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THE AGREEMENT

ON SOCIAL SECURITY

BETWEEN

THE REPUBLIC OF INDIA

AND

THE PORTUGUESE REPUBLIC

The Republic of India and Portuguese Republic the hereinafter the "Parties";

Desirous to develop their relations in matters of social security;

Enshrining the principles of equality of treatment and of determination of the legislation applicable with a view to guaranteeing to the respective nationals their acquired rights and the rights in the course of acquisition;

Have agreed as follows:

TITLE I
General provisions

Article 1
Definitions

- 1. For the purposes of this Agreement:
 - a) "Party" means the Republic of India or the Portuguese Republic;
 - b) "Territory" means:
 - i) In relation to the Republic of India, the territory of India in accordance with International Law and the Indian legislation;
 - ii) In relation to the Portuguese Republic, the territory of the Portuguese Republic, in accordance with International Law and the Portuguese legislation.
 - c) "National" means a person treated as such under the legislation of the Parties;
 - d) "Legislation" means the legal provisions in force relating to the schemes or systems referred to in Article 2;
 - e) "Competent authority" means:
 - i) in relation to the Republic of India, the Minister of Overseas Indian Affairs;
 - ii) in relation to the Portuguese Republic, the member or members of the Government or any other corresponding authority responsible for the matters referred to in article 2 in all or any part of its territory.
 - f) "Competent institution" means:
 - i) in relation to the Republic of India, the Employees' Provident Fund Organisation, New Delhi;
 - ii) in relation to the Portuguese Republic, the institution with which the person concerned is insured at the time of the application for the benefits, or the institution from which the person concerned is or would

be entitled to benefits or the institution designated by the competent authority.

- g) "Period of insurance" means in both Parties, any period of contribution considered as such by the legislation under which it was completed, as well as any period regarded by the said legislation as equivalent to periods of insurance;
- h) "Benefit" and "Pension" means any benefits, including supplements and increases, provided for in the legislations referred to in Article 2;
- i) "Worker" means the employed or self-employed person is covered by the respective social security schemes referred to in Article 2;
- j) "Member of the family" means any person defined or recognized as such or designated as a member of the household by the legislation under which benefits are provided;
- k) "Survivor" means any person defined or treated as such by the legislation under which the benefits are provided;
- l) "Residence" means the habitual residence.

Other terms and expressions, which are used in this Agreement, shall have the meanings respectively assigned to them in the legislation applicable.

Article 2
Legislative scope

This Agreement shall apply:

- a) As regards the Republic of India, to all legislations concerning:
 - i) Old-age and survivors' pension for employed persons,
 - ii) The permanent total disability pension for employed persons.
- b) As regards the Portuguese Republic, to the legislation concerning the social security schemes applicable to employed and self-employed persons and the optional affiliation schemes of the insurance system, as regards benefits granted in the event of invalidity, old-age and death.

This Agreement shall apply to further provisions that complete or amend the legislation referred to in paragraph 1, as well as to legal provisions concerning a new special or specific branch of social security if mutually agreed upon by the Parties.

This Agreement shall also apply to any legal provision that extends the existing legislation to new categories of beneficiaries, insofar as the competent authority of the other Party does not oppose it, within six months from the date of the official publication or promulgation of those provisions.

This Agreement shall not apply to the special schemes for civil servants and persons treated as such, subject to the provisions of Article 9.

**Article 3
Personal scope**

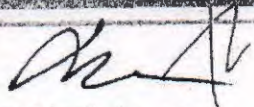
Unless otherwise specified, this Agreement shall apply to all persons who are or have been subject to the legislation of either Party mentioned in Article 2, as well as to the members of their family and their survivors.

**Article 4
Equality of treatment**

Unless otherwise provided in this Agreement, the persons specified in Article 3, as well as the members of their family and their survivors, who legally reside in the territory of a Party, shall receive equal treatment with nationals of that Party in the application of its legislation.

**Article 5
Export of benefits**

- 1. Benefits in the event of invalidity, old-age and death acquired under the legislation of either Party shall be directly paid to the persons concerned even if they reside in the territory of the other Party.

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2. The benefits mentioned in paragraph 1 shall not be subject to any reduction, suspension or withdrawal because of the fact that the person concerned resides in the territory of the other Party.
 3. The benefits provided for in the legislation of either Party shall be paid to the nationals of the other Party who reside in the territory of a third State under the same conditions as if they were nationals of the first Party residing in the territory of that third State.

Article 6

Reduction, suspension or withdrawal clauses

The reduction, suspension or withdrawal clauses provided for in the legislation of one Party, in case one benefit coincides with other social security benefits or with other professional incomes, shall be applied to the beneficiaries, even if these benefits were acquired by virtue of a scheme of the other Party, or if the related professional activities are exercised in the territory of the other Party.

TITLE II

Provisions concerning the applicable legislation

Article 7

General provision

Subject to the provisions of Articles 8 to 10, workers covered shall be subject to the legislation of the Party in whose territory they pursue an activity as employed or self-employed persons, even if they permanently reside in the territory of the other State or if their employer or undertaking has the registered office or residence in that other State.

Article 8

Special provisions

1. A worker employed in the territory of one Party by an employer to which he is normally attached who is posted by that employer to the territory of the other Party to perform work there for that employer shall continue to be

subject to the legislation of the former Party, provided that the anticipated duration of that work does not exceed sixty months.

- 2. If the duration of the work referred to in paragraph 1 continues beyond sixty months the competent authorities of the two Parties or the competent agencies designated by those competent authorities may agree that the employee remains subject only to the legislation of the first Party.
- 3. Paragraph 1 shall apply analogously to self-employed persons who usually perform an activity in the territory of one Party and move to the territory of the other Party to perform the same activity there for equal periods.
- 4. A crew 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 Party shall be subject to the legislation of that Party.
- 5. A crew member of a sea-going vessel flying the flag of a Party shall be subject to the legislation of the Party where he resides.

Article 9

Special provisions applicable to civil servants and members of diplomatic missions and consular posts

- 1. A civil servant or a person working in a public enterprise, local authority or other institution of a public nature of one of the Parties, who is sent to the territory of the other Party to perform his work there, as well as the members of his family, shall continue to be subject to the legislation of the Party employing him, as the case may be.
- 2. This agreement shall not affect the provisions of the Vienna Convention on Diplomatic Relations of 18 April 1961 and of the Vienna Convention on Consular Relations of 24 April 1963.

**Article 10
Exceptions**

The competent authorities of either Party, or the institutions designated by them, may by common agreement provide for exceptions to the provisions of Articles 7 to 9 in the interest of certain workers or of certain categories of workers, at their request or at the request of their employers.

TITLE III

Special provisions concerning invalidity, old age and survivors' pensions

Article 11

Aggregation of periods of insurance

1. Where a worker has been continuously or non continuously subject to the legislation of the Parties, the periods of insurance completed under the legislation of either Party shall be taken into account, where necessary, by the other Party for the acquisition, retention or recovery of the right to the benefits as if they have been completed under its legislation, insofar as they do not overlap.
2. Where the legislation of one Party makes the granting of certain benefits conditional upon the periods of insurance having been completed in an occupation subject to a special social insurance scheme, periods completed in the other Party shall be taken into account only if completed under a corresponding special scheme or, failing that, in the same occupation.
3. Where, account having been taken of the periods completed in accordance with paragraph 2, the person concerned does not satisfy the necessary eligibility conditions of such benefits, those periods shall be taken into account for the granting of benefits under the general scheme.
4. For the purposes of paragraph 1, account shall be taken of the periods of insurance completed under the legislation of one Party, other than one of those mentioned in Article 2, provided that they have been considered as periods of insurance under a legislation covered by this Agreement.
5. Where, account having been taken of the aggregated periods of insurance completed under the legislation of the Parties, as provided for in this Article,

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no right to benefit is acquired, account shall be taken of periods of insurance completed under the legislation of a third State to which both Parties are bound by a social security instrument that provides for the aggregation of periods.

Article 12
Calculation and award of benefits

1. The competent institution of either Party shall determine, under the legislation applicable, whether the person concerned satisfies the eligibility conditions for the benefits, account being taken, where necessary, of the provisions of Article 11.
2. Where the person concerned satisfies the conditions mentioned in paragraph 1, the competent institution shall calculate the amount of the benefit solely and directly on the basis of the periods of insurance completed under the legislation it administers.
3. The competent institution of the Party that grants the benefits referred to in paragraph 2 shall take exclusively into account the earnings received by the person concerned in the territory of this Party.
4. Where the total duration of the periods of insurance completed under the legislation of either Party is less than a year and where no right to benefits was acquired under that legislation on the basis solely of those periods, the competent institution of that Party shall not be bound to grant benefits in respect to those periods.
5. Subject to paragraph 4, the said periods of insurance shall be taken into account by the competent institution of the other Party as if they had been completed under its own legislation.
6. Where the total of the benefits payable by the competent institutions of the Parties is less than the minimum amount established by the legislation of the Party in whose territory the person concerned resides, that person is entitled to receive from the competent institution of that State a supplement up to that minimum amount for the period he resides there.

TITLE IV
Miscellaneous provisions

Article 13
Cooperation between competent authorities and institutions

1. The competent authorities of the Parties shall:
 - a) conclude the administrative arrangements that are necessary for the implementation of this Agreement;
 - b) communicate to each other all measures taken for the implementation of this Agreement;
 - c) communicate to each other all information concerning the amendments to the respective legislation liable to affect the implementation of this Agreement;
 - d) designate the respective liaison bodies and establish their tasks in the administrative arrangements mentioned in paragraph 1, subparagraph a).
2. In implementing this Agreement, the competent authorities and/or the competent institutions of the Parties:
 - a) shall lend to each other the necessary technical and administrative assistance, free of charge; however, the competent authorities may agree on the reimbursement of some expenses;
 - b) may communicate directly with each other and with the persons concerned or their representatives;
 - c) shall communicate in English with each other.
3. The competent authorities, competent institutions, liaison bodies and other Institutions of the Parties may not reject petitions and documents solely because they are written in the official language of the other Party.

Article 14
Protection of personal data

Where, for the purposes of verifying the rights and granting the benefits provided for by this Agreement, personal data are communicated pursuant to the same Agreement and in conformity with domestic law, the following provisions as well as other binding provisions of the respective parties shall apply:

a) For the implementation of this Agreement and the legislation referring thereto, personal data may be communicated to the responsible bodies of the receiving Party. The respective receiving bodies shall not use these data for other purposes. Onward transmission of personal data within the territory of the receiving Party to other bodies is admissible in conformity with the domestic law of the receiving Party insofar as it serves social security purposes including related court procedures;

b) Any personal data communicated in whatsoever from between the responsible authorities, institutions and other bodies concerned pursuant to this Agreement or any arrangement implementing this Agreement are treated as confidential information received from the other Party in the same manner as like information obtained under the domestic law of the receiving Party. These obligations shall apply to all persons fulfilling tasks under this Agreement and also to persons bound themselves by the obligation of secrecy;

c) In specific cases the receiving body shall give information upon request of the communicating body about both the use of the data received and the results, which had been received by this data;

d) The communicating body shall guarantee that the personal data communicated are accurate and up-to-date. Before initiating any communication of personal data the communicating body has to examine whether or not the communication is necessary and proportionate with regard to the purpose of the communication in question. This is to be done with due consideration to prohibitions on communication existing in the relevant domestic laws. In case of communication of inaccurate data or data which should not have been communicated under the domestic law of the communicating Party the receiving body must be informed thereof without undue delay. The latter should carry out the necessary deletion or correction of data immediately. If the receiving body has reason to suppose that communicated data might be

inaccurate or should be deleted, this body shall immediately inform the communicating body thereof;

e) Every person concerned, who proves his identity in an appropriate manner, shall be provided by the body responsible for the data processing with information about the data relating to him which have been communicated or processed, about the origin, the recipients or categories of recipients of communications, the purpose of the use of data as well as its legal basis understandable form. The information shall be given without undue delay and – in principle – free of charge; Moreover the person concerned shall have the right to correction of incomplete or inaccurate data and to deletion of unlawfully processed data. Further procedural details relating to the enforcement of these rights are subject to domestic law;

f) In the event of breach of right 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 Parties;

g) Personal data communicated shall be deleted, if found to be inaccurate, or unlawfully obtained or communicated, or if lawfully communicated data have to be deleted at a later date pursuant to the domestic law of the communicating Party, or if data are no longer needed for the fulfilment of the task and if there is no reason to suppose that the deletion could endanger a person's interests deserving protection in the field of social security;

h) Both the communicating body and the receiving body shall be obliged to register purpose, subject and date of any communication of personal data as well as the communicating and receiving body;

i) Both the communicating body and the receiving body shall be obliged to effectively protect the received personal data against accidental or unauthorized destruction, accidental loss, unauthorized access, unauthorized or accidental modification and unauthorized disclosure.

Article 15

Exemptions from or reduction of taxes and exemption from authentication

- 1. Any exemption from or reduction of taxes, stamp duty, notarial or registration fees provided for in the legislation of either Party in respect of certificates or documents required to be produced in application of the

legislation of that Party, shall apply to similar certificates or documents required to be produced in application of the legislation of the other Party or of the provisions of this Agreement.

- 2. All documents and certificates required to be produced for the purposes of this Agreement shall be exempt from authentication by diplomatic or consular authorities of the Parties.

Article 16

Submission of claims, declarations or appeals

- 1. Any claim, declaration or appeal that should be submitted, under the legislation of either Party, within a specific period to an authority, institution or jurisdictional body of that Party shall be admissible if they are submitted within the same period to a corresponding authority, institution or jurisdictional body of the other Party.
- 2. In the cases mentioned in paragraph 1, the authority, institution or jurisdictional body receiving the claim, declaration or appeal shall forward it without delay to the competent authority, institution or jurisdictional body of the other Party.

Article 17

Transfer of amounts due in application of the Agreement

- 1. The competent institutions of either Party that are responsible for the payment of benefits under this Agreement directly to beneficiaries in the territory of the other Party shall discharge their liability in the legal tender (currency) of the first Party.
- 2. Amounts due to institutions situated in the territory of either Party shall be paid in the amount equivalent to the legal tender (currency) of the Party where the competent institution is located.

**Article 18
Recovery of advance payments**

1. Where the institution of either Party has made an advance payment of a benefit to the beneficiary, that institution may request, where necessary, the competent institution of the other Party to deduct the amount of that advance payment from the benefits payable to him.
2. The latter institution shall deduct the amount under the conditions and within the limits laid down by the legislation that it administers and shall transfer the amount so deducted to the creditor institution.


**Article 19
Recovery of undue payments**

1. Where, in application of Title III, the competent institution of either Party has paid to a beneficiary an amount in excess of what he is entitled to receive, that institution may, under the conditions and within the limits of the legislation that it administers, request the institution of the other Party to deduct the amount overpaid from the payments to be made to the beneficiary by this institution.
2. The latter institution shall deduct the amount under the conditions and within the limits laid down by the legislation that it administers, as if the overpayment had been made by it and shall transfer the amount so deducted to the creditor institution.

**TITLE V
Transitional and final provisions**

**Article 20
Transitional provisions**

1. This Agreement shall confer no right to a benefit for a period prior to its entry into force, except in the following cases:

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- a) A period of insurance completed under the legislation of either Party before the entry in force of this Agreement shall be taken into account for determining the right to benefits under the provisions of this Agreement;
 - b) Subject to the provisions of this Article, a benefit is due under this Agreement even though it relates to an event which materialized prior to the date of its entry into force;
 - c) Any benefit which has not been awarded or which has been suspended by reasons of nationality or place of residence of the person concerned shall, upon application, be awarded or resumed with effect from the date of the entry into force of this Agreement.
2. The provisions of the legislation of the Parties concerning the forfeiture or limitation of rights may not be invoked against the person concerned, in relation to the rights resulting from the application of subparagraph c), if the application is submitted within two years from the date of entry in force of this Agreement.
 3. If the application referred to in paragraph 2 is submitted after the expiry of that period, the right to the benefits, which has not been forfeited or time barred, shall have effect from the date on which the application was submitted, except where more favourable provisions of the legislation of either Party apply.

Article 21
Settlement of disputes

Any dispute that may arise from the interpretation or application of this Agreement shall be settled through negotiation by the competent authorities through diplomatic channels.

Article 22
Entry into force

The present Agreement shall enter into force ninety days following the date of the receipt of the latter of the notifications, made in writing and through

diplomatic channels, conveying the completion of the internal procedures of each Party required for that purpose.

**Article 23
Duration and termination**

1. This Agreement shall remain in force for an unlimited period of time.
2. Either Party may, at any time, terminate this Agreement upon giving a twelve month notice in writing through diplomatic channels.
3. In the event of termination of this Agreement, the rights duly acquired or in the process of being acquired, shall be maintained in accordance with its relevant provisions.

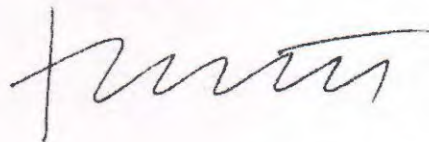
IN WITNESS WHEREOF, the undersigned being duly authorized thereto, have signed this Agreement.

DONE on the 4th day of March, 2013 in New Delhi in two originals each in the English, Hindi and Portuguese 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 PORTUGUESE
REPUBLIC**



**Vayalar Ravi
Minister of Overseas Indian
Affairs**

**Paulo Sacadura Cabral PORTAS
Minister of State and of the Foreign
Affairs**