AGREEMENT BETWEEN THE GOVERNMENT OF THE REPUBLIC OF KOREA AND THE GOVERNMENT OF THE ISLAMIC REPUBLIC OF PAKISTAN FOR THE PROMOTION AND PROTECTION OF INVESTMENTS

Signed at Seoul May 25, 1988

Entered into force April 15, 1990

The Government of the Republic of Korea and the Government of the Islamic Republic of Pakistan,

Desiring to create favourable conditions for greater investment by nationals and companies of one State in the territory of the other State;

Recognising that the encouragement and reciprocal protection under international agreement of such investments will be conductive to the stimulation of individual business initiative and will increase prosperity in both States;

Have agreed as follows:

Article 1.

For the purpose of this Agreement;

(1) The term "nationals" shall mean;

(a) In relation to the Republic of Korea, physical persons who are deemed to be nationals of the Republic of Korea in accordance with its laws;

(b) In relation to the Islamic Republic of Pakistan, physical person who are deemed to be nationals of the Islamic Republic of Pakistan, in accordance with its laws.

(2) The term "companies" shall mean:

(a) In relation to the Republic of Korea, juridical persons or companies or associations, whether or not for pecuniary profits, incorporated in the territory of the Republic of Korea and existing in accordance with its law;

(b) In relation to the Islamic Republic of pakistan, corporations, firms or associations incorporated or constituted under the law in force.

(3) The term "investment" shall mean every kind of asset, including, in particular, but not exclusively:

(a) Movable and immovable property and any other property rights such as mortgages, liens or pledges;

(b) Shares, stock and debentures of companies wherever incorporated or interests in the property of such companies;

(c) Claims to money or to any performance under contract having a financial value;

(d) Intellectual property rights;

(e) Business concessions conferred by law or under contract, including concluding concessions to search for, cultivate, extract or exploit natural resources;

(4) The term "returns" shall mean the amounts yielded by an investment and, in particular, though not exclusively, shall include profit, interest, capital gains, dividends, royalties or fees.

(5) The term "territory" shall mean;

(a) In respect of the Republic of Korea, the territory over which the Republic of Korea has sovereignty or jurisdiction.

(b) In respect of the Islamic Republic of Pakistan, the territories as defined in Article 1 (2) of the Constitution of the Islamic Republic of Pakistan.Article 1 (2) of the Constitution of the Islamic Republic of Pakistan.

Article 2.

(1) The benefits of this Agreement shall apply only in cases where the investment of capital by the nationals and companies of one Contracting Party in the territory of the other Contracting Party has been specifically approved in writing by the competent authority of the latter Contracting Party.

(2) Nationals and companies of either Contracting Party shall be free to apply for such approval in respect of any investment of capital whether made before or after the entry into force of this Agreement, subject to the conditions that such position shall be restricted to the limits or other prohibitions in force in the territories of either Contracting Party in accordance with the laws in force.

Article 3.

(1) Each Contracting Party shall, having regard to its plans and policies, encourage and policies, encourage and facilitate the investment of capital in its territory by the nationals and companies of the other Contracting Party.

(2) Investments of nationals or companies of one Contracting Party in the territory of the other Contracting Party shall enjoy full protection and security under the laws of the latter Contracting Party.

Article 4.

(1)

(a) Investments of nationals or companies of one Contracting Party in the territory of the other Contrsacting Party, as also the returns therefrom, shall receive treatment which is fair and equitable and not less favourable than that accorded in respect of the investments and returns of the nationals and companies of the latter Contracting Party or of any third State.

(b) Each Contracting Party shall in its territory accord to nationals or companies of the other Contracting Party as regards the management, use, enjoyment or disposal of their investment, treatment which is fair and equitable and not less favourable than that which it accords to its own nationals and companies or to the nationals and companies or any third State.

(2) Each Contracting Party shall observe any obligation, additional to those specified in this Agreement, into which it may have entered with regard to investments of nationals or companies of the other Contracting Party.

Article 5.

(1) Investments of nationals or companies of either Contracting Party shall not be nationalised, expropriated or subjected to measures having effect equivalent to nationalisation or expropriation (hereinafter referred to as "expropriation") in the territory of the other Contracting Party except for a public purpose related to the needs of that Party and against prompt, adequate and effective compensation. Such compensation shall amount to the market value of the investment expropriated immediately before expropriation or impending expropriation became public knowledge, and shall be made without delay, be effectively realizable, and be freely transferable. Compensation will be in accordance with the laws of the host country regulating such compensation.

(2) Where a Contracting Party expropriates assets of a company which is incorporated or constituted under the law in force in any part of its territory, and in which a national or company of the other Contracting Party owns shares, it shall ensure that the provisions of paragraph (1) of this Article are applied to the extent necessary to guarantee, without undue delay, adequate and fair compensation as specified therein to such national or company of the other Contracting Party who is the owner of those shares.paragraph (1) of this Article are applied to the extent necessary to guarantee, without undue delay, adequate and fair compensation as specified therein to such national or company of the other Contracting Party who is the owner of those shares.

(3) Where investments of a national or company of one Contracting Party in the territory of the other Contracting Party suffer loss owing to war or other armed conflict, revolution, a state of national emergency, revolt, insurrection or riot in the territory of the other Contracting Party, the national or company concerned shall be accorded treatment, as regards restitution, indemnification, compensation or other settlement, not less favourble than would be accorded in the same

circumstances to a national or company of the other Contracting Party or to a national or company of any third State.

Article 6.

Each Contracting Party guarantees in connection with the investments of capital of the investors of the other Contracting Party the free transfer or capital, profits derived from and, in case of liquidation or alienation, of the proceeds of the liquidation or alienation after due fulfillment of legal provisions in force in the country in the territory of which the investment is made, as well as of other obligations derived from the documents of approval of the said investment.

Article 7.

(1) If either Contracting Party or n agency designated by it makes payment to a national or company under a policy of insurance covering non-commercial risks, which it has given in respect of any investment of capital or any part thereof in the territory of the other Contracting Party, the latter Contracting Party shall recognise;

(a) The assignment, whether under law or pursuant to a legal transaction, of any right or claim from such a national or company 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 and enforce the claims of such a national or company.

(2) The former Contracting party or its designated agency shall, accordingly, be entitled to assert, if it so desires, any such right or claim to the same extent as its predecessor in title.

(3) If the former Contracting Party acquires amounts in the lawful currency under subparagraph (a) of paragraph (1) of this Article, such amounts and credits shall be freely available to the former Contracting Party for the purpose of meeting its expenditure in the territory of the latter Contracting Party.subparagraph (a) of paragraph (1) of this Article, such amounts and credits shall be freely available to the former Contracting Party for the purpose of meeting its expenditure in the territory of the latter Contracting Party.

Article 8.

The provisions in this Agreement relative to the grant of treatment not less favourable than that accorded to the nationals or companies of either Contracting Party or of any third State shall not be construed so as to oblige one Contracting Party to extend to the nationals or companies 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) The formation or extension of a customs union or a free trade area or a common external tariff area or a monetary union; or any other regional or multilateral area or union;

(b) The adoption of an agreement designed to lead to the formation or extension of such a union or area within a reasonable length of time; or

(c) Any international agreement or arrangement, or any domestic legislation, relating wholly or mainly to taxation.

Article 9.

(1) All the provisions of this Agreement relative to the grant of treatment not less favourable than that accorded in the nationals or companies of any third State shall be interpreted as meaning that such treatment shall be accorded immediately and unconditionally.

(2) Wherever this Agreement makes alternative provisions for the grant of national treatment or of treatment not less favourable than that accorded to the nationals or companies of any third State in respect of any matter, the option as between these alternatives shall est with the Contracting Party beneficiary in each particular case.

Article 10.

The provisions of this agreement are subject to the laws and regulations of each Contracting Party in regard to foreign investment and to any distinction that these laws and regulations provide between the local investors of one Contracting Party and the investors of the other Contracting Party having investments in the territory of the former Contracting Party.

Article 11.

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

(2) If dispute between the Contracting Parties cannot thus be settled within 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 as follows:

(a) Each Contracting Party shall appoint one member, and these two members shall then select a national of a third State who on approval by the two Contracting Parties shall be appointed Chairman of the tribunal.

(b) The said member shall be appointed within three months, and the Chairman within four months, from the date on which either Contracting Party shall have informed the other Contracting Party that it proposes to submit the dispute to an arbitral tribunal.

(4) If, within the periods specified in paragraph (3) of this Article, the necessary appointments have not been made, either Contracting Party may, in the absence of any other relevant agreement, invite the President of the International Court of Justice to make the necessary appointments. If the President is a national or either Contracting party or if he is otherwise prevented from discharging the said function, the Vice-President shall be invited to make the necessary appointments.paragraph (3) of this Article, the necessary appointments have not been made, either Contracting Party may, in the absence of any other relevant agreement, invite the President of the International Court of Justice to make the necessary appointments. If the President is a national or either Contracting party or if he is otherwise prevented from discharging the said function, the Vice-President shall be invited to make the necessary appointments.

(5)

(a) The arbitral tribunal shall reach its decision by a majority of votes. Such decision shall be binding on both Contracting Parties.

(b) Subject to the power of the arbitral tribunal to give a different ruling concerning cost, the cost of its own member and of its representation in the arbitral proceedings shall be borne by each Contracting Party and the cost of the Chairman and the remaining cost shall be borne in equal parts by the two Contracting Parties.

(c) In all respects other than those specified in subparagraphs (a) and (b) of this paragraph, the tribunal shall determine its own procedure.subparagraphs (a) and (b) of this paragraph, the tribunal shall determine its own procedure.

Article 12.

This Agreement shall be subject to ratification and the instruments of ratification shall be exchanged as soon as possible.

The Agreement shall come into force thirty days after the date of the exchange of instruments of ratification and shall remain in force for an initial period of ten years.

It shall thereafter continue in force indefinitely subject to the right of either Contracting Party to terminate it by twelve months prior notice in writing to the other Contracting Party, which may be given at any time after the expiry of the ninth year.

However, with respect to an investment of capital approved while the Agreement is in force, its provisions shall continue to have effect for a period of ten years from the date of termination, or for any such longer period as may be specified at the time of the approval of the investment, without prejudice to the application of the rules of general international law after the termination of the Agreement or the expiry of such longer period, as the case may be.

Done in duplicate at Seoul this 25th day of May 1988 in the English language.

FOR THE GOVERNMENT OF THE REPUBLIC OF KOREA

FOR THE GOVERNMENT OF THE ISLAMIC REPUBLIC OF PAKISTAN