

OFFICE CONSOLIDATION OF THE AGREEMENT ON SOCIAL SECURITY BETWEEN CANADA AND THE REPUBLIC OF THE PHILIPPINES

The Agreement on Social Security between Canada and the Republic of the Philippines was signed on 9 September 1994. It entered into force on 1 March 1997.

The Agreement was amended by a Supplementary Agreement which was signed on 13 November 1999. The Supplementary Agreement came into force on 1 July 2001.

*The Government of Canada
and
the Government of the Republic of the Philippines,*

Resolved to co-operate in the field of social security,

Have decided to conclude an agreement for this purpose, and

Have agreed as follows:

PART I GENERAL PROVISIONS

Article I *Definitions*

1. For the purposes of this Agreement:

"benefit" means, as regards a Party, any cash benefit, pension or allowance for which provision is made in the legislation of that Party and includes any supplements or increases applicable to such a cash benefit, pension or allowance;

"competent authority" means, as regards Canada, the Minister or Ministers responsible for the application of the legislation of Canada; and, as regards the Republic of the Philippines, the President and Chief Executive Officer of the Social Security System, and the President and General Manager of the Government Service Insurance System, each to the extent of his or her responsibility for the administration of the legislation specified in Article II 1(b);

"competent institution" means, as regards Canada, the competent authority; and, as regards the Republic of the Philippines, the Social Security System and the Government Service Insurance System, each to the extent that it is responsible under the legislation specified in Article II 1(b) for a matter under consideration;

"creditable period" means, as regards Canada, a period of contribution or residence used to acquire the right to a benefit under the legislation of Canada, and includes a period during which a disability pension is payable under the *Canada Pension Plan*; and, as regards the Republic of the Philippines, a period of contribution or creditable service used to acquire the right to a benefit under the legislation of the Republic of the Philippines, and includes a period during which a disability benefit is payable under that legislation, but does not include a period of contribution or creditable service for which contributions have been refunded;

"legislation" means, as regards a Party, the laws and regulations specified in Article II(1) with respect to that Party;

"national" means, as regards Canada, a Canadian citizen; and, as regards the Republic of the Philippines, a Filipino citizen;

"territory" means, as regards Canada, the territory of Canada; and, as regards the Republic of the Philippines, the territory of the Republic of the Philippines.

2. Any term not defined in this Article has the meaning assigned to it in the applicable legislation.

Article II

Legislation to Which the Agreement Applies

1. This Agreement shall apply to the following legislation:
 - (a) with respect to Canada:
 - (i) the *Old Age Security Act* and the regulations made thereunder, and
 - (ii) the *Canada Pension Plan* and the regulations made thereunder;
 - (b) with respect to the Republic of the Philippines:
 - (i) the *Social Security Act of 1997* as it relates to retirement, disability, death and funeral benefits,
 - (ii) the *Government Service Insurance Act of 1997* as it relates to retirement, disability, survivorship and funeral benefits, and
 - (iii) the *Portability Law* as it relates to totalizing creditable service and contributions under the acts specified in subparagraphs (i) and (ii).
2. Subject to paragraph 3, this Agreement shall also apply to laws and regulations which amend, supplement, consolidate or supersede the legislation specified in paragraph 1.

3. This Agreement shall apply to laws and regulations which extend the legislation of a Party to new categories of beneficiaries or to new benefits unless an objection on the part of that Party has been communicated to the other Party not later than three months following the entry into force of such laws and regulations.

Article III

Persons to Whom the Agreement Applies

This Agreement shall apply to any person who is or who has been subject to the legislation of Canada or the Republic of the Philippines, and to the dependants and survivors of such a person within the meaning of the applicable legislation of either Party.

Article IV

Equality of Treatment

Any person who is or who has been subject to the legislation of a Party, and the dependants and survivors of such a person, shall be subject to the obligations of the legislation of the other Party and shall be eligible for the benefits of that legislation under the same conditions as nationals of the latter Party.

Article V

Export of Benefits

1. Unless otherwise provided in this Agreement, benefits payable under the legislation of a Party to any person described in Article III, including benefits acquired by virtue of this Agreement, shall not be subject to any reduction, modification, suspension, cancellation or confiscation by reason only of the fact that the person resides in the territory of the other Party, and they shall be paid in the territory of the other Party.
2. Benefits payable under this Agreement to a person who is or who has been subject to the legislation of both Parties, or to the dependants or survivors of such a person, shall be paid in the territory of a third State.

**PART II
PROVISIONS CONCERNING
THE APPLICABLE LEGISLATION**

**Article VI
*Rules Regarding Coverage***

1. Subject to the following provisions of this Article:
 - (a) an employed person who works in the territory of a Party shall, in respect of that work, be subject only to the legislation of that Party; and
 - (b) a self-employed person who ordinarily resides in the territory of a Party and who works for his or her own account in the territory of the other Party or in the territories of both Parties shall, in respect of that work, be subject only to the legislation of the first Party.
2. An employed person who is subject to the legislation of a Party and who performs services in the territory of the other Party for the same or a related employer shall, in respect of those services, be subject only to the legislation of the first Party as though those services were performed in its territory. In the case of an assignment, this coverage may not be maintained for more than 60 months without the prior consent of the competent authorities of both Parties.
3. A person who, but for this Agreement, would be subject to the legislation of both Parties in respect of employment as a member of the crew of a ship shall, in respect of that employment, be subject only to the legislation of Canada if he or she ordinarily resides in the territory of Canada and only to the legislation of the Republic of the Philippines in any other case.
4. An employed person shall, in respect of the duties of a government employment of a Party performed in the territory of the other Party, be subject to the legislation of the latter Party only if he or she is a national thereof or ordinarily resides in its territory. In the latter case, that person may, however, elect to be subject only to the legislation of the first Party if he or she is a national thereof.

5. The competent authorities of the Parties may, by mutual consent, modify the application of the provisions of this Article with respect to any person or categories of persons.

Article VII
***Definition of Certain Periods of Residence
with Respect to the Legislation of Canada***

1. For the purpose of calculating the amount of benefits under the *Old Age Security Act*:
 - (a) if a person is subject to the *Canada Pension Plan* or to the comprehensive pension plan of a province of Canada during any period of presence or residence in the territory of the Republic of the Philippines, that period shall be considered as a period of residence in Canada for that person as well as for that person's spouse and dependants who reside with him or her and who are not subject to the legislation of the Republic of the Philippines by reason of employment or self-employment; and
 - (b) if a person is subject to the legislation of the Republic of the Philippines during any period of presence or residence in the territory of Canada, that period shall not be considered as a period of residence in Canada for that person and for that person's spouse and dependants who reside with him or her and who are not subject to the *Canada Pension Plan* or to the comprehensive pension plan of a province of Canada by reason of employment.
2. In the application of paragraph 1:
 - (a) a person shall be considered to be subject to the *Canada Pension Plan* or to the comprehensive pension plan of a province of Canada during a period of presence or residence in the territory of the Republic of the Philippines only if that person makes contributions pursuant to the plan concerned during that period by reason of employment or self-employment;

- (b) a person shall be considered to be subject to the legislation of the Republic of the Philippines during a period of presence or residence in the territory of Canada only if that person makes compulsory contributions pursuant to that legislation during that period by reason of employment or self-employment.

PART III PROVISIONS CONCERNING BENEFITS

CHAPTER 1 TOTALIZING

Article VIII *Periods under the Legislation of Canada and the Republic of the Philippines*

1. If a person is not entitled to the payment of a benefit because he or she has not accumulated sufficient creditable periods under the legislation of a Party, the entitlement of that person to the payment of that benefit shall be determined by totalizing these periods and those specified in paragraphs 2 through 4, provided that the periods do not overlap.
2.
 - (a) For purposes of determining entitlement to the payment of a benefit under the *Old Age Security Act* of Canada, a creditable period under the legislation of the Republic of the Philippines shall be considered as a period of residence in the territory of Canada.
 - (b) For purposes of determining entitlement to the payment of a benefit under the *Canada Pension Plan*, a calendar year including at least 3 months which are creditable under the legislation of the Republic of the Philippines shall be considered as a year for which contributions have been made under the *Canada Pension Plan*.
3. For purposes of determining entitlement to the payment of a retirement benefit under the legislation of the Republic of the Philippines:

- (a) a calendar year which is a creditable period under the *Canada Pension Plan* shall be considered as 12 months of contributions under the legislation of the Republic of the Philippines; and
 - (b) a month which is a creditable period under the *Old Age Security Act* of Canada and which is not part of a creditable period under the *Canada Pension Plan* shall be considered as a month of contributions under the legislation of the Republic of the Philippines.
4. For the purposes of determining entitlement to the payment of a disability, survivorship, funeral or death benefit under the legislation of the Republic of the Philippines, a calendar year which is a creditable period under the *Canada Pension Plan* shall be considered as 12 months of contributions under the legislation of the Republic of the Philippines.

Article IX

Periods under the Legislation of a Third State

If a person is not entitled to the payment of a benefit on the basis of the creditable periods under the legislation of the Parties, totalized as provided in Article VIII, the entitlement of that person to the payment of that benefit shall be determined by totalizing these periods and creditable periods under the legislation of a third State with which both Parties are bound by social security instruments which provide for totalizing periods.

Article X

Minimum Period Required for Totalization

Notwithstanding any other provision of this Agreement, if the total duration of the creditable periods accumulated by a person under the legislation of a Party is less than one year, the competent institution of that Party shall not be required to award benefits to that person in respect of those periods by virtue of this Agreement.

CHAPTER 2 BENEFITS UNDER THE LEGISLATION OF CANADA

Article XI *Benefits under the Old Age Security Act*

1. If a person is entitled to the payment of a pension or a spouse's allowance solely through the application of the totalizing provisions of Chapter 1, the competent institution of Canada shall calculate the amount of the pension or spouse's allowance payable to that person in conformity with the provisions of the *Old Age Security Act* governing the payment of a partial pension or a spouse's allowance, exclusively on the basis of the periods of residence in Canada which may be considered under that Act.
2. Paragraph 1 shall also apply to a person who is entitled to the payment of a pension in Canada but who has not resided in Canada for the minimum period required by the *Old Age Security Act* for entitlement to the payment of a pension outside Canada.
3. Notwithstanding any other provision of this Agreement:
 - (a) an Old Age Security pension shall be paid to a person who is outside Canada only if that person's periods of residence, when totalized as provided in Chapter 1, are at least equal to the minimum period of residence in Canada required by the *Old Age Security Act* for entitlement to the payment of a pension outside Canada; and
 - (b) a spouse's allowance and a guaranteed income supplement shall be paid to a person who is outside Canada only to the extent permitted by the *Old Age Security Act*.

Article XII

Benefits under the Canada Pension Plan

If a person is entitled to the payment of a benefit solely through the application of the totalizing provisions of Chapter 1, the competent institution of Canada shall calculate the amount of benefit payable to that person in the following manner:

- (a) the earnings-related portion of the benefit shall be determined in conformity with the provisions of the *Canada Pension Plan*, exclusively on the basis of the pensionable earnings under that Plan; and
- (b) the flat-rate portion of the benefit shall be prorated and the prorated amount shall be determined by multiplying:
 - (i) the amount of the flat-rate portion of the benefit determined in conformity with the provisions of the *Canada Pension Plan*

by
 - (ii) the fraction which represents the ratio of the periods of contributions to the *Canada Pension Plan* in relation to the minimum qualifying period required under that Plan to establish entitlement to that benefit, but in no case shall that fraction exceed the value of one.

CHAPTER 3
BENEFITS UNDER THE LEGISLATION OF
THE REPUBLIC OF THE PHILIPPINES

Article XIII
Calculating the Amount of Benefit Payable

1. If a person is not entitled to the payment of a benefit solely on the basis of the creditable periods under the legislation of the Republic of the Philippines, but is entitled to the payment of that benefit through the application of the totalizing provisions of Chapter 1, the competent institution of the Republic of the Philippines shall calculate the amount of benefit payable to that person in the following manner:
 - (a) it shall first determine the amount of the theoretical benefit which would be payable under the legislation of the Republic of the Philippines solely on the basis of the minimum creditable periods required under that legislation;
 - (b) it shall then multiply the theoretical benefit by the ratio that the creditable periods actually completed under the legislation of the Republic of the Philippines represent in relation to the minimum creditable periods required under that legislation.
2. Where the legislation of the Philippines makes entitlement to the payment of a benefit conditional upon the fact that a person is in the service at the time of the occurrence of the contingency giving rise to that benefit, the condition shall be deemed to be met if, at that time, the person concerned is subject to the *Canada Pension Plan*. For the purpose of this paragraph, a person shall be deemed to be subject to the *Canada Pension Plan* if the contingency occurs during a calendar year which is a creditable period under that Plan in respect of that person.

PART IV
ADMINISTRATIVE AND MISCELLANEOUS PROVISIONS

Article XIV
Administrative Arrangement

1. The competent authorities of the Parties shall establish, by means of an administrative arrangement, the measures necessary for the application of this Agreement.
2. The liaison agencies of the Parties shall be designated in that arrangement.

Article XV
Exchange of Information and Mutual Assistance

1. The competent authorities and institutions responsible for the application of this Agreement:
 - (a) shall, to the extent permitted by the legislation which they administer, communicate to each other any information necessary for the application of this Agreement;
 - (b) shall lend their good offices and furnish assistance to one another with regard to the determination or payment of any benefit under this Agreement, or the legislation to which this Agreement applies, as if the matter involved the application of their own legislation; and
 - (c) shall communicate to each other, as soon as possible, all information about the measures taken by them for the application of this Agreement or about changes in their respective legislation insofar as these changes affect the application of this Agreement.

2. The assistance referred to in subparagraph 1(b) shall be provided free of charge, subject to any provision contained in an administrative arrangement concluded pursuant to Article XIV for the reimbursement of certain types of expenses.
3. Unless disclosure is required under the laws of a Party, any information about a person which is transmitted in accordance with this Agreement to that Party by the other Party is confidential and shall be used only for purposes of implementing this Agreement and the legislation to which this Agreement applies.

Article XVI
***Exemption or Reduction of Taxes,
Dues, Fees or Charges***

1. Any exemption from or reduction of taxes, legal dues, consular fees or administrative charges for which provision is made in the legislation of a Party in connection with the issuing of any certificate or document required to be produced for the application of that legislation shall be extended to certificates or documents required to be produced for the application of the legislation of the other Party.
2. Any documents of an official nature required to be produced for the application of this Agreement shall be exempt from any authentication by diplomatic or consular authorities and similar formality.

Article XVII
Language of Communication

For the application of this Agreement, the competent authorities and institutions of the Parties may communicate directly with one another in any official language of either Party.

Article XVIII
Submitting Claims, Notices or Appeals

1. Any claim, notice or appeal concerning the determination or payment of a benefit under the legislation of a Party which should, for the purposes of that legislation, have been presented within a prescribed period to a competent authority or institution of that Party, but which is presented within the same period to an authority or institution of the other Party, shall be treated as if it had been presented to the competent authority or institution of the first Party.
The date of presentation of a claim, notice or appeal to the authority or institution of the other Party shall be deemed to be the date of its presentation to the competent authority or institution of the first Party.
2. Subject to the second sentence of this paragraph, a claim for benefit under the legislation of a Party made after the date of entry into force of this Agreement shall be deemed to be a claim for the corresponding benefit under the legislation of the other Party, provided that the applicant:
 - (a) requests that it be considered an application under the legislation of the other Party, or
 - (b) provides information at the time of application indicating that creditable periods have been completed under the legislation of the other Party.

The foregoing sentence, however, shall not apply if the applicant requests that his or her claim to the benefit of the other Party be delayed.

3. In any case to which paragraph 1 or 2 applies, the authority or institution to which the claim, notice or appeal has been submitted shall transmit it without delay to the authority or institution of the other Party.

Article XIX

Payment of Benefits

1.
 - (a) The competent institution of Canada shall discharge its obligations under this Agreement in the currency of Canada.
 - (b) The competent institution of the Republic of the Philippines shall discharge its obligations under this Agreement:
 - (i) in respect of a beneficiary resident in the Republic of the Philippines, in the currency of the Republic of the Philippines;
 - (ii) in respect of a beneficiary resident in Canada or in a third State, in a freely convertible currency.
2. In the application of subparagraph 1(b)(ii), the conversion rate shall be the rate of exchange in effect on the day when the payment is made.
3. Benefits shall be paid to beneficiaries free from any deduction for administrative expenses that may be incurred in paying the benefits.
4. In the event that a Party imposes currency controls or other similar measures that restrict payments, remittances or transfers of funds or financial instruments to persons who are outside its territory, that Party shall, without delay, take suitable measures to ensure the payment of any amount that must be paid in accordance with this Agreement to persons described in Article III who reside in the territory of the other Party.

Article XX

Resolution of Difficulties

1. The competent authorities of the Parties shall resolve, to the extent possible, any difficulties which arise in interpreting or applying this Agreement according to its spirit and fundamental principles.

2. The Parties shall consult promptly at the request of either Party concerning matters which have not been resolved by the competent authorities in accordance with paragraph 1.
3. Any dispute between the Parties concerning the interpretation of this Agreement which has not been resolved or settled by consultation in accordance with paragraph 1 or 2 shall, at the request of either Party, be submitted to arbitration by an arbitral tribunal.
4. Unless the Parties mutually determine otherwise, the arbitral tribunal shall consist of three arbitrators, of whom each Party shall appoint one and the two arbitrators so appointed shall appoint a third who shall act as president; provided that if the two arbitrators fail to agree, the President of the International Court of Justice shall be requested to appoint the president.
5. The arbitral tribunal shall determine its own procedures.
6. The decision of the arbitral tribunal shall be final and binding.

Article XXI
Understandings with a Province of Canada

The relevant authority of the Republic of the Philippines and a province of Canada may conclude understandings concerning any social security matter within provincial jurisdiction in Canada insofar as those understandings are not inconsistent with the provisions of this Agreement.

PART V
TRANSITIONAL AND FINAL PROVISIONS

Article XXII
Transitional Provisions

1. Any creditable period completed before the date of entry into force of this Agreement shall be taken into account for the purpose of determining the right to a benefit under the Agreement.

2. No provision of this Agreement shall confer any right to receive payment of a benefit for a period before the date of entry into force of the Agreement.
3. Subject to paragraph 2, a benefit, other than a lump sum payment, shall be paid under this Agreement in respect of events which happened before the date of entry into force of the Agreement.

Article XXIII ***Entry into Force and Termination***

1. This Agreement shall enter into force on the first day of the fourth month following the month in which each Party shall have received from the other Party written notification that it has complied with all statutory requirements for the entry into force of this Agreement.
2. This Agreement shall remain in force without any limitation on its duration. It may be denounced at any time by either Party giving 12 months' notice in writing to the other Party.
3. In the event of the termination of this Agreement, any right acquired by a person in accordance with its provisions shall be maintained and negotiations shall take place for the settlement of any rights then in course of acquisition by virtue of those provisions.

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

DONE in two copies at Winnipeg, this 9th day of September, 1994, in the English and French languages, each text being equally authentic.

***FOR THE GOVERNMENT
OF CANADA***

Lloyd Axworthy

***FOR THE GOVERNMENT
OF THE REPUBLIC OF
THE PHILIPPINES***

Juan C. Tan

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

DONE in two copies at Winnipeg, this 13th day of November, 1999, in the English and French languages, each text being equally authentic.

**FOR THE GOVERNMENT
OF CANADA**

Rey Pagtakhan

**FOR THE GOVERNMENT
OF THE REPUBLIC OF
THE PHILIPPINES**

Francisco Benedicto