

**UNDERSTANDING
ON SOCIAL SECURITY
BETWEEN
THE REPUBLIC OF INDIA
AND
QUÉBEC**

THE GOVERNMENT OF THE REPUBLIC OF INDIA

AND

THE GOUVERNEMENT DU QUÉBEC

HAVING RESOLVED to coordinate their social security legislations;

HAVE REACHED THE FOLLOWING UNDERSTANDING:

Part I
GENERAL PROVISIONS

ARTICLE 1
Definitions

In the Understanding, unless the context indicates otherwise,

- (a) "competent authority" means, as regards Québec, the Minister responsible for administering the legislation referred to in subparagraph (a) paragraph 1 of Article 2 and, as regards India, the Minister of Overseas Indian Affairs;
- (b) "competent institution" means as regards Québec, the department or agency responsible for administering the legislation referred to in subparagraph (a) paragraph 1 of Article 2 and, as regards India, the Employees' Provident Fund Organization;
- (c) "legislation" means the laws, regulations, statutory provisions, and any other measures, existing or future, governing the social security branches and systems referred to in Article 2;
- (d) "insurance period" means, as regards Québec, any year for which contributions have been paid or disability pension benefits have been paid under the legislation referred to in subparagraph (a) paragraph 1 of Article 2 or any other year considered as equivalent; and, as regards India, any period of contribution 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;
- (e) "benefit" means a pension, annuity, indemnity, lump-sum payment, or any other benefit in cash provided for under the legislation of each Party, including any extension, supplement, or increase thereto;
- (f) "national" means, as regards Québec, a Canadian citizen who is or has been subject to the legislation referred to in subparagraph (a) paragraph 1 of Article 2 or has acquired rights under that legislation, and, as regards India, a person of Indian nationality.

Any term not defined in the Understanding shall have the same meaning as in the applicable legislation.

ARTICLE 2
Material Scope

1. The Understanding shall apply:
 - (a) to the legislation of Québec concerning the Québec Pension Plan;
 - (b) to the legislation of India concerning old age and survivors' pension for employed persons and the Permanent Total Disability pension for employed persons.
2. The Understanding shall also apply to any legislation or regulation that amends, adds to, or replaces the legislation referred to in paragraph 1.
3. The Understanding shall also apply to any legislation or regulation of a Party that extends the existing systems to new categories of beneficiaries or to new benefits; however, that Party shall have three months from the date of the official publication of that legislation or regulation to notify the other Party that the Understanding shall not apply thereto.
4. The Understanding shall not apply to any legislation or regulation that covers a new branch of social security, unless the Understanding is amended to that effect.

ARTICLE 3
Personal Scope

Unless otherwise stipulated, the Understanding shall apply to all persons who are or have been subject to the legislation of a Party or who have acquired rights under that legislation.

ARTICLE 4
Equality of Treatment

Unless otherwise stipulated in the Understanding, the persons designated in Article 3 shall receive the same treatment as nationals under a Party's legislation.

ARTICLE 5
Export of Benefits

Unless otherwise stipulated in the Understanding, any benefits acquired under the legislation of a Party or under the Understanding may not be reduced, modified, suspended, cancelled, or confiscated simply because the beneficiary resides or stays outside the territory of the Party where the debtor institution is located; these benefits shall be payable to the beneficiary wherever he or she resides or stays.

PART II
PROVISIONS CONCERNING THE APPLICABLE LEGISLATION

ARTICLE 6
General Rule

Unless otherwise stipulated in the Understanding and subject to Articles 7, 8, 9, 10 and 11, persons who work in the territory of one Party shall, with respect to such work, be subject only to the legislation of that Party.

ARTICLE 7
Self-employed Persons

Self-employed persons who reside in the territory of one Party and work in the territory of the other Party, or of both Parties, shall, with respect to such work, be subject only to the legislation of their place of residence.

ARTICLE 8
Seconded Employees

1. Persons subject to the legislation of one Party and temporarily seconded by their employers for a period not exceeding sixty months to the territory of the other Party shall, with respect to such work, be subject only to the legislation of the first Party during the period of their secondment.

2. However, if the time required to complete the work extends beyond the period originally planned and exceeds sixty months, the legislation of the first Party shall continue to apply provided the competent institutions of both Parties give their approval.

ARTICLE 9 **Crews of Ships**

Persons, who but for this Understanding, are subject to the legislation of both Parties with respect to work as a member of the crew of a ship shall, with respect to such work, be subject only to the legislation of the Party in which they reside. Where the circumstances of the previous sentence do not apply, the persons shall be subject only to the legislation of India if the ship flies the flag of India.

ARTICLE 10 **Persons in Public Service**

1. Persons who are in public service for one of the Parties and who are assigned to a posting in the territory of the other Party shall be subject only to the legislation of the first Party for all matters related to that posting.

2. Persons who reside in the territory of one Party and who are in public service for the other Party shall, with respect to this service, be subject only to the legislation that applies in their territory of residence. However, if those persons are nationals of the Party that employs them, they may, within six months of the beginning of their employment or the coming into force of the Understanding, choose to be subject only to the legislation of the Party that employs them.

ARTICLE 11 **Exceptions**

The competent authorities of both Parties may, by common agreement, modify the application of the provisions of Articles 6, 7, 8, 9 and 10 with respect to any person or categories of persons.

PART III
PROVISIONS WITH RESPECT TO BENEFITS

ARTICLE 12
Principle of Totalization

When persons have completed insurance periods under the legislation of both Parties and are ineligible for benefits by virtue of insurance periods completed solely under the legislation of one Party, the competent institution of that Party shall totalize, to the extent necessary for entitlement to benefits under the legislation that it administers, the insurance periods completed under the legislation of both Parties, but with overlapping periods counted only once.

ARTICLE 13
Benefits under the Legislation of Québec

1. If persons who have been subject to the legislation of both Parties meet the requirements for entitlement to benefits for themselves, their dependents, survivors, or other rightful claimants under the legislation of Québec without having recourse to the totalization principle set forth in Article 12, the competent institution of Québec shall determine the amount of benefits in accordance with the provisions of the legislation that it administers.
2. If the persons referred to in paragraph 1 do not meet the requirements for entitlement to benefits without totalization, the competent institution of Québec shall proceed as follows:
 - (a) it shall recognize one year of contribution if the competent institution of India certifies that an insurance period of at least 3 months in a single calendar year has been credited under the legislation of India, provided that the year in question is included in the contributory period defined under the legislation of Québec;
 - (b) it shall totalize, in accordance with Article 12, the years recognized under subparagraph (a) and the periods completed under the legislation of Québec.

3. When the totalization set forth in paragraph 2 entitles persons to benefits, the competent institution of Québec shall determine the amount of benefits payable by adding together the amounts calculated in accordance with subparagraphs (a) and (b) below:

- (a) the amount of that portion of the benefits related to earnings shall be calculated in accordance with the provisions of the legislation of Québec;
- (b) the amount of the flat rate component of the benefits payable in accordance with the provisions of this Understanding shall be determined by multiplying:

the amount of the flat rate benefits determined in accordance with the provisions of the Québec Pension Plan

by

the fraction that represents the ratio between the periods of contribution to the Québec Pension Plan and the contributory period defined in the legislation governing that Plan.

ARTICLE 14

Benefits under the Legislation of India

1. If persons who have been subject to the legislation of both Parties meet the requirements for entitlement to benefits for themselves, their dependents, their survivors, or other rightful claimants under the legislation of India without recourse to the totalization principle set forth in Article 12, the competent institution of India shall determine the amount of the benefits in accordance with the provisions of the legislation that it administers.

2. If the persons referred to in paragraph 1 do not qualify for benefits without totalization, the competent institution of India shall proceed as follows:

- (a) it shall recognize 12 months of contribution in accordance with the legislation of India for each insurance period certified by the competent institution of Québec;
- (b) if entitlement to benefits is not acquired with the application of the preceding subparagraph, it shall recognize one month of

contribution under the legislation of India, when that month is considered as a month of residence within the meaning of the Old Age Security Act, which applies in the territory of Québec, provided that month does not overlap an insurance period completed under the legislation of Québec;

- (c) it shall totalize, in accordance with Article 12, the insurance periods recognized under subparagraphs (a) and (b) with the insurance periods completed under the legislation of India.

3. When entitlement to benefits is acquired through the totalization principle set forth in paragraph 2, the competent institution of India determines the amount of benefits payable as follows:

- (a) it shall calculate the theoretical amount of the benefit which would be paid if the totalized creditable periods accumulated under the legislation of both Parties had been accumulated under the legislation of India alone;

and

- (b) on the basis of the theoretical amount calculated in accordance with subparagraph (a), it shall determine the amount of the benefit payable by applying the ratio of the duration of the creditable periods completed under the legislation of India to the total aggregate of creditable periods accumulated under the legislation of both Parties.

4. For the purposes of paragraph 3, when the right to benefits is acquired through totalization using only the insurance periods recognized under subparagraph (a) of paragraph 2, periods admissible under the Old Age Security Act that applies in the territory of Québec are not taken into account when calculating the benefit payable.

ARTICLE 15

Periods Completed under the Legislation of a Third Party

If persons are still not entitled to benefits after the totalization prescribed in Article 13 or Article 14, the insurance periods completed under the legislation of a third party bound to both Parties by a legal social security instrument containing provisions on the totalization of insurance periods shall be taken

into consideration in determining the entitlement to benefits under the terms and conditions prescribed in this Part.

**PART IV
MISCELLANEOUS PROVISIONS**

**ARTICLE 16
Administrative Arrangement**

1. An Administrative Arrangement, which must be agreed to by the Parties, shall set out the terms and conditions of the Understanding.
2. The liaison agency of each Party shall be designated in the Administrative Arrangement.

**ARTICLE 17
Claim for Benefits**

1. To receive benefits pursuant to the Understanding, a person must file a claim in accordance with the terms and conditions set forth in the Administrative Arrangement.
2. A claim for benefits filed under the legislation of one Party after the date of coming into force of the Understanding shall be deemed to be a claim for corresponding benefits under the legislation of the other Party in the following cases:
 - (a) when a person expresses the wish that the claim be considered as a claim under the legislation of the other Party;
 - (b) when a person indicates, at the time of the claim, that insurance periods were completed under the legislation of the other Party.

The date of receipt of such a claim shall be presumed to be the date on which that claim was received under the legislation of the first Party.

3. The presumption set out in paragraph 2 shall not impede a person from requesting that a claim for benefits under the legislation of the other Party be deferred.

ARTICLE 18
Payment of Benefits

1. The competent institutions of both Parties shall pay benefits under this Understanding to beneficiaries who reside outside their territories in a freely convertible currency according to the legislation which they apply.
2. Benefits shall be paid to beneficiaries free from any deductions for administrative fees or other charges that may be incurred in paying the benefits.

ARTICLE 19
Filing Deadline

1. Any claim for recourse that, under the legislation of one Party, must be filed within a prescribed period with the competent institution of that Party shall be accepted if filed within the same period with the corresponding competent institution of the other Party. In such case, the competent institution of the second Party shall forward the claim without delay to the competent institution of the first Party.
2. The date on which this claim is filed with the competent institution of one Party shall be considered the date of filing with the competent institution of the other Party.

ARTICLE 20
Examinations

1. At the request of the competent institution of a Party, the competent institution of the other Party shall make the necessary arrangements to carry out the required examinations for persons residing or staying in the territory of the second Party.
2. The examinations referred to in paragraph 1 shall not be refused solely because they were made in the territory of the other Party.

ARTICLE 21
Fees and Exemption from Authentication

1. Any exemption or reduction of fees provided for in the legislation of one Party with respect to the issuing of a certificate or document required under that Party's legislation shall be extended to the certificates and documents required under the legislation of the other Party.
2. Any document required under the Understanding shall not require authentication by the responsible authorities or any other similar formalities.

ARTICLE 22
Protection of Personal Information

1. For the purposes of this Article, the term "legislation" has the usual meaning attributed to it in the domestic laws of each Party.
2. Any information concerning a natural person which allows the person to be identified is personal information. Personal information is confidential.
3. The agencies of both Parties may release to each another any personal information necessary for the administration of the Understanding.
4. Personal information released to an agency of a Party, within the framework of the administration of the Understanding, may be used only for the administration of the Understanding.

A Party may however use such information for other purposes with the consent of the person concerned or, without the consent of the said person, only in the following cases:

- (a) its use is compatible and has a direct and relevant connection with the purposes for which the information was collected;
- (b) its use is clearly for the benefit of the person to whom it relates, or;
- (c) its use is necessary for the administration of an Act in Québec or in India.

5. Personal information released to an agency of a Party, within the framework of the administration of the Understanding, may only be released to another agency of this Party for the administration of the Understanding.

A Party may however release such information with the consent of the person concerned or, without the consent of the said person, only in the following cases:

- (a) the information is necessary for the exercise of the rights and powers of an agency of a Party;
- (b) its release is clearly for the benefit of the person to whom it relates, or;
- (c) its release is necessary for the administration of an Act in Québec or in India.

6. The agencies of both Parties shall ensure, during the transmission of the information referred to in paragraph 3, the use of means preserving the confidentiality of such information.

7. The agency of a Party, to which information referred to in paragraph 3 is released, protects it against unauthorized access, alteration and release.

8. The agency of a Party, to which personal information referred to in paragraph 3 is released, takes the necessary measures to ensure that this information is up to date, accurate and complete so as to serve the purposes for which it was collected. As need be, it corrects the information held and destroys any information whose collection or storage is not authorized by the legislation which applies to it. It also destroys, upon request, the information whose transmission is not authorized by the legislation of the transmitting Party.

9. Subject to a Party's legislation, the information received by a Party, because of the administration of this Understanding, is destroyed when the purposes for which it was collected or used are completed. The agencies of both Parties use safe and final means of destruction, and ensure the confidentiality of the personal information awaiting destruction.

10. Upon request to an agency of a Party, the person concerned has the right to be informed of the release of personal information referred to in paragraph 3 and of its use for purposes other than the administration of the Understanding. That person may also have access to the personal information concerning him or her and have the said information corrected,

except as otherwise provided by the legislation of the Party on whose territory the information is held.

11. The competent authorities of the Parties shall inform each other of any changes to the legislation concerning the protection of personal information, particularly with regards to other grounds on which it may be used or released to other entities without the consent of the person concerned.

12. The provisions of paragraphs 3 to 11 shall apply, with the necessary adaptations, to other confidential information which are obtained within the framework of the administration of the Understanding or by reason thereof.

ARTICLE 23

Mutual Administrative Assistance

The competent authorities and institutions shall:

- (a) communicate to each other any information required for the administration of the Understanding;
- (b) assist each other free of charge in any matter concerning the administration of the Understanding;
- (c) communicate to each other any information on measures adopted for the purpose of administering the Understanding or on amendments to their legislation if such amendments affect the application of the Understanding, and;
- (d) notify each other of problems encountered in interpreting or administering the Understanding.

ARTICLE 24

Reimbursement between Agencies

The competent institution of a Party shall reimburse the competent institution of the other Party for costs incurred for examinations carried out in accordance with Article 20. However, the release of examinations or other information already in the possession of the competent institutions shall

constitute an integral part of mutual administrative assistance and shall be performed without charge.

ARTICLE 25

Communications

1. The competent authorities and institutions and the liaison agencies of both Parties may communicate with each other in their official language.
2. A decision of a tribunal or institution may be communicated directly to a person staying or residing in the territory of the other Party.

ARTICLE 26

Settlement of Disputes

1. A joint commission composed of representatives of each Party, is in charge of monitoring the administration of the Understanding and proposing any changes. The joint commission shall meet, as need be, at the request of either Party.
2. The difficulties relating to the administration or interpretation of the Understanding shall be resolved by the joint commission. In the event that it is not possible to reach a solution through this channel, the dispute shall be settled by mutual agreement by both governments.

PART V

TRANSITIONAL AND FINAL PROVISIONS

ARTICLE 27

Transitional Provisions

1. The Understanding shall not confer any right to the payment of benefits for a period predating its coming into force.
2. For the purposes of Part III and subject to the provisions of paragraph 1,

- (a) an insurance period completed prior to the coming into force of the Understanding shall be taken into consideration when determining entitlement to benefits hereunder;
- (b) benefits other than death benefits shall be owed under the Understanding even if related to an event predating its coming into force;
- (c) when the claim for benefits, which must be granted in application of Article 13, is filed within two years from the coming into force of the Understanding, the rights resulting from the Understanding shall be acquired from the coming into force of the Understanding or the date of entitlement to a retirement, survivor or disability benefit, if that date is later than the coming into force of the Understanding, notwithstanding the provisions of the legislation of either Party relating to the forfeiture of rights;
- (d) benefits that have been turned down, reduced, or suspended because of nationality or place of residence shall, at the request of the person concerned, be awarded or reinstated as of the coming into force of the Understanding;
- (e) benefits awarded before the coming into force of the Understanding shall be reviewed at the request of the person concerned, or ex officio, and if the review leads to lower benefits than those awarded prior to the coming into force of the Understanding, the benefits shall be maintained at their previous level;
- (f) if the request referred to in subparagraphs (d) and (e) is filed within two years of the coming into force of the Understanding, the rights created hereunder shall be acquired as of its coming into force, notwithstanding the provisions of the legislation of either Party regarding the forfeiture of rights;
- (g) if the request referred to in subparagraphs (d) and (e) is filed after the two-year deadline of the coming into force of the Understanding, rights that have not been forfeited shall be acquired as of the date of the request, subject to more favorable provisions in the applicable legislation.

3. For the purposes of Article 8, persons shall only be deemed to have been seconded as of the entry into force of the Understanding.

ARTICLE 28
Commencement, Duration and Termination

1. Both Parties shall notify each other of the completion of their respective legal procedures required for the entry into force of this Understanding. This Understanding shall enter into force on the first day of the fourth month following the date of receipt of the last notification.

2. The Understanding is concluded for an indefinite period commencing on the date of its entry into force. It may be terminated by one of the Parties by notifying the other Party. Following such notification, the Understanding shall expire on the 31st day of December that follows the notification date by at least twelve months.

3. If the Understanding is terminated, all rights acquired under the provisions of the Understanding shall remain in effect and the Parties will make arrangements concerning the rights in the course of their being acquired.

Signed at Quebec on 26 November 2013, in two originals, each in English, Hindi and French, all texts being equally authentic.



**FOR THE GOVERNMENT OF
THE REPUBLIC OF INDIA**



**FOR THE GOUVERNEMENT
DU QUÉBEC**