

AGREEMENT BETWEEN THE KINGDOM OF SWEDEN AND JAPAN ON SOCIAL SECURITY

The Government of the Kingdom of Sweden (hereinafter referred to as “Sweden”) and the Government of Japan,

Being desirous of regulating their mutual relations in the field of social security,

Have agreed as follows:

PART I GENERAL PROVISIONS

Article 1 Definitions

1. For the purpose of this Agreement,

(a) The terms “a Contracting State” and “the other Contracting State” mean Sweden or Japan, as the context requires;

(b) The term “national” means,

as regards Sweden,
a Swedish national within the meaning of the law on nationality of Sweden,

as regards Japan,
a Japanese national within the meaning of the law on nationality of Japan;

(c) The term “legislation” means,

as regards Sweden,
the laws and regulations of Sweden specified in paragraph 1(b) of Article 2,

as regards Japan,

the laws and regulations of Japan concerning the Japanese pension systems specified in paragraph 1(a) of Article 2;

(d) The term “competent authority” means,

as regards Sweden,
the Government of Sweden or any of the authorities nominated by the Government,

as regards Japan,
any of the Governmental organizations competent for the Japanese pension systems specified in paragraph 1(a) of Article 2;

(e) The term “competent institution” means,

as regards Sweden,
any of the authorities responsible for the implementation of the legislation specified in paragraph 1(b) of Article 2,

as regards Japan,
any of the insurance institutions, or any association thereof, responsible for the implementation of the Japanese pension systems specified in paragraph 1(a) of Article 2;

(f) The term “period of coverage” means,

as regards Sweden,
a period of contributions, insurance or residence used to acquire the right to a benefit under the legislation of Sweden,

as regards Japan,
a period of contributions under the legislation of Japan and any other period taken into account under that legislation for establishing entitlement to benefits, however, a period which shall be taken into account, for the purpose of establishing entitlement to benefits under that legislation, pursuant to other agreements on social security comparable with this Agreement shall not be included;

(g) The term “benefit” means a pension or any other cash benefit under

the legislation of a Contracting State.

2. For the purpose of this Agreement, any term not defined in this Agreement shall have the meaning assigned to it under the applicable legislation.

Article 2 **Matters Covered**

1. This Agreement shall apply,

(a) as regards Japan, to the following Japanese pension systems:

(i) the National Pension (except the National Pension Fund); and

(ii) the Employees' Pension Insurance (except the Employees' Pension Fund);

however, for the purpose of this Agreement, the National Pension shall not include the Old Age Welfare Pension or any other pensions which are granted on a transitional or complementary basis for the purpose of welfare and which are payable wholly or mainly out of national budgetary resources; and

(b) as regards Sweden, to the legislation on:

(i) sickness compensation and activity compensation;

(ii) income-based old-age pensions and guarantee pensions;

(iii) survivor's pensions and surviving children's allowance; and

(iv) social security contributions as regards the legislation referred to in (i) to (iii) of this paragraph.

2. This Agreement shall also apply to all amendments to the legislations of both Contracting States insofar as they do not modify substantially the scope of the systems regulated or implemented by those prior to such amendments.

Article 3

Persons Covered

This Agreement shall apply to a person who is or has been subject to the legislation of a Contracting State and other persons who derive rights from such person.

Article 4

Equality of Treatment

Unless otherwise provided in this Agreement, the persons specified in Article 3, who ordinarily reside in the territory of a Contracting State, shall receive equal treatment with nationals of that Contracting State in the application of the legislation of that Contracting State.

However, the foregoing shall not affect the provisions on complementary periods for Japanese nationals on the basis of ordinary residence outside the territory of Japan under the legislation of Japan.

Article 5

Payment of Benefits Abroad

1. Unless otherwise provided in this Agreement, any provision of the legislation of a Contracting State which restricts entitlement to or payment of benefits solely because the person ordinarily resides outside the territory of that Contracting State shall not be applicable to persons who ordinarily reside in the territory of the other Contracting State.

However,

(a) as regards Japan,

the foregoing shall not affect the provisions of the legislation of Japan which require a person who is aged 60 or over but under 65 on the date of the first medical examination or of the death to reside ordinarily in the territory of Japan for the acquisition of entitlement to the Disability Basic Pension or the Survivors' Basic Pension.

(b) as regards Sweden,

the foregoing shall not apply to the following benefits;

(i) sickness compensation in the form of guarantee compensation or activity compensation in the form of guarantee compensation; and

(ii) guarantee pensions and surviving children's allowance.

2. A benefit under the legislation of a Contracting State which is payable to a person who is or has been subject to the legislation of the other Contracting State, as well as other persons who derive rights from such person, shall be paid when that person or those persons ordinarily reside in the territory of a third state under the same conditions as it would be paid to a national of the first Contracting State who ordinarily resides in the territory of that third state.

PART II
PROVISIONS CONCERNING THE APPLICABLE LEGISLATION

Article 6
General Provision

Unless otherwise provided in this Agreement, a person who works as an employee or a self-employed person in the territory of a Contracting State shall, with respect to that employment or self-employment, be subject only to the legislation of that Contracting State.

Article 7
Special Provisions

1. Where a person who is covered under the legislation of a Contracting State and employed in the territory of that Contracting State by an employer with a place of business in that territory is sent by that employer, either from that territory or from a territory of a third state, to work for that employer in the territory of the other Contracting State, the employee shall remain subject only to the legislation of the first Contracting State as if that employee were working in the territory of the first Contracting State, provided that the period of such detachment is not expected to exceed five years. The detachment referred to in this paragraph includes the cases where a person who is sent by an employer in the territory of one Contracting State to a related employer in the territory of the other Contracting State.

2. Where a person who is covered under the legislation of a Contracting State and who ordinarily works as a self-employed person in the territory of that Contracting State, works temporarily as a self-employed person in the territory of the other Contracting State, that person shall remain subject only to the legislation of the first Contracting State as if that person were working in the territory of the first Contracting State, provided that the period of the self-employed activity in the territory of the other Contracting State is not expected to exceed five years.

Article 8
Employees on Board a Sea-Going Vessel or on an Aircraft

1. A person who works as an employee on board a sea-going vessel flying the flag of either Contracting State shall, with respect to that employment, be subject only to the legislation of the Contracting State in whose territory the employer is located.

2. A person who works as an employee on an aircraft in international traffic shall, with respect to that employment, be subject only to the legislation of the Contracting State in whose territory the employer is located.

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

1. 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.

2. (a) Subject to paragraph 1 of this Article, where any civil servant of Japan or any person treated as such under the legislation of Japan is sent to work in the territory of Sweden, that person shall, with respect to that employment, be subject only to the legislation of Japan as if that person were working in the territory of Japan.

(b) Subject to paragraph 1 of this Article, where any person who is engaged in government employment for Sweden is sent to work as part of that employment in the territory of Japan, that person shall, with respect to that employment, be subject only to the legislation of Sweden as if that person were working in the territory of Sweden.

Article 10

Exceptions to Articles 6 to 9

At the request of an employee and an employer or a self-employed person, the competent authorities or the competent institutions of both Contracting States may agree to grant an exception to Articles 6 to 9 in the interest of particular persons or categories of persons, provided that such persons or categories of persons shall be subject to the legislation of one of the Contracting States.

Article 11

Spouse and Children coming with the person who works

1. (a) The spouse or children under the age of 18 of a person coming with the person who works in the territory of Japan and who is subject to the legislation of Sweden in accordance with Article 7, paragraph 2(b) of Article 9 or Article 10, shall be subject to the legislation of Sweden unless they are themselves employed or self-employed in the territory of Japan.

(b) While a person works in the territory of Japan and is subject to the legislation of Sweden in accordance with Article 7, paragraph 2(b) of Article 9 or Article 10, the spouse or children coming with that person shall be exempted from the legislation of Japan concerning the Japanese pension system specified in paragraph 1(a)(i) of Article 2, provided that the requirements specified in the legislation of Japan concerning the enforcement of the agreements on social security are fulfilled. However, when those spouse or children so request, the foregoing shall not apply.

2. The spouse or children coming with the person who works in the territory of Sweden and who is subject to the legislation of Japan in accordance with Article 7, paragraph 2(a) of Article 9 or Article 10, shall not be subject to the legislation of Sweden unless they are themselves employed or self-employed in the territory of Sweden.

Article 12
Compulsory Coverage

Articles 6 to 8, paragraph 2 of Article 9 and Article 11 shall apply only to compulsory coverage under the legislation of each Contracting State.

PART III
PROVISIONS CONCERNING BENEFITS

Chapter 1
Common Provision

Article 13
Totalization

Where a person does not have sufficient periods of coverage to fulfill the requirement for entitlement to benefits under the legislation of a Contracting State, the competent institution of that Contracting State shall take into account, for the purpose of establishing entitlement to those benefits, the periods of coverage completed under the legislation of the other Contracting State insofar as they do not coincide with the periods of coverage completed under the legislation of the first Contracting State.

However, in taking into account the periods of coverage under the legislation of the other Contracting State, the periods of coverage which are credited under the legislation of that Contracting State solely on the basis of residence in the territory of that Contracting State shall not be taken into account.

Chapter 2
Provisions concerning Japanese Benefits

Article 14
Special Provisions concerning Totalization

1. Article 13 shall not apply to lump-sum payments under the Japanese pension systems specified in paragraph 1(a) of Article 2 on account of death or withdrawal.
2. In applying Article 13, the periods of coverage under the legislation of Sweden shall be taken into account as periods of coverage under the Employees' Pension Insurance and as corresponding periods of coverage under the National Pension.
3. In applying Article 13, the competent institutions of Japan shall credit, in each calendar year, twelve months of periods of coverage for a period of coverage of a year under the legislation of Sweden and certified as such by the competent institution of Sweden. Periods of coverage to be credited by the competent institutions of Japan shall not include months that are already credited as periods of coverage under the legislation of Japan. The total number of months of periods of coverage to be credited under the provision of this paragraph and the months that are already credited as periods of coverage under the legislation of Japan shall not exceed twelve in a calendar year.

Article 15
Special Provisions concerning Disability Benefits and Survivors' Benefits

Where the legislation of Japan requires for entitlement to disability benefits or survivors' benefits (except lump-sum payments under the Japanese pension systems specified in paragraph 1(a) of Article 2 on account of death) that the date of the first medical examination or of death lies within specified periods of coverage, this requirement shall be deemed to be fulfilled for the purpose of establishing entitlement to those benefits if such a date lies within the periods of coverage under the legislation of Sweden.

However, if entitlement to disability benefits or survivors' benefits (except lump-sum payments under the Japanese pension systems specified in paragraph 1(a) of Article 2 on account of death) under the National Pension is established without applying this Article, this Article shall not be applied for the purpose of establishing entitlement to disability benefits or survivors' benefits (except lump-sum payments under the Japanese pension systems specified in paragraph 1(a) of Article 2 on account of death) based on the same insured event under the Employees' Pension Insurance.

Article 16
Calculation of the Amount of Benefits

1. Where entitlement to a Japanese benefit is established by virtue of Article 13 or Article 15, the competent institution of Japan shall calculate the amount of that benefit in accordance with the legislation of Japan, subject to paragraphs 2 to 4 of this Article.

2. With regard to the Disability Basic Pension and other benefits, the amount of which is a fixed sum granted regardless of the period of coverage, if the requirements for receiving such benefits are fulfilled by virtue of Article 13 or Article 15, the amount to be granted shall be calculated according to the proportion of the sum of the periods of contribution and the premium-exempted periods under the pension system from which such benefits will be paid to the sum of those periods of contribution, those premium-exempted periods and the periods of coverage under the legislation of Sweden.

3. With regard to disability benefits and survivors' benefits under the Employees' Pension Insurance, insofar as the amount of those benefits to be granted is calculated on the basis of the specified period determined by the legislation of Japan when the periods of coverage under the Employees' Pension Insurance are less than that specified period, if the requirements for receiving such benefits are fulfilled by virtue of Article 13 or Article 15, the amount to be granted shall be calculated according to the proportion of the periods of coverage under the Employees' Pension Insurance to the sum of the periods of coverage and the periods of coverage under the legislation of Sweden. However, when the sum of the periods of coverage exceeds that specified period, that sum of the periods of coverage shall be regarded as equal to that specified period.

4. With regard to the Additional Pension for Spouses which is included in the Old-age Employees' Pension and any other benefits that may be granted as a fixed sum in cases where the periods of coverage under the Employees' Pension Insurance equal or exceed the specified period determined by the legislation of Japan, if the requirements for receiving such benefits are fulfilled by virtue of Article 13, the amount to be granted shall be calculated according to the proportion of the periods of coverage under the Employees' Pension Insurance to that specified period.

Chapter 3
Provisions concerning Swedish Benefits

Article 17
Special Provisions concerning Totalization

1. Article 13 shall not apply to the basic requirement of three years of residence in Sweden for entitlement to guarantee pension, sickness compensation in the form of guarantee compensation and activity compensation in the form of guarantee compensation.
2. When establishing entitlement to sickness compensation or activity compensation, coverage under the legislation of Japan shall be considered as coverage under the legislation of Sweden.
3. In applying Article 13, the competent institution of Sweden shall credit a period of coverage of a year for twelve months of periods of coverage under the legislation of Japan and certified as such by the competent institutions of Japan. Periods of coverage to be credited by the competent institution of Sweden shall not include periods that are already credited as periods of coverage under the legislation of Sweden.
4. If a person is not eligible for a benefit under the legislation of Sweden on the basis of the periods of coverage under the legislation of both Contracting States, totalized as provided in Article 13, the eligibility of that person for that benefit shall be determined by totalizing these periods and periods of coverage completed under the legislation of a third state, with which Sweden is bound by social security agreements or equivalent coordination instruments on social security which provide for the totalization of periods for that person.

Article 18
Calculation of the Amount of Benefits

1. When calculating the amount of income-based pension in the form of supplementary pension to be paid in accordance with Article 13 or paragraph 4 of Article 17, only periods of coverage completed under the legislation of Sweden shall be taken into account.

2. When calculating the amount of income-related sickness compensation and income-related activity compensation, only income earned during periods when the legislation of Sweden was applicable shall be taken into account.

PART IV
MISCELLANEOUS PROVISIONS

Article 19
Administrative Collaboration

1. The competent authorities of both Contracting States shall:
 - (a) agree on the administrative measures necessary for the implementation of this Agreement, including the exchange of statistics;
 - (b) designate liaison agencies for the implementation of this Agreement; and
 - (c) communicate to each other, as soon as possible, all information about changes to their respective legislation insofar as those changes affect the implementation of this Agreement.

2. The competent authorities and competent institutions of both Contracting States, within the scope of their respective authorities, shall provide any assistance necessary for the implementation of this Agreement. This assistance shall be provided free of charge.

Article 20
Charges or Fees and Legalization

1. Insofar as the legislation and other relevant laws and regulations of a Contracting State contain provisions on an exemption or reduction of administrative charges or consular fees for documents to be submitted under the legislation of that Contracting State, those provisions shall also apply to documents to be submitted in the application of this Agreement and the legislation of the other Contracting State.

2. Documents which are presented for the purpose of this Agreement and the legislation of a Contracting State shall not require legalization or any other similar formality by diplomatic or consular authorities.

Article 21
Languages of Communication

1. In the implementation of this Agreement, the competent authorities and competent institutions of both Contracting States may communicate directly in Swedish, Japanese or English language with each other and with any concerned person wherever the person may reside.

2. In the implementation of this Agreement, the competent authorities and competent institutions of a Contracting State may not reject applications or any other documents for the reason that they are written in Swedish, Japanese or English language.

Article 22
Transmission and Confidentiality of Information

1. The competent authorities or competent institutions of a Contracting State shall, in accordance with its laws and regulations, transmit to the competent authorities or competent institutions of the other Contracting State information about an individual collected under the legislation of that Contracting State insofar as that information is necessary for the implementation of this Agreement. Unless otherwise required by the laws and regulations of that other Contracting State, that information shall be used exclusively for the purpose of implementing this Agreement.

2. The competent authorities or competent institutions of a Contracting State may, upon the request of the competent authorities or competent institutions of the other Contracting State, transmit, in accordance with the legislation and other relevant laws and regulations of that Contracting State, other information about the individual than that referred to in paragraph 1 of this Article collected under the legislation of that Contracting State, to the competent authorities or competent institutions of that other Contracting State insofar as it is necessary for the implementation of the legislation of that other Contracting State. Unless otherwise required by the laws and regulations of that other Contracting State, that information shall be used exclusively for the purpose of implementing that legislation of that other Contracting State.

3. With regard to transmission in accordance with paragraphs 1 and 2 of this Article, personal data shall be protected in accordance with the legislation and other relevant laws and regulations of each Contracting State respectively and the following provisions:

(a) the transmitting competent authorities or competent institutions shall ensure that personal data to be transmitted are accurate and limited to the extent necessary for the purpose of transmission. If it becomes evident that inaccurate data or data whose transmission is incompatible with the legislation and other relevant laws and regulations of the transmitting State were transmitted, the transmitting competent authorities or competent institutions shall immediately notify the receiving competent authorities or competent institutions of this fact. In this case the receiving competent authorities or competent institutions shall correct or delete this data immediately;

(b) both the transmitting and the receiving competent authorities or competent institutions shall effectively protect personal data against unauthorized or illegal access, alteration, or disclosure; and

(c) on request of the person concerned:

(i) the receiving competent authorities or competent institutions shall suspend the use of the data handled in a way that is incompatible with the legislation and other relevant laws and regulations of the receiving State or delete such data and shall immediately inform the transmitting competent authorities or competent institutions of that suspension or that deletion; and

(ii) the transmitting competent authorities or competent institutions shall correct the inaccurate data handled by the transmitting competent authorities or competent institutions, and shall immediately inform the receiving competent authorities or competent institutions of that correction.

Article 23

Submission of Applications, Appeals and Declarations

1. When a written application for benefits, an appeal or any other declaration under the legislation of a Contracting State is submitted to a competent authority or competent institution of the other Contracting State which is competent to receive similar applications, appeals or declarations under the legislation of that other Contracting State, that application for benefits, appeal or declaration shall be deemed to be submitted on the same date to the competent authority or competent institution of the first Contracting State and shall be dealt with, according to the procedure and legislation of the first Contracting State.

2. The competent authority or competent institution of a Contracting State shall send the application for benefits, appeal or any other declaration submitted in accordance with paragraph 1 of this Article to the competent authority or competent institution of the other Contracting State without delay.

Article 24

Payment of Benefits

1. Payments of benefits under this Agreement may be made in the currency of either Contracting State.

2. In case provisions for restricting the exchange of currencies or remittance are introduced by either Contracting State, the Governments of both Contracting States shall immediately consult on the measures necessary to ensure the payments of benefits by that Contracting State under this Agreement.

Article 25

Resolution of Disagreement

1. Any disagreement regarding the interpretation or application of this Agreement shall be resolved by consultation by competent institutions, the competent authorities, or the relevant authorities of both Contracting States.

2. If any disagreement cannot be resolved in accordance with the provisions of paragraph 1 of this Article, it shall be submitted, at the request of either Contracting State, for decision to an arbitral tribunal which shall be constituted for each individual case in the following manner:

(a) each Contracting State shall appoint an arbitrator no later than sixty days after the date when a Contracting State has notified the other Contracting State through diplomatic channels of the request for arbitration. The two arbitrators shall agree to appoint a third arbitrator as chairman of the arbitral tribunal, who shall not be a national of either Contracting State, and who shall be appointed no later than thirty days after the date when the Contracting State which was the later to appoint its arbitrator has notified the other Contracting State of the appointment; and

(b) if either Contracting State fails to appoint an arbitrator, or if the arbitrators appointed by the Contracting States do not agree upon a chairman within the respective periods referred to in subparagraph (a) of this paragraph, either Contracting State may request the President of the International Court of Justice to make the necessary appointments. If the President of the International Court of Justice is a national of a Contracting State or is prevented from making the appointments for any other reason, the Vice-President of the International Court of Justice or, if the Vice-President is similarly prevented from acting, the most senior judge of the International Court of Justice who is not prevented may be requested to make the appointments.

3. The decision of the arbitral tribunal, which shall be binding and final on both Contracting States, shall be by majority vote.

4. Unless the arbitral tribunal decides otherwise:

(a) each Contracting State shall bear the cost for its arbitrator, and of its representation before the arbitral tribunal; and

(b) the costs of the chairman and other expenses shall be shared equally between both Contracting States.

5. The arbitral tribunal shall determine its own rules of procedure.

Article 26

Headings

The headings of Parts, Chapters and Articles of this Agreement are inserted for convenience of reference only and shall not affect the interpretation of this Agreement.

PART V

TRANSITIONAL AND FINAL PROVISIONS

Article 27

Transitional Provisions

1. This Agreement shall not establish any entitlement to benefits for any period prior to its entry into force.

2. In the implementation of this Agreement, periods of coverage completed before its entry into force as well as other legally relevant events occurring before its entry into force shall also be taken into account.

3. The application of this Agreement shall not, for a beneficiary, result in any reduction in the amount of benefits to which entitlement was established before the entry into force of this Agreement.

4. In applying Article 7, in the case of a person who has been working in the territory of a Contracting State and has been covered under the legislation of the other Contracting State until the entry into force of this Agreement, the period of detachment or self-employed activity referred to in Article 7 shall be considered to begin on the date of entry into force of this Agreement.

5. Decisions made before the entry into force of this Agreement shall not affect any rights to be established by virtue of this Agreement.

6. Claims which were determined before the entry into force of this Agreement shall, upon the request of the person concerned, be re-examined in accordance with this Agreement.

Article 28 Entry into Force

This Agreement shall enter into force on the first day of the third month following the month in which the Contracting States shall have completed an exchange of diplomatic notes informing each other that their respective constitutional requirements necessary for the entry into force of this Agreement have been fulfilled.

Article 29 Duration and Termination

1. This Agreement shall remain in force for an indefinite period. Either Contracting State may give to the other Contracting State, through diplomatic channels, written notice of termination of this Agreement. In that event, this Agreement shall remain in force until the last day of the twelfth month following the month in which the termination was notified.

2. If this Agreement is terminated in accordance with paragraph 1 of this Article, rights regarding entitlement to and payment of benefits acquired under this Agreement shall be retained.

In witness whereof, the undersigned, being duly authorized thereto by their respective Governments, have signed this Agreement.

Done in duplicate at Stockholm on 11 April, 2019, in the Swedish, Japanese and English languages, each text being equally authentic. In case of any divergence of interpretation, the English text shall prevail.

For the Government of Sweden

For the Government of Japan