

AGREEMENT BETWEEN  
THE REPUBLIC OF KOREA AND  
THE FEDERAL REPUBLIC OF GERMANY  
ON SOCIAL SECURITY

The Republic of Korea and the Federal Republic of Germany,

Being desirous of regulating the relationship between them in the area of social security,

Have agreed as follows:

## Part I General Provisions

### Article 1 Definitions

- (1) For the purpose of this Agreement,
  - a) "territory" means,
    - as regards the Republic of Korea,  
the territory of the Republic of Korea;
    - as regards the Federal Republic of Germany,  
the territory of the Federal Republic of Germany;
  
  - b) "national" means,
    - as regards the Republic of Korea,  
a national of the Republic of Korea within the meaning of the Nationality Law of the Republic of Korea;
    - as regards the Federal Republic of Germany,  
a German within the meaning of the Basic Law for the Federal Republic of Germany;
  
  - c) "legislation" means,
    - as regards the Republic of Korea,  
the laws and regulations specified in paragraph (1) of Article 2;
    - as regards the Federal Republic of Germany,  
the laws, regulations, by-laws and other general legislative acts concerning the pension insurance systems covered by the material scope of this Agreement (paragraph (1) of Article 2);

- d) "competent authority" means,  
as regards the Republic of Korea,  
the Ministry of Health and Welfare;  
as regards the Federal Republic of Germany,  
the Federal Ministry of Labour and Social Affairs;
- e) "administrative authority" means,  
a competent authority or any other administrative authority responsible  
for the implementation of the legislation specified in paragraph (1) of  
Article 2;
- f) "agency" means,  
as regards the Republic of Korea,  
the National Pension Corporation;  
as regards the Federal Republic of Germany,  
the insurance institution responsible for the implementation of the  
legislation specified in paragraph (1) of Article 2;
- g) "period of coverage" means,  
a period of contributions under the legislation of a Contracting State  
and any other period taken into account under that legislation for  
establishing an entitlement to benefits or for calculating the amount of  
benefits;
- h) "benefit" means,  
a pension or any other cash benefit under the legislation of a  
Contracting State.
- (2) Any other term not defined in paragraph (1) has the meaning assigned to  
it in the applicable legislation of the respective Contracting State.

## **Article 2**

### **Material scope of application**

- (1) This Agreement shall apply to the following legislation:
  - a) as regards the Republic of Korea,  
the National Pension Act, and the rules and regulations applicable to its implementation,
  - b) as regards the Federal Republic of Germany,
    1. the Statutory Pension Insurance,
    2. the Steelworkers' Supplementary Insurance,
    3. the Farmers' Old-Age Security.
- (2) This Agreement shall also apply to future legislation which amends, supplements, consolidates or supersedes the legislation specified in paragraph (1) of this Article.
- (3) This Agreement shall also apply to future legislation which creates other types of benefits or new categories of beneficiaries, unless the Contracting State which promulgates such legislation otherwise notifies the other Contracting State in writing within ninety days after the promulgation of such legislation.
- (4) Where, under the legislation of one Contracting State, not only the conditions for the application of this Agreement but also the conditions for the application of another agreement or of a supranational arrangement are satisfied, that other agreement or the supranational arrangement shall not be taken into account by the agency of this Contracting State in the application of this Agreement.

### **Article 3**

#### **Personal scope of application**

This Agreement shall apply to the following persons who are or have been subject to the legislation of either Contracting State:

- a) nationals of either Contracting State;
- b) refugees within the meaning of Article 1 of the Convention Relating to the Status of Refugees of July 28, 1951 and of the Protocol of January 31, 1967 to that Convention;

- c) stateless persons within the meaning of Article 1 of the Convention Relating to the Status of Stateless Persons of September 28, 1954;
- d) other persons.

#### **Article 4**

##### **Equal treatment**

(1) Unless otherwise provided in this Agreement, the persons specified in Article 3 a), b), and c) who ordinarily reside in the territory of either Contracting State shall, in the application of the legislation of a Contracting State, receive treatment equal to that accorded to the nationals of that Contracting State. The foregoing shall also apply to the persons specified in Article 3 d) who ordinarily reside in the territory of either Contracting State with respect to their rights derived from a person specified in Article 3 a), b), or c).

(2) Benefits under the legislation of one Contracting State shall be granted to nationals of the other Contracting State who ordinarily reside outside the territories of the Contracting States under the same conditions as they are granted to the nationals of the first Contracting State who ordinarily reside outside the territories of the Contracting States.

#### **Article 5**

##### **Equal status of territories**

The provisions of the legislation of one Contracting State which require ordinary residence in the territory of that Contracting State for acquiring an entitlement to benefits or for a payment of benefits shall apply neither to the persons specified in Article 3 a), b), and c) who ordinarily reside in the territory of the other Contracting State, nor to the persons specified in Article 3 d) who ordinarily reside in the territory of that other Contracting State with respect to their rights derived from a person specified in Article 3 a), b) or c).

**Article 6**  
**Compulsory coverage**

(1) Unless otherwise provided in this Agreement, compulsory coverage of employees shall be determined by the legislation of the Contracting State in whose territory they are employed; this shall also apply in cases where the employer is in the territory of the other Contracting State.

(2) Paragraph (1) shall apply analogously to self-employed persons.

**Article 7**  
**Compulsory coverage in case of detachment**

(1) When an employee who is employed in one Contracting State is sent by his employer to the territory of the other Contracting State in the context of that employment to perform services there for that employer, only the legislation on compulsory coverage of the first Contracting State shall continue to apply with regard to that employment during the first twenty-four calendar months as though the employee were still employed in the territory of the first Contracting State. If the detachment continues beyond the period specified above, the legislation on compulsory coverage of the first Contracting State shall continue to apply, if the competent authorities of both Contracting States or the institutions designated by them consent upon the joint request of the employee and the employer.

(2) The provisions of paragraph (1) shall apply analogously to a self-employed person who ordinarily works in the territory of the Federal Republic of Germany when that person works temporarily in the territory of the Republic of Korea.

(3) To a self-employed person who ordinarily resides in the territory of the Republic of Korea, the provisions of paragraph (1) shall apply analogously when that person works temporarily in the territory of the Federal Republic of Germany.

**Article 8**  
**Compulsory coverage of seamen**

Nothing in this Agreement shall affect the domestic legislation of either Contracting State on compulsory coverage of persons who work on board a sea-going vessel.

**Article 9**  
**Compulsory coverage of persons employed with diplomatic missions**

(1) Nothing in this Agreement shall affect the provisions of the Vienna Convention on Diplomatic Relations of April 18, 1961, or of the Vienna Convention on Consular Relations of April 24, 1963.

(2) Subject to the provisions of paragraph (3), if a national of one Contracting State is employed by that Contracting State or a member or a staff member of a diplomatic mission or consular post of that Contracting State in the territory of the other Contracting State, the legislation of the first Contracting State shall apply with regard to compulsory coverage for the duration of the employment as though he were employed there.

(3) Where the employed person specified in paragraph (2) ordinarily resided in the territory of the Contracting State in which he is employed before the beginning of the employment, he may choose within six months from the beginning of the employment to have the legislation of the Contracting State in which he is employed apply with regard to compulsory coverage. The employer shall be notified of such choice. The legislation of his choice shall apply from the day of the notification.

(4) If the diplomatic mission or consular post of either Contracting State employs persons to whom the legislation of the other Contracting State applies, the diplomatic mission or consular post shall meet the obligations incumbent on the local employer in accordance with the legislation specified.

## **Article 10**

### **Exceptions from the provisions on compulsory coverage**

At the joint request of the employee and the employer or at the request of the self-employed person the competent authorities of the Contracting States or the institutions designated by them may, by mutual agreement, derogate from the provisions of this Agreement on compulsory coverage provided that the person concerned continues to be subject or will be subjected to the legislation of either Contracting State. In this regard, the nature and the circumstances of the employment or the self-employment shall be taken into account.

## **Part II**

### **Provisions on benefits**

## **Article 11**

### **Totalization of periods of coverage and calculation of pensions**

(1) When creditable periods of coverage have been completed under the legislation of both Contracting States, the agency of each Contracting State shall, in determining eligibility for benefits under the legislation which it applies, take into account, if necessary, periods of coverage which are creditable under the legislation of the other Contracting State provided that such periods do not overlap with periods creditable under its legislation. The extent to which the periods of coverage are to be taken into account shall be determined by the legislation of the Contracting State under which they were completed.

(2) The calculation of the pension shall be determined by the applicable legislation of the respective Contracting State unless otherwise provided in this Agreement.

## **Article 12**

### **Special provisions relating to the Federal Republic of Germany**



(1) Personal earning points shall be determined on the basis of the earning points acquired under German legislation.

(2) The provision on the totalization of periods of coverage (paragraph (1) of Article 11) shall apply analogously to benefits which are granted at the discretion of an agency.

(3) Periods of coverage completed under Korean legislation shall be taken into account for the Miners' Pension Insurance under Article 11 if they were completed in a mining enterprise in underground operations. If, under German legislation, it is prerequisite for an entitlement to benefits that permanent work underground or equivalent work was performed, the periods of coverage completed under Korean legislation shall be taken into account by the German institution only insofar as activities of the same kind were performed during these periods.

(4) If German legislation provides that an entitlement to benefits requires the completion of certain periods of coverage within a specified time, and if the legislation provides further that this time is extended by certain circumstances or periods of coverage, periods of coverage under the legislation of the other Contracting State or comparable circumstances in the other Contracting State shall also be taken into account for such an extension. Comparable circumstances are periods during which disability or old-age pensions or benefits on account of sickness, unemployment or industrial accidents (with the exception of pensions) were paid under the legislation of the Republic of Korea as well as periods of child-raising in the Republic of Korea.

(5) If, under German legislation, compulsory coverage is exempted on condition that contributions have been paid for a certain period, periods of contribution under Korean legislation shall also be taken into account.

### **Article 13**

#### **Special provisions relating to the Republic of Korea**

(1) To obtain a disability or survivors benefit, the requirement of 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 benefit under German legislation during a period in which the insured event under Korean legislation occurs.

(2) In applying Article 11, a period of coverage recognized under the Miners' Pension Insurance of the Federal Republic of Germany as a period completed by permanent work underground or equivalent work in a mining enterprise shall be taken into account as a period of equivalent work under Korean legislation.

(3) Where periods of coverage under German legislation are taken into account to establish eligibility for benefits under Korean legislation in accordance with paragraph (1) of Article 11 and paragraph (1) of this Article, the benefit due shall be determined as follows:

- a) The Korean agency shall first calculate the 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 States had been completed under Korean legislation. To determine the pension amount, the Korean agency shall take into account the person's average standard monthly income while covered under Korean legislation.
- b) The Korean agency shall then calculate the partial benefit to be paid in accordance with Korean legislation based on the pension amount calculated according to subparagraph a), in proportion to the ratio of the duration of the periods of coverage taken into consideration under its own legislation to the total duration of the periods of coverage taken into consideration under the legislation of both Contracting States.

### **Part III**

#### **Miscellaneous provisions**

##### **Chapter 1**

##### **Cooperation**

**Article 14**  
**Administrative assistance**

The administrative authorities, the agencies and associations of agencies of the Contracting States shall provide mutual assistance to each other in the implementation of the legislation covered by the material scope of this Agreement (paragraph (1) of Article 2) and in the implementation of this Agreement as if they applied the legislation applicable to them. The assistance shall be provided free of charge. Cash expenditures with the exception of expenses for communication shall be reimbursed, however.

**Article 15**  
**Charges and authentication**

(1) An exemption from or reduction of administrative charges including consular fees provided in the legislation of one Contracting State as well as the refund of expenditures for documents to be submitted in the application of this legislation shall also apply to corresponding documents to be submitted in the application of this Agreement or of the legislation of the other Contracting State covered by the material scope of this Agreement (paragraph (1) of Article 2).

(2) Documents to be submitted in the application of this Agreement or of the legislation of one Contracting State covered by the material scope of this Agreement (paragraph (1) of Article 2) may be submitted to institutions of the other Contracting State without authentication or any other similar formality.

**Article 16**  
**Languages of communication**

(1) In implementing this Agreement and the legislation covered by the material scope of this Agreement (paragraph (1) of Article 2), the administrative authorities, the agencies and associations of agencies of the Contracting States may communicate directly with each other and with the persons concerned and their representatives in their official languages. Any legislation on the recourse

to interpreters shall remain unaffected.

(2) The administrative authorities, the agencies and associations of agencies of the Contracting States may not reject petitions and documents because they are written in the official language of the other Contracting State.

## **Article 17**

### **Equal status of applications**

(1) If an application for a benefit payable under the legislation of one Contracting State has been filed with an institution in the other Contracting State which is competent to receive an application for a corresponding benefit under the legislation applicable to it, that application shall be deemed to have been filed with the competent agency of the first Contracting State on the same date. This shall apply analogously to other applications, declarations and appeals.

(2) The applications, declarations or appeals received by an institution of one Contracting State shall be forwarded to the competent institution of the other Contracting State without delay.

(3) An application for benefits payable under the legislation of one Contracting State shall be deemed to be also an application for a corresponding benefit under the legislation of the other Contracting State provided that the applicant provides information indicating that periods of coverage have been completed under the legislation of the other Contracting State. The foregoing shall not apply if the applicant explicitly requests that the determination of entitlement to old-age benefits acquired under the legislation of the other Contracting State be deferred.

## **Article 18**

### **Data protection**

(1) Where, under this Agreement, personal data are transmitted in accordance with national law, the following shall apply whilst the legislation applicable to

each Contracting State shall be duly observed:

- a) The data may, for the purposes of implementing this Agreement and the legislation to which it applies, be transmitted to the competent institutions in the receiving State. The receiving State may process and use the data for these purposes. The passing on of this data to other institutions within the receiving State or the use of this data in the receiving State for other purposes is permissible in the framework of the law of the receiving State provided this serves social security purposes including related judicial proceedings. However, the foregoing shall not prevent the passing on of that data in case that is mandatory under the laws and regulations of the receiving State for the interests protected by criminal law or for the purposes of taxation. In all other cases the passing on to other institutions shall be only permissible upon prior consent of the transmitting institution.
- b) In individual cases the recipient of the data shall, at the request of the transmitting institution, inform that institution of the use of the transmitted data and the results obtained thereof.
- c) The transmitting institution shall ensure that the data to be transmitted is correct and that its transmission is necessary and proportionate with regard to the purposes pursued with the transmission of the data. In this context, any prohibition to transmit data under the respective national law has to be respected. If it becomes evident that incorrect data or data whose transmission was not permissible under the law of the transmitting State has been transmitted, the receiving institution has to be immediately notified of this fact. In this case the receiving institution shall correct or delete this data.
- d) Upon request, the person concerned shall be informed of any personal data transmitted and the intended use of that data. In all other cases, the right of the person concerned to receive information about any personal data held in relation to that person shall be determined by the national law of the Contracting State whose institution requests the information.

- e) Transmitted personal data shall be deleted as soon as it is no longer required for the purpose for which it was transmitted, and if there is no reason to assume that social security interests of the person concerned which are worthy of protection will be affected by the deletion of the data.
  - f) The transmitting and the receiving institutions shall record the transmission and the receipt of personal data.
  - g) The transmitting and the receiving institutions shall protect transmitted personal data effectively against unauthorized access, unauthorized modification and unauthorized disclosure.
- (2) The provisions of paragraph (1) shall apply analogously to business and industrial secrets.

## **Chapter 2**

### **Implementation of this Agreement**

#### **Article 19**

##### **Implementing arrangements**

- (1) The Governments of the Contracting States or the competent authorities may conclude arrangements necessary for the implementation of this Agreement. The competent authorities shall inform each other of any amendments and additions to their legislation which is covered by the material scope of this Agreement (paragraph (1) of Article 2).
- (2) Liaison agencies for the implementation of this Agreement shall be designated in an arrangement under paragraph (1) of this Article.

#### **Article 20**

##### **Currency and exchange rates**

Cash benefits 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 the latter Contracting State. If cash benefits are paid in the currency of the latter Contracting State, the conversion rate shall be the rate of exchange in effect on the day when the remittance is made.

## **Article 21**

### **Settlement of disputes**

(1) Disputes between the two Contracting States regarding the interpretation or application of this Agreement shall be settled, as far as possible, through negotiations between the competent authorities.

(2) If a dispute cannot be resolved in this way, it shall, at the request of either Contracting State, be submitted to an arbitral tribunal.

(3) The arbitral tribunal shall be constituted for each individual case with each Contracting State appointing one member and the two members agreeing on a national from a third state as chairman who shall be appointed by the Governments of the two Contracting States. The members shall be appointed within two months, and the chairman within three months, after one Contracting State has informed the other Contracting State that it will refer the dispute to an arbitral tribunal.

(4) If the deadlines specified in paragraph (3) are not met, either Contracting State may, in the absence of any other arrangement, request the President of the International Court of Justice to make the necessary appointments. If the President is a national of a Contracting State or if he is otherwise prevented from discharging the said function, the Vice-President shall make the appointments. If the Vice-President is also a national of a Contracting State or is otherwise prevented from discharging the said function, the Member of the Court next in seniority who is not a national of a Contracting State shall make the appointments.

(5) The arbitral tribunal shall make its decision by majority vote on the basis

of the treaties in force between the Contracting States and general international law. Its decisions shall be binding. Each Contracting State shall bear the cost of its own member, and of its representative in the arbitral proceedings. The cost of the chairman and the remaining costs shall be shared equally between the Contracting States. The arbitral tribunal may make a different decision concerning the allocation of the cost. In all other regards, the arbitral tribunal shall establish its own procedure.

## **Part IV**

### **Transitional and final provisions**

#### **Article 22**

##### **Transitional provisions**

- (1) This Agreement shall not establish any entitlement to benefits for any period prior to its entry into force.
- (2) In the application of this Agreement, periods of coverage completed before its entry into force and other legally relevant events that occurred before its entry into force shall also be taken into consideration. However, neither Contracting State shall take into account any period which occurred prior to the earliest date for which periods of coverage may be credited under its legislation.
- (3) Determinations which were made before the entry into force of this Agreement shall not affect rights arising under it.
- (4) Pensions determined before the entry into force of this Agreement may be newly determined upon application if a change results solely from the provisions of this Agreement.
- (5) If the new determination under paragraph (4) results in no entitlement or in an entitlement to a lesser amount of pension than that paid for the last period prior to the entry into force of this Agreement, the same amount of pension as previously paid shall continue to be paid.



**Article 23**  
**Final Protocol**

The attached Final Protocol shall form part of this Agreement.

**Article 24**  
**Ratification and entry into force**

(1) This Agreement shall be subject to ratification; the instruments of ratification shall be exchanged as soon as possible in Seoul.

(2) This Agreement shall enter into force on the first day of the third month following the month in which the instruments of ratification have been exchanged.

**Article 25**  
**Duration of the Agreement**

(1) This Agreement shall remain in force for an indefinite period of time. Either Contracting State, however, may terminate it at any time giving twelve months' notice in writing to the other Contracting State through diplomatic channels.

(2) If this Agreement is terminated, its provisions shall continue to apply in respect of any entitlement to benefits acquired up until then. The Contracting States shall make arrangements for the purpose of dealing with any entitlement which is in the process of being acquired.

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

Done at Berlin on March 10, 2000, in duplicate in the Korean, German and English languages, all three texts being authentic. In case of divergent interpretations of the Korean and the German texts, the English text shall prevail.

FOR THE REPUBLIC OF KOREA

FOR THE FEDERAL REPUBLIC  
OF GERMANY

**FINAL PROTOCOL  
TO THE AGREEMENT BETWEEN  
THE REPUBLIC OF KOREA AND  
THE FEDERAL REPUBLIC OF GERMANY  
ON SOCIAL SECURITY**

At the time of the signing of the Agreement on Social Security concluded this day between the Republic of Korea and the Federal Republic of Germany, the undersigned of both Contracting States stated that they were in agreement on the following points:

1. With reference to paragraph (1) of Article 1 of the Agreement:

As regards German legislation, the term "benefit" shall also include a rehabilitation benefit in kind.

2. With reference to Article 2 of the Agreement:

Part II of the Agreement shall not apply to the Steelworkers' Supplementary Insurance and the Farmers' Old-Age Security of the Federal Republic of Germany.

3. With reference to paragraph (4) of Article 2 of the Agreement:

If agreements on social security concluded by the Federal Republic of Germany with a third State or arrangements of the European Community on social security contain provisions relating to the apportionment of insurance burdens, those provisions shall be taken into account in the application of the Agreement.

4. With reference to Article 4 of the Agreement:

- a) Paragraph (1) of Article 4 shall not affect the provisions relating to the apportionment of insurance burdens contained in agreements on social security concluded by the Federal Republic of Germany with a third State or in arrangements of the European Community on social security.
- b) German legislation which guarantees participation of the insured and of employers in the organs of self-government of agencies and associations of agencies as well as in the adjudication of social security matters shall remain unaffected.

- c) Korean nationals who ordinarily reside outside the territory of the Federal Republic of Germany shall be entitled to voluntary coverage under the German pension insurance if they have completed periods of contributions of at least sixty months under the said insurance; more favourable domestic legislation shall remain unaffected. This shall also apply to the refugees and stateless persons specified in Article 3 b) and c) of the Agreement who ordinarily reside in the territory of the Republic of Korea.

5. With reference to Article 5 of the Agreement:

- a) With regard to a pension under German legislation on account of reduced earning capacity, Article 5 shall apply to persons who ordinarily reside in the territory of the Republic of Korea only if the entitlement exists irrespective of the labour market situation.
- b) German legislation on benefits based on periods of coverage not completed within the territory of the Federal Republic of Germany shall remain unaffected.
- c) German legislation on rehabilitation benefits provided by the pension insurance agencies shall remain unaffected.
- d) German legislation providing for the suspension of claims for pension insurance benefits for persons who go abroad to evade criminal proceedings against them shall remain unaffected.

6. With reference to Articles 6 through 10 of the Agreement:

- a) The provisions of Articles 6 through 10 of the Agreement on compulsory coverage with regard to employees shall also apply to a person other than an employee but who is treated as such under German legislation on compulsory coverage.
- b) Where, under Articles 6 through 10 of the Agreement, a person is subject to the legislation on compulsory coverage of a Contracting State, the laws on compulsory coverage for employment promotion (employment insurance) of that Contracting State shall also apply to the person and the person's employer in the same way.

7. With reference to Article 7 of the Agreement:

For persons who are already employed on the day of the entry into force of the Agreement the period specified shall run from that day.

8. With reference to Article 9 of the Agreement:

For persons who are employed on the day of the entry into force of the Agreement the period specified in paragraph (3) shall run from that day.

9. With reference to paragraph (2) of Article 9 and to Article 10 of the Agreement:

If, in applying paragraph (2) of Article 9 and Article 10 of the Agreement, the person concerned is subject to German legislation, that person shall be deemed to be employed or work in the place where he was employed or worked last; any other arrangement resulting from the previous application of Article 7 of the Agreement shall continue to apply. If the person was not employed or did not work previously in the territory of the Federal Republic of Germany, he shall be deemed to be employed or work at the place where the German competent authority has its seat.

10. With reference to Article 11 of the Agreement:

Where the entitlement to benefits under German legislation requires certain periods of coverage, only comparable periods of coverage under Korean legislation shall be taken into account for that purpose.

11. With reference to paragraph (1) of Article 16 of the Agreement:

In applying German legislation, notifications and other documents may be delivered directly to the persons concerned or their representatives who ordinarily reside in the territory of the Republic of Korea by registered mail with return receipt. This provision shall also apply to notifications and other documents which are delivered in the course of implementing German laws and regulations governing assistance to war victims.

12. With reference to Article 22 of the Agreement:

If, under German legislation, an application for the determination of a pension to which an entitlement exists only by virtue of the Agreement is filed within twelve months after its entry into force, the pension shall be paid from the calendar month at the beginning of which the eligibility criteria were first met, at the earliest from the entry into force of the Agreement.