

**AGREEMENT
on Social Security
between
THE REPUBLIC OF INDIA

AND
THE KINGDOM OF DENMARK**

THE Government of the REPUBLIC OF INDIA

And

THE Government of the KINGDOM OF DENMARK,

Wishing to strengthen 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:

PART I

General provisions

Article 1 Definitions

1. For the implementation of this Agreement:
 - a) The term "Denmark" means:
the Kingdom of Denmark with the exception of Greenland and the Faroe Islands;
the term "India" means :
the Republic of India.
 - b) The term "national" means:
as regards Denmark : a person with Danish citizenship;
as regards India : a person with Indian citizenship.
 - c) The term "legislation" means:
the laws specified in Article 2 or any rules, regulations, schemes, orders or notifications framed thereunder.
 - d) The term "authority" means.
as regards Denmark: the Minister for Employment;
as regards India : the Minister of Overseas Indian Affairs.
 - e) The term "agency" means:
as regards Denmark: the institution responsible for the application of Danish legislation;
as regards India : the Employees Provident Fund Organization.
 - f) The term "insurance period" means:
any period of contributions or residence 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 under that legislation.
 - g) The term "benefit" means:
any benefit provided for in the legislation specified in Article 2 of this Agreement.

- h) The term "family members" means:
any person defined or recognized as a family member under the
legislation of the Contracting States.
 - i) The term "residence" means:
ordinary residence lawfully established.
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 Denmark to:
 - i. the Social Pensions Act and the regulations made
thereunder;
 - ii. the Act on the highest, the intermediate, the
increased ordinary and the ordinary anticipatory
pension; and the regulations made thereunder,
and
 - iii. the Labour Market Supplementary Pension (ATP)
Act and the regulations made thereunder.

 - b) as regards India, to all legislation concerning:
 - (i) old-age and survivors' pension for employed
persons;

 - (ii) the Permanent Total Disability pension for
employed persons
2. This Agreement shall also apply to all legislation which will
amend or extend the legislation specified in paragraph 1 of
this Article.

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.

This Agreement shall not apply to legislation that establishes 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 nationals who are or have been subject to the legislation of either of the Contracting States, and other persons who derive rights from such person.

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.

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.
2. The benefits due by virtue of the legislation of one Contracting State shall be paid to the nationals of the other Contracting State residing in the territory of a third State, under the same conditions as if they were nationals of the first Contracting

State residing in the territory of such third State, provided that such payments are subject to the national legislation of the Contracting States.

Article 6 **Reduction or Suspension Clauses**

The reduction or suspension clauses provided for in the legislation of one Contracting State, 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 Contracting State, or if the related professional activities are exercised in the territory of the other Contracting State. However, this provision shall not apply when benefits of the same nature coincide.

PART 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) Unless otherwise provided in this Agreement, a person covered by this Agreement shall be subject to the legislation of the Contracting State in whose territory the person resides;
- b) Workers and self-employed persons who reside in the territory of one Contracting State and work or carry on his or her occupation in the territory of the other State are subject to the legislation where they are employed or self-employed.
- c) 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;

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 the State whose flag the ship flies.

Article 8 Special Provisions

1. Where a person who is normally employed in the territory of India by an employer in that territory is sent by that employer to the territory of Denmark for a temporary period, the person shall be subject to only the Indian legislation as if the person were employed in the territory of India, provided that the period of employment in the territory of Denmark is not expected to exceed five years. For the purposes of applying this paragraph, an employer and an affiliated company of that employer (as defined under the Indian laws) shall be considered one and the same, provided that the employment would have been covered under the Indian legislation in the absence of this Agreement.
2. Where a person who is resident in the territory of Denmark and employed by an employer whose registered office or place of business is situated in that territory is sent by that employer to the territory of India for a temporary period, the person shall only be subject to the legislation of Denmark as if the person were employed and resident in the territory of Denmark, provided that the period of employment in the territory of India is not expected to exceed three years.
3. The provisions of paragraph 1 and 2 shall apply by analogy to accompanying family members insofar as they are not by virtue of their employment entitled to benefits under the legislation of the Contracting Party in whose territory they reside.
4. If the detachment referred to in paragraph 1 of this Article continues beyond 60 months, the competent authorities of the Contracting States or the competent agencies designated by those competent authorities may agree that the employee remains subject only to the Indian legislation.

5. Paragraph 1 and 2 of this Article shall also 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.
6. For the purposes of this Article, the term "person" includes nationals of a third country.

Article 9 **Civil Servants, Members of Diplomatic Missions and Consular Posts**

1. Civil servants and equivalent personnel are subject to the legislation of the Contracting State whose administration employs them. These persons, as well as their family members are, for this purpose, considered to be residing in that Contracting State, even if they are in the territory of the other Contracting State.
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 **Modification Provisions**

1. In the interest of certain persons or certain categories of persons covered under the applicable legislation of the Contracting State, the competent authorities or the competent agencies duly authorized by them can, by mutual agreement, specify modifications 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
2. Indian nationals other than those covered by Article 8, employed in the territory of Denmark shall be covered by the Labour Market Supplementary Pension (ATP) scheme unless the employment period is on a short term basis, which means

a maximum of 6 months or, in case of employment as part of a training or education scheme, 18 months.

PART III

PROVISIONS CONCERNING BENEFITS

Article 11

Benefits under Danish Legislation

The following provisions shall apply to Denmark:

1. Indian nationals shall be entitled to a Danish social pension under the same conditions as Danish nationals residing in the territory of Denmark if in the qualifying period laid down in the Social Pensions Act the person has had a total period of work under Danish legislation of at least 12 months.
2. Where the condition regarding work under paragraph 1 of this Article has not been met, Indian nationals shall be entitled to a Danish social pension if the person has been resident in Denmark for a period of not less than 10 years in the qualifying period laid down in the Social Pensions Act, of which not less than five years immediately precede the date on which the pension is first payable.
3. Social pension and the highest, the intermediate, the increased ordinary and the ordinary anticipatory pension shall be payable to Indian nationals residing in the territory of India if the person concerned fulfils the condition on work in paragraph 1 of this Article.
4. Where the condition regarding work in paragraph 1 of this Article has not been met, a pension awarded in pursuance of the Social Pensions Act to an Indian national residing in the territory of Denmark shall nonetheless continue to be payable in the territory of India.
5. For the purposes of meeting the 12-month work requirement of paragraph 1 of this Article, the following periods shall be accepted:

- a. periods of work for which membership contributions were paid in respect of a member of the Danish Labour Market Supplementary Pension Scheme (ATP);
 - b. periods before April 1, 1964, for which a person establishes that he or she worked under Danish legislation;
 - c. periods for which a person establishes that he or she was self-employed under Danish legislation.
6. Periods described in paragraph 5 of this Article may be combined for purposes of meeting the 12-month work requirement in paragraph 1 of this Article.
 7. The basic amount and the anticipatory pension payable in pursuance of the Social Pensions Act as well as the basic amount, anticipatory allowance, disability allowance, unemployment allowance and extra supplementary allowance payable in pursuance of the Act on the highest, the intermediate, the increased ordinary and the ordinary anticipatory pension shall be payable to a person designated in Article 3 residing in the territory of India.
 8. The provisions laid down in the Social Pensions Act, making periods of stay abroad equivalent with residence in the territory of Denmark in the calculation of the period of residence, shall apply to Indian nationals only if they have completed a period of residence or work in Denmark under Danish laws totaling at least 12 months in the qualifying period as laid down in the Social Pensions Act.
 9. Periods of residence completed under Danish legislation after March 31, 1957 shall be taken into account for the calculation of social pensions under Danish legislation payable to nationals of India resident in the territory of India.

Article 12

Benefits under Indian Legislation

1. Notwithstanding the provisions for the acquisition, retention or recovery of the right to old-age, survivors' and disability benefits, the insurance periods completed pursuant to the

Danish legislation concerning such benefits are totalized, when necessary and to the extent that they do not overlap, with the insurance periods completed pursuant to the Indian legislation.

2. If a person is entitled to an old-age, survivors' or disability benefit under the Indian legislation without necessarily proceeding to totalization, the Indian agency shall calculate the benefit entitlement directly on the basis of the insurance periods completed in India and only under the Indian legislation.
3. If a person is entitled to an old-age, survivors' or disability benefit by virtue of the Indian legislation, with his right being created solely by taking the totalization of the insurance periods into account pursuant to Paragraph 1 of this Article, the following rules apply :
 - a) the Indian agency shall calculate the theoretical amount of the benefit due as if all the insurance periods completed according to the Contracting States' legislations were exclusively completed under the Indian legislation;
 - b) the Indian agency shall then calculate the amount due, on the basis of the amount specified under a), in proportion to the duration of the insurance periods under its legislation, in relation to the duration of all insurance periods accounted for under a).

PART IV

MISCELLANEOUS PROVISIONS

Article 13

Responsibilities of the Competent Authorities

The competent authorities:

- a) shall, by means of an administrative arrangement take the measures required to implement this Agreement, including

measures for taking into account the 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 14 **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 an organization of one Contracting State shall be accepted as true and exact copies by the organization 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.
5. An application or document may not be rejected by the competent authority or organizations of a Contracting State solely because it is in an official language of the other Contracting State.

Article 15 **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 authority or agency of that Contracting State, are acceptable if they are presented within the same specified period to an authority or agency of the other Contracting State. In this case, the claims, notices or appeals must be sent without delay to the authority or agency of the former Contracting State, either directly or through the competent authorities of the Contracting States.
2. The date on which these claims, notices or appeals have been submitted to an authority or agency of the second Contracting State shall be considered to be the date of submission to the authority or agency authorized to accept such claims, notices or appeals.
3. An application for benefits under the legislation of one Contracting State shall be deemed to be also an application for a benefit of the 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 16
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 17
Payment of Benefits

1. Payments of benefits under this Agreement may be made in the currency of either of the Contracting States or in cases where the payments are made under Article 5, paragraph 2, of this Agreement, in the currency of such third 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, the said State 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 18
Resolution of Disputes

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

PART V

TRANSITIONAL AND FINAL PROVISIONS

Article 19

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 Denmark from India 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 20

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 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 21 **Duration**

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

Article 22 **Guarantee of rights 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 23 **Entry into Force**

This Agreement shall enter into force on the first day of the third month following the date of receipt of the note through which the last of the Contracting States will have given notice to the other

Contracting S
accomplished.

In witness where of, the undersigned, being duly authorized
thereto, have signed this Agreement.

Done at New Delhi on 17th February, 2010 in two originals each, in
the Hindi, Danish and English languages, all texts being equally
authentic. In the event of divergence in interpretation the English
version shall prevail.



For the GOVERNMENT OF
THE KINGDOM OF
INDIA *Republic*



For the GOVERNMENT OF
THE REPUBLIC OF
DENMARK *Kingdom*