

**INTERNATIONAL CENTRE FOR SETTLEMENT  
OF INVESTMENT DISPUTES**

WASHINGTON, D.C.

IN THE PROCEEDINGS BETWEEN  
TRANS-GLOBAL PETROLEUM, INC.  
(CLAIMANT)

AND

THE HASHEMITE KINGDOM OF JORDAN  
(RESPONDENT)

Case No. ARB/07/25

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**CONSENT AWARD**

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***Members of the Tribunal***

Mr. V.V. Veeder, President  
Professor Donald M. McRae, Arbitrator  
Professor James Crawford, S.C., Arbitrator

***Secretary of the Tribunal***

Mr. Tomás Solís

***Representing the Claimant:***

Mr. Matthew Coleman  
Steptoe & Johnson LLP  
99 Gresham Street  
London, UK  
EC2V 7NG

Mr. Charles Verrill  
Wiley Rein LLP  
1776 K Street, N.W.  
Washington D.C.20006

***Representing the Respondent:***

Ms. Abby Cohen Smutny  
Mr. Darryl S. Lew  
White & Case LLP  
701 Thirteenth Street, NW  
Washington D.C., 20005

Mr. Mahmoud Hmoud  
Director of the Legal Department  
Foreign Ministry  
P.O. Box 35217  
Amman 11180 Jordan

Minister Aiman Odeh  
Ministry of Justice  
P.O. Box 6040-11118  
Amman, Jordan

*Date of dispatch:* April 8, 2009

THE TRIBUNAL

Composed as above,

After deliberation

in accordance with Article 43(2) of the ICSID Arbitration Rules

*Makes the following CONSENT AWARD:*

**I. Procedural History**

1. On 2 August 2007, the Claimant, Trans-Global Petroleum Inc., filed with the International Centre for Settlement of Investment Disputes (ICSID or the Centre) a Request for Arbitration (the Request) against the Hashemite Kingdom of Jordan (the Respondent);
2. On 24 September 2007, the Centre registered the Request, as supplemented by letters of 14 August 2007 and 13 and 20 September 2007;
3. On 24 January 2007, the Tribunal was constituted as follows: Mr. V.V. Veeder, President, appointed by the Party-appointed Arbitrators, as agreed by the Parties; Professor Donald M. McRae, Arbitrator appointed by the Claimant; Professor James Crawford. S.C., Arbitrator appointed by the Respondent.
4. On 25 February 2008, the Respondent submitted an Objection under ICSID Arbitration Rule 41(5) to the claims set forth in the Claimant's Request for Arbitration on the ground that the same were manifestly without legal merit;
5. By letter of 26 February 2008, the Tribunal asked the Parties to submit written observations to the Respondent's Objection as follows: Claimant's Response by 21 March 2008; Respondent's Reply by 4 April 2008; and Claimant's Rejoinder by 18 April 2008;
6. On 22 April 2008 the Tribunal held its First Session at the seat of the Centre in Washington D.C. The Tribunal and the Parties discussed and agreed matters of procedure, and the Tribunal heard oral arguments from the Parties in connection with the Respondent's Rule 41(5) Objection;

7. On 12 May 2008, the Tribunal rendered its Decision on the Respondent's Objection under Rule 41(5) of the ICSID Arbitration Rules;

8. At the request of the Parties, the Tribunal modified the procedural calendar for the case on three occasions: by letter of 16 July 2008; by Procedural Order No.1 of 5 November 2008; and by letter of 29 January 2009, respectively;

9. On 2 March 2009, the Parties entered into a Settlement Agreement and Release (the Agreement);

10. A full and signed copy of the Agreement was provided to the Acting Secretary-General of ICSID and the Tribunal on 5 March, 2009;

11. In their Agreement, the Parties request that the Tribunal, in accordance with ICSID Arbitration Rule 43(2), record the Parties' Agreement in the form of an Award, which will result in the "formal and permanent discontinuance and termination of the ICSID proceedings";

12. In light of the above, the Tribunal, in accordance with ICSID Arbitration Rule 43(2), and as requested by the Parties, shall record the Parties' Agreement in the form of an Award;

## **II. Award**

13. Accordingly, the Tribunal unanimously decides that the Settlement Agreement and Release signed by the Parties on 2 March 2009, be recorded verbatim as an Award on agreed terms as follows:

**SETTLEMENT AGREEMENT AND RELEASE**

*Trans-Global Petroleum, Inc. v. The Hashemite Kingdom of Jordan*

(ICSID Case No. ARB/07/25)

This Settlement Agreement and Release (the "Agreement") is made and entered into by and between Trans-Global Petroleum, Inc. (the "Claimant") and the Hashemite Kingdom of Jordan (the "Respondent"). The Claimant and the Respondent are hereinafter referred to collectively as the "Parties" and individually as a "Party."

**WHEREAS**, by Request for Arbitration (with attachments) dated August 2, 2007 (the "Request for Arbitration"), the Claimant commenced arbitration proceedings at the International Centre for Settlement of Investment Disputes ("ICSID") in respect of Claimant's claims that the Respondent violated Articles II(3)(a), II(3)(b), and VIII of the Treaty between the United States of America and the Government of the Hashemite Kingdom of Jordan Concerning the Encouragement and Reciprocal Protection of Investment (Done at Amman July 2, 1997, entered into force June 13, 2003) (the "BIT");

**WHEREAS**, on September 24, 2007, the Secretary-General of ICSID registered the Claimant's Request for Arbitration, as supplemented by letters of August 14, 2007, September 13 and 20, 2007;

**WHEREAS**, on January 24, 2008, in accordance with Rule 6(1) of the ICSID Arbitration Rules, a three-member Tribunal was constituted comprised of Mr. V V Veeder, Professor James Crawford SC, and Professor Donald M. McRae;

**WHEREAS**, on February 25, 2008, the Respondent filed a written Objection under Rule 41(5) of the ICSID Arbitration Rules, which the Claimant opposed,

**WHEREAS**, on April 22, 2008, the Tribunal, during its First Session, set forth the procedural calendar for the proceedings and heard oral arguments from the Parties' counsel in connection with the Respondent's Rule 41(5) Objection;



**WHEREAS**, on May 12, 2008, the Tribunal rendered its Decision on Respondent's Rule 41(5) Objection, granting in part and denying in part Respondent's Objection;

**WHEREAS**, on July 16, 2008, the Tribunal modified the procedural calendar as agreed by the Parties;

**WHEREAS**, on 10 September 2008 the Claimant substituted its counsel;

**WHEREAS**, on November 5, 2008, the Tribunal issued Procedural Order No. 1 further modifying the procedural calendar as agreed by the Parties to provide for the Parties' principal submissions and supporting evidence to be filed as follows: (i) Claimant's Memorial: January 30, 2009; (ii) Respondent's Counter-Memorial: October 30, 2009; (iii) Claimant's Reply: January 22, 2010; (iv) Respondent's Rejoinder: April 23, 2010; and for the oral hearing to be held from June 21 to 25, 2010, with June 26, 2010 reserved;

**WHEREAS**, on January 29, 2009, the Tribunal issued Procedural Order No. 2 rejecting Claimant's request for an order for document production against Respondent and observing that immediately after the submission of the Respondent's Counter-Memorial, the Claimant may re-present its application to the Tribunal (as modified, if so advised) and the Respondent may then also make an application for a like order against the Claimant, and granting Claimant additional time to submit its Memorial from January 30, 2009 to not later than 28 February 2009;

**WHEREAS**, the Claimant and the Respondent deny any and all liability or wrongdoing in connection with the facts, transactions, allegations, claims, and occurrences underlying or relating to ICSID Case No. ARB/07/25 (the "ICSID Proceedings");

**WHEREAS**, to avoid the costs and burdens of further litigation, the Parties desire to resolve at this early stage and to settle fully and finally with prejudice all claims asserted against the Respondent in the ICSID Proceedings and to discontinue such proceedings upon and in accordance with the terms and conditions hereinafter set forth;

**NOW, THEREFORE**, in consideration of the mutual promises, undertakings, and representations contained in this Agreement, the Parties agree as follows:



**A. Withdrawal of Claims**

1. Claimant for itself and for any of its subsidiaries, affiliates, successors, and assigns, and any of its and their respective principals, owners, shareholders, agents, and representatives, which Claimant or its principal Mr. Nick Abraham control directly or indirectly, hereby irrevocably withdraws with prejudice each and every claim and allegation against Respondent, its organs, agencies, instrumentalities, agents, and representatives, made in the Request for Arbitration, in Claimant's Response and Rejoinder to Respondent's Rule 41(5) Objection, and in any correspondence between the Parties related to the foregoing, including but not limited to claims and allegations against Respondent, its organs, agencies, instrumentalities, agents, and representatives, involving or relating in any way to the following:

- a. Claimant's investment in Jordan and the activities of its principals, shareholders, agents, or representatives related thereto;
- b. Claimant's ability or efforts to attract investment partners;
- c. Claimant's affiliate/subsidiary Trans-Global Petroleum Jordan ("TGPI");
- d. the Production Sharing Agreement;
- e. the Farmout Agreement;
- f. the Joint Operating Agreement;
- g. media and public statements concerning Claimant, its investment, TGPI, and its or their principals, shareholders, agents, or representatives;
- h. customs exemptions; and
- i. Porosity, Ltd., its principals, shareholders, agents, or representatives.

This Agreement is not intended to affect any pending or future litigation or arbitration claims that the Claimant has or may have against natural or legal persons other than Respondent and its organs, agencies, instrumentalities, agents, and representatives.

*ny*

*ny*

**B. Release of Further Claims**

2. Claimant for itself and for any of its subsidiaries, affiliates, predecessors, successors, and assigns, and for any of its and their respective principals, owners, shareholders, agents, and representatives, which Claimant or its principal Mr. Nick Abraham control directly or indirectly, forever discharges and releases Respondent and its organs, agencies, instrumentalities, agents, and representatives from any and all claims, suits, or demands in litigation or arbitration for money damages or equitable relief to remedy any alleged harm, pecuniary or non-pecuniary loss, damage or injury, whether currently known or unknown, pled or unpled, which Claimant has, had, or may have had arising out of or in any way related to the facts and circumstances occurring up to and including the effective date of this Agreement.

**C. ICSID Award**

3. In accordance with ICSID Arbitration Rule 43(2), the Parties agree to file this Agreement with the ICSID Secretary-General and to request in writing that the Tribunal record this Agreement in the form of an award, which will result in the formal and permanent discontinuance and termination of the ICSID Proceedings.

4. In accordance with ICSID Arbitration Rule 48(4), the Parties agree to the publication by the Centre of the resulting award, including the text of this Agreement.

**D. Costs**

5. The Claimant and Respondent will each bear their own legal costs and expenses and pay in equal shares the fees and expenses of the Tribunal and ICSID.

**E. No Admission of Liability**

6. The Parties hereby acknowledge that this Agreement constitutes a settlement of disputed claims for the purpose of mitigating the costs and burdens of further litigation and that neither the releases referenced herein nor this Agreement constitutes an acknowledgment or admission of liability in any way, and the Claimant and the Respondent expressly deny any liability or wrongdoing in connection with any of the claims asserted or allegations made in the ICSID Proceedings.



**F. Binding on Successors and Assigns**

7. This Agreement shall be binding upon and inure to the benefit of the Parties and their respective successors and assigns.

**G. Requisite Authority/No Duress**

8. Each Party to this Agreement represents and warrants that it has full power, authority, and legal right to execute, deliver, and perform all undertakings in this Agreement.

9. Each Party to this Agreement represents and warrants that it has entered into this Agreement knowingly and voluntarily of its own free will and without any threats, duress, or coercion of any kind.

**H. Advice of Counsel**

10. The Parties hereby expressly acknowledge that the effect and import of this Agreement have been fully explained to them by their own legal counsel, and that they have relied solely on their discussions with counsel concerning the matters addressed herein.

**I. Entire Agreement**

11. This Agreement constitutes the entire agreement between the Parties with respect to the subject matter hereof and supersedes any prior or contemporaneous oral or written agreements, negotiations, or discussions with respect to the subject matter hereof.

12. This Agreement may not be altered, modified, or amended, nor may any of its provisions be waived, unless by agreement in writing duly executed by the Parties or their authorized representatives.

**J. Waiver and Acknowledgment**

13. The Parties hereby waive any right or defense that they might otherwise have under applicable law that could limit or restrict in any way the effectiveness or scope of this Agreement.

14. The Parties further acknowledge and agree that: (i) evidence unknown to the other Party may exist that might shed new light on the alleged events that have given rise to the ICSID



Proceedings, and that such evidence may be in favor of the other Party; and (ii) the Parties have taken into account the possibility of such new evidence coming to light and in all events intend that this Agreement shall operate as a full and final settlement of the ICSID Proceedings and the matters described herein.

**K. Further Assurances**

15. Each of the Parties to this Agreement shall take any and all actions reasonably necessary to ensure compliance with and effectuation of the terms and conditions of this Agreement.

**L. No Assignment**

16. Each Party to this Agreement represents and warrants that there has been no assignment or attempted assignment of any rights and/or claims that are the subject matter of this Agreement at any time prior to the signing of this Agreement.

**M. Severability**

17. If any provision of this Agreement is held by a court or arbitration tribunal of competent jurisdiction to be invalid, unenforceable, or violative of any applicable law, such circumstance will not have the effect of rendering any other provision of this Agreement invalid, inoperative, or otherwise unenforceable.

**N. Drafting of Agreement**

18. The Parties agree that they shall be deemed co-drafters in the event of any interpretation or construction of the terms of this Agreement and, therefore, that no *contra proferentem* presumption shall apply. To the contrary, the Parties agree that the settlement and release language shall be given the broadest possible interpretation.

**O. Execution of Agreement**

19. This Agreement shall be executed in three counterparts, one for each Party and one for the Tribunal, each of which shall be deemed the original. Delivery of an executed counterpart of this Agreement by electronic transmission shall be effective as delivery of a manually executed counterpart of this Agreement.



**P. Effective Date of Agreement**

20. This Agreement shall take effect immediately and irrevocably upon the signatures of the parties' representatives to this Agreement and shall not be limited in time.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement on March 2, 2009.

Trans-Global Petroleum, Inc.

The Hashemite Kingdom of Jordan

By: NyAbraham  
Its: Trans-Global Petroleum

By: K. Qutishat  
Its: Minister of Energy & Mineral Resources

Dated: 2/3/ 2009

Dated: 2/3/2009

14. The Tribunal notes the agreement of the Parties in Section D of the Agreement in accordance to which each Party shall bear its own legal costs and expenses and pay in equal shares the fees and expenses of the Tribunal and ICSID. Accordingly, the Tribunal so orders.

*[Signed]*

Mr. V.V. Veeder  
President of the Tribunal

Date: [28.3.2009]

*[Signed]*

Professor Donald M. McRae  
Arbitrator

Date: [26.3.2009]

*[Signed]*

Professor James Crawford, S.C.  
Arbitrator

Date: [26.3.2009]