

Signed at Seoul September 11, 2008

AGREEMENT

BETWEEN THE REPUBLIC OF KOREA AND ROMANIA

ON SOCIAL SECURITY

The Republic of Korea and Romania, hereinafter referred to as the "Contracting Parties",

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

Have agreed as follows:

Part I

General Provisions

Article 1
Definitions

1. For the purpose of this Agreement:

(a) "national" means a person treated as such under the laws and regulations of the Contracting Parties;

(b) "legislation" means the laws and regulations specified in Article 2 of this Agreement;

(c) "competent authority" means:

(i) as regards the Republic of Korea, hereinafter referred to as "Korea", the Minister for Health, Welfare and Family Affairs, and

(ii) as regards Romania, the Ministry of Labour, Family and Equal Opportunities;

(d) "institution" means:

(i) as regards Korea, the National Pension Service, and

(ii) as regards Romania, the body or authority responsible for applying the legislation specified in Article 2;

(e) "period of insurance" means any period of contributions that has been recognized and completed under the legislation of a Contracting Party, and any other

period recognized as equivalent to a period of contribution under that legislation;

(f) "benefit" means any benefit provided for in the legislation specified in Article 2 of this Agreement;

(g) "residence" means ordinary residence; and

(h) "stay" means temporary residence.

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 legislation concerning:

(a) as regards Korea, the National Pension, and

(b) as regards Romania, the pensions.

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

3. Unless otherwise provided in this Agreement, the legislation referred to 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

state, or legislation promulgated for their specific implementation.

4. Notwithstanding paragraph 2 of this Article, this Agreement shall not apply to the laws or regulations which extend existing legislation of one Contracting Party to new categories of benefits, if the competent authority of that Contracting Party notifies the competent authority of the other Contracting Party in writing, within six months from the date of the publication of such laws or regulations, that no such extension to this Agreement is intended.

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 legislation of either Contracting Party.

Article 4 Equal Treatment

1. Unless otherwise provided in this Agreement, nationals of either Contracting Party who reside in the territory of either Contracting Party shall, in the application of the legislation of a Contracting Party, receive equal treatment with nationals of that Contracting Party. The foregoing shall also apply to the dependants and survivors who reside in the territory of either Contracting Party with respect to their

rights derived from the nationals specified in this paragraph.

2. Unless otherwise provided in this Agreement, a benefit 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.

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

Part II

Provisions on Applicable Legislation

Article 5

General Provisions

1. Unless otherwise provided in this Agreement, a person employed within the territory of one Contracting Party shall, in respect of that employment, be subject only to the legislation of that Contracting Party.

2. Where a person resides in the territory of one Contracting Party and is self-employed in the territory of the other Contracting Party, or in the territory of both Contracting Parties, the person shall be subject only to the legislation of the Contracting Party in whose territory that person resides.

3. Where a person is employed in the territory of one Contracting Party and is self-employed in the territory of the other Contracting Party for the same period, the person shall be subject only to the legislation of the Contracting Party in whose territory the person resides.

Article 6 Posted Workers

1. A person who is employed in the territory of one Contracting Party and who is posted by his or her employer to the territory of the other Contracting Party to pursue a certain activity shall continue to be subject to the legislation of the first Contracting Party for the duration of that activity, provided that the anticipated duration of the activity does not exceed a period of 36 months. This paragraph shall also apply to a worker who has been posted by his or 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. If the duration of the activity exceeds the initial 36 months, the legislation of the first Contracting Party shall continue to apply with the consent of the competent authorities or institutions of both Contracting Parties for at most 24 months, upon

the joint request of the employee and the employer. Such consent must be requested before the end of the initial 36 month period.

Article 7 Mariners

A person residing in the territory of one Contracting Party who is employed on board of a vessel flying the flag of the other Contracting Party shall be subject to the legislation of the first Contracting Party.

Article 8 Personnel of the International Transport Undertakings

1. A person employed by an international transport undertaking which has its registered office in the territory of one Contracting Party and, on its own account or for a third party, operates transport services for passengers or goods by rail, road, air or inland waterway shall be subject to the legislation of that Contracting Party.

2. Notwithstanding the provision of paragraph 1, a person employed by a branch or permanent representation of the undertaking referred in paragraph 1 shall be subject to the legislation of the Contracting Party in whose territory such branch or permanent representation is situated.

3. Notwithstanding the provisions paragraph 1 and 2, a person who pursues an activity principally in the territory of one Contracting Party in which that person

resides shall be subject to the legislation of that Contracting Party, even if the undertaking which employs that person has no registered office or branch or permanent representation in that territory.

Article 9

Members of Diplomatic Mission and Civil Servants

1. To the members of the diplomatic missions and consular posts and the private personnel exclusively employed in their service, the relevant provisions of the Vienna Convention on Diplomatic Relations of April 18, 1961, or the Vienna Convention on Consular Relations of April 24, 1963 shall be applied.

2. Civil servants and the persons deemed as such shall be subject to the legislation concerning the statutory pension scheme for civil servant of the Contracting Party in whose administration they are employed.

Article 10

Exceptions to the Provisions of Article 5 to 9

The competent authorities of both Contracting Parties or the institutions designated by them may agree on exceptions to the provisions of Article 5 to 9 in the interest of a person or a category of persons, provided that the person or category of persons is subject to the legislation of either Contracting Party.

Part III
Provisions concerning Benefits

Article 11

Determination of Benefits without the Aggregation of the Periods of Insurance

If a person fulfills the conditions necessary for a benefit in accordance with the legislation of one Contracting Party without taking into account the periods of insurance completed under the legislation of the other Contracting Party, the institution of the first Contracting Party calculates the benefits taking into account only the periods of insurance completed under the legislation of that Contracting Party.

Article 12

Aggregation of the Periods of Insurance

1. Where the legislation of one Contracting Party makes the entitlement to benefits conditional upon the completion of a period of insurance, the institution of that Contracting Party shall take into account, if necessary, the periods of insurance completed under the legislation of the other Contracting Party, in so far as they do not overlap, as if the periods of insurance have been completed under the legislation of the first Contracting Party.

2. Where the legislation of one Contracting Party makes the award of certain benefits conditional upon the completion of a certain period in an activity covered

by a special scheme or in a specific occupation or employment, the periods of insurance completed under the legislation of the other Contracting Party shall not be taken into account for determining the entitlement to such benefits unless the periods of insurance are completed under a corresponding scheme or, in the absence of such a scheme, in the same occupation or in the same employment, as appropriate. If the person concerned does not satisfy the conditions for entitlement to these benefits, the periods of insurance completed in an activity covered by a special scheme or in a specific occupation or employment shall be aggregated under the general scheme of insurance as referred in paragraph 1.

3. Where, even after aggregating the periods of insurance completed as provided in paragraph 1 or 2, a person is not eligible for a benefit on the basis of the periods of insurance completed under the legislations of both Contracting Parties, the eligibility of that person for that benefit shall be determined by aggregating these periods with the periods of insurance completed under the legislation of third states with which both Contracting Parties have concluded international social security instruments which provide for the aggregation of periods of insurance.

4. Where the legislation of one Contracting Party provides that the period in which the person concerned receives a pension is reckonable for determining the entitlement to the benefit, the institution of that Contracting Party shall take into account, for this purpose, the period during which the person received a pension under the legislation of the other Contracting Party.

Article 13

Calculation and Award of Benefits

1. The institution of each Contracting Party shall determine whether the person concerned satisfies the conditions for entitlement to benefits, taking into account, where appropriate, the provisions of Article 12 of this Agreement.

2. If the right to benefits is established in accordance with paragraph 1, the institution of one Contracting Party calculates the benefits as follows:

(a) the theoretical amount of the due benefits shall be calculated as if all the periods of insurance were completed under the legislation of that Contracting Party, and

(b) the actual amount of the due benefit to the person shall be then calculated based on the theoretical amount calculated according to the provisions of sub-paragraph (a) of this paragraph, proportional to the rate between the total periods of insurance completed before the contingency arose according to the legislation it applies and the total periods of insurance completed before contingency arose according to the legislations of the Contracting Parties, and, if necessary, the legislation of a third state.

3. If the amount of the benefit is established depending on the number of the beneficiaries or dependants, the institution of either Contracting Party takes also into account the number of persons who reside or stay in the territory of the other Contracting Party.

Article 14

Special Provisions relating to Korea

1. Subject to Articles 12 and 13 of this Agreement, to obtain a disability or survivors benefit, the requirement of the Korean legislation 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 Romania during a period in which the insured event occurs according to the legislation of Korea.

2. Lump-sum refund shall be granted to Romanian nationals under the same conditions as the refund is granted to Korean nationals.

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

Part IV

Miscellaneous Provisions

Article 15

Cooperation between the Competent Authorities and Institutions

1. The competent authorities of both Contracting Parties:

(a) shall establish an administrative arrangement necessary for the

implementation of this Agreement;

(b) shall communicate to each other the measures taken for the implementation of this Agreement;

(c) shall communicate to each other the information concerning the amendments to the respective legislation liable to affect the implementation of this Agreement; and

(d) shall designate the respective liaison bodies.

2. For the purpose of implementing this Agreement, the competent authorities and institutions of both Contracting Parties shall lend their good office, as well as the necessary technical and administrative assistance, free of charge, as if they were implementing their own legislation.

3. For the purpose of granting benefits exclusively due by either Contracting Party to nationals of a third state under other international instruments binding that Contracting Party, the other Contracting Party shall lend its good offices, as well as the necessary technical and administrative assistance, by providing the necessary information on the affiliation and insurance record of the person concerned that is or has been subject to its legislation, according to the provisions to be established in the administrative arrangement mentioned in paragraph 1 (a) of this Article.

4. For the purpose of implementing this Agreement, the competent authorities and institutions of both Contracting Parties may communicate directly with one another and with the persons concerned or their representatives.

5. For the purpose of implementing this Agreement, the competent authorities and institutions of both Contracting Parties may communicate with each other directly in their official languages or in English.

6. For the purpose of this Agreement, no claims or documents may be rejected on the ground that they are written in the official language of the other Contracting Party.

Article 16

Medical Examinations

1. If the institution of one Contracting Party requires an applicant or beneficiary who stays or resides in the territory of the other Contracting Party to undergo a medical examination, such examination shall, at the request and at the expense of the institution of the former Contracting Party, be arranged or carried out by the institution of the latter Contracting Party.

2. If the medical examinations are required for the purpose of application of the legislation of both Contracting Parties, such examinations shall be arranged or carried out by the institution of the place of residence or stay, on its expense.

Article 17

Protection of Personal Data

1. The communication of personal data between the competent authorities or institutions of the Contracting Parties under this Agreement or under the administrative arrangements mentioned in paragraph 1 (a) of Article 15 of this Agreement shall be subject to the laws and regulations concerned of the Contracting Party transmitting them.
2. Any communication, storage, alteration and destruction of the data by the competent authority or institution of the receiving Contracting Party shall be subject to laws and regulations concerned of that Contracting Party.

Article 18

Exemption from Taxes and Authentication

1. Any exemption from or reduction of taxes, stamp duty, notarial or registration fees provided for in the legislation of either Contracting Party in respect of any certificates or documents required to be produced in application of the legislation of that Contracting Party shall also apply to similar certificates or documents required to be produced under the legislation of the other Contracting Party or the provisions of this Agreement.
2. All the statements, documents or certificates required to be produced for the purposes of this Agreement shall be exempt from authentication by diplomatic or consular authorities.

3. Copies of documents which are certified as true and exact copies by an institution of one Contracting Party shall be accepted as true and exact copies by an institution of the other Contracting Party, without further certification.

Article 19

Submission of Claims, Declarations or Appeals

1. Any claim, declaration or appeal that should be submitted, under the legislation of either Contracting Party, within a specified period of time to the competent authority or institution of that Contracting Party shall be admissible if they are submitted, within the same period, to the corresponding competent authority or institution of the other Contracting Party.

2. In any case to which paragraph 1 applies, the competent authority or institution of one Contracting Party receiving the claim, declaration or appeal shall forward it without delay to the competent authority or institution of the other Contracting Party, directly or through the liaison body.

Article 20

Payment of Benefits

1. Payment of any benefit granted in accordance with this Agreement may be made in the currency of the Contracting Party whose institution grants the benefits.

2. Payments in the other Contracting Party resulting from the application of this Agreement shall be made in convertible currencies.

Article 21
Settlement of Disputes

1. Any dispute on the interpretation or implementation of this Agreement shall be settled by consultations between the competent authorities and institutions of both Contracting Parties.

2. If the dispute cannot be settled in accordance with paragraph 1 of this Article, the Contracting Parties shall carry out all diligences necessary for its settlement.

Part V
Transitional and Final Provisions

Article 22
Transitional Provisions

1. This Agreement shall confer no rights for payment of a benefit prior to the date of its entry into force.

2. Subject to the provisions of paragraph 1 of this Article, all periods of insurance completed under the legislation of either Contracting Party before the entry into force of this Agreement shall be taken into account in determining the rights to benefits arising from the provisions of this Agreement.

3. Subject to the provisions of paragraph 1 of this Article, a right shall be acquired under this Agreement even if it relates to a contingency occurred prior to the date of its entry into force.

4. However, the institutions of either Contracting Party shall not be required to take into account the periods of insurance completed prior to the earliest date from which the institutions can recognize the periods of insurance under its legislation.

5. The benefits acquired before the date of entry into force of this Agreement may be revised upon application in accordance with the provisions of this Agreement.

6. If the revision of the benefits referred to in paragraph 5 results in no entitlement or decrease of the benefits, the same amount of benefits previously paid shall continue to be paid by the competent institution paying the benefit before the revision.

Article 23
Entry into Force

This Agreement shall enter into force on the first day of the third month from the date of the receipt of the last notification by which the Contracting Parties inform each other that all internal legal procedures necessary for the entry into force of this Agreement have been completed.

Article 24
Validity of the Agreement

1. This Agreement shall remain in force for an indefinite period.

2. This Agreement may be amended with the consent of both Contracting Parties. Any such amendment shall enter into force in accordance with the provisions of Article 23.

3. Either Contracting Party may denounce this Agreement by a written notification to the other Contracting Party. In this case, this Agreement shall cease to be in force on the first day of the sixth month following the month when the written notification has been received by the other Contracting Party.

4. In the event of denunciation of this Agreement, all rights acquired under its provisions shall be maintained and the claims submitted before the termination of

this Agreement shall be settled under its provisions.

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

DONE in duplicate at Seoul on 11th September 2008, in the Korean, Romanian and English languages, all texts being equally authentic. In case of any divergence of interpretation, the English text shall prevail.

FOR THE REPUBLIC OF KOREA

FOR ROMANIA

