

**AGREEMENT ON SOCIAL SECURITY BETWEEN
THE REPUBLIC OF KOREA AND
THE REPUBLIC OF HUNGARY**

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

Being desirous of regulating the relationship between their two countries in the field of social security,

Have agreed as follows:

Part I

General Provisions

Article 1

Definitions

1. For the purposes of Agreement;
 - (a) "national" means,
 - (i) as regards the Republic of Korea (hereinafter referred to as "Korea"), a national of Korea as defined in the Nationality Law, as amended;
 - (ii) as regards the Republic of Hungary (hereinafter referred to as "Hungary"), a natural person who is considered a national of Hungary in accordance with the applicable legislation;
 - (b) "legislation" means laws and regulations relating to the schemes and systems of social security specified in Article 2 of this Agreement;
 - (c) "competent authority" means the ministers, ministries or other relevant authorities responsible for social security schemes and systems regulated by the legislation specified in Article 2;
 - (d) "institution" means the institution or the authority responsible for the implementation of the legislation specified in Article 2 of this Agreement;
 - (e) "period of coverage" means any period of contributions that has been recognized and completed under the legislation of a Contracting Party, as well as any period recognized as equivalent to a period of contribution under that

legislation;

- (f) "benefit" means any cash benefit provided for in the legislation specified in Article 2 of this Agreement;
- (g) "residence" means the place where the person concerned habitually resides in accordance with the applicable regulations of either Contracting Party;
- (h) "stay" means that the person concerned takes up temporary short-term residence, the duration of which is usually related to the attainment of the objective of stay defined in advance.

2. Any term not defined in this Article shall have the meaning assigned to it in the applicable legislation.

Article 2

Material Scope

1. This Agreement shall apply to the following legislation:

- (a) as regards Korea,
 - (i) the National Pension Act; and
 - (ii) with regard to Part II only, the Employment Insurance Act;
- (b) as regards Hungary,
 - (i) the legislation concerning the payment of social insurance contributions;
 - (ii) the legislation concerning social insurance pensions; and
 - (iii) with regard to Part II only, the provisions of the act on fostering employment and unemployment benefit in respect to payment obligations related to unemployment benefits.

2. Unless otherwise provided in this Agreement, the legislation specified in paragraph 1 of this Article shall not include treaties or other international agreements on social security that may be concluded between one Contracting Party and a third country, or legislation promulgated for their specific implementation.

3. This Agreement shall also apply to future legislation which amends, supplements, consolidates or supersedes the legislation specified in paragraph 1 of this Article.

4. This Agreement shall also apply to the legislation which extends the scope of the existing legislation of one Contracting Party to new categories of beneficiaries, if the competent authority of that Contracting Party notifies such extension to the competent authority of the other Contracting Party in writing and the latter states its acceptance of such extension within six months on receipt of the notification.

Article 3

Personal scope

This Agreement shall apply to any person who is or who has been subject to the legislation of either Contracting Party, and to the dependants and survivors of such a person within the meaning of the applicable legislation of that Contracting Party.

Article 4

Equal Treatment

1. Unless otherwise provided in this Agreement, any persons defined in Article 3 who reside or stay in the territory of either Contracting Party shall, in the application of the legislation of a Contracting Party regarding the eligibility for and the payment of benefits, receive equal treatment with the nationals of that Contracting Party. The foregoing shall also apply to the dependants and survivors who reside or stay in the territory of either Contracting Party with respect to their rights derived from the persons specified in this paragraph.

2. Paragraph 1 of this Article shall not apply to lump-sum refunds effected by Korea under its own legislation.

3. Unless otherwise provided in this Agreement, a benefit acquired under the legislation of one Contracting Party shall not be subject to any reduction, modification, suspension, withdrawal or confiscation by reason of the fact that the recipient resides or stays in the territory of the other Contracting Party, and the benefit shall be payable in the territory of the other Contracting Party.

4. Benefits under the legislation of one Contracting Party shall be granted to nationals of the other Contracting Party who reside or stay outside the territories of the Contracting Parties under the same conditions as they are granted to nationals of the first Contracting Party who reside or stay outside the territories of the Contracting Parties.

5. While fulfilling its obligations arising from the membership of the European Union, in application of this Agreement, Hungary will treat the citizens of the European Union who exercise the right of free movement intended for economic activities on equal footing with Hungarian citizens. To this end, the Contracting Parties shall cooperate. With the exception of administrative burdens, this provision shall not incur any additional expenses for Korea.

Article 5

Concurrence of Benefits

1. The legislation of one Contracting Party which excludes or limits eligibility to benefits or benefits in the case of concurrence of eligibility to benefits, benefits or income, shall be applied as appropriate to cases arising from the application of the legislation of the other Contracting Party.

2. It shall not be possible to acquire or maintain eligibility to several benefits or income of similar type based on the same mandatory period of coverage under this Agreement. This shall not, however, apply to benefits for invalidity, old age or death.

Part II
Provisions on Coverage

Article 6
General Provisions

1. Except as otherwise provided in this Part, an employed person who works in the territory of one Party shall, with respect to that work, be subject only to the legislation of that Contracting Party.

2. A self-employed person whose residence is in the territory of a Contracting Party and who works in the territory of the other Contracting Party or in the territory of the two Contracting Parties shall, in respect of that work, be subject only to the legislation of the first Contracting Party.

3. A person who is employed in the territory of both Contracting Parties or self-employed in the territory of a Contracting Party and employed in the territory of the other Contracting Party shall be subject only to the legislation of the Contracting Party in the territory of which he/she resides.

Article 7
Detached Workers

1. Where a person in the service of an employer having a registered office in the territory of one Contracting Party is sent by that employer to work on that employer's behalf in the territory of the other Contracting Party, only the legislation on compulsory coverage of the first Contracting Party shall continue to apply with regard to that employment during the first 36 calendar months as though the employee were still employed in the territory of the first Contracting Party. This paragraph shall also apply to a worker who has been sent by his/her employer in the territory of one Contracting Party to the employer's affiliated or subsidiary company in the territory of

the other Contracting Party.

2. In case the detachment continues beyond the period specified in paragraph 1 of this Article, the legislation of the first Contracting Party referred to in that paragraph shall continue to apply, for an additional period of 36 months provided that the competent authorities of the two Contracting Parties or the institutions or other organizations designated by them consent upon the joint request of the employee and the employer.

Article 8

Mariners and Aircraft Crew

1. Nothing in this Agreement shall affect the legislation of either Contracting Party on compulsory coverage of persons who work on board of a sea-going vessel.

2. A person who is employed as an officer or member of the crew of an aircraft shall, in respect of that employment, be subject to the legislation of the Contracting Party in the territory of which the enterprise by which he/she is employed has its head office. If, however, the enterprise has a branch or permanent representation in the territory of the other Contracting Party, such a person employed by that branch or representation and not subject to Article 7 shall be subject to the legislation of the Contracting Party in the territory of which the branch or representation is located.

Article 9

Members of Diplomatic Missions and Civil Servants

1. Nothing in this Agreement shall affect the provisions of the Vienna Convention on Diplomatic Relations of April 18, 1961 or of the Vienna Convention on Consular Relations of April 24, 1963.

2. Civil servants, public employees and other persons treated as such, who, together with their family members, are detached by the authorities or organizations of a Contracting Party in order to pursue their activities in the territory of the other Contracting Party, shall be insured according to the legislation of the sending Contracting Party.

Article 10

Modification Provision

The competent authorities of the Contracting Parties or their delegated institutions or organizations may, by common agreement, make exceptions to the provisions of Part II;

- (a) on the joint request of an employee and his/her employer, or on the request of a self-employed person, with respect to that person, or
- (b) with respect to any category of persons.

Part III

Provisions on Benefits

Article 11

Totalization of Periods of Coverage and Calculation of Pensions

1. Where the legislation of a Contracting Party makes the acquisition, retention or recovery of eligibility to a benefit conditional upon the completion of periods of coverage, and in case the criteria of eligibility to a benefit are not met on the basis of the legislation of a Contracting Party, the institution of this Contracting Party shall take into account, if necessary, the periods of coverage completed under the legislation of the other Contracting Party as if these periods were completed under the legislation which it administers, provided that such periods of coverage do not overlap.

2. Where the legislation of one Contracting Party makes the granting of certain benefits conditional upon the periods of coverage having been completed in an occupation which is subject to a special scheme, or the entitlement to benefits is subject to the condition of the periods of coverage having been completed in specific occupations or employment, periods completed under the legislation of the other Contracting Party shall only be taken into account for the granting of these benefits if these were completed under a corresponding scheme or, failing that, in a similar occupation. If the aggregation of periods of coverage does not create eligibility to a benefit within the specific scheme, these periods of coverage shall be aggregated within the general scheme of insurance.

3. The amount of periods of coverage to be taken into consideration shall be defined in accordance with the legislation of the other Contracting Party pursuant to which these periods of coverage were completed.

4. Where eligibility to a benefit exists according to the legislation of one Contracting Party even without the application of Part III, the benefit shall be defined by the institution of that Contracting Party on the basis of periods of coverage to be taken into account pursuant to the provisions of the legislation which it administers.

Article 12

Special Provisions Relating to Korea

1. In order to obtain a disability or survivors benefit, the requirement of the legislation of Korea that a person be covered when the insured event occurs shall be considered to have been met if the person is covered for a benefit under the legislation of Hungary during the period in which the insured event occurs according to the legislation of Korea.

2. Where periods of coverage under the legislation of Hungary are taken into account to establish eligibility for benefits under the legislation of Korea in accordance with

paragraph 1 of Article 11 and paragraph 1 of this Article, the benefit due shall be determined as follows:

- (a) The institution of Korea shall first compute a pension amount equal to the amount that would have been payable to the person if all the periods of coverage taken into account under the legislation of both Contracting Parties had been completed under the legislation of Korea. To determine the pension amount, the institution of Korea shall take into account the person's average standard monthly income while covered under the legislation of Korea.
- (b) The institution of Korea shall calculate the partial benefit to be paid in accordance with the legislation of Korea based on the pension amount calculated according to the preceding subparagraph, in proportion to the ratio between the duration of the periods of coverage taken into consideration under its own legislation and the total duration of the periods of coverage taken into consideration under the legislation of both Contracting Parties.

3. Lump-sum refunds shall be granted to Hungarian nationals under the same conditions as they are granted to Korean nationals.

4. Provisions of the legislation of Korea restricting the entitlement to a disability or survivors benefit due to unpaid contributions at the time when the person had otherwise qualified for the benefit shall apply only to the period covered under the legislation of Korea.

Article 13

Special Provisions Relating to Hungary

1. Where a person is entitled to pension in accordance with the Hungarian legislation only if his/her periods of coverage are aggregated, the institution of Hungary shall calculate the amount of pension which the institution should pay, if all the periods of coverage acquired pursuant to the legislation of both Contracting Parties were taken into account for the determination of the pension. The institution shall only pay the

proportion of the pension calculated in this way that corresponds to the ratio of the periods of coverage completed under the Hungarian legislation to the total periods of coverage under the legislation of both Contracting Parties.

2. For purposes of calculating the amount of benefit through the application of paragraph 1, only income earned under the legislation of Hungary and contributions paid under that legislation shall be taken into account.

Article 14

Minimum Period to Be Totalized

The provisions of Articles 11 to 13 of this Agreement shall only apply for the purposes of establishing the person's entitlement to an old-age, disability or survivors benefit of one Contracting Party if the person has completed at least 12 months of coverage under the legislation of that Contracting Party. For the purposes of completion and accounting, the other Contracting party shall take these periods of coverage into account as if they had been completed pursuant to its legislation.

Part IV

Miscellaneous Provisions

Article 15

Administrative Arrangement

1. The competent authorities of the Contracting Parties shall conclude an Administrative Arrangement that sets out the measures necessary for the implementation of this Agreement.

2. The liaison agencies of the Contracting Parties shall be designated in the Administrative Arrangement.

Article 16

Exchange of Information and Mutual Assistance

1. The competent authorities and institutions of the Contracting Parties shall, within the scope of their respective authorities:

- (a) communicate to each other, to the extent permitted by the legislation which they administer, any information necessary for the application of this Agreement;
- (b) assist each other with regard to the determination of entitlement to, or payment of any benefit under this Agreement, or under the legislation to which this Agreement applies; and
- (c) communicate to each other, as soon as possible, information concerning the measures taken by them for the application of this Agreement and of any changes in their respective legislation which may affect the application of this Agreement.

2. The assistance referred to in subparagraph 1(b) of this Article shall be provided free of charge, subject to any exceptions to be agreed upon in the Administrative Arrangement concluded pursuant to paragraph 1 of Article 15.

Article 17

Data protection

1. Where on the basis of this Agreement and in accordance with the legislation applicable in both Contracting Parties, personal data are to be transferred in keeping with applicable legislation in effect in the territories of the Contracting Parties, the following provisions shall be applied:

- (a) For the purpose of implementing this Agreement and the legislation covered by the scope of this Agreement, data may be disclosed by one Contracting Party to the institutions of the other Contracting Party. The receiving Contracting Party may process and use this data for such purposes. In all other cases, data

may be disclosed to other institutions exclusively with the prior consent of the transmitting institutions and in accordance with the national legislation applicable to such institution.

- (b) The institution receiving such data shall, upon request and in individual cases, inform the institution providing data of the purpose for which it has used the data disclosed and the results of such use.
- (c) The institution providing data must ensure that the data to be disclosed is accurate, and is necessary from the point of view of the purpose of data disclosure. At the same time, all valid data provision prohibitions must be taken into consideration, pursuant to the national legislation of that Contracting Party. If it becomes evident that the data disclosed is incorrect, or may not have been disclosed under the legislation of the Contracting Party providing the data, the receiving institution shall be notified without delay, and it shall correct or delete such data, as appropriate.
- (d) The person concerned, upon his/her request, shall be given information on the data about him/her and the purpose of using such data, on the legal basis for and the duration of the use of the data, and on who has received or shall receive such data. In other respects, the rights of the person concerned with regard to being informed of the data held about him/her shall be subject to the national legislation of the Contracting Party whose institution was requested to provide information.
- (e) If the institution of one Contracting Party has disclosed personal data under this Agreement, the receiving institutions of the other Contracting Party, within its responsibility under the domestic legislation applicable to it, may not argue against the person concerned that the data provided was incorrect. Payment of compensation for damages due to incorrect provision of data shall be governed by the legislation of the Contracting Party where the infringement occurred.
- (f) Personal data received shall be deleted without delay when, pursuant to the legislation of the Contracting Party receiving such data, it becomes unnecessary for the purpose of the disclosure.
- (g) The transmission and receipt of personal data shall be recorded both by the

transmitting and by the receiving institutions.

- (h) Both the transmitting and the receiving institutions shall ensure the effective protection of personal data from unauthorized access, illegal alterations and unauthorized disclosure.
- (i) On request of the person involved, both the receiving and the transmitting Contracting Parties shall correct the incorrect data handled by them or delete data handled illegally. The other Contracting Party shall be immediately informed of such correction or deletion.
- (j) The Contracting Parties shall ensure that, in case of the infringement of the rights related to personal data protection, the persons concerned may seek remedy under the legislation of the Contracting Party of the place where the infringement of data protection rights occurred.

2. The provisions set out in paragraph 1 of this Article shall also be applied, as appropriate, to both corporate and trade secrets.

Article 18

Exemption from Fees and Certification of Documents

1. Where the legislation of a Contracting Party provides that any document which is submitted to the competent authority or institution of that Contracting Party shall be exempted, wholly or partly, from fees or charges, including consular and administrative fees, the exemption shall also apply to corresponding documents which are submitted to the competent authority or institution of the other Contracting Party in the application of this Agreement.

2. Documents and certificates which are presented by the competent authority or the institution of either Contracting Party for the purposes of this Agreement shall be exempted from requirements for authentication by diplomatic or consular authorities.

3. Copies of documents which are certified as true and exact copies by an authority

of one Contracting Party shall be accepted as true and exact copies by an authority of the other Contracting Party, without further certification.

Article 19

Language of Communications

1. The competent authorities and institutions of the Contracting Parties may correspond directly with one another as well as with any person, wherever that person may reside, whenever it is necessary to do so for the application of this Agreement or the legislation to which this Agreement applies. The correspondence may be made in any official language of either Contracting Party or in English.
2. An application or document may not be rejected by a competent authority or institution of one Contracting Party solely because it is in an official language of the other Contracting Party.

Article 20

Submission of Claims, Notice, or Appeals

1. Where a claim for a benefit under the legislation of one Contracting Party is submitted to an institution of the other Contracting Party which is entitled to accept a claim for granting a corresponding benefit under applicable legislation, this claim shall be treated as if it had been submitted to the institution of the first Contracting Party on the same date. This provision shall also apply, as appropriate, to other claims, notices and appeals.
2. The competent authority or institution of a Contracting Party, to which claims, notices or appeals were submitted, shall indicate the date of receipt of the document and forward it without delay to the competent authority or institution of the other Contracting Party.

3. A claim for a benefit to be provided pursuant to the legislation of one Contracting Party shall qualify as a claim for a corresponding benefit to be provided under the legislation of the other Contracting Party, provided that the claimant provides information indicating that periods of coverage have been completed under the legislation of the other Contracting Party. This provision shall not be applied if the claimant explicitly requests that the determination of eligibility to a benefit acquired according to the legislation of that other Contracting Party be delayed.

Article 21

Payment of Benefits

1. The institution of a Contracting Party may pay benefits in accordance with this Agreement in the currency of this Contracting Party.

2. In the event that a Contracting Party imposes currency controls or other similar measures that restrict payments, remittance or transfers of funds or financial instruments to persons who are outside the territory of that Contracting Party, it shall, without delay, take appropriate measures to ensure the payment of any amount that must be paid in accordance with this Agreement to persons described in Article 3 who reside or stay in the territory of the other Contracting Party.

Article 22

Resolution of Disagreement

Any disagreement regarding the interpretation or application of this Agreement shall be resolved by consultation between the competent authorities of the Contracting Parties.

PART V
Transitional and Final Provisions

Article 23
Transitional Provisions

1. This Agreement shall establish entitlement to benefits from the date of entry of this Agreement at the earliest.
2. Subject to paragraph 1 of this Article, in determining the right to a benefit under this Agreement, any period of coverage completed before the date of entry into force of this Agreement and any other relevant events that occurred before that date shall be taken into consideration. However, neither institution of the Contracting Parties shall be required to take into account periods of coverage which occurred prior to the earliest date for which periods of coverage may be credited under its legislation.
3. Decisions concerning entitlement to benefits which were made before the entry into force of this Agreement shall not affect rights arising under it.
4. Benefits determined before the entry into force of this Agreement may be newly determined upon application if a change in such benefits results solely from the provisions of this Agreement. If the new determination under the preceding sentence of this paragraph results in no entitlement or entitlement to a lesser amount of pension than was paid for the last period prior to the entry into force of this Agreement, the same amount of pension as previously paid shall continue to be paid.
5. In applying Article 7 in case of persons who were sent to the territory of a Contracting Party prior to the date of entry into force of this Agreement, the periods of employment referred to in that Article shall be considered to begin on the date this Agreement enters into force.
6. The provisions of Part III shall apply only to benefits for which an application is filed on or after the date this Agreement enters into force.

Article 24
Entry into force

This Agreement shall enter into force on the first day of the third month following the month in which each Contracting Party shall have received from the other Contracting Party written notification that it has complied with all requirements for the entry into force of this Agreement.

Article 25
Period of Duration and Termination

1. This Agreement shall remain in force until the last day of the twelfth month following the month in which written notice of its termination is given by either Contracting Party to the other Contracting Party.

2. If this Agreement is terminated, rights regarding entitlement to or payment of benefits acquired under it shall be retained. The Contracting Parties shall make arrangements to deal with rights in the process of being acquired.

IN WITNESS WHEREOF, the undersigned, being duly authorized thereto, have signed this Agreement.

DONE in duplicate at Budapest on 12th May 2006, in the Korean, Hungarian and English languages, each text being equally authentic. In case of any divergence of interpretation, the English text shall prevail.

FOR THE REPUBLIC OF KOREA

FOR THE REPUBLIC OF HUNGARY