

AGREEMENT ON SOCIAL SECURITY

BETWEEN

THE REPUBLIC OF INDIA

AND

THE REPUBLIC OF FINLAND

The Republic of India
and
the Republic of Finland

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:

PART - I
GENERAL PROVISIONS

Article 1
Definitions

1. For the implementation of this Agreement:
the term "India" means the Republic of India;
the term "Finland" means the Republic of Finland;
 - a) the term "legislation" means
the legal provisions in force relating to the legislation or the schemes referred to in Article 2;
 - b) the term "competent authority" means,
as regards India: the Ministry of Overseas Indian Affairs;
as regards Finland: the Ministry of Social Affairs and Health;
 - c) the term "competent institution" means
as regards India: The Employees' Provident Fund Organization (EPFO),
for the implementation of the legislation specified in paragraph 1A) of
Article 2;

as regards Finland: the institution or body responsible for the
implementation of the legislation and the schemes specified in paragraph
1 B) of Article 2;
 - d) the term "Liaison body" means the institutions or bodies specified as such
under the Administrative Arrangement;
 - e) the term "insurance period" means
in relation to India, 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

in relation to Finland, a period of employment or any equivalent period under the Earnings-related Pension Scheme and;

f) the term "benefit" means any pension or benefit in cash, including any supplements or increases applicable under the legislation specified in Article 2;

g) "national" means a person treated as such under the legislation of the Contracting States;

h) the term 'territory' means,
as regards India: the territory of India;
as regards Finland: the territory of Finland.

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 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 Finland, to the laws and regulations concerning old-age, disability and survivors' pensions under the Earnings-related Pension Scheme including pension schemes for the self-employed persons.

2. This Agreement shall also apply to all legislations in so far as they amend, supplement or replace the legislations of the Contracting States specified in paragraph 1 of this Article.

Article 3

Personal Scope

Unless otherwise specified, this Agreement shall apply to all persons who are or have been subject to the legislations specified in Article 2 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, shall receive equal treatment with nationals of that Contracting State, in 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 old age, survivors' and disability benefits due by virtue of the legislations of one Contracting State are 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.

Article 6

Reduction or Suspension or Withdrawal Clauses

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 when benefits of the same nature coincide.

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) 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 for Posted/Detached Workers

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 behalf of that employer or a related entity, shall remain subject to the legislation of the former Contracting State as regards the legislation referred to in Article 2 and shall be exempted from paying contributions to the social security schemes under the legislation of the latter Contracting State for a 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.
3. Paragraph 1 shall apply analogously to self-employed persons who usually perform an activity in the territory of one Contracting State and move to the territory of the other Contracting State to perform the same activity there for a maximum duration of 60 months as stated in paragraph 1.

4. If the duration of the activity referred to in paragraph 1 or 3 of this Article continues beyond 60 months, the competent authorities or institutions designated for this purpose may mutually agree to extend the period that the employee or the self-employed person remains subject to the legislation of the first 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 institutions 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
Totalisation of Insurance Periods

1. The competent institution of either Contracting State 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 Articles 12 and 13.
2. 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
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 Finnish legislation concerning such benefits are aggregated, 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 aggregation, the Indian institution 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 aggregation of the insurance periods into account pursuant to paragraph 1 of this Article, the following rules apply :
 - a) the Indian institution shall calculate the theoretical amount of the benefit due as if all the insurance periods completed according to the two Contracting States' legislations were exclusively completed under the Indian legislation;
 - b) the Indian institution 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 under a).

Article 13
Benefits under Finnish Legislation

1. When insurance periods have been completed under the legislation of the two Contracting States, the competent institution in Finland shall, in determining eligibility for benefits under the legislation which it applies, take into account, if necessary, insurance periods completed under the legislation of India, provided that such insurance periods do not overlap with insurance periods under its legislation.
2. Where the person concerned satisfies the conditions mentioned in paragraph 1 of Article 11, 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 that grants the benefits referred to in paragraph 2 shall take exclusively into account the earnings received by the person concerned in its territory.

Article 14

Indexation of Benefits

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 is 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 Articles 11 and 12.

PART IV

MISCELLANEOUS PROVISIONS

Article 15

Administrative Arrangement

The competent authorities of the Contracting States shall by means of an Administrative Arrangement, establish the administrative measures necessary for the application of this Agreement.

Article 16
Exchange of Information

The competent authorities:

- a) shall directly communicate to each other any information concerning the measures taken for the application of this Agreement;
- b) 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 Assistance

For the implementation of this Agreement

- a) the competent authorities as well as the competent institutions 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;
- b) this assistance shall be provided free of charge, subject to any provisions in the Administrative Arrangement;
- c) the competent authorities and the liaison bodies shall directly communicate with each other.

Article 18

Exemption from Fees and Authentication

1. 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.
2. 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 institutions or the liaison body of one Contracting State shall be accepted as true and exact copies by the competent institutions or the liaison body of the other Contracting State, without further certification.

Article 19

Claims, Notices and Appeals

1. A claim, notice or appeal concerning a benefit may be lodged in a territory of either Contracting State in accordance with the Administrative Arrangement made pursuant to Article 15.
2. 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, institution or body of that Contracting State, are acceptable if they are presented within the same specified period to a competent authority, institution or body of the other Contracting State. In this case, the claims, notices or appeals must be sent without delay to the competent authority, institution or body 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, institution or body of the second Contracting State shall be considered to be the date of submission to the competent authority, institution or body authorized to accept such claims, notices or appeals.

3. A claim for benefit lodged 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, and provided that the other Contracting State receives that claim within 12 months.
4. Claims, notices and appeals submitted to the competent authority, institution or body of a Contracting State with a view to application of this Agreement shall not be rejected on the ground that they are written in the official language of the other Contracting State.

Article 20 **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 institution of that Contracting State by the competent authority or institution 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 institutions 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 21
Recovery of undue payments

1. Where, in application of this Agreement, the competent institution of either Contracting State 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 Contracting State to deduct the amount 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 payment had been made by it and shall transfer the amount so deducted to the creditor institution.

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, if necessary through diplomatic channels.

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

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 26

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 or in the process of being acquired by virtue of the Agreement shall be maintained.

Article 27

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 authorised thereto, have signed this Agreement.

DONE at New Delhi on the 12th June, 2012 in two originals each in the English, Hindi and Finnish languages, all texts being equally authentic. In case of divergence of interpretation, the English text shall prevail.

FOR THE REPUBLIC OF INDIA:

FOR THE REPUBLIC OF FINLAND:

Arun Kumar

Taru Haala

