

**No. 24607**

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**DENMARK  
and  
CANADA**

**Agreement on social security. Signed at Copenhagen on  
12 April 1985**

*Authentic texts: Danish, English and French.  
Registered by Denmark on 26 January 1987.*

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**DANEMARK  
et  
CANADA**

**Accord sur la sécurité sociale. Signé à Copenhague  
le 12 avril 1985**

*Textes authentiques : danois, anglais et français.  
Enregistré par le Danemark le 26 janvier 1987.*

## AGREEMENT<sup>1</sup> ON SOCIAL SECURITY BETWEEN THE KINGDOM OF DENMARK AND CANADA

The Government of the Kingdom of Denmark and the Government of Canada,  
Resolved to co-operate in the field of social security,  
Have decided to conclude an agreement for this purpose, and  
Have agreed as follows:

### PART I. DEFINITIONS AND GENERAL PROVISIONS

#### *Article I. DEFINITIONS*

1. For the purposes of this Agreement,
  - a) "Territory" means, as regards Canada, the territory of Canada; and, as regards Denmark, its national territory, with the exception of Greenland and the Faroe Islands;
  - b) "Legislation" means the laws and regulations specified in Article II;
  - c) "Competent authority" means, as regards Canada, the Minister or Ministers responsible for the administration of the legislation of Canada; and, as regards Denmark, the Minister of Social Affairs;
  - d) "Competent institution" means, as regards Canada, the competent authority; and, as regards Denmark, the institution responsible for providing benefits;
  - e) "Benefit" means any cash benefit, pension or allowance for which provision is made in the legislation of either Party and includes any supplements or increases applicable to such a cash benefit, pension or allowance.
  - f) "Residence" means, as regards Denmark, habitual residence which is lawfully established.
2. Any term not defined in this Article has the meaning assigned to it in the applicable legislation.

#### *Article II. LEGISLATION TO WHICH THE AGREEMENT APPLIES*

1. This Agreement shall apply to the laws and regulations listed hereunder, their present and future complements, consolidations and amendments:
  - a) With respect to Canada:
    - i) The Old Age Security Act and the regulations made thereunder; and
    - ii) The Canada Pension Plan and the regulations made thereunder;
  - b) With respect to Denmark:
    - i) The Social Pensions Act and the regulations made thereunder; and
    - ii) The Labour Market Supplementary Pension (ATP) Act and the regulations made thereunder.

<sup>1</sup> Came into force on 1 January 1986, i.e., after the conclusion of the administrative arrangement of 12 April 1985 referred to in article XV, the first day of the second month following the month of receipt of the last of the notifications by which the Parties had informed each other (on 25 and 28 November 1985) of the completion of the statutory and constitutional requirements, in accordance with article XXIII (1).

2. This Agreement shall apply to laws or regulations which extend the existing legislation to other categories of beneficiaries only if no objection on the part of either Party has been communicated to the other Party within three months of notification of such laws or regulations.

*Article III.* PERSONS TO WHOM THE AGREEMENT APPLIES  
AND EQUALITY OF TREATMENT

1. Unless otherwise provided in this Agreement, it shall apply to:

- a) Citizens of either Party;
- b) Refugees, within the meaning of Article 1 of the Convention Relating to the Status of Refugees of July 28, 1951<sup>1</sup> and of the Protocol of January 31, 1967<sup>2</sup> to that Convention;
- c) Stateless persons, within the meaning of Article 1 of the Convention Relating to the Status of Stateless Persons of September 28, 1954;<sup>3</sup>
- d) Citizens of third States.

2. Unless otherwise provided in this Agreement, a person described in subparagraph 1 (a), (b) or (c) of this Article who resides in the territory of either Party shall be subject to the obligations of the legislation of a Party and shall be eligible for the benefits of that legislation under the same conditions as the citizens of that Party.

3. As regards the legislation of Canada, paragraph 2 of this Article shall also apply to the persons described in sub-paragraph 1 (d) of this Article.

*Article IV.* EXPORT OF BENEFITS

Unless otherwise provided in this Agreement, benefits acquired by a person described in sub-paragraph 1 (a), (b) or (c) of Article III under the legislation of one Party, including benefits acquired by virtue of this Agreement, shall not be subject to any reduction, modification, suspension, cancellation or confiscation by reason only of the fact that the beneficiary resides in the territory of the other Party, and they shall be payable in the territory of the other Party.

PART II. PROVISIONS CONCERNING THE APPLICABLE LEGISLATION

*Article V*

1. Subject to the following provisions of this Article,

- a) An employed person who works in the territory of one Party shall, in respect of that work, be subject only to the legislation of that Party, and
- b) A self-employed person who ordinarily resides in the territory of one Party and who works for his or her own account in the territory of the other Party or in the territories of both Parties shall, in respect of that work, be subject only to the legislation of the former Party.

2. An employed person who is covered under the legislation of one Party and who performs services in the territory of the other Party for the same employer shall, in respect of those services, be subject only to the legislation of the former Party as though those services were performed in its territory. In the case of an assignment,

<sup>1</sup> United Nations, *Treaty Series*, vol. 189, p. 137.

<sup>2</sup> *Ibid.*, vol. 606, p. 267.

<sup>3</sup> *Ibid.*, vol. 360, p. 117.

this coverage may not be maintained for more than 24 months without the prior consent of the competent authorities of both Parties.

3. A person who, but for this Article, would be subject to the legislation of both Parties in respect of employment as a member of the crew of a ship shall, in respect of that employment, be subject only to the legislation of Canada if that person ordinarily resides in Canada and only to the legislation of Denmark in any other case.

4. An employed person shall, in respect of the duties of a government employment performed in the territory of the other Party, be subject to the legislation of the latter Party only if that person is a citizen thereof or if he or she ordinarily resides in its territory. In the latter case the person concerned may, however, elect to be subject only to the legislation of the former Party if he or she is a citizen thereof.

5. This Agreement shall not affect the special provisions of the legislation of Denmark which impose conditions for membership in the Labour Market Supplementary Pension (ATP) Scheme for persons who are not Danish citizens.

6. The competent authorities of the two Parties may, by common agreement, modify the application of the provisions of this Article with respect to any persons or categories of persons.

#### *Article VI*

1. For the purpose of calculating benefits under the Old Age Security Act of Canada:

*a)* If a person is subject to the Canada Pension Plan or to the comprehensive pension plan of a province of Canada during any period of residence in the territory of Denmark, that period shall be considered as a period of residence in Canada for that person as well as for that person's spouse and dependants who reside with him or her and who are not subject to the legislation of Denmark by reason of employment;

*b)* If a person is subject to the legislation of Denmark during any period of residence in the territory of Canada, that period shall not be considered as a period of residence in Canada for that person and for that person's spouse and dependants who reside with him or her and who are not subject to the Canada Pension Plan or to the comprehensive pension plan of a province of Canada by reason of employment;

*c)* If a person referred to in sub-paragraph (*b*) of this paragraph also becomes subject to the Canada Pension Plan or to the comprehensive pension plan of a province of Canada, by virtue of occupying simultaneously more than one employment, that period shall not be considered as a period of residence in Canada.

2. For the purposes of the legislation of Denmark:

*a)* Where, according to the provisions of Article V, a person is subject to the legislation of a Party, he or she shall be considered resident only in the territory of that Party;

*b)* The provisions of subparagraph (*a*) of this paragraph shall also apply to that person's spouse and dependants who live with him or her and who are not subject to the legislation of the other Party by reason of employment or self-employment.

*c)* If a person who, according to the provisions of Article V, is subject to the legislation of Canada during any period of residence in the territory of Denmark also becomes subject to the legislation of Denmark by virtue of occupying simultaneously

more than one employment, that period shall not be considered as a period of residence in the territory of Denmark;

d) A period of employment by a Canadian citizen as a member of the crew of a ship flying the Danish flag, other than a period during which the legislation of Canada applies by virtue of paragraph 3 of Article V, shall be considered as a period of residence in Denmark;

e) Subject to the preceding sub-paragraphs of this paragraph, paragraph 2 of Article III shall not cause the provisions of the Social Pensions Act which make periods of residence abroad equivalent to periods of residence in Denmark to apply to a Canadian citizen.

### PART III. PROVISIONS CONCERNING BENEFITS

#### Chapter 1. *Benefits payable by Canada*

##### *Article VII*

1. If a person is not entitled to a benefit on the basis of the periods creditable under the legislation of Canada, eligibility for that benefit shall be determined by totalizing these periods and those stipulated in paragraph 2 of this Article, provided that the periods do not overlap.

2. a) For purposes of determining eligibility for a benefit payable under the Old Age Security Act, a period of residence in the territory of Denmark, after the age at which periods of residence in Canada are creditable for purposes of that Act and after March 31, 1957, shall be considered as a period of residence in the territory of Canada.

b) For purposes of determining eligibility for a benefit payable under the Canada Pension Plan, a calendar year for which contributions of not less than full contributions for thirteen weeks or three months have been paid under the Labour Market Supplementary Pension (ATP) Act of Denmark shall be considered as a year for which contributions have been made under the Canada Pension Plan.

##### *Article VIII. BENEFITS PAYABLE UNDER THE OLD AGE SECURITY ACT*

1. a) If a person is entitled to payment of a pension in Canada under the Old Age Security Act without recourse to the provisions of this Agreement, but has not accumulated sufficient periods of residence in Canada to qualify for payment of the pension abroad under that Act, a partial pension shall be payable to that person outside the territory of Canada if the periods of residence in the territories of the two Parties, when totalized as provided in Article VII, are at least equal to the minimum period of residence in Canada required by the Old Age Security Act for payment of a pension abroad.

b) The amount of the pension payable shall, in this case, be calculated in conformity with the provisions of the Old Age Security Act governing the payment of a partial pension, exclusively on the basis of the periods creditable under that legislation.

2. a) If a person is not entitled to an Old Age Security pension or a spouse's allowance solely on the basis of periods of residence in Canada, a partial pension or a spouse's allowance shall be payable to that person if the periods of residence in the territories of the two Parties, when totalized as provided in Article VII, are at least

equal to the minimum period of residence in Canada required by the Old Age Security Act for payment of a pension or a spouse's allowance.

b) The amount of the pension or the spouse's allowance payable shall, in this case, be calculated in conformity with the provisions of the Old Age Security Act governing the payment of a partial pension or a spouse's allowance, exclusively on the basis of the periods creditable under that legislation.

3. a) Notwithstanding any other provision of this Agreement, Canada shall not be liable to pay an Old Age Security pension outside its territory unless the periods creditable under the Old Age Security Act are at least equal to three years and unless the periods of residence in the territories of the two Parties, when totalized as provided in Article VII and taking into account only periods after March 31, 1957, are at least equal to the minimum period of residence in Canada required by the Old Age Security Act for the payment of a pension abroad.

b) In the application of paragraph 2 of this Article, where a pension is payable by virtue of this Agreement to a person resident outside the territory of Canada, the amount of the pension shall be calculated exclusively on the basis of periods of residence after March 31, 1957 which are creditable under the Old Age Security Act. For purposes of this sub-paragraph,

- i) A person who would be entitled to a pension if he or she were resident in Canada and who has previously been awarded a pension shall be deemed to be a person described in paragraph 1 of this Article; and
- ii) A person who would be entitled to a pension if he or she were resident in Canada and who has not previously been awarded a pension shall be deemed to be a person described in paragraph 2 of this Article.

c) The spouse's allowance and the guaranteed income supplement shall be payable outside the territory of Canada only to the extent permitted by the Old Age Security Act.

#### *Article IX.* BENEFITS PAYABLE UNDER THE CANADA PENSION PLAN

1. a) If a person is not entitled to a disability pension, disabled contributors's child's benefit, survivor's pension, orphan's benefit or death benefit solely on the basis of the periods creditable under the Canada Pension Plan, but is entitled to that benefit through totalizing periods as provided in Article VII, the competent institution of Canada shall calculate the amount of the earnings-related portion of such benefit in conformity with the provisions of the Canada Pension Plan, exclusively on the basis of the pensionable earnings credited under that legislation.

b) The amount of the flat-rate portion of the benefit payable under the provisions of this Agreement shall, in this case, be determined by multiplying:

- i) The amount of the flat-rate portion of the benefit determined under the provisions of the Canada Pension Plan by
- ii) The ratio that the periods of contributions to the Canada Pension Plan represent in relation to the minimum qualifying period for entitlement to that benefit under the Canada Pension Plan.

2. No benefit shall, however, be paid under this Article unless the contributor has reached an age at which his or her contributory period, as defined in the Canada Pension Plan, is at least equal to the minimum qualifying period under the legislation of Canada for entitlement to the benefit in question.

## Chapter 2. *Benefits payable by Denmark*

### *Article X*

1. A Canadian citizen shall be entitled to an anticipatory pension if, during the qualifying period prescribed in the Social Pensions Act, the person concerned has been physically and mentally capable of carrying on a normal occupation for a continuous period of not less than 12 months while residing in the territory of Denmark.

2. In addition to the condition specified in paragraph 1 of this Article, entitlement to an anticipatory pension granted for social reasons in respect of a Canadian citizen shall be subject to the further condition that the person concerned has been permanently resident in the territory of Denmark for not less than 12 months immediately before the submission of the claim for a pension and that the need for that pension arose while that person was resident in the territory of Denmark.

3. Notwithstanding Article IV of this Agreement, a Danish citizen resident in the territory of Canada shall not be entitled to the award of an anticipatory pension granted for social reasons.

### *Article XI*

1. Subject to the provisions of Article X, a pension under the Social Pensions Act shall be payable to a Canadian citizen resident in the territory of Canada only if the person concerned has been employed or self-employed in the territory of Denmark for not less than 12 months during the qualifying period prescribed in the Social Pensions Act.

2. Where the conditions specified in paragraph 1 of this Article have not been met, a pension awarded to a Canadian citizen residing in the territory of Denmark shall nonetheless continue to be payable in the territory of Canada if, during the qualifying period prescribed in the Social Pensions Act, that person has resided in the territory of Denmark for not less than ten years, of which at least five years are immediately preceding application for the pension.

3. Notwithstanding any other provision of this Agreement, the following supplements, allowances and benefits under the Social Pensions Act shall be payable to persons resident outside the territory of Denmark only according to the provisions of that Act:

- a) Pensions supplements;
- b) Wife's allowance;
- c) Marriage allowance;
- d) Personal allowance;
- e) Outside assistance allowance;
- f) Constant attendance allowance;
- g) Disability benefit.

4. For the implementation of paragraph 1 of this Article, the following provisions shall apply:

a) Where a member of the Danish Labour Market Supplementary Pension (ATP) Scheme has acquired at least one year of pension seniority, the person concerned shall be regarded as having completed a period of employment of 12 months in the territory of Denmark;

b) Where a person establishes that he or she was employed in the territory of Denmark for any period before April 1, 1964, that period shall also be accepted;

c) Where a person establishes that he or she was self-employed in the territory of Denmark for any period, that period shall also be accepted.

5. Notwithstanding any other provision of this Agreement, periods of residence in the territory of Denmark prior to April 1, 1957 shall not be taken into account in the calculation of a benefit under the Social Pensions Act payable to a Canadian citizen resident outside the territory of Denmark.

#### *Article XII*

1. The provisions of paragraph 2 of Article III shall not entitle a Canadian citizen to a pension under the transitional provisions of the Danish Acts of 7 June 1972 concerning the pension rights of Danish citizens who have been permanently resident in Denmark for a specified period prior to the date of the claim.

2. Where a person has acquired the right to an old age pension under the Social Pensions Act as well as to a pension under the Old Age Security Act of Canada, the amount of the Danish old age pension shall be determined without applying the transitional provisions of the Social Pensions Act concerning entitlement to a full amount of old age pension, as from 1 October 1989 at the latest, in respect of persons who have been permanently resident in Denmark for not less than 10 years after having attained the age of 15, of which 5 years are immediately prior to the age of 67, or the corresponding provision of the former Old Age Pensions Act. Where the person concerned qualifies for a full amount of old age pension by the application of one of the provisions noted above, or as the case may be under the provisions of this Agreement, and where the pensions payable by both Parties added together are less than a full Danish old age pension, the competent Danish institution shall grant a supplement equal to the difference.

#### *Article XIII*

1. Where a person has acquired the right to a Danish anticipatory pension the amount of which has been fixed in accordance with the provisions applying until 1 October 1984, as well as to a pension under the Canada Pension Plan, any period between the date on which that Danish pension is awarded and the ordinary pensionable age shall, in the calculation of the Danish pension, be reduced by the ratio which the number of years of residence completed prior to the contingency in the territory of Denmark during the qualifying period prescribed in the Social Pensions Act bears to the total of the periods of residence in the territory of Denmark and periods of contribution under the Canada Pension Plan before the date on which the contingency arose.

2. Where, after applying the provisions of paragraph 1 of this Article, the pensions payable by both Parties added together are less than the amount of pension which would be payable by applying the Social Pensions Act alone, the competent Danish institution shall grant a supplement equal to the difference.



## PART IV. ADMINISTRATIVE AND MISCELLANEOUS PROVISIONS

*Article XIV*

1. The competent authorities and institutions responsible for the application of this Agreement:

a) Shall 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 any matter relating to the application of this Agreement as if the matter were affecting the application of their own legislation;

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 insofar as these changes affect the application of this Agreement.

2. The assistance referred to in sub-paragraph 1 (b) of this Article shall be provided free of charge, subject to any agreement reached between the competent authorities of the two Parties for the reimbursement of certain types of expenses.

3. Unless disclosure is required under the laws of a Party, any information about an individual which is transmitted in accordance with this Agreement to that Party by the other Party is confidential and shall be used only for purposes of implementing this Agreement and the legislation to which this Agreement applies and for no other purpose.

*Article XV*

1. An administrative arrangement, agreed to by the competent authorities of the two Parties, shall set out, as required, the conditions under which this Agreement shall be complemented.

2. The liaison agencies of the Parties shall be designated in that arrangement.

*Article XVI*

1. Any exemption from or reduction of taxes, legal dues, consular fees or administrative charges for which provision is made in the legislation of one Party in connection with the issuing of any certificate or document required to be produced for the application of that legislation shall be extended to certificates or documents required to be produced for the application of the legislation of the other Party.

2. Any acts or documents of an official nature required to be produced for the application of this Agreement shall be exempt from any authentication by diplomatic or consular authorities or similar formality.

*Article XVII*

For the application of this Agreement, the competent authorities and institutions of the two Parties may communicate directly with one another in any of the official languages of either Party.

*Article XVIII*

1. Any claim, notice or appeal which should, for the purposes of the legislation of one Party, have been presented within a prescribed period to a competent authority or institution of that Party, but which is presented within the same period to a

competent authority or institution of the other Party, shall be treated as if it had been presented to the authority or institution of the first Party on the date that it was presented to the authority or institution of the other Party.

2. A claim for a benefit payable under the legislation of one Party shall be deemed to be a claim for the corresponding benefit payable under the legislation of the other Party, unless the applicant explicitly requests that the claim to the benefit of the other Party be delayed.

3. In any case to which the preceding paragraphs of this Article apply, the authority or institution to which the claim, notice or appeal has been submitted shall transmit it without delay to the authority or institution of the other Party.

#### *Article XIX*

1. The benefit paying institutions or authorities shall discharge their obligations under this Agreement in their national currency.

2. Benefits shall be paid to beneficiaries free from deductions for administrative or any other expenses that may be incurred in paying the benefits.

#### *Article XX*

The competent authorities of the two Parties shall resolve, to the extent possible, any difficulties which arise in interpreting or applying this Agreement according to its spirit and fundamental principles.

#### *Article XXI*

The competent authority of Denmark and a province of Canada may conclude understandings concerning any social security matter within provincial jurisdiction in Canada insofar as those understandings are not inconsistent with the provisions of this Agreement.

### PART V. TRANSITIONAL AND FINAL PROVISIONS

#### *Article XXII*

1. Unless otherwise provided in this Agreement, any period creditable under the legislation of a Party and established before the date of entry into force of this Agreement shall be taken into account for the purpose of determining the right to a benefit under the Agreement.

2. No provision of this Agreement shall confer any right to receive payment of a benefit for a period before the date of entry into force of the Agreement.

3. Subject to the other provisions of this Article, a benefit, other than a lump sum payment, shall be payable under this Agreement in respect of events which happened before the date of entry into force of the Agreement.

#### *Article XXIII*

1. This Agreement shall enter into force, after the conclusion of the administrative arrangement referred to in Article XV, on the first day of the second month following the month in which each Party shall have received from the other Party written notification that it has complied with all statutory and constitutional requirements for the entry into force of the Agreement.

2. This Agreement shall remain in force without any limitation on its duration. It may be denounced at any time by either Party giving twelve months' notice in writing to the other Party.

3. In the event of the termination of this Agreement, any right acquired by a person in accordance with its provisions shall be maintained and negotiations shall take place for the settlement of any rights then in course of acquisition by virtue of those provisions.

4. With the entry into force of this Agreement, it shall supersede the agreement between the Government of Canada and the Government of Denmark regarding the inclusion of local personnel from Danish Diplomatic and Consular Missions in Canada within the provisions of the Canada Pension Plan, as set out in an exchange of letters dated June 19, 1967,<sup>1</sup> signed in Ottawa.

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

DONE in two copies at Copenhagen this 12th day of April, 1985, in English, French and Danish, each version being equally authentic.

For the Government of the Kingdom of Denmark:

ELSEBETH KOCK-PETERSEN

For the Government of Canada:

JAKE EPP

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<sup>1</sup> United Nations, *Treaty Series*, vol. 863, p. 75.