AGREEMENT ON THE PROMOTION AND PROTECTION OF INVESTMENTS BETWEEN THE GOVERNMENT OF THE ARAB REPUBLIC OF EGYPT AND THE GOVERNMENT OF THE DEMOCRATIC PEOPLE'S REPUBLIC OF KOREA

The Government of the Arab Republic of Egypt and the Government of the Democratic people's Republic of Korea (hereinafter referred to as the "Contracting Parties"),

Desiring to create favorable conditions for greater economic cooperation between them, in principle of independence, equality and mutual reciprocity, and in particular for investments by investors of one Contracting Party in the territory of tiie other Contracting Party;

Recognizing that the encouragement and reciprocal protection of such investments will be conductive to the stimulation of business initiative and will increase prosperity in both Contracting Parties,

Have agreed as follows:

Article 1. Definitions

For the purposes of ibis agreement:

(1) The term "investment" means every kind of asset invested by an investor of one Contracting Party in the territory of the other Contracting Party in accordance with the laws and regulations of that Party.

Without restricting the generality of the foregoing, the term "investment" shall include, in particular, though not exclusive:

(a) Movable and immovable property as well as any other related property rights such as mortgages, liens, pledges, usufruct and similar rights;

(b) Shares, stocks and debentures of companies and any other forms of participation in a company or any business enterprise;

(c) Claims to money or to any performance having an economic value associated with an investment;

(d) Intellectual property rights including copyrights, trademarks, patents, industrial designs, technical processes, know-how, trade secrets, trade names and good will;

(e) Any rights conferred by laws or under contracts, relating to an investment and any licenses and permits to the laws, including the concessions to search forecultivate, extract, and exploit natural resources;

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

(2) The term "investor" means any natural or juridical person, who invests in the territory of the other Contracting Party:

(a) A "natural person" means with respect fo either Contracting Party a natural person having the nationality of that Party in accordance with its laws; and

(b) A "juridical person" means with respect fo either Contracting Parly, any entity established in accordance with, and recognized as a juridical person by its laws such as public institutions, corporations, foundations, private companies, firms, establishments and organizations.

(3) The term "returns" means any amount yielded by an investment and in particular, though not exclusive, includes, profits, dividends, interests, shares, capital gains, royalties, current income, technical assistance fee and/or other fees.

(4) The term "territory" means the territory of the Arab Republic of Egypt or the territory of the Democratic People's Republic of Korea 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, sovereign rights or jurisdiction for (lie purpose of exploration and exploitation of the natural resources of such areas.

(3) The term "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 favorable conditions for investors of the other Contracting Party to invest in its territory and, shall admit such investments in accordance with its laws and regulations.

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

Article 3. Investment Treatment

(1) Investments of investors of one Contracting Party in the territory of the other Contracting Party and also the returns there from shall receive treatment which is fair and equitable and not less favorable than that accorded in respect of the investments of its own investors or those of any third state.

(2) Each Contracting Party shall in its territory accord, to investors of the other Contracting Party as regards the management, maintenance, use, enjoyment or disposal of their investments, treatment which is fair and equitable and not less favorable than that which it accords to its own investors or to investors of any third country.

(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 investors of the other Contracting Party file benefit of any treatment, preference or privilege which may be extended by tiie former Contracting Party by virtue of:

(a) Any existing or future customs union or free trade area, a common external tariff area, a common market, a monetary union or similar international agreements or other forms of regional cooperation to which either Contracting Party is or may become a party; or

(b) Any existing or future conventions or oilier international arrangements relating wholly or mainly to taxation.

Article 4. Compensation for Losses

(1) Investors of one Contracting Party whose investments in the territory of the other Contracting Party suffer losses owing to war, armed conflicts, revolution, a state of national emergency, revolt, insurrection, riot or other similar events in the territory of the latter Contracting Party shall be accorded by the latter Contracting Party, as regards to restitution indemnification, compensation or other settlements, treatment -which is not less favorable than that which tiie latter Contracting Party grants to its own investors or to investors of any third state. Any payments under this article shall be prompt, adequate, effective ami freely transferable.

(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 damage or loss 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 he accorded just and adequate compensation for the damage or loss sustained during the period of the requisitioning or as a result of the destruction of the properly. Resulting payments shall be freely transferable and without undue delay.

Article 5. Nationalization and Expropriation

(1) Investments of investors of either Contracting Party shall not be nationalized, expropriated or otherwise subjected to any other similar measures having an effect equivalent to nationalization or expropriation (hereinafter referred to as

"expropriation" in the territory of the other Contracting Party except for reasons of public interest under due process of iaiv, on a non-discriminatory basis, and provided that it is accompanied by prompt, adequate and effective compensation.

(2) Siicli compensation shall amount to (lie market value of Ike investment expropriated immediately before expropriation ivas taken or before impending expropriation became public knowledge, which ever is the earlier, shall include interest at the applicable commercial interest rate, and shall be made without undue delay, be effectively realizable and be freely transferable.

(3) The investor of the Contracting Party shall have a right to prompt a review by a judicial or other independent authority of the other Contracting Party, of his or its case and of the valuation of his or its investments in accordance with the principles set out in this Article;

(4) Where one Contracting Party expropriates the assets of a company which is incorporated or constitutes under its laws and regulations, and in which investors of the other Contracting IJarty own shares or other,forms of participation, the provisions of this Article shall be applied.

Article 6. Transfers

(1) With regard to the investments made in its territory, each Contracting Party shall grant to investors of the other Contracting Party (he right to freely transfer payments related to their investments and returns. Sucli transfers shall include in particular though not exclusive the following:

(a) Investment returns, ns defined in Article 1;

(b) Compensation and other indemnities pursuant to Article (4) and (5);

(c) Proceeds accruing from the sale or liquidation, in full or partial of an investment;

(d) Funds in repayment of loans related to investments;

(e) Additional funds necessary for the maintenance or development of an existing investment;

(f) Amounts spent for the management of an investment in the territory of the other Contracting Party;.

(g) Earnings of nationals of the other Contracting Party who are allowed to work in connection with investments in its territory.

(2) The transfers shall be made in a freely convertible currency, without undue delay at the exchange rate which is effective for the current transaction or nt the official rate of exchange in force on the date of transfers.

Article 7. Subrogation

If a Contracting Party or its designated agency makes a payment to its own investors under a guarantee against non-commercial risks it has accorded in respect of investments in the territory of the other Contracting Party, the latter Contracting Party' shall recognize:

(a) The assignment, whether under the law or pursuant to a legal transaction in that country, of any rights or claims from the investor 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 such claims of that investor and shall assume the obligation related to the investment.

Article 8. Settlement of Investment Disputes between a Contracting Party and an Investor of the other Contracting Party

(1) Any dispute between a Contracting Party and the investor of the other Contracting Party shall be notified in writing including a detailed information by the investor to the host Contracting party of the investment, and shall, as far as possible, be settled by the parties to the dispute amicably.

(2) The local remedies under the laws and regulations of one Contracting Party in the territory of which the investment lias been made shall be available for the investor of the other Contracting Party on the basis of treatment not less favorable than that accorded to investments of its own investors or investors of any third stale.

(3) If the dispute cannot be settled in this way within six months from the date of the written notification mentioned in paragraph (1), it may be submitted upon request of the investor (his choice will be final) either fo:

(a) The International Center for the Settlement of Investment Disputes (ICSID) created by the convention oh the settlement of investment disputes between States and Nationals of the other States opened for signature in Washington D.C. on 18th March 1965, (This can be applied only in case that both contracting parties are the states which have signed the above convention).

(b) Ad-hoc arbitral tribunal established under the arbitration rules of procedures of the United Nations Commission for International Trade Law.

(4) The arbitration decision shall be final and binding for the parties in the dispute. Each Contracting Party shall execute them in accordance with its laws.

Article 9. Settlement of Disputes between the Contracting Parties

(1) Disputes between the Contracting Parties concerning the interpretation or application of the agreement shall - if possible-be settled through negotiations between the governments of the Contracting Parties.

(2) If the dispute cannot thus be settled within six months, from the start of the negotiations, it shall upon the request of either Contracting Parties be submitted to an Arbitral Tribunal in accordance with the provisions of this article.

(3) The Arbitral Tribunal shall be constituted for each individual case in the following way: Within two months of the 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 (wo Contracting Parties shall be appointed Chairman of the Tribunal. The Chairman shall be appointed within three 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 Parties to the president of the International Court of Justice to make such appointments, if he happens to be a national of either Contracting Parties or he is otherwise prevented from discharging the said function, the vice-president shall be invited to make the appointments. If the vicepresident also happens to be a national of either Contracting Party or prevented from discharging the said function, the member of the International Court of Justice next in the seniority who is not a national of either Contracting Parties shall be invited to make the appointments.

(5) The Arbitral Tribunal shall determine its own procedure and shall reach its decision by a majority of votes. Such decision shall be final and binding on both Contracting Parties. Each Contracting Party shall bear the cost of its own arbitrator and its Counsel in the arbitral proceedings; the cost of the Chairman and (he remaining costs shall be borne in equal parts by both Contracting Parties.

Article 10. Application of other Rules

(1) Where a matter is governed simultaneously 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 (lie more favorable to his case.

(2) If the treatment to he 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 favorable than that accorded by this Agreement, the more favorable treatment shall be accorded.

Article 11. Application of the Agreement

(1) The Agreement shall apply to all investments, whether made before and remaining or after its entry into force.

(2) This Agreement shall not apply to disputes existing before its entry into force.

Article 12. Entry Into Force

This agreement siiail enter into force on the date of exchanging the written notification by both Contracting Parties indicating that their respective internal legai procedures have been fulfilled.

Article 13. Duration and Termination

(1) This agreement shall remain in force for a period of ten years and shall continue in force thereafter for another similar period, or periods unless one of the Contracting Parties notifies the other Party in writing of his intention to terminate the agreement, at least twelve months prior to the expiration of that period.

(2) With respect to investments made prior to the date of termination of this Agreement, the provisions of this agreement shall remain effective in force for a further period of ten years from the date of termination.

(3) In witness whereof the undersigned, duly authorized thereto by their respective governments, have signed this agreement.

Done in duplicate at Cairo on 19th, August, 1997 in the Arabic, English and Korean languages, ail texts being equally authentic, in case of divergence of interpretation, the English text shall prevail.

FOR THE GOVERNMENT OF THE ARAB REPUBLIC OF EGYPT

ZAFER SELIEM EL BESHRY

MINISTER OF STATE FOR PLANING AND INTERNATIONAL COOPERATION

FOR THE GOVERNMENT OF THE DEMOCRATIC PEOPLE'S REPUBLIC OF KOREA

JANG SUNG GIL

AMBASSADOR EXTRAORDINARY PLENIPOTENTIARY OF THE DEMOCRATIC PEOPLE'S REPUBLIC OF KOREA IN THE ARAB REPUBLIC OF EGYPT