

AGREEMENT BETWEEN
JAPAN AND THE CZECH REPUBLIC
ON SOCIAL SECURITY

AGREEMENT BETWEEN
JAPAN AND THE CZECH REPUBLIC
ON SOCIAL SECURITY

Japan and the Czech Republic,
hereinafter referred to as the "Contracting States",
Being desirous of regulating the relationship between
them 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) "national" means,
as regards Japan,
a Japanese national within the meaning of the law
on nationality of Japan,

as regards the Czech Republic,
a person with the nationality of the Czech
Republic;
 - (b) "legislation" means,
the laws and regulations of a Contracting State
concerning the systems specified in Article 2;
 - (c) "competent authority" means,
the Ministry or other governmental agency of a
Contracting State competent for the systems of
that Contracting State specified in Article 2;
 - (d) "competent institution" means,
any of the insurance institutions, or association
thereof of a Contracting State, responsible for
the implementation of the systems of that
Contracting State specified in Article 2;

(e) "period of coverage" means,

a period of contribution under the legislation of a Contracting State, and any other period taken into account under that legislation for establishing entitlement to benefits;

(f) "benefit" means,

a pension or any other 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 respective legislation of either Contracting State.

Article 2 Matters Covered

1. As regards the Czech Republic, this Agreement shall apply to the systems regulated by the following acts:

- (a) the Pension Insurance Act and related acts;
- (b) (i) Social Insurance Contribution and State Employment Policy Premium Act and related acts; and
(ii) Public Health Insurance Act and related acts;

however, for the purpose of this Agreement, Articles 5, 13 to 19, 23, 25, 28 (except for paragraph 4), 29 and paragraph 2 of Article 31 shall apply only to the systems regulated by the acts as provided for in subparagraph (a).

2. As regards Japan, this Agreement shall apply,

- (a) to the following Japanese pension systems:
 - (i) the National Pension (except the National Pension Fund);
 - (ii) the Employees' Pension Insurance (except the Employees' Pension Fund);
 - (iii) the Mutual Aid Pension for National Public Officials;

- (iv) the Mutual Aid Pension for Local Public Officials and Personnel of Similar Status (except the pension system for members of local assemblies); and
- (v) the Mutual Aid Pension for Private School Personnel;

(the Japanese pension systems specified in (ii) to (v) shall hereinafter be referred to as the "Japanese pension systems for employees");

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) to the Japanese health insurance systems implemented under the following laws:
 - (i) the Health Insurance Law (Law No. 70, 1922);
 - (ii) the Seamen's Insurance Law (including the provisions on employment insurance and workers' accident compensation insurance) (Law No. 73, 1939);
 - (iii) the National Health Insurance Law (Law No. 192, 1958);
 - (iv) the Law Concerning Mutual Aid Association for National Public Officials (Law No. 128, 1958);
 - (v) the Law Concerning Mutual Aid Association for Local Public Officials and Personnel of Similar Status (Law No. 152, 1962);
 - (vi) the Law Concerning Mutual Aid for Private School Personnel (Law No. 245, 1953); and
 - (vii) the Law Concerning the Security of Healthcare Treatment for Senior Citizens (Law No. 80, 1982);

however, for the purpose of this Agreement, Articles 5, 13 to 19, 23, 25, 28 (except for paragraph 4), 29 and paragraph 2 of Article 31 shall apply only to the Japanese pension systems specified in subparagraph (a).

3. The acts and laws referred to in the preceding paragraphs shall also include amendments to those in so far as they do not modify 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.

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.

2. Benefits under the legislation of a Contracting State shall be paid to nationals of the other Contracting State who ordinarily reside in the territory of the third state, under the same conditions as if they were nationals of the first Contracting State who ordinarily reside in the territory of that third state.

Part II Provisions concerning the Applicable Legislation

Article 6 General Provisions

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 an employee 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 from that territory to work for that employer in the territory of the other Contracting State, that employee shall be 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.

2. If the detachment referred to in paragraph 1 of this Article continues beyond five years, the competent authorities of both Contracting States or the competent institutions 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 an employee who has been sent by an employer from the territory of a Contracting State to the territory of the third state is subsequently sent by that employer from the territory of that third state to the territory of the other Contracting State.

4. 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 only in the territory of the other Contracting State, that person shall be 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.

5. If the self-employed activity in the territory of the other Contracting State referred to in paragraph 4 of this Article continues beyond five years, the competent authorities of both Contracting States or the competent institutions designated by those competent authorities may agree that the self-employed person remains subject only to the legislation of the first Contracting State.

6. Paragraphs 1 and 4 of this Article shall not apply to a person who is employed in the territory of Japan by an employer with a place of business in that territory or who ordinarily works as a self-employed person in the territory of Japan, if that person is not covered under the legislation of Japan concerning the Japanese pension systems specified in subparagraph (a)(i) to (v) of paragraph 2 of Article 2.

Article 8
Persons Working on Board a Sea-Going Vessel

A person who works on board a sea-going vessel flying the flag of a Contracting State shall be subject only to:

- (a) In cases in which the person is an employee, the legislation of the Contracting State in whose territory the employer is located;
- (b) In cases in which the person is a self-employed person, the legislation of the Contracting State in whose territory that person ordinarily resides.

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. Subject to paragraph 1 of this Article, where any civil servant of a Contracting State or any person treated as such in the legislation of that Contracting State is sent to work in the territory of the other Contracting State, that person shall be subject only to the legislation of the first Contracting State as if that person were working in the territory of the first Contracting State.

Article 10
Exceptions to Articles 6 to 9

At the joint request of an employee and an employer or at the request of a self-employed person, the competent authorities of both Contracting States or competent institutions designated by those competent authorities may agree to grant an exception to the provisions of 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 either of the Contracting States.

Article 11
Accompanying Spouse and Children

1. As regards the accompanying spouse or children of a person who works in the territory of Japan and who is subject to the legislation of the Czech Republic in accordance with Article 7, paragraph 2 of Article 9 or Article 10:

- (a) In cases in which the accompanying spouse or children are persons other than Japanese nationals, the legislation of Japan concerning the Japanese pension systems specified in subparagraph (a) of paragraph 2 of Article 2 shall not apply to them. However, when the accompanying spouse or children so request, the foregoing shall not apply;
- (b) In cases in which the accompanying spouse or children are Japanese nationals, the exemption from the legislation of Japan concerning the Japanese pension systems specified in subparagraph (a) of paragraph 2 of Article 2 shall be determined in accordance with the legislation of Japan.

2. As regards the accompanying spouse or children of a person who is subject to the legislation of the Czech Republic in accordance with Article 6, who ordinarily reside within the territory of the Czech Republic, the legislation of the Czech Republic concerning the health insurance system of the Czech Republic specified in subparagraph (b) of paragraph 1 of Article 2 shall also apply to them.

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 either Contracting State.

Part III
Provisions concerning Benefits

Section 1
Common Provisions

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.

Section 2
Provisions concerning the Czech Republic

Article 14
Periods under the Legislation of the Third State
and Periods less than Twelve Months

1. The competent institution of the Czech Republic shall take into account, for the purpose of establishing entitlement to benefits under the legislation of the Czech Republic, the periods of coverage completed under the legislation of the third state, with which the Czech Republic is bound by a social security instrument which provides for the totalizing of periods of coverage.

2. If the periods of coverage completed under the legislation of the Czech Republic are less than twelve months and do not result in any right to benefits, then the competent institution of the Czech Republic shall not apply the provision of Article 13 and will not award the benefits.

Article 15
Calculation of Benefits

1. If under the legislation of the Czech Republic the conditions for the entitlement to benefits are satisfied even without taking into account the periods of coverage completed under the legislation of Japan, the competent institution of the Czech Republic will calculate the benefits,

- (a) on the basis of the periods of coverage completed exclusively under its legislation, and at the same time,
- (b) according to the rules provided by paragraph 2 of this Article, with the exception when the result of this calculation is equal to or lower than the result of the calculation under subparagraph (a).

The person concerned shall be entitled to higher amount of benefits calculated according to subparagraphs (a) and (b).

2. If under the legislation of the Czech Republic the entitlement to benefits can be established only taking into account the periods of coverage completed under the legislation of Japan and the third state within the meaning of paragraph 1 of Article 14, then the competent institution of the Czech Republic:

- (a) shall calculate the theoretical amount of the benefit which could have been claimed provided that all periods of coverage had been completed under the legislation of the Czech Republic; and
- (b) then, on the basis of the theoretical amount calculated in accordance with subparagraph (a), shall determine the actual amount of the benefit payable by applying the ratio of the duration of the periods of coverage completed under the legislation of the Czech Republic to the total periods of coverage referred to in subparagraph (a).

In order to determine the basis for calculation of the benefit, the competent institution of the Czech Republic shall, in applying the provision of subparagraph (a), take into account only income gained during the periods of coverage completed under the legislation which it applies. This income, indexed according to the legislation of the Czech Republic, will be considered as gained during the periods of coverage completed under the legislation of Japan and the third state that are taken into account for the calculation of the theoretical amount of the benefit.

Article 16 Special Provisions

- 1. (a) Facts that have legal effect on entitlement, reduction, suspension or amount of benefit, occurring in the territory of Japan, shall be taken into account as if they had taken place in the territory of the Czech Republic.

- (b) The competent authority of the Czech Republic may, in the interest of categories of beneficiaries, limit the application of the provision of subparagraph (a).

2. A person whose full disability began before reaching the age of 18 and who has not participated in the pension insurance scheme for the necessary period of coverage shall be entitled to a full disability benefit, provided that person is an ordinary resident of the Czech Republic.

Section 3
Provisions concerning Japan

Article 17
Special Provisions concerning Totalization

1. The period of coverage specified in subparagraph (e) of paragraph 1 of Article 1 does not include a period which shall be taken into account, for the purpose of establishing entitlement to benefits under the legislation of Japan, pursuant to other agreements on social security comparable with this Agreement.
2. Article 13 shall not apply to the additional pension for specified occupations under the mutual aid pensions and the lump-sum payments equivalent to the refund of contributions.
3. In applying Article 13, the periods of coverage completed under the legislation of the Czech Republic shall be taken into account as periods of coverage under the Japanese pension systems for employees and as corresponding periods of coverage under the National Pension.
4. Article 4 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 18
Special Provisions concerning Disability Benefits
and Survivors' Benefits

1. Subject to subparagraph (a) of paragraph 2 of this Article, where the legislation of Japan requires for entitlement to disability benefits or survivors' benefits (except the lump-sum payments equivalent to the refund of contributions) that the date of the first medical examination or of the 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 completed under the legislation of the Czech Republic.
2. (a) If entitlement to disability benefits or survivors' benefits (except the lump-sum payments equivalent to the refund of contributions) under the National Pension is established without applying paragraph 1 of this Article, that paragraph shall not be applied for the purpose of establishing entitlement to disability benefits or survivors' benefits (except the lump-sum payments equivalent to the refund of contributions) based on the same insured event under the Japanese pension systems for employees.

(b) In applying paragraph 1 of this Article, as regards a person who possesses periods of coverage under two or more Japanese pension systems for employees, the requirement referred to in that paragraph shall be deemed to be fulfilled for one of those pension systems in accordance with the legislation of Japan.
3. Paragraph 1 of Article 5 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.

Article 19
Calculation of Benefits

1. Where entitlement to a Japanese benefit is established by virtue of Article 13 or paragraph 1 of Article 18, the competent institution of Japan shall calculate the amount of that benefit in accordance with the legislation of Japan, subject to paragraphs 2 to 5 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 paragraph 1 of Article 18, 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 completed under the legislation of the Czech Republic.

3. With regard to disability benefits and survivors' benefits under the Japanese pension systems for employees, 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 those systems are less than that specified period, if the requirements for receiving such benefits are fulfilled by virtue of Article 13 or paragraph 1 of Article 18, the amount to be granted shall be calculated according to the proportion of the periods of coverage under the Japanese pension systems for employees to the sum of those periods of coverage and the periods of coverage completed under the legislation of the Czech Republic. 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 calculation of the amount of benefits under the Japanese pension systems for employees in accordance with paragraphs 2 and 3 of this Article, if a person entitled to the benefits possesses periods of coverage under two or more such pension systems, the periods of contribution under the pension system from which such benefits will be paid referred to in paragraph 2 of this Article or the periods of coverage under the Japanese pension systems for employees referred to in paragraph 3 of this Article shall be the sum of the periods of coverage under all such pension systems. However, when the sum of the periods of coverage equals or exceeds the specified period determined by the legislation of Japan within the meaning of paragraph 3 of this Article, the method of calculation stipulated in paragraph 3 of this Article and this paragraph shall not apply.

5. 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 Japanese pension systems for employees 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 those periods of coverage under the Japanese pension systems for employees from which such benefits will be paid to that specified period.

Part IV
Miscellaneous Provisions

Article 20
Administrative Collaboration

1. The competent authorities of both Contracting States shall:

- (a) agree on the administrative arrangements necessary for the implementation of this Agreement;
- (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 assist each other in implementing this Agreement. This assistance shall be free of charge.

3. Mutual recognition of documents will be agreed between the competent institutions of both Contracting States.

Article 21
Charges or Fees and Authentication

1. Insofar as the legislation, other 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 be exempted from requirements for authentication or any other similar formality by diplomatic or consular authorities.

Article 22
Communication and Use of Languages

1. The competent authorities, competent institutions and liaison agencies of the Contracting States may communicate directly with each other and with any concerned person wherever the person may reside whenever it is necessary for the administration of this Agreement. The communication may be in the respective languages of the Contracting States or English.

2. In implementing 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 the language of the other Contracting State or in English.

Article 23
Submission of Documents

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 considered as submitted on the same date to the competent authority or competent institution of the first Contracting State.

2. The competent authority or competent institution of a Contracting State to which the application for benefits, appeal or any other declaration has been submitted shall transmit it without delay to the competent authority or competent institution of the other Contracting State.

Article 24
Confidentiality of Information

1. The competent authorities or competent institutions of a Contracting State shall, in accordance with its laws and regulations, send to the competent authorities or competent institutions of the other Contracting State information about an individual which has been collected under the legislation of the first Contracting State insofar as the information is necessary for the implementation of this Agreement.

2. Unless otherwise required by the laws and regulations of a Contracting State, information about an individual which is transmitted in accordance with this Agreement shall be used exclusively for the purpose of implementing this Agreement and shall be governed by the laws and regulations of that Contracting State for the protection of confidentiality of personal data.

Article 25
Payment of Benefits

Payments of benefits under this Agreement to beneficiaries who reside in the territory of the other Contracting State are effected directly in freely convertible currencies.

Article 26
Resolution of Disagreements

Any disagreement regarding the interpretation or application of this Agreement shall be resolved by consultation between the relevant authorities of the Contracting States.

Article 27
Headings

The headings of Parts, Sections 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 28
Facts prior to the Entry into Force of the Agreement

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, the facts occurring prior to its entry into force shall be taken into account.

3. When establishing entitlement to benefits by virtue of this Agreement, the periods of coverage completed prior to its entry into force shall also be taken into account.

4. In applying paragraphs 1 and 4 of Article 7, in the case of persons who have been working in the territory of a Contracting State prior to the date of entry into force of this Agreement, the period of detachment or self-employed activity referred to in paragraphs 1 and 4 of Article 7 shall be considered to begin on the date of entry into force of this Agreement.

Article 29
Decisions prior to the Entry into Force
of the Agreement and Recalculation

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

2. The amount of benefits which was calculated prior to the date on which this Agreement entered into force may be recalculated upon request. This recalculation shall not result in any reduction in the amount of benefits to be paid.

Article 30
Entry into Force

This Agreement shall be subject to ratification and shall enter into force on the first day of the third month following the month in which the Contracting States shall exchange the instruments of ratification.

Article 31
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 notice of termination was received by the other Contracting State.

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, have signed this Agreement.

Done at Prague this twenty-first day of February, 2008, in duplicate, in the Japanese, Czech and English languages, each text being equally authentic. In case of any divergence of interpretation, the English text shall prevail.

For Japan:

熊澤英昭

For the Czech Republic:

Petr Nečas

