatment. The treaty requires each Party to treat investors from the other Party equal to domestic investors (national treatment), or equal to the treatment of other foreign investors (MFN treatment), whichever is most favorable in like circumstances.
- The Parties must ensure that state-run enterprises allow national and MFN treatment to their goods and services from covered investments as well as guarantee fair and equal treatment, full protection and security to covered investment.
- BIT prohibits Parties to take unreasonable and discriminatory measures on management, conduct, operations and sales of covered investments. Parties must ensure that laws, regulations, administrative practices and procedures that cover investments are updated and published (or made publicly available).
- International Property Rights are of crucial importance in the BIT.

Expropriation and compensation

- BIT prohibits expropriation or nationalization of covered investment, from any Party, directly or indirectly through expropriations or nationalization measures, except for public propose. Expropriation needs to obey to international law standards.
- Expropriation shall be done in a non-discriminatory way, upon payment of prompt, adequate and effective compensation and in accordance with the law. The expropriation compensation must be equal to the fair market value on the date of expropriation, plus interest accrued from that date until the date of payment. Assets from expropriation must be fully and freely transferable.

Compensation for political circumstance damages/ transfer of capital

- The Parties must ensure national and MFN treatment in relation to losses of investments experienced in the given territory caused by war, conflict, and state of national emergency, civil disturbance, etc.
- Each Party will allow a free and non-delayable transfer of assets, including: contributions to capital, profits, dividends or proceeds from the sales of parts or of investment, interest, royalty and other fees and forms of income.

Entry, stay and employment

- Nationals of the other Party can enter, stay and be employed for purposes of investment establishment, development, administration and operation advising. Parties will have the benefit of hiring top management of their choice, regardless of nationality.

Dispute settlement

- Parties can settle disputes through consultations or negotiations. If these fail, the Parties will refer the dispute to courts or administrative tribunals of one party, or further, to the arbitral tribunal for binding decision in accordance with the applicable rules of international laws.

Legal Rights/Benefits/Taxation

- More favorable treatment to covered investment than specified in BIT is allowed, if the domestic country has more national/international regulations in place. Companies owned/controlled by non-Party nationals can be subject to denial of benefits due to political disaccord with either US or Jordan and/or if a non-Party national company has no substantive business activity.
- A national or company can submit a dispute for arbitration given that tax matters involve expropriation, having priority referred to the taxation authorities.

Measures non Precluded by the Treaty

- Each party has the right to take measures that protect its security interests or that the Party has to abide in relation to its international peace and peace maintenance obligations; these refer to war and national emergency and correspond to UN standards.
- Each Party can prescribe its rules for reporting covered investment, incorporation requirements or transfer of funds if these rules do not oppose any previously established Treaty or Law.

State Institutions and Enterprises Compliancy

- All subdivisions of the government have to abide by the BIT. In the United States however, due to US Federal System requirements, Jordanian firms will be treated no less favorably in a specific State as an out-of-State enterprise. State enterprises exercising government authority must do so consistently based on the Party's obligations to the Treaty.
- In case of Treaty termination purposes all covered investment will continue to be protected for duration of 10 years.

Annex

- The US government may adopt restrictions to Jordanian companies for national of MNF treatment in the specific sectors such as atomic energy; customhouse brokers; licenses for broadcast, common carrier, or aeronautical radio stations, air and maritime transport, banking, while the government of Jordan has the right to reciprocate in the sectors they judge crucial. Every specific and newly added sector is listed in the annex of the Treaty

BIT is committed to the stimulation of economic development; higher living standards; promotion of respect for internationally-recognized worker rights; and maintenance of health, safety, and environmental measures. Any U.S. national or company investing or planning to invest in a country can benefit from the Bilateral Treaty. BIT guarantees protection for investors starting from the pre-investment phase through the life of the investment.

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