

Exchange of Notes at Bucharest May 22, 1996
Entered into force May 19, 1997

**Exchange of Notes for the Amendment the Agreement between
the Government of the Republic of Korea and
the Government of Romania on the Mutual Promotion and Protection of Investments**

Romanian Proposing Note

Bucharest, 22 May 1996

Your Excellency,

I have the honour to refer to the Agreement between the Government of Romania and the Government of the Republic of Korea on the Mutual Promotion and Protection of Investments, signed at Bucharest, on 7 August 1990 and entered into force on 30 December 1994, and to propose the amendments to articles 2, 8 and 10 of the said Agreement, as follows:

1. Article 2 - Definitions, paragraph (1), letter (a) will read:
“movable and immovable property and any other related rights such as mortgages, liens and pledges“.
2. Article 2, paragraph (1), letter (d) will read:
“intellectual property rights, including, but not limited to, rights with respect to copyrights, patents, trade marks, trade names, industrial designs, trade secrets, technical processes, know-how and goodwill“.
3. Article 2, paragraph (4) will read:
“Territory“ means:
 - (a) with respect to Romania, the territory of Romania including the territorial sea, as well as the exclusive economic zone, over which Romania exercises, in accordance with internal and international law, sovereignty, sovereign rights or jurisdiction;
 - (b) with respect to the Republic of Korea, the territory of the Republic of Korea, including its territorial sea, as well as its exclusive economic zone and continental shelf, over which the Republic of Korea exercises sovereignty, sovereign rights, jurisdiction and other rights in accordance with international law including the 1982 United Nations Convention on the Law of the Sea.“
4. Article 8 - Settlement of Investment Disputes between a Contracting Party and an investor of the other Contracting Party will read:
 - “(1) Any dispute between either Contracting Party and the investor of the other Contracting Party including expropriation or nationalisation of an investment shall, as far as possible, be settled by the disputing parties in an amicable way.
 - (2) The legal remedies under the laws and regulations of one Contracting Party in the territory of which the investment has been made are available for the investor of the other Contracting Party.
 - (3) If any dispute cannot be settled within six (6) months from the date of request for settlement, the investor may submit the dispute, at his choice, for settlement to:
 - (a) the International Centre for Settlement of Investment Disputes (ICSID)

provided for by the Convention on the Settlement of Investment Disputes between States and Nationals of the other States, done at Washington, on March 18, 1965; or

- (b) an ad-hoc arbitral tribunal which, unless otherwise agreed upon by the Parties to the dispute, shall be established under the arbitration rules of the United Nations Commission on International Trade Law (UNCITRAL).
- (4) The Contracting Party which is a party to the dispute shall, at no time whatsoever during the procedures involving investment disputes, assert as a defence its immunity or the fact that the investor has received compensation under an insurance contract covering the whole or part of the incurred damage or loss."

5. Article 10 - Application of the Agreement will read:

"The present Agreement shall also apply to investments in the territory of one Contracting Party made in accordance with its laws and regulations by investors of the other Contracting Party prior to the entry into force of this Agreement. However, the Agreement shall not be applicable to disputes that have arisen before its entry into force."

All other provisions of the concerned Agreement remain valid.

If the proposed amendments are acceptable to the Government of the Republic of Korea, I have further the honour to propose that the present Letter together with Your Excellency's Letter in reply to that effect shall constitute an agreement between the Government of Romania and the Government of the Republic of Korea to amend the Agreement between the Government of Romania and the Government of the Republic of Korea on the Mutual Protection and Promotion of Investments, signed at Bucharest, on 7 August 1990 and entered into force on 30 December 1994.

This Agreement shall enter into force on the date of the last notification by the Contracting Parties concerning the fulfilment of their domestic legal requirements for its entry into force.

Please accept, Excellency, the assurances of my highest consideration.

Teodor Viorel Melescanu
Minister of State
Minister of Foreign Affairs of Romania

His Excellency
Lee Ki-choo
Vice Minister of Foreign Affairs of
the Republic of Korea

Korean Reply Note

Excellency,

I have the honour to confirm the receipt of Your Excellency 's Letter of 22 May 1996 which reads as follows:

“.....Romanian Proposing Note“

I have further the honour to confirm that the foregoing provisions are acceptable to the Government of the Republic of Korea and that Your Excellency 's Letter together with this Letter in reply to that effect shall constitute an agreement between the Government of the Republic of Korea and the Government of Romania to amend the Agreement between the Government of the Republic of Korea and the Government of Romania on the Mutual Promotion and Protection of Investments, signed at Bucharest, on 7 August 1990 and entered into force on 30 December 1994.

This Agreement shall enter into force on the date of the last notification by the Contracting Parties concerning the fulfilment of their domestic legal requirements for its entry into force.

Please accept, Excellency, the assurances of my highest consideration.

Lee Ki-choo
Vice Minister of Foreign Affairs of
the Republic of Korea

His Excellency
Teodor Viorel Melescanu
Secretary of State
Ministry of Foreign Affairs of Romania