

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

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

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 1
*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 Croatia, the Ministry of Labour and Social Welfare;

“competent institution” means, as regards Canada, the competent authority; and, as regards Croatia, the institution responsible for the application of the legislation of Croatia specified in Article 2(1) of this Agreement;

“creditable period” means, as regards Canada, a period of contributions or residence used to acquire the right to a benefit under the legislation of Canada, and includes any period during which a disability pension is payable under the *Canada Pension Plan*; and, as regards Croatia, a period of insurance used to acquire the right to a benefit under the legislation of Croatia, and includes any period defined under that legislation as equivalent to a period of insurance or recognized as such;

“Croatia” means the Republic of Croatia;

“legislation” means, as regards a Party, the laws and regulations specified in Article 2(1) of this Agreement with respect to that Party.

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

**ARTICLE 2
*Legislation to Which the Agreement Applies***

1. This Agreement shall apply to the following legislation:

with respect to Canada:

the *Old Age Security Act* and the regulations made thereunder, and

the *Canada Pension Plan* and the regulations made thereunder;

with respect to Croatia:

the laws and other regulations regarding pension and disability insurance.

2. Subject to paragraph 3 of this Article, this Agreement shall also apply to laws and regulations which amend, supplement, consolidate or supersede the legislation specified in paragraph 1 of this Article.
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 3 months following the entry into force of such laws and regulations.

ARTICLE 3

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 Croatia, and to the dependants and survivors of such a person within the meaning of the applicable legislation of either Party.

ARTICLE 4

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 citizens of the latter Party.

ARTICLE 5
Export of Benefits

1. Unless otherwise provided in this Agreement, benefits payable under the legislation of a Party to any person described in Article 3 of this Agreement, 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 these benefits 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 6
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 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 Canada and only to the legislation of Croatia in any other case.
4. An employed person shall, in respect of the duties of a government employment for 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 citizen 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 citizen thereof.
5. The competent authorities of the Parties may, by common agreement, modify the application of the provisions of this Article with respect to any person or categories of persons.

ARTICLE 7
***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 Croatia, 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 Croatia by reason of employment or self-employment; and
 - (b) if a person is subject to the legislation of Croatia 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 of this Article:
 - (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 Croatia 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 Croatia 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 8 *Periods under the Legislation of Canada and Croatia*

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 Party, the eligibility of that person for that benefit shall be determined by totalizing these periods and those specified in paragraphs 2 through 4 of this Article, 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 Croatia 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 13 weeks which are creditable periods under the legislation of Croatia shall be considered as a year which is creditable under the *Canada Pension Plan*.
3. For purposes of determining eligibility for an old age pension under the legislation of Croatia:

- (a) a calendar year which is a creditable period under the *Canada Pension Plan* shall be considered as 52 weeks which are creditable under the legislation of Croatia; and
 - (b) a 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 week which is creditable under the legislation of Croatia.
4. For purposes of determining eligibility for a disability or survivor's pension under the legislation of Croatia, a calendar year which is a creditable period under the *Canada Pension Plan* shall be considered as 52 weeks which are creditable under the legislation of Croatia.

ARTICLE 9

Periods under the Legislation of a Third State

1. If a person is not eligible for a benefit on the basis of the creditable periods under the legislation of the Parties, totalized as provided in Article 8 of this Agreement, 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 Parties are bound by social security instruments which provide for the totalizing of periods.
2. If only Croatia is bound by an agreement with a third State, the eligibility of Croatian citizens for a benefit under the legislation of Croatia shall be determined by totalizing creditable periods completed under the legislation of that third State, unless otherwise provided in that agreement.

ARTICLE 10

Minimum Period to be Totalized

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 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 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 11
Benefits under the Old Age Security Act

1. If a person is eligible for an Old Age Security pension or a spouse's allowance solely through the application of the totalizing provisions of Chapter 1 of Part III of this Agreement, 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 of this Article 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 of Part III of this Agreement, 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; 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 12
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 of Part III of this Agreement, 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 eligibility for that benefit, but in no case shall that fraction exceed the value of one.

CHAPTER 3

BENEFITS UNDER THE LEGISLATION OF CROATIA

ARTICLE 13

Calculating the Amount of Benefit Payable

1. If a person is eligible for a benefit solely through the application of the totalizing provisions of Chapter 1 of Part III of this Agreement, the competent institution of Croatia shall determine the amount of the benefit payable exclusively on the basis of Croatian creditable periods, when this is possible under the applicable Croatian legislation. If the amount of the benefit cannot be determined according to the previous sentence, it shall be determined in the following manner:
 - (a) The competent institution of Croatia shall determine whether the eligibility for a benefit exists, taking into account the total creditable periods as if they all were completed under the legislation of Croatia, and the amount of the benefit payable shall be determined as the ratio between the creditable periods under the legislation of Croatia and the total of all creditable periods.

- (b) Notwithstanding the provision of sub-paragraph 1(a) of this Article, if the total length of all creditable periods, totalized according to the provisions of Chapter 1 of Part III of this Agreement, exceeds the maximum period specified under the legislation of Croatia for the calculation of a benefit, the amount of the benefit payable shall be determined as the ratio between the creditable periods under the legislation of Croatia and that maximum period.
2. The benefit base shall be determined exclusively on the basis of creditable periods completed under the legislation of Croatia.

PART IV ADMINISTRATIVE AND MISCELLANEOUS PROVISIONS

ARTICLE 14 *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 15 *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 purposes 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; 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) of this Article shall be provided free of charge, subject to any provision contained in an administrative arrangement concluded pursuant to Article 14 of this Agreement 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 16

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 17

Language of Communication

For the application of this Agreement, the competent authorities and institutions of the Parties may communicate directly with one another in the English, French or Croatian languages.

ARTICLE 18
Submitting Claims, Notices or Appeals

1. Any claim, notice or appeal concerning eligibility for, or the amount 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 the 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. A claim for a 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:
 - (a) requests that it be considered an application under the legislation of the other Party, or
 - (b) provides information indicating that creditable periods have been completed under the legislation of the other Party.
3. In any case to which paragraph 1 or 2 of this Article 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 19
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 Croatia shall discharge its obligations under this Agreement:
 - (i) in respect of a beneficiary resident in Croatia, in the currency of Croatia;

- (ii) in respect of a beneficiary resident in Canada, in the currency of Canada; and
 - (iii) in respect of a beneficiary resident in a third State, in the currency of that State or in any currency freely convertible in that State.
- 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 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 3 of this Agreement who reside in the territory of the other Party.

ARTICLE 20

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 of this Article.
- 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 of this Article 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 within two months from the date of receipt of the request for arbitration, and the two arbitrators so appointed shall appoint, within two months after the last notice of appointment, the third who shall act as president; provided that if either Party fails to appoint its arbitrator or if the two appointed arbitrators fail to agree about the third, the competent authority of the other Party shall invite the President of the International Court of Justice to appoint the arbitrator of the first Party or the two 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 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 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 21

Understandings with a Province of Canada

The relevant authority of Croatia 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 22

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 of this Article, 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.
4. Article 5 of this Agreement shall apply to benefits acquired before the entry into force of this Agreement.

ARTICLE 23
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 Party giving 12 months' notice in writing to the other Party.
2. In the event of termination of this Agreement according to paragraph 1 of this Article, the Agreement shall continue to have effect in relation to all persons who:
 - (a) at the date of termination are in receipt of benefits; or
 - (b) prior to the expiry of the period referred to in that paragraph, have lodged claims for, and would be eligible for benefits by virtue of this Agreement.

ARTICLE 24
Entry into Force

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 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 duplicate at Zagreb, this 22nd day of April, 1998, in the English, French and Croatian languages, each text being equally authentic.

(Victor Rabinovitch)

(Vera Babié)

**FOR THE GOVERNMENT
OF CANADA**

**FOR THE GOVERNMENT OF
THE REPUBLIC OF CROATIA**