TREATY BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF THE HASHEMITE KINGDOM OF JORDAN CONCERNING THE ENCOURAGEMENT AND RECIPROCAL PROTECTION OF INVESTMENT

The Government of the United States of America and the Government of the Hashemite Kingdom of Jordan (hereinafter the Contracting "Parties");

Desiring to promote greater economic cooperation between them, with respect to investment b nationals and companies of one Contracting Party in the territory of the other Contracting Party;

Recognizing that agreement upon the treatment to be accorded 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;

Recognizing that the development of economic and business ties can promote respect for internationally recognized worker rights;

Agreeing that these objectives can be achieved without relaxing health, safety and environmental measures of general application; and

Having resolved to conclude a Treaty concerning the encouragement and reciprocal protection of investment;

Have agreed as follows:

ARTICLE I

DEFINITIONS

For the purpose of this Treaty,

(a) "company" means any entity constituted or organized under applicable law, whether or not for profit, and whether privately or governmentally owned or controlled, and includes a corporation, trust, partnership, sole proprietorship, branch, joint venture, association, or other organization;

(b) "company of a Contracting Party" means that a company constituted or organized under the laws of that Contracting Party;

(c) "national" of a Contracting Party means a natural person who is a national of that Contracting Party under its applicable law;

(d) "investment" of a national or company means every kind of investment owned or controlled directly or indirectly by that national or company, and includes investment consisting or taking the form of:

(i) a company;

(ii) shares, stock, and other forms of equity participation and bonds, debentures, and other forms of debt interests, in a company;

(iii) contractual rights, such as under turnkey, construction or management contracts, production or revenue-sharing contracts, concessions, or other similar contracts;

(iv) tangible property, including real property; and intangible property, including rights, such as leases, mortgages, liens and pledges;

(v) intellectual property, including;

copyrights and related rights,

industrial property rights,

patents,

rights in plant varieties,

utility models,

industrial designs or models,

rights in semiconductor layout design,

indications of origin,

trade secrets, including know-how,

confidential business information,

trade and service marks, and

trade names; and

(vi) rights conferred pursuant to law, such as licenses and permits;

any change in the form of an investment does not affect its character as an investment;

(e) "covered investment" means an investment of a national or company of a Contracting Party in the territory of the other Contracting Party;

(f) "state enterprise" means an investment of a national or company of a Contracting Party in the territory of the other Contracting Party;

(g) "investment authorization" means an authorization granted by the foreign investment authority of a Contracting Party to a covered investment or a national or company of the other Contracting Party;

(h) "investment agreement" means a written agreement between the national authorities of a Contracting Party and a covered investment or a national or company of the other Contracting Party that (i) grants rights with respect to natural resources or other assets controlled by the national authorities and (ii) the investment, national or company relies upon in establishing or acquiring a covered investment;

(i) "ICSID Convention" means the convention on the Settlement of Investment Disputes between States and Nationals of Other States, done at Washington, March 18, 1965;

(j) "Centre" means the International Centre for Settlement of Investment Disputes Established by the ICSID Convention; and

(k) "UNCITRAL Arbitration Rules" means the arbitration rules of the United Nations Commission on International Trade Law.

ARTICLE II

TREATMENT AND PROTECTION OF INVESTMENT

1. With respect to the establishment, acquisition, expansion, management, conduct, operation and sale or other disposition of covered investments, each Contracting Party shall accord treatment no less favorable than that it accords, in like situations, to investments in its territory of its own nationals or companies (hereinafter "national treatment") or to investments in its territory of nationals or companies of a third country (hereinafter "most favored nation treatment"), whichever is most favorable (hereinafter "national and most favored nation treatment"). Each Contracting Party shall ensure that its state enterprises, in the provision of their goods or services, accord national and most favored nation treatment to covered investments.

2. (a) A Contracting Party may adopt or maintain exceptions to the obligations of paragraph 1 in the sectors or with respect to the matters specified in the Annex to this Treaty. In adopting such an exception, a Contracting Party may not require the divestment, in whole or in part, of covered investments existing at the time the exception becomes effective.

(b) The obligations of paragraph 1 do not apply to procedures provided in multilateral agreements concluded under the auspices of the World Intellectual Property Organization relating to the acquisition or maintenance of intellectual property rights.

3. (a) Each Contracting Party shall at all times accord to covered investments fair and equitable treatment and full protection and security, and shall in no case accord treatment less favorable than that required by international law.

(b) Neither Contracting Party shall in any way impair by unreasonable and discriminatory measures the management, conduct, operation, and sale or other disposition of covered investments.

4. Each Contracting Party shall provide effective means of asserting claims and enforcing rights with respect to covered investments.

5. Each Contracting Party shall ensure that its laws, regulations, administrative practices and procedures of general application, and adjudicatory decisions, that pertain to or affect covered investments are promptly published or otherwise made publicly available.

ARTICLE III

EXPROPRIATION AND COMPENSATION THEREFORE

1. Neither Contracting Party shall expropriate or nationalize a covered investment either directly or indirectly through measures tantamount to expropriation or nationalization ("expropriation") except for a public purpose; in a non-discriminatory manner; upon payment of prompt, adequate and effective compensation; and in accordance with due process of law and the general principles of treatment provided for in Article II (3).

2. Compensation shall be paid without delay; be equivalent to the fair market value of the expropriated investment immediately before the expropriatory action was taken ("the date of expropriation"); and e fully realizable and freely transferable. The fair market value shall not reflect any change in value occurring because the expropriatory action had become known before the date of expropriation.

3. If the fair market value is denominated in a freely usable currency, the compensation paid shall be no less than the fair market value on the date of expropriation, plus interest at a commercially reasonable rate for that currency, accrued from the date of expropriation until the date of payment.

4. If the fair market value is denominated in a currency that is not freely usable, the compensation paid -- converted into the currency of payment at the market rate of exchange prevailing on the date of payment -- shall be no less than:

(a) the fair market value on the date of expropriation, converted into a freely usable currency at the market rate of exchange prevailing on that date, plus

(b) interest, at a commercially reasonable rate for that freely usable currency, accrued from the date of expropriation until the date of payment.

ARTICLE IV

COMPENSATION FOR DAMAGES DUE TO WAR AND SIMILAR EVENTS

1. Each Contracting Party shall accord national and most favored nation treatment to covered investments as regards any measure relating to losses that investments suffer in its territory owing to war or other armed conflict, revolution, state of national emergency, insurrection, civil disturbance, or similar events.

2. Each Contracting Party shall accord restitution, or pay compensation in accordance with paragraphs 2 through 4 of Article III, in the event that covered investments suffer losses in its territory, owing to war or other armed conflict, revolution, state of national emergency, insurrection, civil disturbance, or similar events, that result from:

(a) requisitioning of all or part of such investments by the Contracting Party's forces or authorities, or

(b) destruction of all or part of such investments by the Contracting Party's forces or authorities that was not required by the necessity of the situation.

ARTICLE V

TRANSFERS

1. Each Contracting Party shall permit all transfers relating to a covered investment to be made feely and without delay into and out of its territory. Such transfers include:

(a) contributions to capital;

(b) profits, dividends, capital gains, and proceeds from the sale of all or any part of the investment or from the partial or complete liquidation of the investment;

(c) interest, royalty payments, management fees, and technical assistance and other fees;

(d) payments made under a contract, including a loan agreement;

(e) compensation pursuant to Articles III and IV, and payments arising out of an investment dispute;

(f) earnings of a national of one Contracting Party earned in the territory of the other Contracting Party in earned in the territory of the other Contracting Party in connection with a covered investment of that national; and

(g) other forms of income.

2. Each Contracting Party shall permit returns in kind to be made as authorized or specified in an investment authorization, investment agreement, or other written agreement between the Contracting Party and a covered investment or a national or company of the other Contracting Party.

3. Each Contracting Party shall permit returns in kind to be made as authorized or specified in an investment authorization, investment agreement, or other written agreement between the Contracting Party and a covered investment or a national or company of the other Contracting Party.

4. Notwithstanding paragraphs 1 through 3, a Contracting Party may prevent a transfer through the equitable, non-discriminatory and good faith application of its laws relating to:

(a) bankruptcy, insolvency or the protection of the rights of creditors;

(b) issuing, trading or dealing in securities;

(c) criminal or penal offenses; or

(d) ensuring compliance with orders or judgments in adjudicatory proceedings.

ARTICLE VI

PERFORMANCE REQUIREMENTS

Neither Contracting Party shall mandate or enforce, as a condition for the establishment, acquisition, expansion, management, conduct or operation of a covered investment, any requirement (including any commitment or undertaking in connection with the receipt of a governmental permission or authorization):

(a) to achieve a particular level or percentage of local content, or to purchase, use or otherwise give a preference to products or services of domestic origin or from any domestic source;

(b) to limit imports by the investment of products or services in relation to a particular volume or value of production, exports or foreign exchange earnings;

(c) to export a particular type, level or percentage of products or services, either generally or to a specific market region;

(d) to limit sales by the investment of products or services in the Contracting Party's territory in relation to a particular value or value of production, exports or foreign exchange earnings;

(e) to transfer technology, a production process or other proprietary knowledge to a national or company in the Contracting Party's territory, except pursuant to an order, commitment or undertaking that is enforced by a court, administrative tribunal or competition authority to remedy an alleged or adjudicated violation of competition laws; or

(f) to carry out a particular type, level or percentage of research and development in the Contracting Party's territory.

Such requirements do not include conditions for the receipt or continued receipt of an advantage.

ARTICLE VII

ENTRY, SOJOURN AND EMPLOYMENT OF ALIENS

1. (a) Subject to its laws relating to the entry, sojourn and employment of aliens, each Contracting Party shall permit to enter and to remain in its territory nationals of the other Contracting Party for the purpose of establishing, developing, administering or advising on the operation of an investment to which they, or a company of the other Contracting Party that employs them, have committed or are in the process of committing a substantial amount of capital or other resources.

(b) Neither Contracting Party shall, in granting entry under paragraph 1(a), require a labor certification test or other procedures of similar effect, or apply any numerical restriction.

2. Each Contracting Party shall permit covered investments to engage top managerial personnel of their choice regardless of nationality.

ARTICLE VIII

CONSULTATIONS

The Contracting Parties agree to consult promptly, on the request of either, to resolve any disputes in connection with the Treaty, or to discuss any matter relating to the interpretation or application of the Treaty or to the realization of the objectives of the Treaty.

ARTICLE IX

SETTLEMENT OF DISPUTES BETWEEN ONE CONTRACTING PARTY AND A NATIONAL OR COMPANY OF THE OTHER CONTRACTING PARTY

1. For purposes of this Treaty, an investment dispute is a dispute between a Contracting Party and a national or company of the other Contracting Party arising out of or relating to an investment authorization, an investment agreement or an alleged breach of any right conferred, created or recognized by this Treaty with respect to a covered investment. In the event of an investment dispute, the parties to the dispute should initially seek a resolution through consultation and negotiation.

2. A national or company that is a party to an investment dispute may submit the dispute of resolution under one of the following alternatives:

(a) to the courts or administrative tribunals of the Party that is a party to the dispute; or

(b) in accordance with any applicable, previously agreed dispute-settlement procedures; or

(c) in accordance with the terms of paragraph 3.

3. (a) Provided that the national or company concerned has not submitted the dispute for resolution under paragraph 2 (a) or (b), and that three months have elapsed from the date on which the dispute arouse, the national or company concerned may submit the dispute for settlement by binding arbitration:

(i) to the Centre, if the Centre is available; or

(ii) to the Additional Facility of the Centre, if the Centre is not available; or

(iii) in accordance with the UNCITRAL Arbitration Rules; or

(iv) if agreed by both parties to the dispute, to any other arbitration institution or in accordance with any other arbitration rules.

(b) a national or company, notwithstanding that it may have submitted a dispute to binding arbitration under paragraph 3 (a), may seek interim injunctive relief, not involving the payment of damages, before the judicial or administrative tribunals of the Contracting Party that is a party to the dispute, prior to the institution of the arbitral proceeding or during the proceeding, for the preservation of its rights and interests.

4. Each Contracting Party hereby consents to the submission of any investment dispute for settlement by binding arbitration in accordance with the choice of the national or company under paragraph 3 (a) (i), (ii), and (iii) or the mutual agreement of both parties to the dispute under paragraph 3 (a) (iv). This consent and the submission of the dispute by a national or company under paragraph 3 (a) shall satisfy the requirements of:

(a) Chapter II of the ICSID Convention (Jurisdiction of the Centre) and the Additional Facility Rules for written consent of the parties to the dispute; and

(b) Article II of the United Nations Convention on the Recognition and Enforcement of Foreign Arbitral Awards, done at New York, June 10, 1958, for an "agreement in writing."

5. Any arbitration under paragraph 3 (a) (ii), (iii) or (iv) shall be held in a state that is a party to the United Nations Convention on the Recognition and Enforcement of Foreign Arbitral Awards, done at New York, June 10, 1958.

6. Any arbitral award rendered pursuant to this Article shall be final and binding on the parties to the dispute. Each Contracting Party shall carry out without delay the provisions of any such award and provide in its territory for the enforcement of such award.

7. In any proceeding involving an investment dispute, a Contracting Party shall not assert, as a defense, counterclaim, right of set-off or for any other reason, that indemnification or other compensation for all or part of the alleged damages has been received or will be received pursuant to an insurance or guarantee contract.

8. For purposes of Article 2(2) (b) of the ICSID Convention and this Article, a company of a Contracting Party that, immediately before the occurrence of the event or events giving rise to an investment dispute, was a covered investment, shall be treated as a company of the other Contracting Party.

ARTICLE X

SETTLEMENT OF DISPUTES BETWEEN THE CONTRACTING PARTIES

1. Any dispute between the Contracting Parties concerning the interpretation or application of the Treaty, that is not resolved through consultations or other diplomatic channels, shall be submitted upon the request of either Contracting Party to an arbitral tribunal for binding decision in accordance with the applicable rules of international law. In the absence of an agreement by the Contracting Parties to the contrary, the UNCITRAL Arbitration Rules shall govern, except to the extent these rules are (a) modified by the Contracting Parties or (b) modified by the arbitrators unless either Contracting Party objects to the proposed modification.

2. Within two months of receipt of a request, each Contracting Party shall appoint an arbitrator. The two arbitrators shall select a third arbitrator as chairman, who shall be a national of a third state. The UNCITRAL Arbitration Rules applicable to appointing members of three-member panels shall apply mutatis mutandis to the appointment of the arbitral panel except that the appointing authority referenced in those rules shall be the Secretary General of the Centre.

3. Unless otherwise agreed, all submissions shall be made and all hearings shall be completed within six months of the date of selection of the third arbitrator, and the arbitral panel shall render its decisions within two months of the date of the final submissions or the date of the closing of the hearings, whichever is later.

4. Expenses incurred by the Chairman and other arbitrators, and other costs of the proceedings, shall be paid for equally by the Contracting Parties. However, the arbitral panel may, at its discretion, direct that a higher proportion of the costs be paid by one of the Contracting Parties.

ARTICLE XI

PRESERVATION OF LEGAL RIGHTS

This Treaty shall not derogate from any of the following that entitle covered investments to treatment more favorable than that accorded by this Treaty:

(a) laws and regulations, administrative practices or procedures, or administrative or adjudicatory decisions of a Contracting Parties;

(b) international legal obligations or

(c) obligations assumed by a Contracting Party, including those contained in an investment authorization or an investment agreement.

ARTICLE XII

DENIAL OF BENEFITS

Each Contracting Party reserves the right to deny to a company of the other Contracting Party the benefits of this Treaty if nationals of a third country own or control the company and:

(a) the denying Contracting Party does not maintain normal economic relations with the third country; or

(b) the company has no substantial business activities in the territory of the Contracting Party under whose laws it is constituted or organized.

ARTICLE XIII

TAXATION

1. No provision of this Treaty shall impose obligations with respect to tax matters, except that:

(a) Articles III, IX and X will apply with respect to expropriation; and

(b) Article IX will apply with respect to an investment agreement or an investment authorization.

2. A national or company, that asserts in an investment dispute that a tax matter involves an expropriation, may submit that dispute to arbitration pursuant to Article IX(3) only if:

(a) the national or company concerned has first referred to the competent tax authorities of both Contracting Parties the issue of whether the tax matter involves an expropriation; and

(b) the competent tax authorities have not both determined within nine months from the time the national or company referred the issue, that the matter does not involve an expropriation.

ARTICLE XIV

MEASURES NOT PRECLUDED BY THIS TREATY

1. This Treaty shall not preclude a Contracting Party from applying measures necessary for the fulfillment of its obligations with respect to the maintenance or restoration of international peace or security, or the protection of its own essential security interests.

2. This Treaty shall not preclude a Contracting Party from prescribing special formalities in connection with covered investments, such as a requirement that such investments be legally constituted under the laws and regulations of that Contracting Party, or a requirement that transfers of currency or other monetary instruments be reported, proved that such formalities shall not impair the substance of any of the rights set forth in this Treaty.

ARTICLE XV

APPLICATION OF THIS TREATY TO POLITICAL SUBDIVISIONS AND STATE ENTERPRISES OF THE CONTRACTING PARTIES

1. (a) The obligations of this Treaty shall apply to the political subdivisions of the Contracting Parties.

(b) With respect to the treatment accorded by a State, Territory or possession of the United States of America, national treatment means treatment no less favorable than the treatment accorded thereby, in like situations, to investments of nationals of the United States of America resident in, and companies legally constituted under the laws and regulations of, other States, Territories or possessions of the United States of America.

2. A Contracting Party's obligations under this Treaty shall apply to a stat enterprise in the exercise of any regulatory, administrative or other governmental authority delegated to it by that Contracting Party.

ARTICLE XVI

ENTRY INTO FORCE, DURATION AND TERMINATION

1. This Treaty shall enter into forces thirty days after the date of exchange of instruments of ratification. It shall remain in force for a period of then years and shall continue in force unless terminated in accordance with paragraph 2. It shall apply to covered investments existing at the time of entry into force as well as to those established or acquired thereafter.

2. A Contracting Party may terminate this Treaty at the end of the initial ten year period or at any time thereafter by giving one year's written notice to the other Contracting Party.

3. For ten years from the date of termination, all other Articles shall continue to apply to covered investments established or acquired prior to the date of termination, except insofar as those Articles extend to the establishment or acquisition of covered investments.

4. The Annex and Protocol shall form an integral part of the Treaty.

IN WITNESS WHEREOF, the respective plenipotentiaries have signed this Treaty.

DONE in duplicate at _____ this _____, 1997, in the English and Arabic languages, each text being equally authentic.

FOR THE GOVERNMENT OF THE UNITED STATES OF AMERICA:

Wesley W. Egan, Jr.

[signature]

FOR THE GOVERNMENT OF THE HASHEMITE KINGDOM OF JORDAN:

Hani al-Mulki

[signature]

ANNEX

1. The Government of the United States of America may adopt or maintain exceptions to the obligation to accord national treatment to covered investment in the sectors or with respect to the matters specified below:

atomic energy; customhouse brokers; licenses for broadcast, common carrier, or aeronautical radio stations; COMSAT; subsidies or grants, including governments-supported loans, guarantees and insurance; state and local measures exempt from Article 1102 of the North American Free Trade Agreement pursuant to Article 1108 thereof; and landing of submarine cables.

Most favored nation treatment shall be accorded in the sectors and matters indicated above.

2. The Government of the United States of America may adopt or maintain exceptions to the obligations to accord national treatment to covered investments in the sectors or with respect to the matters specified below:

fisheries; air and maritime transport, and related activities; banking, insurance, securities, and other financial services; and minerals leases on government land.

3. The Government of the Hashemite Kingdom of Jordan may adopt or maintain exception to the obligations to accord national treatment to covered investments in the sectors and with respect to the matters specified below:

air transport; ownership of bus transport companies; ownership of construction contracting companies, but not including cross-border provision of construction services; small scale commerce with total invested capital of no more than US $50,000 (or its equivalent in national currency), as adjusted annually for the first five years that the treaty is in force by the annual percentage change in the GDP deflator of the United States of America; ownership of banks and insurance companies; ownership of companies engaged in telecommunications systems operations, but not including activities such as maintenance, equipment production, equipment and spare parts sales, or other telecommunications related services; extraction concessions for minerals, including oil, natural gas and oil shale; farming (not including animal husbandry) on large tracts of land (greater than 500 acres or its equivalent in dunums); ownership of agricultural land; ownership of land in the Jordan valley and ownership of land for non-business related purposes.

Most favored nation treatment shall be accorded in the sectors and matters indicated above.

4. Notwithstanding paragraphs 1 and 3, each Party agrees to accord national treatment to covered investment in the following sectors:

leasing of pipeline rights-of-way on government land.

PROTOCOL

1. With respect to Article I (d), the Contracting Parties confirm with their mutual understanding that either Contracting Party may require approvals or impose format requirements in connection with a change in the form of an investment, provided that such approvals or formal requirements are otherwise consistent with this Treaty.

2. With regard to Article III (2), the term "without delay" does not necessarily mean instantaneous. The intent is that the Contracting Party diligently and expeditiously carry out necessary formalities.