

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

THE GOVERNMENT OF CANADA

AND

THE GOVERNMENT OF THE EASTERN REPUBLIC OF URUGUAY,

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, the expressions and terms given below shall have the following meaning:
 - “Benefit” means any cash payment, pension or allowance for which provision is made in the legislation specified in Article 2, and includes any supplements, increases or adjustments applicable to such a benefit.
 - “Competent authority” means, as regards Canada, the Minister or Ministers responsible for the application of the legislation of Canada; and, as regards Uruguay, the Ministry of Labour and Social Security (Ministerio de Trabajo y Seguridad Social) or the delegated institution.
 - “Competent organization” means, as regards Canada, the competent authority; and, as regards Uruguay, the institution or agency responsible for applying the legislation specified in Article 2.
 - “Contracting Parties” means Canada and the Eastern Republic of Uruguay.
 - “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 Uruguay, any reckonable period recognized as such under its legislation, and includes any period deemed as equivalent to a period of insurance.
 - “Legislation” means the laws, regulations and provisions specified in Article 2.
 - “Liaison agency” means the agency which is responsible for co-ordination and the exchange of information between the institutions of the Contracting Parties,

and which is involved in the application of this Agreement and informing the persons concerned of the rights and obligations stemming from it.

- “Worker” means, as regards Uruguay, any person who, as a consequence of being or having been employed or self-employed, is or has been subject to the legislation of Uruguay specified in Article 2.
2. All other terms or expressions used in this Agreement have the meaning assigned to them in the applicable legislation.

ARTICLE 2

Material Scope of Application

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 Uruguay:

the legislation regarding contributory social security benefits, in so far as it pertains to retirement and pension schemes based on the principles of pay-as-you-go (reparto) and individual funding (capitalización individual).
2. This Agreement shall also apply to future laws, regulations and provisions which amend, supplement, consolidate or supersede those specified in paragraph 1, or 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 three months following the entry into force of such laws, regulations and provisions.

ARTICLE 3

Personal Scope of Application

This Agreement shall apply to all persons who are or who have been subject to the legislation of one or both Contracting Parties, as well as to those who derive rights from such persons.

ARTICLE 4

Principle of Equal Treatment

In the application of the legislation of a Contracting Party, all persons described in Article 3 shall be treated equally in regard to rights and obligations under the legislation of that Contracting Party.

ARTICLE 5

Payment of Benefits Abroad

Unless otherwise provided in this Agreement, the pensions and other cash benefits payable under the legislation of a Contracting Party, as specified in Article 2, including benefits acquired by virtue of this Agreement, shall not be subject to any reduction, modification, suspension, cancellation or confiscation by reason of the fact that the beneficiary is present or resides in the territory of the other Contracting Party.

Subject to this Agreement, those benefits shall be paid in the territory of the other Contracting Party or a third State if the beneficiary so requests.

PART II
PROVISIONS CONCERNING
THE APPLICABLE LEGISLATION

ARTICLE 6

General rule

Subject to the provisions of Article 7, a person to whom this Agreement applies who is employed in the territory of a Contracting Party shall, in respect of that employment, be subject only to the legislation of that Contracting Party.

ARTICLE 7

Special Rules

1. The following special rules and exceptions shall apply with respect to Article 6:
 - (a) An employee who is subject to the legislation of a Contracting Party and who is temporarily sent by his or her employer to work in the territory of the other Contracting Party for the same or a related employer for a period that does not exceed 36 months shall, in respect of that employment, be subject only to the legislation of the first Contracting Party during the period of the detachment. In special circumstances, this period may be extended for a further 24 months with the prior express consent of the competent authorities or delegated institutions of both Contracting Parties.
 - (b) An employee working as a member of the crew of a ship who, but for this Agreement, would be subject to the legislation of both Contracting Parties in respect of that employment shall, in respect thereof, be subject only to the legislation of Canada if he or she resides and is hired in Canada, and only to the legislation of Uruguay if he or she resides and is hired in Uruguay. When the circumstances of the previous sentence do not apply, the employee shall be subject only to the legislation of Uruguay if the ship flies the flag of Uruguay.

- (c) Work performed at a harbour for the purpose of loading, unloading, and repairing ships and for carrying out guard duties shall be subject only to the legislation of the Contracting Party in whose territory the harbour is located.
- (d) 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, notwithstanding any provision of this Agreement.
- (e) An employee 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.
- (f) Except as provided in sub-paragraphs (d) and (e), an employee 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 employee has, prior to the start of that employment, made contributions under the legislation of the employing Contracting Party, he or she may, within six months of the start of that employment or of the entry into force of this Agreement, whichever is later, elect to be subject only to the legislation of the latter Contracting Party.
- (g) Sub-paragraph (f) shall also apply to an employee working in the personal service of a person to whom either of the Conventions mentioned in sub-paragraph (d) applies.

2. The competent authorities of the Contracting Parties or their delegated institutions may, by common agreement, make other exceptions or modify the provisions of this Article in the interest of any employee or category of employees.

ARTICLE 8

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 Uruguay, that period shall be considered as a period of residence in Canada for that person as well as for that person's spouse and dependents who live with him or her and who are not subject to the legislation of Uruguay by reason of employment;
 - (b) if a person is subject to the legislation of Uruguay 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 dependents who live 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 Uruguay 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 Uruguay 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
TOTALIZATION

ARTICLE 9
Totalizing Creditable Periods

1. When the legislation of a Contracting Party makes the acquisition, retention or recovery of the right to a benefit subject to the completion of prescribed creditable periods and a person has not completed sufficient creditable periods under that legislation to fulfill those conditions, the competent organization of that Contracting Party shall determine the eligibility of that person for that benefit by totalizing those creditable periods and creditable periods under the legislation of the other Contracting Party, as specified in this Part, provided that those periods do not overlap.
2. 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 paragraph 1, the eligibility of that person for that benefit shall be determined by totalizing those periods and creditable periods under the legislation of a third State with which both Contracting Parties are bound by social security arrangements or agreements which provide for the totalizing of periods.

ARTICLE 10
Creditable Periods of Less Than One Year

Notwithstanding the provisions of Article 9, 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 no right to a benefit exists under the legislation of that Contracting Party, the competent organization of that Contracting Party shall not be required to pay a benefit to that person in respect of those periods. Those periods shall, however, be taken into

account, if necessary, by the competent organization of the other Contracting Party in determining eligibility for a benefit under its legislation.

CHAPTER 2

BENEFITS UNDER THE LEGISLATION OF CANADA

ARTICLE 11

Benefits under the Old Age Security Act

1. For purposes of determining eligibility for a benefit under the *Old Age Security Act* through the application of the totalizing provisions of Chapter 1, a creditable period under the legislation of Uruguay shall be considered as a period of residence in Canada.
2. 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, the competent organization 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.
3. Paragraph 2 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.
4. 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; 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

1. For purposes of determining eligibility for a benefit under the *Canada Pension Plan* through the application of the totalizing provisions of Chapter 1, a calendar year including at least 3 months or 13 weeks of contributions under the legislation of Uruguay shall be considered as a year of contributions under the *Canada Pension Plan*.
2. If a person is eligible for a benefit solely through the application of the totalizing provisions of Chapter 1, the competent organization 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 URUGUAY

SECTION 1
SYSTEM OF INDIVIDUAL FUNDING

ARTICLE 13
Application of the Legislation of Uruguay

1. Workers who are affiliated with an Administrator of Insurance Savings Funds (Administradora de Fondos de Ahorro Previsional) shall finance their benefits in Uruguay with the balance accumulated in their individually funded account.
2. Benefits granted under the funded scheme shall be added to benefits which are payable under the pay-as-you-go scheme if the worker meets the conditions prescribed in the legislation in force. If necessary, the totalizing of creditable periods shall be applied.

SECTION 2
PAY-AS-YOU-GO SYSTEM

ARTICLE 14
*Determining Eligibility
and the Payment of Benefits*

A worker who has been successively or alternately subject to the legislation of both Contracting Parties shall be eligible for the benefits included in this Chapter according to the following rules:

1. The competent organization of Uruguay shall determine eligibility for and calculate the amount of a benefit by taking into account only the creditable periods completed under the legislation of Uruguay.

2. In the same way, the competent organization of Uruguay shall determine eligibility for a benefit by totalizing its own creditable periods and the creditable periods completed under the legislation of Canada. When totalizing results in eligibility for a benefit, the amount payable shall be calculated in accordance with the following rules.
 - (a) The competent organization shall determine the amount of the benefit to which the person concerned would be entitled if all of the totalized creditable periods had been completed under its legislation (theoretical pension).
 - (b) The competent organization shall determine the amount of benefit payable by applying to the theoretical pension, calculated according to its legislation, the same proportion as that between the creditable period completed under the legislation of Uruguay and the total creditable periods completed under the legislation of both Contracting Parties (pro-rata pension).
3. Once eligibility has been established in accordance with the preceding paragraphs, the competent organization shall determine and pay the benefit which is most favourable to the person concerned, without taking into account the decision taken by the competent organization of Canada.

ARTICLE 15

Specific Conditions for Determining Eligibility

1. If the legislation makes the granting of benefits specified in this Chapter conditional on the fact that the worker is subject to that legislation at the time of the occurrence of the event giving rise to the benefit, that condition shall be deemed to be met if, at that time, the worker is subject to the legislation of Canada or, if this is not the case, is receiving a benefit under the legislation of Canada of the same type or of a different type but to which the beneficiary is entitled on his or her own account.

The same principle shall apply for the granting of survivors pensions for which, if necessary, account is taken of the deceased person's status under the legislation of Canada as a beneficiary or pensioner.

2. If the legislation requires that, in order to grant a benefit, periods of contributions must have been completed in a prescribed time immediately before the occurrence of the event giving rise to the benefit, that condition shall be deemed to be met if the person concerned has completed creditable periods under the legislation of Canada in the time immediately before the granting of the benefit.
3. The provisions of the legislation in respect of a beneficiary who is employed shall also apply if that employment is carried out in the territory of Canada.

ARTICLE 16

Periods of Contributions

Under Special or Enhanced Schemes

1. If the legislation makes eligibility for, or the granting of, certain benefits subject to the completion of creditable periods in a profession subject to a special or enhanced scheme, or in a particular type of profession or employment, creditable periods completed under the legislation of Canada shall be taken into account for the granting of those benefits only if they were completed in the same type of profession or, as the case may be, in an occupation with similar characteristics.
2. If, taking into account the periods thus completed, the person concerned does not fulfill the conditions for entitlement to a benefit from a special or enhanced scheme, those periods shall be taken into account for the granting of benefits under the general scheme, or under any other special or enhanced scheme in which that person may have acquired rights.

CHAPTER 4
OTHER PROVISIONS

ARTICLE 17
Determining Eligibility
for a Death Benefit

1. For the purposes of this Article, “legislation of Canada” means the legislation specified in Article 2(1)(a)(ii).

2. If a person has completed creditable periods under the legislation of both Contracting Parties, eligibility for a death benefit in respect of that person shall be determined according to the following rules:
 - (a) If a death benefit is payable in respect of that person under the legislation of Canada, without recourse to the totalizing provisions of Chapter 1, the competent organization of Canada shall pay that death benefit, and the competent organization of Uruguay shall not pay a death benefit.

 - (b) If the conditions of sub-paragraph (a) do not apply, the competent organizations of both Contracting Parties shall determine eligibility for death benefits under their respective legislation, applying, if required, the totalizing provisions of Chapter 1. If, as a result, eligibility is established only under the legislation of one Contracting Party, the competent organization of that Contracting Party shall pay a death benefit.

However, if, as a result of applying the first sentence of this sub-paragraph, eligibility is established under the legislation of both Contracting Parties, only the competent organization of the Contracting Party under whose legislation the person concerned last paid contributions shall pay a death benefit in respect of that person, and the competent organization of the other Contracting Party shall not pay a death benefit.

ARTICLE 18

Adjusting Benefits

Benefits payable as a result of applying the provisions of this Part shall be adjusted with the same frequency and in the same amount as benefits payable under domestic legislation. However, as regards benefits whose amounts have been determined under the pro-rata formula given in Article 14, the amount of the adjustment may be determined by applying the same rule of proportionality which was applied to determine the amount of the benefit.

PART IV

MISCELLANEOUS, TRANSITIONAL AND FINAL PROVISIONS

CHAPTER 1

MISCELLANEOUS PROVISIONS

ARTICLE 19

Submission of Documents

1. Claims, notices, appeals, and other documents which, for the purposes of applying the legislation of a Contracting Party, should have been presented within a prescribed period to the competent authorities or competent organizations of that Contracting Party shall be deemed to have been presented to them if they were presented within the same period to the corresponding competent authority or organization of the other Contracting Party. The date of presentation of the claim, notice, appeal or other document to the competent authority or organization of the other Contracting Party shall be deemed to be the date of its presentation to the competent authority or organization of the first Contracting Party.
2. Subject to the second part of this paragraph, any claim for a benefit submitted under the legislation of a Contracting Party 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 person concerned

specifically states in writing at the time of making the claim, or it can be determined from the documentation submitted, that he or she has completed creditable periods under the legislation of the other Contracting Party.

The preceding 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.

ARTICLE 20

Determining Disability

1. In determining a person's disability or reduced ability to work in regard to granting disability pensions, the competent organization of each Contracting Party shall carry out the evaluations required in accordance with its own legislation.
2. For the application of the preceding paragraph, the competent organization of a Contracting Party shall provide, upon request and free of charge, to the competent organization of the other Contracting Party such medical findings and documents concerning the disability of the person concerned as are in its possession.
3. If the competent organization of a Contracting Party deems it necessary that medical examinations be performed in regard to a person who is in the territory of the other Contracting Party, and if this examination is exclusively for its own account, the competent organization of the latter Contracting Party, at the request of the competent organization of the first Contracting Party, shall make arrangements for carrying out the examination. The cost incurred for such examinations shall be borne by the competent organization of the Contracting Party making the request. On receipt of a detailed statement of the costs incurred, the competent organization of the first Contracting Party shall, without delay, reimburse the competent organization of the other Contracting Party for the amounts due as a result of applying the preceding sentences of this paragraph.
4. The administrative arrangement concluded by the competent authorities of the Contracting Parties pursuant to Article 23(1)(a) shall establish the form which the competent organization of each Contracting Party will use for the reimbursement of the costs of additional examinations.

ARTICLE 21

Exemption from Fees for Certificates and Administrative Documents

1. Any exemption from fees for the registry or preparation of certificates and documents, stamp taxes, consular fees, or other similar charges for which provision is made in the legislation of either Contracting Party shall be extended to certificates and documents which are issued by the competent organizations of the other Contracting Party for the application of this Agreement or the legislation to which this Agreement applies.
2. All administrative certificates or documents issued for the application of this Agreement shall be exempt from the requirement of authentication by diplomatic or consular authorities and similar formalities.

ARTICLE 22

Method and Guarantee of the Payment of Benefits

1. The competent organizations of each Contracting Party shall discharge their obligations to make payments under this Agreement in their national currency.
2. In the event that a Contracting Party enacts provisions imposing currency controls or other measures that restrict payments, remittances or transfer of funds or financial instruments to persons who are outside its territory, that Contracting Party shall immediately take the measures necessary to guarantee the exercise of the rights stemming from this Agreement, including the payment of any amount that must be paid in accordance with this Agreement.

ARTICLE 23

Functions of the Competent Authorities and the Competent Organizations

1. The competent authorities of the Contracting Parties or their delegated institutions shall:
 - (a) establish the administrative arrangements necessary for the application of this Agreement;
 - (b) designate their respective liaison agencies.

2. The competent organizations of the Contracting Parties shall:
 - (a) communicate to each other the internal measures taken by them for the application of the Agreement;
 - (b) notify each other of any legislative and regulatory provisions that modify those specified in Article 2;
 - (c) lend their good offices and furnish the fullest technical and administrative assistance possible 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;
 - (d) communicate to each other, to the extent permitted by the legislation which they administer, any information necessary for the application of this Agreement.

3. The assistance referred to in sub-paragraph 2(c) shall be provided free of charge, subject to Article 20(3) and any agreement reached by the competent authorities of the Contracting Parties, or their delegated institutions, for the reimbursement of specific types 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 a Contracting Party by the other Contracting Party is confidential and shall be used only for the purposes of implementing this Agreement and the legislation to which this Agreement applies.

5. A joint commission of experts, composed of specialists designated by the competent authorities of the Contracting Parties or their delegated institutions, shall be established to ensure the implementation of this Agreement and the arrangements for its application. The joint commission of experts shall meet alternatively in one country and the other on dates agreed by it. Such a meeting may be called at any time by the competent authorities of either Contracting Party or their delegated institutions.

ARTICLE 24

Resolution of Disputes

1. The competent authorities of the Contracting Parties or their delegated institutions shall resolve, through negotiation, any differences which may arise in the interpretation of this Agreement and its administrative arrangements.
2. If disputes cannot be settled through negotiation within one hundred and eighty days from the start of such negotiations, they shall be submitted to an arbitral commission whose composition and procedure shall be determined by mutual agreement by the Contracting Parties. The decision of the arbitral commission shall be considered final and binding.

ARTICLE 25

Language

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

ARTICLE 26

Understandings with a Province of Canada

The Eastern Republic of Uruguay 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.

CHAPTER 2

TRANSITIONAL PROVISIONS

ARTICLE 27

Periods Prior to the Entry into Force of the Agreement

Any creditable period completed under the legislation of either Contracting Party prior to the date of entry into force of this Agreement shall be taken into account for the purpose of determining eligibility for benefits under this Agreement and the amount of those benefits.

ARTICLE 28

Events Occurring Prior to the Entry into Force of the Agreement

The application of this Agreement shall confer rights to benefits, other than a lump-sum death benefit, for events which occurred prior to the date of its entry into force. In no case, however, shall a provision of this Agreement confer any right to receive payment of a benefit for periods prior to the date of entry into force of this Agreement.

CHAPTER 3
FINAL PROVISIONS

ARTICLE 29

Duration of the Agreement

1. This Agreement shall remain in force indefinitely, unless it is terminated by a Contracting Party. Either Contracting Party may terminate this Agreement at any time by giving twelve months' notice in writing to the other Contracting Party.

2. In the event of the termination of this Agreement, notwithstanding any restrictive provisions that a Contracting Party may impose in respect of a beneficiary who resides abroad, the Contracting Parties shall agree on provisions guaranteeing rights which are acquired or in the course of being acquired and which are based on creditable periods completed before the date of the termination of this Agreement.

