

**Agreement between Japan  
and the Federal Republic of Germany  
on Social Security**

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Japan and the Federal Republic of Germany,  
Being desirous of regulating the relationship between  
them in the area of social security,

Have agreed as follows:

Article 1

- (1) For the purposes of this Agreement,
- a) "Territory" means,
    - as regards Japan,  
the territory of Japan;
    - as regards the Federal Republic of Germany,  
the territory of the Federal Republic of Germany;
  - b) "National" means,
    - as regards Japan,  
a Japanese national within the meaning of the law  
on nationality of Japan;
    - as regards the Federal Republic of Germany,  
a German within the meaning of the Basic Law for  
the Federal Republic of Germany;
  - c) "Legislation" means
    - the laws and regulations of a Contracting State  
concerning the pension insurance systems  
specified in paragraph (1) of Article 2;
  - d) "Competent authority" means,
    - as regards Japan,  
the Governmental organization competent for the  
pension insurance systems specified in paragraph  
(1) a) of Article 2;

as regards the Federal Republic of Germany,  
the Federal Ministry of Labour and Social  
Affairs;

- e) "Administrative authority" means  
a competent authority or any other administrative  
authority relating to the implementation of this  
Agreement;
- f) "Institution" means  
the insurance institution responsible for the  
implementation of the pension insurance systems  
specified in paragraph (1) of Article 2;
- g) "Period of coverage" means  
a period of contributions under the legislation  
of a Contracting State, and any other period  
taken into account under that legislation for  
establishing an entitlement to benefits or for  
calculating the amount of benefits;
- h) "Benefit" means  
a pension or any other cash benefit under the  
legislation of a Contracting State.

(2) For the purposes of this Agreement, any term not  
defined in this Agreement has the meaning assigned to it  
under the respective legislation of either Contracting  
State.

## Article 2

(1) This Agreement shall apply to the following pension  
insurance systems:

- a) as regards Japan,
  - 1. the National Pension,
  - 2. the Employees' Pension Insurance,
  - 3. the Mutual Aid Pension for National Public  
Officials,

4. the Mutual Aid Pension for Local Public Officials and Personnel of Similar Status,
5. the Mutual Aid Pension for Private School Personnel,
6. the Mutual Aid Pension for Agricultural, Forestry and Fishery Organization Personnel

(the pension insurance systems specified in 2 to 6, hereinafter referred to as "Japanese pension systems for employees");

- b) as regards the Federal Republic of Germany,
  1. the Statutory Pension Insurance,
  2. the Steelworkers' Supplementary Insurance,
  3. the Farmers' Old-Age Security.

(2) Where, in accordance with the legislation of a Contracting State, both the conditions for the application of this Agreement and the conditions for the application of another agreement on social security or of an arrangement of the European Union on social security, comparable with this Agreement, are satisfied, that other agreement or that arrangement of the European Union shall not be taken into account in the application of this Agreement.

#### Article 3

This Agreement shall apply to the following individuals:

- a) nationals of either Contracting State;
- b) refugees within the meaning of Article 1 of the Convention of July 28, 1951 and of the Protocol of January 31, 1967 Relating to the Status of Refugees;
- c) other persons.

#### Article 4

(1) The persons specified in Article 3 a) and b) who ordinarily reside in the territory of either Contracting State shall, in the application of the legislation of a Contracting State, receive treatment equal to that accorded

to the nationals of that Contracting State. The foregoing shall also apply to the persons specified in Article 3 c) who ordinarily reside in the territory of either Contracting State with respect to their rights derived from a person specified in Article 3 a) or b).

(2) Benefits under the legislation of one Contracting State shall be granted to nationals of the other Contracting State who ordinarily reside in an area outside the territories of both Contracting States under the same conditions as they are granted to the nationals of the first Contracting State who ordinarily reside in that area.

#### Article 5

The provisions of the legislation of one Contracting State which require ordinary residence in the territory of that Contracting State for acquiring an entitlement to benefits or for a payment of benefits shall apply neither to the persons specified in Article 3 a) and b) who ordinarily reside in the territory of the other Contracting State, nor to the persons specified in Article 3 c) who ordinarily reside in the territory of that other Contracting State with respect to their rights derived from a person specified in Article 3 a) or b).

#### Article 6

As regards compulsory coverage under the pension insurance systems specified in paragraph (1) of Article 2, unless otherwise provided in this Agreement, a person who works as an employee or self-employed person in the territory of a Contracting State shall be subject only to the legislation on compulsory coverage of that Contracting State.

#### Article 7

(1) As regards compulsory coverage, when a person who is employed in the territory of one Contracting State is sent by the employer to the territory of the other Contracting State within the context of that employment and performs services there for that employer, only the legislation on compulsory coverage of the first Contracting State shall apply to the employee until the end of the sixtieth calendar month from the commencement of such detachment to

that other Contracting State as though that employee still worked in the territory of the first Contracting State. If the detachment continues beyond the period specified above, the competent authority of the other Contracting State or the agency designated by it may grant further exemption of that employee from the legislation on compulsory coverage of that other Contracting State upon the joint request of that employee and the employer, provided that the employee will continue to be subject to the legislation on compulsory coverage of the first Contracting State. Before the decision on further exemption is taken, the competent authority of the first Contracting State or the agency designated by it shall be given the opportunity to state whether that employee will continue to be subject to the legislation on compulsory coverage of the first Contracting State.

- (2) a) The provisions of paragraph (1) of this Article shall apply *mutatis mutandis* to a self-employed person who ordinarily works in the territory of the Federal Republic of Germany when that person works temporarily in the territory of Japan.
- b) When a self-employed person who ordinarily works in the territory of Japan works temporarily in the territory of the Federal Republic of Germany within the context of the self-employment, German legislation on compulsory coverage shall not apply to that self-employed person until the end of the sixtieth calendar month from the beginning of the work in the territory of the Federal Republic of Germany, provided that Japanese legislation on the National Pension is applicable to that self-employed person. If the work continues beyond the period specified above, the competent authority of the Federal Republic of Germany or the agency designated by it may grant further exemption of that self-employed person from German legislation on compulsory coverage upon the request of that self-employed person, provided that Japanese legislation on the National Pension will be applicable to that self-employed person. Before the decision on further exemption is taken, the competent authority of Japan or the agency designated by it shall be given the opportunity to state whether Japanese legislation on the National Pension will be applicable to that self-employed person.

## Article 8

(1) As regards compulsory coverage of a person who works as an employee on board a sea-going vessel entitled to fly the flag of one Contracting State:

- a) If the person is subject only to the legislation on compulsory coverage of either Contracting State, that person shall remain subject only to that legislation.
- b) If the person is subject to the legislation on compulsory coverage of both Contracting States, that person shall be subject only to the legislation on compulsory coverage of the Contracting State in whose territory the employer has its seat or ordinarily resides.

(2) As regards compulsory coverage of a self-employed person who works on board a sea-going vessel entitled to fly the flag of one Contracting State, that person shall be subject only to the legislation on compulsory coverage of the Contracting State in whose territory that person ordinarily resides.

## Article 9

Nothing in this Agreement shall affect the provisions of the Vienna Convention on Diplomatic Relations of April 18, 1961, or of the Vienna Convention on Consular Relations of April 24, 1963.

## Article 10

As regards compulsory coverage, where, by virtue of the provisions of Articles 6 to 9, the legislation on compulsory coverage of one Contracting State is applicable to an employee or a self-employed person, the competent authority of that Contracting State or the agency designated by it may exempt that employee or that self-employed person from that legislation upon the joint request of that employee and the employer or the request of that self-employed person, provided that the employee or the self-employed person will be subject to the legislation on compulsory coverage of the other Contracting State. Before the decision on the exemption is taken, the competent authority of that other Contracting State or the agency designated by it shall be given the opportunity to

state whether that employee or that self-employed person will be subject to the legislation on compulsory coverage of that other Contracting State. In making such a decision, the nature and circumstances of the employment or the self-employment shall be taken into consideration.

#### Article 11

(1) For the purpose of establishing an entitlement to each of the benefits under the legislation of one Contracting State, subject to the provisions of paragraph (2) of this Article, periods of coverage creditable for establishing an entitlement to benefits under the legislation of the other Contracting State shall be totalized with the periods of coverage creditable for establishing an entitlement to that benefit under the legislation of the first Contracting State insofar as they do not coincide with those periods of coverage under the legislation of the first Contracting State.

(2) In applying paragraph (1) of this Article, where an entitlement to a certain benefit under the legislation of one Contracting State requires the completion of certain periods of coverage, only comparable periods of coverage under the legislation of the other Contracting State shall be taken into account.

(3) In applying paragraph (1) of this Article, the periods of coverage under the legislation of one Contracting State to be totalized with the periods of coverage under the legislation of the other Contracting State shall be counted in accordance with the legislation of the first Contracting State. However, periods counted additionally but not actually completed shall not be taken into account.

(4) Unless otherwise provided in this Agreement, the amount of a benefit shall be calculated in accordance with the applicable legislation of the respective Contracting State.

#### Article 12

As regards the Federal Republic of Germany, the following provisions shall apply:

(1) Personal earning points shall be determined on the basis of the earning points acquired under German legislation.



(2) The provisions of paragraphs (1) to (3) of Article 11 shall apply mutatis mutandis to benefits which are granted under German legislation at the discretion of an institution.

(3) Periods of coverage completed under Japanese legislation shall be taken into account for the Miners' Pension Insurance under Article 11 if they were completed in a mining enterprise in underground operations. If, under German legislation, it is prerequisite for an entitlement to benefits that permanent work underground or equivalent work was performed, the periods of coverage completed under Japanese legislation shall be taken into account by the German institution only insofar as activities of the same kind were performed during these periods.

(4) If German legislation provides that an entitlement to benefits requires the completion of certain periods of compulsory contributions within a specified time, and that this specified time shall be extended by certain periods of coverage and other periods, comparable periods of coverage under Japanese legislation and the following periods in Japan shall also be taken into account as grounds for such an extension:

- a) periods during which payments corresponding to those under German laws and regulations on account of sickness, pregnancy, unemployment or industrial accidents (with the exception of pensions) were made under Japanese laws and regulations;
- b) periods of child-raising in Japan.

(5) If, under German legislation, compulsory coverage is exempted on condition that contributions have been paid for a certain period, periods of contribution under Japanese legislation shall also be taken into account.

#### Article 13

As regards Japan, the following provisions shall apply:

(1) In applying paragraphs (1) and (2) of Article 11, periods of coverage under German legislation shall be taken into account as periods of coverage under Japanese pension systems for employees and as corresponding periods of coverage under the National Pension.

(2) In applying paragraphs (1) and (2) of Article 11, a period of coverage recognized under the Miners' Pension Insurance of the Federal Republic of Germany as a period completed by permanent work underground in a mine shall be taken into account as a period of equivalent work under the Employees' Pension Insurance of Japan.

(3) Where Japanese legislation requires for an entitlement to disability pensions or survivors' pensions that the date of first medical examination or of death lie within specified periods of coverage, this requirement shall be deemed to be fulfilled for the purpose of establishing an entitlement to those pensions if such a date lies within comparable periods of coverage under German legislation. However, if an entitlement to any of those pensions under the National Pension on account of a certain cause is established without applying this provision, this shall not apply for the purpose of establishing an entitlement to any of those pensions under Japanese pension systems for employees on account of that same cause.

(4) With regard to the following benefits under Japanese legislation, if the requirements for receiving such benefits are fulfilled by virtue of this Agreement, the amount to be granted shall be calculated according to the proportion of the periods of coverage under Japanese legislation to the sum of those periods of coverage under Japanese legislation and comparable periods of coverage under German legislation:

- a) the Disability Basic Pension and other benefits under which a fixed sum is granted regardless of the period of coverage recorded;
- b) disability pensions and survivors' pensions under Japanese pension systems for employees insofar as the amount of those pensions is calculated on the basis of a certain period determined by Japanese legislation when the actual period of coverage under Japanese legislation does not fulfill that certain period.

(5) With regard to the following benefits under Japanese legislation, if the requirements for receiving such benefits are fulfilled by adding the periods of coverage under German legislation in accordance with the provisions of paragraphs (1) and (2) of Article 11, the amount to be granted shall be calculated according to the proportion of the periods of coverage under Japanese legislation to the period required for establishing an entitlement to such benefits:

- a) the Additional Pension for Spouses under the Old-age Employees' Pension and any other benefits under which a fixed sum is granted in cases where the period of coverage fulfills a certain period determined by Japanese legislation;
- b) lump-sum payments upon withdrawal for persons other than Japanese nationals and any other lump-sum payments under Japanese pension systems for employees.

(6) In applying paragraphs (4) and (5) of this Article, the periods of coverage under Japanese legislation shall mean periods of contribution and premium-exempted periods; they shall be limited to periods of coverage under the pension system from which such benefit will be paid.

#### Article 14

In implementing this Agreement and the legislation of the Contracting States, the institutions, associations of institutions and administrative authorities of the Contracting States shall provide assistance to each other in the same manner as assistance among those of their own States. This assistance shall be provided free of charge. However, additional expenses required for the provision of this assistance, with the exception of expenses for communication, shall be borne by the body which has requested the assistance.

#### Article 15

(1) Insofar as the legislation and other relevant laws and regulations of one 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 application of this Agreement and the legislation of the other Contracting State.

(2) Documents to be submitted in application of this Agreement and the legislation of a Contracting State shall not require legalisation or any other similar formality.

#### Article 16

(1) In implementing this Agreement and the legislation of the Contracting States, the institutions, associations of institutions and administrative authorities of the Contracting States may communicate with each other in their respective languages.

(2) In implementing this Agreement and the legislation of the Contracting States, the institutions, associations of institutions and administrative authorities of a Contracting State may directly communicate in writing or, where appropriate, orally, in the language of that Contracting State with the persons concerned or their representatives. However, when documents which may lead directly to execution by one Contracting State are to be sent to the persons concerned or their representatives who ordinarily reside in the territory of the other Contracting State, translations in the language of that other Contracting State shall be attached.

(3) In implementing this Agreement and the legislation of the Contracting States, the institutions, associations of institutions and administrative authorities of one 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.

#### Article 17

(1) When an application for benefits, an appeal or any other declaration under the legislation of one Contracting State is submitted to an institution, association of institutions or administrative authority 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, appeal or declaration shall be deemed to be submitted on the same date to the institution, association of institutions or administrative authority of the first Contracting State which is competent to receive it.

(2) The institution, association of institutions or administrative authority of one Contracting State shall send the application, appeal or declaration submitted in accordance with paragraph (1) of this Article to the relevant institution, association of institutions or administrative authority of the other Contracting State without delay.

#### Article 18

(1) The institutions, associations of institutions and administrative authorities of each Contracting State shall transmit, in accordance with its legislation and other relevant laws and regulations, personal data collected under its legislation to those bodies of the other Contracting State insofar as they are necessary for the implementation of this Agreement.

(2) The institutions, associations of institutions and administrative authorities of each Contracting State may, upon the request of those bodies of the other Contracting State, transmit, in accordance with its legislation and other relevant laws and regulations, personal data collected under its legislation to those bodies of the other Contracting State insofar as they are necessary for the implementation of the legislation of that other Contracting State.

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

- a) The transmitted personal data may be used by the receiving body and passed on to other relevant bodies only for the purpose of the implementation of this Agreement or of the legislation of the Contracting States as well as for other social security purposes of the receiving State including related judicial proceedings. However, the foregoing shall not prevent the passing on of that data in case that is mandatory under the laws and regulations of the receiving State for the interests protected by criminal law or for the purposes of taxation.

- b) In individual cases the receiving body shall, upon the request of the transmitting body, inform that body of the use of the transmitted personal data and the results obtained thereof.
- c) The transmitting body shall ensure that the data to be transmitted are correct and limited to the extent necessary for the purpose of the transmission. If it becomes evident that incorrect data or data whose transmission is incompatible with the laws and regulations of the transmitting State were transmitted, the transmitting body shall immediately notify the receiving body of this fact. In this case the receiving body shall correct or delete this data immediately.
- d) The transmitting body and the receiving body shall, upon the request of the person concerned, inform that person of any personal data transmitted and of the purpose of their transmission.
- e) Transmitted personal data shall be deleted by the receiving body in accordance with the relevant laws and regulations of the receiving State if they are no longer required for the purpose for which they were transmitted.
- f) The transmitting body and the receiving body shall record the transmission and the receipt of personal data.
- g) The transmitting body and the receiving body shall protect personal data effectively from unauthorized access, unauthorized modification and unauthorized disclosure.

#### Article 19

(1) The Governments of the Contracting States will conclude arrangements necessary for the implementation of this Agreement.

(2) The competent authorities of the Contracting States may agree on the administrative measures necessary for the implementation of this Agreement.

(3) The Governments of the Contracting States shall, in an arrangement under paragraph (1) of this Article, designate liaison agencies for the implementation of this Agreement.

(4) The competent authorities of the Contracting States shall inform each other of any amendments or additions to their respective legislation.

#### Article 20

Cash benefits may be validly paid by an institution of one Contracting State to a person in the territory of the other Contracting State in the currency of either Contracting State. If the cash benefits are paid in the currency of that other Contracting State, the conversion rate shall be the exchange rate in effect on the day when the remittance is made.

#### Article 21

(1) If a dispute arises between the two Contracting States regarding the interpretation or application of this Agreement, both Contracting States shall endeavour to settle such dispute in an amicable way through negotiation.

(2) If the Contracting States cannot resolve the dispute through negotiation, the dispute shall, at the request of either Contracting State, be submitted for decision to an arbitral tribunal. The arbitral tribunal shall be constituted for each individual case and be composed of three arbitrators with each Contracting State appointing one arbitrator, and the two arbitrators so chosen agreeing on a national from a third state as chairman who shall be appointed by the two Contracting States. The first two arbitrators shall be appointed within sixty days, and the chairman within the further period of thirty days, after one Contracting State has notified the other Contracting State through diplomatic channels that it will refer the dispute to an arbitral tribunal.

(3) If either of the Contracting States fails to designate its own arbitrator or if the chairman is not agreed upon by the arbitrators designated by the Contracting States within the respective periods referred to in paragraph (2) of this Article, 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 one 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 also prevented from acting, the senior judge of the International Court of Justice who is not prevented may be requested to make the appointments.

(4) The arbitral tribunal shall make its decision by majority vote. Its decisions shall be binding and final.

(5) Each Contracting State shall bear the cost for its arbitrator, as well as for its representation in the proceedings before the arbitral tribunal. The cost for the chairman as well as other expenses shall be shared equally between the Contracting States. However, the arbitral tribunal may make a different decision concerning the allocation of the cost.

(6) The arbitral tribunal shall establish its own rules of procedure.

#### Article 22

(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 and other legally relevant events occurring before its entry into force shall also be taken into account.

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

(4) Pensions determined before the entry into force of this Agreement shall be newly determined upon application if a change in the amount of the pensions results from the provisions of this Agreement.

#### Article 23

The Protocol attached to this Agreement shall form an integral part thereof.



Article 24

(1) This Agreement shall be ratified. The instruments of ratification shall be exchanged as soon as possible in Bonn.

(2) This Agreement shall enter into force on the first day of the second month following the month in which the instruments of ratification have been exchanged.

Article 25

(1) This Agreement shall remain in force indefinitely. However, either Contracting State may give to the other Contracting State, through diplomatic channels, written notice of termination of this Agreement. In such event, the 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 the provisions of paragraph (1) of this Article, rights regarding entitlement to and payment of benefits acquired under it shall be retained.

In witness whereof, the undersigned, being duly authorized thereto, have signed this Agreement.

Done at Tokyo on April 20, 1998, in duplicate in the Japanese, German and English languages, all three texts being authentic. In case of divergent interpretations of the Japanese and the German texts, the English text shall prevail.

For Japan

Keizo Obuchi

For the Federal Republic  
of Germany

Frank Elbe