

## **Strengthening Regional Investment Frameworks**

### **Review of International and Regional Investment-related Agreements concluded by Arab League Member States**

*This draft paper was prepared by the MENA-OECD Investment Programme which supports business climate reforms for growth and employment in Algeria, Bahrain, Djibouti, Egypt, Iraq, Jordan, Kuwait, Lebanon, Libya, Mauritania, Morocco, Oman, the Palestinian Authority, Qatar, Saudi Arabia, Tunisia, the United Arab Emirates and Yemen.*

*It is submitted for discussions at the 9-10 December 2014 LAS-OECD Conference on “Fostering regional integration on investment” and at the 11 December 2014 MENA-OECD Regional Working Group on Investment Policies and Promotion.*

## The MENA-OECD Investment Programme

The MENA-OECD Investment Programme was launched in 2005 at the request of Middle East and North African (MENA) governments to support investment policy reform for growth and employment in the region.

Participating economies include Algeria, Bahrain, Djibouti, Egypt, Iraq, Jordan, Kuwait, Lebanon, Libya, Mauritania, Morocco, Oman, the Palestinian Authority, Qatar, Saudi Arabia, Tunisia, the United Arab Emirates (UAE) and Yemen.

The Programme convenes representatives of these 18 MENA governments, OECD member countries and emerging economies to exchange good practices in a wide range of policy areas, leveraging the OECD model of policy dialogue and peer learning. It provides a platform for dialogue with civil society, the business community and academia to collectively identify priority business climate reforms and support their implementation.

The significant social, political and economic changes that have recently taken place in the MENA region have further reinforced the need for continued dialogue on business climate reform. These events have highlighted the urgency of addressing pressing policy challenges, such as promoting economic growth, supporting employment, fighting corruption, strengthening the rule of law, and fostering private sector and entrepreneurship development.

The Programme is an important component of the OECD's overall engagement with the MENA region. In early 2011, the G8 established the Deauville Partnership (DP) to support concerned countries in the region in the process of democratic and economic transition. The OECD was asked by the G8 to support this effort by providing policy recommendations to the financial, governance and trade and investment pillars of the Partnership, building on the ongoing policy support provided by the Programme.

The Programme is also supporting the League of Arab States (LAS) to build awareness on recent efforts towards regional investment integration. In particular, a joint OECD-LAS Technical Workshop on the January 2013 Amendment to the 1980 Arab League Investment Agreement was held in April 2014 and a follow up joint OECD-LAS Regional Conference on Fostering Regional Integration on Investment will be held on 9-10 December 2014 at the LAS Headquarters in Cairo.

*For the purpose of this paper, the economies covered include the 22 member States of the Arab League, i.e. Algeria, Bahrain, Comoros, Djibouti, Egypt, Iraq, Jordan, Kuwait, Lebanon, Libya, Mauritania, Morocco, Oman, the Palestinian Authority, Qatar, Saudi Arabia, Somalia, Sudan, Syria<sup>1</sup>, Tunisia, the United Arab Emirates (UAE) and Yemen.*

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<sup>1</sup> Currently suspended.

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## INTRODUCTION

The aim of international investment agreements (IIAs) is to create a stable, transparent and predictable environment for foreign investment. They can take various forms: bilateral investment agreements (BITs), free trade agreements (FTAs) with investment-related provisions, regional investment agreements (RIAs) and investment-related multilateral agreements. Traditionally, States have favoured the conclusion of BITs. However recently, preferential trade agreements have increasingly contained standard investment promotion and protection provisions. Currently, those instruments are not only contributing to increasing transparency and predictability for foreign investors, but the presence of such a framework for foreign investment can also potentially encourage countries to adopt similar standards at the national level and hence strengthen the business environment.

The League of Arab States (LAS) economies have followed this trend. Economies have signed 734 BITs (Annex 3 on the list of BITs concluded by LAS economies) – among which 14% have been concluded between themselves – and 58 of other bilateral and regional investment-related agreements (Table 2 on bilateral investment-related agreements signed by LAS economies and Table 3 on regional trade and investment agreements). Some regional investment protection agreements have been signed, notably the Unified Agreement for the Investment of Arab Capital in the Arab States of 1980 (“the Arab League Investment Agreement”) – which has been amended in January 2013 – as well as the Arab Maghreb Union Investment Agreement of 1993. Those agreements have not been fully implemented and had limited impact on fostering regional investment integration and on stimulating intra-regional investment flows (FDI).

The first editions of this paper was published in 2010 and focused mainly on a stock-taking of investment agreements in the MENA region.<sup>2</sup> In the aftermath of the transition, with all its political and economic ramifications, it has never been this timely to discuss investment protection in the region. There is a dire need for capital and productive investments in transition States to generate inclusive growth and jobs creation, but also, reluctance from foreign investors to step in due to political uncertainty. Arguably, excess capital in oil exporting Arab States could contribute in filling the vacuum and bridging the gap of investments needed. Examples of large Arab multinationals acquiring regional assets from foreign investors after the transition are numerous.

It is also argued that Arab capital is not the same as that of the 70’s and 80’s where the existing regional investment instruments were drafted. Whilst the traditional form of governmental aid still persists to date, there is an increasing role of well-established and sophisticated Arab private sector players in cross regional flow of capital. Even government aid is now channelled through sovereign wealth funds operating in the same modus of world class financial institutions. Regional inter-governmental economic institutions have not kept pace. This unequivocally requires a review of the existing treaty framework.

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<sup>2</sup> Covering the 18 MENA economies of the MENA-OECD Investment Programme.

There is a complex body of treaties dealing with investment protection in the region. These are concluded at different levels: (i) intra-regional bilateral treaties, (ii) sub regional free trade and/or investment arrangements (e.g. the Gulf Cooperation Council<sup>3</sup>, the Arab Maghreb Union<sup>4</sup>), (iii) regional trade and/or investment agreements (e.g. the Greater Arab Free Trade Agreement<sup>5</sup>, the amended Arab League Investment Agreement<sup>6</sup>), (iv) inter-regional agreements (e.g. the Association Agreements with the European Commission, the FTAs with the United States, EFTA or Turkey, and the US/Middle East Free Trade Area<sup>7</sup>). This impressive wealth of legal texts is far from being a reality on the ground. It is argued that the region has thus far failed to create an efficient and robust system for economic integration or free flow of capital. A successful regional economic integration strategy would have to focus not only on eliminating barriers to trade in goods, but also on the liberalisation of services and encouragement of intra-Arab investment flows. The successful economic integration of NAFTA, ASEAN and MERCOSUR, for example, is fortified by a network of regional agreements with substantive and solid provisions on investment. This is lacking in the MENA region.

Few regional investors are aware of the Arab League Investment Agreement, signed in 1980 under the auspices of the LAS. Few regional investors are also aware of the Arab Investment Court established in 1974 though the Arab League Investment Agreement provides, unless parties agree otherwise, its general jurisdiction to rule on investment dispute cases: only three cases have been examined by the Arab Investment Court and only one judgment has been issued.

Call by Arab leaders and businesses to reform the Arab League Investment Agreement led to its revision by a task force of policy makers from member State parties and the adoption of an Amendment during the 2013 Riyadh Economic Summit. The Amendment reinforces certain existing investment standards of protection and treatment (for example, right to a compensation equal to the market value in cases of expropriation and free transfer of funds) while introducing new ones (such as the right to a fair and equitable treatment and the most-favoured nation clause). It is reported that the Amendment was the result of four rounds of negotiations amongst governments of the LAS but was not, arguably, a product of consultation with key private sector players in the region. The key features of the Amendment are presented in Annex 1 of this study which has been discussed at the April 2014 OECD-LAS Technical Workshop.

In light of the above, this note sheds light on the development of bilateral investment treaties in the region, in particular those signed between LAS economies (I); discusses the existing regional agreements (II); describes the interplay of multilateral rules (III), and finally reports on the state of investment dispute resolution in the region (IV).

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<sup>3</sup> The Gulf Cooperation Council was established by agreement concluded on 25 May 1981 in Riyadh between Bahrain, Kuwait, Oman, Qatar, Saudi Arabia and the UAE.

<sup>4</sup> The Treaty establishing the Arab Maghreb Union (AMU) was signed on 17 February 1989 by Algeria, Libya, Mauritania, Morocco and Tunisia. The Agreement for Investment Promotion and Protection ("the AMU Investment Agreement") was signed by the Member States on 23 July 1990 and ratified on 14 July 1993.

<sup>5</sup> The Greater Arab Free Trade Agreement (GAFTA) is a pan-Arab free trade area established in 1997 by the Arab countries and entered into implementation in 2005.

<sup>6</sup> The Unified Agreement for the Investment of Arab Capital in the Arab States signed in 1980 by the member States of the Arab League (except Algeria and Comoros Islands) was amended in January 2013. The Amendment has been ratified by Jordan and the Palestinian Authority and still awaits ratification by three other member States to enter into force.

<sup>7</sup> The Middle East Free Trade Area (MEFTA) was an initiative proposed in 2003 by the U.S. aiming at increasing trade and investment with the United States with the eventual goal of a regional free trade agreement.

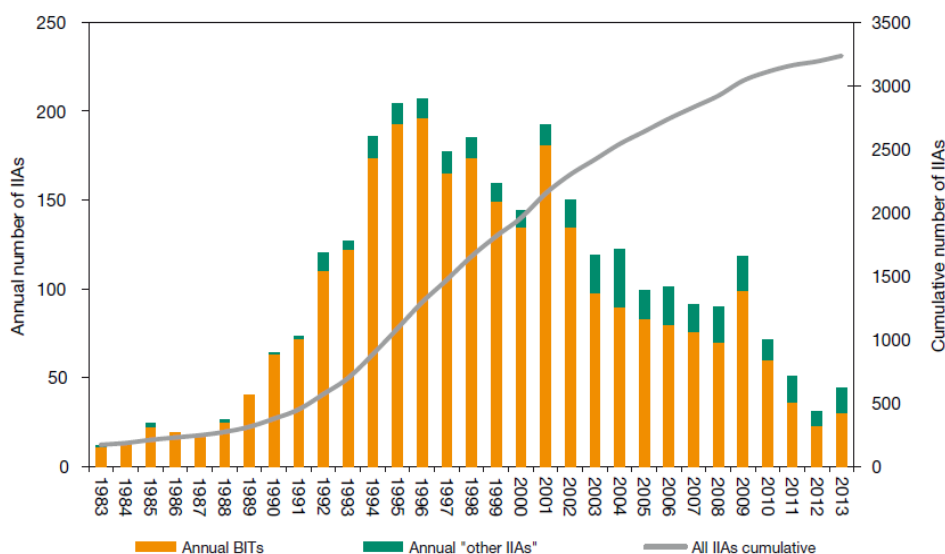
This note is not intended to be a full descriptive analysis of all the various agreements currently in place. It takes stock of existing investment-related agreements concluded by LAS economies and suggests a deeper analysis by the MENA-OECD Investment Programme to assess their efficiency.

## I. BILATERAL INVESTMENT TREATIES

### A. Overview of the number and regional coverage of BITs concluded by LAS economies

The first bilateral investment treaty (BIT) was signed at the end of the 1950s and took over the function of the old Friendship, Commerce, and Navigation Treaties. It is estimated that 2,902 of such treaties have been concluded as of end of 2013.<sup>8</sup> BITs and other international investment agreements (IIAs) have been continuously proliferating and increasing in complexity, diversity and interaction with each other through a denser network of treaties (Figure 1). In addition, an increasingly high number of BITs are now being concluded at the intra-regional level and between developing countries.

Figure 1: Trends in IIAs signed, 1983-2013

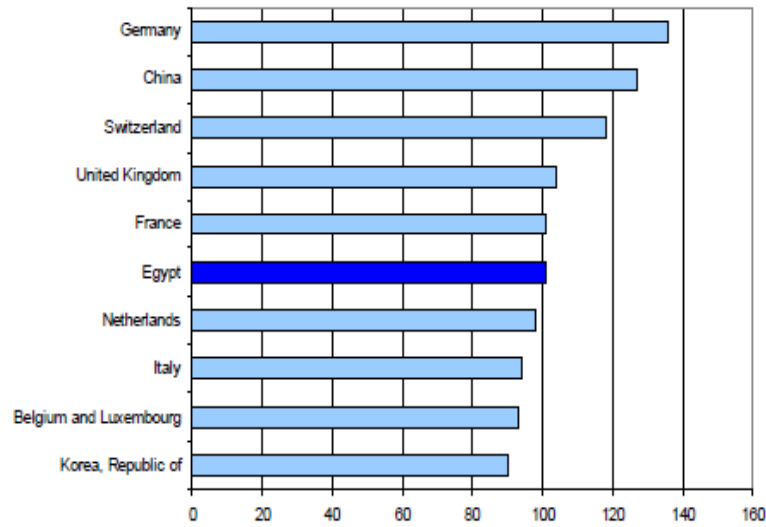


Source: UNCTAD, IIA database.

LAS economies have been following that trend and are active signatories of BITs, having concluded 734 BITs (Annex 3 on the list of BITs concluded by LAS countries), representing almost 25% of all BITs concluded worldwide. Egypt ranks 6<sup>th</sup> among the top ten signatories of all BITs concluded worldwide (Figure 2).

<sup>8</sup> Source: UNCTAD (2014) *World Investment Report*.

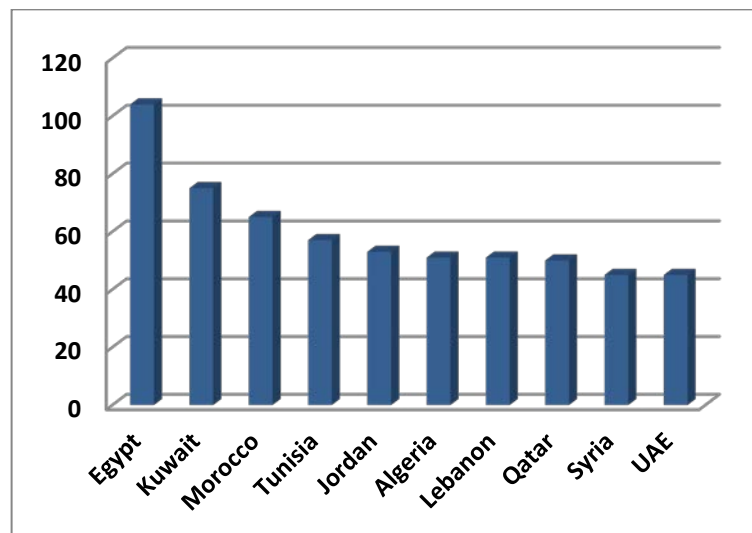
**Figure 2: Top ten signatories of BITs worldwide**



Source: UNCTAD (2011)

Among LAS economies, the ten most active signatories of BITs include: Egypt (104), Kuwait (75), Morocco (65), Tunisia (57), Jordan (53), Algeria (51), Lebanon (51), Qatar (50), Syria (45)<sup>9</sup> and the UAE (45) (Figure 3). In 2013, Kuwait and the UAE, with respectively 7 and 4 BITs signed, represented along with Turkey (4 BITs signed), Japan and Mauritius (3 BITs signed each), the most active economies worldwide in concluding BITs.<sup>10</sup>

**Figure 3. Top ten LAS signatories of BITs**



Source: MENA-OECD Investment Programme / UNCTAD database / Kluwer database (2014).

<sup>9</sup> Syria currently suspended.

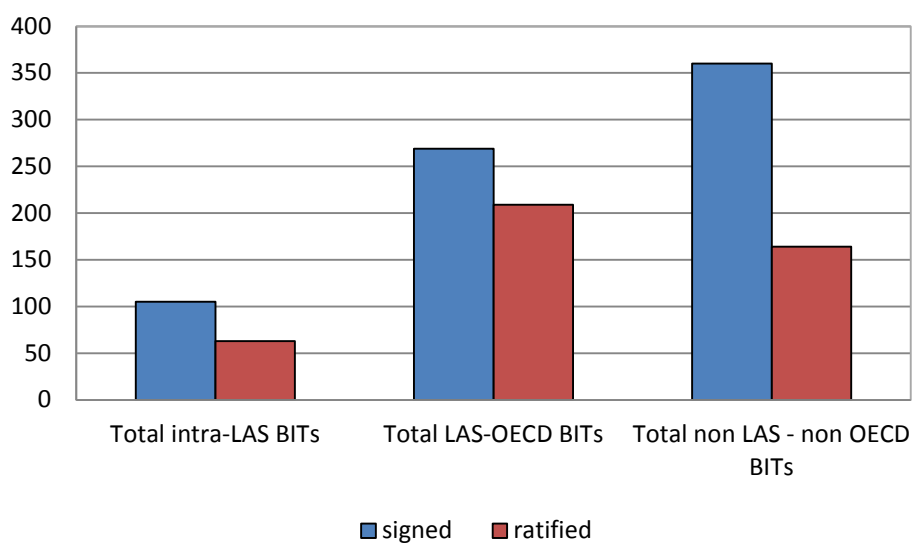
<sup>10</sup> Source: UNCTAD (2014) *World Investment Report*.



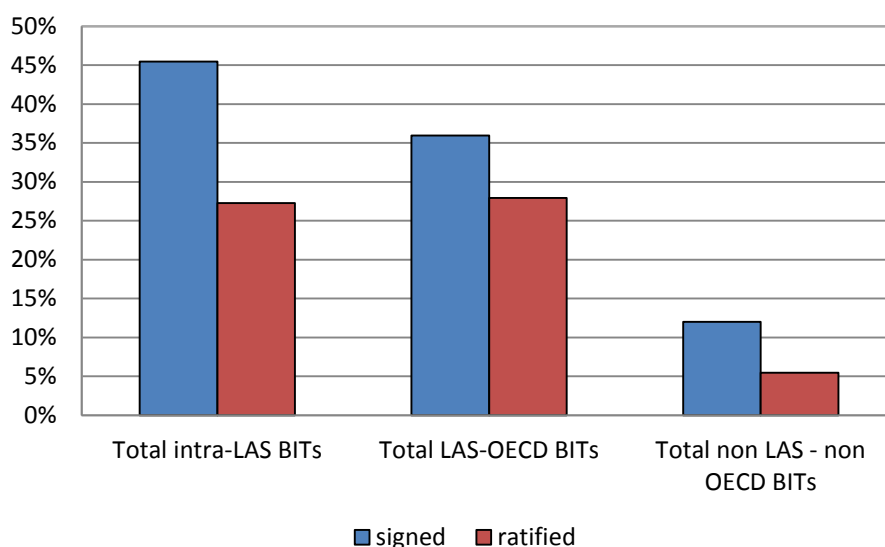
In terms of geographical coverages, almost 360 BITs concluded by LAS economies have been signed with non-LAS and non-OECD countries, while 269 have been signed with OECD economies and 105 with other LAS economies (intra-LAS BITs). Therefore, in absolute terms, LAS economies signed a higher number of BITs with OECD (LAS-OECD BITs) and with the rest of the world than among themselves (Figure 4). However, this result may be misleading, as it doesn't account for the number of countries in each geographical group, leading LAS economies to appear poorly integrated among themselves. In fact, when considering the number of countries in each group, it appears that the highest share of signed BITs is actually largely among LAS economies themselves, followed by the OECD, and the rest of the world (Figure 5).

At the same time, a significant number of BITs signed by LAS economies is not in force (41%). Most *ratified* BITs are those signed with OECD economies (78%), followed by intra-LAS BITs (60%) and by BITs concluded with non-LAS and non-OECD economies (46%). Furthermore, when taking into consideration the number of countries in each geographical group, it appears that LAS economies have ratified proportionally as much BITs with the OECD than among themselves. This is in contrast with the share of *signed* BITs, where the difference between intra-LAS BITs and LAS-OECD BITs is much more important (Figure 5).

**Figure 4: Number of signed and ratified BITs by LAS economies**



**Figure 5: Share of signed and ratified BITs (as a percent of total possible BITs)**

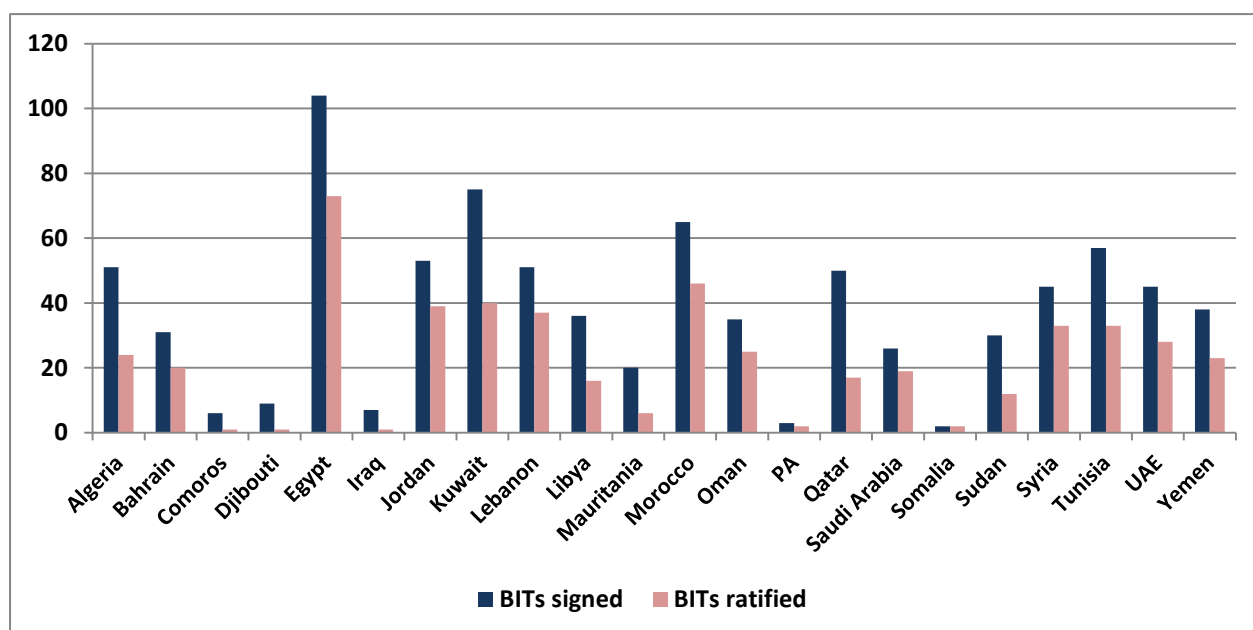


Source: MENA-OECD Investment Programme / UNCTAD database / Kluwer database (2014).

The economies having the least share of BITs in force include Djibouti (11% of BITs in force), Iraq (4% of BITs in force), Comoros (17% of BITs in force), Mauritania (30% of BITs in force) and Qatar (34% of BITs in force). Sudan, Libya and Algeria also account for high numbers of BITs signed but not in force (with respectively 40%, 44% and 47% of BITs in force).

On the other end of the scale, Lebanon has 75% of its BITs in force while Jordan has 74% and Morocco and Oman respectively 71% of their BITs in force. Egypt, the top BITs signatory among LAS economies, has 70% of its BITs in force while the Palestinian Authority and Saudi Arabia have respectively 67% and 69% of their BITs in force (Figure 6).

**Figure 6. Number of BITs signed and ratified in LAS economies  
(as of December 2014)**



Source: MENA-OECD Investment Programme / UNCTAD database / Kluwer database (2014).

LAS economies have started to sign BITs relatively late in the mid 1990's and beginning 2000's (e.g., European countries signed the bulk of their treaties in the 70's). This reflects the growing willingness of LAS economies to attract FDI in the 90's and in the 2000's.

Table 1 below shows that the vast majority of the 105 intra-LAS BITs is relatively recent: more than half of them were signed and entered into force in the 2000's.

**Table 1. Table 1: Intra-LAS BITs by dates of entry into force**  
*(Treaties in brackets are treaties signed but not in force)*

	Algeria	Bahrain	Comoros	Djibouti	Egypt	Iraq	Jordan	Kuwait	Lebanon	Libya	Mauritania	Morocco	Oman	Palestinian Authority	Qatar	Saudi Arabia	Somalia	Sudan	Syria	Tunisia	UAE	Yemen	
<b>Algeria</b>		2008			2000		1997	[2001]		[2001]	[2008]		2002		[1996]	[2001]		[2001]	[1997]	[2006]	2002	[1999]	
<b>Bahrain</b>	2008				1999		2000		2005			2001						[2000]	2001	[1975]		[2002]	
<b>Comoros</b>					2000																		
<b>Djibouti</b>					[1998]																		
<b>Egypt</b>	2000	1999	2000	[1998]			1998	2002	1997	1991		1998	2000	1999	2006	1990	1983	2003	1998	1991	1999	1998	
<b>Iraq</b>								1966					[1990]						[2002]				
<b>Jordan</b>	1997	2000			1998			[2001]	2003			2000	[2007]	[2012]	[2009]			2001	2002	1995	2010	1998	
<b>Kuwait</b>	[2001]				2002	1966	[2001]		2002		[2006]	2001						[2001]	2004	[1973]	[1966]	[2001]	
<b>Lebanon</b>		2005			1997		2003	2002			2006	2000	2008		[2010]			2007	[2010]	2000	1999	2002	
<b>Libya</b>	[2001]				1991							2001			[2004]					1995	[2005]		
<b>Mauritania</b>	[2008]							[2006]	2006			2003			[2003]			2002		[1986]			
<b>Morocco</b>		2001			1998	[1990]	2000	2001	2000	2001	2003		2003		2001			2002	2003	1999	2002	[2001]	
<b>Oman</b>	2002				2000		[2007]		2008			2003								[2005]		2000	
<b>Palestinian Authority</b>					1999		[2012]																
<b>Qatar</b>	[1996]				2006		[2009]		[2010]	[2004]	[2003]	2001							[1998]	[2003]	[1996]	[2000]	
<b>Saudi Ar.</b>	[2001]				1990																		
<b>Somalia</b>					1983																		
<b>Sudan</b>	[2001]	[2000]			2003		2001	[2011]	2007			2002	2002		[1998]						[2003]	[2011]	[1999]
<b>Syria</b>	[1997]	2001			1998	[2002]	2002	2004	[2010]	1995		2003	[2005]		[2003]			2001			2003	2001	2005
<b>Tunisia</b>	[2006]	[1975]			1991		1995	[1973]	2000	[2005]	[1986]	1999	1992		[1996]			[2003]	2003			1997	[1998]
<b>UAE</b>	2002				1999		2010	[1966]	1999			2002						[2011]	2001	1997		2001	
<b>Yemen</b>	[1999]	[2002]			1998		1998	[2001]	2002				[2001]	2000				[1999]	2005	[1998]	2001		
<b>Signed intra-LAS BITs</b>	14	9	1	1	19	3	14	12	13	6	6	15	9	2	11	2	1	13	15	15	10	13	
<b>Entered into force intra-LAS BITs</b>	5	6	1	0	18	1	10	5	11	3	2	13	7	1	2	1	1	6	10	7	8	5	
<b>[Only Signed]</b>	9	3	0	1	1	2	4	7	2	3	4	2	2	1	9	1	0	7	5	8	2	6	

Source: MENA-OECD Investment Programme/UNCTAD/Kluwer Law International (2014).

## **B. Overview of the substantive provisions contained in BITs signed by LAS economies**

BITs contain substantive provisions dealing with principles of investment protection, along with provisions defining the scope of the BIT and dispute settlement provisions.

Given the large number of BITs signed by LAS economies, the task of describing their substantive provisions appears to be complex and would require a separate study. Though most BITs have a similar basic structure and content, they differ in the details and wording showing a variety of approaches with regard to individual provisions. However, with the purpose of protecting investors and promoting investment, an overview of the substantive provisions of the BITs signed by LAS economies may be made through the analysis of their common features and trends.

After a brief analyse of the scope issues of BITs related to definitions of the terms of “investment” and “investor” (1), this overview will analyse the substantive provisions commonly found in BITs related to admission and treatment (2), investment protection (3) and dispute settlement (4), and the new trends in international investment law (5).

### **1. Scope issues: Definition of terms**

#### *Investment*

BITs define assets to which the treaty applies, *i.e.* assets that qualify as protected investments. The scope of the treaty depends on the definition of the term investment. BITs adopt either a restrictive- or a broad-asset based definition, followed by a precise or an open illustrative list of the forms the protected investments can take. LAS BITs usually have a broad open-ended definition of investment with a non-exhaustive list of assets covered. Portfolio are usually included. It is rare to find restrictive definitions, exceptions or clarifications on the characteristics of an investment which tend to be the trend to avoid extensive interpretation by arbitral tribunals.

#### *Investor*

BITs define those persons and legal entities benefiting from the treaty provisions. With respect to natural persons, nationals of the contracting State party are generally considered as protected investor. The protection can be extended to permanent residents under domestic law of the State party. With respect to companies, BITs generally determine their nationality according to their place of incorporation, their principal seat, or alternatively, through the notion of control.

### **2. Admission and treatment**

BITs provide for relative standards of protection, namely national treatment and most-favoured-nation treatment, and determine whether they apply at the pre-establishment or only at the post-establishment stage (admission phase).

#### *Admission of foreign investment*

It is a principle of international law that States hold the sovereign right to regulate the admission of foreign investors into their economy, to refuse entry, or set conditions to entry. There are in general two models of BIT regarding admission and establishment of foreign investment: the “admission model,” according to which the conditions to entry and establishment depend on the law of the host state, and

the “pre-establishment” model, according to which foreign investors have a positive right to entry and establishment of the investment.

Pre-establishment BITs indicate a political commitment to an open investment environment and aim at liberalising investment flows. Although more and more countries are committing to some pre-establishment liberalisation, the most common approach in the region limits protection to the post-establishment phase. The admission of investments is subject to national laws while core standards of investment protection are only provided at a post-establishment stage. For example, Article 3 of the BIT between Australia and Egypt provides as follows:

“Each Party shall encourage and promote investment in its territory by investors of the other Party and shall, in accordance with its laws and investment policies applicable from time to time, admit investments.”

However, the pre-establishment model exists in some BITs and investment chapters of FTAs concluded by LAS economies.

#### *National treatment and most-favoured-nation treatment*

Under the national treatment (NT) provision, foreign investors are granted, in like circumstances, treatment no less favourable than the treatment of nationals. Its content varies according to how other investments are treated by the host state.

Under the most-favoured-nation (MFN) treatment provision, investors from the contracting party are granted the same treatment given to investors from any other country.

The vast majority of BITs in the region provides for NT and MFN treatment either separately or in the same clause. An illustration is provided in Article II(2) of the Turkey-Yemen BIT, which grants to the investors a “treatment no less favourable than that accorded in similar situations to investments of its investors or to investments of investors of any third country, whichever is the most favourable.”

Some BITs concluded by LAS economies,<sup>11</sup> while providing for NT, allow the host state to introduce exceptions to NT, giving leeway to the authorities, for example, to enact legislation promoting and protecting domestic investment in certain sectors.

The most-favoured-nation is widely used in investment disputes as a way to import to the disputes treatments of protection provided in BITs concluded with third states.

Though there is a recent trend to exclude MFN from dispute settlement provisions, almost no LAS BITs include such a carve-out.

### **3. Investment protection**

The fair and equitable treatment and the full protection and security are absolute standards of protection frequently provided for in BITs, *i.e.* the required level of treatment is not contingent on treatment accorded to third parties by the host state and they do not relate to the domestic law of the host state. Other fundamentals of investment protection are the right to compensation in case of

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<sup>11</sup> For example, the Jordan-Russia BIT provides that: “each contracting party shall reserve the right to apply and to introduce in accordance with its legislation exceptions of national treatment to foreign investors and their investments, including reinvestments.”

expropriation and compensation for losses. Provisions on the reduction or the elimination of transfer of funds and the umbrella clause also allow for a strengthened protection. Investment protection provisions also comprise dispute settlement mechanisms, though given their importance, are analysed separately.

### *Fair and equitable treatment*

The fair and equitable treatment (FET) (which encompasses, *inter alia*, an obligation not to deny justice) has acquired prominence in investment arbitration. While the other standards are of strict application, the fair and equitable treatment standard is very broad and can include sub-standards (due process, respect of legitimate expectations, etc).

When provided for, BITs concluded by LAS economies do not define the FET. Therefore, considerable debate exists over where the threshold of treatment is set, giving an important margin of interpretation to arbitral tribunals as to the definition of the FET. This debate is reflected in investment arbitration cases:

- According to a narrow definition, the fair and equitable treatment merely reflects the minimum standard of treatment in customary international law. Under this most common interpretation, a violation of the FET obligation requires the host country to commit a gross misconduct, manifest injustice, or bad faith neglect of duty. This narrow definition of the FET leads, in arbitration cases, more rejection of claims based on a violation of the FET;
- According to a broad definition, the FET has a specific meaning that goes beyond the minimum standard of treatment. Under this interpretation, the FET provision has been used to protect, *inter alia*, the due process, the investor's legitimate expectations and stability and transparency. This broad definition of the FET leads, in arbitration, cases, to a broader admission of claims based on a violation of the FET.

Up to now, arbitral awards considered a broad interpretation of the FET provision, which explains its importance in investment cases. This is the reason why there is a trend to better clarify and define the FET standard in recent treaty practice. No LAS BITs could be found reflecting this trend. However, investment chapters in FTAs signed with countries include more precise provisions.<sup>12</sup>

### *Full protection and security*

The standard of full protection and security (FPS) provides a minimum level of police protection that must be given to foreign investors – though interpretation has extended the concept to other policy issues – and is established in some investment treaties of the region, in particular the most recent ones.

In investor-state disputes, there is a debate regarding the scope of the protection. There is a consensus that this standard is a protection against physical violence and harassment. In the *Wena Hotels*

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<sup>12</sup> For example, Article 10.5(2) of the FTA concluded between the United States and Morocco provides that “For greater certainty, paragraph 1 prescribes the customary international law minimum standard of treatment of aliens as the minimum standard of treatment to be afforded to covered investments. The concepts of “fair and equitable treatment” and “full protection and security” do not require treatment in addition to or beyond that which is required by that standard, and do not create additional substantive rights. The obligation in paragraph 1 to provide “fair and equitable treatment” includes the obligation not to deny justice in criminal, civil, or administrative adjudicatory proceedings in accordance with the principle of due process embodied in the principal legal systems of the world (...).”

*v. Egypt* case,<sup>13</sup> the arbitral tribunal found Egypt liable under the standard because employees of a state entity had seized the hotel in question and because the police authorities had been aware of the seizure and had not acted to protect the investor before or after the intervention. Under the FPS standard, the State and its police have a duty to physically protect the premises of the investor. If the police did not act against employees' *de facto* seizure, the act committed is considered to be an act of negligence against FPS.

### *Right to compensation in case of expropriation*

A common substantive rule in BITs is the right to compensation in cases of expropriation. International law recognises the host state's right to expropriate alien property and BITs do not affect the state's right to expropriate. However, BITs address the conditions and legal consequences of an expropriation.

In order to be legal, expropriation must address four conditions:

- serving a public purpose;
- being non-arbitrary and non-discriminatory;
- being made in accordance with the principles of due process, and;
- being accompanied by prompt, adequate and effective compensation. Moreover, it is generally recognised that adequacy of the compensation is the value of the investment in the market.

Few BITs also provide for the right to judicial review of the legality of the expropriation.

Some of the BITs requires these rules to be respected in cases of direct expropriation (classic expropriation of the property of the investors) and in cases of indirect expropriation (measures equivalent to an expropriation).<sup>14</sup> In any event, indirect expropriations may be recognised by arbitral tribunals even if the applicable BIT does not provide for indirect expropriation without excluding it.

The vast majority of BITs concluded by LAS economies contains provisions on expropriation, though wording differs according to the treaty and they do not always cover the four conditions for a lawful expropriation. Only recent BITs tend to also cover indirect expropriation, some even going further in clarifying its meaning. In line with this recent trend, the BITs signed with Canada contain an annex clarifying what indirect expropriation means.

### *Compensation for losses*

Most of the LAS BITs provides the obligation for the host State to pay compensation for damage suffered by the investor of the other contracting state, arising from, *inter alia*, war, other armed conflict or a state of national emergency. Many treaties give compensation to investors in the event the host State provides compensation to its own nationals or nationals of a third state.

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<sup>13</sup> *Wena Hotels v. Egypt*, Award, 8 December 2000, paragraph 84.

<sup>14</sup> See, for example, Article 6 of the France-Morocco BIT: "Les Parties contractantes ne prennent pas de mesures d'expropriation ou de nationalisation ou toutes autres mesures dont l'effet est de déposséder, directement ou indirectement, les investisseurs de l'autre Partie des investissements leur appartenant (...)"



For example, according to Article 4-6 on Expropriation and Compensation of the Italia-Lebanon BIT: “Investors of either Contracting Party whose investments suffer losses or damages in the territory of the other Contracting Party owing to war or other armed conflict, revolution, a state of national emergency, civil strife, or revolt, shall be accorded treatment, as regards restitution, indemnification, compensation or other valuable consideration, no less favourable than that the latter Contracting Party accords to its own investors or to investors of any third State whichever is more favourable (...).”

#### *Transfer of funds*

Most BITs concluded by LAS economies countries provide for a right to free transfer of funds, *i.e.* for reduction – or even elimination – of restrictions on monetary transfers arising in connection with investments. Free transfer of funds is a key element for investors and the operation of their investments. However, the host country should keep some leeway to administer its monetary and financial policy.

For example, Article 7 of the Austria-UAE BIT stipulates that “Each Contracting Party shall guarantee that all payments relating to an investment by an investor of the other Contracting Party may be freely transferred into and out of its territory without delay”.

#### *Umbrella clause*

The umbrella clause elevates certain undertakings by host states into treaty breaches. In practical terms, under this provision, the breach of obligations of a contract signed between an investor and the State might give rise to a claim under the BIT.

An example of umbrella clause exists in Article 8 of the Jordan-Germany BIT which provides as follows:

“(2) Either Contracting Party shall observe any other obligation it may have entered into with regard to investments in its territory by investors of the other Contracting Party.”

There is no uniform interpretation of umbrella clauses in BITs. The tribunals might take either a restrictive application (only State contracts and administrative contracts between the State and the investor, not its subsidiaries, are covered) or a large interpretation covering unilateral undertakings of the state<sup>15</sup> and contracts submitted to commercial law in relation with an investment.

#### **4. Dispute settlement**

Almost all BITs concluded by LAS economies countries provide a mechanism for settlement of disputes between the contracting parties to the agreement, *i.e.* a State-State Dispute Resolution clause, as well as a mechanism enabling the investor to directly assert its rights accorded under the treaty, *i.e.* an investor-State dispute settlement (ISDS) clause.

With regard to ISDS clauses, as the majority of BITs, those concluded by LAS economies provide for an amicable settlement, as a precondition to commencement of an action before national courts or through arbitration.

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<sup>15</sup> LG&E v. Argentina, Decision of Liability, 3 October 2006.

### *Amicable settlement provision*

Most of the BITs, included those concluded by LAS economies, provide in case of dispute, an obligation for the investor and the host state to attempt to settle their dispute amicably. Generally, BITs provide this obligation for a “cooling-off” period of six-months, during which an investment dispute cannot be taken to investor-State arbitration. For example, the Bahrain-German BIT provides in Article 11, that:

“(1) Disputes concerning investments between a Contracting states and a national or company of the other Contracting State should, as far as possible, be settled amicably between the parties in the dispute.

(2) If the dispute cannot be settled within six months of the date when it has been raised by one of the parties to the dispute, it shall, at the request of the national or the company of the other Contracting State, be submitted for arbitration.”

Other BITs provide for a shorter “cooling-off” period. For example, under the Austria-Libya BIT, parties may submit their dispute to arbitration if the consultation aiming at solving their dispute did not result in a solution within three months from the date of request for consultations (Article 11(1) and (2)).

### *Dispute settlement before national courts or through arbitration*

BITs generally include a choice-of-forum clause allowing the investor to choose to submit its dispute to domestic courts, to arbitration of the International Centre for Settlement of Investment Disputes (ICSID) or to *ad hoc* arbitration, most often in accordance with the Arbitration Rules of the United Nations Commission on International Trade Law (UNCITRAL). The International Chamber of Commerce (ICC) in Paris and the Stockholm Chamber of Commerce are also mentioned as possible venues.

Some BITs concluded between Arab countries and signatories of the 1980 Arab League Investment Agreement also refer to the Arab Investment Court as one of the available fora for dispute resolution. For example, six BITs among 11 signed by Jordan with Arab countries refer to the Arab Investment Court (see section II. B. 2). In addition, very few BITs also refer to the Cairo Regional Center for Commercial Arbitration (CRCICA) as a forum for international investment dispute arbitration.

Some BITs also contain a fork-in-the-road clause which aims at avoiding forum shopping by investors in stipulating that resorting to international arbitration and resorting to domestic judicial procedures are mutually exclusive.

## **5. Recent trends**

Provisions on transparency contributing to enhance the investment climate as well as specific provisions bearing on essential security, protection of environment, labour rights and public health and referring to specific public policy concerns may be found in recent BITs.

Several treaties, notably signed by Egypt, and, to a lesser extent, by Jordan, include an obligation for the State parties to ensure the transparency of their regulations of investments, as well as administrative practices and procedures in relation to the treatment of investment. For example, Egypt-Finland BIT requires a Contracting party to publish laws, regulations, procedures and administrative rulings as well as judicial decisions of general application and international agreements which may affect the investments of investors.

It might be a good practice to include transparency regulations in future BITs and impose on host States an obligation of transparency in the exchange of information and in the process of domestic rulemaking, provided that public authorities ensure that such undertakings are then properly enforced and that information is made readily available.

LAS economies are encouraged to include this type of provision in their future treaties in order to enhance predictability through transparency measures, and to foster their public policy space.

#### ***6. Better factoring long-term developmental objectives in investment treaties***

While it is more crucial than ever to reassure foreign investors on the safety of investing in LAS economies, it might also be timely for Arab economies to refine their investment treaty policy, notably in light of new economic challenges that were further brought to light by the 2011 events. Arab economies' IIAs provide strong protection provisions for foreign investors. Meanwhile, there is an increasing awareness that IIAs could be useful legal tools not only to protect foreign investments, but also to achieve sustainable development objectives. In the aftermath of the Arab upheavals and in the broader context of a changing investment landscape, there might be an opportunity for Arab economies to clarify that strong protection provisions do not exclude an inclusive development agenda. Such considerations could be further taken into account by governments when negotiating new treaties or renegotiating existing treaties.

## II. FREE TRADE AND REGIONAL INTEGRATION AGREEMENTS

In parallel with the increase in BIT negotiations, there is also an upward trend towards the conclusion of free trade agreements (FTAs) and regional integration agreements containing market access for investors, and investment protection and promotion provisions. International investment rules are no longer exclusively contained in BITs and increasingly being formulated as part of agreements that encompass a broader range of issues (including trade, services, competition, and intellectual property). There are also economic agreements containing only some investment provisions, usually focusing on promotion, but not the full set of investment protection provisions as found in BITs (*i.e.* United States' Trade and Investment Framework Agreements signed with 14 countries in the region). The total number of such economic agreements with investment provisions exceeded 273, as of end 2008.

LAS economies have concluded 58 of investment-related bilateral, regional and inter-regional agreements containing investment-related provisions.

### A. At the inter-regional level

LAS economies have signed more and more such treaties. Table 2 below summarises the existing bilateral investment-related agreements with LAS economies. Most of these agreements contain only investment promotion provisions. For example, the Association Agreement concluded between the EU and Tunisia from 1999 limits itself to investment promotion. In the same line, provisions of the Bahrain-US FTA from 2004 only focus on investment promotion.

By contrast, some recent FTAs deal with investment protection issues and comprise a full chapter on investment (including provisions on investment substantive protection, as well as provisions on investor-State arbitration). Only two such FTAs have been signed by LAS economies, the one concluded between the US and Morocco and the one concluded between the US and Oman. For example, the Morocco-US FTA concluded in 2004 provides in its Chapter 10, the traditional substantive provisions on investment protection originally found in BITs, (*i.e.*, provisions on national treatment, most-favoured-nation, minimum standards of treatment (fair and equitable treatment and full protection and security), expropriation and compensation, transfers, investor-state dispute settlement). Some recent FTAs go even further than BITs, notably with regard to investment protection at the pre-establishment stage and with adopting new trends of provisions found in recent IIAs, such as provisions on investment and environment. For example, the Oman-US FTA concluded in 2006 - which replicates the Morocco-US FTA - with a full chapter on investment, grants in its Article 10(3) paragraph 1, investment protection at the pre-establishment stage, providing that:

“Each Party shall accord to investors of the other Party treatment no less favorable than that it accords, in like circumstances, to its own investors with respect to the establishment, acquisition, expansion, management, conduct, operation, and sale or other disposition of investments in its territory”.

These new trends in FTAs show willingness to market liberalisation and openness.

LAS economies have also strengthened their ties with the European Union by negotiating and implementing the Euro-Mediterranean Partnership Agreements. The EU is also engaged in FTA negotiations with the countries of the GCC for more than ten years. Several countries in the region have also concluded FTAs with the European Free Trade Association (EFTA, Switzerland, Norway, Iceland and Liechtenstein). Japan also promotes Economic Partnership Agreements which include elements of FTAs.

Moreover, following the 2011 events in the Arab world and with a view to support the associated democratic and economic transitions, the European Commission has a mandate to negotiate agreements establishing a Deep and Comprehensive Free Trade Area (DCFTA) with four LAS economies of the Deauville Partnership process, *i.e.* Egypt, Morocco, Tunisia and Jordan. Expected to promote a progressive economic integration of these countries with the EU by going beyond existing relations, it will cover a full range of regulatory areas of mutual interest and, for the first time in EU agreements, investment protection issues. Further regional economic integration among the Agadir countries (*i.e.*, Egypt, Morocco, Tunisia and Jordan) is also expected as the EU has declared that it will support in the context of DCFTA negotiations measures that can strengthen economic relations between those countries.

Before the transition in the region, more regional agreements were foreseen, including with the United States which engaged their Trade Representative in intensive negotiations with a number of Arab countries to develop bilateral trade agreements in the hope that it will materialise into the Middle East Free Trade Area (MEFTA) by 2014. However, due to the transition in the region, this project seems to be on hold. Morocco, Jordan, Bahrain and Oman have already concluded FTAs with the United States, while other countries, such as Egypt, are in negotiation with the United States.

**Table 2. Investment-related agreements signed by LAS economies**

<b>Algeria</b>	USA	2001	TIFA (Trade and Investment Framework Agreement)
	EU	2005	Association Agreement
<b>Bahrain</b>	USA	2002	TIFA
	Thailand	2002	Framework Agreement on Closer Economic Partnership
	USA	2006	FTA
<b>Comoros</b>			
<b>Djibouti</b>			
<b>Egypt</b>	USA	1999	TIFA
	EU	2004	Association Agreement
	Turkey	2007	FTA
	EFTA	2007	FTA (with investment chapter, but without provisions on investor-State arbitration)
	Mercosur	2010	FTA
<b>Iraq</b>	USA	2004	TIFA
<b>Jordan</b>	USA	2002	FTA
	EU	2002	Association Agreement
	EFTA	2002	FTA
	Sudan	2003	FTA
	Singapore	2006	FTA
	Turkey	2009(s)	FTA
	Canada	2009(s)	FTA
<b>Kuwait</b>	USA	2004	TIFA
<b>Lebanon</b>	EU	2003	Association Agreement
	USA	2006	TIFA
	EFTA	2007	FTA
	Turkey	2010	Association Agreement
<b>Libya</b>	USA	2010	TIFA
<b>Mauritania</b>			
<b>Morocco</b>	EU	2000	Association Agreement
	EFTA	2000	FTA

	USA	2006	FTA (with an investment chapter including provisions on investor-State arbitration)
	Turkey	2006	FTA
<b>Oman</b>	USA	2004	TIFA
	USA	2009	FTA (with an investment chapter including provisions on investor-State arbitration)
<b>Palestinian Authority</b>	EU	1997	Association Agreement
	EFTA	1999	FTA
<b>Qatar</b>	USA	2004	TIFA
<b>Saudi Arabia</b>	USA	2003	TIFA
<b>Somalia</b>			
<b>Sudan</b>			
<b>Syria</b>			
<b>Tunisia</b>	EU	1999	Association Agreement
	EFTA	2005	FTA (with an investment chapter but without provisions on investor-State arbitration)
	USA	2002	TIFA
	Turkey	2005	FTA
<b>UAE</b>	USA	2004	TIFA
<b>Yemen</b>	USA	2004	TIFA

Source: MENA-OECD Investment Programme (2014).

## B. At the intra-regional level

With respect to intra-regional trade integration, several initiatives, presented in Table 3 below, were conducted by countries in the region. The most prominent agreement is the Greater Arab Free Trade Area (GAFTA), signed between countries of the Arab League and which has been set up to achieve a free trade zone. There is also the Agadir Agreement, signed by Tunisia, Morocco, Egypt and Jordan. These two agreements do not contain investment provisions *per se*, but contain trade liberalisation measures, in particular for trade in goods, while negotiations on trade in services and agriculture face obstacles.

There have also been efforts led by the League of Arab States to establish regional investment agreements. For instance, the Agreement on Arab Economic Unity was signed in 1957, guaranteeing the freedom of movement of capital. Subsequently, the Agreement on Investment and Free Movement of Arab Capital Among Arab Countries was signed in 1970. Signatories to the Agreement included Egypt, Iraq, Jordan, Kuwait, Sudan, Syria and Yemen. While this Agreement reiterated the principle of each state's sovereignty over its own resources, it already contained standards of non-discrimination, and provisions on expropriation and free transfer of funds provisions. It also promotes preferential investment treatment between LAS economies.

The signing of the Unified Agreement for the Investment of Arab Capital in the Arab States in 1980 represents, to date, the most comprehensive effort put forth by LAS economies to set up a regional and enforceable investment regime. The Agreement has been ratified by all member States of the Arab League with the exception of Algeria and the Comoros Islands. Chapter VI establishes an Arab Investment Court to hear cases brought under the Agreement. The Agreement contains provisions on national treatment, free transfer and expropriation, although subject to exceptions (see Annex 1).

In order to update the existing agreements and to bring them in line with international developments, the Council of Arab Economic Unity approved, in 2000, the Agreement on the Encouragement and Protection of Investments and Transfer of Capitals among Arab States and the

Agreement on the Settlement of Investment disputes in Arab Countries. However, not all Council member countries have signed these agreements.

Other organisations in the region have elaborated regional or sub-regional instruments relating to investments. That is the case with the Organisation of the Islamic Conference in 1986 (Agreement on Promotion, Protection and Guarantee of Investment), the Gulf Cooperation Council in 1981, and the Arab Maghreb Union in 1993 (Agreement on encouragement and protection of Investments) (see Annex 2).

**Table 3. Regional trade- and/or investment-related agreements signed by MENA economies<sup>16</sup>**

<b>League of Arab States / Council of Arab Economic Unity</b>		1970	Agreement on Investment and Free Movement of Arab Capital Among Arab Countries
		1971	Convention establishing the Inter-Arab Investment Guarantee Corporation
		1980(s) 1981	Unified Agreement for the Investment of Arab Capital in the Arab States (and instituting the Arab Investment Court)
		2000	Agreement on the Encouragement and Protection of Investments and Transfer of Capitals among Arab Countries Agreement on the Settlement of Investment disputes in Arab Countries
	All 18 MENA economies	1997(s) 2005	Greater Arab Free Trade Area
<b>Agadir Agreement</b>	Egypt, Jordan, Morocco, Tunisia	2004(s) 2007	Arab-Mediterranean FTA
<b>Gulf Cooperation Council</b>	GCC Members (Bahrain, Oman, Qatar, UAE, Kuwait, Saudi Arabia)	1984	Unified Economic Agreement between the Countries of the Gulf Cooperation Council
	EU	1988	Economic Cooperation Agreement
	GCC Members	2002	Economic Agreement among Cooperation Council Countries
	Syria	2005	FTA
	Singapore	2008	FTA
	EFTA	2009(s)	FTA
	New Zealand	2009	FTA
<b>Organisation of the Islamic Conference</b>	53 Parties, incl. all 18 MENA economies	1986	Agreement on Promotion, Protection and Guarantee of Investments among Member States of the Organisation of the Islamic Conference
		1992	Articles of Agreement of the Islamic Corporation for the Insurance of Investment and Export Credit
<b>Union du Maghreb Arabe</b>	Algeria, Libya, Morocco, Tunisia	1993	Convention relative à l'encouragement et la protection des investissements entre les pays de l'UMA
		1991(s) 2002	Convention relative à la création de la Banque maghrébine pour l'investissement et le commerce extérieur entre les Etats de l'UMA
<b>COMESA</b>	COMESA members, incl. Djibouti, Libya, Egypt	2007	Common Investment Area

Source: MENA-OECD Investment Programme (2014).

<sup>16</sup> Including the 18 MENA economies covered by the MENA-OECD Investment Programme.

### III. MULTILATERAL RULES

Almost all LAS economies have joined multilateral agreements containing investment-related provisions. As of January 2010, 11 of the 18 economies participating in the MENA-OECD Investment Programme are members of the World Trade Organisation (WTO). Table 4 below shows that six other countries in the region currently have observer status in the WTO. In addition, the Palestinian Authority requested in 2005 and 2009 the observer status to WTO.

WTO members are obliged to implement the provisions of the General Agreement on Trade in Services (GATS), Trade-Related Aspects of Intellectual Property Rights (TRIPs) and Agreement on Trade-Related Investment Measures (TRIMs). The GATS addresses foreign investment in services as one of four modes of supply of services, including services provided by nationals of one party in the territory of any other party (the so-called mode 4). TRIPs accord national treatment and most-favoured-nation treatment (MFN) to foreign firms' intellectual property rights. TRIMs prohibit trade-related investment measures, such as local content requirements, that are inconsistent with basic provisions of the General Agreement on Tariffs and Trade (GATT).

**Table 4. WTO Membership**

	WTO Member	Observer
	(year of accession)	(status since)
<b>Algeria</b>		1987 <sup>1</sup>
<b>Bahrain</b>	1995	
<b>Comoros</b>		2007 <sup>2</sup>
<b>Djibouti</b>	1995	
<b>Egypt</b>	1995	
<b>Iraq</b>		2004 <sup>3</sup>
<b>Jordan</b>	2000	
<b>Kuwait</b>	1995	
<b>Lebanon</b>		1999 <sup>4</sup>
<b>Libya</b>		2004 <sup>5</sup>
<b>Mauritania</b>	1995	
<b>Morocco</b>	1995	
<b>Oman</b>	2000	
<b>Palestinian Authority</b>		
<b>Qatar</b>	1996	
<b>Saudi Arabia</b>	2005	
<b>Somalia</b>		
<b>Sudan</b>		1994 <sup>6</sup>
<b>Syria</b>		2001 <sup>7</sup>
<b>Tunisia</b>	1995	
<b>UAE</b>	1996	
<b>Yemen</b>	2014	



Notes:

1. Algeria's Working Party was established on 17 June 1987 and met for the first time in April 1998. A revised offer on specific commitments in services was circulated in January 2013. The latest revised market access offer on goods was circulated in February 2013. The multilateral examination of the foreign trade regime is proceeding on the basis of a draft Working Party Report. The latest revision of the Report was circulated in February 2013. The eleventh meeting of the Working Party took place in April 2013.
2. The General Council established a Working Party to examine the application of the Union of the Comoros on 9 October 2007. The Union of the Comoros has not yet submitted its Memorandum on the Foreign Trade Regime. The Working Party has not met.
3. A Working Party to examine the application of Iraq was established at the General Council meeting of 13 December 2004. Iraq submitted its Memorandum on the Foreign Trade Regime in September 2005. The Working Party met for a second time in April 2008 to continue the examination of Iraq's foreign trade regime.
4. Lebanon applied for full accession in 1999, and negotiations are currently ongoing. The first report outlining terms of membership for Lebanon has been drafted and agreed upon on 3 May 2007. A second report of the Working Party was circulated in October 2009.
5. The General Council established a Working Party to examine the application of Libya on 27 July 2004. Libya has not yet submitted its Memorandum on the Foreign Trade Regime. The Working Party has not met.
6. The Working Party on the accession of Sudan was established on 25 October 1994. Sudan's Memorandum on the Foreign Trade Regime was circulated in January 1999. The Working Party held its second meeting in March 2004. Bilateral market access negotiations are underway on the basis of revised offers on goods and services.
7. The General Council established a Working Party to examine the application of the Syrian Arab Republic on 4 May 2010. The Syrian Arab Republic has not yet submitted its Memorandum on the Foreign Trade Regime. The Working Party has not met.

Source: World Trade Organisation (2014).

All the economies participating in the MENA-OECD Investment Programme have signed the Convention establishing the Multilateral Investment Guarantee Agency (MIGA) and can profit from its risk mitigation facilities. In order to be eligible for a guarantee granted by MIGA to an investor in its territory, a country's investment policy must be in accordance with the 1992 World Bank *Guidelines on the Treatment of Foreign Direct Investment*. The operational regulations of MIGA further state that "an investment will be regarded as having adequate legal protection if it is protected under the terms of a bilateral investment treaty between the host country and the home country of the investor" (MIGA Operational Regulations, para. 3.16.). An analysis of MIGA activity shows a sharp increase in the number of infrastructure projects supported in the region (20 projects for US\$846.4 million of gross exposure since 2011, compared to only 4 projects in 2005-2010 for gross exposure of \$441.6 million).

In addition to the 34 OECD member countries and 7 non-members, three MENA countries have adhered to the OECD Declaration on international investment and multinational enterprises, *i.e.*, Egypt (11 July 2007), Morocco (23 November 2009) and Tunisia (23 May 2012), while Jordan is about to adhere. Adopted in 1976, the Declaration is a policy commitment by adhering governments to provide an open and transparent environment for international investment and to encourage the positive contribution multinational enterprises can make to economic and social progress.

The Declaration consists of two main elements:

- National Treatment instrument: A voluntary undertaking by adhering countries to accord to foreign-controlled enterprises on their territories treatment no less favourable than that accorded in like situations to domestic enterprises.

- The Guidelines for Multinational Enterprises: Recommendations on responsible business conduct addressed by governments to multinational enterprises operating in or from adhering countries. The Guidelines were updated in 2011.

In addition, the Deauville Partnership is an international initiative launched in 2011 by the G8 at the Leaders Meeting in Deauville in France to support the transition in Egypt, Jordan, Morocco and Tunisia (Libya and Yemen have more recently joined the Partnership). It deals – among other pillars – with regional integration and in particular with investment-related issues aiming at supporting those countries (together with relevant international financial institutions) in investment climate improvements.

In the framework of the Deauville Partnership process, beneficiary countries are encouraged to adhere to the United States and the European Union Shared Principles for International Investment aiming at developing and maintaining open investment policies worldwide (Box 1). These principles intend to guide the United States and EU and the governments of third countries in developing future investment policies. They embody a number of shared core values, including a commitment to open and non-discriminatory investment policies, a level competitive playing field, strong protections for investors and their investments, neutral and binding international dispute settlement, strong rules on transparency and public participation, responsible business conduct, and narrowly-tailored reviews of national security considerations.

**Box 1: The European Union and the United States Shared Principles for International Investment (Extracts)**

“As the world’s largest sources of and destinations for foreign investment, the European Union and the United States have long recognized the critical importance of creating and maintaining open and stable investment climates and policies, which contribute to sustainable economic development and growth, job creation, increased productivity, technological innovation, and competitiveness. We therefore reaffirm our shared commitment to the following principles regarding international investment, which we believe are essential elements for developing and maintaining open investment policies worldwide (...):

1. Open and Non-Discriminatory Investment Climates;
2. A Level Playing Field;
3. Strong Protection for Investors and Investments;
4. Fair and Binding Dispute Settlement;
5. Robust Transparency and Public Participation Rules;
6. Responsible Business Conduct;
7. Narrowly-Tailored Reviews of National Security Considerations.”

Source: [www.ustr.gov/countries-regions/europe-middle-east/europe/european-union](http://www.ustr.gov/countries-regions/europe-middle-east/europe/european-union)

The MENA-OECD Investment Programme and its Working Group on investment policies and promotion, is actively supporting efforts under the Deauville Partnership process on investment related issues. It started a process with the Conference held in Cairo on 7-8 May 2012 on “Reviving Private Investment in the Deauville Partnership Countries” co-organised by the MENA-OECD Investment

Programme, UfM and UNDP, under the auspices of the Egyptian Ministry of Foreign Affairs, and with the participation of the League of Arab States.

In the context of this conference, the MENA-OECD Investment Programme issued an Action Plan for Improving Investment Frameworks in the Deauville Partnership countries (the Cairo Action Plan) containing, at the general level, *inter alia*, the following general orientations aiming at strengthening openness, transparency and predictability of their investment climate: assessing existing *de jure* restrictions on foreign equity participation, the existence of *de facto* restrictions and the current investment incentive regimes; encouraging transparency and predictability of national policies, laws, regulations, administrative practices and statistics affecting foreign and domestic investment; improving the use of arbitration – and other alternative dispute resolution mechanisms; ensuring a right balance of investors' rights and obligations by fostering responsible business conduct.

It also contains specific orientations and indicates several measures for consideration addressed to Egypt, Jordan, Morocco and Tunisia, subject to regularly assessment.<sup>17</sup> Following the Cairo Conference, Action Plans on *Investment Climate Reform Priorities* were developed for each of the Deauville Partnership countries in consultation with the OECD. Those Action Plans identified a series of investment policy measures that could be implemented with the support of the Deauville Partners to improve the business and investment climates. They were presented at the G8 Deauville Partnership Investment Conference held under the UK Presidency on 16 September 2013 in London.

The OECD is implementing two projects funded by the MENA Transition Fund designed to support investment legal and institutional reforms in Jordan and Tunisia:

- The joint OECD-WB Competitiveness and Investment Project aiming to assist Jordan in the implementation of its new investment law with a focus on the legal protection provisions and the analysis of international investment agreements.
- The project aiming at strengthening the institutional framework for investments in Tunisia, conducted with the SFI in collaboration with the Ministry of International Development and Cooperation.

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<sup>17</sup> OECD (2013), *Strengthening Investment Policies in the Deauville Partnership Countries: Cairo Action and Follow-up Activities*.

#### IV. INVESTOR-STATE DISPUTES IN THE REGION

In relation with the dispute settlement mechanisms contained in IIAs, there are two major international conventions: the ICSID Convention and the New York Convention. After a brief overview of the status of these conventions in the region (A), this study will focus on the investor-State caseload in the region (B).

##### A. International conventions related to investment disputes settlement

###### 1. The ICSID Convention

The 1965 on the Settlement of Investment Disputes between States and Nationals of other States (ICSID Convention) is a multilateral treaty formulated by the Executive Directors of the International Bank for Reconstruction and Development (the World Bank) that seeks to remove major impediments to the free international flows of private investment posed by non-commercial risks and the absence of specialized international methods for investment dispute settlement. The Convention established the International Centre for Settlement of Investment Disputes (ICSID) as an impartial international forum providing facilities for the resolution of legal disputes between eligible parties, through conciliation or arbitration procedures. Recourse to the ICSID facilities is always subject to the parties' consent.

As evidenced by its large membership – there are currently 158 signatory States to the ICSID Convention - considerable caseload, and by the numerous references to its arbitration facilities in investment treaties and laws, ICSID plays an important role in the field of international investment and economic development.

With the exception of Djibouti, Iraq, Libya, and the Palestinian Authority, all LAS economies are party to the ICSID Convention, as shown in Table 5 below. Some LAS economies such as Morocco and Tunisia, have been signatory to the Convention since its inception.

**Table 5: LAS Membership to the ICSID Convention**

	Signed	Into force
<b>Algeria</b>	1995	1996
<b>Bahrain</b>	1995	1996
<b>Comoros</b>	1978	1978
<b>Djibouti</b>		
<b>Egypt</b>	1972	1972
<b>Iraq</b>		
<b>Jordan</b>	1972	1972
<b>Kuwait</b>	1978	1979
<b>Lebanon</b>	2003	2003
<b>Libya</b>		
<b>Mauritania</b>	1965	1966
<b>Morocco</b>	1965	1967
<b>Oman</b>	1995	1995
<b>Palestinian Authority</b>		
<b>Qatar</b>	2010	2011
<b>Saudi Arabia</b>	1979	1980
<b>Somalia</b>	1965	1968

<b>Sudan</b>	1967	1973
<b>Syria</b>	2005	2006
<b>Tunisia</b>	1965	1966
<b>UAE</b>	1981	1982
<b>Yemen</b>	1997	2004

## 2. The New York Convention

The 1958 New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards (New York Convention) is a widely ratified convention that seeks to provide common standards for the recognition of arbitration agreements and court recognition and enforcement of foreign and non-domestic arbitral awards. It applies to the recognition and enforcement of commercial and investment arbitral awards. However, if the award is protected by the ICSID mechanism of recognition and enforcement, the New York Convention will not apply to its enforcement.<sup>18</sup>

As shown in Table 6 below, most LAS economies are parties to the 1958 New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards, with the exception of Comorros, Iraq, Libya, Somalia, Sudan, Yemen, and the Palestinian Authority.

**Table 6: LAS Membership to the 1958 New York Convention**

	Member since
<b>Algeria</b>	1989
<b>Bahrain</b>	1988
<b>Comorros</b>	
<b>Djibouti</b>	1977
<b>Egypt</b>	1959
<b>Iraq</b>	
<b>Jordan</b>	1980
<b>Kuwait</b>	1978
<b>Lebanon</b>	1998
<b>Libya</b>	
<b>Mauritania</b>	1997
<b>Morocco</b>	1959
<b>Oman</b>	1999
<b>Palestinian Authority</b>	
<b>Qatar</b>	2003
<b>Saudi Arabia</b>	1994
<b>Somalia</b>	
<b>Sudan</b>	
<b>Syria</b>	1959
<b>Tunisia</b>	1967
<b>UAE</b>	2006
<b>Yemen</b>	

<sup>18</sup> The New York Convention will apply to the enforcement of ICSID awards rendered under the Additional Facility mechanism.

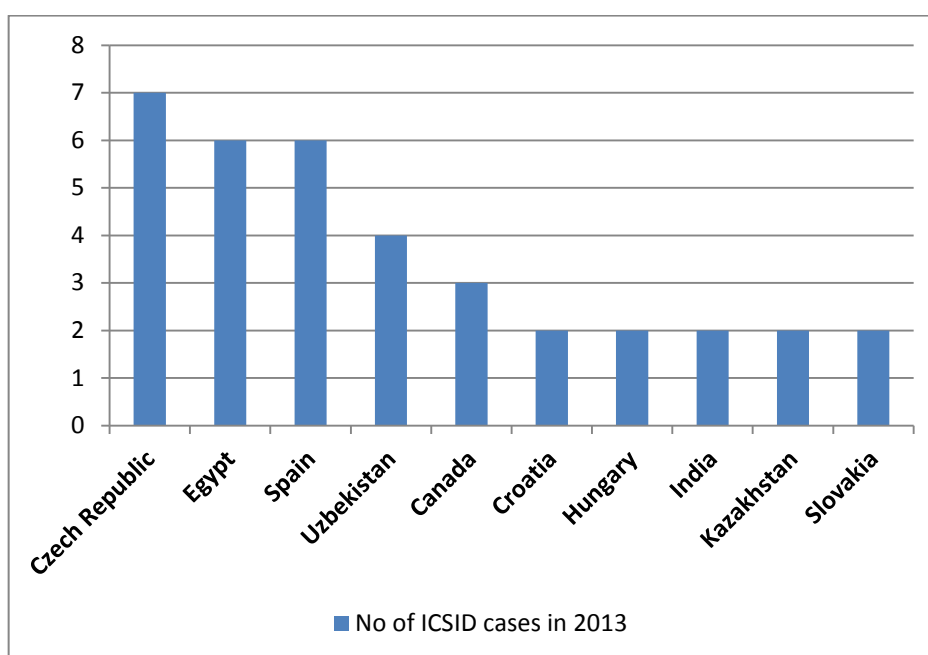
## B. Investor-State caseload in LAS economies

The increasing activity in international investment treaty-making described above has been paralleled by a rise in investor-State dispute cases based on treaty claims. The availability of investment dispute *fora* through international arbitration tribunals, rules and mechanisms has widened the possibility of settling disputes. Among the most active institutions for investment dispute settlement, the International Center for the Settlement of Investment Disputes (ICSID), the International Chamber of Commerce (ICC) and the Stockholm Chamber of Commerce are the most frequently resorted to. In the region, the Cairo Regional Center for International Commercial Arbitration (CRCICA) can also serve as a forum for investment dispute arbitration. The Arab Investment Court foreseen by the 1980 LAS Investment Agreement is also considered in some intra-LAS BITs as an avenue to settle disputes. However, to date, only one known case has been settled by the Arab Investment Court which was actually established only in 2000. Finally, *ad hoc* arbitration proceedings most frequently use the United Nations Commission on International Trade Law (UNCITRAL) rules.

The cumulative number of known treaty-based cases has reached 568 known treaty-based claims by end 2013, with 57 new cases in 2013, coming close to the previous year's record high number of new claimants.<sup>19</sup> While the awards rendered in these proceedings have helped clarify the meaning and content of individual treaty provisions, some contradictory decisions have also created uncertainty.

Among the top defendants worldwide in investor-State disputes in 2013, Egypt is the second most frequent respondent (6) after the Czech Republic (7) (Figure 7).

Figure 7. Most frequent respondent States in 2013



Source: UNCTAD (2014).

<sup>19</sup> UNCTAD (2014), *Recent Developments in investor-State dispute settlement (ISDS)*, IIA ISSUES NOTE No. 1 (April 2014).

58 cases involving LAS economies in investor-State disputes have been identified (Table 7).

**Table 7: Known investor-State dispute cases involving a LAS economy as respondent**

Year	Country	CASE	Rules/ Venue	Status
1972	Morocco	Holiday Inns S.A. and others v. Morocco (Case No. ARB/72/1)	ICSID	settled
1973	Libya	BP Exploration Co. (Libya) Ltd. v. The Government of the Libyan Arab Republic	<i>ad hoc</i>	settled in favor of investor
1975	Libya	Texaco Overseas Petroleum Co./California Asiatic Oil Co. v. The Government of the Libyan Arab Republic	<i>ad hoc</i>	settled in favor of investor
1977	Libya	Libyan American Oil Company (LIAMCO) v. The Libyan Arab Republic	<i>ad hoc</i>	settled in favor of investor
1982	Kuwait	Kuwait v. American Independent Oil Co. (Aminoil)	<i>ad hoc</i>	settled in favor of investor
1984	Egypt	Southern Pacific Properties (Middle East) Limited v. Egypt (Case No. ARB/84/3)	ICSID	settled
1986	Tunisia	Ghaith R. Pharaon v. Tunisia (Case No. ARB/86/1)	ICSID	settled
1989	Egypt	Manufacturers Hanover Trust Company v. Egypt (Case No. ARB/89/1)	ICSID	settled
1998	Egypt	Wena Hotels Ltd. V. Egypt (Case No. ARB/98/4)	ICSID	settled in favor of investor
1999	Egypt	Middle East Cement Shipping and Handling Co v. Arab Republic of Egypt (Case No. ARB/99/6)	ICSID	settled in favor of investor
2000	Lebanon	Eastern Company v. Lebanon	CRCICA	unknown
2000	Morocco	Consortium RFCC v. Morocco (Case No. ARB/00/6)	ICSID	settled in favor of state
2000	Morocco	Salini Costruttori and Italstrade v. Morocco (Case No. ARB/00/4)	ICSID	settled
2001	United Arab Emirates	Impregilo, S.p.A and Rizzani De Eccher S.p.A. v. United Arab Emirates (Case No. ARB/01/1)	ICSID	settled
2002	Egypt	Champion Trading Company and others v. Arab Republic of Egypt (Case No. ARB/02/9)	ICSID	settled in favor of state
2002	Egypt	Ahmonseto, Inc. and others v. Arab Republic of Egypt (Case No. ARB/02/15)	ICSID	settled
2002	Jordan	JacobsGibb Limited v. Hashemite Kingdom of Jordan (Case No. ARB/02/12)	ICSID	settled
2002	Jordan	Salini Costruttori S.p.A. and Italstrade S.p.A. v. the Hashemite Kingdom of Jordan (Case No. ARB/02/13)	ICSID	settled in favor of state
2002	Lebanon	France Telecom v. Lebanon	UNCITRAL	settled in favor of investor
2002	United Arab Emirates	Hussein Nauman Soufraki v. United Arab Emirates (Case No. ARB/02/7)	ICSID	settled in favor of state
2003	Algeria	Consortium Groupement L.E.S.I. - DIPENTA v. Algeria (Case No. ARB/03/8)	ICSID	settled in favor of state
2003	Egypt	Joy Mining Machinery v. Egypt (Case No. ARB/03/11)	ICSID	settled
2003	Saudi Arabia	Ed. Züblin AG v. Kingdom of Saudi Arabia (Case No. ARB/03/01)	ICSID	settled
2003	Tunisia	Tanmiah v. Tunisia (1/1 Q, IIC 238 (2006))	Arab Inv. Court	settled in favor of state
2004	Egypt	Jan de Nul N.V. and Dredging International N.V. v. Arab Republic of Egypt (Case No. ARB/04/13)	ICSID	settled in favor of state
2004	Tunisia	ABCI Investments v. Tunisia (Case No. ARB/04/12)	ICSID	pending
2005	Algeria	LESI S.p.A. and Astaldi S.p.A v. Algeria (Case No.	ICSID	settled in favor of

		ARB/05/3)		state
2005	Egypt	Waguih Elie George Siag and Clorinda Vecchi v. Arab Republic of Egypt (Case No. ARB/05/15)	ICSID	settled
2005	Egypt	Helnan International Hotels A/S v. Arab Republic of Egypt (Case No. ARB/05/19)	ICSID	settled in favor of state
2005	Yemen	Desert Line Projects LLC v. Republic of Yemen (Case No. ARB/05/17)	ICSID	settled in favor of investor
2007	Jordan	Trans-Global Petroleum, Inc. v. Hashemite Kingdom of Jordan (Case No. ARB/07/25)	ICSID	settled
2007	Lebanon	Toto Costruzioni Generali S.p.A. v. Lebanon (Case No. ARB/07/12)	ICSID	settled in favor of state
2008	Egypt	Malicorp Limited v Egypt (Case No. ARB/08/18)	ICSID	settled in favor of state
2008	Jordan	ATA Construction, Industrial and Trading Company v. Hashemite Kingdom of Jordan (Case No. ARB/08/2)	ICSID	settled
2009	Algeria	Mærsk Olie, Algeriet A/S v. People's Democratic Republic of Algeria (Case No. ARB/09/14)	ICSID	settled
2009	Egypt	H&H Enterprises Investments, Inc. V. Egypt (Case No. ARB/09/15)	ICSID	pending
2009	Jordan	International Company for Railway Systems (ICRS) and Privatization Holding Company (PHC) v. Hashemite Kingdom of Jordan (Case No. ARB/09/13)	ICSID	settled
2009	Yemen	MTN (Dubai) Limited and MTN Yemen for Mobile Telephones v. Republic of Yemen (Case No. ARB/09/7)	ICSID	settled
2011	Egypt	Bawabet Al Kuwait Holding Company v. Arab Republic of Egypt (Case No. ARB/11/6)	ICSID	pending
2011	Egypt	National Gas S.A.E. v. Arab Republic of Egypt (Case No. ARB/11/7)	ICSID	settled
2011	Egypt	Hussain Sajwani, Damac Park Avenue for Real Estate Development S.A.E., and Damac Gamsha Bay for Development S.A.E. v. Arab Republic of Egypt (Case No. ARB/11/16)	ICSID	settled
2011	Egypt	Indorama International Finance Limited v. Arab Republic of Egypt (Case No. ARB/11/32)	ICSID	pending
2011	Oman	Adel A Hamadi Al Tamini v. Sultanate of Oman (Case No. ARB/11/33)	ICSID	pending
2012	Algeria	Gelsenwasser AG v. People's Democratic Republic of Algeria (Case No. 12/32)	ICSID	pending
2012	Algeria	Orascom TMT Investments S.a.r.l. . People's Democratic Republic of Algeria (Case No. 12/35)	ICSID	pending
2012	Egypt	Ampal-American Israel Corporation and others v. Arab Republic of Egypt (Case No. ARB/12/11)	ICSID	pending
2012	Egypt	Veolia Propreté v. Arab Republic of Egypt (Case No. ARB/12/15)	ICSID	pending
2012	Tunisia	Lundin Tunisia B.V. v. Republic of Tunisia (Case No. ARB/12/30)	ICSID	pending
2013	Egypt	Ossama Al Sharif v. Arab Republic of Egypt (Case No. ARB/13/3)	ICSID	pending
2013	Egypt	Ossama Al Sharif v. Arab Republic of Egypt (Case No. ARB/13/4)	ICSID	pending
2013	Egypt	Ossama Al Sharif v. Arab Republic of Egypt (Case No. ARB/13/5)	ICSID	pending
2013	Egypt	ASA International S.p.A. v. Arab Republic of Egypt (Case No. ARB/13/23)	ICSID	pending
2013	Egypt	Cementos La Union S.A. and Aridos Jativa S.L.U v. Arab Republic of Egypt (Case No. ARB/13/29)	ICSID	pending
2013	Egypt	Utsch M.O.V.E.R.S. International GmbH, Erich Utsch Aktiengesellschaft, and Mr. Helmut Jungbluth v. Arab Republic of Egypt (Case No. ARB/13/37)	ICSID	pending
2013	Jordan	Fouad Alghanim & Sons Co. for General Trading &	ICSID	pending

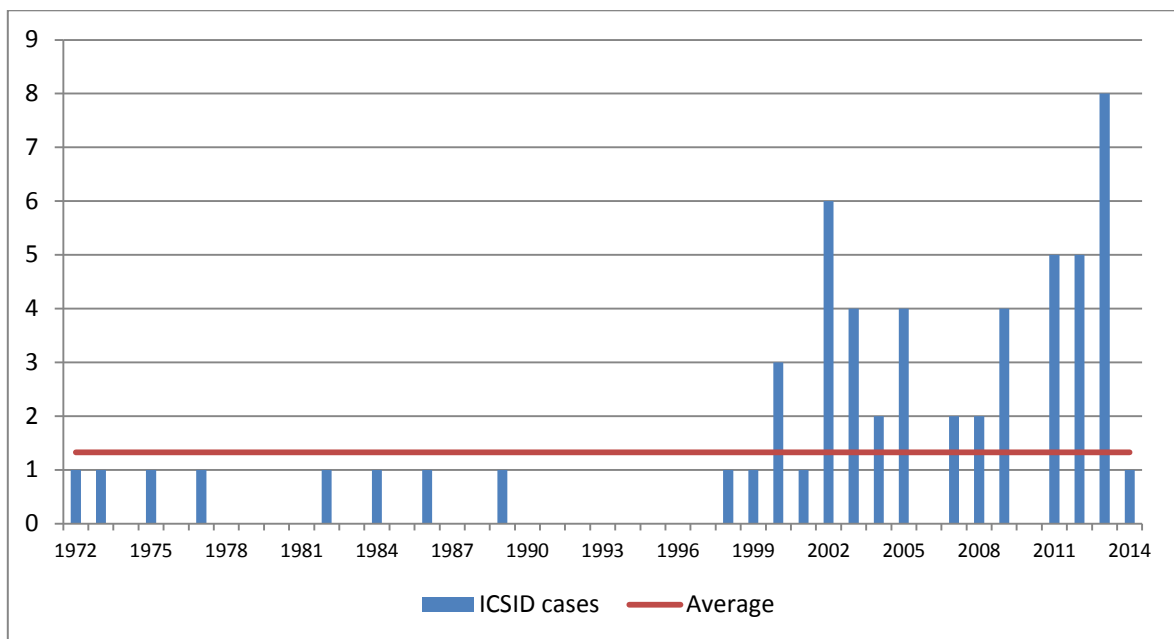


		Contracting, W.L.L. and Mr. Fouad Mohammed Thunyan Alghanim v. Hashemite Kingdom of Jordan (Case No. ARB/13/38)		
2013	Tunisia	Lundin Tunisia B.V. v. Republic of Tunisia (Case No. ARB/13/15)	ICSID	settled
2014	Egypt	Unión Fenosa Gas, S.A. (Case No. ARB/14/4)	ICSID	pending

Source: UNCTAD / ICSID / MENA-OECD Investment Programme (2014).

As with the worldwide trend, the years 2002 to 2005 have been dense for LAS economies in terms of proceedings instituted, particularly for Egypt concentrating 6 cases (*i.e.* 38% of all cases arbitrated over 2002-2005). 2009 has shown an increase in the number of proceedings introduced (against Algeria, Egypt, Jordan and Yemen). Then, the caseload increased significantly from 2011, with 5 new ICSID cases registered in 2011, Egypt concentrating 4 cases against it; 5 new ICSID cases registered in 2012, 2 against Egypt, 2 against Algeria and 1 against Tunisia; 8 new ICSID cases registered in 2013, among which 6 have been filed against Egypt, 1 against Jordan and 1 against Tunisia. The caseload continues increasing in 2014, with 1 new ICSID case registered against Egypt. In total, 19 new ICSID cases have been registered since the beginning of the “Arab awakening” (Figure 8).

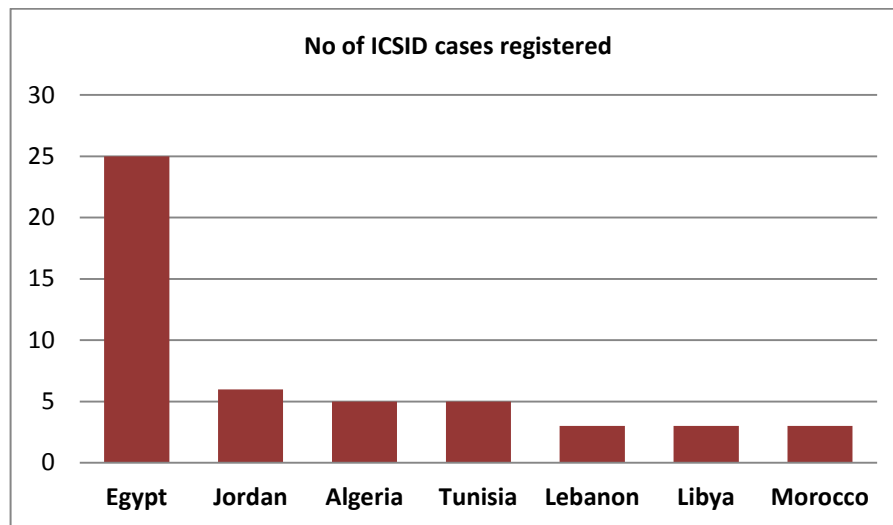
**Figure 8. Number of known treaty-based investment disputes cases involving a LAS economy**



Source: ICSID / MENA-OECD Investment Programme (2014).

Among the top LAS defendants, Egypt is also the most frequent respondent with 25 cases introduced against it. Jordan ranks second with 6 ICSID against it, Algeria and Tunisia rank third with respectively 5 cases against them, followed by Lebanon, Libya and Morocco with respectively 3 cases against them (Figure 9).

**Figure 9. Most frequent respondent LAS member States  
(as of December 2014)**



*Source:* ICSID / MENA-OECD Investment Programme (2014).

LAS economies follow the international trends in the evolution of IIAs and their implementation. The number of BITs signed by LAS economies is increasing. Some countries have revised their investment agreement policies or are in the process of elaborating new model BITs, in order to reflect recent treaty practice. Investment-related provisions are included in agreements encompassing a wider range of issues, such as bilateral FTAs. More and more IIAs are being signed between countries in the region. The increase in investor-State dispute settlement cases also involves the LAS economies, although diversely, which raises concerns. Coherence and compatibility among agreements from the region need to be further analysed in order to ensure effective investment policies and to stimulate intra-regional investment flows.

**ANNEX 1**

**OECD STUDY ON THE JANUARY 2013 AMENDMENT TO THE 1980 ARAB LEAGUE INVESTMENT  
AGREEMENT**



## The 2013 Amendment to the 1980 Arab League Investment Agreement A step towards improving the region's attractiveness to investors

*NOTE: This draft brochure responds to a request of the League of Arab States to the MENA-OECD Investment Programme.<sup>20</sup>*

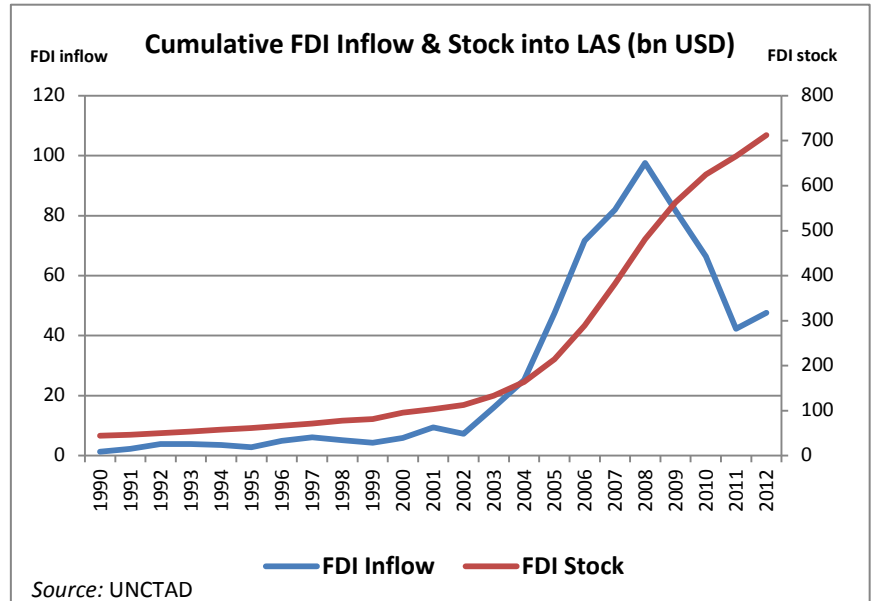
### Stimulating investment within the region

Investment is one of the key drivers of economic growth and job creation. It essentially depends on economic determinants, but not only. **Sound and stable legal frameworks** regulating investment at the national, regional and international levels play an instrumental role in fostering and increasing investment flows, as they contribute to a transparent and predictable business environment for investors.

The 22 member countries of the League of Arab States (LAS)<sup>21</sup> experienced a period of significant growth in foreign direct investment (FDI) inflows between 2002 and 2009. During this period, FDI inflows into LAS economies grew from USD 7.3bn (1.2% of world total) to USD 97.6bn (6.6% of world total). However, with the global economic crisis and the regional instability, FDI inflows have receded since 2008 to USD 47.6bn in 2012 (3.5% of world total).

There is a need to revive investment in the region, and intra-regional investment show significant potential. **Intra-regional investment** can spur economic growth and reduce the region's vulnerability to external shocks; it is also a diversification factor, in terms of sectors and partners. According to the Arab Investment and Export Credit Guarantee Corporation (IAIGC), 25% of accumulated FDI inflows to Arab countries were intra-regional between 2006 and 2011.<sup>22</sup> To achieve a renewed period of investment-led growth, one avenue for LAS member States would be to take a pro-active stance in stimulating intra-regional investment.

In this vein, the January **2013 Amendment** ("the Amendment") to the **1980 Arab League Investment Agreement** ("the Agreement") could present a step forward.



The Amendment aims at contributing to economic cooperation and facilitating coordination of investment relations between Arab States through agreed common denominators. The Amendment reinforces existing **investment protection and treatment standards** (for example, right to a compensation equal to the market value in cases of expropriation and free transfer of funds) while introducing new ones (such as the right to a fair and equitable treatment and the most-favoured nation clause).

To ensure the achievement of its objectives, the Amendment strengthens the role of Arab League institutions to promote harmonised investment policies and disseminate investment-related information. In addition, its effective enforcement is guaranteed by **improved dispute settlement mechanisms**.

<sup>20</sup> The MENA-OECD Investment Programme supports business climate reforms for growth and employment in Algeria, Bahrain, Djibouti, Egypt, Iraq, Jordan, Kuwait, Lebanon, Libya, Mauritania, Morocco, Oman, the Palestinian Authority, Qatar, Saudi Arabia, Tunisia, the United Arab Emirates and Yemen.

<sup>21</sup> The member States of the Arab League are: Algeria, Bahrain, Comoros, Djibouti, Egypt, Iraq, Jordan, Kuwait, Lebanon, Libya, Mauritania, Morocco, Oman, Palestine, Qatar, Saudi Arabia, Somalia, Sudan, Syria (suspended), Tunisia, the United Arab Emirates and Yemen.

<sup>22</sup> Source: The IAIGC, 2013. Unweighted average according to available data for the following countries: Algeria, Bahrain, Djibouti, Egypt, Jordan, Lebanon, Libya, Morocco, Oman, Palestine, Qatar, Saudi Arabia, Syria, Sudan, Tunisia, the United Arab Emirates and Yemen.

## Objectives of the amended Agreement

- Increase intra-regional investment within Arab countries
- Enhance cooperation between Arab countries by establishing common standards and sharing information on rules and business opportunities
- Reinforce regional economic integration by complementing the Great Arab Free Trade Agreement (GAFTA) and enhance regional market access
- Achieve sustainable development and improve the living standard of Arab citizens (*Preamble*)
- Send a strong signal to the international business community and foreign investors

## The amended Investment Agreement: A more comprehensive agreement

*The below interpretation is based on the analysis of a non-official translation into English of the amended Agreement and should be confirmed by the LAS Secretariat.*

### Which investors may benefit from the amended Arab League Investment Agreement?

Under the amended Agreement, the Arab investor can be either an Arab citizen or an Arab company – whose nationality is determined by reference to capital control – provided that it owns – directly – at least 51% (previously 100%) of the Arab capital that it invests in another Arab country of which it is not a national.

### Which investments are protected?

The amended Agreement protects the investment of Arab capital – defined as the use or transfer of Arab capital in an economic or social field in another Arab State with a view of obtaining a return.

### What it means in practice for Arab investors...

Arab citizens and Arab companies owning directly at least 51% of the Arab capital and carrying out investment projects (for example, projects in the fields of transportation, mining, infrastructure or energy) in another Arab State will benefit from the protections and guarantees provided by the amended Agreement.

### And for foreign investors...

Protected investors under the amended Agreement should now have a minimum share of 51% of the Arab capital (previously 100%), thus allowing joint-ventures with foreign investors to benefit from the Agreement.

## Key dates

**1980:** Signature of the Unified Agreement for the Investment of Arab Capital in the Arab States... (“the Arab League Investment Agreement”).

**1981:** Entry into force of the Arab League Investment Agreement ratified by 20 member States of the LAS, except Algeria and the Comoros.

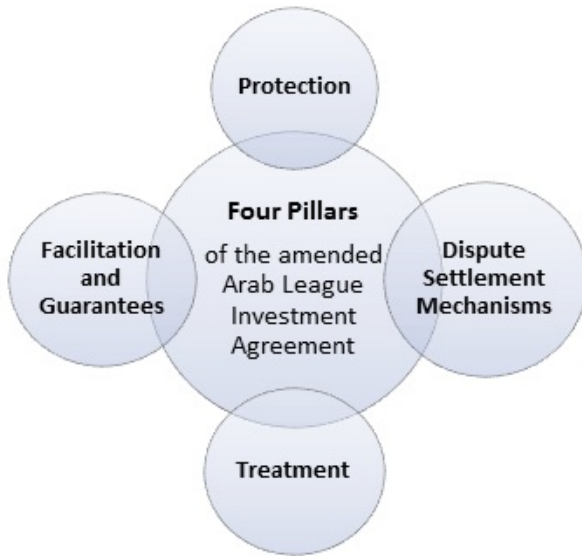
**2012:** Revision of the Agreement by a task force of investment policy-makers from member States parties.

**2013:** Adoption of the Amendment to the Agreement during the January 2013 Riyadh Economic Summit following the decision of the LAS Economic and Social Council at its 6 December 2012 session.

**2014:** Expected ratification by the member States and entry into force of the amended Agreement.

## What's in it for investors?

The amended Agreement covers four pillars:



### Benefits for Arab investors and key improvements:

The Agreement as amended sets investment protection and treatment standards. These standards i) shall have **prevalence** in case of conflict with national laws ii) constitute a **minimum standard of protection and treatment**.

Therefore, the host State cannot restrict investor's protection through its own legislation, further than that is provided in the Agreement. In contrast, the host State may grant any other privileges to Arab investors in addition to those granted by the Agreement.

#### 1. Non-discriminatory treatment of Arab investors and their investments

Arab investors and their investments should not be discriminated while operating businesses in Arab countries. The amended Agreement reinforces this principle of non-discrimination by clarifying the provisions on national treatment and introducing two new principles: the most-favoured nation clause and the prohibition of performance requirements.

- **Reinforced national treatment: guarantee of non-discrimination**

The amended Agreement provides that Arab investment shall be treated in a **manner no less favourable than that granted to the citizen of the host State, and** without discrimination.

- *For example, investors from an Arab State A investing in an Arab State B will benefit from tax exemptions applicable to investors from State B.*
- **Most-favoured-nation treatment (MFN): new standard of treatment**

The Amendment introduces the MFN clause according to which Arab investment shall be treated in a manner no less favourable than that granted to the citizen of a third

State, and without discrimination. Consequently, if a State grants a more preferential treatment to third State's (not party to the Arab League Agreement) investors, it has to give the same advantages to the Arab investor.

- *For example, an Arab country party to the Agreement has concluded a bilateral investment treaty (BIT) with a non-Arab country which grants certain advantages to its own investors. With the MFN treatment, these advantages will be extended to other LAS Arab investors.*

In addition, the Amendment entitles Arab investors to opt for any other manner of treatment as provided in the host State legislation, or in any international agreement or other investment-related agreements.

The amended Agreement provides three exceptions to the two above treatments: (i) the benefits given by the State parties to third countries due to their membership to an international trade organisation, a customs union or a common market, (ii) the zakat and tax treatment, and (iii) land and real estate ownership.

- **Prohibition of performance requirements: new guarantee against discrimination**

In line with the WTO Agreement on Trade-Related Investment Measures (TRIMs), the Amendment recognises the right to investors to freely operate their investment. Arab States should not impose any conditions on the investment, such as minimum local contents requirements, export requirement or trade balancing requirement.

#### 2. Minimum standards of protection for Arab investments

The amended Agreement provides the following standards of protection to the Arab investor and its investment: fair and equitable treatment, free transfer of capital and its revenues, and the conditions to prevent unlawful expropriation.

- **Fair and equitable treatment (FET): new standard of protection**

The Amendment provides that Arab capital in the State party shall benefit from FET at all times. It protects Arab investors from arbitrary and discriminatory measures and requires, *inter alia*, the host State's administrative and judicial bodies to ensure due process.

- **Free transfer of capital and revenues in a convertible currency**

Freedom to transfer funds is crucial for either businesses or companies. Under the amended Agreement, except in banking services, investors are free to transfer the investment-related capital revenues without discrimination, taxes nor time constraints, provided fulfilment of legal outstanding

obligations arising from the investment *vis-à-vis* the host State.

The Amendment also introduces the right to transfer capital in a currency that can be converted and recognised by the IMF. In case of a delay of more than three months in the monetary conversion, the host State shall pay to the investor an interest rate equal to the prevailing bank interest rate in the host State.

– **Conditions for a lawful expropriation**

The amended Agreement protects investors against unlawful expropriation. Expropriation or nationalisation - **directly or indirectly** - may take place **only under four conditions**: 1) for public purpose, 2) on a non-discriminatory basis, 3) in accordance with the legal provisions governing the seizure of property, and 4) be subject to a fair compensation.

The Amendment introduces new rules to determine the **fair compensation**. It should be determined within six months and be equal to the market value of the investment before the seizure. The Amendment also provides that the payment should be made within one year from the decision of seizure and that in case of delay, a market rate interest will apply.

– **Right to a fair compensation in case of damage caused by the host State**

The Arab investor shall be entitled to compensation for damages if the host State i) breaches any international obligations; ii) prevents the execution of an enforceable legal judgement connected to the investment; iii) causes damage to the Arab investor in any other manner. The amount of the compensation shall be fair to the damage suffered by the investor and paid within six months as of the date of the damage.

**What Facilitations for Investors?**

***Towards a more consistent and predictable investment framework***

– **At the institutional level**

The amended Agreement reinforces the role of the LAS Economic and Social Council which will facilitate and promote the achievements of the Agreement's objectives through dissemination of investment-related information and establishment of specific bodies.

The State Parties shall also establish a one-stop shop to facilitate the implementation of the Agreement's provisions during the different phases of the investment.

– **At the operational level**

The amended Agreement promotes free entry, residence and departure of the Arab investor and his family, as well as of its key personnel. It facilitates employment of Arab and foreign professionally skilled labour, though national preference should be granted when required professional skills are available. Despite this limitation, this provision is a step toward greater LAS countries' integration.

The amended Agreement also abolishes the obligation to authenticate or certify legal documents in order for them to be considered as valid by the member State in which they are presented ("legalisation procedure").

**What Guarantees for Investors?**

– ***Guarantees to protect Arab investment against non-commercial risk***

To insure Arab investment against non-commercial risk, the amended Agreement provides the use of investment financing and guarantee mechanisms through the Inter-Arab Investment Guarantee Corporation (AIEGCG) and other investment insurance schemes.

**The four missions of the LAS Economic and Social Council**

**Implementation through harmonised investment policies:** incentives and cooperation with State Parties to adapt their rules and procedures to the provisions of the amended Agreement;

**Dissemination of investment-related information:** on rules, regulations, policies and procedures to promote intra-regional investments;

**Promotion:** establishment of bodies responsible for promoting the objectives of the amended Agreement;

**Interpretation:** creation of a Technical Committee to interpret the amended Agreement.

### What settlement mechanisms in case of investor-State dispute?

In case of dispute, parties may resort to domestic courts or to the Arab Investment Court (AIC).<sup>23</sup> Parties may also agree on any other alternative dispute settlement mechanisms *i.e.* mediation, conciliation, but also arbitration. In this latter case, they may agree to submit their disputes to the auspices of any arbitration institutions (*e.g.* International Centre for Settlement of International Disputes (ICSID), International Chamber of Commerce (ICC)). If parties do not agree on the rules governing their alternative dispute settlement mechanism, it will be governed by the UNCITRAL Rules.

### What are the next steps?



Member States are invited to ratify the amended Agreement which requires the fulfilment of national approval procedures and the deposit of instruments with the LAS Secretary General. The amended Agreement will enter into force three months after the ratification by five member States.

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<sup>23</sup> *Its Status has been revised along with the Agreement.*



## ANNEX 2

### THE ARAB MAGHREB UNION AGREEMENT FOR INVESTMENT PROTECTION AND PROMOTION

On 17 February 1989, Morocco, Algeria, Libya, Tunisia, and Mauritania signed the Treaty establishing the Arab Maghreb Union (AMU). Its Preamble sets out the vision and the mission of the Union. An institutional framework was also established. Two decades later, it is disputed whether the Union has been a successful regional integration model. It remains to be seen whether the Arab awakening will induce the new political forces into greater regional openness and integration and relaunch the AMU process.

Article 3 of the Treaty establishing the AMU requires greater economic integration, encourages further industrial and economic co-operation through joint projects, while promising an enabling environment for the proliferation of such projects. In the early days of the AMU, there was a momentum for cooperation and openness for integration. As a result 29 treaties were signed between 1990 and 1994.<sup>24</sup> However, only 6 of such treaties were ratified by the five Member States.

The Agreement for Investment Promotion and Protection amongst the Maghreb Union Member States (the AMU Agreement) has been signed by member States on 23 July 1990 and ratified three years later, on 14 July 1993. For its time, it contained quite advanced relatively modern notions of investment protection. Since its ratification, it has not been really utilised. It stipulates validity duration of ten years without a renewal mechanism. Therefore, it is not *per se*, still in force, though it continues to create obligations on investment made during its validity period. The AMU Secretariat has expressed member's willingness to carry on with the Investment Agreement. Only an Arabic version of the Agreement exists.

This overview will briefly analyse the scope of application of the AMU Investment Agreement and its substantive provisions, before examining the dispute settlement mechanism that is provided.<sup>25</sup>

#### *Scope of application*

##### *i) Ratione personae*

Paragraph 1 of Chapter 1 on definitions defines "Citizen" as "any individual holding the nationality of a State Party", such criterion being defined by local legislations on nationality. Questions on dual nationality are not addressed in this particular section. It may be argued that they are irrelevant for regional agreements. However, the theoretical case where a person holding nationalities of two member States and uses one to pursue a dispute, relying on the Agreement's dispute settlement mechanism, against his home state may arise. It is not clear whether or not in this case, the claim would be admissible.

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<sup>24</sup> AMU website.

<sup>25</sup> This overview is based on the publicly available information and therefore limits itself to a descriptive analysis of the AMU Investment Agreement. Quotes of treaty articles have been translated for the purpose of this analysis, as no official translation exists.

As for companies, Paragraph 1 states that it is “any legal entity having the nationality of a Member State, established in accordance with its laws, and where the interests of nationals of one or more Member States prevail”. Widely defined, it refers to the element of control, which is, in similar treaties, understood as “control of ownership”.

ii) *Ratione materiae*

Paragraph 2 of Chapter 1 defines “Capital” as “any money owned by the Citizen which includes all that could be valued monetarily, whether tangible or intangible, moveable or immovable, including, but not limited to, bank deposits, portfolio investments, real estate and rights related thereto. Investments also include concessions, contractual rights, intellectual property rights, and exploitation rights of minerals.” Very broad and open, this definition encompasses all contemplated forms of investments, including contractual rights and portfolio investments. The paragraph 3 also refers to “return”, defined as any monetary return on the Capital. This includes any profits on share/bond ownership. The flexibility granted therein is quite advanced.

Investment is further defined in paragraph 4 as “any utilization of the Capital in any of the activities permissible under the laws of a State Member”. This automatically foresees that a member State place restrictions on the entry of investments into its territory. Although the control over the entry of foreign investors by host states is not questionable, the context of a regional integration agreement and the notion of a Union should however entail to a progressive reduction of barriers to entry into a member State and harmonisation of laws and rules.

iii) *Ratione temporis*

Article 21 of the Agreement provides that it shall remain in force for a period of ten years from ratification (*i.e.* 1993). As the Agreement has been out of application for nearly a decade now, it is not clear whether or not it has been or will be renewed. Article 21 further provides that if any investment contract has been concluded during its time application, the Agreement shall remain applicable to that investment contract. The temporal scope of the Agreement is therefore very unclear as it is unknown whether it is still in force and whether its provisions can still apply to investment contracts.

*Substantive provisions*

i) Promotion

The purpose of the Agreement is to promote intra-Union investment and capital flows. It also aims at encouraging joint projects. To this end, it incorporates several references to the duty of each member State to encourage inward and outward intra-Union capital flows.

Article 2 of the Agreement requires member States to provide all necessary and convenient means to invest the capital in accordance with the nature of the investment, which include:

- Issuance of licenses and approvals necessary for the exercise of the economic activity and permitting the import of equipment and machinery necessary for the project;
- Providing land necessary for the investment whether by sale or lease;
- Providing public services and utilities, and
- National treatment as to payment of administrative fees for the establishment of projects.

In addition, Article 9 encourages member States to facilitate the provision of the investors with the necessary manpower. Furthermore, Article 14 of the Agreement provides for the possibility of additional advantages for projects undertaken jointly between nationals of the AMU. There is no clear framework for these additional advantages.

ii) Host state controls

Compliance with host state laws and undertaking the investment within the parameters set by that state is a recurring theme throughout the Agreement. It is in fact rather restrictive. For instance, Article 1 of the Agreement provides that member States should encourage investments of UMA nationals in fields which are not reserved to nationals of the State and “within the minimum and maximum participation limits prescribed by local legislations”.

Article 4 which allows the investor to manage its investment freely, also states that this freedom of management shall be within the ambit of the existing legislations. Article 10 provides for a duty of co-operation between the investor with the host state’s authorities. However, it is not clear what the exact requirements of such co-operation are. Further, Article 8 requires the host state to permit the Investor to choose a local partner freely without influence by the host state. This is not particularly common in investment promotion and protection agreements.

iii) Standards of treatment of investment

The fair and equitable treatment standard is provided by Article 1 of the Agreement, and is, of course, subject to the legislations of the host state and insofar as the activities are amongst those which are not limited only to the nationals of the host state;

The most-favoured-nation treatment is provided in Article 6 of the Agreement according to which AMU investors shall be granted treatment and privileges accorded to nationals of any third party states. National treatment is not expressly spelled out in the text of the Agreement. However, it is understood from the analysis of several provisions that it is applicable as long as in fields which are not limited to nationals of the state.

iv) Investor’s rights

Article 11 of the Agreement provides for the right of the investor to freely transfer and/or repatriate its investments, proceeds, or returns. Article 11 carves out two cases (i) where a permission to transfer funds may be required; (ii) the imposition of taxes. In these cases, member States may impose a requirement on the investor to obtain a permission to transfer funds and/or impose a tax on any such transactions. Therefore, one cannot say that the Agreement provides for free transfer of funds, it only refers to the national legislation.

Article 12 of the Agreement is to a large extent very modern and wide. It provides a clear mechanism for compensation for any breach by the host state to its duties vis-à-vis the investor. It states that the investor shall be entitled to compensation for any damages incurred as a result of an act or omission by a host state or any of its administrative organs in connection to the following:

- Breaches of rights and/or guarantees prescribed in this Agreement as well as in any other administrative decision issued by the host state;

- Breaches of any international obligation and/or provision of the Agreement which would result into harm to the investor. This applies to cases of negligence by the government, failure to provide adequate assistance, and failure to react or take a positive action;
- Failure to execute a judicial decision, and
- Any harm to the investor which has been inflicted in contradiction to the prevailing legislations at the host state.

Paragraph 2 of Article 11 requires that the compensation paid to the Investor in the cases mentioned above shall be fair and equitable. According to Article 13, the compensation is paid in cash where restitution is not possible. It also states that compensation should be determined and agreed upon within six months from the occurrence of the event and that it should be paid within one year of such determination. Determination in this case may be consensual and/or judiciary. On the lapse of that period of time, the investor is entitled to be paid interest for the delay. The rate of interest is not specified therein.

Finally, Article 5 provides for the investor's right to dispose of its investments in any manner it sees fit, whether partially or wholly, without restrictions. The second part of the Article is rather ambiguous, as it stipulates that this disposal should be to any "national of the AMU State Members". It is not clear if this provision necessitates that transfers should only be limited to intra-AMU nationals.<sup>26</sup>

#### v) Expropriation

Article 15 of the Agreement provides for the prohibition of unlawful nationalisation and/or expropriation. The prohibition also extends to measures which would have the same impact. This means that indirect expropriation is covered. Article 15 sets out the conditions for a lawful expropriation/nationalisation: the measures must be taken for public interest purposes, they must be non-discriminatory, and accompanied by payment of a fair, prompt, and actual compensation - required to be paid within one year of the measure taken -, and taken under due process of law.

Article 18 further states that for the purposes of calculating the compensation, the member States must undertake a fair valuation of the investment taking into account the market value at the time of the measure.

The provisions on expropriation/nationalisation are adequate and take into account the requirements for a fair and prompt compensation.

#### *Dispute settlement*

Article 19 of the Agreement provides for State-State and Investor-State dispute resolution mechanisms.

#### i) State-State dispute settlement: the AMU Judicial Body

Article 13 of the Union Treaty established the AMU Judicial Body. Each member State appoints two judges for a six-year term. Half of the Judicial Body is renewed on a midterm basis. The headquarters of the Judicial Body is in Mauritania.

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<sup>26</sup> Unfortunately, the literature available in the Agreement being very scant, it is difficult to comment on the Article.

According to the Union Treaty, the Judicial Body has jurisdiction over any disputes in relation to the interpretation and/or implementation of any of the treaties ratified under the auspices of the Union Treaty. It also has an advisory role that depends on questions assigned to it by the different bodies of the AMU.

Given the lack of available information on this body, its actual existence, composition, or past activities, it is therefore difficult to comment on the viability of this mechanism.

ii) Investor-State dispute settlement

The Agreement states that an investor can bring a claim to:

- The Arab Investment Court

The 1980 Unified Agreement for the Investment of Arab Capital in the Arab States and instituting the Arab Investment Court establishes in Chapter VI a complex and original system of investment dispute settlement. According to the 1980 Agreement, the Arab Investment Court shall be composed of at least five serving judges and several reserve members, each having a different Arab nationality. The judges and the reserve members shall be chosen by the Economic Council of the Arab League from a list of Arab legal specialists drawn up specifically for such purpose. Each State Party proposes two candidates from amongst those having the academic and moral qualifications to assume the highest judicial offices. The Council shall appoint the Chairman of the Court from amongst the members of the Court.

- International commercial arbitration

The AMU Agreement does not provide for clear rules or procedures regarding international commercial arbitration which is rather uncommon in investment agreements and can provide unpredictability for the settlement of an investment dispute.

The investor-State dispute settlement provisions of the AMU agreement are rather scarce and uncommon. First, they do not provide recourse to national legal system and courts. Second, they rely on an institution, the Arab Investment Court that was actually established in 2000 and has not proved to be used by states or investors. Third, they provide for commercial arbitration as an avenue for settling investment disputes without providing for clear and specific rules.

The AMU Agreement contains the provisions for a traditional investment protection and promotion treaty. However, content of some provisions is rather unusual:

- some are very large and detailed (*e.g.*, compensation of damages as a result of an act or omission by a state or its administrative organs);
- some seem to be incomplete (*e.g.*, investor-state dispute resolution);
- and some are drafted in inconsistent and unintelligible manner.

In any cases, these provisions seem to be obsolete as the Agreement was valid for an initial 10-year period starting from 1993. Therefore, one can ascertain that it is not in force though it still carries out some sort of application on investment contracts. It is difficult to know whether it has been used and

implemented by States and investors. Its impact has been definitely limited in terms of increased industrial and economic co-operation and proliferation of joint projects. It can be stated that it did not bring to greater regional investment integration, mainly given a difficult geopolitical context for its implementation.

Member states of the AMU treaty may wish to consider the need to revise and revitalise their obsolete Investment Agreement, clearly cease its existence or incorporate investment provisions into their wider treaty.

**ANNEX 3: BITs CONCLUDED BY LAS ECONOMIES**

### BITs concluded by ALGERIA

Partner	Date of signature	Date of entry into force
Argentina	04-Oct-00	28-Jan-02
Austria	17-Jun-03	01-Jan-06
Bahrain	11-Jun-00	16-May-08
Belgium and Luxembourg	24-Apr-91	13-Feb-92
Bulgaria	25-Oct-98	06-Jun-02
Canada	28-Feb-99	
China	17-Oct-96	
Cuba	22-Sep-99	
Czech Republic	22-Sep-00	
Denmark	25-Jan-99	15-Jul-05
Egypt	29-Mar-97	03-May-00
Ethiopia	04-Jun-02	01-Nov-05
Finland	13-Jan-05	25-Feb-07
France	13-Feb-93	
Germany	11-Mar-96	30-May-02
Greece	20-Feb-00	21-Sep-07
Indonesia	21-Mar-00	
Iran	19-Oct-03	05-Dec-05
Italy	18-May-91	26-Nov-93
Jordan	01-Aug-96	05-Jun-97
Korea, Republic	12-Oct-99	30-Sep-01
Kuwait	30-Sep-01	
Liberia	19-Jun-88	
Libya	06-Aug-01	
Malaysia	27-Jan-00	
Mali	11-Jul-96	16-Feb-99
Mauritania	06-Jan-08	
Mozambique	12-Dec-98	25-Jul-00
Netherlands	20-Mar-07	
Niger	16-Mar-98	
Nigeria	14-Jan-02	
Oman	09-Apr-00	22-Jun-02
Portugal	15-Sep-04	08-Sep-05
Qatar	24-Oct-96	
Romania	28-Jun-94	30-Dec-95
Russia	10-Mar-06	
Saudi Arabia	24-Oct-01	
Serbia	13-Feb-12	
South Africa	24-Sep-00	
Spain	23-Dec-94	17-Jan-96
Sudan	24-Oct-01	
Sweden	15-Feb-03	01-Apr-05
Switzerland	30-Nov-04	15-Aug-05
Syria	14-Sep-97	
Tajikistan	12-Mar-08	



Tunisia	17-Feb-06	
Turkey	03-Jun-98	
Ukraine	28-Jun-08	
UAE	24-Apr-01	03-Jun-02
VietNam	21-Oct-96	
Yemen	25-Nov-99	
<i>Total Intra-LAS</i>	14	5
<i>Total non LAS - non OECD</i>	20	7
<i>Total LAS-OECD</i>	17	12
<i>Total</i>	51	24
<i>% Intra-LAS</i>	27%	21%
<i>% LAS-OECD</i>	33%	50%
<i>% Ratified/Signed</i>		47%

### BITs concluded by BAHRAIN

Partner	Date of signature	Date of entry into force
Algeria	11-Jun-00	16-May-08
Belarus	26-Oct-02	16-Jun-08
Belgium and Luxembourg	11-Jul-06	
Brunei	14-Jan-08	24-Nov-09
Bulgaria	26-Jun-09	
China	17-Jun-99	27-Apr-00
Czech Republic	15-Oct-07	11-Dec-09
Egypt	04-Oct-97	11-Jan-99
France	24-Feb-04	03-Oct-05
Germany	05-Feb-07	27-May-10
India	13-Jan-04	05-Dec-07
Iran	19-Oct-02	12-Oct-04
Italy	29-Oct-06	28-Jun-09
Jordan	08-Feb-00	05-Jun-00
Lebanon	07-Aug-03	13-Sep-05
Malaysia	15-Jun-99	
Morocco	07-Apr-00	09-Apr-01
Netherlands	05-Feb-07	01-Dec-09
Seychelles	24-Apr-10	
Singapore	27-Oct-03	08-Dec-04
Spain	22-May-08	
Sudan	17-Jan-00	
Syria	20-Sep-00	18-Dec-01
Thailand	21-May-02	17-Jul-02
Tunisia	27-Oct-75	
Turkey	15-Feb-06	
Turkmenistan	09-Feb-11	
United Kingdom	30-Oct-91	30-Oct-91
United States	29-Sep-99	30-May-01
Uzbekistan	16-Nov-09	
Yemen	01-Dec-02	
<i>Total Intra-LAS</i>	9	6
<i>Total non LAS - non OECD</i>	12	7
<i>Total LAS-OECD</i>	10	7
<i>Total</i>	31	20
<i>% Intra-LAS</i>	29%	30%
<i>% LAS-OECD</i>	32%	23%
<i>% Ratified/Signed</i>		65%

### BITs concluded by COMOROS

Partner	Date of signature	Date of entry into force
Belgium and Luxembourg	18-May-01	
Burkina Faso	18-May-01	
Burundi	18-May-01	
Egypt	13-Nov-94	27-Feb-00
Mali	18-May-01	
Mauritius	18-May-01	
<i>Total Intra-LAS</i>	1	1
<i>Total non LAS - non OECD</i>	4	0
<i>Total LAS-OECD</i>	1	0
<i>Total</i>	6	1
<i>% Intra-LAS</i>	17%	17%
<i>% LAS-OECD</i>	17%	0%
<i>% Ratified/Signed</i>		17%

### BITs concluded by DJIBOUTI

Partner	Date of signature	Date of entry into force
China	18-Aug-03	
Egypt	21-Jul-98	
France	13-Dec-07	
India	19-May-03	
Iran	07-Dec-10	
Italy	08-Feb-06	
Malaysia	03-Aug-98	
Switzerland	04-Feb-01	10-Jun-01
Turkey	25-Sep-13	
<i>Total Intra-LAS</i>	1	0
<i>Total non LAS - non OECD</i>	4	0
<i>Total LAS-OECD</i>	4	1
<i>Total</i>	9	1
<i>% Intra-LAS</i>	11%	0%
<i>% LAS-OECD</i>	44%	11%
<i>% Ratified/Signed</i>		11%

### BITs concluded by EGYPT

Partner	Date of signature	Date of entry into force
Albania	22-May-93	06-Apr-94
Algeria	29-Mar-97	03-May-00
Argentina	11-May-92	03-Dec-93
Armenia	09-Jan-96	01-Mar-06
Australia	03-May-01	05-Sep-02
Austria	12-Apr-01	29-Apr-02
Azerbaijan	24-Oct-02	
Bahrain	04-Oct-97	11-Jan-99
Belarus	20-Mar-97	18-Jan-99
Belgium and Luxembourg	28-Feb-99	24-May-02
Bosnia and Herzegovina	11-Mar-98	29-Oct-01
Botswana	02-Jul-03	
Bulgaria	15-Mar-98	08-Jun-00
Cameroon	24-Oct-00	
Canada	13-Nov-96	03-Nov-97
Central African Republic	07-Feb-00	
Chad	14-Mar-98	
Chile	05-Aug-99	
China	21-Apr-94	01-Apr-96
Comoros	13-Nov-94	27-Feb-00
Congo	18-Dec-98	
Croatia	27-Oct-97	02-May-99
Cyprus	21-Oct-98	11-May-99
Czech Republic	29-May-93	04-Jun-94
Denmark	24-Jun-96	29-Oct-00
Djibouti	21-Jul-98	
Ecuador	19-Apr-92	
Ethiopia	27-Jul-06	27-May-10
Finland	03-Mar-04	05-Feb-05
France	22-Dec-74	01-Oct-75
Gabon	22-Dec-97	
Georgia	10-Aug-99	
Germany	16-Jun-05	22-Nov-09
Ghana	11-Mar-98	
Greece	16-Jul-93	06-Apr-95
Guinea	06-Mar-98	
Hungary	23-May-95	21-Aug-97
Iceland	08-Jan-08	15-Jun-09
India	09-Apr-97	22-Nov-00
Indonesia	19-Jan-94	29-Nov-94
Iran	25-May-77	
Italy	02-Mar-89	01-May-94
Jamaica	10-Feb-99	

Japan	28-Jan-77	14-Dec-77
Jordan	08-May-96	11-Apr-98
Kazakhstan	14-Feb-93	08-Aug-96
Korea, Democratic People's Republic	19-Aug-99	12-Jan-00
Korea, Republic	18-Mar-96	25-May-97
Kuwait	17-Apr-01	26-Apr-02
Latvia	24-Apr-97	03-Jun-98
Lebanon	16-Mar-96	02-Jun-97
Libya	03-Dec-90	04-Jul-91
Macedonia, TFYR	22-Nov-99	
Malawi	21-Oct-97	07-Sep-99
Malaysia	14-Apr-97	03-Feb-00
Mali	09-Mar-98	07-Jul-00
Malta	20-Feb-99	17-Jul-00
Mauritius	02-Jul-03	
Mongolia	27-Apr-04	25-Jan-05
Morocco	14-May-97	01-Jul-98
Mozambique	08-Dec-98	
Netherlands	17-Jan-96	01-Mar-98
Niger	04-Mar-98	
Nigeria	20-Jun-00	
Oman	25-Mar-98	03-Mar-00
Pakistan	16-Apr-00	
Palestinian Authority	28-Apr-98	19-Jun-99
Poland	01-Jul-95	17-Jan-98
Portugal	29-Apr-99	23-Dec-00
Qatar	12-Feb-99	14-Jul-06
Romania	24-Nov-94	03-Apr-96
Russia Federation	23-Sep-97	12-Jun-00
Saudi Arabia	13-Mar-90	18-Dec-90
Senegal	05-Mar-98	
Serbia	03-Jun-77	20-03-1979
Serbia	24-May-05	
Seychelles	22-Jan-02	
Singapore	15-Apr-97	20-Mar-02
Slovakia	30-Apr-97	01-Jan-00
Slovenia	28-Oct-98	07-Feb-00
Somalia	29-May-82	16-Apr-83
South Africa	28-Oct-98	
Spain	03-Nov-92	26-Apr-94
Sri Lanka	11-Mar-96	10-Mar-98
Sudan	08-Jul-01	01-Apr-03
Swaziland	18-Jul-00	
Sweden	15-Jul-78	29-Jan-79
Switzerland	07-Jun-10	
Syria	28-Apr-97	05-Oct-98
Tanzania	30-Apr-97	
Thailand	18-Feb-00	27-Feb-02
Tunisia	08-Dec-89	02-Jan-91
Turkey	04-Oct-96	31-Jul-02

Turkmenistan	23-May-95	28-Feb-96
Uganda	04-Nov-95	
Ukraine	21-Dec-92	10-Oct-93
UAE	11-May-97	11-Jan-99
United Kingdom	11-Jun-75	24-Feb-76
United States	11-Mar-86	27-Jun-92
Uzbekistan	16-Dec-92	08-Feb-94
VietNam	06-Sep-97	04-Mar-02
Yemen	06-Jun-96	10-Apr-98
Zambia	28-Apr-00	
Zimbabwe	02-Jun-99	
<i>Total Intra-LAS</i>	19	18
<i>Total non LAS - non OECD</i>	58	30
<i>Total LAS-OECD</i>	27	25
<i>Total</i>	104	73
<i>% Intra-LAS</i>	18%	25%
<i>% LAS-OECD</i>	26%	34%
<i>% Ratified/Signed</i>		70%

### BITs concluded by IRAQ

Partner	Date of signature	Date of entry into force
Armenia	07-Nov-12	
France	31-Oct-10	
Germany	04-Dec-10	
Japan	07-Jun-12	
Kuwait	25-Oct-64	07-Jun-66
Morocco	18-Jul-90	
Syria	29-Aug-02	
<i>Total Intra-LAS</i>	3	1
<i>Total non LAS - non OECD</i>	1	0
<i>Total LAS-OECD</i>	3	0
<i>Total</i>	7	1
<i>% Intra-LAS</i>	43%	100%
<i>% LAS-OECD</i>	43%	0%
<i>% Ratified/Signed</i>		14%



### BITs concluded by JORDAN

Partner	Date of signature	Date of entry into force
Algeria	01-Aug-96	05-Jun-97
Austria	23-Jan-01	25-Nov-01
Azerbaijan	05-May-08	
Bahrain	08-Feb-00	05-Jun-00
Belarus	20-Dec-02	22-Dec-05
Bosnia and Herzegovina	02-Jun-06	24-Jul-07
Bulgaria	07-Aug-02	19-Apr-03
Canada	28-Jun-09	14-Dec-09
China	15-Nov-01	
Congo	23-Jun-04	
Croatia	10-Oct-99	27-Apr-00
Cyprus	20-Dec-09	19-Jul-10
Czech Republic	06-Apr-09	28-Jan-10
Egypt	08-May-96	11-Apr-98
Estonia	10-May-10	
Finland	01-Nov-06	18-Dec-07
France	23-Feb-78	18-Oct-79
Germany	13-Nov-07	28-Aug-10
Greece	21-Feb-05	08-Feb-07
Hungary	14-Jun-07	09-Mar-08
India	30-Nov-06	22-Jan-09
Indonesia	12-Nov-96	09-Feb-99
Italy	30-Sep-01	30-Sep-01
Kazakhstan	29-Nov-06	
Korea, Republic	24-Jul-04	25-Dec-04
Kuwait	21-May-01	
Lebanon	31-Oct-02	30-Aug-03
Lithuania	13-Oct-02	05-May-03
Malaysia	02-Oct-94	03-Mar-95
Morocco	16-Jun-98	07-Feb-00
Netherlands	17-Nov-97	01-Aug-98
Oman	09-Apr-07	
Palestinian Authority	04-Oct-12	
Poland	04-Oct-97	14-Aug-99
Portugal	17-Mar-09	
Qatar	28-Jan-09	
Romania	02-Jul-92	16-Mar-99
Russian Federation	13-Jan-07	
Singapore	16-May-04	22-Aug-05
Slovakia	21-Feb-08	09-Jun-10
Spain	20-Oct-99	13-Dec-00
Sudan	30-Mar-00	03-Feb-01
Switzerland	25-Feb-01	11-Dec-01
Syria	08-Oct-01	11-May-02

Tanzania	08-Oct-09	
Thailand	15-Dec-05	
Tunisia	27-Apr-95	23-Nov-95
Turkey	02-Aug-93	23-Jan-06
Ukraine	30-Nov-05	
UAE	15-Apr-09	12-Feb-10
United Kingdom	10-Oct-79	24-Apr-80
United States	02-Jul-97	12-Jun-03
Yemen	18-Jun-95	28-Jan-98
<i>Total Intra-LAS</i>	14	10
<i>Total non LAS - non OECD</i>	19	11
<i>Total LAS-OECD</i>	20	18
<i>Total</i>	53	39
<i>% Intra-LAS</i>	26%	26%
<i>% LAS-OECD</i>	38%	46%
<i>% Ratified/Signed</i>		74%

### BITs concluded by KUWAIT

Partner	Date of signature	Date of entry into force
Albania	12-Dec-07	
Algeria	30-Sep-01	
Armenia	25-Jun-10	04-09-2013
Austria	16-Nov-96	22-Sep-98
Belarus	10-Jul-01	14-Jun-03
Belgium and Luxembourg	28-Sep-00	08-Dec-03
Bosnia and Herzegovina	13-Jun-01	23-Dec-02
Bulgaria	29-Jan-07	14-May-10
Cambodia	04-Aug-08	
Canada	26-Sep-11	
China	23-Nov-85	24-Dec-86
Croatia	08-Mar-97	02-Jul-98
Czech Republic	31-Oct-10	
Denmark	01-Jun-01	29-Jun-02
Egypt	17-Apr-01	26-Apr-02
Ethiopia	14-Sep-96	12-Nov-98
Finland	10-Mar-96	21-May-97
France	27-Sep-89	16-May-91
Gambia	01-Apr-13	
Georgia	13-Oct-09	
Germany	30-Mar-94	15-Nov-97
Guyana	17-Jan-10	
Hong Kong	10-May-10	
Hungary	08-Nov-89	01-Mar-94
India	27-Nov-01	28-Jun-03
Iran	13-Feb-07	
Iraq	25-Oct-64	07-Jun-66
Italy	17-Dec-87	21-May-90
Jamaica	01-Apr-13	
Japan	22-Mar-12	
Jordan	21-May-01	
Kazakhstan	31-Aug-97	
Kenya	12-Nov-13	
Korea, Republic	15-Jul-04	
Latvia	05-Oct-01	21-Mar-04
Lebanon	21-Jan-01	19-Apr-02
Lithuania	21-Jan-01	15-Jan-03
Lithuania	18-Apr-13	
Macedonia, TFYR	08-Apr-08	02-Nov-11
Malaysia	21-Nov-87	
Malta	19-Apr-95	25-Jun-96
Mauritania	01-Aug-06	
Mauritius	18-Apr-13	

Mexico	22-Feb-13	
Moldova	29-Mar-02	06-Apr-04
Mongolia	15-Mar-98	01-May-00
Morocco	16-Feb-99	07-May-01
Netherlands	29-May-01	31-May-02
Nigeria	23-Mar-11	
Pakistan	15-Feb-11	
Philippines	12-Mar-00	
Poland	05-Mar-90	18-Dec-93
Portugal	23-Jul-07	
Romania	21-May-91	26-Jul-92
Russian Federation	21-Nov-94	30-May-96
Senegal	25-Jul-09	
Serbia	19-Jan-04	01-Apr-05
Singapore	05-Nov-09	15-04-2013
Slovakia	17-Feb-09	
Slovenia	26-Apr-02	28-Jul-04
Spain	08-Sep-05	08-Mar-08
Sri Lanka	11-May-09	
Sudan	04-Feb-11	
Sweden	07-Nov-99	10-May-02
Switzerland	31-Oct-98	17-Dec-00
Syria	16-Aug-01	23-Mar-04
Tajikistan	18-Apr-95	12-Jun-98
Tanzania	17-Nov-13	
Tunisia	14-Sep-73	
Turkey	27-May-10	
Ukraine	12-Jan-10	11-06-2013
UAE	12-Feb-66	
United Kingdom	08-Oct-09	
Uzbekistan	19-Jan-04	06-Mar-06
Yemen	20-Feb-01	
<i>Total Intra-LAS</i>	12	5
<i>Total non LAS - non OECD</i>	39	21
<i>Total LAS-OECD</i>	23	14
<i>Total</i>	75	40
<i>% Intra-LAS</i>	16%	13%
<i>% LAS-OECD</i>	31%	35%
<i>% Ratified/Signed</i>		53%

### BITs concluded by LEBANON

Partner	Date of signature	Date of entry into force
Armenia	01-May-95	01-Oct-98
Austria	26-May-01	30-Sep-02
Azerbaijan	11-Feb-98	
Bahrain	07-Aug-03	13-Sep-05
Belarus	19-Jun-01	29-Dec-02
Belgium and Luxembourg	06-Sep-99	05-Mar-04
Benin	15-Jun-04	
Bulgaria	21-Dec-10	
Canada	11-Apr-97	19-Jun-99
Chad	15-Jun-04	
Chile	03-Oct-99	
China	13-Jun-96	10-Jul-97
Cuba	14-Dec-95	07-Jan-99
Cyprus	09-Apr-01	19-Mar-03
Czech republic	20-Mar-10	
Egypt	16-Mar-96	02-Jun-97
Finland	25-Aug-97	12-Jan-00
France	28-Nov-96	29-Oct-99
Gabon	20-Feb-01	
Germany	18-Mar-97	25-Mar-99
Greece	24-Jul-97	17-Jul-99
Guinea	15-Jun-04	
Hungary	22-Jun-01	23-Jul-02
Iceland	24-Jun-04	
Iran	28-Oct-97	14-May-00
Italy	07-Nov-97	09-Feb-00
Jordan	31-Oct-02	30-Aug-03
Korea, Republic	05-May-06	21-Dec-06
Kuwait	21-Jan-01	19-Apr-02
Malaysia	26-Feb-98	20-Jan-02
Mauritania	15-Jun-04	30-Apr-06
Morocco	03-Jul-97	04-Mar-00
Netherlands	02-May-02	01-Mar-04
Oman	11-Apr-06	20-Oct-08
Pakistan	09-Jan-01	28-Mar-03
Qatar	28-Apr-10	
Romania	15-Apr-09	
Russian Federation	07-Apr-97	11-Mar-03
Senegal	15-May-04	
Slovakia	20-Feb-09	
Spain	22-Feb-96	29-Apr-97
Sudan	09-Mar-04	21-Apr-07
Sweden	15-Jun-01	02-Nov-01
Switzerland	03-Mar-00	20-Apr-01
Syria	18-Jul-10	15-Sep-98

Tunisia	24-Jun-98	04-Jun-00
Turkey	12-May-04	04-Jan-06
Ukraine	25-Mar-96	26-May-00
UAE	17-May-98	14-Jul-99
United Kingdom	16-Feb-99	16-Sep-01
Yemen	25-Nov-99	13-May-02
<i>Total Intra-LAS</i>	13	12
<i>Total non LAS - non OECD</i>	18	10
<i>Total LAS-OECD</i>	20	16
<i>Total</i>	51	38
<i>% Intra-LAS</i>	25%	32%
<i>% LAS-OECD</i>	39%	42%
<i>% Ratified/Signed</i>		75%

### BITs concluded by LIBYA

Partner	Date of signature	Date of entry into force
Algeria	06-Aug-01	
Austria	18-Jun-02	01-Jan-04
Belarus	01-Nov-00	23-Feb-02
Belgium and Luxembourg	15-Feb-04	08-Dec-07
Bulgaria	19-Nov-99	19-Jan-04
China	04-Aug-10	
Congo	30-Jun-10	
Croatia	20-Dec-02	
Egypt	03-Dec-90	04-Jul-91
Ethiopia	27-Jan-04	25-Jun-04
France	19-Apr-04	29-Jan-06
Gambia	26-Jul-95	
Germany	15-Oct-04	14-Jul-10
India	26-May-07	
Indonesia	04-Apr-09	
Iran	27-Dec-06	
Italy	13-Dec-00	20-Oct-04
Kenya	05-Jun-07	
Korea, Republic	21-Sep-06	
Malta	24-Oct-03	
Morocco	02-Nov-00	20-Oct-01
Portugal	14-Jun-03	19-Jun-05
Qatar	28-Apr-04	
Russian Federation	17-Apr-08	15-Oct-10
San Marino	10-Dec-06	
Serbia	18-Feb-04	29-Oct-05
Singapore	08-Apr-09	
Slovakia	20-Feb-09	
South Africa	14-Jun-02	
Spain	17-Dec-07	01-Aug-09
Switzerland	08-Dec-03	28-Apr-04
Syria	08-Feb-93	07-Oct-95
Tunisia	06-Jun-73	
Tunisia	19-Feb-05	
Turkey	25-Nov-09	
Ukraine	23-Jan-01	
<i>Total Intra-LAS</i>	6	3
<i>Total non LAS - non OECD</i>	19	5
<i>Total LAS-OECD</i>	11	8
<i>Total</i>	36	16
<i>% Intra-LAS</i>	17%	19%
<i>% LAS-OECD</i>	31%	50%
<i>% Ratified/Signed</i>		44%

### BITs concluded by MAURITANIA

Partner	Date of signature	Date of entry into force
Algeria	06-Jan-08	
Belgium and Luxembourg	23-Nov-83	
Burkina Faso	18-may-01	
Cameroon	18-may-01	
Gambia	09-may-01	
Germany	8-Dec-82	26-Apr-86
Ghana	18-May-01	
Guinea	18-May-01	
Italy	05-Apr-03	
Korea, Republic	15-Dec-04	21-Jul-06
Kuwait	1-Aug-06	
Lebanon	15-Jun-04	30-Apr-06
Lithuania	22-Sep-12	
Mauritius	18-May-01	
Morocco	13-Jun-00	20-Oct-03
Qatar	15-Dec-03	
Romania	14-Mar-88	19-Dec-89
Spain	24-Jul-08	
Switzerland	09-Sep-76	30-May-78
Tunisia	11-Mar-86	
<i>Total Intra-LAS</i>	6	2
<i>Total non LAS - non OECD</i>	8	1
<i>Total LAS-OECD</i>	6	3
<i>Total</i>	20	6
<i>% Intra-LAS</i>	30%	33%
<i>% LAS-OECD</i>	30%	50%
<i>% Ratified/Signed</i>		30%



### BITs concluded by MOROCCO

Partner	Date of signature	Date of entry into force
Argentina	13-Jun-96	19-Feb-00
Austria	02-Nov-92	01-Jul-95
Bahrain	07-Apr-00	09-Apr-01
Belgium and Luxembourg	13-Apr-99	29-May-02
Benin	15-Jun-04	
Bulgaria	28-Sep-10	20-Sep-12
Burkina Faso	08-Feb-07	
Cameroon	24-Jan-07	
Central African Republic	26-Sep-06	
Chad	04-Dec-97	
China	27-Mar-95	27-Nov-99
Croatia	29-Sep-04	
Czech republic	19-Mar-10	18-Dec-12
Denmark	22-May-03	
Dominican Republic	23-May-02	04-Jan-07
Egypt	14-May-97	01-Jul-98
El Salvador	21-Apr-99	11-Apr-02
Equatorial Guinea	05-Jul-05	
Estonia	25-Sep-09	04-Nov-12
Finland	01-Oct-01	06-Apr-03
France	13-Jan-96	30-May-99
Gabon	21-Jun-04	24-Jul-09
Gambia	20-Feb-06	
Germany	06-Aug-01	12-Apr-08
Greece	16-Feb-94	28-Jun-00
Guinea	02-May-02	
Hungary	12-Dec-91	03-Feb-00
India	13-Feb-99	22-Feb-01
Indonesia	14-Mar-97	21-Mar-02
Iran	21-Jan-01	31-Mar-03
Iraq	18-Jul-90	
Italy	18-Jul-90	26-Apr-00
Jordan	16-Jun-98	07-Feb-00
Korea, Republic	27-Jan-99	08-May-01
Kuwait	16-Feb-99	07-May-01
Lebanon	03-Jul-97	04-Mar-00
Libya	02-Nov-00	20-Oct-01
Macedonia, TFYR	11-May-10	15-Oct-12
Malaysia	16-Apr-02	23-Apr-09
Mauritania	13-Jun-00	20-Oct-03
Netherlands	23-Dec-71	27-Jul-78
Oman	08-May-01	30-Mar-03
Pakistan	16-Apr-01	
Poland	24-Oct-94	09-Jul-99

Portugal	18-Oct-88	22-Mar-95
Portugal	17-Apr-07	
Qatar	20-Feb-99	21-May-01
Romania	26-Jan-08	15-Oct-12
Senegal	18-Feb-01	
Senegal	15-Nov-06	
Slovakia	14-Jun-07	
Spain	11-Dec-97	13-Apr-05
Sudan	23-Feb-99	04-Jul-02
Sweden	26-Sep-90	16-Jun-08
Switzerland	17-Dec-85	12-Apr-91
Syria	23-Oct-01	29-Mar-03
Tunisia	28-Jan-94	01-Apr-99
Turkey	08-Apr-97	30-May-04
Ukraine	24-Dec-01	25-Apr-09
UAE	09-Feb-99	01-Apr-02
United Kingdom	30-Oct-90	14-Feb-02
United States	22-Jul-85	29-May-91
Viet Nam	15-Jun-12	
Yemen	24-Feb-97	
Yemen	24-Feb-01	
<i>Total Intra-LAS</i>	16	13
<i>Total non LAS - non OECD</i>	26	13
<i>Total LAS-OECD</i>	23	20
<i>Total</i>	65	46
<i>% Intra-LAS</i>	25%	28%
<i>% LAS-OECD</i>	35%	43%
<i>% Ratified/Signed</i>		71%

### BITs concluded by OMAN

Partner	Date of signature	Date of entry into force
Algeria	09-Apr-00	22-Jun-02
Austria	01-Apr-01	01-Feb-03
Belarus	10-May-04	18-Jan-05
Belgium and Luxembourg	16-Dec-08	
Brunei Darussalam	08-Jun-98	
Bulgaria	02-Feb-07	
China	18-Mar-95	01-Aug-95
Croatia	04-May-04	
Egypt	25-Mar-98	03-May-00
Finland	27-Sep-97	20-Feb-99
France	17-Oct-94	04-Jul-96
Germany	30-May-07	04-Apr-10
India	02-Apr-97	13-Oct-00
Iran, Islamic Republic	02-Dec-01	08-Apr-03
Italy	23-Jun-93	23-Jan-97
Jordan	09-Apr-07	
Korea, Republic	08-Oct-03	10-Feb-04
Lebanon	11-Apr-06	20-Oct-08
Morocco	08-May-01	30-Mar-03
Netherlands	19-Sep-87	01-Feb-89
Netherlands	17-Jan-09	
Pakistan	09-Nov-97	14-May-98
Singapore	10-Dec-07	12-Oct-08
Sudan	25-Oct-99	28-May-02
Sweden	13-Jul-95	06-Jun-96
Switzerland	17-Aug-04	18-Jan-05
Syria	14-Sep-05	
Tanzania	16-Oct-12	
Tunisia	19-Oct-91	01-Mar-92
Turkey	04-Feb-07	15-Mar-10
Ukraine	01-Jan-02	
United Kingdom	25-Nov-95	21-May-96
Uzbekistan	30-Mar-09	20-Aug-09
VietNam	10-Jan-11	
Yemen	20-Sep-98	01-Apr-00
<i>Total Intra-LAS</i>	9	7
<i>Total non LAS - non OECD</i>	13	7
<i>Total LAS-OECD</i>	13	11
<i>Total</i>	35	25
<i>% Intra-LAS</i>	26%	28%
<i>% LAS-OECD</i>	37%	44%
<i>% Ratified/Signed</i>		71%

**BITs concluded by the PALESTINIAN AUTHORITY**

<b>Partner</b>	<b>Date of signature</b>	<b>Date of entry into force</b>
Egypt	28-Apr-98	19-Jun-99
Germany	10-Jul-00	19-09-2008
Jordan	04-Oct-12	
<i>Total Intra-LAS</i>	2	1
<i>Total non LAS - non OECD</i>	0	0
<i>Total LAS-OECD</i>	1	1
<i>Total</i>	3	2
<i>% Intra-LAS</i>	67%	50%
<i>% LAS-OECD</i>	33%	50%
<i>% Ratified/Signed</i>		67%

### BITs concluded by QATAR

Partner	Date of signature	Date of entry into force
Albania	18-Oct-11	
Algeria	24-Oct-96	
Armenia	22-Apr-02	
Azerbaijan	28-Aug-07	
Belarus	17-Feb-01	06-Aug-04
Belgium and Luxembourg	06-Nov-07	
Bosnia and Herzegovina	01-Jun-98	05-Feb-09
Chad	22-Nov-99	
China	09-Apr-99	01-Apr-00
Costa Rica	25-Dec-10	
Croatia	12-Nov-01	
Cuba	06-Nov-01	
Cyprus	11-Nov-08	
Egypt	12-Feb-99	14-Jul-06
Eritrea	07-Aug-00	
Finland	12-Nov-01	08-May-03
France	08-Jul-96	27-Jul-00
Gambia	17-May-02	
Germany	14-Jun-96	19-Jan-99
India	07-Apr-99	15-Dec-99
Indonesia	18-Apr-00	
Iran, Islamic Republic	20-May-99	05-Nov-01
Italy	22-Mar-00	08-Jan-04
Jordan	28-Jan-09	
Kazakhstan	04-Mar-08	
Korea, Republic	16-Apr-99	16-May-99
Lebanon	28-Apr-10	
Libya	28-Apr-04	
Macedonia, TFYR	20-May-11	13-Feb-12
Mali	18-May-02	
Mauritania	25-Dec-03	
Moldova	10-Dec-12	
Mongolia	29-Nov-07	
Montenegro	17-Feb-09	
Morocco	20-Feb-99	21-May-01
Pakistan	06-Apr-99	
Panama	24-Feb-10	
Portugal	21-Apr-09	
Romania	06-Jun-96	27-Apr-97
Russian Federation	12-Feb-07	04-Jun-09
Senegal	10-Jun-98	
South Africa	20-Oct-03	
Sudan	03-Jun-98	
Switzerland	12-Nov-01	15-Jul-04
Syria	24-Oct-03	

Tajikistan	06-May-07	
Timor-Leste	21-Jan-12	
Tunisia	28-May-96	
Turkey	25-Dec-01	12-Feb-08
Yemen	07-Aug-00	
<i>Total Intra-LAS</i>	11	2
<i>Total non LAS - non OECD</i>	30	8
<i>Total LAS-OECD</i>	9	7
<i>Total</i>	50	17
<i>% Intra-LAS</i>	22%	12%
<i>% LAS-OECD</i>	18%	41%
<i>% Ratified/Signed</i>		34%

### BITs concluded by SAUDI ARABIA

Partner	Date of signature	Date of entry into force
Algeria	24-Oct-01	
Austria	30-Jun-01	25-Jul-03
Azerbaijan	09-Mar-05	
Belarus	20-Jul-09	07-Aug-10
Belgium and Luxembourg	22-Apr-01	11-Jun-04
China	29-Feb-96	01-May-97
Czech republic	18-Nov-09	13-Mar-11
Egypt	13-Mar-90	18-Dec-90
France	26-Jun-02	18-Mar-04
Germany	29-Oct-96	09-Jan-99
India	25-Jan-06	20-May-08
Indonesia	15-Sep-03	05-Jul-04
Italy	10-Sep-96	22-May-98
Japan	30-Apr-13	
Korea, Republic	04-Apr-02	19-Feb-03
Malaysia	25-Oct-00	14-Aug-01
Philippines	17-Oct-94	11-Nov-96
Singapore	10-Apr-06	05-Oct-07
Slovakia	18-Nov-09	
Spain	09-Apr-06	13-Jul-08
Sweden	11-Mar-08	01-Oct-09
Switzerland	01-Apr-06	09-Aug-08
Taiwan Province of China	31-Oct-00	
Turkey	08-Aug-06	20-Feb-09
Ukraine	09-Apr-08	
Uzbekistan	06-Jun-11	
<i>Total Intra-LAS</i>	2	0
<i>Total non LAS - non OECD</i>	11	7
<i>Total LAS-OECD</i>	13	11
<i>Total</i>	26	19
<i>% Intra-LAS</i>	8%	5%
<i>% LAS-OECD</i>	50%	58%
<i>% Ratified/Signed</i>		73%

### BITs concluded by SOMALIA

Partner	Date of signature	Date of entry into force
Egypt	29-May-82	16-Apr-83
Germany	27-Nov-81	15-Feb-85
<i>Total Intra-LAS</i>	1	1
<i>Total non LAS - non OECD</i>	0	0
<i>Total LAS-OECD</i>	1	1
<i>Total</i>	2	2
<i>% Intra-LAS</i>	50%	50%
<i>% LAS-OECD</i>	50%	50%
<i>% Ratified/Signed</i>		100%



### BITs concluded by SUDAN

Partner	Date of signature	Date of entry into force
Algeria	24-Oct-01	
Bahrain	17-Jan-00	
Belgium and Luxembourg	07-Nov-05	
Bulgaria	03-Apr-02	
China	30-May-97	01-Jul-98
Egypt	08-Jul-01	01-Apr-03
Ethiopia	07-Mar-00	15-May-01
France	31-Jul-78	05-Jul-80
Germany	07-Feb-63	24-Nov-67
India	22-Oct-03	
Indonesia	10-Feb-98	
Iran	07-Sep-99	19-Oct-01
Italy	19-Nov-05	
Jordan	30-Mar-00	03-Feb-01
Kuwait	04-Feb-01	
Lebanon	09-Mar-04	21-Apr-07
Malaysia	02-Aug-98	
Morocco	23-Feb-99	04-Jul-02
Netherlands	22-Aug-70	27-Mar-72
Oman	25-Oct-99	28-May-02
Qatar	03-Jun-98	
Romania	08-Dec-78	
Switzerland	17-Feb-74	
Switzerland	24-Oct-02	
Syria	07-Jan-00	01-Sep-01
Tunisia	08-Oct-03	
Turkey	19-Dec-99	
UAE	18-Feb-01	
UAE	04-Apr-11	
Yemen	10-Aug-99	
<i>Total Intra-LAS</i>	14	6
<i>Total non LAS - non OECD</i>	8	3
<i>Total LAS-OECD</i>	8	3
<i>Total</i>	30	12
<i>% Intra-LAS</i>	47%	50%
<i>% LAS-OECD</i>	27%	25%
<i>% Ratified/Signed</i>		40%

### BITs concluded by SYRIA

Partner	Date of signature	Date of entry into force
Albania	01-Nov-06	
Algeria	14-Sep-97	
Armenia	17-Jun-09	4-Jan-10
Azerbaijan	8-Jul-09	4-Jan-10
Bahrain	20-Sep-00	18-Dec-01
Belarus	11-Mar-98	1-Oct-98
Bulgaria	21-May-00	10-Nov-01
China	09-Dec-96	01-Nov-01
Cyprus	10-Jun-07	30-Dec-07
Czech republic	21-Nov-08	14-Jul-09
Egypt	28-Avr-97	05-Oct-98
France	12-May-09	
Germany	02-Aug-77	20-Apr-80
Greece	23-Feb-03	27-Feb-04
India	18-Jun-08	22-Jan-09
Indonesia	27-Jun-97	20-Feb-00
Iran, Islamic Republic	05-Feb-98	16-Nov-05
Iraq	29-Aug-02	
Italy	20-Feb-02	13-Nov-03
Jordan	08-Oct-01	11-May-02
Korea, DPR	14-May-06	
Kuwait	16-Aug-01	23-Mar-04
Lebanon	12-Jan-97	15-Sep-98
Lebanon	18-Jul-10	
Libya	08-Feb-93	07-Oct-95
Malaysia	07-Jan-09	09-May-09
Morocco	23-Oct-01	29-Mar-03
Oman	14-Sep-05	
Pakistan	25-Apr-96	04-Nov-97
Qatar	24-Oct-03	
Romania	24-Jun-08	26-Jul-09
Russian Federation	27-Janv-05	13-Jul-07
Senegal	14-Nov-75	
Slovakia	18-Feb-09	09-Dec-09
Spain	20-Oct-03	14-Dec-04
Sudan	07-Jan-00	01-Sep-01
Switzerland	09-May-07	01-Jul-08
Tajikistan	10-Feb-07	
Tunisia	23-Jan-01	12-Mar-03
Turkey	06-Jan-04	03-Jan-06
Ukraine	21-Apr-02	
UAE	26-Nov-97	10-Jan-01
United states	09-Jul-76	
Vietnam	16-Oct-95	08-Aug-97
Yemen	09-Oct-96	22-Jul-05

<i>Total Intra-LAS</i>	16	11
<i>Total non LAS - non OECD</i>	19	14
<i>Total LAS-OECD</i>	10	8
<i>Total</i>	45	33
<i>% Intra-LAS</i>	36%	33%
<i>% LAS-OECD</i>	22%	24%
<i>% Ratified/Signed</i>		73%

### BITs concluded by TUNISIA

Partner	Date of signature	Date of entry into force
Albania	30-Oct-93	
Algeria	17-Feb-06	
Argentina	17-Jun-92	23-Jan-95
Bahrain	24-Oct-75	
Austria	01-Jun-95	01-Jan-97
Belgium and Luxembourg	08-Jan-97	18-Oct-02
Bulgaria	24-Nov-00	15-Oct-03
Burkina Faso	07-Jan-93	
Chile	23-Oct-98	
China	21-Jun-04	
Congo	04-Oct-05	
Czech republic	06-Jan-97	08-Jul-98
Côte d'ivoire	16-May-95	
Denmark	28-Jun-96	11-Apr-97
Egypt	08-Dec-89	02-Jan-91
Ethiopia	14-Dec-00	14-Dec-00
Finland	04-Oct-01	04-Sep-03
France	20-Oct-97	10-Sep-99
Germany	20-Dec-63	06-Feb-66
Greece	31-Oct-92	21-Apr-95
Guinea	18-Nov-90	
Hungary	13-May-03	
Indonesia	13-May-92	12-Sep-92
Iran, Islamic Republic	23-Apr-01	27-Feb-03
Italy	17-Oct-85	24-Jun-89
Jordan	27-Apr-95	23-Nov-95
Korea, Republic	23-May-75	28-Nov-75
Kuwait	14-Sep-73	
Lebanon	24-Jun-98	04-Jun-00
Libya	06-Jun-73	
Libya	19-Feb-05	
Mali	01-Jul-86	
Malta	26-Oct-00	12-May-02
Mauritania	11-Mar-86	
Morocco	28-Jan-94	01-Apr-99
Netherlands	11-May-98	01-Aug-99
Niger	05-Jun-92	
Oman	19-Oct-91	01-Mar-92
Pakistan	18-Apr-96	
Poland	29-Mar-93	22-Sep-93
Portugal	28-Feb-02	10-Nov-06
Qatar	28-May-96	
Romania	16-Oct-95	08-Aug-97
Senegal	17-May-84	
South Africa	28-Feb-02	
Spain	28-May-91	20-Jun-94

Sudan	08-Oct-03	
Sweden	15-Sep-84	13-May-85
Switzerland	02-Dec-61	19-Jan-64
Switzerland	16-Oct-12	
Syria	23-Jan-01	12-Mar-03
Togo	13-Sep-87	
Turkey	29-May-91	28-Apr-94
UAE	10-Apr-96	24-Feb-97
United Kingdom	14-Mar-89	04-Jan-90
United States	15-May-90	07-Feb-93
Yemen	08-Mar-98	
<i>Total Intra-LAS</i>	16	7
<i>Total non LAS - non OECD</i>	19	7
<i>Total LAS-OECD</i>	22	19
<i>Total</i>	57	33
<i>% Intra-LAS</i>	28%	21%
<i>% LAS-OECD</i>	39%	58%
<i>% Ratified/Signed</i>		58%

### BITs concluded by UAE

Partner	Date of signature	Date of entry into force
Algeria	24-Apr-01	03-Jun-02
Austria	17-Jun-01	01-Dec-03
Azerbaijan	01-Nov-06	24-Aug-07
Bangladesh	17-Jan-11	
Belarus	27-Mar-00	16-Feb-01
Benin	04-Mar-13	
Belgium and Luxembourg	05-Mar-04	10-Nov-07
China	01-Jul-93	28-Sep-94
Czech republic	23-Nov-94	25-Dec-95
Egypt	11-May-97	11-Jan-99
Finland	12-Mar-96	15-May-97
France	09-Sep-91	10-Jan-95
Germany	21-Jun-97	02-Jul-99
India	12-Dec-13	
Italy	22-Jan-95	29-Apr-97
Jordan	15-Apr-09	12-Feb-10
Korea, Republic	09-Jun-02	05-Jun-04
Kuwait	12-Feb-66	
Lebanon	17-May-98	14-Jul-99
Malaysia	11-Oct-91	22-May-92
Mongolia	21-Feb-01	
Montenegro	26-Mar-12	
Morocco	09-Feb-99	01-Apr-02
Mozambique	24-Sep-03	
Netherlands	26-Nov-13	
Pakistan	05-Nov-95	
Poland	31-Jan-93	09-Apr-94
Portugal	19-Nov-11	
Romania	11-Apr-93	07-Apr-96
Russian Federation	28-Jun-10	
Serbia	17-Feb-13	
Singapore	26-Jun-11	
Sudan	18-Feb-01	
Sudan	04-Apr-11	
Sweden	10-Nov-99	15-Mar-00
Switzerland	03-Nov-98	16-Aug-99
Syria	26-Nov-97	10-Jan-01
Tajikistan	17-Dec-95	
Tunisia	10-Apr-96	24-Feb-97
Turkey	28-Sep-05	24-Jul-11
Turkmenistan	09-Jun-98	24-Nov-99
United Kingdom	08-Dec-92	15-Dec-93
Uzbekistan	26-Oct-07	22-Apr-08
VietNam	16-Feb-09	
Yemen	13-Feb-01	25-Aug-01
<b>Total Intra-LAS</b>	<b>11</b>	<b>8</b>
<b>Total non LAS - non OECD</b>	<b>19</b>	<b>7</b>

<i>Total LAS-OECD</i>	15	13
<i>Total</i>	45	28
<i>% Intra-LAS</i>	24%	29%
<i>% LAS-OECD</i>	33%	46%
<i>% Ratified/Signed</i>		62%

### BITs concluded by YEMEN

Partner	Date of signature	Date of entry into force
Algeria	25-Nov-99	
Austria	01-Jul-02	01-Jul-04
Bahrain	01-Dec-02	
Belarus	18-Jul-03	
Belgium and Luxembourg	20-Nov-00	12-Jan-04
Bulgaria	12-Apr-02	11-Apr-03
China	16-Feb-98	10-Apr-02
Czech republic	20-May-08	04-Sep-09
Egypt	06-Jun-96	10-Apr-98
Ethiopia	15-Apr-99	15-Apr-00
France	27-Apr-84	19-Jul-91
Germany	02-Feb-05	28-Mar-08
Hungary	18-Jan-04	09-Apr-06
India	01-Oct-02	10-Feb-04
Indonesia	20-Feb-98	
Iran, Islamic Republic	29-Feb-96	16-Oct-00
Italy	25-Nov-04	03-May-08
Jordan	18-Jun-95	28-Jan-98
Kuwait	20-Feb-01	
Lebanon	25-Nov-99	13-May-02
Malaysia	11-Feb-98	
Morocco	24-Feb-97	
Morocco	24-Feb-01	
Netherlands	18-Mar-85	01-Sep-86
Oman	20-Sep-98	01-Apr-00
Pakistan	11-May-99	
Qatar	07-Aug-00	
Russian Federation	01-Dec-02	17-Jun-05
South Africa	01-Aug-02	
Spain	29-Jan-08	
Sudan	10-Aug-99	
Sweden	29-Oct-83	23-Feb-84
Syria	09-Oct-96	22-Jul-05
Tunisia	08-Mar-98	
Turkey	07-Sep-00	31-Mar-11
Ukraine	01-Feb-01	
UAE	13-Feb-01	25-Aug-01
United Kingdom	25-Feb-82	11-Nov-83
<i>Total Intra-LAS</i>	14	6
<i>Total non LAS - non OECD</i>	12	6
<i>Total LAS-OECD</i>	12	11
<i>Total</i>	38	23
<i>% Intra-LAS</i>	37%	26%
<i>% LAS-OECD</i>	32%	48%
<i>% Ratified/Signed</i>		61%

Source: MENA-OECD Programme / UNCTAD / Kluwer Law International (2014).