

**AGREEMENT ON SOCIAL SECURITY  
BETWEEN  
THE GOVERNMENT OF CANADA  
AND  
THE GOVERNMENT OF THE REPUBLIC OF CHILE**

**THE GOVERNMENT OF CANADA  
AND  
THE GOVERNMENT OF THE REPUBLIC OF CHILE,**

hereinafter referred to as “the 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 I *Definitions***

1. For the purposes of this Agreement, the expressions and terms given below shall have the following meaning:

“benefit” means any cash benefit, pension or allowance payable under the legislation of either Party, and includes any supplements or increases applicable to such a 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 Chile, the Minister of Labour and Social Insurance (el Ministro del Trabajo y Previsión Social);

“competent institution” means, as regards Canada, the competent authority; and, as regards the Republic of Chile, the institution responsible for the application of the legislation specified in Article II;

“creditable period” means, as regards Canada, any period of contributions 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 Chile, all periods of contributions or equivalent periods used to acquire any benefit under the legislation of Chile;

“dependent worker” means, as regards Canada, an employed person; and, as regards the Republic of Chile, any person who provides services to an employer under an employer/employee relationship;

“legislation” means the laws, regulations and other provisions specified in Article II;

“national” means, as regards Canada, a Canadian citizen; and, as regards the Republic of Chile, anyone declared as such in its political Constitution;

“self-employed person” means any person who carries out an activity on his or her own account for which that person receives an income.

2. Any expression or 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 Chile, the legislation concerning:
    - (i) the New System of Pensions for old age, disability and survivors based on individual capitalization;
    - (ii) the plans for old age, disability and survivors pensions administered by the Institute for Social Insurance Standardization (el Instituto de Normalización Previsional); and
    - (iii) for the purposes of Article XVII only, health care plans.
2. Subject to paragraphs 3 and 4, this Agreement shall also apply to laws, regulations and other provisions which amend, supplement, consolidate or supersede the legislation specified in paragraph 1.
3. This Agreement shall apply to laws, regulations and other provisions which extend the schemes specified in paragraph 1 to other categories of beneficiaries or to new benefits only if no objection by the competent authority of either Party has been communicated to the competent authority of the other Party within three months of the notification of the publication or proclamation, as the case may be, of such laws, regulations or other provisions.
4. In the application of this Agreement, no account shall be taken of the provisions of other bilateral or multilateral agreements concluded by either Party insofar as they relate to the legislation specified in paragraph 1.

**Article III**  
***Persons to Whom the Agreement Applies***

This Agreement shall apply:

- (a) as regards Canada, to any person who is or who has been subject to the legislation of Canada, and to the dependants and survivors of such a person; and
- (b) as regards the Republic of Chile, to any person who is or who has been subject to the legislation of the Republic of Chile, and to his or her beneficiaries to the extent they derive rights from him or her.

**Article IV**  
***Equality of Treatment***

In the application of the legislation of a Party, all persons described in Article III shall be eligible for the benefits, and subject to the obligations, of the legislation of that Party under the same conditions as its nationals.

**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 those benefits shall be paid in the territory of the other Party.
- 2. Benefits payable under this Agreement to a person described in Article III shall be paid in the territory of a third State, provided the person so requests.

**PART II**  
**PROVISIONS CONCERNING THE APPLICABLE LEGISLATION**

**Article VI**  
***General Rule***

Subject to the provisions of Articles VII to X, a person who carries out an employment activity in the territory of a Party shall be subject, in respect of that employment activity, only to the legislation of that Party.

**Article VII**  
***Self-Employed Persons***

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.

**Article VIII**  
***Detached Workers***

A dependent worker who is subject to the legislation of a Party and who is temporarily sent by his or her employer to work in the territory of the other Party for a period that does not exceed 60 months shall, in respect of that work, be subject only to the legislation of the first Party during the period of the detachment.

**Article IX**  
***Persons in Government Employment***

1. A person in government employment for a Party who is posted to work in the territory of the other Party shall, in respect of that employment, be subject only to the legislation of the first Party.

2. A person who resides in the territory of a Party and who is engaged therein in government employment for the other Party shall, in respect of that employment, be subject only to the legislation of the first Party. However, if that person is a national of the employing Party, he or she may, within six months of the start of that employment or of the entry into force of this Agreement, elect to be subject only to the legislation of the latter Party.
3. Nothing in this Agreement shall be interpreted as modifying the provisions of the *Vienna Convention on Diplomatic Relations* of 18 April 1961 or of the *Vienna Convention on Consular Relations* of 24 April 1963.

## **Article X** **Exceptions**

At the request of workers and employers, the competent authorities of the Parties may, by common agreement, modify the application of the provisions of Articles VI to IX for the benefit of any person or category of persons.

## **Article XI** **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 Republic of Chile, 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 Chile by reason of employment or self-employment; and
  - (b) if a person is subject to the legislation of the Republic of Chile 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 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 Republic of Chile only if that person makes contributions pursuant to the plan concerned during that period by reason of employment or self-employment; and
  - (b) a person shall be considered to be subject to the legislation of the Republic of Chile 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.

## **PART III PROVISIONS CONCERNING BENEFITS**

### **CHAPTER 1 TOTALIZING**

#### **Article XII**

#### ***Periods under the Legislation of Canada and the Republic of Chile***

1. If a person is not entitled to a benefit because he or she has not accumulated sufficient creditable periods under the legislation of a Party, the entitlement of that person to that benefit shall be determined by totalizing creditable periods under the legislation of both Parties, as specified in paragraphs 2 through 4, provided that the periods do not overlap.
2.
  - (a) For purposes of determining entitlement to a benefit under the *Old Age Security Act* of Canada, a creditable period under the legislation of the Republic of Chile shall be considered as a period of residence in Canada.
  - (b) For purposes of determining entitlement to a benefit under the *Canada Pension Plan*, a calendar year including at least 3 months or 13 weeks of contributions under the legislation of the Republic of Chile shall be considered as a year of contributions under the *Canada Pension Plan*.
3. For purposes of determining entitlement to an old age benefit under the legislation of the Republic of Chile:

- (a) a calendar year which is a creditable period under the *Canada Pension Plan* shall be considered as 12 months or 52 weeks which are creditable under the legislation of the Republic of Chile; and
  - (b) a month or week 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 or week which is creditable under the legislation of the Republic of Chile.
4. For purposes of determining entitlement to a disability or survivors benefit under the legislation of the Republic of Chile, a calendar year which is a creditable period under the *Canada Pension Plan* shall be considered as 12 months or 52 weeks which are creditable under the legislation of the Republic of Chile.

### **Article XIII**

#### ***Minimum Period to be Totalized***

If the total duration of the creditable periods accumulated by a person under the legislation of a Party is less than one year and if, taking into account only those periods, no right to a benefit exists under that legislation, 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 XIV**

##### ***Benefits under the Old Age Security Act***

1. If a person is entitled to an Old Age Security 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 outside Canada who would be entitled to a full 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 XV**

### ***Benefits under the Canada Pension Plan***

If a person is entitled to 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 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 CHILE**

### **Article XVI *Determining Benefits***

1. Persons who are affiliated with a Pensions Funds Administrator (Administradora de Fondos de Pensiones) shall finance their pensions in Chile with the balance accumulated in their individual capitalization account. If this is insufficient to provide pensions in an amount at least equal to the minimum pension guaranteed by the State, affiliated persons shall be entitled to totalize creditable periods in accordance with Chapter 1 in order to qualify for the minimum old age or disability pension benefit. Beneficiaries of a survivors pension shall also have this right.
2. For purposes of determining the fulfilment of the requirements specified in the Chilean legal provisions for an early retirement pension under the New System of Pensions, affiliated persons who have obtained a pension under the legislation of Canada shall be considered as pensioners under the social insurance plans administered by the Institute for Social Insurance Standardization.
3. Workers who have been affiliated with the New System of Pensions in Chile shall be allowed to make voluntary social insurance contributions to that System as self-employed persons during the time they reside in Canada, subject, nonetheless, to compliance with the legislation of the latter country regarding the obligation to contribute. Workers who opt to exercise this right shall be exempt from the obligation to make the contribution intended for the financing of health benefits.
4. Contributors to the pension plans administered by the Institute for Social Insurance Standardization shall also be entitled to totalize periods in accordance with Chapter 1 in order to qualify for the pension benefits for which provision is made in the legislation applicable to them.
5. For the purpose of qualifying for pensions under the legislation that governs the social insurance plans administered by the Institute for Social Insurance Standardization, persons who are receiving pensions under the legislation of Canada shall be considered as current contributors to the social insurance plan that applies to them.

6. In the situations described in paragraphs 1 and 4 above, the competent institution shall determine the amount of the benefit as if all the creditable periods had been completed under its own legislation; for the purposes of the payment of the benefit, it shall calculate the part for which it is liable on the basis of the ratio between the creditable periods completed exclusively in Chile and the total creditable periods completed in both Parties.

When the sum of the creditable periods in both Parties exceeds the period specified in the legislation of Chile for entitlement to a full pension, the excess periods shall be disregarded for the purposes of this calculation.

### **Article XVII** ***Health Benefits for Pensioners***

Persons who receive a pension under the legislation of Canada and who reside in Chile shall be entitled to enrol themselves in the health benefit plans of Chile under the same conditions as the pensioners of the latter country.

## **CHAPTER 4** **DETERMINING DISABILITY**

### **Article XVIII** ***Medical Examinations***

1. In determining disability, the competent institution of each Party shall carry out the evaluations required under the legislation that it applies. If a competent institution of a Party requests the competent institution of the other Party to conduct a medical examination of an applicant or beneficiary who resides in the territory of the latter Party, such examination shall be arranged or carried out by an institution of the latter Party.
2. The cost resulting from a medical examination, whether it is performed by a specialist or a general practitioner, which is in the exclusive interest of the institution which has requested the examination shall be borne by that institution.

3. If the competent institution of Chile bears the cost of such examinations, it can directly charge the person concerned for the reimbursement of 50% of the cost of those examinations. The portion of the cost that the worker assumes shall be deducted by the competent institution of Chile from any pensions that are granted, or, if there are no such pensions, from the balance in the individual capitalization account of workers affiliated with the New System of Pensions.
4. When new examinations are requested for purposes of an appeal against a disability ruling made by Chile, the costs of these examinations shall be paid in the manner specified in the preceding paragraph, unless the appeal has been lodged by a competent institution of Chile or by an insurance company, in which case such expenses shall be borne by the appellant.
5. The conditions under which the provisions of the preceding paragraphs will be applied shall be set out in an administrative arrangement concluded pursuant to Article XIX.

## **PART IV ADMINISTRATIVE AND MISCELLANEOUS PROVISIONS**

### **Article XIX *Administrative Arrangements***

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

### **Article XX *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 of entitlement to, and 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 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 any arrangement, concluded by the competent authorities of the Parties pursuant to Article XIX, 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 a 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 XXI**

### ***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 document 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 XXII**

### ***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 XXIII**  
***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 timeframe 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.
2. 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, at the time of application, indicates that he or she has completed creditable periods under the legislation of the other Party. The preceding sentence, however, shall not apply if the applicant expressly requests that the submission of his or her claim for a benefit under the legislation 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 XXIV**  
***Payment of Benefits***

1. The competent institution of a Party may discharge its obligations under this Agreement in the currency of that Party.
2. In the event that a Party imposes currency controls, the Parties shall agree, without delay, on the measures necessary to assure the transfer of funds between the territories of the Parties of any amount that must be paid in accordance with this Agreement to persons described in Article III.
3. Benefits shall be paid without any deduction for administrative expenses that may be incurred in paying the benefits.

## **Article XXV**

### ***Resolution of Disputes***

1. The competent authorities of the Parties shall resolve, to the extent possible, any disputes which may 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. 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 on the Parties.

## **Article XXVI**

### ***Understandings with a Province of Canada***

The authorities of the Republic of Chile and of 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 XXVII**  
***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.
2. In the application of this Agreement, events that occurred before the date of its entry into force shall be used to determine the right to benefits, except for lump-sum benefits. However, the payment of these benefits shall, in no case, have retroactive effect before the date of entry into force of this Agreement.

**Article XXVIII**  
***Period of Duration and Termination***

1. This Agreement shall remain in force without any limitation on its duration. It can be terminated at any time by either Party giving 12 months' notice in writing to the other Party, in which case it shall cease to have effect on the last day of that period.
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 suitable measures shall be taken to settle any rights then in course of acquisition by virtue of those provisions.



**Article XXIX**  
***Entry into Force***

This Agreement shall enter into force on the first day of the fourth month following the date on which the last notification has been sent from each Party to the other advising that it has completed all its internal requirements for the entry into force of this Agreement.

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

***DONE*** in two copies at Ottawa, this 18<sup>th</sup> day of November 1996, in the English, French and Spanish languages, each text being equally authentic.

**FOR THE GOVERNMENT  
OF CANADA**

***(Pierre S. Pettigrew)***

**FOR THE GOVERNMENT  
OF THE REPUBLIC OF CHILE**

***(José Miguel Insulza)***