

No. 5291

**UNITED STATES OF AMERICA
and
REPUBLIC OF KOREA**

**Exchange of notes constituting an agreement relating to the
guaranty of private investments. Seoul, 19 February
1960**

Official text: English.

Registered by the United States of America on 4 August 1960.

**ÉTATS-UNIS D'AMÉRIQUE
et
RÉPUBLIQUE DE CORÉE**

**Échange de notes constituant un accord relatif à la garantie
des investissements privés. Séoul, 19 février 1960**

Texte officiel anglais.

Enregistré par les États-Unis d'Amérique le 4 août 1960.

No. 5291. EXCHANGE OF NOTES CONSTITUTING AN AGREEMENT¹ BETWEEN THE UNITED STATES OF AMERICA AND THE REPUBLIC OF KOREA RELATING TO THE GUARANTY OF PRIVATE INVESTMENTS. SEOUL, 19 FEBRUARY 1960

I

The American Ambassador to the Korean Acting Minister for Foreign Affairs

THE FOREIGN SERVICE OF THE UNITED STATES OF AMERICA

No. 2209

Seoul, February 19, 1960

Excellency :

I have the honor to refer to conversations which have recently taken place between representatives of our two Governments, relating to guaranties authorized by Section 413 (b) (4) of the Mutual Security Act of 1954, as amended. I also have the honor to confirm the following understandings reached as a result of these conversations :

1. The Governments of the Republic of Korea and the United States of America will, upon the request of either of them, consult respecting projects in the Republic of Korea proposed by nationals of the United States of America with regard to which guaranties under Section 413 (b) (4) of the Mutual Security Act of 1954, as amended, have been made or are under consideration.

2. The Government of the United States agrees that it will issue no guaranty with regard to any project unless it is approved by the Government of the Republic of Korea.

3. With respect to such guaranties extending to projects which are approved by the Government of the Republic of Korea in accordance with the provisions of the aforesaid Section 413 (b) (4), the Government of the Republic of Korea agrees :

a. That if the Government of the United States of America makes payment in United States dollars to any person under any such guaranty, the Government of the Republic of Korea will recognize the transfer to the United States of America of any right, title or interest of such person in assets, currency, credits, or other property on account of which such payment was made and the subrogation of the United States of America to any claim or cause of action, or right of such person arising in connection therewith;

¹ Came into force on 19 February 1960 by the exchange of the said notes.

b. That Korean hwan amounts acquired by the Government of the United States of America pursuant to such guaranties shall be accorded treatment not less favorable than that accorded to private funds arising from transactions of United States nationals which are comparable to the transactions covered by such guaranties, and that such Korean hwan amounts will be freely available to the Government of the United States of America for administrative expenditures;

c. That if the Government of the United States of America issues guaranties to cover losses by reason of war with respect to investments in the Republic of Korea, the Government of the Republic of Korea agrees that nationals of the United States of America to whom such guaranties have been issued, will be accorded by the Government of the Republic of Korea treatment no less favorable than that accorded, in like circumstances, to its nationals or nationals of third countries, with reference to any reimbursement, compensation, indemnification, or any other payment, including the distribution of reparations received from enemy countries, that the Government of the Republic of Korea may make or pay for losses incurred by reason of war; if the Government of the United States of America makes payment in US dollars to any national of the United States of America under a guaranty for losses by reason of war, the Government of the Republic of Korea will recognize the transfer to the United States of America of any right, privilege, or interest, or any part thereof, that such nationals may be granted or become entitled to as a result of the aforementioned treatment by the Government of the Republic of Korea;

d. That any claim against the Government of the Republic of Korea to which the Government of the United States of America may be subrogated as a result of any payment under such a guaranty, shall be the subject of direct negotiations between the two Governments. If within a reasonable period, they are unable to settle the claim by agreement, it shall be referred for final and binding determination to a sole arbitrator selected by mutual agreement. If the Governments are unable, within a period of three months, to agree upon such selection, the arbitrator shall be one who may be designated by the President of the International Court of Justice at the request of either Government. This subparagraph d. shall not be applicable to the type of guaranties provided for in subparagraph c. immediately above.

Upon receipt of a note from Your Excellency indicating that the foregoing provisions are acceptable to the Government of the Republic of Korea, the Government of the United States of America will consider that this note and your reply thereto constitute an agreement between the two Governments on this subject, the agreement to enter into force on the date of your note in reply.

Accept, Excellency, the renewed assurances of my highest consideration.

Walter P. McCONAUGHY

His Excellency Kyu Hah Choi
Acting Minister for Foreign Affairs
Seoul

II

*The Korean Acting Minister for Foreign Affairs to the American Ambassador*REPUBLIC OF KOREA
MINISTRY OF FOREIGN AFFAIRS

PT-3

February 19, 1960

Excellency :

I have the honor to acknowledge the receipt of Your Excellency's note dated February 19, 1960, which reads as follows :

[See note I]

I have the honor to inform Your Excellency that the foregoing provisions are acceptable to the Government of the Republic of Korea and to confirm that your note and this reply thereto constitute an agreement between the two Governments on this subject, the agreement to enter into force on the date of this reply.

Accept, Excellency, the renewed assurances of my highest consideration.

KYU HAH CHOI
Acting Minister of Foreign Affairs

His Excellency Walter P. McConaughy
Ambassador of the United States of America
Seoul