

ADDITIONAL PROTOCOL
between the Government of Romania and the Government of the Democratic
People's Republic of Korea to the Agreement between the Government of Romania
and the Government of the Democratic People's Republic of Korea on the
promotion and reciprocal protection of investments,
signed in Bucharest, on January 23, 1998

Representatives of the Governments of Romania and the Democratic People's Republic of Korea,

Having in mind the necessity for Romania to amend the Agreement between the Government of Romania and the Government of the Democratic People's Republic of Korea on the promotion and reciprocal protection of investments, signed in Bucharest, on January 23, 1998 (hereinafter referred to as "the Agreement") in order to comply with its obligations as a Member State of the European Union;

Acknowledging that Romania in view of Article 307 of the Treaty establishing the European Community and Article 6.10 of its Treaty of Accession to the European Union, must, in order to complete the accession process, take all appropriate steps to eliminate incompatibilities between the Community Law and its other international treaties including the Agreement;

Deciding, as a result, that certain amendments to the Agreement are necessary in order to avoid such incompatibilities;

Have agreed to conclude the following Additional Protocol thereto:

Article 1 :

Paragraph (3) of Article 3 shall be entirely replaced by the following wording:

"(3) The non-discriminatory treatment, national treatment and most favoured nation treatment provisions of this Agreement shall not apply to all actual or future advantages accorded by either Contracting Party by virtue of its membership of, or association with, a customs, economic or monetary union, a common market or a free trade area, to investors of its own, of Member States of such union, common market or free trade area, or of any other third State. Nor shall such treatment relate to any advantage which either Contracting Party accords to investors of a third State by virtue of a double taxation agreement or other agreements on a reciprocal basis regarding tax matters."

Article 2 :

Paragraph 1 of Article 4 shall be amended by adding a new wording so that it will be read as follows:

“(1) Without prejudice to the measures adopted by the European Union, each Contracting Party in whose State territory investments have been made by investors of the other Contracting Party shall grant those investors the free transfer of the payments relating to these investments, particularly of:

- (a) returns according to Article 1, paragraph (3) of this Agreement;
- (b) amounts relating to loans incurred, or other contractual obligations undertaken, for the investment; and
- (c) proceeds accruing from the total or partial sale, alienation or liquidation of an investment.”

Article 3:

Article 11 shall be amended by adding a new paragraph (4) having the following wording:

“(4) By derogation to Article 11 (1), in case of future evolutions of the E.U law which would affect this Agreement’s provisions, the present Agreement shall be amended, if necessary, by mutual consensus of the Contracting Parties, so as to ensure the conformity of its provisions with the Romania’s obligations arising from the EU member status.”

Article 4:

This Additional Protocol shall form an integral part of the Agreement and shall be subject to constitutional procedures required by the national laws of the Contracting Parties.

Article 5


The present Additional Protocol shall enter into force on the date of receipt of the last notification by which the Contracting Parties shall communicate each other that their internal legal procedures for its entry into force have been completed and shall remain in force as long as the Agreement shall remain in force.

IN WITNESS WHEREOF, the undersigned being duly authorized by their Governments have signed this Additional Protocol.

Done at Bucharest, on October, 21, 2008, in two originals, each in Romanian, Korean and English languages, all texts being equally authentic. In case of divergence of interpretation, the English text shall prevail.

FOR THE GOVERNMENT OF

ROMANIA



FOR THE GOVERNMENT OF

THE DEMOCRATIC PEOPLE'S
REPUBLIC OF KOREA

