

**No. 33368**

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**MEXICO  
and  
CANADA**

**Agreement on social security. Signed at Ottawa on 27 April  
1995**

*Authentic texts: Spanish, French and English.*

*Registered by Mexico on 18 November 1996.*

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**MEXIQUE  
et  
CANADA**

**Accord sur la sécurité sociale. Signé à Ottawa le 27 avril 1995**

*Textes authentiques : espagnol, français et anglais.*

*Enregistré par le Mexique le 18 novembre 1996.*

## AGREEMENT<sup>1</sup> ON SOCIAL SECURITY BETWEEN THE UNITED MEXICAN STATES AND CANADA

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*The Government of the United Mexican States  
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 GENERAL PROVISIONS

#### Article I *Definitions*

1. For the purposes of this Agreement:

"benefit" means, as regards a Party, any cash payment, pension or allowance for which provision is made in the legislation of that Party and includes any supplements or increases applicable to such a benefit;

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<sup>1</sup> Came into force on 1 May 1996 by notification, in accordance with article 28.

"competent authority" means, as regards Canada, the Minister or Ministers responsible for the application of the legislation of Canada; and, as regards Mexico, the Instituto Mexicano del Seguro Social (Mexican Social Security Institute);

"competent institution" means, as regards a Party, the competent authority of that Party;

"creditable period" means, as regards Canada, a period of contributions or residence used to acquire the right to a benefit under the legislation of that Party, and includes a period during which a disability pension is payable under the *Canada Pension Plan*; and, as regards Mexico, a period of contributions used to acquire the right to a benefit under the legislation of that Party;

"Government of Canada" means the Government in its capacity as representative of Her Majesty the Queen in right of Canada and represented by the Minister of Human Resources Development;

"legislation" means, as regards a Party, the laws and regulations specified in Article 2;

"Mexico" means the United Mexican States;

"national" means, as regards Canada, a Canadian citizen; and, as regards Mexico, a person born or naturalized as a Mexican;

"person in government employment" means, as regards Canada, a person employed by the Government of Canada, or by a province or

municipality of Canada; and, as regards Mexico, a person working for the federal government, or a state or municipal government;

"territory" means, as regards Canada, the territory of Canada; and, as regards Mexico, the national territory as defined in Article 42 of the *Political Constitution of the United Mexican States*.

2. Any term not defined in this Article has the meaning assigned to it in the applicable legislation.

## Article 2

### *Legislation to Which the Agreement Applies*

1. This Agreement shall apply to the following legislation:
  - (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 Mexico:

the mandatory and voluntary schemes for which provision is made in the *Ley del Seguro Social* (Social Security Act) and the

regulations made thereunder, as they relate to benefits derived from insurance against invalidity, old age, mandatory retirement and death.

2. This Agreement shall also apply to laws and regulations which, in the future, amend or replace those specified in paragraph 1.
3. This Agreement shall further apply to laws and regulations which extend the legislation of a Party to new categories of beneficiaries or to new benefits unless an objection on the part of that Party has been communicated to the other Party not later than three months following the entry into force of such laws and regulations.

### Article 3

#### *Persons to Whom the Agreement Applies*

This Agreement shall apply to any person who is or who has been subject to the legislation of Canada or Mexico, and to the dependants and survivors of such a person within the meaning of the applicable legislation of either Party.

### Article 4

#### *Equality of Treatment*

Any person who is or who has been subject to the legislation of a Party, and the dependants and survivors of such a person, shall be eligible for the

benefits, and subject to the obligations, of the legislation of the other Party under the same conditions as nationals of the latter Party.

## Article 5

### *Payment of Benefits Abroad*

1. Unless otherwise provided in this Agreement, benefits payable under the legislation of a Party to any person described in Article 3, 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 person resides in the territory of the other Party, and they shall be paid in the territory of the other Party.
2. If a person described in Article 3 resides in a third State, benefits payable under the legislation of a Party, including benefits acquired by virtue of this Agreement, shall be paid to that person under the same conditions, and to the same extent, as to nationals of that Party who reside in that third State.

**PART II**  
**PROVISIONS CONCERNING**  
**THE APPLICABLE LEGISLATION**

**Article 6**

*General Rule for Employed Persons*

Subject to Articles 8, 9 and 10, an employed person who works in the territory of a Party shall, in respect of that work, be subject solely and in its entirety to the legislation of that Party.

**Article 7**

*General Rule for Self-Employed Persons*

A person who resides in the territory of a 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 solely and in its entirety to the legislation of the Party in whose territory he or she resides.

**Article 8**

*Detached Workers*

A person who is subject to the legislation of a Party and who is temporarily sent by his or her employer to work in the territory of the other Party for a

period that does not exceed sixty months shall, in respect of that work, be subject only to the legislation of the first Party during the period of the detachment.

## Article 9

### *Persons in Government Employment*

1. A person in government employment for a Party who is posted to work in the territory of the other Party shall, in respect of that employment, be subject only to the legislation of the first Party.
2. A person who resides in the territory of a Party and who is engaged therein in government employment for the other Party shall, in respect of that employment, be subject only to the legislation of the first Party. However, if that person is a national of the employing Party, he or she may, within six months of the start of that employment or of the entry into force of this Agreement, elect to be subject only to the legislation of the latter Party.
3. Nothing in this Agreement shall be interpreted as modifying the provisions of the *Vienna Convention on Diplomatic Relations* of 18 April 1961<sup>1</sup> or of the *Vienna Convention on Consular Relations* of 24 April 1963.<sup>2</sup>

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<sup>1</sup> United Nations, *Treaty Series*, vol. 500, p. 95.

<sup>2</sup> *Ibid.*, vol. 596, p. 261.



## Article 10

### *Exceptions to the Provisions Regarding Coverage*

The competent authorities of the Parties may, by common agreement, make exceptions to the provisions of Articles 6, 7, 8 and 9 with respect to any person or any category of persons.

## Article 11

### *Definition of Certain Periods of Residence with Respect to the Legislation of Canada*

For the purpose of calculating the amount of benefits under the *Old Age Security Act*, the following rules shall apply:

- (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 Mexico, 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 Mexico by reason of employment.
- (b) If a person is subject to the legislation of Mexico 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.

## PART III PROVISIONS CONCERNING BENEFITS

### CHAPTER 1 TOTALIZING

#### Article 12

#### *Periods under the Legislation of Canada and Mexico*

1. If a person is not entitled to the payment of a benefit because he or she has not completed sufficient creditable periods under the legislation of a Party, the entitlement of that person to the payment of that benefit shall be determined by totalizing these periods and those specified in paragraphs 2 through 4, provided that the periods do not overlap.
  
2. (a) For purposes of determining entitlement to the payment of a benefit under the *Old Age Security Act* of Canada, a creditable period under the legislation of Mexico shall be considered as a period of residence in the territory of Canada.
  
- (b) For purposes of determining entitlement to the payment of a benefit under the *Canada Pension Plan*, a calendar year

including at least thirteen weeks which are creditable periods under the legislation of Mexico shall be considered as a year which is creditable under the *Canada Pension Plan*.

3. For purposes of determining entitlement to the payment of a benefit for old age or mandatory retirement under the legislation of Mexico:
  - (a) a calendar year which is a creditable period under the *Canada Pension Plan* shall be considered as fifty-two weeks which are creditable under the legislation of Mexico; and
  - (b) a week which is a creditable period under the *Old Age Security Act* of Canada and which is not part of a creditable period under the *Canada Pension Plan* shall be considered as a week which is creditable under the legislation of Mexico.
  
4. For purposes of determining entitlement to the payment of a benefit for invalidity or death under the legislation of Mexico, a calendar year which is a creditable period under the *Canada Pension Plan* shall be considered as fifty-two weeks which are creditable under the legislation of Mexico.

### Article 13

#### *Periods under the Legislation of a Third State*

If a person is not entitled to the payment of a benefit on the basis of the creditable periods under the legislation of the Parties, totalized as provided in

Article 12, the entitlement of that person to the payment of that benefit shall be determined by totalizing these periods and creditable periods under the legislation of a third State with which both Parties are bound by social security agreements which provide for totalizing periods.

#### Article 14

#### *Creditable Periods of Less Than One Year*

Notwithstanding any other provision of this Agreement, if the creditable periods completed by a person under the legislation of a Party total less than one year and if, taking into account only those periods, no right to a benefit exists under that legislation, the competent institution of that Party shall not be required to award a benefit to that person in respect of those periods by virtue of this Agreement.

### CHAPTER 2

### BENEFITS UNDER THE LEGISLATION OF CANADA

#### Article 15

#### *Benefits under the Old Age Security Act*

1. If a person is entitled to the payment of a pension or a spouse's allowance solely through the application of the totalizing provisions of Chapter 1, the competent institution of Canada shall calculate the

amount of the pension or spouse's allowance payable to that person 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 of residence in Canada which may be considered under that Act.

2. Paragraph 1 shall also apply to a person who is entitled to the payment of a pension in Canada but who has not resided in Canada for the minimum period required by the *Old Age Security Act* for entitlement to the payment of a pension outside Canada.
3. Notwithstanding any other provision of this Agreement:
  - (a) an Old Age Security pension shall be paid to a person who is outside Canada only if that person's periods of residence, when totalized as provided in Chapter I, are at least equal to the minimum period of residence in Canada required by the *Old Age Security Act* for entitlement to the payment of a pension outside Canada; and
  - (b) a spouse's allowance and a guaranteed income supplement shall be paid to a person who is outside Canada only to the extent permitted by the *Old Age Security Act*.

## Article 16

### *Benefits under the Canada Pension Plan*

If a person is entitled to the payment of a benefit solely through the application of the totalizing provisions of Chapter 1, the competent institution of Canada shall calculate the amount of benefit payable to that person in the following manner:

- (a) the earnings-related portion of the benefit shall be determined in conformity with the provisions of the *Canada Pension Plan*, exclusively on the basis of the pensionable earnings under that Plan; and
- (b) the flat-rate portion of the benefit shall be determined by multiplying:
  - (i) the amount of the flat-rate portion of the benefit determined in conformity with the provisions of the *Canada Pension Plan*  
  
by
  - (ii) the fraction which represents the ratio of the periods of contributions to the *Canada Pension Plan* in relation to the minimum qualifying period required under that Plan to establish entitlement to that benefit, but in no case shall that fraction exceed the value of one.

## CHAPTER 3

### BENEFITS UNDER THE LEGISLATION OF MEXICO

#### Article 17

#### *Calculating the Amount of Benefit Payable*

A worker who has been successively or alternately subject to the legislation of both Parties shall be entitled to benefits included in this Agreement according to the following terms:

1. If the worker meets the requirements of the legislation of Mexico for entitlement to a benefit, the competent institution of Mexico shall take into account only the creditable periods completed under that legislation.
2. If the worker does not meet the requirements of the legislation of Mexico for entitlement to a benefit, the competent institution of Mexico shall totalize creditable periods under that legislation and creditable periods as provided in Chapter I. When totalization results in entitlement to a benefit, the amount payable shall be calculated as follows:
  - (a) The competent institution of Mexico shall determine the amount of the benefit to which the person concerned would be entitled if all the totalized creditable periods had been completed under its own legislation (theoretical benefit).

- (b) The amount of the benefit that Mexico shall be required to pay shall be determined by applying, to the theoretical benefit calculated according to its legislation, the same proportion as that between the creditable periods completed under the legislation of Mexico and the total creditable periods as provided in Chapter I (pro-rated benefit).
- (c) If the resulting amount of the benefit is less than the legal minimum pension, the person concerned can opt to receive, in place of the benefit, a lump-sum payment equal to the benefit that would be payable over a period of five years.

## Article 18

### *Conditions for the Maintenance of Rights*

1. When the acquisition of the right to a benefit under the legislation of Mexico is conditional on being subject to that legislation at the time of the occurrence of the event giving rise to the benefit, that condition shall be deemed to be met if, at that time, the person concerned is subject to the legislation of Canada or, if this is not the case, is receiving a benefit under the legislation of Canada of the same type or of a different type but based on creditable periods completed by that person. The same principle shall apply to the granting of death and survivors benefits for which, if necessary, account is taken of the status of the deceased person as being insured or the recipient of a benefit at the time of death.



2. When, for the acquisition of the right to a benefit under the legislation of Mexico, a person must have completed a creditable period in a prescribed period immediately before the occurrence of the event giving rise to the benefit, that condition shall be deemed to be met if the competent institution of Canada certifies that the person concerned has completed a creditable period under the legislation of Canada during that same period.

**PART IV**  
**ADMINISTRATIVE AND**  
**MISCELLANEOUS PROVISIONS**

**Article 19**

*Administrative Arrangement*

1. A general administrative arrangement, concluded by the competent authorities of the Parties, shall establish the measures necessary for the application of this Agreement.
2. That arrangement shall designate the liaison agencies of the Parties.

## Article 20

### *Exchange of Information and Mutual Assistance*

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

3. Unless disclosure is required under the laws of a Party, any information about a person 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.

## Article 21

### *Exemption or Reduction of Taxes or Charges*

1. Any exemption from or reduction of taxes, legal dues, consular fees or administrative charges for which provision is made in the legislation of a 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 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 other similar formality.

## Article 22

### *Language of Communication*

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

### Article 23

#### *Submitting and Transmitting Documents, and Their Legal Effects*

1. Any claim, notice or appeal concerning the determination or payment of a benefit under the legislation of a Party which should, for the purposes of that legislation, 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 within the prescribed time to the competent authority or institution of the first Party.
  
2. Subject to the second sentence of this paragraph, a claim for benefit under the legislation of a Party made after the date of entry into force of this Agreement shall be deemed to be a claim for the corresponding benefit under the legislation of the other Party, provided that the applicant:
  - (a) requests that it be considered an application under the legislation of the other Party, or
  - (b) provides information at the time of application indicating that creditable periods have been completed under the legislation of the other Party.

The preceding sentence shall not apply if the applicant requests that his or her claim to the benefit under the legislation of the other Party be delayed.

3. In any case to which paragraph 1 or 2 applies, 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 24

### *Means of Payment of Benefits and Guarantee of Payment*

1. The authorities and institutions of a Party responsible for the payment of benefits shall discharge their obligations under this Agreement in the currency of that Party.
2. Benefits shall be paid to beneficiaries free from any deduction for administrative or other expenses that may be incurred in paying the benefits.
3. If provisions restricting the transfer of currencies come into effect in either Party, the Parties shall immediately take the measures necessary to ensure the implementation of the rights arising from this Agreement.

## Article 25

### *Resolution of Disputes*

1. The competent authorities of the Parties shall resolve, to the extent possible, any difficulties which arise in interpreting or applying this Agreement according to its spirit and fundamental principles.
2. The Parties shall consult promptly at the request of either Party concerning matters which have not been resolved by the competent authorities in accordance with paragraph 1.
3. Any dispute between the Parties concerning the interpretation of this Agreement which has not been resolved or settled by consultation in accordance with paragraph 1 or 2 shall, at the request of either Party, be submitted for resolution by an arbitral tribunal.
4. Unless the Parties mutually determine otherwise, the arbitral tribunal shall consist of three arbitrators, of whom each Party shall appoint one and the two arbitrators so appointed shall appoint a third who shall act as president; provided that if the two arbitrators fail to agree, the President of the International Court of Justice shall be requested to appoint the president.
5. The arbitral tribunal shall determine its own procedures.
6. The decision of the arbitral tribunal shall be final and binding.

## Article 26

### *Understandings with a Province of Canada*

The authorities of Mexico and of a province of Canada may conclude understandings concerning any social security matter within provincial jurisdiction in Canada in so far as those understandings are not inconsistent with the provisions of this Agreement.

## PART V

### TRANSITIONAL AND FINAL PROVISIONS

## Article 27

### *Transitional Provisions*

1. Any creditable period completed 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. This Agreement shall confer rights to benefits in respect of events that took place before the date of its entry into force, except when an event gives rise to a lump-sum or one-time payment. However, the payment of those benefits shall, in no case, have retroactive effect before the coming into force of the Agreement.

## Article 28

### *Entry into Force and Termination*

1. Following the conclusion of the general administrative arrangement to which reference is made in Article 19, this Agreement shall enter into force on the first day of the fourth month following the month in which each Party shall have received from the other Party written notification that it has complied with all legal requirements for the entry into force of this Agreement.
2. This Agreement shall remain in force without any limitation on its duration. It may be denounced at any time by either Party by 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.

*[For the testimonium and signatures, see p. 285 of this volume.]*



EN FE DE LO CUAL, los abajo firmantes, debidamente autorizados para ello por sus respectivos Gobiernos, firman el presente Convenio.

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

EN FOI DE QUOI, les soussignés, dument autorisés à cet effect par leurs Gouvernements respectifs, on signé le présent Accord.

Hecho en doble ejemplar en la ciudad de Ottawa, el día veintisiete del mes de abril del año de mil novecientos noventa y cinco, en español, inglés, francés, dando fe por igual cada uno de los textos.

Done in two copies at Ottawa, this 27th day of april, 1995 in the Spanish, English and French languages, each text being equally authentic.

Fait en deux exemplares à Ottawa, ce jour 27 d'avril de 1995, dans les langues espagnol, française et anglaise, chaque texte faisant également foi.

Por el Gobierno  
de los Estados Unidos Mexicanos:

For the Government  
of United Mexican States:

Pour le Gouvernement  
des Etats-Unis du Mexique :

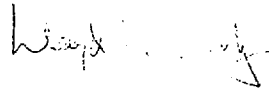


GENARO BORREGO ESTRADA  
Director General del Instituto  
Mexicano del Seguro Social

Por el Gobierno  
de Canada:

For the Government  
of Canada:

Pour le Gouvernement  
du Canada :



LLOYD AXWORTHY  
Ministro de Desarrollo  
de Recursos Humanos

<sup>1</sup> Director General of the Mexican Social Security Institute — Directeur Général de l'Institut mexicain de sécurité sociale.

<sup>2</sup> Minister of Human Resources Development — Le Ministre du Développement des ressources humaines.