

**AGREEMENT
ON SOCIAL SECURITY
BETWEEN
THE REPUBLIC OF INDIA
AND
THE KINGDOM OF NORWAY**

THE REPUBLIC OF INDIA

AND

THE KINGDOM OF NORWAY

wishing to arrange the mutual relations between the two countries in the field of social security, decided to conclude an Agreement for this purpose and agreed as follows:

PART I

GENERAL PROVISIONS

Article 1

Definitions

1. For the implementation of this Agreement:
 - a) The term “territory” means:
as regards Norway: the territory of the Kingdom of Norway, including Svalbard and Jan Mayen;

as regards India: the territory of the Republic of India including its territorial waters and the airspace above it and the other maritime zones including the Economic Zone and the continental shelf over which the Republic of India has sovereignty, rights or exclusive jurisdiction in accordance with its laws in force and the 1982 United Nations Convention on Law of the Sea and International law.
 - b) The term “national” means:
as regards Norway: a person of Norwegian nationality;
as regards India: a person of Indian nationality.
 - c) The term “legislation” means the laws specified in Article 2 and any rules, regulations, schemes, orders or notifications framed thereunder.
 - d) The term “competent authority” means:
as regards Norway: the Ministry or Ministries, responsible for the implementation of the legislation specified in paragraph 1 a) of Article 2;

as regards India: the Minister for Overseas Indian Affairs.

- e) The term “competent agency” means:
 - as regards Norway: the institution, the organization or the authority responsible in full or in part for the implementation of the legislation specified in paragraph 1 a) of Article 2;
 - as regards India: the Employees’ Provident Fund Organization.
- f) The term “insurance period” means:
 - as regards Norway: pension point years as defined under Norwegian legislation, periods of residence in Norway and other periods defined as insurance periods under Norwegian legislation;
 - as regards India: any period of contributions 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 under that legislation.
- g) The term “benefit” means any pension or benefit in cash, including any supplements or increases applicable under the legislation specified in Article 2.
- h) The term “family member” means any person defined or recognized as a family member or designated as a member of the household by the legislations of Norway and India respectively.
- i) The term “continental shelf” means:
 - as regards Norway: the seabed and subsoil of the submarine areas that extend beyond the territorial sea throughout the natural prolongation of the land territory to the outer edge of the continental margin, or to a distance of 200 nautical miles from the baselines from which the breadth of the territorial sea is measured where the outer edge of the continental margin

does not extend up to that distance, but not beyond the median line in relation to another State;

as regards India: the seabed and subsoil of the submarine areas that extend beyond the territorial sea throughout the natural prolongation of the land territory to the outer edge of the continental margin, or to a distance of 200 nautical miles from the baselines from which the breadth of the territorial sea is measured where the outer edge of the continental margin does not extend up to that distance.

2. Any term not defined in paragraph 1 of this Article shall have the meaning assigned to it in the applicable legislation.

Article 2

Legislative Scope

1. This Agreement shall apply:

- a) as regards Norway, to:
 - (i) the provisions of the National Insurance Act of 28 February 1997 concerning old age pension, disability pension according to Chapter 12 of the Act, funeral grant and survivor's pension and the regulations made thereunder;
 - (ii) the Labour and Welfare Service Act of 16 June 2006 and the regulations made thereunder;

and, as regards Part II only, to:

- (i) the National Insurance Act of 28 February 1997 and the regulations made thereunder;

- (ii) the Family Allowances Act of 8 March 2002 and the regulations made thereunder.
- b) as regards India, to all legislations concerning:
 - (i) old-age and survivors' pension for employed persons;
 - (ii) the Permanent Total Disability pension for employed persons
 - (iii) health insurance;

and, as regards Part II only, to the legislations concerning:

- (i) social security for employed persons;
- (ii) health insurance.

2. This Agreement shall also apply to all legislations which will amend or extend the legislations specified in paragraph 1 of this Article.

It shall apply to any legislation which will extend the existing schemes to new categories of beneficiaries, unless the Contracting State which has amended its legislation notifies within six months of the entry into force of the said legislation the other Contracting State of its objections to the inclusion of such new categories of beneficiaries.

This Agreement shall not apply to legislations that establish a new social security branch, unless the competent authorities of the Contracting States agree on this application.

Article 3

Personal Scope

Unless otherwise specified, this Agreement shall apply to all persons who are or have been subject to the legislation of either of the Contracting States and other persons who derive rights from such persons.

Article 4

Equality of Treatment

1. Unless otherwise provided in this Agreement, the persons specified in Article 3, who 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.
2. Nationals of a Contracting State who reside outside the territories of both Contracting States shall receive benefits provided by the laws of the other Contracting State under the same conditions which the other Contracting State applies to its own nationals who reside outside the territories of both Contracting States.
3. Unless otherwise provided in this Agreement, the laws of a Contracting State under which entitlement to or payment of cash benefits is dependent on residence or presence in the territory of that Contracting State shall not be applicable to the persons designated in Article 3 who reside in the territory of the other Contracting State.

Article 5
Export of Benefits

Unless otherwise specified in this Agreement, a Contracting State shall not reduce or modify benefits acquired under its legislation solely on the ground that the beneficiary stays or resides in the territory of the other Contracting State or a third State.

Article 6
Reduction or Suspension Clauses

The reduction or suspension clauses provided for in the legislation of one Contracting State, in case one benefit coincides with other social security benefits or with other professional incomes, may be applied to the beneficiaries, even if these benefits were acquired by virtue of a scheme of the other Contracting State, or if the related professional activities are exercised in the territory of the other Contracting State.

However, this provision shall not apply when benefits of the same nature coincide.

PART II

PROVISIONS CONCERNING THE APPLICABLE LEGISLATION

Article 7
General Provisions

Subject to Articles 8 to 10, the applicable legislation is determined according to the following provisions:

- a) Unless otherwise provided in this Agreement, a person who works as an employee in the territory of a Contracting State shall, with respect to that employment, be subject only to the legislation of that Contracting State;
- b) a person who is a member of the travelling or flying personnel of an enterprise which, for hire or reward or on its own account, operates international transport services for passengers or goods and has its registered office in the territory of a Contracting State shall be subject to the legislation of that Contracting State;
- c) a person who works as an employee on board a ship that flies the flag of a Contracting State and who is residing in one of the Contracting States, shall be subject to the legislation of the State in which he has his residence.

Article 8

Special Provisions

1. An employed person who, being in the service of and receiving his salary from an employer with an office on which he normally depends in the territory of one of the Contracting States and paying contributions under the legislation of that Contracting State, is posted by that employer in the territory of the other Contracting State to work on its account, shall remain subject to the legislation of the former Contracting State and continue to pay contributions under the legislation of this Contracting State, as if he continued to be employed in his territory on the condition that the foreseeable duration of his work does not exceed 60 months.

The family members who accompany the employed person will be subject to the legislation of that former Contracting State unless they exercise professional activities.

2. If the detachment referred to in paragraph 1 of this Article continues beyond 60 months, the competent authorities of the two Contracting States or the competent agencies designated by those competent authorities may agree that the employee remains subject only to the legislation of the first Contracting State.
3. Paragraph 1 of this Article shall apply where a person who has been sent by his employer from the territory of one Contracting State to the territory of a third country is subsequently sent by that employer from the territory of the third country to the territory of the other Contracting State.
4. Article 7 and paragraphs 1 to 3 of this Article shall also apply to a person who works on an installation situated in the continental shelf area of a Contracting State in connection with the exploration of the seabed and sub-soil of that area or the exploitation of its mineral resources.

Article 9

Civil Servants, Members of Diplomatic Missions and Consular Posts

1. Civil servants and equivalent personnel are subject to the legislation of the Contracting State whose administration employs them. These persons, as well as their family members are, for this purpose, considered to be residing in that Contracting State, even if they are in the territory of the other Contracting State.

The family members who accompany such civil servants and equivalent personnel will be subject to the legislation of that former Contracting State unless they exercise professional activities.

2. This Agreement shall not affect the provisions of the Vienna Convention on Diplomatic Relations of April 18, 1961, or the Vienna Convention on Consular Relations of April 24, 1963.

Article 10 **Modification Provision**

In the interest of certain insured persons or certain categories of insured persons, the competent authorities can, by mutual agreement, specify modifications to the provisions of Articles 7 to 9 provided that the affected persons shall be subject to the legislation of one of the Contracting States.

PART III

PROVISIONS CONCERNING BENEFITS

CHAPTER 1 **Provisions concerning Norwegian Benefits**

SECTION 1 - Old-age, Disability and Survivors' Pension

Article 11

Totalization of Insurance Periods

For the acquisition, retention or recovery of the right to old-age, disability or survivors' pension, the insurance periods completed pursuant to the Indian legislation concerning old-age, disability or survivors' pension are totalized, when necessary and to the extent that they do not overlap, with the insurance periods completed pursuant to the Norwegian legislation.

Article 12

Calculation of Pensions

1. If a person is entitled to an old-age, disability or survivors' pension under the Norwegian legislation without proceeding to totalization, the Norwegian agency shall calculate the pension entitlement directly on the basis of the insurance periods completed in Norway and only under the Norwegian legislation.

That competent agency shall also calculate the amount of the old-age, disability or survivors' pension that would be obtained by applying the rules specified in paragraph 2. Only the higher of these two amounts shall be taken into consideration.

2. If a person is entitled to an old-age, disability or survivors' pension by virtue of the Norwegian legislation, with his right being created solely by taking the totalization of the insurance periods into account pursuant to Article 11, the following rules apply:

- a) the competent agency shall calculate the theoretical amount of the pension due as if all the insurance periods completed according to the two Contracting States' legislations were exclusively completed under the Norwegian legislation;
- b) the competent agency shall then calculate the amount due, on the basis of the amount specified under a), in proportion to the duration of the insurance periods under Norwegian legislation, in relation to the duration of all insurance periods accounted under a);
- c) if the period of coverage in Norway or the sum of Norwegian and Indian periods of coverage exceeds 40 years, the years in excess shall be disregarded for the purposes of this calculation. With

regard to determining supplementary pensions, only pension point years in Norway and insurance periods in India shall be taken into account.

SECTION 2 - Special Provisions

Article 13

Minimum periods of coverage and occupational activity

Where a person has completed at least three years of coverage under Norwegian laws, or one year if covered while performing occupational activity in Norway, prior to the insured contingency, insurance periods completed under Indian laws shall be taken into account to determine entitlement to disability, survivors and old-age pensions provided they do not coincide with periods of coverage already credited under Norwegian laws. To become entitled to a Norwegian supplementary pension based on the preceding sentence, pension points must have been credited for at least one year on the basis of occupational activity for at least one year.

Article 14

Disability Pension during stay in India

The beneficiary of a disability pension under the Norwegian legislation is still entitled to receive this pension during a stay in India when that stay has first been authorized by the competent agency. That authorization can, however, only be refused if the stay takes place in the period during which, by virtue of the Norwegian legislation, the competent agency must estimate or revise the state of disability.

Article 15

Basic Benefits, Attendance Benefits, Education Benefits, Child Care Benefits, Funeral Grant, Guaranteed Minimum Supplementary Pension Benefits for Persons Becoming Disabled at Birth or at a Young Age and Pensions to Refugees and Stateless Persons

1. Basic benefits (grunnstønad), attendance benefits (hjelpestønad), education benefits (utdanningsstønad), child care benefits (stønad til barnetilsyn), funeral grant (gravferdsstønad), guaranteed minimum supplementary pension benefits to persons becoming disabled at birth or at a young age (garantert tilleggspensjon for unge uføre) and pensions calculated under the special provisions governing the calculation of pensions to refugees and stateless persons (pensjoner til flyktinger og statsløse) shall be provided only on the conditions specified in the legislation of Norway.

2. The provisions of Article 5 shall not apply to the benefits referred to in paragraph 1 of this Article. These benefits shall be payable to persons who stay or reside in the territory of India only on the conditions specified in the legislation of Norway.

Chapter 2

PROVISIONS CONCERNING INDIAN OLD-AGE, SURVIVORS' AND DISABILITY PENSION

Article 16

Totalization of Insurance Periods

Notwithstanding the provisions for the acquisition, retention or recovery of the right to old-age, survivors' and disability pension, the insurance

periods completed pursuant to the Norwegian legislation concerning such pensions are totalized, when necessary and to the extent that they do not overlap, with the insurance periods completed pursuant to the Indian legislation.

Article 17

Calculation of benefits

1. If a person is entitled to an old-age, survivors' or disability pension under the Indian legislation without proceeding to totalization, the Indian agency shall calculate the pension entitlement directly on the basis of the insurance periods completed in India and only under the Indian legislation.
2. If a person is entitled to an old-age, survivors' or disability pension by virtue of the Indian legislation, with his right being created solely by taking the totalization of the insurance periods into account pursuant to Article 16, the following rules apply:
 - a) the competent agency shall calculate the theoretical amount of the pension due as if all the insurance periods completed according to the two Contracting States' legislations were exclusively completed under the Indian legislation;
 - b) the competent agency shall then calculate the amount due, on the basis of the amount specified under a), in proportion to the duration of the insurance periods under Indian legislation, in relation to the duration of all insurance periods accounted under a).

Chapter 3

Common Provisions

Article 18

1. If, because of the rising cost of living, the variation of the wage levels or other adaptation clauses, the old-age, survivors' or disability pensions of either Contracting State are changed with a given percentage or amount, that percentage or amount should be directly applied to the old-age, survivors' or disability pension of that Contracting State, without the other Contracting State having to proceed to a new calculation of the old-age, survivors' or disability pension.

2. In case of modification of the rules or of the computation process of the old-age, survivors' or disability pension, a new computation shall be performed according to Article 12 or 17.

PART IV

MISCELLANEOUS PROVISIONS

Article 19

Responsibilities of the Competent Authorities

The competent authorities:

- a) shall take, by means of an administrative arrangement the measures required to implement this Agreement, including

- measures concerning taking into account of insurance periods, and shall designate the liaison agencies and the competent agencies;
- b) shall define the procedures for mutual administrative assistance, including the sharing of expenses associated with obtaining medical, administrative and other evidence required for the implementation of this Agreement;
 - c) shall directly communicate to each other any information concerning the measures taken for the application of this Agreement;
 - d) shall directly communicate to each other, as soon as possible, all changes in their legislation to the extent that these changes might affect the application of this Agreement.

Article 20

Administrative Collaboration

1. For the implementation of this Agreement, the competent authorities as well as the competent agencies of both Contracting States shall assist each other with regard to the determination of entitlement to or payment of any benefit under this Agreement as they would for the application of their own legislation. In principle, this assistance shall be provided free of charge; however, the competent authorities may agree on the reimbursement of some expenses.
2. The benefit of the exemptions or reductions of taxes, stamp duties or of registration or recording fees provided for by the legislation of one Contracting State in respect of certificates or other documents which must be produced for the application of the legislation of that Contracting State shall be extended to certificates and similar documents to be produced for the application of the legislation of the other Contracting State.

3. Documents and certificates which must be produced for the implementation of this Agreement shall be exempt from authentication by diplomatic or consular authorities.

Copies of documents which are certified as true and exact copies by an agency of one Contracting State shall be accepted as true and exact copies by the agency of the other Contracting State, without further certification.

4. For the implementation of this Agreement, the competent authorities and agencies of the Contracting States may communicate directly with each other as well as with any person, regardless of the residence of such person. Communications between the competent authorities and agencies of the Contracting States shall be in English.

5. An application or document may not be rejected by the competent authority or agencies of a Contracting State solely because it is in an official language of the other Contracting State.

Article 21

Claims, Notices and Appeals

1. Claims, notices or appeals which, according to the legislation of one of the Contracting States, should have been submitted within a specified period to the competent authority or agency of that Contracting State, are acceptable if they are presented within the same specified period to a competent authority or agency of the other

Contracting State. In this case, the claims, notices or appeals must be sent without delay to the competent authority or agency of the former Contracting State, either directly or through the competent authorities of the Contracting States.

The date on which these claims, notices or appeals have been submitted to a competent authority or agency of one Contracting State shall be considered to be the date of submission to the competent authority or agency of the other Contracting State authorized to accept such claims, notices or appeals.

2. An application for benefits under the legislation of one Contracting State shall be deemed to be also an application for a benefit of same nature under the legislation of the other Contracting State provided that the applicant so wishes and provides information indicating that insurance periods have been completed under the legislation of the other Contracting State.

Article 22

Confidentiality of Information

Unless otherwise required by the national laws and regulations of a Contracting State, information about an individual which is transmitted in accordance with this Agreement to the competent authority or agency of that Contracting State by the competent authority or agency of the other Contracting State shall be used exclusively for purposes of implementing this Agreement and the legislation to which this Agreement applies. Such information received by a competent authority or agency of a Contracting State shall be governed by the national laws and regulations of that Contracting State for the protection of privacy and confidentiality of personal data.

Article 23

Payment of Benefits

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

2. In the event that a Contracting State imposes currency controls or other similar measures that restrict payments, remittance or transfers of funds or financial instruments to persons who are outside that Contracting State, it shall, without delay, take appropriate measures to ensure the payment of any amount that must be paid in accordance with this Agreement to persons described in Article 3 who reside in the other Contracting State.

Article 24

Resolution of Disputes

Disputes which arise in interpreting or applying this Agreement shall be resolved, to the extent possible, by the competent authorities of the Contracting States.

PART V

TRANSITIONAL AND FINAL PROVISIONS

Article 25

Events prior to the entry into force of the Agreement

1. This Agreement shall also apply to events which occurred prior to its entry into force.

2. All insurance periods completed under the legislation of one of the Contracting States prior to the date on which this Agreement enters into force shall be taken into consideration in determining entitlement to any benefit in accordance with the provisions of this Agreement.
3. This Agreement shall not create any entitlement to benefits for any period prior to its entry into force.
4. This Agreement shall not apply to rights that were liquidated by the granting of a lump sum payment or the reimbursement of contributions.
5. In applying Article 8 in case of persons who were sent to a Contracting State prior to the date of entry into force of this Agreement, the periods of employment referred to in that Article shall be considered to begin on that date.

Article 26

Revision, prescription, forfeiture

1. Any benefit that was not paid or that was suspended by reason of the nationality of the interested person or by reason of his residence in the territory of a Contracting State other than that in which the competent agency responsible for payment is located, shall, on application by the interested person, be paid or restored from the entry into force of this Agreement.
2. The entitlement of interested persons who, prior to the entry into force of this Agreement, obtained the payment of a benefit may be revised upon application by those persons, in accordance with the provisions of this Agreement. In no case shall such a revision result in a reduction of the prior entitlement of the interested persons.

3. If the application referred to in paragraph 1 or 2 of this Article is made within two years of the date of the entry into force of this Agreement, any entitlement arising from the implementation of this Agreement shall be effective from that date, and the legislation of either Contracting State concerning the forfeiture or the prescription of rights shall not be applicable to such interested persons.

4. If the application referred to in paragraph 1 or 2 of this Article is made after two years following the entry into force of this Agreement, the entitlements which are not subject to forfeiture or which are not yet prescribed shall be acquired from the date of the application, unless more favourable legislative provisions of the Contracting State concerned are applicable.

Article 27

Duration

This Agreement is concluded without any limitation on its duration. It may be terminated by either Contracting State giving twelve months' notice in writing to the other Contracting State.

Article 28

Guarantee of rights that are acquired or in the course of acquisition

In the event of termination of this Agreement, any rights and payment of benefits acquired by virtue of the Agreement shall be maintained. The Contracting States shall make arrangements regarding rights in the course of acquisition.

Article 29
Entry into Force

This Agreement shall enter into force on the first day of the third month following the date of receipt of the note through which the last of both Contracting States will have given notice to the other Contracting State that all domestic requirements have been accomplished.

IN WITNESS WHEREOF, the undersigned, being duly authorized thereto, have signed this Agreement.

DONE at New Delhi on the 29th day of October, 2010, in two originals in the English language.

FOR THE REPUBLIC OF INDIA

Vayalar Ravi
Minister for Overseas Indian Affairs

FOR THE KINGDOM OF NORWAY

Trond Giske
Minister of Trade and Industry