

**No. 49929\***

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**Republic of Korea  
and  
Croatia**

**Agreement between the Government of the Republic of Korea and the Government of the Republic of Croatia on the promotion and reciprocal protection of investments. Zagreb, 19 July 2005**

**Entry into force:** *31 May 2006 by notification, in accordance with article 12*

**Authentic texts:** *Croatian, English and Korean*

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\* No UNTS volume number has yet been determined for this record. The Text(s) reproduced below, if attached, are the authentic texts of the agreement /action attachment as submitted for registration and publication to the Secretariat. For ease of reference they were sequentially paginated. Translations, if attached, are not final and are provided for information only.

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**République de Corée  
et  
Croatie**

**Accord entre le Gouvernement de la République de Corée et le Gouvernement de la République de Croatie relatif à la promotion et la protection réciproque des investissements. Zagreb, 19 juillet 2005**

**Entrée en vigueur :** *31 mai 2006 par notification, conformément à l'article 12*

**Textes authentiques :** *croate, anglais et coréen*

**Enregistrement auprès du Secrétariat des Nations Unies :** *République de Corée, 6 juillet 2012*

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[ CROATIAN TEXT – TEXTE CROATE ]

**AGREEMENT BETWEEN  
THE GOVERNMENT OF THE REPUBLIC OF KOREA  
AND  
THE GOVERNMENT OF THE REPUBLIC OF CROATIA  
ON THE PROMOTION AND RECIPROCAL PROTECTION  
OF INVESTMENTS**

The Government of the Republic of Korëa and the Government of the Republic of Croatia (hereinafter referred to as "the Contracting Parties"),

Desiring to intensify economic cooperation between the Contracting Parties,

Intending to create favourable conditions for investments by investors of one Contracting Party in the territory of the other Contracting Party on the basis of equality and mutual benefit and,

Recognizing that the promotion and protection of investments on the basis of this Agreement will stimulate business initiative in this field,

Have agreed as follows:

## **ARTICLE 1**

### **Definitions**

For the purposes of this Agreement:

(1) "investments" means every kind of assets invested by investors of one Contracting Party in the territory of the other Contracting Party in accordance with its laws and regulations and in particular, though not exclusively, includes:

- (a) movable and immovable property as well as any other property rights *in rem* such as mortgages, liens, pledges, usufructs and similar rights;
- (b) shares, stocks and debentures, and any other form of participation in a company or any business enterprise;
- (c) claims to money or to any performance under contract having an economic value;
- (d) intellectual property rights including rights with respect to copyright and related rights, patents, trademarks, trade names, industrial designs, trade secrets and know-how, and goodwill;
- (e) business concessions having an economic value conferred by law or under contract, including concessions to search for, cultivate, extract or exploit natural resources; and

- (f) goods that, under a leasing contract, are placed at the disposal of a lessee in the territory of a Contracting Party in accordance with its laws and regulations.

Any change of the form in which assets are invested or reinvested shall not affect their character as an investment.

(2) "returns" means the amounts yielded by investments and, in particular, though not exclusively, includes profit, interest, capital gains, dividends, royalties and all kinds of fees.

(3) "investors" means any natural or legal persons of one Contracting Party who invest in the territory of the other Contracting Party:

- (a) the term "natural persons" means natural persons having the nationality of that Contracting Party in accordance with its laws and regulations; and
- (b) the term "legal persons" means any legal entity such as companies, public institutions, authorities, foundations, partnerships, firms, establishments, organizations, corporations or associations incorporated or constituted in accordance with the laws and regulations of that Contracting Party.

(4) "territory" means the territory of the Republic of Korea or the territory of the Republic of Croatia respectively, as well as those maritime areas, including the seabed and subsoil adjacent to the outer limit of the territorial sea over which the State concerned exercises, in accordance with international law and with their respective legislation, sovereign rights and/or jurisdiction for the purpose of exploration and exploitation of the natural resources of such areas.

(5) "freely convertible currency" means the currency that is widely used to make payments for international transactions and widely exchanged in principal international exchange markets.

## **ARTICLE 2**

### **Promotion and Protection of Investments**

(1) Each Contracting Party shall encourage and create favourable conditions for investors of the other Contracting Party to make investments in its territory and shall admit such investments in accordance with its laws and regulations.

(2) Investments made by investors of each Contracting Party shall at all times be accorded fair and equitable treatment and shall enjoy full protection and security in the territory of the other Contracting Party in accordance with international law and provisions of this Agreement.

(3) Neither Contracting Party shall in any way impair by unreasonable or discriminatory measures the operation, management, maintenance, use, enjoyments or disposal of investments in its territory by investors of the other Contracting Party.

(4) Each Contracting Party shall permit, subject to its laws, regulations and procedures affecting the entry, stay and work of natural persons, regardless of nationality, key personnel including top managerial and technical persons who are employed for the purposes of investments by an investor of the other Contracting Party, to enter, stay and work in its territory. Immediate family members (spouse and minor children) of such key personnel shall also be granted similar treatment with regard to the entry and temporary stay in the host Contracting Party.

### **ARTICLE 3**

#### **Treatment of Investments**

(1) Each Contracting Party shall in its territory accord to investments and returns of investors of the other Contracting Party treatment which is fair and equitable and no less favourable than that which it accords to investments and returns of its own investors or to investments and returns of investors of any third State, whichever is more favourable to investors.

(2) Each Contracting Party shall in its territory accord to investors of the other Contracting Party as regards management, maintenance, use, enjoyment

or disposal of their investments, treatment which is fair and equitable and no less favourable than that which it accords to its own investors or to investors of any third State, whichever is more favourable to investors.

(3) The provisions of paragraphs (1) and (2) of this Article shall not be construed so as to oblige one Contracting Party to extend to the investors of the other Contracting Party the benefit of any treatment, preference or privilege which may be extended by the former Contracting Party by virtue of:

- (a) any existing or future customs union or economic union, free trade area or similar international agreements to which either of the Contracting Parties is or may become a party; and
- (b) any international agreement or arrangement wholly or partially related to taxation.

#### **ARTICLE 4**

##### **Compensation for Losses**

(1) Investors of one Contracting Party whose investments suffer losses owing to war or other armed conflict, a state of national emergency, revolt, insurrection, riot or other similar situations in the territory of the other Contracting Party, shall be accorded by the latter Contracting Party, treatment, as regards restitution, indemnification, compensation or other forms of settlement, no less favourable than that which the latter Contracting Party accords to its own investors or to investors of any third State. Resulting payments shall be freely transferable without undue delay.

(2) Without prejudice to paragraph (1) of this Article, investors of one Contracting Party who, in any of the situations referred to in that paragraph, suffer losses in the territory of the other Contracting Party resulting from:

- (a) requisitioning of their property by its forces or authorities; or
- (b) destruction of their property by its forces or authorities which was not caused in combat action or was not required by the necessity of the situation,

shall be accorded prompt restitution and, where applicable, adequate, prompt and effective compensation. In either case, restitution as well as compensation shall be no less favourable than that which would be accorded under the same circumstances to an investor of the other Contracting Party or to an investor of any other State. Resulting payments shall be freely transferable without undue delay.

## ARTICLE 5

### Expropriation

(1) Investments of investors of one Contracting Party shall not be nationalized, expropriated or otherwise subjected to any other measures having an effect equivalent to nationalization or expropriation (hereinafter referred to as "expropriation") in the territory of the other Contracting Party except for public purpose and against prompt, adequate and effective compensation. The expropriation shall be carried out on a non-discriminatory basis in accordance with legal procedures.

(2) Such compensation shall amount to the fair market value of the expropriated investments immediately before expropriation was taken or before impending expropriation became public knowledge, whichever is the earlier, shall include interest at the applicable commercial rate from the date of expropriation until the date of payment and shall be made without undue delay, be effectively realizable and be freely transferable. In both expropriation and compensation, treatment no less favourable than that which the Contracting Party accords to its own investors or to investors of any third State shall be accorded.

(3) Investors of one Contracting Party affected by expropriation shall have a right to prompt review by a judicial or other competent independent authority of the other Contracting Party, of their case and of the valuation of their investments in accordance with the principles set out in this Article.

(4) Where a Contracting Party expropriates the assets of a company which is incorporated or constituted under its laws and regulations, and in which investors of the other Contracting Party participate or own shares or debentures, the provision of this Article shall be applied.

## **ARTICLE 6**

### **Transfers**

(1) Each Contracting Party shall guarantee to investors of the other Contracting Party the free transfer of their investments and returns. Such transfers shall include, in particular, though not exclusively:

- (a) net profit, capital gains, dividends, interest, royalties, fees and any other current income accruing from investments;
- (b) proceeds accruing from the sale or the total or partial liquidation of investments;
- (c) funds in repayment of loans related to investments;
- (d) earnings of nationals of the other Contracting Party who are allowed to work in connection with investments in its territory;
- (e) additional funds necessary for the maintenance or development of the existing investments;
- (f) amounts spent for the management of the investment in the territory of the other Contracting Party or a third State; and
- (g) compensation pursuant to Articles 4 and 5.

(2) All transfers under this Agreement shall be made in a freely convertible currency, without undue restriction and delay, at the market exchange rate which is effective for the current transactions or determined in accordance with the official rate of exchange in force on the date of transfers in the territory of the other Contracting Party in which the investment is made, whichever is more favourable to investors.

## **ARTICLE 7**

### **Subrogation**

If a Contracting Party or its designated agency makes a payment to its own investors under an indemnity given in respect of investments, the latter Contracting Party shall recognize:

- (a) the assignment, whether under the law or pursuant to a legal transaction in that State, of any rights or claims from investors to the former Contracting Party or its designated agency; and



- (b) that the former Contracting Party or its designated agency is entitled by virtue of subrogation to exercise the rights of and enforce the claims of those investors.

## **ARTICLE 8**

### **Settlement of Investment Disputes between a Contracting Party and an Investor of the other Contracting Party**

(1) Any investment dispute between a Contracting Party and an investor of the other Contracting Party shall as far as possible be settled by the parties to the dispute in an amicable way.

(2) The local remedies under the laws and regulations of one Contracting Party in the territory of which the investment has been made shall be available for investors of the other Contracting Party on the basis of treatment no less favourable than that accorded to investments of its own investors or investors of any third State, whichever is more favourable to investors.

(3) If the dispute cannot be settled within six (6) months from the date on which the dispute has been raised by either party, it shall be submitted upon request of the investor of the Contracting Party, to the International Center for Settlement of Investment Disputes (ICSID) established by the Convention on the Settlement of Investment Disputes between States and Nationals of other States, opened for signature in Washington on March 18th, 1965. In case of arbitration, each Contracting Party, by this Agreement irrevocably consents in advance, even in the absence of an individual arbitral agreement between the Contracting Party and the investor, to submit any such dispute to the ICSID. This consent implies the renunciation of the requirement that the internal administrative or judicial remedies should be exhausted.

(4) The award made by ICSID shall be final and binding on the parties to the dispute. Each Contracting Party shall ensure the recognition and enforcement of the award in accordance with its relevant laws and regulations.

**ARTICLE 9**

**Settlement of Disputes between  
the Contracting Parties**

(1) Disputes between the Contracting Parties concerning the interpretation or application of this Agreement shall, if possible, be settled by consultation through diplomatic channels.

(2) If any dispute cannot be settled within six (6) months, it shall, at the request of either Contracting Party, be submitted to an ad hoc Arbitral Tribunal in accordance with the provisions of this Article.

(3) Such an Arbitral Tribunal shall be constituted for each individual case in the following way: Within two (2) months from the date of receipt of the request for arbitration, each Contracting Party shall appoint one member of the Tribunal. These two members shall then select a national of a third State, who on approval of the two Contracting Parties shall be appointed Chairman of the Tribunal. The Chairman shall be appointed within two (2) months from the date of appointment of the other two members.

(4) If within the periods specified in paragraph (3) of this Article the necessary appointments have not been made, a request may be made by either Contracting Party to the President of the International Court of Justice to make such appointments. If the President is a national of either Contracting Party or otherwise prevented from discharging the said function, the Vice-President shall be invited to make the appointments. If the Vice-President also is a national of either Contracting Party or prevented from discharging the said function, the member of the International Court of Justice next in seniority who is not a national of either Contracting Party shall be invited to make the appointments.

(5) The Arbitral Tribunal shall establish its own rules of procedure. The Arbitral Tribunal shall reach its decision in virtue of this Agreement and pursuant to the rules of international law. And the Arbitral Tribunal shall reach its decision by a majority of votes. Such decision shall be final and binding.

(6) Each Contracting Party shall bear the costs of its own arbitrator and its representation in the arbitral proceedings. The costs of the Chairman and the remaining costs shall be borne in equal parts by both Contracting Parties. The Arbitral Tribunal may, however, in its decision direct that a higher proportion of costs shall be borne by one of the two Contracting Parties.

## **ARTICLE 10**

### **Application of Other Rules**

(1) Where a matter is governed simultaneously both by this Agreement and by another international agreement to which both Contracting Parties are parties, or by general principles of international law, nothing in this Agreement shall prevent either Contracting Party or any of its investors who own investments in the territory of the other Contracting Party from taking advantage of whichever rules are the more favourable to his case.

(2) If the treatment to be accorded by one Contracting Party to investors of the other Contracting Party in accordance with its laws and regulations or other specific provisions or contracts is more favourable than that accorded by this Agreement, the more favourable treatment shall be accorded

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

## **ARTICLE 11**

### **Application of the Agreement**

This Agreement shall apply to all investments, whether made before or after its entry into force, but shall not apply to any dispute concerning investments which was settled before its entry into force.

## **ARTICLE 12**

### **Entry into Force, Duration and Termination**

(1) This Agreement shall enter into force on the date of the receipt of the latter notification through diplomatic channels by which either Contracting Party notifies the other Contracting Party that its internal legal requirements for the entry into force of this Agreement have been fulfilled.

(2) This Agreement shall remain in force for a period of fifteen(15) years and shall be extended thereafter for the indefinite period unless either Contracting Party notifies the other Contracting Party in writing one year in advance of its intention to terminate this Agreement.

(3) In respect of investments made prior to the termination of this Agreement, the provisions of Article 1 to 11 of this Agreement shall remain in force for a further period of twenty (20) years from the date of the termination.

IN WITNESS WHEREOF, the undersigned, duly authorized thereto by their respective Governments, have signed this Agreement.

DONE in duplicate at *Zagreb* on the *19<sup>th</sup>* day of *July* 2005, in the Korean, Croatian and English languages, all texts being equally authentic. In case of any divergence of interpretation, the English text shall prevail.



FOR THE GOVERNMENT OF  
THE REPUBLIC OF KOREA



FOR THE GOVERNMENT OF  
THE REPUBLIC OF CROATIA

[ ENGLISH TEXT – TEXTE ANGLAIS ]

**AGREEMENT BETWEEN  
THE GOVERNMENT OF THE REPUBLIC OF KOREA  
AND  
THE GOVERNMENT OF THE REPUBLIC OF CROATIA  
ON THE PROMOTION AND RECIPROCAL PROTECTION  
OF INVESTMENTS**

The Government of the Republic of Korea and the Government of the Republic of Croatia (hereinafter referred to as "the Contracting Parties"),

Desiring to intensify economic cooperation between the Contracting Parties,

Intending to create favourable conditions for investments by investors of one Contracting Party in the territory of the other Contracting Party on the basis of equality and mutual benefit and,

Recognizing that the promotion and protection of investments on the basis of this Agreement will stimulate business initiative in this field,

Have agreed as follows:

## **ARTICLE 1**

### **Definitions**

For the purposes of this Agreement:

(1) "investments" means every kind of assets invested by investors of one Contracting Party in the territory of the other Contracting Party in accordance with its laws and regulations and in particular, though not exclusively, includes:

- (a) movable and immovable property as well as any other property rights *in rem* such as mortgages, liens, pledges, usufructs and similar rights;
- (b) shares, stocks and debentures, and any other form of participation in a company or any business enterprise;
- (c) claims to money or to any performance under contract having an economic value;
- (d) intellectual property rights including rights with respect to copyright and related rights, patents, trademarks, trade names, industrial designs, trade secrets and know-how, and goodwill;
- (e) business concessions having an economic value conferred by law or under contract, including concessions to search for, cultivate, extract or exploit natural resources; and

- (f) goods that, under a leasing contract, are placed at the disposal of a lessee in the territory of a Contracting Party in accordance with its laws and regulations.

Any change of the form in which assets are invested or reinvested shall not affect their character as an investment.

(2) "returns" means the amounts yielded by investments and, in particular, though not exclusively, includes profit, interest, capital gains, dividends, royalties and all kinds of fees.

(3) "investors" means any natural or legal persons of one Contracting Party who invest in the territory of the other Contracting Party:

- (a) the term "natural persons" means natural persons having the nationality of that Contracting Party in accordance with its laws and regulations; and
- (b) the term "legal persons" means any legal entity such as companies, public institutions, authorities, foundations, partnerships, firms, establishments, organizations, corporations or associations incorporated or constituted in accordance with the laws and regulations of that Contracting Party.

(4) "territory" means the territory of the Republic of Korea or the territory of the Republic of Croatia respectively, as well as those maritime areas, including the seabed and subsoil adjacent to the outer limit of the territorial sea over which the State concerned exercises, in accordance with international law and with their respective legislation, sovereign rights and/or jurisdiction for the purpose of exploration and exploitation of the natural resources of such areas.

(5) "freely convertible currency" means the currency that is widely used to make payments for international transactions and widely exchanged in principal international exchange markets.

## **ARTICLE 2**

### **Promotion and Protection of Investments**

(1) Each Contracting Party shall encourage and create favourable conditions for investors of the other Contracting Party to make investments in its territory and shall admit such investments in accordance with its laws and regulations.

(2) Investments made by investors of each Contracting Party shall at all times be accorded fair and equitable treatment and shall enjoy full protection and security in the territory of the other Contracting Party in accordance with international law and provisions of this Agreement.

(3) Neither Contracting Party shall in any way impair by unreasonable or discriminatory measures the operation, management, maintenance, use, enjoyments or disposal of investments in its territory by investors of the other Contracting Party.

(4) Each Contracting Party shall permit, subject to its laws, regulations and procedures affecting the entry, stay and work of natural persons, regardless of nationality, key personnel including top managerial and technical persons who are employed for the purposes of investments by an investor of the other Contracting Party, to enter, stay and work in its territory. Immediate family members (spouse and minor children) of such key personnel shall also be granted similar treatment with regard to the entry and temporary stay in the host Contracting Party.

### **ARTICLE 3**

#### **Treatment of Investments**

(1) Each Contracting Party shall in its territory accord to investments and returns of investors of the other Contracting Party treatment which is fair and equitable and no less favourable than that which it accords to investments and returns of its own investors or to investments and returns of investors of any third State, whichever is more favourable to investors.

(2) Each Contracting Party shall in its territory accord to investors of the other Contracting Party as regards management, maintenance, use, enjoyment



or disposal of their investments, treatment which is fair and equitable and no less favourable than that which it accords to its own investors or to investors of any third State, whichever is more favourable to investors.

(3) The provisions of paragraphs (1) and (2) of this Article shall not be construed so as to oblige one Contracting Party to extend to the investors of the other Contracting Party the benefit of any treatment, preference or privilege which may be extended by the former Contracting Party by virtue of:

- (a) any existing or future customs union or economic union, free trade area or similar international agreements to which either of the Contracting Parties is or may become a party; and
- (b) any international agreement or arrangement wholly or partially related to taxation.

#### ARTICLE 4

##### Compensation for Losses

(1) Investors of one Contracting Party whose investments suffer losses owing to war or other armed conflict, a state of national emergency, revolt, insurrection, riot or other similar situations in the territory of the other Contracting Party, shall be accorded by the latter Contracting Party, treatment, as regards restitution, indemnification, compensation or other forms of settlement, no less favourable than that which the latter Contracting Party accords to its own investors or to investors of any third State. Resulting payments shall be freely transferable without undue delay.

(2) Without prejudice to paragraph (1) of this Article, investors of one Contracting Party who, in any of the situations referred to in that paragraph, suffer losses in the territory of the other Contracting Party resulting from:

- (a) requisitioning of their property by its forces or authorities; or
- (b) destruction of their property by its forces or authorities which was not caused in combat action or was not required by the necessity of the situation,

shall be accorded prompt restitution and, where applicable, adequate, prompt and effective compensation. In either case, restitution as well as compensation shall be no less favourable than that which would be accorded under the same circumstances to an investor of the other Contracting Party or to an investor of any other State. Resulting payments shall be freely transferable without undue delay.

## ARTICLE 5

### Expropriation

(1) Investments of investors of one Contracting Party shall not be nationalized, expropriated or otherwise subjected to any other measures having an effect equivalent to nationalization or expropriation (hereinafter referred to as "expropriation") in the territory of the other Contracting Party except for public purpose and against prompt, adequate and effective compensation. The expropriation shall be carried out on a non-discriminatory basis in accordance with legal procedures.

(2) Such compensation shall amount to the fair market value of the expropriated investments immediately before expropriation was taken or before impending expropriation became public knowledge, whichever is the earlier, shall include interest at the applicable commercial rate from the date of expropriation until the date of payment and shall be made without undue delay, be effectively realizable and be freely transferable. In both expropriation and compensation, treatment no less favourable than that which the Contracting Party accords to its own investors or to investors of any third State shall be accorded.

(3) Investors of one Contracting Party affected by expropriation shall have a right to prompt review by a judicial or other competent independent authority of the other Contracting Party, of their case and of the valuation of their investments in accordance with the principles set out in this Article.

(4) Where a Contracting Party expropriates the assets of a company which is incorporated or constituted under its laws and regulations, and in which investors of the other Contracting Party participate or own shares or debentures, the provision of this Article shall be applied.

## **ARTICLE 6**

### **Transfers**

(1) Each Contracting Party shall guarantee to investors of the other Contracting Party the free transfer of their investments and returns. Such transfers shall include, in particular, though not exclusively:

- (a) net profit, capital gains, dividends, interest, royalties, fees and any other current income accruing from investments;
- (b) proceeds accruing from the sale or the total or partial liquidation of investments;
- (c) funds in repayment of loans related to investments;
- (d) earnings of nationals of the other Contracting Party who are allowed to work in connection with investments in its territory;
- (e) additional funds necessary for the maintenance or development of the existing investments;
- (f) amounts spent for the management of the investment in the territory of the other Contracting Party or a third State; and
- (g) compensation pursuant to Articles 4 and 5.

(2) All transfers under this Agreement shall be made in a freely convertible currency, without undue restriction and delay, at the market exchange rate which is effective for the current transactions or determined in accordance with the official rate of exchange in force on the date of transfers in the territory of the other Contracting Party in which the investment is made, whichever is more favourable to investors.

## **ARTICLE 7**

### **Subrogation**

If a Contracting Party or its designated agency makes a payment to its own investors under an indemnity given in respect of investments, the latter Contracting Party shall recognize:

- (a) the assignment, whether under the law or pursuant to a legal transaction in that State, of any rights or claims from investors to the former Contracting Party or its designated agency; and

- (b) that the former Contracting Party or its designated agency is entitled by virtue of subrogation to exercise the rights of and enforce the claims of those investors.

## **ARTICLE 8**

### **Settlement of Investment Disputes between a Contracting Party and an Investor of the other Contracting Party**

- (1) Any investment dispute between a Contracting Party and an investor of the other Contracting Party shall as far as possible be settled by the parties to the dispute in an amicable way.
- (2) The local remedies under the laws and regulations of one Contracting Party in the territory of which the investment has been made shall be available for investors of the other Contracting Party on the basis of treatment no less favourable than that accorded to investments of its own investors or investors of any third State, whichever is more favourable to investors.
- (3) If the dispute cannot be settled within six (6) months from the date on which the dispute has been raised by either party, it shall be submitted upon request of the investor of the Contracting Party, to the International Center for Settlement of Investment Disputes (ICSID) established by the Convention on the Settlement of Investment Disputes between States and Nationals of other States, opened for signature in Washington on March 18th, 1965. In case of arbitration, each Contracting Party, by this Agreement irrevocably consents in advance, even in the absence of an individual arbitral agreement between the Contracting Party and the investor, to submit any such dispute to the ICSID. This consent implies the renunciation of the requirement that the internal administrative or judicial remedies should be exhausted.
- (4) The award made by ICSID shall be final and binding on the parties to the dispute. Each Contracting Party shall ensure the recognition and enforcement of the award in accordance with its relevant laws and regulations.

**ARTICLE 9**  
**Settlement of Disputes between**  
**the Contracting Parties**

(1) Disputes between the Contracting Parties concerning the interpretation or application of this Agreement shall, if possible, be settled by consultation through diplomatic channels.

(2) If any dispute cannot be settled within six (6) months, it shall, at the request of either Contracting Party, be submitted to an ad hoc Arbitral Tribunal in accordance with the provisions of this Article.

(3) Such an Arbitral Tribunal shall be constituted for each individual case in the following way: Within two (2) months from the date of receipt of the request for arbitration, each Contracting Party shall appoint one member of the Tribunal. These two members shall then select a national of a third State, who on approval of the two Contracting Parties shall be appointed Chairman of the Tribunal. The Chairman shall be appointed within two (2) months from the date of appointment of the other two members.

(4) If within the periods specified in paragraph (3) of this Article the necessary appointments have not been made, a request may be made by either Contracting Party to the President of the International Court of Justice to make such appointments. If the President is a national of either Contracting Party or otherwise prevented from discharging the said function, the Vice-President shall be invited to make the appointments. If the Vice-President also is a national of either Contracting Party or prevented from discharging the said function, the member of the International Court of Justice next in seniority who is not a national of either Contracting Party shall be invited to make the appointments.

(5) The Arbitral Tribunal shall establish its own rules of procedure. The Arbitral Tribunal shall reach its decision in virtue of this Agreement and pursuant to the rules of international law. And the Arbitral Tribunal shall reach its decision by a majority of votes. Such decision shall be final and binding.

(6) Each Contracting Party shall bear the costs of its own arbitrator and its representation in the arbitral proceedings. The costs of the Chairman and the remaining costs shall be borne in equal parts by both Contracting Parties. The Arbitral Tribunal may, however, in its decision direct that a higher proportion of costs shall be borne by one of the two Contracting Parties.

#### **ARTICLE 10**

##### **Application of Other Rules**

(1) Where a matter is governed simultaneously both by this Agreement and by another international agreement to which both Contracting Parties are parties, or by general principles of international law, nothing in this Agreement shall prevent either Contracting Party or any of its investors who own investments in the territory of the other Contracting Party from taking advantage of whichever rules are the more favourable to his case.

(2) If the treatment to be accorded by one Contracting Party to investors of the other Contracting Party in accordance with its laws and regulations or other specific provisions or contracts is more favourable than that accorded by this Agreement, the more favourable treatment shall be accorded

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

#### **ARTICLE 11**

##### **Application of the Agreement**

This Agreement shall apply to all investments, whether made before or after its entry into force, but shall not apply to any dispute concerning investments which was settled before its entry into force.

#### **ARTICLE 12**

##### **Entry into Force, Duration and Termination**

(1) This Agreement shall enter into force on the date of the receipt of the latter notification through diplomatic channels by which either Contracting Party notifies the other Contracting Party that its internal legal requirements for the entry into force of this Agreement have been fulfilled.

(2) This Agreement shall remain in force for a period of fifteen(15) years and shall be extended thereafter for the indefinite period unless either Contracting Party notifies the other Contracting Party in writing one year in advance of its intention to terminate this Agreement.

(3) In respect of investments made prior to the termination of this Agreement, the provisions of Article 1 to 11 of this Agreement shall remain in force for a further period of twenty (20) years from the date of the termination.

IN WITNESS WHEREOF, the undersigned, duly authorized thereto by their respective Governments, have signed this Agreement.

DONE in duplicate at *Zagreb* on the *19<sup>th</sup>* day of *July* 2005, in the Korean, Croatian and English languages, all texts being equally authentic. In case of any divergence of interpretation, the English text shall prevail.

  
FOR THE GOVERNMENT OF  
THE REPUBLIC OF KOREA

  
FOR THE GOVERNMENT OF  
THE REPUBLIC OF CROATIA





[ KOREAN TEXT – TEXTE CORÉEN ]

**대한민국 정부와 크로아티아공화국 정부간의  
투자의 증진 및 상호보호에 관한 협정**

대한민국 정부와 크로아티아공화국 정부(이하 "계약당사자"라 한다)는,

양 계약당사자의 경제협력을 강화하기를 희망하고,

평등과 호혜의 기초 위에서 일방계약당사자의 투자자에 의한 타방계약당사자의 영역 안의 투자에 유리한 여건을 조성하기를 의도하며,

이 협정에 기초한 투자의 증진 및 보호로 투자분야에서의 기업 활동이 촉진 될 것임을 인식하여,

다음과 같이 합의하였다.

## 제 1 조 정 의

이 협정의 목적상,

1. "투자"라 함은 일방계약당사자의 투자자가 타방계약당사자의 영역 안에서 그 타방계약당사자의 법령에 따라 투자한 모든 종류의 자산을 말하며, 특히 다음 각목의 자산을 포함하나 이에 한정되지 아니한다.
  - 가. 동산·부동산, 그리고 저당권·유치권·질권·용익권 및 이와 유사한 권리와 같은 그 밖의 물권
  - 나. 지분·주식·회사채 및 그 밖의 형태의 회사 또는 기업에의 참여
  - 다. 금전청구권 또는 경제적 가치가 있는 계약상의 이행청구권
  - 라. 저작권·저작인접권·특허권·상표권·상호권·의장·영업비밀·노하우를 포함하는 지적재산권 및 영업신용
  - 마. 천연자원의 탐사·개간·추출 또는 개발을 위한 양허권을 포함하여 법률이나 계약에 의하여 부여되는 경제적 가치가 있는 사업 양허권
  - 바. 일방계약당사자의 영역 안에서 그 법령에 따라 임차계약에 의하여 임차인이 처분할 수 있는 재화

자산이 투자되거나 재투자되어 그 형태에 어떠한 변경이 있더라도 이는 투자로서의 성격에 영향을 미치지 아니한다.

2. “수익”이라 함은 투자에 의하여 발생한 금액을 말하며, 특히 이윤·이자·자본이득·배당·사용료 및 모든 종류의 수수료를 포함하나 이에 한정되지 아니한다.
3. “투자자”라 함은 타방계약당사자의 영역 안에 투자한 일방계약당사자의 자연인 또는 법인을 말한다.
  - 가. “자연인”이라 함은 일방계약당사자의 법령에 따라 그 계약당사자의 국적을 가진 자연인을 말한다.
  - 나. “법인”이라 함은 일방계약당사자의 법령에 따라 설립되거나 조직된 회사·공공기관·정부기관·재단·조합·상사·단체·기관·기업 또는 협회와 같은 법적 실체를 말한다.
4. “영역”이라 함은 각각 대한민국의 영토와 크로아티아공화국의 영토 및 그 국가가 국제법과 그 각각의 법령에 따라 천연자원을 탐사·개발할 목적으로 주권적 권리 및/또는 관할권을 행사하는 영해의 외측한계선에 인접한 해저 및 하층토를 포함하는 수역을 말한다.
5. “자유태환성통화”라 함은 국제거래를 위한 지불에 광범위하게 사용되며 주요 국제외환시장에서 광범위하게 교환되는 통화를 말한다.

## 제 2 조

### 투자의 증진과 보호

1. 각 계약당사자는 타방계약당사자의 투자자가 자국의 영역 안에서 투자를 하는 데 유리한 여건을 장려하고 조성하며, 자국의 법령에 따라 그러한 투자를 허용한다.
2. 각 계약당사자의 투자자가 행한 투자는 언제든지 공정하고 공평한 대우를 부여받으며, 국제법 및 이 협정의 규정에 따라 타방계약당사자의 영역 안에서 완전한 보호와 안전을 향유한다.
3. 어느 일방계약당사자도 타방계약당사자의 투자자가 자국의 영역 안에서 행한 투자의 운용·관리·유지·사용·향유 또는 처분을 불합리하거나 차별적 조치에 의하여 어떠한 방식으로도 저해하지 아니한다.

4. 각 계약당사자는 자연인의 입국·체류<sup>7)</sup>근로에 영향을 미치는 자국의 법령 및 절차에 따를 것을 조건으로 그리고 그 국적에 관계없이 타방계약당사자의 투자자의 투자를 목적으로 고용된 최고경영자 및 기술인력을 포함한 핵심인력의 입국·체류 및 근로를 허용한다. 그러한 핵심인력의 직계가족(배우자 및 미성년 자녀)은 또한 투자를 유치하는 계약당사자의 영역으로의 입국 및 그 영역 안에서 일시적 체류에 관하여 이와 유사한 대우를 부여받는다.

### 제 3 조 투자의 대우

1. 각 계약당사자는 자국의 영역 안에서 타방계약당사자의 투자자의 투자 및 수익에 대하여 공정하고 공평하며, 자국의 투자자의 투자 및 수익 또는 제3국의 투자자의 투자 및 수익에 대하여 부여하는 대우 중 보다 유리한 것보다 불리하지 아니한 대우를 부여한다.

2. 각 계약당사자는 자국의 영역 안에서 타방계약당사자의 투자자에게 그들 투자의 관리·유지·사용·향유 또는 처분과 관련하여 공정하고 공평하며, 자국의 투자자 또는 제3국의 투자자에게 부여하는 대우 중 보다 유리한 것보다 불리하지 아니한 대우를 부여한다.

3. 제1항 및 제2항의 규정은 일방계약당사자가 다음 각목에 의한 대우·특혜 또는 특권의 이익을 타방계약당사자의 투자자에게까지 확대하는 의무를 부여하는 것으로 해석되지 아니한다.

가. 일방계약당사자가 당사자이거나 당사자가 될 수 있는 기존의 또는 미래의 관세동맹이나 경제동맹, 공동시장, 자유무역지대 또는 이와 유사한 국제협정

나. 전적으로 또는 부분적으로 파세와 관련된 국제협정 또는 약정

### 제 4 조 손실보상

1. 일방계약당사자의 투자자는, 자신이 행한 투자가 타방계약당사자의 영역 안에서 전쟁이나 그 밖의 무력충돌·국가비상사태·폭동·반란·소요 또는 그

밖의 이와 유사한 사태로 인하여 손실을 입은 경우, 그 손실에 대한 원상회복·배상·보상 또는 그 밖의 형태의 해결에 관하여 그 타방채약당사자가 자국의 투자자 또는 제3국의 투자자에 대하여 부여하는 것보다 불리하지 아니한 대우를 타방채약당사자로부터 부여받는다. 이에 따른 지급금은 부당한 지체 없이 자유로이 송금될 수 있다.

2. 제1항을 저해함이 없이, 일방채약당사자의 투자자는 제1항에 언급된 사태에서 다음 각목의 사항으로부터 발생하는 손실을 타방채약당사자의 영역 안에서 입은 경우, 그 투자자는 신속한 원상회복 그리고 적용가능한 경우 신속·충분·유효한 보상을 부여받는다. 각각의 경우에 있어서 보상뿐만 아니라 원상회복은 동일한 상황 하에서 타방채약당사자의 투자자 또는 제3국의 투자자에게 부여되는 대우보다 불리하지 아니하여야 한다. 이에 따른 지급금은 부당한 지체 없이 자유로이 송금될 수 있다.

- 가. 타방채약당사자의 군대 또는 당국에 의한 투자자 재산의 징발, 또는
- 나. 전투행위에 기인하지 아니하거나 그 사태의 필요성에 의하여 요구되지 아니하였던 것으로서 타방채약당사자의 군대 또는 당국에 의한 투자자 재산의 파괴

## 제 5 조 수 용

1. 일방채약당사자의 투자자의 투자는 공공의 목적을 위하고, 신속·충분·유효한 보상을 하는 경우를 제외하고는 타방채약당사자의 영역 안에서 국유화되거나, 수용당하거나 또는 국유화 또는 수용에 상응하는 효과를 가지는 그 밖의 다른 조치(이하 “수용”이라 한다)를 당하지 아니한다. 수용은 비차별적 기초 위에서 적절한 절차에 따라 이루어진다.

2. 그러한 보상은 수용이 이루어지기 직전 또는 수용이 임박하였음이 공공연하게 알려지기 직전 중 보다 이른 시기의 수용된 투자의 공정한 시장가치에 상당하고, 수용일부터 지급일까지의 적용가능한 상업 이자율에 의한 이자를 포함하며, 그리고 부당한 지체 없이 지급되고 유효하게 실시되며 자유롭게 송금될 수 있어야 한다. 수용 및 보상 모두에 있어서 그 채약당사자가 자국의 투자자 또는 제3국의 투자자에게 부여하는 것보다 불리하지 아니한 대우가 부여된다.

3. 수용에 의하여 영향을 받은 일방계약당사자의 투자자는 이 조에 규정된 원칙에 따라 자신의 사안 및 자신의 투자가치 산정에 대하여 타방계약당사자의 사법당국 또는 그 밖의 독립된 당국에 의한 신속한 심사를 받을 권리를 가진다.

4. 일방계약당사자가 자국의 법령에 의하여 조직되거나 설립된 회사로서 타방계약당사자의 투자자가 참여하거나 지분·회사채를 소유한 회사의 자산을 수용한 경우, 이 조의 규정이 적용된다.

## 제 6 조

### 송 금

1. 각 계약당사자는 타방계약당사자의 투자자에게 투자 및 수익의 자유로운 송금을 보장한다. 그러한 송금은 특히 다음 각목의 사항을 포함하나 이에 한정되지 아니한다.

가. 투자로부터 발생하는 순수익·자본이득·배당금·이자·사용료·수수료 및 그 밖의 경상소득

나. 투자의 매각 또는 전면적·부분적 청산으로부터 발생하는 수익금

다. 투자와 관련된 대여금의 상환자금

라. 각 계약당사자의 영역 안에서 투자와 관련하여 근로가 허용된 타방 계약당사자의 국민의 소득

마. 기존 투자의 유지 또는 개발을 위하여 필요한 추가자금

바. 타방계약당사자 또는 제3국의 영역 안에서 투자의 관리를 위하여 사용되는 금액

사. 제4조 및 제5조의 규정에 의한 보상금

2. 이 협정에 따른 모든 송금은 자유태환성통화로 부당한 제한이나 지체 없이, 투자가 이루어진 타방계약당사자의 영역 안에서 송금일에 경상거래를 위하여 유효한 시장환율 또는 유효한 공식환율에 따라 결정된 시장환율 중 투자자에게 보다 유리한 시장환율에 따라 이루어진다.

## 제 7 조

### 대위변제

일방계약당사자 또는 그 지정기관이 투자와 관련하여 부여된 보증에 따라 자국의 투자자에게 변제한 경우, 타방계약당사자는 다음 각목의 사항을 승인한다.

- 가. 투자자의 권리 또는 청구권을 법률 또는 합법적 거래에 따라 그 일방계약당사자나 그 지정기관에 양도하는 것, 그리고
- 나. 그 일방계약당사자 또는 그 지정기관이 대위변제에 의하여 그 투자자의 권리를 행사하고 청구권을 주장할 자격을 가지는 것

## 제 8 조

### 일방계약당사자와 타방계약당사자의 투자자간의 투자분쟁해결

1. 일방계약당사자와 타방계약당사자의 투자자간의 투자분쟁은 가능한 한 분쟁당사자간에 우호적인 방법으로 해결한다.

2. 투자가 행하여진 영역 안에서의 일방계약당사자의 법령에 따른 국내구제는 자국의 투자자 또는 제3국의 투자자의 투자에 대하여 부여되는 대우 중 투자자에게 보다 유리한 것보다 불리하지 아니한 대우의 기초 위에서 타방계약당사자의 투자자에게 이용가능하여야 한다.

3. 일방 분쟁당사자에 의하여 청구가 제기된 날부터 6월 이내에 분쟁이 해결되지 못하는 경우, 이 분쟁은 일방계약당사자의 투자자의 요청에 의하여 1965년 3월 18일에 워싱턴에서 서명을 위하여 개방된 국가와 타방국가 국민간의 투자분쟁의 해결에 관한 협약에 의하여 설립된 국제투자분쟁해결본부에 회부된다. 중재의 경우, 투자자와 계약당사자간의 개별적인 중재합의가 없을지라도 각 계약당사자는 이 협정에 따라 그러한 분쟁을 국제투자분쟁해결본부에 회부하는데 최종적으로 미리 합의한다. 그러한 동의는 국내의 행정적 또는 사법적 구제조치가 완료되어야 한다는 요건의 포기를 의미한다.

4. 국제투자분쟁해결본부가 행한 판정은 분쟁당사자에게 최종적이며 구속력을 가진다. 각 계약당사자는 자국의 관계법령에 따라 판정의 승인 및 집행을 보장한다.

## 제 9 조

### 계약당사자간 분쟁의 해결

1. 이 협정의 해석 또는 적용에 관한 계약당사자간의 분쟁은 가능한 한 외교정도를 통한 협의에 의하여 해결된다.

2. 분쟁이 6월 이내에 해결되지 못하는 경우, 그 분쟁은 일방계약당사자의 요청에 의하여 이 조의 규정에 따라 임시중재판정부에 회부된다.

3. 이러한 중재판정부는 다음의 방법으로 사안별로 구성된다. 각 계약당사자는 중재판정을 위한 요청의 접수일로부터 2월 이내에 1인의 중재인을 임명한다. 이러한 2인의 중재인은 제3국의 국민인 1인을 선정하고, 동인은 양 계약당사자의 동의를 얻어 중재판정부의 장으로 임명된다. 중재판정부의 장은 다른 2인의 중재인의 임명일로부터 2월 이내에 임명된다.

4. 제3항에 명시된 기간 내에 필요한 임명이 이루어지지 아니한 경우, 일방 계약당사자는 국제사법재판소 소장에게 그러한 임명을 요청할 수 있다. 국제사법재판소 소장이 일방계약당사자의 국민이거나 달리 위의 임무를 수행할 수 없을 경우에는 국제사법재판소 부소장에게 그러한 임명을 요청한다. 국제사법재판소 부소장도 일방계약당사자의 국민이거나 위의 임무를 수행할 수 없는 경우에는 일방계약당사자의 국민이 아닌 자로서 국제사법재판소의 그 다음 서열의 재판관에게 그러한 임명을 요청한다.

5. 중재판정부는 그 자체의 절차를 결정한다. 중재판정부는 이 협정에 의하여 국제법의 원칙에 따라 결정을 내린다. 중재판정부는 다수결에 의하여 결정을 내린다. 그러한 결정은 최종적이고 구속력을 가진다.

6. 각 계약당사자는 자국의 중재인에 대한 비용과 중재절차에서 자국을 대리하는 데 대한 비용을 부담한다. 중재판정부의 장에 대한 비용 및 그 밖의 비용은 양 계약당사자가 균등하게 부담한다. 다만, 중재판정부는 결정으로써 양 계약당사자 중 일방이 보다 높은 비율의 비용을 부담하도록 명할 수 있다.



## 제 10 조

### 다른 규칙의 적용

1. 어떤 사안이 이 협정과 양 체약당사자가 모두 당사자인 다른 국제협정이나 국제법의 일반원칙에 의하여 동시에 규율되는 경우, 이 협정의 어떠한 규정도 일방체약당사자 또는 타방체약당사자의 영역 안에서 투자를 소유하는 일방체약당사자의 투자자가 자신의 사안에 있어서 보다 유리한 규칙을 원용하는 것을 저해하지 아니한다.

2. 일방체약당사자가 타방체약당사자의 투자자에게 자국의 법령에 따라 또는 그 밖의 특정한 규정이나 계약에 의하여 부여하는 대우가 이 협정에 의하여 부여되는 대우보다 더 유리한 경우에는, 그 유리한 대우가 부여된다.

3. 일방체약당사자는 타방체약당사자의 투자자가 자국의 영역 안에서 행한 투자와 관련하여 부담하게 되는 그 밖의 다른 의무를 준수한다.

## 제 11 조

### 협정의 적용

이 협정은 이 협정이 발효되기 전이나 그 후에 이루어진 모든 투자에 대하여 적용된다. 그러나, 이 협정이 발효되기 전에 해결된 투자분쟁에는 적용되지 아니한다.

## 제 12 조

### 발효 · 유효기간 및 종료

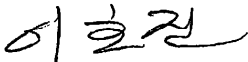
1. 이 협정은 일방체약당사자가 타방체약당사자에게 이 협정의 발효를 위한 모든 국내법적 요건이 충족되었음을 외교경로를 통하여 통지하는 나중의 통지가 접수되는 날짜에 발효한다.

2. 이 협정은 15년의 기간 동안 유효하며, 그 이후에는 일방체약당사자가 타방체약당사자에게 이 협정의 종료의사를 1년 전에 서면으로 통지하지 아니하는 한 무기한 연장된다.

3. 이 협정의 제1조 내지 제11조의 규정은 이 협정이 종료되기 전에 행하여진 투자에 대하여 이 협정의 종료일부터 20년의 기간 동안 더 유효하다.

이상의 증거로, 아래 서명자는 그들 각자의 정부로부터 정당하게 권한을 위임받아 이 협정에 서명하였다.

2005년 7월 19일 자 2레브 에서 동등하게 정본인 한국어·크로아티아어 및 영어로 각 2부씩 작성하였다. 해석상의 차이가 있을 경우에는 영어본이 우선한다.



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