

No. 17861

**FRANCE
and
REPUBLIC OF KOREA**

**Agreement on the promotion and protection of investments.
Signed at Paris on 28 December 1977**

Authentic texts: French and Korean.

Registered by France on 20 June 1979.

**FRANCE
et
RÉPUBLIQUE DE CORÉE**

**Accord sur l'encouragement et la protection des investissements.
Signé à Paris le 28 décembre 1977**

Textes authentiques : français et coréen.

Enregistré par la France le 20 juin 1979.

[TRANSLATION — TRADUCTION]

AGREEMENT¹ BETWEEN THE GOVERNMENT OF THE FRENCH
REPUBLIC AND THE GOVERNMENT OF THE REPUBLIC OF
KOREA ON THE PROMOTION AND PROTECTION OF IN-
VESTMENTS

The Government of the French Republic and the Government of the Republic of Korea,

Desiring to strengthen economic co-operation between the two States and to intensify co-operation between commercial companies with a view to stimulating economic initiatives,

Seeking to create favourable conditions for investments made by nationals or bodies corporate of each of the two States in the territory of the other State,

Recognizing the need to protect the investments made by nationals or bodies corporate of either State and to stimulate movements of capital with a view to the economic prosperity of the two States,

Have agreed as follows:

Article 1. 1. Each Contracting Party shall encourage in its territory investments by nationals or bodies corporate of the other Contracting Party in accordance with its laws and regulations.

2. Each Contracting Party shall accord fair and equitable treatment to investments made in its territory by nationals or bodies corporate of the other Contracting Party, particularly in so far as relates both to the exercise of professional activities connected with such investments and to the management, administration, enjoyment and use of such investments. Such treatment shall be at least the same as that accorded to nationals or bodies corporate of any third State.

3. However, in fiscal matters, each Contracting Party shall accord nationals and companies of the other Party the same treatment as that accorded to its nationals and companies that are in the same situation.

Article 2. For the purposes of this Agreement:

1. The term "investment" means every kind of asset and in particular though not exclusively includes:

- (a) Movable and immovable property and all other property rights such as mortgages, sureties, preferences, usufructs and similar rights;
- (b) Shares, stock and debentures and other forms of participation;
- (c) Copyright, industrial property rights, patents, technical processes, trade marks, registered trade names and goodwill;

¹ Came into force on 1 February 1979, i.e., the first day of the month following the exchange of notifications (effected on 20 January 1978 and 29 January 1979) confirming its approval, in accordance with article 9 (2).

(d) Concessions accorded by law or by virtue of a contract, including those situated in the maritime zones in which the Contracting Parties exercise sovereign rights;

(e) Claims to money or to any performance having a financial value.

2. (A) The term "national" means:

(a) In respect of the French Republic, an individual who, under French law, has French nationality;

(b) In respect of the Republic of Korea, an individual who, under Korean law, has Korean nationality.

(B) The term "body corporate" means:

(a) In respect of the French Republic, any body corporate constituted in France in accordance with French legislation and having its registered office there;

(b) In respect of the Republic of Korea, any body corporate, company or association, whether or not with limited liability and whether or not for pecuniary profit, incorporated in the territory of the Republic of Korea in accordance with Korean laws and regulations in which nationals of the Republic of Korea participate to a considerable extent, whether directly or indirectly.

Article 3. 1. Investments made by nationals or bodies corporate of each Contracting Party shall enjoy full protection and security in the territory of the other Party.

2. Investments made by nationals or bodies corporate of either Contracting Party in the territory of the other Contracting Party shall not be subjected to any measure of expropriation or nationalization or to any other form of direct or indirect dispossession unless the following conditions are met:

(a) Such measures are taken in the general interest and according to a legal procedure;

(b) They are not discriminatory or contrary to a specific undertaking;

(c) They are accompanied by provisions for the payment of full compensation.

3. The amount of such compensation shall represent the real value of the asset in question on the date on which the measure was taken; it shall be paid to the persons entitled to it and shall be freely transferable without delay.

Article 4. Investments made under a special agreement by one of the Contracting Parties in enterprises belonging to nationals or companies of the other Party shall be governed by the provisions of this Agreement and the said special agreement.

Should investors so request, each of the Contracting Parties shall agree to insert in the said special agreement a provision providing for recourse, in event of a dispute, to the International Centre for Settlement of Investment Disputes (ICSID).

Article 5. When one Contracting Party, by virtue of a guarantee issued in respect of an investment in the territory of the other Contracting Party, makes payments to its nationals or bodies corporate, the other Contracting Party shall recognize the transfer of any rights of such nationals or bodies corporate to the

first-mentioned Contracting Party and its entry into the said rights, which it shall be entitled to exercise to the same extent as its predecessor in title.

Article 6. 1. Each Contracting Party shall guarantee, with respect to investments, the transfer to the nationals or bodies corporate of the other Contracting Party of capital, capital gains and, in the event of liquidation, the proceeds of such liquidation.

2. The above-mentioned transfers shall be effected at the rate of exchange applicable on the date of the transfer, without any discrimination as to rates for this category of operations.

3. Any authorization for transfer shall be issued and any transfer shall be effected without undue restriction and without delay, in accordance with the most favourable regulations in force in the territory of each Contracting Party.

Article 7. 1. Disputes concerning the interpretation or application of this Agreement shall, if possible, be settled by the two Contracting Parties.

2. If a dispute cannot be thus settled within a period of six months, it shall, upon the request of either Contracting Party, be submitted to an arbitral tribunal.

3. Such an arbitral tribunal shall be constituted for each individual case, each Contracting Party appointing one member, and the two members so designated selecting by common agreement, as chairman, a national of a third State, who shall be appointed by the two Contracting Parties. The said members shall be appointed within two months and the chairman within three months from the date on which one of the Contracting Parties notifies the other Contracting Party of its wish to submit the dispute to an arbitral tribunal.

4. If the arbitral tribunal has not been constituted within the time-limits specified in paragraph 3 above and if no extension has been agreed upon by the two Contracting Parties, either Contracting Party may, in the absence of any other arrangement for the settlement of the dispute, invite the President of the International Chamber of Commerce to make the necessary appointment.

5. The arbitral tribunal shall base its decision on the provisions of this international Agreement in accordance with principles of law. Before rendering its decision, the arbitral tribunal may, at any stage of the proceedings, propose to the Parties an amicable settlement.

6. The arbitral tribunal shall reach its decision by a majority of votes. Such decision shall be binding. Each Contracting Party shall bear the cost of the arbitrator designated by it or in its territory. The cost of the chairman and the remaining costs shall be borne in equal parts by the two Contracting Parties. Unless the Contracting Parties decide otherwise, the tribunal shall determine its own procedure.

Article 8. This Agreement shall apply also to investments in the territory of one Contracting Party made in accordance with its laws and regulations before the entry into force of this Agreement by nationals or bodies corporate of the other Contracting Party.

Article 9. 1. This Agreement shall be approved in accordance with the constitutional procedure in force in the territory of each of the Contracting Parties.

2. This Agreement shall enter into force on the first day of the month following the exchange of notifications confirming that that procedure has been complied with in respect of both Contracting Parties.

3. This Agreement is concluded for a period of 10 years and shall remain in force thereafter unless, after the expiry of the initial 10-year period, either Contracting Party notifies the other in writing of its intention to terminate it. Such termination shall take effect one year after its notification has been received by the other Contracting Party.

4. In the event of termination, the provisions of this Agreement shall continue to be applicable to the investments covered by its provisions and made during the period when it was in force.

DONE at Paris, on 28 December 1977, in duplicate, in the French and Korean languages, both texts being equally authentic.

For the Government of the French Republic:

[Signed]

ROBERT BOULIN

For the Government of the Republic of Korea:

[Signed]

SUK HEU YUN