AGREEMENT

BETWEEN

THE BELGIUM-LUXEMBOURG ECONOMIC UNION

AND

THE GOVERNMENT OF THE REPUBLIC OF KOREA,

FOR

THE RECIPROCAL PROMOTION AND PROTECTION OF INVESTMENTS

THE GOVERNMENT OF THE KINGDOM OF BELGIUM,
THE WALLOON GOVERNMENT,
THE FLEMISH GOVERNMENT,
THE GOVERNMENT OF THE REGION OF BRUSSELS-CAPITAL,
AND
THE GOVERNMENT OF THE GRAND-DUCHY OF LUXEMBOURG,
on the one hand,

and

THE GOVERNMENT OF THE REPUBLIC OF KOREA,
on the other hand,

(hereinafter referred to as "the Contracting Parties"),

Desiring to create favourable conditions for greater investments by investors of one Contracting Party in the territory of the other Contracting Party, based on the principles of equality and mutual benefit,

Recognising that the promotion and protection of investments on the basis of this Agreement will be conducive to the stimulation of individual business initiative and will increase prosperity in both States,

Recognizing the right of each Contracting Party to establish its own levels of domestic environmental protection, development policies, priorities and labour standards, and to adopt or modify accordingly its environmental and labour legislation,

Understanding that no Contracting Party shall change or relax its domestic environmental and labour legislation in a way that undermines internationally recognized labor rights to encourage investment, investment maintenance or the expansion of the investment that shall be made in its territory,

Have agreed as follows:

ARTICLE 1

DEFINITIONS

For the purposes of this Agreement:

1. "investments" means every kind of asset owned or controlled, directly or indirectly, by an investor of one Contracting Party in the territory of the other Contracting Party and in particular, though not exclusively, includes:

   (a) movable and immovable property and any other property rights such as mortgages, liens, leases or pledges,

   (b) shares in, stocks and debentures of, and any other form of participation, including minority ones, in a company or any business enterprise and rights or interest derived therefrom,

   (c) claims to money or to any performance under a contract having an economic value,

   (d) intellectual property rights including rights with respect to copyrights, patents, trademarks, trade names, industrial designs, technical processes, trade secrets and know-how, and goodwill, and

   (e) business concessions having an economic value conferred by law or under contract, including concessions to search for, cultivate, extract or exploit natural resources.

   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 juridical persons of one Contracting Party who invest in the territory of the other Contracting Party:

   (a) "natural persons" means natural persons having the nationality of the Kingdom of Belgium, the Grand Duchy of Luxembourg, or the Republic of Korea, in accordance with the respective laws, and

   (b) "juridical persons" means any 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 the Kingdom of Belgium, of the Grand-Duchy of Luxembourg or of the Republic of Korea.

4. "territory" means the territory of the Kingdom of Belgium, the territory of the Grand Duchy of Luxembourg, 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, sovereign rights or jurisdiction for the purpose of exploration and exploitation of the natural resources of such areas; and

5. "freely convertible currency" means 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 and continuous protection and security in the territory of the other Contracting Party.

3. Neither Contracting Party shall in any way impair by arbitrary or discriminatory measures the operation, management, maintenance, use, enjoyment or disposal of investments in its territory by investors of the other 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 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 the operation, management, maintenance, use, enjoyment and sale or other disposal of their investments, treatment 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. Such treatment shall not relate to privileges which either Contracting Party accords to investors of third States on account of its present or future membership of, or association with a customs or economic union, a common market or a free trade area or similar international agreement.

4. 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 investments of the investors of the other Contracting Party the benefit of any treatment, preference or privilege resulting from any international agreement or arrangement relating wholly or mainly to taxation, including an agreement for the avoidance of double taxation.

ARTICLE 4

COMPENSATION FOR LOSSES

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 situation 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.

ARTICLE 5

EXPROPRIATION

1. Investments of investors of one Contracting Party shall not be nationalized, expropriated or otherwise subjected to any other measures having effect equivalent to nationalization or expropriation (hereinafter referred to as "expropriation") in the territory of the other Contracting Party except for public purposes and against prompt, adequate and effective compensation. The expropriation shall be carried out on a non-discriminatory basis and under due process of law.

2. Such compensation shall amount to the fair market value of the expropriated investments immediately before the expropriation was taken or before the 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 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 own shares, debentures or other forms of participation, the provisions 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 Article 4 and 5.

2. All transfers under this Agreement shall be made in a freely convertible currency, without undue restriction or delay, at the market exchange rate prevailing at the date of the transfer.

3. Notwithstanding other provisions of this Agreement, each Contracting Party may, in accordance with its laws and regulations, adopt or maintain measures inconsistent with its obligations under this Article:

(a) in the event of serious balance-of-payments and external financial difficulties or threat thereof; or

(b) where, in exceptional circumstances, movements of capital cause, or threaten to cause, serious difficulties for macroeconomic managements, in particular monetary and exchange rate policies.

4. Measures referred to in paragraph 3 above:

(a) shall be consistent with the Articles of the Agreement of the International Monetary Fund,

(b) shall not exceed those necessary to deal with the circumstances described in paragraph 3 above,

(c) shall be temporary and shall be eliminated as soon as conditions permit,

(d) shall be promptly notified to the other Contracting Party.

ARTICLE 7

SUBROGATION

1. If a Contracting Party or its designated agency makes a payment to its own investors under an indemnity given in respect of investments in the territory of the other Contracting Party, the other 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 and enforce the claims of those investors.

2. The subrogated rights or claims shall not exceed the original rights or claims of the investor.

ARTICLE 8

SETTLEMENT OF INVESTMENT DISPUTES BETWEEN A CONTRACTING PARTY AND AN INVESTOR OF THE OTHER CONTRACTING PARTY

1. Any dispute between a Contracting Party and an investor of the other Contracting Party derived from an alleged breach of an obligation under this Agreement, including expropriation or nationalization of investments, shall be notified in writing by the first party to take action and shall be, as far as possible, settled by the parties to the dispute in an amicable way. The notification shall be accompanied by a sufficiently detailed memorandum.

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 to investors of the other Contracting Party on the basis of treatment no less favourable than that which would be 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, and if the investor waives the rights to initiate any proceedings under paragraph 2 of this Article with respect to the same dispute, the dispute shall be submitted upon request of the investor of the Contracting Party:

   (a) to the International Centre for Settlement of Investment Disputes (ICSID) established by the Washington Convention of 18 March 1965 on the Settlement of Investment Disputes between States and Nationals of other States, or

   (b) to the Additional Facility of the Centre, if ICSID is not available, or

   (c) in accordance with the UNCITRAL Arbitration Rules, or

   (d) if agreed by both parties to the dispute, to any other arbitration institution or in accordance with any other arbitration rules.

4. The investor, notwithstanding that it may have submitted the dispute to the international arbitration under paragraph 3 may seek interim injunctive relief, not involving the payment of damages, before the judicial or administrative tribunals of the Contracting Party that is a party to the dispute for the preservation of its rights and interests.

5. Each Contracting Party hereby consents to the submission of a dispute to arbitration in accordance with the procedures set out in this Agreement. Such consent implies that both Parties waive the right to demand that all domestic administrative or judiciary remedies be exhausted.

6. The award made by the international arbitration in this Article 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.

7. The investor is not entitled to submit a dispute for resolution according to this Article if more than five years have elapsed from the date the investor first acquired or should have acquired knowledge of the events giving rise to the dispute.

ARTICLE 9

SETTLEMENT OF DISPUTES BETWEEN THE CONTRACTING PARTIES

1. Disputes between the Contracting Parties concerning the interpretation or application of this Agreement shall, if possible, be settled through consultations or 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 is also 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 reach its decision by a majority of votes. Such decision shall be binding on both Contracting Parties.

6. The Arbitral Tribunal shall determine its own procedure.

7. 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 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 from taking advantage of whichever rules are the more favourable to its 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. Each Contracting Party shall observe any other written obligation that may have entered into force with regard to investments in its territory by investors of the other Contracting Party.

ARTICLE 11

APPLICATION OF THE AGREEMENT

The Agreement shall apply to all investments, whether made before or after its entry into force. The Present Agreement shall, however, not be applicable to disputes concerning investments which are subject of a dispute settlement procedure under the Agreement on Encouragement and Reciprocal Protection of Investments between the Republic of Korea, the Kingdom of Belgium, and the Grand-Duchy of Luxembourg, signed on 20 December 1974 at Brussels. The latter Agreement shall continue to apply to these investments, as far as it concerns the disputes referred to.

ARTICLE 12

ENTRY INTO FORCE, DURATION AND TERMINATION

1. This Agreement shall enter into force thirty (30) days after the date on which the Contracting Parties have notified each other in writing that their respective legal requirements for the entry into force of this Agreement have been fulfilled.

2. This Agreement shall remain in force for a period of twenty (20) years and shall remain in force thereafter indefinitely 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 Articles 1 to 11 of this Agreement shall remain in force for a further period of twenty (20) years from the date of the termination.

4. Upon the entry into force of the present Agreement, the Agreement on Encouragement and Reciprocal Protection of Investments between the Republic of Korea, the Kingdom of the Belgium, and the Grand-Duchy of Luxembourg, signed on 20 December 1974 at Brussels, shall be terminated and replaced by the present Agreement.

IN WITNESS WHEREOF, the undersigned, duly authorized thereto by their respective Governments, have signed this Agreement.

DONE at Brussels, on the 12th day of December 2006, in duplicate, each in the English, French, Dutch and Korean languages, all texts being equally authentic. The text in the English language shall prevail in case of difference of interpretation.

FOR THE BELGIUM-LUXEMBOURG ECONOMIC UNION :

The Government of the Kingdom of Belgium :

The Government of the Grand-Duchy of Luxembourg :

FOR THE GOVERNMENT OF THE REPUBLIC OF KOREA :

The Walloon Government :

The Flemish Government :

The Government of the Region of Brussels-Capital :