

**AGREEMENT ON SOCIAL SECURITY
BETWEEN
THE REPUBLIC OF INDIA AND THE SWISS CONFEDERATION**

The Government of India

and

the Swiss Federal Council,

Hereinafter referred to as "Contracting States",

Being desirous of regulating their mutual cooperation in the field of social security, of facilitating the movement of employed and self-employed persons in the other Contracting State and, in particular, of avoiding that employed and self-employed persons are subject to compulsory coverage under the legislation of both Contracting States at the same time,

Have agreed as follows:



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Article 1
Definitions

1. For the purpose of this Agreement,

a) "legislation"

means, as regards Switzerland, the laws and regulations concerning the social security systems covered by the scope of this Agreement (paragraph 1 of Article 2);

as regards India, the laws and regulations concerning the social security systems covered by the scope of this Agreement (paragraph 2 of Article 2);

b) "competent authority"

means, as regards Switzerland, the Federal Social Insurance Office;
as regards India, the Ministry of Overseas Indian Affairs;

c) "competent institution"

means, as regards Switzerland, the competent Compensation Fund for old-age, survivors' and invalidity insurance;
as regards India, the Employees Provident Fund Organization;

d) "liaison body"

means, as regards Switzerland, the Federal Social Insurance Office;
as regards India, the Employees Provident Fund Organization;

2. Any other term has the meaning assigned to it under the applicable legislation of the respective Contracting State.

Article 2
Scope

This Agreement shall apply:

1. as regards Switzerland to the federal laws concerning

- a) old-age and survivors' insurance;
- b) invalidity insurance;
- c) accident insurance;
- d) health insurance.

2. as regards India, the legislations concerning

- a) old-age and survivors' pension;

- b) permanent total disability pension;
- c) health insurance.

Article 3

General rule

Unless otherwise provided in this Agreement and subject to Articles 5 to 9, an employed or self-employed person who works in the territory of a Contracting State shall, in respect of that work, be subject only to the legislation of that Contracting State.

Article 4

Refund of contributions and Portability of Pensions

Where a person of a Contracting State is subject to the legislation of the other Contracting State, such person shall be refunded the contributions made or the pension earned paid, in accordance with the applicable legislation, at the time of his relocation from the second Contracting State as set out below.

1. In so far as Switzerland is concerned, the person will be refunded the contributions in accordance with the Swiss legislation at the time of relocation.
2. In so far as India is concerned, the person will be paid the withdrawal benefit or the pension in Switzerland or a third country as the case may be in accordance with the Indian legislation at the time of relocation.
3. Payments shall be made in cash directly to the beneficiaries.
4. When the agency of one Contracting State pays benefits in freely convertible currency, the conversion rate shall be the rate of exchange in effect on the day when the payment is made.

Article 5

Posted persons

An employed person who is subject to the legislation of a Contracting State and who is temporarily posted to the territory of the other Contracting State to perform services for the same employer shall, in respect of these services, be subject only to the legislation of the first Contracting State during the first 72 months of the posting as though these services were performed in its territory.

Article 6
Self-employed persons

A self-employed person who ordinarily resides in the territory of a Contracting State and who works for his own account in the territory of the other Contracting State or in the territories of both Contracting States, shall, in respect of that work, be subject only to the legislation of the first Contracting State.

Where the same activity is considered to be self-employment under the legislation of one Contracting State and employment under the legislation of the other Contracting State, that activity shall be subject to the legislation of only the first Contracting State if the person is a resident of that State.

Article 7
Public employees

An employee of a public service or public corporation who is posted by one Contracting State to the territory of the other Contracting State shall be subject to the legislation of the Contracting State which posted him.

Article 8
Travelling Personnel Employed in International Transport

- (1) A person working in the territory of both Contracting States as travelling personnel for an international carrier which, on behalf of others or on its own account, transports passengers or goods by air, and which has its registered office in the territory of one Contracting State, shall, with respect to such work, be subject only to the legislation of this Contracting State.
- (2) However, if such person is employed by a branch or permanent agency which the company has in the territory of one Contracting State other than the Contracting State in whose territory it has its registered office, he shall, with respect to such work, be subject only to the legislation of the Contracting State in whose territory the branch or permanent agency is located.
- (3) Notwithstanding the preceding two paragraphs, if the person is employed wholly or mainly in the territory of the Contracting State where he is a resident, he shall be subject to the legislation of that Contracting State, even if the company which employs him has neither its registered office nor a branch or permanent agency in that territory.
- (4) A person who is a member of the crew of a sea-going vessel flying the flag of a Contracting State shall be subject to the legislation of the Contracting State whose flag the vessel flies. The activity pursued on a

vessel which flies the flag of a Contracting State shall be deemed to be an activity pursued on the territory of that Contracting State.

Article 9
Persons with diplomatic missions

This Agreement shall not affect the application of the provisions of the Vienna Convention on Diplomatic Relations of 18 April 1961, or of the Vienna Convention on Consular Relations of 24 April 1963.

Article 10
Modification provision

In the interest of certain insured persons or certain categories of insured persons, the competent authorities can, by mutual consent, specify modifications to the provisions of Articles 5 to 8 provided that the affected persons shall be subject to the legislation of one of the Contracting States.

Article 11
Accompanying Family Members

- (1) Where in application of Articles 5 to 8 a person remains subject to the legislation of one Contracting State while he is gainfully employed in the territory of the other Contracting State, the same applies to the spouse and the children of this person residing with that person in the territory of the second Contracting State, provided that they are not gainfully employed themselves in the territory of this Contracting State.
- (2) Where in the application of paragraph 1 the Swiss legislation applies to the spouse and children, they are insured in the Swiss old-age, survivors' and invalidity insurance.

Article 12
Issue of certificates

- (1) In the circumstances described in Articles 5 to 8, the competent institution of the Contracting State whose legislation is to be applied shall, upon request, issue a certificate of coverage stating that the employee is subject to that legislation. The certificate of coverage must include information on the period for which it is valid.
- (2) Where Swiss legislation is to be applied, the certificate of coverage shall be issued by the competent Compensation Fund for old-age, survivors' and disability insurance.
- (3) Where Indian legislation is to be applied, the certificate of coverage shall be issued by the Employees Provident Fund Organization.

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Article 13

Exchange of Information and Mutual Assistance

- (1) The competent authorities and institutions responsible for the application of this Agreement:
 - a) shall, to the extent permitted by the legislation which they administer, communicate to each other any information necessary for the application of this Agreement;
 - b) shall lend their good offices and furnish assistance to one another with regard to the legislation to which this Agreement applies, as if the matter involved the application of their own legislation; and
 - c) shall communicate to each other, as soon as possible, all information about the measures taken by them for the application of this Agreement or about changes in their respective legislation in so far as these changes affect the application of this Agreement.
- (2) The exchange of information and assistance referred to in subparagraph 1 shall be provided free of charge.

Article 14

Languages of communication and legalisation

- (1) In implementing this Agreement the authorities of the Contracting States specified in this Agreement and the institutions of the Contracting States may communicate directly with each other in their official languages.
- (2) Documents, especially applications and certifications, may not be rejected because they are written in the official language of the other Contracting State.
- (3) Documents, especially certifications, to be submitted in application of this Agreement shall not require any legalization or any other similar formality.

Article 15

Data protection

When personal data are transmitted on the basis of the Agreement, the following provisions shall apply:

1. Data may be transmitted to the competent institution of the receiving Contracting State only for the purpose of implementing the Agreement and the legislation to which it refers. The receiving Contracting State may use them only for the purpose indicated. This Contracting State may, however, in accordance with its own legislation, use the data for

other purposes if they concern social security, including related judicial procedure. Any subsequent transmission of the data to third parties is subject to the Agreement of the institution that originally provided them.

- 2. The institution that provides the data undertakes to ensure their exactness and that their contents are in proportion to the purpose indicated. In this respect, any restrictions concerning the transmission of data stipulated under national legislation must be respected. If inadequate data or data which should not have been transmitted are sent, the recipient shall be informed immediately and shall rectify the situation or destroy the data in question.
- 3. The transmitted personal data shall be kept only as long as the purpose for which they were transmitted requires; it shall not be assumed that their destruction may damage the interests of the persons concerned, relating to social security, that should be protected.
- 4. The transmitter and the recipient of the data undertake to protect all personal data provided against any non-authorized access, non-authorized modification or non-authorized communication.

Such data received by a Competent authority of agency of a Contracting State shall also be governed by the national laws and regulations of that Contracting State for the protection of privacy and confidentiality of such data.

Article 16

Administrative Arrangement

- (1) The competent authorities of the Contracting States may, if necessary, establish, by means of an administrative arrangement, the measures necessary for the application of this Agreement.
- (2) The liaison bodies of both Contracting States may agree jointly on the forms and detailed procedures necessary to implement this Agreement.

Article 17

Settlement of disputes

Disputes between the two Contracting States regarding the interpretation or application of the Agreement shall be settled by mutual consultation of the competent authorities of both Contracting States.

Article 18
Amendment or revision of the Agreement

The Contracting States may by mutual consent amend or revise this Agreement.

Article 19
Entry into force

This Agreement shall enter into force on the thirtieth day after the day on which the Contracting States have notified each other that the national requirements for such entry into force have been fulfilled. The relevant date shall be the day on which the last notification is received.

Article 20
Duration of the Agreement

This Agreement shall be valid for an indefinite period of time. Either Contracting State may terminate it, at the end of a calendar year by giving 12 months' written notice.

In the event of termination of this Agreement, any right acquired by a person in accordance with its provisions shall be maintained.

IN WITNESS WHEREOF, the undersigned, being duly authorized thereto by their respective Governments, have signed this Agreement.

Done in duplicate in the English language, at New Delhi on the 3rd September, 2009.

For the Government of India:

For the Swiss Federal Council:



K. Mohandas
Secretary to the Government of India
Ministry of Overseas Indian Affairs



Philippe Welti
Ambassador of Switzerland