

Korea Friendship, Commerce and Navigation Treaty

REPUBLIC OF KOREA

Friendship, Commerce and Navigation

Treaty and protocol signed at Seoul November 28, 1956;

Ratification advised by the Senate of the United States of America August 8, 1957;

Ratified by the President of the United States of America August 30, 1957;

Ratified by the Republic of Korea October 2, 1957;

Ratifications exchanged at Seoul October 7, 1957;

Proclaimed by the President of the United States of America November 15, 1957;

Entered into force November 7, 1957.

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

A PROCLAMATION

WHEREAS a treaty of friendship, commerce and navigation between the United States of America and the Republic of Korea, together with a protocol relating thereto, was signed at Seoul on November 28, 1956;

WHEREAS the originals of the said treaty and protocol, in the English and Korean languages, are word for word as follows:

TREATY

OF

FRIENDSHIP, COMMERCE AND NAVIGATION

BETWEEN THE UNITED STATES OF AMERICA

AND

THE REPUBLIC OF KOREA

The United States of America and the Republic of Korea, desirous of strengthening the bonds of peace and friendship traditionally existing between them and of encouraging closer economic and cultural relations between their peoples, and being cognizant of the contributions which may be made toward these ends by arrangements encouraging mutually beneficial investments, promoting mutually advantageous commercial intercourse and otherwise establishing mutual rights and privileges, have resolved to conclude a Treaty of Friendship, Commerce and Navigation, based in general upon the principles of national and of most-favored-nation treatment unconditionally accorded, and for that purpose have appointed as their Plenipotentiaries,

The United States of America:

Walter Dowling, Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Korea, and

The Republic of Korea: m

CHO Chung ⁱ Acting Minister of Foreign Affairs of the Republic of Korea

Who having communicated to each other their full proposals found to be in due form, have agreed upon the following articles:

ARTICLE I

Each Party shall treat on equal and equitable terms the persons, property, enterprises and other interests of nationals and companies of the other Party.

ARTICLE II

1. Nationals of either Party shall be permitted to enter the territories of the other Party and to remain therein: (a) for the purpose of carrying on trade between the territories of the two Parties and engaging in related commercial activities; (b) for the purpose of developing and directing the operations of an enterprise in which they have invested or in which they are actively in the process of investing a substantial amount of capital; and (c) for other purposes subject to the laws relating to the entry and sojourn of aliens.

2. Nationals of either Party within the territories of the other Party shall be permitted: (a) to travel therein freely and to reside at places of their choice; (b) to enjoy liberty of conscience; (c) to hold both private and public religious services; (d) to gather and to transmit material for dissemination to the public broadly; and (e) to communicate with other persons inside and outside such territories by mail, telephone and other means open to general public use.

3. The provisions of the present article shall be subject to the right of either Party to apply measures that are necessary to maintain public order and protect the public health, morals and safety.

ARTICLE III

1. Nationals of either Party within the territories of the other Party shall be free from molestations of every kind and shall receive the most constant protection and security in no case less than that required by international law.

2. If within the territories of either Party a national of the other Party is taken into custody by the nearest consular representative of his country shall on the demand of such national be immediately notified and shall have the right to visit and communicate with such national. Such national shall: (a) receive reasonable and humane treatment; (b) be formally and immediately informed of the accusations against him; (c) be brought to trial as promptly as is consistent with the proper preparation of his defense; and (d) enjoy all means reasonably necessary to his defense including the services of competent counsel of his choice.

ARTICLE IV

1. Nationals of either Party shall be accorded national treatment in the application of laws and regulations within the territories of the other Party that establish pecuniary compensation or other benefit or service on account of disease, injury or death arising out of and in the course of employment or due to the nature of employment.

2. In addition to the rights and privileges provided in paragraph 1 of the present article nationals of either Party within the territories of the other Party shall be accorded national treatment in the application of laws and regulations establishing compulsory systems of social security under which benefits are provided in the event of loss of financial support due to old age, unemployment, sickness or disability or (b) loss of financial support due to the death of a father, husband or other person on whom such support has depended.

ARTICLE V

1. Nationals and companies of either Party shall be accorded national treatment in most favored national treatment with respect to access to the courts of justice and to administrative tribunals and agencies within the territories of the other Party in all spheres of jurisdiction both in pursuit and in defense of their rights. It is

understood that companies of either Party not engaged in activities within the territories of the other Party shall enjoy such essential rights without any requirement of registration or domestication.

2. Contracts entered into between nations and companies of either Party and nations and companies of the other Party, that provide for the settlement by arbitration of controversies, shall not be deemed unenforceable within the territories of either Party merely on the grounds that the place designated for the arbitration proceedings is outside the territories or that the nationality of one or more of the arbitrators is not that of either Party. No award duly rendered pursuant to any such contract, and finally enforceable under the laws of the place where rendered, shall be deemed invalid or denied effective means of enforcement within the territories of either Party merely on the grounds that the place where such award was rendered is outside the territories or that the nationality of one or more of the arbitrators is not that of either Party.

A. ARTICLE VI

1. Property of nations and companies of either Party shall receive the most constant protection and security within the territories of the other Party.

2. The dwellings, offices, warehouses, factories and other premises of nations and companies of either Party located within the territories of the other Party shall not be subject to molestation or to entry without just cause. Official searches and examinations of such premises and their contents, when necessary, shall be made only according to law and without interference of the occupants and the conduct of business.

3. Neither Party shall take unreasonable or discriminatory measures that would impermissibly require rights or interests within its territories of nations and companies of the other Party in the enterprises which they have established, in their capital, or in their skills, arts or technology which they have supplied.

4. Property of nations and companies of either Party shall not be taken within the territories of the other Party except for public purpose, nor shall it be taken without the prompt payment of just compensation. Such compensation shall be in an effectively realizable form and shall represent the full equivalent of the property taken; and adequate provisions shall have been made prior to the taking for the determination and payment thereof.

5. Nations and companies of either Party shall in no case be expropriated within the territories of the other Party, less than in the treatment and standards of the host-favored-nation treatment with respect to the matters set forth in paragraph 2 and 4 of the present Article. Moreover, enterprises in which nations and companies of either Party have substantial interests shall be expropriated within the territories of the other Party, not less than in the treatment and standards of the host-favored-nation treatment in all matters relating to the taking of privately owned enterprises into public ownership and to the planning of such enterprises under public control.

A. ARTICLE VII

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1. Nations and companies of either Party shall be accorded national treatment with respect to engaging in all types of agricultural, industrial, financial and other activities for gain (business activities) within the territories of the other Party, whether directly or by agent or through the medium of any lawful juridical entity. Accordingly, such nations and companies shall be permitted within such territories: (a) to establish and maintain branches, agencies, offices, factories and other establishments appropriate to the conduct of their business; (b) to organize companies under the general laws of either Party, and to acquire majority interests in companies of either Party; and (c) to control and manage enterprises which they have established or acquired. Moreover, enterprises which they control, whether in the form of individual proprietors, companies or otherwise, shall in all respects be on the same footing as the enterprises controlled by nations and companies of either Party.

2. Each Party reserves the right to limit to the extent to which aliens may establish, acquire interests in, or carry on enterprises engaged within its territories in transport, communications, public utilities, banking involving depository or fiduciary functions, or the exploitation of land or other natural resources. However, new limitations imposed by either Party upon the extent to which aliens are accorded national treatment, with respect to carrying R

on such ac s h n s rr or s, shall no b appl d as agans n rprs s ch ar ngag d n such ac s h r n a h me such n lmi a ons ar adop d and ch ar o d or con roll d by na onals and compan s of h o h r Par y. Mor o r, n h r Par y shall d ny o ranspor d on, commun ca ons and bank ng compan s of h o h r Par y h r gh o ma n a n branch s and ag n s o p rform func ons n c ssary for ss n ally n rna onal op ra ons n ch h y ar p rmi d o ngag .

3. Th pro s ons of paragraph 1 of h p r n Ar cl shall no pr n h r Par y from pr scr b ng sp cal formal s n conn c on h h s abl shmen of al n con roll d n rprs s h n s rr or s; bu such formal s may no mpar h subs anc of h r gh s s for h n sa d paragraph.

4. Na onals and compan s of h r Par y, as ll as n rprs s con roll d by such na onals and compan s, shall n any n b accord d mos fa or d na on r a men h r f r nc o h ma r s r a d n h pr s n Ar cl .

ARTICLE VIII

1. Na onals and compan s of h r Par y shall b p rmi d o ngag , h n h rr or s of h o h r Par y, accoun an s and o h r chn cal xp r s, x cu p rsonn l, a orn ys, ag n s and o h r sp cal s s of h r cho c . Mor o r, such na onals and compan s shall b p rmi d o ngag accoun an s and o h r chn cal xp r s r gardl ss of h x n o ch h y may ha qual f d for h prac c of a prof ss on h n h rr or s of such o h r Par y, for h par cular purpos of mak ng xamina ons, aud s and chn cal n s ga ons for, and r nd r ng r p r s o, such na onals and compan s n conn c on h h plann ng and op ra on of h r n rprs s, and n rprs s n ch h y ha a fnancal n r s, h n such rr or s.

2. Na onals and compan s of h r Par y shall b accord d na onal r a men and mos fa or d na on r a men h r sp c o ngag ng n sc n fc, duca onal, r lgous and ph lan hrop c ac s h n h rr or s of h o h r Par y, and shall b accord d h r gh o form assoc a ons for ha purpos und r h la of such o h r Par y. No h ng n h pr s n Tr a y shall b d med o gran or mply any r gh o ngag n pol cal ac s. s

ARTICLE IX

1. Na onals and compan s of h r Par y shall b accord d, h n h rr or s of h o h r Par y: (a) na onal r a men h r sp c o l as ng land, bu ld ngs and o h r mmo abl prop r y approp ra o h conduc of ac s n ch h y ar p rmi d o ngag pursuan o Ar cl s VII and VIII and for r s d n al purpos s, and h r sp c o occupy ng and us ng such prop r y; and (b) o h r r gh s n mmo abl prop r y p rmi d by h appl cabl la of h o h r Par y.

2. Na onals and compan s of h r Par y shall b accord d h n h rr or s of h o h r Par y na onal r a men and mos fa or d na on r a men h r sp c o acqu r ng, by purchas , l as , or o h r s , and h r sp c o o ng and poss ss ng, mo abl prop r y of all k nds, bo h ang bl and n ang bl . Ho r, h r Par y may mpos r s r c ons on al n o rsh p of ma rals dang rous from h s andpon n of publ c saf y and al n o rsh p of n r s s n n rprs s carry ng on par cular yp s of ac y, bu only o h x n ha h s can b don hou mpar ng h r gh s and pr l g s s cur d by Ar cl VII or by o h r pro s ons of h p r s n Tr a y.

3. Na onals and compan s of h r Par y shall b accord d na onal r a men h n h rr or s of h o h r Par y h r sp c o acqu r ng prop r y of all k nds by s a or n s a succ ss on or hrough jud cal proc ss. Should h y b caus of h r al nag b n l g bl o con nu o o any such prop r y, h y shall b allo d a p rod of a l as f y ars n ch o d spos of .

4. Na onals and compan s of h r Par y shall b accord d h n h rr or s of h o h r Par y na onal r a men and mos fa or d na on r a men h r sp c o d spos ng of prop r y of all k nds.

ARTICLE X

1. Na onals and compan s of h r Par y shall b accord d, h n h rr or s of h o h r Par y, na onal r a men and mos fa or d na on r a men h r sp c o ob a ng and ma n a ng pa n s of n n on, and -

with respect to rights in trade marks, trade names, trade labels and industrial property of every kind.

2. The Parties undertake to cooperate further in the interest of each other and use of scientific and technical knowledge, particularly in the interests of economic development and improvement of standards of living within their respective territories.

ARTICLE XI

1. Nationals of either Party residing within the territories of the other Party, and also as companies of either Party engaged in trade or other activities, shall be subject to the payment of taxes, fees or charges imposed upon a local, national, or other basis, and activities of any other nature, and requirements with respect to the levy and collection thereof, within the territories of such other Party, more burdensome than those borne by nationals or companies of such other Party.

2. With respect to nationals of either Party who are either resident engaged in trade or other activities within the territories of the other Party, and with respect to companies of either Party which are engaged in trade or other activities within the territories of the other Party, it shall be the aim of such other Party to apply the general principles set forth in Article I.

3. Nationals and companies of either Party shall in no case be subject, within the territories of the other Party, to the payment of taxes, fees or charges imposed upon a local, national, or other basis, and activities of any other nature, and requirements with respect to the levy and collection thereof, more burdensome than those borne by nationals, residents and companies of a third country.

4. In the case of companies of either Party engaged in trade or other activities within the territories of the other Party, and in the case of nationals of either Party engaged in trade or other activities within the territories of the other Party but not resident therein, such other Party shall impose a local, national, or other tax, fee or charge upon a local, national, or other basis in excess of that reasonably applicable to its territories, or a rate of deduction less than that reasonably applicable to its territories. A comparable rule shall also apply in the case of companies registered exclusively for scientific, educational, religious or other purposes.

5. Each Party reserves the right to: (a) extend special tax advantages on the basis of reciprocity; (b) accord special tax advantages by virtue of agreements with the available federal taxable income for the mutual benefit of revenue; and (c) apply special provisions, particularly with respect to residents, exemptions for agricultural income with respect to inheritance taxes.

ARTICLE XII

1. Nationals and companies of either Party shall be accorded by the other Party national treatment and most-favored-nation treatment with respect to payments, remittances and transfers of funds for financial institutions between the territories of the two Parties as well as between the territories of such other Party and a third country.

2. Neither Party shall impose exchange restrictions as defined in Article 5 of the present Article except to the extent necessary to meet its monetary reserves from falling to a very low level or to effect a moderate increase in very low monetary reserves. It is understood that the provisions of the present Article do not alter the obligations either Party may have to the International Monetary Fund or to include imposition of financial restrictions whenever the Fund or other authority requests a Party to impose such financial restrictions.

3. If either Party imposes exchange restrictions in accordance with Article 2 of the present Article, it shall, after making whatever provisions may be necessary to assure the availability of foreign exchange funds and services essential to the health and welfare of its people and necessary to the availability of services essential to the stability, maintenance of the withdrawal, if necessary, of the other Party, (a) the payment of salaries, interest, dividends, royalties, payments for technical services, or otherwise, and (b) amounts for

amortization or loan depreciation or direct investment and capital transfer giving consideration to special need or other transaction. If more than one rate of exchange is in force the rate applicable to such withdrawal shall be a rate which is specifically approved by the International Monetary Fund or such transaction or in the absence of a rate so approved an effective rate which inclusive of any tax or surcharge on exchange transfer is just and reasonable.

4. Exchange restriction shall not be imposed by either Party in a manner unnecessarily detrimental or arbitrarily discriminatory to the claims investment transport trade and other interests of the national and companies of the other Party nor to the competitive position thereof.

5. The term "exchange restriction" as used in the present Article include a restriction regulation charge tax or other requirement imposed by either Party which burden or interfere with payment remittance or transfer of funds or of financial instrument between the territories of the two Parties.

6. Each Party shall afford the other Party adequate opportunity for consultation at any time regarding application of the present Article.

ARTICLE XIII

Commercial traveler representing national and companies of either Party engaged in business within the territories thereof shall upon their entry into and departure from the territories of the other Party and during their sojourn therein be accorded most-favored-nation treatment in respect of the customs and other matters including subject to the exception in paragraph 5 of Article XI tax and charge applicable to them, their baggage and the taking of order and regulation governing the exercise of their functions.

ARTICLE XIV

1. Each Party shall accord most-favored-nation treatment to products of the other Party from whatever place and by whatever type of carrier arriving and to products destined for exportation to the territories of such other Party by whatever route and by whatever type of carrier with respect to customs duties and charges of any kind imposed on or in connection with importation or exportation or imposed on the international transfer of payment or import or export and with respect to the method of levying such duties and charges and with respect to a rule and formalities in connection with importation and exportation.

2. Neither Party shall impose restriction or prohibition on the importation of any product of the other Party or on the exportation of any product to the territories of the other Party unless the importation of the like product or the exportation of the like product to a third country is similarly restricted or prohibited.

3. If either Party impose quantitative restriction on the importation or exportation of any product in which the other Party has an important interest:

(a) It shall as a general rule give prior public notice of the total amount of the product by quantity or value that may be imported or exported during a specified period and of any change in such amount or period; and

(b) If it makes a allotment to any third country it shall afford such other Party a share proportionate to the amount of the product by quantity or value supplied by or to it during a previous representative period due consideration being given to any special factors affecting the trade in such product.

4. Either Party may impose prohibition or restriction on the importation or exportation of any product on sanitary or other customary ground of a non-commercial nature or in the interest of preventing deceptive or unfair practices provided such prohibition or restriction do not arbitrarily discriminate against the commerce of the other Party.

5. National and companies of either Party shall be accorded national treatment and most-favored-nation treatment by the other Party with respect to all matters relating to importation and exportation.

6. The provisions of the present Article shall not apply to advantages accorded by either Party:

(a) to products of its national heritage; or

(b) to address the order to facilitate free trade; or

() by virtue of a customs union or free-trade area of which it may become a member, so long as it informs the other Party of its plans and affords such other Party adequate opportunity for consultation.

. Notwithstanding the provisions of paragraphs 2 and 3 (b) of the present Article, a Party may apply restrictions on controls on importation and exportation of goods that have effect equivalent to, or which are necessary to make effective, existing restrictions applied pursuant to Article XII. However, such restrictions or controls shall not depart from the necessary provisions from the above paragraphs and shall be conformable to a policy designed to promote the maximum development of trade and to expedite the attainment both of a balance-of-payments position and of monetary reserves which will obviate the necessity of restrictions.

ARTICLE XV

1. Each Party shall promptly publish laws, regulations and administrative rulings of general application relating to rates of duty, taxes or other charges, to the classification of articles for customs purposes, and to requirements or restrictions on imports and exports or the transfer of payments therefor, or affecting the sale, distribution or use; and shall administer such laws, regulations and rulings impartially and reasonably. As a general practice, administrative requirements or restrictions affecting imports, with the exception of those imposed on sanitary goods or for reasons of public safety, shall not go into effect for the expiration of 30 days after publication, or alternatively, shall not apply to products in force at time of publication.

2. Each Party shall provide appropriate procedures which also apply to the other Party, and importers of products of such other Party, shall be able to obtain prompt and impartial review, and correction where warranted, of administrative rulings relating to customs matters, including the imposition of fines and penalties, of decisions, and rulings of customs authorities. Penalties imposed for infractions of the customs and shipping laws and regulations or regulations do not apply shall, in as far as possible, be imposed in a manner which is consistent with the principle of good faith and does not constitute a barrier to trade.

3. Neither Party shall impose a measure of a discriminatory nature that hinders or prevents the import or export of products of the other Party from obtaining a market in such other Party's domestic market of the other Party. The present paragraph is subject to the provisions of Article XII.

ARTICLE XVI

1. Products of the other Party shall be afforded, within the territories of the other Party, national treatment and most-favored nation treatment in all matters affecting international taxation, sale, distribution, storage and use.

2. Articles produced by nationals and companies of the other Party within the territories of the other Party, or by companies of the latter Party controlled by such nationals and companies, shall be afforded the same treatment as national products of the other Party in all matters affecting exportation, taxation, sale, distribution, storage and use.

ARTICLE XVII

1. Each Party undertakes (a) that it respects and controls by its Government, and that monopolies or agreements grant exclusive or special privileges with its territories, shall make their presence and sale of goods which the other Party solely in accordance with commercial considerations, including price, quality, availability, marketability, transportation and other conditions of purchase or sale; and (b) that the nationals, companies and companies of such other Party shall be afforded adequate opportunity, in accordance with customary business practice, to compete for participation in the presence and sale.

2. Each Party shall accord to the nationals, companies and companies of the other Party fair and equitable treatment, as compared with that accorded to the nationals, companies and companies of a third country, with respect to: (a) the government purchase of supplies, (b) the awarding of orders and other government

contracts, and the sale of any service solely by the Government or by any monopoly or agency granted exclusive or special privileges.

ARTICLE XVIII

1. The two Parties agree that business practices which restrain competition, limit access to markets or foster monopolistic control, and which are engaged in or made effective by one or more private or public commercial enterprises or by combination, agreement or other arrangement among such enterprises, may have harmful effects upon commerce between their respective territories. Accordingly, each Party agrees upon the request of the other Party to consult with respect to any such practices and to take such measures as it deems appropriate with a view to eliminating such harmful effects.

2. No enterprise of either Party, including corporations, associations, and government agencies and instrumentalities, which is publicly owned or controlled shall, if it engages in commercial, industrial, shipping or other business activities within the territories of the other Party, claim or enjoy, either for itself or for its property, immunity therein from taxation, suit, execution of judgment or other liability to which privately owned and controlled enterprises are subject therein.

ARTICLE XIX

1. Between the territories of the two Parties there shall be free commerce and navigation.
2. Vessels under the flag of either Party, and carrying the papers required by its law in proof of nationality, shall be deemed to be vessels of that Party both on the high seas and within the ports, places and waters of the other Party.
3. Vessels of either Party shall have liberty, on equal terms with vessels of the other Party and on equal terms with vessels of any third country, to come with their cargoes to all ports, places and waters of such other Party open to foreign commerce and navigation. Such vessels and cargoes shall in all respects be accorded national treatment and most-favored nation treatment within the ports, places and waters of such other Party; but each Party may reserve exclusive rights and privileges to its own vessels with respect to the coasting trade, inland navigation and national fisheries.
4. Vessels of either Party shall be accorded national treatment and most-favored-nation treatment by the other Party with respect to the right to carry all products that may be carried by vessel to or from the territories of such other Party; and such products shall be accorded treatment no less favorable than that accorded like products carried in vessels of such other Party, with respect to: duties and charges of all kinds, but the administration of the customs, and rebates, drawbacks and other privileges of this nature.
5. Vessels of either Party that are in distress shall be permitted to take refuge in the nearest port or haven of the other Party, and shall receive friendly treatment and assistance.
6. The term "vessels", as used herein, means all types of vessels, whether privately owned or operated, or publicly owned or operated; but this term does not, except with reference to paragraphs 2 and 5 of the present Article, include fishing vessels or vessels of war.

ARTICLE XX

There shall be free commerce and transit through the territories of each Party by the routes most convenient for international transit:

- a. for nationals of the other Party, together with their baggage;
- b. for other persons, together with their baggage, en route to or from the territories of such other Party; and
- c. for products of any origin en route to or from the territories of such other Party.

Such persons and things in transit shall be exempt from customs duties, from duties imposed by reason of transit, and from unreasonable charges and requirements; and shall be free from unnecessary delays and

restrictions, nevertheless, be subject to measures referred to in paragraph 3 of Article II, and to nondiscriminatory regulations necessary to prevent abuse of the transit privilege.

ARTICLE XXI

The present Treaty shall not preclude the application of measures:

- (a) regulating the importation or exportation of gold or silver;
- (b) relating to fissionable materials, to radioactive by-products of the utilization or processing thereof, or to materials that are the source of fissionable materials;
- (c) regulating the production of or traffic in arms, ammunition and implements of war, or traffic in other materials carried on directly or indirectly for the purpose of supplying a military establishment;
- (d) necessary to fulfill the obligations of a Party for the maintenance or restoration of international peace and security, or necessary to protect its essential security interests; and
- (e) denying to an enterprise in the ownership or direction of which nationals of another country or countries have direct or indirect controlling interest, the advantages of the present Treaty, except with respect to recognition of juridical status and with respect to access to courts.

The most-favored-nation provisions of the present Treaty relating to the treatment of goods shall not apply to advantages accorded by the United States of America or its territories and possessions to one another, to the Republic of Cuba, to the Republic of the Philippines, to the Trust Territory of the Pacific Islands or to the Panama Canal Zone.

The provisions of the present Treaty relating to the treatment of goods shall not preclude action by either Party which is required or specifically permitted by the General Agreement on Tariffs and Trade during such time as such Party is a contracting party to the General Agreement. Similarly, the most-favored-nation provisions of the present Treaty shall not apply to special advantages accorded by virtue of the aforesaid Agreement.

Nationals of either Party admitted into the territories of the other Party for limited purposes shall not enjoy rights to engage in gainful occupations in contravention of limitations expressly imposed, according to law, as a condition of their admittance.

ARTICLE XXII

The term "national treatment" means treatment accorded within the territories of a Party upon terms no less favorable than the treatment accorded therein, in like situations, to nationals, companies, products, vessels or other objects, as the case may be, of such Party.

The term "most-favored-nation treatment" means treatment accorded within the territories of a Party upon terms no less favorable than the treatment accorded therein, in like situations, to nationals, companies, products, vessels or other objects, as the case may be, of another country.

As used in the present Treaty, the term "companies" means corporations, partnerships, companies and other associations, whether or not with limited liability and whether or not for pecuniary profit. Companies constituted under the applicable laws and regulations within the territories of either Party shall be deemed companies thereof and shall have their juridical status recognized within the territories of the other Party.

National treatment accorded under the provisions of the present Treaty to companies of the Republic of Korea shall, in any State, territory or possession of the United States of America, be the treatment accorded therein to companies created or organized in other States, territories, and possessions of the United States of America.

ARTICLE XXIII

The territories to which the present Treaty extends shall comprise all areas of land and water under the sovereignty or authority of each Party, other than the Panama Canal Zone and the Trust Territory of the Pacific Islands.

ARTICLE I

Each Party shall accord sympathetic consideration to, and shall afford adequate opportunity for consultation regarding, such representations as the other Party may make with respect to any matter affecting the operation of the present Treaty.

2. Any dispute between the Parties as to the interpretation or application of the present Treaty, notwithstanding that it may be a matter of international law, shall be referred to the International Court of Justice, unless the Parties agree to settlement by some other peaceful means.

ARTICLE II

The present Treaty shall be ratified, and the ratifications thereof shall be exchanged at Seoul as soon as possible.

2. The present Treaty shall enter into force one month after the day of exchange of ratifications. It shall remain in force for ten years and shall continue in force thereafter until terminated as provided herein.

3. Either Party may, by giving one year's written notice to the other Party, terminate the present Treaty at the end of the initial ten-year period or at any time thereafter.

IN WITNESS WHEREOF the respective Plenipotentiaries have signed the present Treaty and have affixed hereunto their seals.

Done in duplicate, in the English and Korean languages, both equally authentic, at Seoul, this twenty-eight day of November, one thousand nine hundred fifty-six.

FOR THE UNITED STATES OF AMERICA:

WALTER DOWLING [SEAL]

FOR THE REPUBLIC OF KOREA:

CHUNG W. CHO [SEAL]

PROTOCOL

At the time of signing the Treaty of Friendship, Commerce and Navigation between the United States of America and the Republic of Korea, the undersigned Plenipotentiaries, duly authorized by their respective Governments, have further agreed on the following provisions, which shall be considered integral parts of the aforesaid Treaty:

The provisions of Article II, paragraph (b), shall be construed as extending to navigation of either Party seeking to enter the territories of the other Party solely for the purpose of developing and directing the operations of an enterprise in the territories of such other Party in which his employer has invested or is actively in the process of investing a substantial amount of capital, provided that such employer is a natural person or company of the same nationality as the applicant and that the applicant is employed by such natural person or company in a responsible capacity.

2. The term "access" as used in Article I, paragraph 2, comprehends, among other things, legal aid and security for costs and judgment.

3. It is understood that Article I, paragraph 2, does not require a Party to enforce arbitration awards that are contrary to its public policy.

4. The provisions of Article I, paragraph 4, providing for the payment of compensation shall extend to interests held directly or indirectly by natural persons and companies of either Party in property which is taken within the territories of the other Party.

5. The term "public utilities" as used in Article II, paragraph 2, is deemed to include enterprises engaged in furnishing water supplies, or in manufacturing and distributing gas or electricity, to the general public.

DWIGHT D. EISENHOWER [EAL]

By the President:

J. FRED DULLE

Secretary of State

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