

**AGREEMENT ON SOCIAL SECURITY
BETWEEN
THE REPUBLIC OF KOREA
AND
THE KINGDOM OF BELGIUM**

The Republic of Korea and the Kingdom of Belgium, wishing to arrange the mutual relations between the two States in the field of social security, decided to conclude an Agreement for this purpose and agreed as follows:

PART I
GENERAL PROVISIONS

Article 1
Definitions

1. For the implementation of this Agreement:
 - a) The term "Korea" means: the Republic of Korea;
the term "Belgium" means: the Kingdom of Belgium.
 - b) The term "national" means:
as regards Korea: a national of the Republic of Korea as defined by "The Nationality Law", as amended;
as regards Belgium: a person with Belgian nationality.
 - c) The term "legislation" means: the laws and regulations specified in Article 2.
 - d) The term "competent authority" means:
as regards Korea: the Minister of Health and Welfare;
as regards Belgium: the Ministers, each to the extent that he is responsible for the implementation of the legislation specified in paragraph 1 a) of Article 2.
 - e) The term "agency" means:
as regards Korea: the "National Pension Corporation";
as regards Belgium: the institution, the organization or the authority responsible in full or in part for the implementation of the laws specified in paragraph 1 a) of Article 2.
 - f) The term "insurance period" means: any period of contributions recognized as such in the legislation under which that period was completed, as well as any period recognized as equivalent to a period of contribution under that legislation.
 - g) The term "pension" means: any pension or benefit in cash, including any supplements or increases applicable under the laws specified in Article 2.

- h) The term "family members" means: any person defined or recognized as a family member or designated as a member of the household by the legislations of Korea and Belgium respectively.
- i) The term "stateless person" means: any person defined as a stateless person in Article 1 of the Convention relating to the Status of Stateless Persons, dated September 28, 1954.
- j) The term "refugee" means: any person recognized as having the status of refugee in application of the Convention relating to the Status of Refugees dated July 28, 1951, as well as to the additional Protocol to the Convention dated January 31, 1967.

2. Any term not defined in paragraph 1 of this Article shall have the meaning assigned to it in the applicable legislation.

Article 2

Legislative scope

1. This Agreement shall apply:
 - a) as regards Korea, to the "National Pension Act" and to its regulations;
 - b) as regards Belgium, to the legislations concerning:
 - (i) old-age and survivors pension for employed persons and self-employed persons;
 - (ii) the invalidity insurance for employed persons, sailors of the merchant marine, mine workers and self-employed persons;and, as regards Part II only, to the legislations concerning:
 - (iii) the social security for employed persons;
 - (iv) the social security for self-employed persons.
2. This Agreement shall also apply to all acts or regulations which will amend or extend the legislation specified in paragraph 1 of this Article.

It shall apply to any act or regulation which will extend the existing schemes to new categories of beneficiaries, unless, in this respect, the Contracting State which has amended its legislation does notify the other Contracting State of its objections within six months of the official publication of the said acts.

This Agreement shall not apply to acts or regulations that establish a new social security branch, unless the competent authorities of the Contracting States agree on this application.

3. Unless otherwise provided in this Agreement, the legislation referred to in paragraphs 1 and 2 of this Article shall not include treaties or other international agreements on social security that may be concluded between one Contracting State and a third State, or legislation promulgated for their specific implementation.

Article 3

Personal scope

Unless otherwise specified, this Agreement shall apply:

- a) to all persons who are or have been subject to the legislation of either of the Contracting States, and who are:
 - (i) nationals of one of the Contracting States, or
 - (ii) stateless persons or refugees recognized by either of the Contracting States, as well as to their family members and survivors;
- b) to family members and survivors of persons who have been subject to the legislation of either of the two Contracting States, regardless of the latter persons' nationality, if the family members or survivors are nationals of either of the Contracting States or stateless persons or refugees recognized by either of the Contracting States.

Article 4

Equality of treatment

Unless otherwise specified in this Agreement, the persons referred to in Article 3 shall be subject to the obligations as well as benefit from the legislation of either Contracting State under the same conditions as nationals of that State.

Article 5

Export of pensions

1. Unless otherwise specified in this Agreement, pensions acquired under the legislation of either of the Contracting States cannot be subject to any reduction or modification owing to the fact that the beneficiary stays or resides in the territory of the other Contracting State.
2. The pensions due from either of the Contracting States are paid to nationals of the other Contracting State residing in the territory of a third State, under the conditions provided in the national legislation of the former Contracting State for its nationals residing in the territory of that third State.

Article 6

Reduction or suspension clauses

The reduction or suspension clauses provided for in the legislation of one Contracting State, in case one pension coincides with other social security benefits or with other professional incomes, shall be applied to the beneficiaries, even if these benefits were acquired by virtue of a scheme of the other Contracting State, or if the related professional activities are exercised in the territory of the other Contracting State.

However, this provision shall not apply when pensions of the same nature coincide.

PART II

PROVISIONS CONCERNING THE APPLICABLE LEGISLATION

Article 7

General provisions

1. Subject to Articles 8 to 10, the applicable legislation is determined according to the following provisions:

- a) persons who are engaged in an employed or self-employed professional activity in the territory of a Contracting State are subject to the legislation of that Contracting State;
- b) persons who are members of the traveling or flying personnel of an enterprise which, for hire or reward or on its own account, operates international transport services for passengers or goods and has its registered office in the territory of a Contracting State shall be subject to the legislation of that Contracting State.

2. In case of simultaneous exercise of a self-employed professional activity in Belgium and an employed activity in Korea, the activity exercised in Korea shall be assimilated to an employed activity exercised in Belgium, in order to determine the obligations resulting from the Belgian legislation concerning the social status of self-employed persons.

3. The person who exercises a self-employed professional activity in the territory of both Contracting States shall only be subject to the legislation of the Contracting State in which territory he has his habitual residence. For the purpose of determining the amount of the incomes to be taken into account for the contributions to be charged under the legislation of this Contracting State, the professional incomes as a self-employed person acquired in the territories of both States shall be taken into account, in accordance with their respective legislation.

Article 8

Special provisions

1. An employed person who, being in the service of an enterprise with an office on which he normally depends in the territory of one of the Contracting States, is posted by that enterprise in the territory of the other Contracting State to work on its account, shall be subject to the legislation of the former Contracting State, as if he continued to be employed in his territory on the condition that the foreseeable duration of his work does not exceed 60 months. The family members who accompany the employed person will be subject to the legislation of that former Contracting State unless they exercise professional activities.

2. In case the detachment continues beyond the period specified above, the legislation on compulsory insurance of the former Contracting State shall continue to apply, provided that the competent authorities of both Contracting States or the agencies designated by them consent upon the joint request of the employee and the employer.

Article 9

Civil servants, members of diplomatic missions and consular posts

1. Civil servants and equivalent personnel are subject to the legislation of the Contracting State whose administration employs them. These persons, as well as their family members are, for this purpose, considered to be residing in that Contracting State, even if they are in the territory of the other Contracting State.

2. a) Nationals of a Contracting State sent by the government of that Contracting State to the territory of the other Contracting State as members of a diplomatic mission or a consular post are subject to the legislation of the former Contracting State.

b) Persons who are nationals of a Contracting State and employed by a diplomatic mission or a consular post of that Contracting State in the territory of the other Contracting State are subject to the legislation of the former Contracting State.

However, those persons may opt for the legislation of the latter Contracting State to be applied upon the consent of their employer within six months from the commencement date of employment or the date of the entry into force of this Agreement.

Persons who are not specified in the afore-mentioned provisions of this subparagraph are subject to the legislation of the latter Contracting State.

c) When the diplomatic mission or the consular post of one of the Contracting States employs persons who, pursuant to subparagraph b) of this paragraph, are subject to the legislation of the other Contracting State, the mission or post takes into account the obligations imposed on the employers under the legislation of the other Contracting State.

d) The provisions in subparagraphs b) and c) of this paragraph also apply by analogy to persons employed in private service of a person specified in

subparagraph a) of this paragraph.

- e) The provisions of subparagraphs a) to d) of this paragraph neither apply to honorary members of a consular post nor persons employed in private service of these persons.
- f) The provisions of this paragraph also apply to the family members of the persons referred to in subparagraphs a) to d), living at home, unless they exercise a professional activity.

Article 10

Modification provision

In the interest of certain insured persons or certain categories of insured persons, the competent authorities can, in common agreement, specify modifications to the provisions of Articles 7 to 9 provided that the affected persons shall be subject to the legislation of one of the Contracting States.

PART III

PROVISIONS CONCERNING PENSIONS

Chapter 1

Provisions concerning Belgian pensions

SECTION 1- Old-age and survivors pensions

Article 11

1. Notwithstanding the provisions of paragraph 2, for the acquisition, retention or recovery of the right to pensions, the insurance periods completed pursuant to the Korean legislation concerning pensions are totalized, when necessary and to the extent that they do not overlap, with the insurance periods completed pursuant to the Belgian legislation.

2. If the Belgian legislation subordinates the granting of certain pensions to the condition that the insurance periods are to be completed in a given occupation, only

insurance periods completed or recognized as equivalent in the same occupation in Korea shall be totalized for admission to entitlement to these pensions.

3. If the Belgian legislation subordinates the granting of certain pensions to the condition that the insurance periods are to be completed in a given occupation, and when these periods did not result in entitlement to the said pensions, the said periods shall be considered valid for the determination of the pensions provided for in the general scheme of employed persons.

Article 12

1. If a person is entitled to pensions under the Belgian legislation without necessarily proceeding to totalization, the Belgian agency shall calculate the pension entitlement directly on the basis of the insurance periods completed in Belgium and only under the Belgian legislation.

That agency shall also calculate the amount of the pension that would be obtained by applying the rules specified in paragraph 2 a) and b). Only the higher of these two amounts shall be taken into consideration.

2. If a person is entitled to a pension by virtue of the Belgian legislation, with his right being created solely by taking the totalization of the insurance periods into account pursuant to Article 11, the following rules apply :

- a) the Belgian agency shall calculate the theoretical amount of pension due as if all the insurance periods completed according to the two Contracting States' legislations were exclusively completed under the Belgian legislation;
- b) the Belgian agency shall then calculate the amount due, on the basis of the amount specified under a), in proportion to the duration of the insurance periods under its legislation, in relation to the duration of all insurance periods accounted under a).

SECTION 2- Invalidity insurance

Article 13

For the acquisition, retention or recovery of the right to invalidity pensions, the provisions of Article 11 shall apply by analogy.

Article 14

1. If the right to the Belgian invalidity pensions is created solely by totalization of the Korean and Belgian insurance periods completed in accordance with Article 13, the amount of the pension due is determined according to the procedure determined by Article 12, paragraph 2.

2. If the right to Belgian invalidity pensions is opened without recourse to the provisions of Article 13, and if the amount resulting from the sum of the Korean pension and of the Belgian pension calculated in accordance with paragraph 1 of this Article is lower than the amount of the pension due solely on the basis of the Belgian legislation, the Belgian competent agency will grant a complement equal to the difference between the total amount of these two pensions and the amount due solely according to the Belgian legislation.

Article 15

1. In derogation of the provisions of Article 11, paragraph 1 and Article 14, the entitlement to invalidity pensions of workers who have been employed in mines or stone-pits with subterranean exploitation in Korea and in Belgium is determined according to the rules defined in Article 12, when, taking account of the periods totalized to this end, these workers meet the conditions specified in the special Belgian legislation on the invalidity of mine workers and equivalent persons.

2. For the application of paragraph 1, the periods of insurance in the same occupation exercised in the territory of Korea are, both for the acquisition and for the determination of the entitlement, totalized with the periods of effective occupation or equivalent periods in the Belgian mines or stone-pits with subterranean exploitation.

3. If, taking account of the periods thus totalized, the person concerned does not meet

the requirements to avail of the pensions specified in the special Belgian legislation on invalidity of mine workers and equivalent persons, the periods of effective or equivalent occupation in the Belgian mines or stone-pits with subterranean exploitation shall be taken into account for the granting of pensions in the scheme for invalidity insurance of employed persons.

Article 16

The beneficiary of an invalidity pension under the Belgian legislation is still entitled to this pension during a stay in the other Contracting State when that stay has first been authorized by the Belgian competent agency. That authorization can, however, only be refused if the stay takes place in the period during which, by virtue of the Belgian legislation, the Belgian competent agency must estimate or revise the state of invalidity.

Chapter 2

Provisions concerning Korean pensions

Article 17

Totalization and pensions

1. If a person is not eligible for an old-age or survivors pension under the Korean legislation based on period of coverage credited exclusively under the Korean legislation, the agency of Korea shall take into account the person's insurance period credited under the Belgian legislation, insofar as they do not coincide, for the purpose of establishing the person's entitlement to the pensions under the Korean legislation.
2. To obtain an invalidity or survivors pension, 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 insured for a pension under the Belgian legislation during a period in which the insured event occurs.
3. In applying paragraph 1, insurance periods recognized under the Belgian legislation

as insurance periods completed in a given occupation shall be taken into account as periods of equivalent activities under the Korean legislation, only insofar as the activities performed in Belgium are those of the same occupation recognized under the Korean legislation.

4. Where insurance periods under the Belgian legislation are taken into account to establish eligibility for pensions under the Korean legislation in accordance with paragraphs 1 and 2 of this Article, the pension due shall be determined as follows:

- a) The agency of Korea shall first compute a pension amount equal to the amount that would have been payable to the person if all the periods of coverage credited under the legislation of both Contracting Parties had been completed under the Korean legislation. To determine the pension account, the agency of Korea shall take into account the persons average standard monthly income while insured under the Korean legislation.
- b) The agency of Korea shall calculate the partial pension to be paid in accordance with the Korean legislation based on the pension amount calculated in accordance with the preceding subparagraph, in proportion to the ratio between the duration of the periods of coverage taken into consideration under its own legislation and the total duration of the insurance periods taken into consideration under the legislation of both Contracting States.

5. Lump-sum refunds shall be granted to nationals of the other Contracting State under the same conditions as they are granted to the Korean nationals. However lump-sum refunds shall be paid to nationals of a third State in accordance with the Korean legislation.

6. Provisions of the Korean legislation restricting the entitlement to the invalidity or survivors pension due to unpaid contributions at the time when the person has otherwise qualified for the pension shall apply to the period covered under the Korean legislation.

Chapter 3

Common provisions

Article 18

1. If, because of the rising cost of living, the variation of the wage levels or other adaptation causes, the old-age, survivors or invalidity pensions of either Contracting State are changed with a given percentage or amount, that percentage or amount should be directly applied to the old-age, survivors or invalidity pensions of that Contracting States, without the other Contracting State having to proceed to a new calculation of the old-age, survivors or invalidity pension.

2. On the other hand, in case of modification of the rules or of the computation process with regard to the establishment of the old-age, survivors or invalidity pensions a new computation shall be performed according to Article 12, 14 or 17.

PART IV

MISCELLANEOUS PROVISIONS

Article 19

Responsibilities of the competent authorities

The competent authorities:

- a) shall take, by means of an Administrative Arrangement, the measures required to implement this Agreement, including measures concerning taking into account of insurance periods, and shall designate the liaison agencies and the competent agencies;
- b) shall define the procedures for mutual administrative assistance, including the sharing of expenses associated with obtaining medical, administrative and other evidence required for the implementation of this Agreement;
- c) shall directly communicate to each other any information concerning the measures taken for the application of this Agreement;
- d) shall directly communicate to each other, as soon as possible, all changes in their legislation to the extent that these changes might affect the application of this Agreement.

Article 20

Administrative collaboration

1. For the implementation of this Agreement, the competent authorities as well as the competent agencies of both Contracting States shall assist each other *inter-alia* with regard to the determination of entitlement to or payment of any pension under this Agreement as they would for the application of their own legislation. In principle, this assistance shall be provided free of charge; however, the competent authorities may agree on the reimbursement of some expenses.

2. The benefit of the exemptions or reductions of taxes, of stamp duties or of registration or recording fees provided for by the legislation of one Contracting State in respect of certificates or other documents which must be produced for the application of the legislation of that State shall be extended to certificates and similar documents to be produced for the application of the legislation of the other State.

3. Documents and certificates which must be produced for the implementation of this Agreement shall be exempted from authentication by diplomatic or consular authorities.

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

4. For the implementation of this Agreement, the competent authorities and agencies of the Contracting States may communicate directly with each other as well as with any person, regardless of the residence of such persons. Such communication may be made in one of the official languages of the Contracting States.

An application or document may not be rejected by the competent authority or organizations of a Contracting State solely because it is in an official language of the other Contracting State.

Article 21

Claims, notices and appeals

1. Claims, notices or appeals which, according to the legislation of one of the Contracting States, should have been submitted within a specified period to the authority or agency of that Contracting State, are acceptable if they are presented within the same specified period to an authority or agency of the other Contracting

State. In this case, the claims, notices or appeals must be sent without delay to the authority or agency of the former Contracting State, either directly or through the competent authorities of the Contracting States.

The date on which these claims, notices or appeals have been submitted to an authority or agency of the second Contracting State shall be considered to be the date of submission to the authority or agency authorized to accept such claims, notices or appeals.

2. An application for pensions under the legislation of one Contracting State shall be deemed to be also an application for a pension of same nature under the legislation of the other Contracting State provided that the applicant so wishes and provides information indicating that insurance periods have been completed under the legislation of the other Contracting State.

Article 22

Confidentiality of information

Unless otherwise required by the national laws and regulations of a Contracting State, information about an individual which is transmitted in accordance with this Agreement to the competent authority or agency of that Contracting State by the competent authority or agency of the other Contracting State shall be used exclusively for purposes of implementing this Agreement and the legislation to which this Agreement applies. Such information received by a competent authority or agency of a Contracting State shall be governed by the national laws and regulations of that Contracting State for the protection of privacy and confidentiality of personal data.

Article 23

Payment of pensions

1. Pensions may be validly paid by an agency of one Contracting State to a person residing in the territory of the other Contracting State in the currency of that Contracting State. If pensions are paid in the currency of the other Contracting State, the conversion rate shall be the rate of exchange in effect on the day when pensions are paid.

2. In the event that a Contracting State imposes currency controls or other similar measures that restrict payments, remittance or transfers of funds or financial instruments to persons who are outside that Contracting State, it shall, without delay,

take appropriate measures to ensure the payment of any amount that must be paid in accordance with this Agreement to persons described in Article 3 who reside in the other Contracting State.

Article 24
Resolution of disputes

Disputes which arise in interpreting or applying this Agreement shall be resolved, to the extent possible, by the competent authorities.

PART V
TRANSITIONAL AND FINAL PROVISIONS

Article 25
Events prior to the entry into force of the Agreement

1. This Agreement shall also apply to events which occurred prior to its entry into force.
2. This Agreement shall not create any entitlement to pensions for any period prior to its entry into force.
3. All insurance periods completed under the legislation of one of the Contracting States prior to the date on which this Agreement enters into force shall be taken into consideration in determining entitlement to any pension in accordance with the provisions of this Agreement.
4. Neither Contracting State shall be required to take into account insurance periods which occurred prior to the earliest date for which insurance periods may be credited under its legislation.
5. This Agreement shall not apply to rights that were liquidated by the granting of a lump-sum payment or the reimbursement of contributions.
6. In applying Article 8 in case of persons who were sent to a Contracting State

prior to the date of entry into force of this Agreement, the periods of employment referred to in that Article shall be considered to begin on that date.

Article 26

Revision, prescription, forfeiture

1. Any pension that was not paid or that was suspended by reason of the nationality of the interested person or by reason of his residence in the territory of a Contracting State other than that in which the agency responsible for payment is located, shall, on application by the interested person, be paid or restored from the entry into force of this Agreement.
2. The entitlement of interested persons who, prior to the entry into force of this Agreement, obtained the payment of a pension may be revised upon application by those persons, in accordance with the provisions of this Agreement. In no case shall such a revision result in a reduction of the prior entitlement of the interested persons.
3. If the application referred to in paragraph 1 or 2 of this Article is made within two years of the date of the entry into force of this Agreement, any entitlement arising from the implementation of this Agreement shall be effective from that date, and the legislation of either Contracting State concerning the forfeiture or the prescription of rights shall not be applicable to such interested persons.
4. If the application referred to in paragraph 1 or 2 of this Article is made after two years following the entry into force of this Agreement, the entitlements which are not subject to forfeiture or which are not yet prescribed shall be acquired from the date of application, unless more favorable legislative provisions of the Contracting State concerned are applicable.

Article 27

Duration

This Agreement is concluded without any limitation on its duration. It may be

terminated by either Contracting State giving twelve months' notice in writing to the other State.

Article 28

Guarantee of rights that are acquired or in the course of acquisition

In the event of termination of this Agreement, any rights and payment of pensions acquired by virtue of the Agreement shall be maintained. The Contracting States shall make arrangements regarding the rights in the course of acquisition.

Article 29

Entry into force

This Agreement shall enter into force on the first day of the third month following the date of receipt of the note through which the last of both Contracting States will have given notice to the other Contracting State that all domestic requirements have been accomplished.

In witness whereof, the undersigned, being duly authorized thereto, have signed this Agreement.

Done in duplicate at Brussels on the 5th of July 2005, in Korean, French, Dutch and English, each text being equally authentic. In case of any divergence of interpretation, the English text will prevail.

FOR THE REPUBLIC OF KOREA

FOR THE KINGDOM OF BELGIUM