AGREEMENT

BETWEEN

THE GOVERNMENT OF THE REPUBLIC OF CROATIA

AND

THE GOVERNMENT OF THE REPUBLIC OF KOREA

ON THE PROMOTION AND RECIPROCAL PROTECTION OF INVESTMENTS

The Government of the Republic of Croatia and the Government of the Republic of Korea (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 one 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 one Contracting Party.

(4) "territory" means the territory of the Republic of Croatia or the territory of the 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 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, prompt, adequate 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 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 the 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 by 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 two originals at Zagreb on the 19 day of July 2005, in the Croatian, Korean 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 CROATIA	FOR THE GOVERNMENT OF THE REPUBLIC OF KOREA