

(2)
AGREEMENT

ON SOCIAL SECURITY

BETWEEN

THE REPUBLIC OF INDIA

AND

THE REPUBLIC OF HUNGARY

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AND

THE REPUBLIC OF HUNGARY

hereinafter referred to as the Contracting States, wishing to arrange the mutual relations between the two States in the field of social security, have agreed as follows:

PART I
GENERAL PROVISIONS

Article 1
Definitions

For the purposes of this Agreement:

- a) The term "*India*" means: the Republic of India;
The term "*Hungary*" means: the Republic of Hungary.
- b) The term "*national*" means:
- as regards India: a national of the Republic of India in accordance with the applicable legislation;
- as regards Hungary a natural person who is considered a national of Hungary in accordance with the applicable legislation.
- c) The term "*legislation*" means laws and regulations relating to the schemes and systems of social security specified in Article 2 of this Agreement.
- d) The term "*authority*" means:
- as regards India: the Ministry of Overseas Indian Affairs;
- as regards Hungary: the ministers, ministries or other relevant authorities responsible for social security schemes and systems regulated by the legislation specified in Article 2.
- e) The term "*agency*" means the institution, the organization, the authority or the body responsible in full or in part for the implementation of the legislation specified in Article 2.
- f) The term "*insurance period*" means:

any period of contributions under the legislation of a Contracting State, as well as any period recognized as equivalent to a period of contribution under that legislation.

- g) The term "*benefit*" means any cash benefit including pension provided for in the legislation specified in Article 2 of this Agreement.
- (h) The term "*residence*" means habitual residence.
- (i) The term "*stay*" means that the person concerned takes up temporary short-term residence, the duration of which is usually related to the attainment of the objective of stay defined in advance.

2. Any term not defined in paragraph 1 of this Article shall have the meaning assigned to it in the legislation applied by the Contracting States.

Article 2 Material Scope

1. This Agreement shall apply:

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

and, as regards Part II only, to the legislations concerning:

- (iii) the social security for employed persons;

as regards Hungary, to the legislation concerning the insurance obligation and the payment of contributions covering social insurance benefits and benefits paid in case of unemployment, as well as the social insurance pension benefits.

2. This Agreement shall also apply to future legislation which amends, supplements, consolidates or supersedes the legislation specified in paragraph 1 of this Article.

3. This Agreement shall also apply to the legislation which extends the scope of the existing legislation of one Contracting State to new categories of beneficiaries, if the competent authority of that Contracting State notifies such extension to the competent authority of the other Contracting State in writing and the latter states its acceptance of such extension within six months on receipt of the notification.

Article 3

Personal Scope

This Agreement shall apply to any person who is or who has been subject to the legislation of either Contracting State, and to the dependants and survivors of such a person within the meaning of the applicable legislation of that Contracting State.

Article 4

Equality of Treatment

Unless otherwise provided in this Agreement, in applying the legislation of a Contracting State, the persons specified in Article 3 who stay at the territory of one of the Contracting States shall receive equal treatment with nationals of that Contracting State.

Article 5

Export of Benefits

1. Unless otherwise specified in this Agreement, a Contracting State shall not reduce, modify, suspend or withdraw benefits acquired under its legislation solely on the ground that the beneficiary has place of stay or residence in the territory of the other Contracting State.

2. Benefits due by virtue of the legislation of the Contracting State and under this Agreement shall be paid to beneficiaries in a third state under the same conditions as specified in the respective national legislation for payments to beneficiaries in the third states.

Article 6
Assimilation of Facts

Events that have legal effect on entitlement, reduction, modification, suspension or withdrawal of benefit amount and which occurred in the territory of one Contracting State, shall be taken into account as if they had taken place in the territory of the other Contracting State.

PART II
PROVISIONS CONCERNING THE APPLICABLE LEGISLATION

Article 7
General Provision

Except as otherwise provided in this Part, a person who works as an employee or, not being an employee, pursues other gainful activity in the territory of one Contracting State shall, with respect to that work or activity, be subject only to the legislation of that Contracting State.

Article 8
Special Provisions Regarding Detached Workers, Mariners
and Aircraft Crew

1. Where a person in the service of an employer having a registered office in the territory of one Contracting State is sent by that employer to work on that employer's behalf in the territory of the other Contracting State, only the legislation of the first Contracting State shall continue to apply with regard to that employment as though the employee were still employed in the territory of the first Contracting State, provided that the anticipated duration of detachment does not exceed 5 years. This paragraph shall also apply to an employee who, without concluding a separate labour contract, has been sent by his/her employer in the territory of one Contracting State to the employer's affiliated or subsidiary company in the territory of the other Contracting State.

2. Persons who are members 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.

3. 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 Contracting State.

Article 9

Civil Servants, Members of Diplomatic Missions and Consular Posts

1. Civil servants or persons treated as such according to the legislation of one Contracting State to whom paragraph 2 of this Article does not apply and who are sent to work in the territory of the other Contracting State are subject only to the legislation of the first Contracting State.

2. Nothing in this Agreement shall affect the provisions of the Vienna Convention on Diplomatic Relations of April 18, 1961, or of the Vienna Convention on Consular Relations of April 24, 1963.

Article 10

Exceptions

At the joint request of an employee and his employer, the competent authorities or the agencies designated by them of the two Contracting States may agree to grant an exception to the provisions of this Part with respect to individual persons or categories of persons, provided that the affected person shall be subject to the legislation of one Contracting State. Such exceptions shall be based on the nature and circumstances of the employment.

Article 11

Certificate on Coverage and Exemptions

1. In cases referred to in Articles 8 to 10, the certificate of fixed duration indicating that the person is, in respect of the work referred, subject to the legislation of the Contracting State, shall be issued on the request of an employee or an employer in the agreed form:

- in India,
by Employees' Provident Fund Organization;

- in Hungary,
by the authority responsible for the administration of compulsory health insurance.

The certificate issued will be sent to the applicant(s), and in cases referred to in Articles 8 to 10, a copy of the certificate is sent to the above-mentioned agency of the other Contracting State.

2. The agencies mentioned in paragraph 1 are designated to approve exceptions under Article 10. An employee and his employer shall submit the joint request on exceptions in writing to the agency of the Contracting State whose legislation has to be applied pursuant to the request.

3. The approval shall be attested by a certificate issued and transferred in accordance with paragraph 1 of this Article.

PART III PROVISIONS ON BENEFITS

Article 12 Totalization of insurance periods

1. When insurance periods have been completed under the legislation of the two Contracting States, the agency of each Contracting State shall, in determining eligibility for acquisition, retention or recovery of 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 a person is not eligible for a benefit on the basis of the insurance periods under the legislation of the contracting States, totalized as provided in paragraph 1 of this article, the eligibility of that person for that benefit shall be determined by totalizing these insurance periods accumulated under the legislation of a third State with which both contracting States are bound by social security instruments which provide for the totalization of periods.

3. Where the legislation of one Contracting State makes the granting of certain benefits conditional upon insurance periods having been completed in an occupation which is subject to a special scheme, or the entitlement to benefits is subject to the condition of insurance periods having been completed in specific occupations or employment, periods completed under the legislation of the other Contracting State shall only be taken into account for the granting of these benefits if these were completed under a corresponding scheme or, failing that, in a similar occupation or employment. If the totalization of insurance periods does not create eligibility to a benefit within the specific scheme, these insurance periods shall be totalized within the general scheme of insurance.

Article 13

Calculation of Benefits

1. If a person is entitled to a 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. If, under the legislation of one Contracting State, the entitlement to benefits can be acquired only after taking into account the insurance periods completed under the legislation of the other Contracting State or the third state within the meaning of Article 12, then the agency of the first Contracting State:

(a) shall calculate the theoretical amount of the benefit which could have been claimed provided that 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 pro rata calculation method (ratio of the duration of the insurance periods completed under its legislation to the totalized insurance periods).

3. In order to determine the basis for calculation of the benefit, the agencies of the Contracting States shall take into account only income earned during the insurance periods completed under the legislation which they apply.

Article 14
Conversion of Periods of Coverage

Where necessary, the conversion for the purposes of totalization of insurance periods within the meaning of Article 12 shall be carried out according to the following rules:

(a) 365 (366) days acquired under the Hungarian legislation shall be equivalent to 12 months under the Indian legislation and every calendar month in which insurance period of one day at least has been completed shall be equivalent to one month. The total insurance period completed within one calendar year shall not exceed 12 months.

(b) 12 months acquired under the Indian legislation shall be equivalent to 365 (366) days under the Hungarian legislation, one month shall be equivalent to number of days of the relevant calendar month; if specification of the calendar month is not possible – to 30 days. The total insurance period completed within one calendar year shall not exceed 365 (366) days.

Article 15
Periods less than one year

1. The provisions of Articles 12 and 13 of this Agreement shall only apply for the purposes of establishing the person's entitlement to an old-age, disability or survivors benefit of one Contracting State if the person has completed at least one year of coverage under the legislation of that Contracting State. For the purposes of completion and accounting, insurance periods less than one year shall be taken into account by the other Contracting State as if they had been completed pursuant to its legislation provided that these periods do not result in entitlement to a benefit in the first Contracting State.

2. Notwithstanding Paragraph 1, entitlement to other benefits arising from insurance periods of less than one year under the respective national legislations shall continue to apply.

PART IV
ADMINISTRATIVE ARRANGEMENTS

Article 16
Liaison Agencies

1. The Competent Authorities shall designate appropriate liaison agencies and inform each other thereof.
2. The liaison agencies shall facilitate the communication between the agencies of the Contracting States and shall assist one another in the implementation of the Agreement.

Article 17
Forms and Detailed Procedures

1. The liaison agencies will agree jointly on the forms and detailed procedures necessary to implement the Agreement.
2. The agencies or liaison agencies may refuse to accept a claim for a benefit or any other request or certificate if it is not submitted in the agreed form.

Article 18
Payment of Benefits

1. Benefits shall be paid directly to the beneficiaries, in accordance with the respective national legislations.
2. The agencies of the Contracting States shall pay their benefits without any deduction for their administrative expenses.

Article 19
Exchange of Statistics

The liaison agencies of the Contracting States shall exchange annual statistics as of 31 December on the number of certificates issued under Article 11 and on the payments granted to beneficiaries pursuant to the Agreement. These

statistics shall include the number of beneficiaries and total amount of the benefits, identified by the benefit type paid under the Agreement. These statistics shall be furnished in a form to be agreed upon by the liaison agencies.

Article 20

Co-operation of Liaison Agencies

Representatives of the liaison agencies shall meet alternately in both Contracting States in order to discuss subjects related to application of the Agreement.

Article 21

Administrative Collaboration

1. For the implementation of this Agreement, the 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. Without prejudice to paragraph 3., the assistance referred to in this Article shall be provided without reimbursement of costs.

2. The agency of a Contracting State will provide, upon request, to the agency of the other Contracting State medical information and documentation as are available concerning the disability of a claimant or a beneficiary. The request for the information and documentation, and their transmittal, will be made through the liaison agencies of the Contracting States.

3. If an agency of a Contracting State requires that a claimant or a beneficiary who resides in the territory of other Contracting State undergo a medical examination, the agency of the later contracting State at the request of the agency of the first contracting State, shall make arrangements for carrying out this examination. If a medical examination is exclusively for the use of the agency which requests it, that competent agency shall reimburse the competent agency of the other contracting State for the costs of the examination. However, if the medical examination is for the use of both competent agencies, there shall be no reimbursement of costs. The request for the examination will be made through the liaison agencies of the Contracting States.

4. Where the legislation of one Contracting State provides that any document which is submitted to the authority or agency of that Contracting State shall be exempted, wholly or partly, from fees or charges, including consular and administrative fees, the exemption shall also apply to corresponding documents which are submitted to the authority or agency of the other Contracting State in the application of this Agreement.

5. 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 an agency of one Contracting State shall be accepted as true and exact copies by the agency of the other Contracting State, without further certification.

6. For the implementation of this Agreement, the 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 authority or agency of a Contracting State solely because it is in an official language of the other Contracting State.

Article 22

Claims, Notices and Appeals

1. Where a claim for a benefit under the legislation of one Contracting State is submitted to an agency of the other Contracting State which is entitled to accept a claim for granting a corresponding benefit under the applicable legislation, this claim shall be treated as if it had been submitted to the agency of the first Contracting State on the same date. This provision shall also apply, as appropriate, to other claims, notices and appeals.

2. The competent authority, or agency of a Contracting State, to which claims, notices or appeals were submitted, shall indicate the date of receipt of the document and forward it without delay to the competent authority or agency of the other Contracting State.

3. A claim for a benefit to be provided pursuant to the legislation of one Contracting State shall qualify as a claim for a corresponding benefit to be provided under the legislation of the other Contracting State, provided that the claimant provides information indicating that insurance periods have been completed under the legislation of the other Contracting State. This provision shall not be applied if the claimant explicitly requests that the determination of eligibility to a benefit acquired according to the legislation of that other Contracting State be delayed.

Article 23
Processing a Claim

1. Where the agency of one Contracting State receives a claim of a person, who has completed insurance periods under the legislation of the other or both Contracting States, this agency shall send the claim through the liaison agency to the agency of the other Contracting State, indicating the date on which the claim has been received. Along with the claim, it will also transmit to the agency of the other Contracting State:

- a) any available documentation that may be necessary for the agency of the other Contracting State to establish the claimant's eligibility for the benefit,
- b) form which will indicate, in particular, the insurance periods completed under the legislation of the first Contracting State,
- c) and, eventually, a copy of its own decision on benefit if it has been taken on.

2. The agency of the other Contracting State subsequently determines the claimant's eligibility and, through the liaison agency, notifies its decision to the agency of the first Contracting State. Along with its decision, it will also transmit, if necessary or upon the request, to the agency of the first Contracting State:

- a) any available documentation that may be necessary for the agency of the first Contracting State to establish the claimant's eligibility for the benefit,
- b) form which will indicate, in particular, the insurance periods completed under the legislation which it applies.

3. The agency of the Contracting State with which a claim for benefits has been filed shall verify the information pertaining to the claimant and his family members. The type of information to be verified shall be agreed upon by the liaison agencies of the two Contracting States.

Article 24
Data Protection

1. Where on the basis of this Agreement and in accordance with the legislation applicable in both Contracting Parties, personal data including health data necessary for the implementation of the Agreement are to be transferred, in keeping with applicable legislation in effect in the territories of the Contracting Parties, the following provisions shall be applied:

- (a) For the purpose of implementing this Agreement and the legislation covered by the scope of this Agreement, data may be disclosed by one Contracting State to the agencies of the other Contracting State. The receiving Contracting State may process and use this data for such purposes. In all other cases, data may be disclosed to other agencies exclusively with the prior consent of the transmitting agencies and in accordance with the national legislation applicable to such agency.
- (b) The agency receiving such data shall, upon request and in individual cases, inform the agency providing data of the purpose for which it has used the data disclosed and the results of such use.
- (c) The agency providing data must ensure that the data to be disclosed is accurate, and is necessary from the point of view of the purpose of data disclosure. At the same time, all valid data provision prohibitions must be taken into consideration, pursuant to the national legislation of that Contracting State. If it becomes evident that the data disclosed is incorrect, or may not have been disclosed under the legislation of the Contracting State providing the data, the receiving agency shall be notified without delay, and it shall correct or delete such data, as appropriate.
- (d) The person concerned, upon his/her request, shall be given information on the data about him/her and the purpose of using such data, on the legal basis for and the duration of the use of the data, and on who has

received or shall receive such data. In other respects, the rights of the person concerned with regard to being informed of the data held about him/her shall be subject to the national legislation of the Contracting State whose agency was requested to provide information.

- (e) Personal data received shall be deleted without delay when, pursuant to the national legislation of the Contracting State receiving such data, it becomes unnecessary for the purpose of the disclosure.
- (f) The transmission and receipt of personal data shall be recorded both by the transmitting and by the receiving agencies.
- (g) Both the transmitting and the receiving agencies shall ensure the effective protection of personal data, in accordance with their respective national legislations, against breaches, including but not limited to, unauthorized access, illegal alterations and unauthorized disclosure.
- (h) On request of the person involved, the agencies of both the receiving and the transmitting Contracting Parties shall correct the incorrect data handled by them or delete data handled illegally. The other agency of the Contracting State shall be immediately informed of such correction or deletion.
- (i) In the event of breach of rights related to data protection, the affected persons shall be entitled to legal remedy, including in a court of law, in accordance with the respective national legislations of the Contracting Parties.

2. The provisions set out in paragraph 1 of this Article shall also be applied, as appropriate, to both corporate and trade secrets.

Article 25 Payment of Benefits

1. Payments into the other Contracting State arising from this Agreement shall be effected 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 the 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.

Article 26
Resolution of Disputes

Disputes which arise in interpreting or applying this Agreement shall be resolved by the authorities through mutual consultation.

Article 27
Obligations of the Republic of Hungary deriving from its European Union membership

This Agreement shall not apply to the liabilities resulting to Hungary from its membership of the European Union. Accordingly, the provisions of this agreement shall not be invoked or interpreted either wholly or partly as provisions superseding, modifying or, in any other way, influencing the liabilities resulting to Hungary specially from the Accession Treaty, the Treaty establishing the European Communities, the Treaty on the European Union and the liabilities resulting from the primary and secondary legislation of the European Union in general.

PART V
TRANSITIONAL AND FINAL PROVISIONS

Article 28
Transitional Provisions

1. This Agreement shall not create any entitlement to benefits for any period prior to its entry into force.
2. Subject to paragraph 1 of this Article, in determining the right to a benefit under this Agreement, any insurance period completed before the date of entry into force of this Agreement and any other relevant events that occurred before that date shall be taken into consideration.
3. Decisions concerning entitlement to benefits which were made before the entry into force of this Agreement shall not affect rights arising under it

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 the territory of 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 the date this Agreement enters into force.

Article 29
Revision of Benefits

Benefits determined before the entry into force of this Agreement may be newly determined upon application if a change in such benefits results solely from the provisions of this Agreement. If the new determination under the preceding sentence of this Article results in no entitlement or entitlement to a lesser amount of pension than was paid for the last period prior to the entry into force of this Agreement, the same amount of pension as previously paid shall continue to be paid.

Article 30
Ratification and Entry into Force

1. This Agreement is subject to ratification.
2. The Contracting States shall notify each other through Diplomatic channels of the fact that their respective legal requirements for the entry into force have been completed.
3. This Agreement shall enter into force on the first day of the fourth month following the month in which the last written notification referred to in paragraph 2 has been delivered.

Article 31
Duration and Termination of the Agreement

1. This Agreement shall remain in force without any limitation on its duration.

2. This agreement may be terminated by either of the Contracting States giving a twelve months notice in writing to the other Contracting State.

3. If this Agreement is terminated, rights regarding entitlement to or payment of benefits acquired under it shall be retained. The Contracting States shall make arrangements to deal with rights in the process of being acquired.

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

Done at Budapest on the 2nd of February 2010, in duplicate, each in the Hindi, Hungarian and English languages, all texts being equally authentic.

In case of any divergence of interpretation, the English text shall prevail.

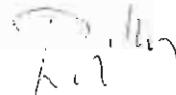
FOR THE REPUBLIC OF INDIA:

FOR THE REPUBLIC OF
HUNGARY:



(Ranjit Rae)

Ambassador of the Republic of
India in Hungary



(Dr. Tamás Székely)
Minister for Health