

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

The Government of the Republic of the Philippines

and

the Government of Canada,

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. 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 Administrator of the Social Security System;

"competent institution" means, as regards Canada, the competent authority; and, as regards the Republic of the Philippines, the Social Security System;

"creditable period" means, as regards a Party, a period of contributions or a period of residence used to acquire the right to a benefit under the legislation of that Party; as regards Canada, it also means a period during which a disability pension is payable under the Canada Pension Plan;

"Government of Canada" means the Government in its capacity as representative of Her Majesty the Queen in right of Canada and represented by the Minister of Employment and Immigration;

"legislation" means, as regards a Party, the laws and regulations specified in Article 11(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:

the Social Security Law as it relates to retirement, disability and death benefits.

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 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

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 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; and

(b) if a person is subject to the legislation of the Republic of the Philippines during any period of 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.

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 of contributions 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 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.