

**AGREEMENT ON SOCIAL SECURITY
BETWEEN
CANADA AND THE SLOVAK REPUBLIC**

**CANADA
AND
THE SLOVAK REPUBLIC,**

hereinafter referred to as "the Contracting Parties",

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 1
Definitions

1. For the purposes of this Agreement:
 - (a) “benefit” means, as regards a Contracting Party, any cash benefit for which provision is made in the legislation of that Contracting Party and includes any supplements or increases applicable to such a cash benefit;
 - (b) “competent authority” means, as regards Canada, the Minister or Ministers responsible for the application of the legislation of Canada; and, as regards the Slovak Republic, the Ministry of Labour, Social Affairs and Family of the Slovak Republic;
 - (c) “competent institution” means, as regards Canada, the competent authority; and, as regards the Slovak Republic, the institution responsible for applying the legislation of the Slovak Republic;
 - (d) “creditable period” means, as regards a Contracting Party, a period of contributions, employment or residence used to acquire the right to a benefit under the legislation of that Contracting Party; also, as regards Canada, it means a period during which a disability pension is payable under the *Canada Pension Plan*; and, as regards the Slovak Republic, an equivalent period under the legislation of the Slovak Republic;
 - (e) “legislation” means, as regards a Contracting Party, the laws, regulations and other legal provisions specified in Article 2 with respect to that Contracting Party.
2. Any term not defined in this Article has the meaning assigned to it in the applicable legislation.

ARTICLE 2

Material Scope of the Agreement

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,
 - (ii) the *Canada Pension Plan* and the regulations made thereunder;
 - (b) with respect to the Slovak Republic:

the legislation regarding:

 - (i) old age pensions,
 - (ii) invalidity pensions and partial invalidity pensions, and
 - (iii) pensions for widows, widowers and orphans.
2. Subject to paragraph 3, this Agreement shall also apply to laws, regulations and other legal provisions which amend, supplement, consolidate or supersede the legislation specified in paragraph 1.
3. This Agreement shall further apply to laws, regulations and other legal provisions which extend the legislation of a Contracting Party to new categories of beneficiaries or to new benefits unless an objection on the part of that Contracting Party has been communicated to the other Contracting Party not later than 3 months following the entry into force of such laws, regulations or other legal provisions.

ARTICLE 3

Personal Scope of the Agreement

This Agreement shall apply to:

- (a) any person who is or who has been subject to the legislation of one or both of the Contracting Parties;
- (b) other persons who derive rights from persons described in sub-paragraph (a).

ARTICLE 4
Equality of Treatment

Any person described in Article 3 to whom the legislation of a Contracting Party applies shall have the same rights and obligations under that legislation as the citizens of that Contracting Party.

ARTICLE 5
Export of Benefits

1. Unless otherwise provided in this Agreement, benefits payable under the legislation of a Contracting Party to any person described in Article 3, 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 is in the territory of the other Contracting Party, and these benefits shall be paid when that person is in the territory of the other Contracting Party.
2. Benefits payable under this Agreement to a person described in Article 3 shall be paid even when that person is in the territory of a third State.

PART II
PROVISIONS CONCERNING THE APPLICABLE LEGISLATION

ARTICLE 6
Employed and Self-employed Persons

Subject to Articles 7 and 8, or unless otherwise agreed by the competent authorities of the Contracting Parties or their delegated institutions in accordance with Article 9:

- (a) an employed person who works in the territory of a Contracting Party shall, in respect of that work, be subject only to the legislation of that Contracting Party;
- (b) a self-employed person who, but for this Agreement, would be subject to the legislation of both Contracting Parties in respect of that self-employment shall, in respect thereof, be subject:

- (i) only to the legislation of Canada if he or she ordinarily resides in Canada (within the meaning given to the term “ordinarily resides” in the laws of Canada), and
- (ii) only to the legislation of the Slovak Republic if he or she permanently resides in the Slovak Republic (within the meaning given to the term “permanently resides” in the laws of the Slovak Republic).

If a person both ordinarily resides in Canada and permanently resides in the Slovak Republic, the competent authorities of the Contracting Parties or their delegated institutions shall, by common agreement, determine to which legislation he or she will be subject.

ARTICLE 7

Detachments

If a person who is subject to the legislation of a Contracting Party and who is employed by an employer having a place of business in the territory of that Contracting Party is sent, in the course of that employment, to work in the territory of the other Contracting Party, that person shall, in respect of that work, be subject only to the legislation of the first Contracting Party as though that work was performed in its territory. The preceding sentence shall not apply to a detachment of more than 60 months without the prior consent of the competent authorities of both Contracting Parties or their delegated institutions.

ARTICLE 8

Government Employment

1. Notwithstanding any provision of this Agreement, the provisions regarding social security of the *Vienna Convention on Diplomatic Relations* of 18 April 1961 and the *Vienna Convention on Consular Relations* of 24 April 1963 shall continue to apply.
2. A person engaged in government employment for a Contracting Party who is posted to work in the territory of the other Contracting Party shall, in respect of that employment, be subject only to the legislation of the first Contracting Party.

3. Except as provided in paragraphs 1 and 2, a person who resides in the territory of a Contracting Party and who is engaged therein in government employment for the other Contracting Party shall, in respect of that employment, be subject only to the legislation of the first Contracting Party. However, if that person has, prior to the start of that employment, made contributions under the legislation of the employing Contracting Party, he or she may, within 6 months of the start of that employment or the entry into force of this Agreement, whichever is later, elect to be subject only to the legislation of the latter Contracting Party.
4. For the purposes of paragraph 3, a person shall be considered to reside:
 - (a) in Canada if he or she ordinarily resides in Canada, within the meaning given to the term “ordinarily resides” in the laws of Canada, and
 - (b) in the Slovak Republic if he or she permanently resides in the Slovak Republic, within the meaning given to the term “permanently resides” in the laws of the Slovak Republic.

ARTICLE 9

Exceptions

The competent authorities of the Contracting Parties or their delegated institutions may, by common agreement, make exceptions to the provisions of Article 6 through 8.

ARTICLE 10

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 Slovak Republic, that period shall be considered as a period of residence in Canada for that person as well as for that person’s spouse or common-law partner and dependants who reside with him or her and who are not subject to the legislation of the Slovak Republic by reason of employment or self-employment;

- (b) if a person is subject to the legislation of the Slovak Republic during any period of presence or residence in Canada, that period shall not be considered as a period of residence in Canada for that person and for that person's spouse or common-law partner 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 or self-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 Slovak Republic 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 Slovak Republic during a period of presence or residence in 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 11

Periods under the Legislation of Canada and the Slovak Republic

1. If a person is not eligible for a benefit because he or she has not accumulated sufficient creditable periods under the legislation of a Contracting Party, the eligibility of that person for 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 eligibility for a benefit under the *Old Age Security Act* of Canada, a creditable period under the legislation of the Slovak Republic shall be considered as a period of residence in Canada.

- (b) For purposes of determining eligibility for a benefit under the *Canada Pension Plan*, a calendar year including at least 90 days which are creditable periods under the legislation of the Slovak Republic shall be considered as a year which is creditable under the *Canada Pension Plan*.
- 3. For purposes of determining eligibility for an old age benefit under the legislation of the Slovak Republic:
 - (a) a calendar year which is a creditable period under the *Canada Pension Plan* shall be considered as a creditable period under the legislation of the Slovak Republic;
 - (b) a period which is creditable 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 creditable period under the legislation of the Slovak Republic.
- 4. For purposes of determining eligibility for an invalidity, partial invalidity or survivor's benefit under the legislation of the Slovak Republic, a calendar year which is a creditable period under the *Canada Pension Plan* shall be considered as a creditable period under the legislation of the Slovak Republic.

ARTICLE 12

Periods under the Legislation of a Third State

If a person is not eligible for a benefit on the basis of the creditable periods under the legislation of the Contracting Parties, totalized as provided in Article 11, the eligibility of that person for that benefit shall be determined by totalizing these periods and creditable periods completed under the legislation of a third State with which both Contracting Parties are bound by social security instruments which provide for the totalizing of periods.

ARTICLE 13

Minimum Period to be Totalized

If the total duration of the creditable periods accumulated by a person under the legislation of a Contracting Party is less than one year and if, taking into account only those periods, no right to a benefit exists under the legislation of that Contracting Party, the competent institution of that Contracting Party shall not be required to pay a benefit to that person in respect of those periods by virtue of this Agreement.

CHAPTER 2
BENEFITS UNDER THE LEGISLATION OF CANADA

ARTICLE 14
Benefits under the Old Age Security Act

1. If a person is eligible for an Old Age Security pension or an 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 allowance payable to that person in conformity with the provisions of the *Old Age Security Act* governing the payment of a partial pension or 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 outside Canada who would be eligible for a full pension in Canada but who has not resided in Canada for the minimum period required by the *Old Age Security Act* for 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 the payment of a pension outside Canada;
 - (b) an 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 15
Benefits under the Canada Pension Plan

If a person is eligible for 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;
- (b) the flat-rate portion of the benefit 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 eligibility for that benefit, but in no case shall that fraction exceed the value of one.

CHAPTER 3

BENEFITS UNDER THE LEGISLATION OF THE SLOVAK REPUBLIC

ARTICLE 16

Calculating the Amount of Benefit Payable

1. If, under the legislation of the Slovak Republic, a person or the survivors of that person are eligible for a benefit without the need to totalize creditable periods accumulated under the legislation of Canada and by only taking into account creditable periods accumulated under the legislation of the Slovak Republic, the competent institution of the Slovak Republic shall determine the amount of that benefit without regard to the length of the creditable periods accumulated under the legislation of Canada.
2. If, under the legislation of the Slovak Republic, a person or the survivors of that person are eligible for a benefit only by taking into account creditable periods accumulated under the legislation of both Contracting Parties, the amount of that benefit shall be determined as follows:
 - (a) the competent institution of the Slovak Republic shall first determine whether, under the legislation of the Slovak Republic, the person satisfies the conditions for eligibility by taking into account the totalized creditable periods;

- (b) if the benefit is payable in accordance with sub-paragraph (a), the institution of the Slovak Republic shall first calculate the theoretical amount of the benefit payable as if the totalized creditable periods accumulated under the legislation of both Contracting Parties had been accumulated under the Slovak legislation alone;
 - (c) based on the theoretical amount of the benefit, the institution shall determine the amount of the benefit payable by calculating the proportion corresponding to the actual creditable periods accumulated under the legislation of the Slovak Republic and the total creditable periods accumulated under the legislation of both Contracting Parties.
- 3. If the creditable periods accumulated under the legislation of the Slovak Republic do not reach 12 months, no benefit under this Agreement shall be paid. However, the preceding sentence shall not apply if, under the legislation of the Slovak Republic, a benefit is payable based on those creditable periods alone. A creditable period of less than 12 months accumulated under the legislation of Canada shall be taken into account by the competent institution of the Slovak Republic for the calculation of the benefit payable under Slovak legislation.
- 4. If the competent institution of the Slovak Republic can only calculate the amount of a benefit by taking into account creditable periods accumulated under Slovak legislation, the provisions of paragraph 2 shall not apply.
- 5. If a person receives a pension benefit under the legislation of the Slovak Republic and concurrently receives a pension benefit of a different kind under the legislation of Canada, the reduction of the pension benefit payable under the legislation of the Slovak Republic due to the overlap of benefits shall not apply.

PART IV

ADMINISTRATIVE AND MISCELLANEOUS PROVISIONS

ARTICLE 17

Administrative Arrangement

- 1. The competent authorities of the Contracting Parties shall establish, by means of an administrative arrangement, the measures necessary for the application of this Agreement.

2. The liaison agencies of the Contracting Parties shall be designated in that arrangement.

ARTICLE 18

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 for the purpose of determining eligibility for, or the amount of, any benefit under this Agreement, or under the legislation to which this Agreement applies, as if the matter involved the application of their own legislation;
 - (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 in so far as these changes affect the application of this Agreement.
2. The assistance referred to in sub-paragraph 1(b) shall be provided free of charge, subject to paragraph 3 and to any provision contained in an administrative arrangement concluded pursuant to Article 17 for the reimbursement of certain types of expenses.
3. If the competent institution of a Contracting Party requires that a claimant or a beneficiary who resides in the territory of the other Contracting Party undergo a medical examination, the competent institution of the latter Contracting Party, at the request of the competent institution of the first Contracting Party, shall make arrangements for carrying out this examination. If the medical examination is exclusively for the use of the institution which requests it, that competent institution shall reimburse the competent institution of the other Contracting Party for the costs of the examination. However, if the medical examination is for the use of both competent institutions, there shall be no reimbursement of costs.

4. Unless disclosure is required under the laws of a Contracting Party, any information about a person which is transmitted in accordance with this Agreement to that Contracting Party by the other Contracting Party is confidential and shall be used only for purposes of implementing this Agreement and the legislation to which this Agreement applies.

ARTICLE 19

Exemption or Reduction of Taxes, Dues, Fees and Charges

1. Any exemption from or reduction of taxes, legal dues, consular fees and administrative charges for which provision is made in the legislation of a Contracting 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 Contracting 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.

ARTICLE 20

Language of Communication

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

ARTICLE 21
Submitting Claims, Notices and Appeals

1. Claims, notices and appeals concerning eligibility for, or the amount of, a benefit under the legislation of a Contracting Party which should, for the purposes of that legislation, have been presented within a prescribed period to a competent authority or institution of that Contracting Party, but which are presented within the same period to an authority or institution of the other Contracting Party, shall be treated as if they had been presented to the competent authority or institution of the first Contracting Party. The date of presentation of claims, notices and appeals to the authority or institution of the other Contracting Party shall be deemed to be the date of their presentation to the competent authority or institution of the first Contracting Party.

2. Subject to the second sentence of this paragraph, a claim for a benefit under the legislation of a Contracting 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 Contracting Party, provided that the applicant at the time of application:
 - (a) requests that it be considered an application under the legislation of the other Contracting Party, or
 - (b) provides information indicating that creditable periods have been completed under the legislation of the other Contracting Party.

The preceding sentence shall not apply if the applicant requests that his or her claim to the benefit under the legislation of the other Contracting 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 Contracting Party.

ARTICLE 22
Payment of Benefits

1. The competent institution of a Contracting Party shall discharge its obligations under this Agreement in the currency of that Contracting Party.

2. Benefits shall be paid to beneficiaries free from any deduction for administrative expenses that may be incurred in paying the benefits.
3. In the event that a Contracting Party imposes currency controls, that Contracting 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 3 who reside in the territory of the other Contracting Party.

ARTICLE 23

Resolution of Difficulties

1. The competent authorities of the Contracting 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 Contracting Parties shall consult promptly at the request of either Contracting Party concerning matters which have not been resolved by the competent authorities in accordance with paragraph 1.
3. Any dispute between the Contracting 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 Contracting Party, be submitted to arbitration by an arbitral tribunal.
4. Unless the Contracting Parties mutually determine otherwise, the arbitral tribunal shall consist of 3 arbitrators, of whom each Contracting Party shall appoint one and the 2 arbitrators so appointed shall appoint a third who shall act as president; provided that if either Contracting Party fails to appoint its arbitrator or if the 2 arbitrators fail to agree, the competent authority of the other Contracting Party shall invite the President of the International Court of Justice to appoint the arbitrator of the first Contracting Party or the 2 appointed arbitrators shall invite the President of the International Court of Justice to appoint the president of the arbitral tribunal.
5. If the President of the International Court of Justice is a citizen of either Contracting Party, the function of appointment shall be transferred to the Vice-President or the next most senior member of the Court who is not a citizen of either Contracting Party.
6. The arbitral tribunal shall determine its own procedures, but it shall reach its decisions by a majority of votes.

7. The decision of the arbitral tribunal shall be final and binding.

ARTICLE 24

Understandings with a Province of Canada

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

PART V

TRANSITIONAL AND FINAL PROVISIONS

ARTICLE 25

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 this Agreement and its amount.
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 this 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 this Agreement.

ARTICLE 26

Duration and Termination

1. This Agreement shall remain in force without any limitation on its duration. It may be terminated at any time by either Contracting Party giving 12 months' notice in writing to the other Contracting Party.

2. 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.

ARTICLE 27

Entry into Force

This Agreement shall enter into force on the first day of the fourth month following the month in which each Contracting Party shall have received from the other Contracting Party written notification that it has complied with all requirements for the entry into force of this Agreement.

IN WITNESS WHEREOF, the undersigned, being duly authorized thereto, have signed this Agreement.

DONE at Bratislava, this 21st day of May, 2001, in two original copies, each in the English, French and Slovak languages, all texts being equally authentic.

FOR CANADA

FOR THE SLOVAK REPUBLIC

Jane Stewart

Peter Magvaši