

AGREEMENT BETWEEN
JAPAN AND THE KINGDOM OF THE NETHERLANDS
ON SOCIAL SECURITY

Japan and the Kingdom of the Netherlands,

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 term "the Netherlands" means the Kingdom of the Netherlands;
 - (b) The term "territory" means,

as regards Japan,
the territory of Japan,

as regards the Netherlands,
the territory of the Kingdom of the Netherlands
in Europe;
 - (c) The term "national" means,

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

as regards the Netherlands,
a person of the nationality of the Netherlands;
 - (d) The term "legislation" means,

as regards Japan,
the laws and regulations of Japan concerning the
Japanese pension systems and the Japanese health
insurance systems specified in paragraph 1 of
Article 2,

as regards the Netherlands,
the laws and regulations of the Netherlands
concerning the branches of social security
specified in paragraph 2 of Article 2;

(e) The term "competent authority" means,

as regards Japan,
any of the Governmental organizations competent
for the Japanese pension systems and the Japanese
health insurance systems specified in paragraph 1
of Article 2,

as regards the Netherlands,
the Minister of Social Affairs and Employment;

(f) The term "competent institution" means,

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

as regards the Netherlands,
the institutions responsible for the
implementation of the legislation of the
Netherlands;

(g) The term "period of coverage" means,

as regards Japan,
a period of contributions under the legislation
of Japan concerning the Japanese pension systems
specified in paragraph 1(a)(i) to (v) of Article
2, 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,

as regards the Netherlands,
a period of employment or self-employment, or a
period of residence, and a period treated as
such, under the legislation of the Netherlands;

- (h) 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

This Agreement shall apply,

1. as regards Japan,

(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, as amended:

- (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, 14 to 21, 26, 27, 30 (except for paragraph 3) and paragraph 2 of Article 32 shall only be applicable to the Japanese pension systems referred to in (a) of this paragraph; and

2. as regards the Netherlands, to the following branches of social security:

- (a) disablement benefit;
- (b) old-age benefit;
- (c) survivors' benefit;
- (d) child benefit;
- (e) sickness and maternity cash benefit;
- (f) sickness benefit in kind; and
- (g) unemployment benefit;

however, for the purpose of this Agreement, Articles 14 to 21, 26, 30 (except for paragraph 3) and paragraph 2 of Article 32 shall not be applicable to the branches of social security referred to in (d) to (g) of this paragraph, and Articles 5, 27 and paragraph 2 of Article 31 shall not be applicable to the branches of social security referred to in (d), (f) and (g) of this paragraph.

Article 3 Persons Covered

This Agreement shall apply to a person who is or has been subject to the legislation of a Contracting State, as well as family members or survivors 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. However, the foregoing shall not affect:

- (a) 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 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) the provisions of the Supplementary Benefits Act of 6 November, 1986, and of the Disablement Assistance Act for Handicapped Young Persons of 24 April, 1997, of the Netherlands.

2. Benefits under the legislation of a Contracting State shall be paid to nationals of the other Contracting State who ordinarily reside outside the territory of either Contracting State, under the same conditions as if they were nationals of the first Contracting 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 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 outside either Contracting State, to work in the territory of the other Contracting State, the 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 or the competent institutions of both Contracting States may agree that the employee remains subject only to the legislation of the first Contracting State.

3. A person who was already subject to the provisions of paragraph 1 of this Article shall not be subject again to those provisions, unless one year has elapsed since the end of the preceding detachment.

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 or the competent institutions of both Contracting States may agree that the self-employed person remains subject only to the legislation of the first Contracting State.

Article 8
Employees on Board a Sea-Going Vessel

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.

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 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 only to the legislation of one of the Contracting States.

Article 11
Accompanying Spouse and Children

The accompanying spouse or children of a person who works in the territory of the Netherlands and who is subject to the legislation of Japan in accordance with Article 7 (except paragraph 3), paragraph 2 of Article 9 or Article 10, shall be subject only to the legislation of Japan unless they are themselves employed or self-employed in the territory of the Netherlands.

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. Article 7 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 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 paragraph 1(a)(i) to (v) of Article 2.

Article 13
Residence in the Netherlands

A person who is subject to the legislation of the Netherlands in accordance with the provisions of Articles 6, 7 (except paragraph 3), 8, paragraph 2 of Article 9 and Article 10 shall be considered as residing in the territory of the Netherlands during the period for which that person is subject to the legislation of the Netherlands.

PART III
PROVISIONS CONCERNING BENEFITS

Chapter 1
Provisions concerning the Netherlands' Benefits

Article 14
Disablement Benefit

1. The competent institution of the Netherlands shall take into account, for the purpose of establishing entitlement to the Netherlands' disablement benefit, the periods of coverage under the legislation of Japan insofar as they do not coincide with the periods of coverage under the legislation of the Netherlands.

2. If a person specified in Article 3, was subject to the legislation of Japan at the time when incapacity for work followed by disability occurred and had previously completed a period of coverage of at least twelve months under the legislation of the Netherlands on disablement benefit for employed persons, that person shall be entitled to a benefit under the latter legislation, calculated in accordance with paragraphs 3 and 4 of this Article.

3. The amount of the benefit referred to in paragraph 2 of this Article shall be calculated according to the proportion of the periods of coverage which had been completed by a person under the legislation of the Netherlands on disablement benefit for employed persons after the age of 15 and before that person reached the age of 65, to the period between the date on which that person reached the age of 15 and the date of incapacity for work followed by disability, but at the latest the date on which that person reached the age of 65.

4. The periods of employment and periods treated as such completed in the Netherlands before 1 July, 1967 shall be considered as periods of coverage completed under the legislation of the Netherlands on disablement benefit for employed persons.

Article 15
Old-age Benefit

1. The competent institution of the Netherlands shall establish entitlement to and calculate the amount of the old-age benefit solely on the basis of the periods of coverage completed under the legislation of the Netherlands.

2. Subject to paragraph 3 of this Article, periods before January 1, 1957, during which a national of a Contracting State resided in the territory of the Netherlands after reaching the age of 15 or during which, while residing outside the territory of the Netherlands, the person was gainfully employed in the territory of the Netherlands shall also be considered as periods of coverage completed under the legislation of the Netherlands if the person does not satisfy the conditions of the legislation of the Netherlands permitting such periods to be treated for that person as periods of coverage completed under the legislation of the Netherlands.

3. The periods referred to in paragraph 2 of this Article shall be taken into consideration for calculation of the old-age benefit only if the person concerned has been insured under the Netherlands' Old Age Pensions Act, and has resided for at least 6 years in the territory of one or both of the Contracting States after reaching the age of 59 years, and only while the person is residing in the territory of either Contracting State. However, these periods shall not be taken into consideration if they coincide with periods taken into consideration for the calculation of an old-age benefit under the legislation other than that of the Netherlands.

Article 16 Survivors' Benefit

1. If a person specified in Article 3, was subject to the legislation of Japan at the time of his death and had previously completed a period of coverage of at least twelve months under the legislation of the Netherlands on survivors' benefit, his survivors shall be entitled to a benefit under the latter legislation, calculated in accordance with paragraph 2 of this Article.

2. The amount of the benefit referred to in paragraph 1 of this Article shall be calculated according to the proportion of the periods of coverage which had been completed by the deceased under legislation of the Netherlands on survivors' benefit after the age of 15 and before the deceased reached the age of 65, to the period between the date on which the deceased reached the age of 15 and the date of his death, but at the latest the date on which the deceased reached the age of 65.

Chapter 2
Provisions concerning Japanese Benefits

Article 17
Totalization

1. Where a person does not have sufficient periods of coverage to fulfill the requirement for entitlement to Japanese benefits, the competent institution of Japan shall take into account, for the purpose of establishing entitlement to those benefits under this Article, the periods of coverage under the legislation of the Netherlands insofar as they do not coincide with the periods of coverage under the legislation of Japan.

However, the foregoing 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.

2. In applying paragraph 1 of this Article, the periods of coverage under the legislation of the Netherlands 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.

Article 18
Special Provisions concerning Disability Benefits
and Survivors' Benefits

1. 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 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 the Netherlands.

However, 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 this Article, this Article 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.

2. 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.

Article 19 Calculation of the Amount of Benefits

1. Where entitlement to a Japanese benefit is established by virtue of paragraph 1 of Article 17 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 paragraph 1 of Article 17 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 under the legislation of the Netherlands.

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 paragraph 1 of Article 17 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 the periods of coverage and the periods of coverage under the legislation of the Netherlands. 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 the 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 paragraph 1 of Article 17, 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.

Article 20 Period of Coverage

In applying the provisions of Articles 17 to 19, notwithstanding of paragraph 1(g) of Article 1, periods of coverage which are credited under the legislation of the Netherlands solely on the basis of residence in the territory of the Netherlands shall not be taken into account.

Article 21 Exception to Article 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.

PART IV
MISCELLANEOUS PROVISIONS

Article 22
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 cooperation between the competent institutions of both Contracting States with regard to the payment abroad of benefits;
- (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 23
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 24
Communication

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

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.

Article 25
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 collected under its legislation 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 the provision of paragraph 1 of this Article to that Contracting State by the other Contracting State shall be used exclusively for the purpose of implementing this Agreement. Such information received by a Contracting State shall be governed by the laws and regulations of that Contracting State for the protection of confidentiality of personal data.

Article 26
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 27
Payment of Benefits

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

Article 28
Resolution of Disagreement

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

Article 29
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 30
Events and Decisions prior to the Entry into Force

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

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

5. 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.

Article 31 Entry into Force

1. 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.

2. The amount of benefits under the legislation of the Netherlands that should have been paid to the beneficiaries in Japan on and after January 1, 2006 under paragraph 1 of Article 5 if such paragraph had been applied on or before January 1, 2006, but have not been paid because of the restrictions by any domestic laws of the Netherlands, shall be retroactively paid to such beneficiaries.

Article 32 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 by their respective Governments, have signed this Agreement.

Done at The Hague on February 21, 2008 in duplicate in the English language.

For Japan:

Minoru Shibuya

For the Kingdom
of the Netherlands:

J.P.h D