

**AGREEMENT
ON SOCIAL SECURITY
BETWEEN
THE GOVERNMENT OF THE REPUBLIC OF INDIA
AND
THE GOVERNMENT OF THE FRENCH REPUBLIC**

The Government of the Republic of India,

and

The Government of the French Republic

Hereinafter referred to as the Contracting States;

wishing to arrange the mutual relations between the two countries in the field of social security, decided to conclude an Agreement for this-purpose and agreed as follows

P A R T I
GENERAL PROVISIONS

Article 1

Definitions

1. For the implementation of this Agreement :
 - a) The term "France" means : the French Republic ; the term "India" means : the Republic of India.
 - b) The term "legislation" means : -
 - for the application of Article 7 the whole social security legislation in force in both Contracting States,
 - for the application of Article 8, the legislation and the regulations specified in Article 2.
 - c) The term "competent authority" means :
 - as regards France : the Ministers, each to the extent that he is responsible for the implementation of the legislation specified in paragraph 1 A) of Article 2 ;
 - as regards India : the Minister of Overseas Indian Affairs . for the implementation of the legislation specified in paragraph 1B) of Article 2.
 - d) The term "competent agency" means
 - as regards France : the institution, the organization or the authority responsible in full or in part for the implementation of the legislation specified in paragraph 1 A) of Article 2;
 - as regards India : The Employees' Provident Fund Organization (EPFO), for the implementation of the legislation specified in paragraph 1B) of Article 2.
 - e) The term "Liaison agency" means the agencies specified as such under the Administrative Arrangement
 - f) The term "insurance period" means : any period of contributions or insurance recognized as such in the legislation under which that period was completed, as well as any period recognized as equivalent to a period of contribution or insurance under that legislation.

- g) The term "benefit" means : any pension or benefit in cash, including any supplements or increases applicable under the legislation specified in Article 2.
- h) The term "residence "means: habitual residence.
- i) The term 'territory' means

As regards France: the territory of the metropolitan and overseas departments of the French Republic, including territorial seas, and any area beyond the territorial seas over which the French Republic has sovereign rights or jurisdiction in accordance with international law.

As regards India: the geographic areas of the Republic of India including territorial seas, as well as the exclusive economic zones over which, in accordance with international law, the Republic of India has sovereign rights.

- 2. Any term not defined in paragraph 1 of this Article shall have the meaning assigned to it in the applicable legislation.

Article 2

Legislative Scope

- 1. This Agreement shall apply :
 - A) as regards France,
 - a) to the legislation that determines the general organisation of the social security schemes undermentioned in as much as pension and invalidity insurances are concerned ;
 - b) to the legislation relating to
 - i). the old age pension including survivors' pension schemes applicable :
 - to the employed persons of the non agricultural professional sector ;
 - to the employed persons of the agricultural professional sector ;
 - to the self-employed persons of the non agricultural professional sector excepting the provisions relating to the complementary

pension schemes ;

- to the self-employed persons of the agricultural professional sector ;
- to the employed persons covered by special schemes **unless otherwise provided in this agreement.**

ii). to the invalidity insurance including survivors' pension applicable to the persons referred to in sub paragraph i)above.

B) as regards India, to all legislations concerning:

- (i) old-age and survivors' pension for employed persons;
- (ii) the Permanent Total Disability pension for employed persons

2. a). This Agreement shall also apply to all legislations which will amend or extend the legislation specified in paragraph 1 of this Article.

b). It shall apply to any legislation which will extend the existing schemes to new categories of beneficiaries, unless, in this respect, the Contracting State which has amended its legislation notifies within six months of the official publication of the said legislation the other Contracting State of its objections to the inclusion of such new categories of beneficiaries.

c) This Agreement shall not apply to legislations that establish a new social security branch, unless the competent authorities of the Contracting States agree on this application.

Article 3 Personal Scope

Unless otherwise specified, this Agreement shall apply to all persons who are or have been subject to the legislation of either of the Contracting States, and other persons who derive rights from such persons.

Article 4 Equality of Treatment

Unless otherwise provided in this Agreement, the persons specified

in Article 3, who ordinarily reside in the territory of a Contracting State, shall receive equal treatment with nationals of that Contracting State in the application of the legislation of that Contracting State as defined in Article 1, b), 1st dash.

Article 5 Export of Benefits

1. Unless otherwise specified in this Agreement, a Contracting State shall not reduce or modify benefits acquired under its legislation solely on the ground that the beneficiary stays or resides in the territory of the other Contracting State. This provision is not applied to non-contributory benefits which are granted only in the territory of the contracting State responsible for their payment.

2. The old age, survivors' and invalidity benefits due by virtue of the French legislation are paid to the Indian nationals residing in the territory of a third State, under the same conditions as if they were French nationals residing in the territory of such third State.

3. The old-age, survivor's and disability benefits due by virtue of the Indian legislation, are paid to the French nationals residing in the territory of a third State, under the same conditions as if they were Indian nationals residing in the territory of such third State.

Article 6 Reduction, suspension or withdrawal Clauses

1. The reduction, suspension or withdrawal clauses provided for in the legislation of one Contracting State, in case of overlapping of social security benefits or in case a benefit coincides with other incomes of any kind, shall be applied to the beneficiaries, even if these benefits were acquired by virtue of a scheme of the other Contracting State, or if the income is gained in the territory of the other Contracting State. However, this provision shall not apply to benefits of the same kind calculated in accordance with Article 12.

2. The reduction, the suspension or withdrawal clauses provided for in the legislation of one Contracting State in case the beneficiary of invalidity benefits or anticipated old age benefits has a professional activity can be applied even though the activity is done in the territory of the other Contracting State.

P A R T II
PROVISIONS CONCERNING THE APPLICABLE LEGISLATION

Article 7
General Provisions

Subject to Articles 8 to 10, the applicable legislation is determined according to the following provisions :

a) a person who works as an employee in the territory of a Contracting State shall, with respect to that employment, be subject only to the legislation of that Contracting State;

b) a person who works as a self-employed person in the territory of a Contracting State shall, with respect to that activity, be subject only to the legislation of that Contracting State ;

c) a person who is a member of the travelling or flying personnel of an enterprise which, for hire or reward or on its own account, operates international transport services for passengers or goods and has its registered office in the territory of a Contracting State shall be subject to the legislation of that Contracting State.

d) a person who works as an employee on board a ship that flies the flag of a Contracting State, shall be subject to the legislation of that State.

Article 8
Special Provisions

1. A person who usually pursues an activity as an employed person in a Contracting State on behalf of an employer which normally carries out its activities there and who is posted by that employer to the other Contracting State to perform work on that employer's behalf, shall remain subject to the legislation of the former Contracting State as regards the legislation referred to in Article 2 paragraph 1 A) b i) in respect of France and paragraph 1 B) (i) in respect of India and shall be exempted from paying contributions to the social security schemes under the legislation of the latter Contracting State for the maximum duration of 60 months.

2. Paragraph 1 of this Article shall apply where a person who has been sent by his employer from the territory of one Contracting State to the territory of a third country is subsequently sent by that employer from the territory of the third country to the territory of the

other Contracting State.

Article 9

Civil Servants, Members of Diplomatic Missions and Consular Posts

1. Civil servants and equivalent personnel and their family members, if not engaged in any professional activity, are subject to the legislation of the Contracting State whose administration employs them.
2. This Agreement shall not affect the provisions of the Vienna Convention on Diplomatic Relations of April 18, 1961, or the Vienna Convention on Consular Relations of April 24, 1963.

Article 10

Exceptions to articles 7 to 9

In the interest of certain insured persons or certain categories of insured persons, the competent authorities or agencies designated for this purpose can, by mutual agreement, provide for exceptions to the provisions of Articles 7 to 9 provided that the affected persons shall be subject to the legislation of one of the Contracting States.

PART III
PROVISIONS ON BENEFITS

Article 11

Totalization of Insurance periods

1. When insurance periods have been completed under the legislation of the two Contracting States, the competent agency of each Contracting State shall, in determining eligibility for benefits under the legislation which it applies, take into account, if necessary, insurance periods under the legislation of the other Contracting State, provided that such insurance periods do not overlap with insurance periods under its legislation.

2. If the legislation of either of the Contracting States subordinates the granting of certain old-age or survivors' benefits to the condition that the insurance periods are to be completed under a special scheme or in a given occupation or job, only insurance periods completed under an equivalent scheme or in the same occupation in the other Contracting State shall be totalized for admission to entitlement to these benefits.

3. Insurance periods completed under a special scheme of one of the States are taken into account under the general scheme of the other State for the acquisition of the right to benefits provided that the concerned person was affiliated to that scheme, even if these periods were already taken into account by the latter State under a scheme specified in paragraph 2.

4. The provisions of the paragraph 2 shall not apply to the French special schemes for civilian and military State civil servants, local government civil servants, hospital civil servants and workers in State industrial plants with regard to entitlement to the special scheme benefits. Nevertheless in order to determine the pension rate the French special schemes of civilian and military State civil servants, local government civil servants, hospital civil servants and workers in State industrial plants shall take into account insurance periods completed pursuant to the Indian legislation when calculating insurance duration completed under one or more other basic and compulsory retirement schemes.

5. In relations between the Contracting States the liabilities arising from social security instruments with third states will be taken into account in so far as these instruments determine aggregation of insurance periods for entitlement to pension.

Article 12

Calculation of old age, survivor and invalidity Benefits

1. If a person is entitled to an old age, survivor and invalidity benefit under the legislation of one Contracting State without taking into account the insurance periods completed under the legislation of the other Contracting State, the agency of the first Contracting State shall determine the benefits on the basis of the insurance periods completed exclusively under its legislation.

2. That competent agency shall also calculate the amount of old age or survivor's benefit by applying the rules specified in paragraph 3 (a) and (b). Only the higher of the two amounts shall be taken into consideration.

3. If, under the legislation of one Contracting State, a person is entitled to a benefit solely on the basis of the totalization of insurance periods completed under the legislation of the other Contracting State or the third state, if necessary, within the meaning of Article 11, then the competent agency of the first Contracting State:

(a) shall calculate the theoretical amount of the benefit which could have been claimed as if all insurance periods had been completed under its legislation; and

(b) then on the basis of the theoretical amount calculated in accordance with subparagraph (a) - determine the amount of the benefit payable by applying the ratio of the duration of the insurance periods completed under its legislation to the total insurance periods. The total duration shall be limited to the maximum duration, if any, required by the legislation applied by that Contracting State in order to be entitled to a full-rate benefit.

Article 13

Periods less than one year

1. If the total duration of insurance periods completed under the legislation of one of the Contracting States is less than one year the relevant institution of this State shall not be required to use totalization provided for in Articles 11 & 12 in order to award a pension. Nevertheless if only these periods are sufficient to be entitled to a pension under this legislation the pension shall be paid on this basis.

2. The periods referred to in paragraph 1 shall yet be taken into account for entitlement and calculation of pension rights under the legislation of the other Contracting State in accordance with the provisions of Articles 11 and 12.

3. Notwithstanding the provisions of the abovementioned paragraphs 1 to 2 in case the periods completed in both contracting States are less than one year they shall be totalised in accordance with Article 11 & 12, if by totalizing the claimant is entitled to benefits under the legislation of one or both of the Contracting States.

Article 14

1. If because of the rising cost of living, the variation of the wage levels or other adaptation clauses, the old-age, survivors', invalidity or disability benefits of either Contracting State are changed with a given percentage or amount, that percentage or amount should be directly applied to the old-age, survivors', invalidity or disability benefits of that Contracting State, without the other Contracting State having to proceed to a new calculation of the old-age, survivors', invalidity or disability benefits.

2. On the other hand, in case of modification of the rules or of the computation process with regard to the establishment of the old-age, survivors' or invalidity benefits a new computation shall be performed according to Article 11 & 12.

Article 15 Family Benefits

Workers referred to in Article 8 of the agreement shall be entitled in the territory of the State where their occupational activities are carried out to family benefits awarded under the conditions provided for under the legislation of that State.

P A R T I V
MISCELLANEOUS PROVISIONS

Article 16
Responsibilities of the Competent Authorities

The competent authorities:

- a) shall take, by means of an administrative arrangement or an agreement the measures required to implement this Agreement, including measures concerning taking into account of insurance periods, and shall designate the liaison agencies and the competent agencies ;
- b) shall define the procedures for mutual administrative assistance, including the sharing of expenses associated with obtaining medical, administrative and other evidence required for the implementation of this Agreement ;
- c) shall directly communicate to each other any information concerning the measures taken for the application of this Agreement ;
- d) shall directly communicate to each other, as soon as possible, all changes in their legislation to the extent that these changes might affect the application of this Agreement.

Article 17
Administrative Collaboration

1. For the implementation of this Agreement, the competent authorities as well as the competent agencies of both Contracting States shall assist each other with regard to the determination of entitlement to, or payment of, any benefit under this Agreement as they would for the application of their own legislation. In principle, this assistance shall be provided free of charge. However, the competent authorities may agree on the reimbursement of some expenses.

2. The benefit of the exemptions or reductions of taxes, of stamp duties or of registration or recording fees provided for by the legislation of one Contracting State in respect of certificates or other documents which must be produced for the application of the legislation of that State shall be extended to certificates and similar documents to be produced for the application of the legislation of the other State.

3. Documents and certificates which must be produced for the implementation of this Agreement shall be exempt from authentication by diplomatic or consular authorities. Copies of documents which are certified as true and exact copies by the competent agency of one Contracting State shall be accepted as true and exact copies by the competent agency of the other Contracting State, without further certification.

4. For the implementation of this Agreement, the competent authorities and agencies of the Contracting States may communicate directly with each other as well as with any person, regardless of the residence of such persons. Such communication may be made in one of the languages used for the official purposes of the Contracting States. An application or document may not be rejected by the competent authority or competent agencies of a Contracting State solely because it is in an official language of the other Contracting State.

Article 18 Claims, Notices and Appeals

1. Claims, notices or appeals which, according to the legislation of one of the Contracting States, should have been submitted within a specified period to the competent authority or agency of that Contracting State, are acceptable if they are presented within the same specified period to a competent authority or agency of the other Contracting State. In this case, the Claims, notices or appeals must be sent without delay to the competent authority or agency of the former Contracting State, either directly or through the competent authorities of the Contracting States. The date on which these Claims, notices or appeals have been submitted to a competent authority or agency of the second Contracting State shall be considered to be the date of submission to the competent authority or agency authorized to accept such Claims, notices or appeals.

2. An application for benefits under the legislation of one Contracting State shall be deemed to be also an application for a benefit of same nature under the legislation of the other Contracting State provided that the applicant so wishes and provides information indicating that insurance periods have been completed under the legislation of the other Contracting State.

Article 19

Confidentiality of Information

Unless otherwise required by the national laws and regulations of a Contracting State, information about an individual which is transmitted in accordance with this Agreement to the competent authority or agency of that Contracting State by the competent authority or agency of the other Contracting State shall be used exclusively for purposes of implementing this Agreement and the legislation to which this Agreement applies. Such information received by a competent authority or agency of a Contracting State shall be governed by the national laws and regulations of that Contracting State for the protection of privacy and confidentiality of personal data.

Article 20

The collection of contributions and the recovery of benefits not due

1. Decisions ruled by a court of one of the Contracting States on Social Security contributions or taxes and on other requests, particularly the recovery of benefits not due, are recognised in the jurisdiction of the other Contracting State. The decision is accompanied by a document certifying that it is enforceable.
2. Recognition can only be refused if it is not in accordance with the legal principles of the Contracting State under the jurisdiction of which the decision must be carried out.
3. Proceedings must be in accordance with the legislation governing the execution of such decisions of the Contracting State under whose jurisdiction they must be executed.
4. The contributions and social taxes payable to and the benefits not due but paid by the competent agency of one of the Contracting State have, in the case of proceedings, bankruptcy or enforced liquidation in the jurisdiction of the other Contracting State, the same priority as equivalent claims under the Contracting State's jurisdiction.
5. Claims subject to collection or enforced collection are protected by the same guarantees and liens as claims of the same nature of a competent agency located in the Contracting State in which the collection or enforced collection takes effect.

Article 21

Fraud Prevention

Conditions for affiliation and eligibility based on residency

1. The Contracting States shall inform each other of provisions in their legislations on the determination of residency in their respective territories.
2. The competent agency of one Contracting State examining the conditions under which a person is entitled to, due to residence in the Contracting State's territory, either affiliation to a Social Security system or to a benefit, may, if it is deemed necessary, contact the competent agency of the other Contracting State in order to ensure that this person is an actual resident in one or the other contracting States.
3. The competent agency which is contacted must provide relevant information in its possession which could clear up any doubt on the person's residency.

Assessment of income

4. The Competent agency of a Contracting State whose legislation is applicable may, when it is deemed necessary, ask the competent agency of the other Contracting State about resources and income of all kinds, which a person subject to the said legislation and therefore liable to pay contributions or social taxes, may be entitled to in the territory of that Contracting State.
5. The provisions in the first paragraph apply in the same way when the Competent agency assesses a person's right to a means-tested benefit.

Article 22

Payment of Benefits

1. Payments of benefits under this Agreement may be made in the currency of either Contracting State.
2. In the event that a Contracting State imposes currency controls or other similar measures that restrict payments, remittance or transfers of funds or financial instruments to persons who are outside that Contracting State, it shall, without delay, take appropriate measures to ensure the payment of any amount that must be paid in accordance with this Agreement to persons

described in Article 3 who reside in the other Contracting State or a third State.

Article 23
Resolution of Disputes

Disputes which arise in interpreting or applying this Agreement shall be resolved, to the extent possible, by the competent authorities.

PART V

TRANSITIONAL AND FINAL PROVISIONS

Article 24

Events prior to the entry into force of the Agreement

1. This Agreement shall also apply to events which occurred prior to its entry into force.
2. This Agreement shall not create any entitlement to benefits for any period prior to its entry into force.
3. All insurance periods completed under the legislation of one of the Contracting States prior to the date on which this Agreement enters into force shall be taken into consideration in determining entitlement to any benefit in accordance with the provisions of this Agreement.
4. This Agreement shall not apply to rights that were liquidated by the granting of a lump sum payment or the reimbursement of contributions.
5. In applying Article 8 in case of persons who were sent to a Contracting State prior to the date of entry into force of this Agreement, the periods of employment referred to in that Article shall be considered to begin on that date.

Article 25

Revision, prescription, forfeiture

1. Any benefit that was not paid or that was suspended by reason of the nationality of the interested person or by reason of his residence in the territory of a Contracting State other than that in which the competent agency responsible for payment is located, shall, on application by the interested person, be paid or restored from the entry into force of this Agreement.
2. The entitlement of interested persons who, prior to the entry into force of this Agreement, obtained the payment of a benefit may be revised upon application by those persons, in accordance with the provisions of this Agreement. In no case shall such a revision result in a reduction of the prior entitlement of the interested persons.
3. If the application referred to in paragraph 1 or 2 of this Article

is made within two years of the date of the entry into force of this Agreement, any entitlement arising from the implementation of this Agreement shall be effective from that date, and the legislation of either Contracting State concerning the forfeiture or the prescription of rights shall not be applicable to such interested persons.

4. If the application referred to in paragraph 1 or 2 of this Article is made after two years following the entry into force of this Agreement, the entitlements which are not subject to forfeiture or which are not yet prescribed shall be acquired from the date of the application, unless more favourable legislative provisions of the Contracting State concerned are applicable.

Article 26

Duration

This Agreement is concluded without any limitation on its duration. It may be terminated by either Contracting state, through diplomatic channels, giving twelve months' notice in writing to the other State.

Article 27

Guarantee of rights that are acquired or in the course of acquisition

In the event of termination of this Agreement, any rights and payment of benefits acquired by virtue of the Agreement shall be maintained. The Contracting States shall make arrangements regarding the rights in the course of acquisition.

Article 28

Entry into Force

The Contracting States shall notify each other, through diplomatic channels, of the completion of their respective constitutional and legal procedures required for the entry into force of this Agreement. This Agreement shall enter into force on the first day of the third month following the date of receipt of the last notification.

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

DONE at Paris, on the 30th September, 2008 in duplicate in the English, French and Hindi languages, all three texts being equally authentic.

**FOR GOVERNMENT
OF THE REPUBLIC OF INDIA:**

**FOR THE GOVERNMENT
OF THE FRENCH REPUBLIC:**