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chapter R-9, r. 42

## **Regulation respecting the implementation of the Agreement on Social Security between the Gouvernement du Québec and the Government of the Eastern Republic of Uruguay**

### **An Act respecting the Québec Pension Plan**

(chapter R-9, s. 215)

### **Tax Administration Act**

(chapter A-6.002, ss. 9 and 96)

### **An Act respecting the Ministère de l'Emploi et de la Solidarité sociale and the Commission des partenaires du marché du travail**

(chapter M-15.001, s. 10)

**1.** The Act respecting the Québec Pension Plan (chapter R-9) and the regulations made thereunder shall apply to any person referred to in the Agreement on Social Security between the Gouvernement du Québec and the Government of the Eastern Republic of Uruguay, signed on 16 October 2001, and attached as Schedule I.

O.C. 1400-2001, s. 1.

**2.** That Act and those regulations shall apply in the manner stipulated in the Agreement and in the Administrative Arrangement for the application of the Agreement, attached as Schedule II.

O.C. 1400-2001, s. 2.

**3.** *(Omitted).*

O.C. 1400-2001, s. 3.

## **SCHEDULE I**

AGREEMENT ON SOCIAL SECURITY BETWEEN QUÉBEC AND URUGUAY

THE GOUVERNEMENT DU QUÉBEC

AND

THE GOVERNMENT OF THE EASTERN REPUBLIC OF URUGUAY

RESOLVED to guarantee to their respective nationals the advantages of the coordination of their social security statutes,

HAVE AGREED AS FOLLOWS :

### **TITLE I**

GENERAL

## **ARTICLE 1**

### DEFINITIONS

(1) In the Agreement, the following expressions shall mean :

- “competent authority” : for Québec, the Minister responsible for the application of the statutes referred to in Article 2 and for Uruguay, the Ministry of Labour and Social Security or the delegated institution ;
- “competent institution or managing agency” : for Québec, the department or agency responsible for the application of the statutes referred to in Article 2 and for Uruguay, the managing agency responsible for the application of the statutes referred to in Article 2 ;
- “statutes” : laws, regulations and statutory provisions respecting social security plans referred to in Article 2 ;
- “period of insurance” : for Québec, any year for which contributions have been paid or for which a disability pension has been paid under the Act respecting the Québec Pension Plan or any other year considered as equivalent ; and, for Uruguay, any period recognized as a period of insurance or considered as equivalent under its statutes ;
- “benefit” : any benefit in cash provided under the statutes of each contracting Party, including any extension, supplement, increase or indexing ; and
- “worker” : for Uruguay, any person who, by reason of his activity, for his own account or on behalf of another person, is or was subject to the statutes referred to in Article 2.

(2) Any term not defined in the Agreement shall be understood as having the meaning given to it in the applicable statutes.

## **ARTICLE 2**

### MATERIAL SCOPE

(1) The Agreement shall apply

(a) to the statutes of Québec concerning the Québec Pension Plan ;

(b) to the statutes of Uruguay concerning social security benefits resulting from contributions and covered by the pension plans, under the system of apportionment and individual capitalization.

(2) The Agreement shall also apply to any statutory or regulatory act which modifies, adds to or replaces the statutes referred to in paragraph 1.

(3) The Agreement shall also apply to statutory or regulatory provisions of a contracting Party which extends the existing plans to new categories of beneficiaries or to new benefits ; notwithstanding the preceding, that contracting Party may, within three months of the date of the official publication of those provisions, notify the other contracting Party that the Agreement shall not apply.

(4) The Agreement shall not apply to statutory or regulatory provisions which cover a new branch of social security, unless the Agreement is modified to that effect.

## **ARTICLE 3**

### PERSONAL SCOPE

The Agreement shall apply to any person who is subject to the statutes of a contracting Party or who has acquired rights under such statutes.

## **ARTICLE 4**

## EQUAL TREATMENT

For the application of the statutes of a contracting Party, persons referred to in Article 3 shall receive equal treatment with respect to the rights and obligations from those statutes.

### ARTICLE 5

#### EXPORT OF BENEFITS

(1) Unless otherwise provided in the Agreement, any benefit acquired under the statutes of a contracting Party or under the Agreement may not be reduced, modified, suspended or suppressed solely because persons entitled to it reside permanently or temporarily in the territory of the other contracting Party.

(2) Such benefit is payable in the territory of the other contracting Party or in the territory of a non-member country if the beneficiary so requests.

## TITLE II

### APPLICABLE STATUTES

#### ARTICLE 6

##### GENERAL RULE

Unless otherwise provided in the Agreement and subject to Articles 7, 8, 9 and 10, persons working in the territory of a contracting Party shall be subject only to the statutes of that Party.

#### ARTICLE 7

##### SECONDED PERSONS

(1) Persons subject to the statutes of a contracting Party and temporarily seconded by their employer, for a period not exceeding thirty-six months, to work in the territory of the other contracting Party shall, with respect to such work, be subject only to the statutes of the first contracting Party during the term of their secondment.

(2) Notwithstanding the preceding, if the time required to complete the work comes to exceed thirty-six months, the statutes of the first contracting Party may continue to apply for a maximum of twenty-four months, provided that the competent authorities or delegated institutions of the other contracting Party give their approval.

#### ARTICLE 8

##### CREW MEMBER EMPLOYED IN INTERNATIONAL MARITIME TRANSPORT

Persons working as crew members on a ship who, in the absence of this Agreement, will be subject to the Statutes of both contracting parties because of such work, shall, with respect to such work, be subject only to the statutes of Québec if those persons reside in Québec and carry out the work under the undertaking contract of the crew entered into with Canada, and only to the statutes of Uruguay if those persons reside or are hired in Uruguay. Where those circumstances do not apply, the employees shall remain subject only to the statutes of Uruguay if the ship sails under the Uruguayan flag.

#### ARTICLE 9

##### PERSONS IN GOVERNMENT SERVICE

(1) Persons in Government Service for one of the contracting Parties and assigned to a post in the territory of the other contracting Party shall be subject only to the statutes of the first contracting Party for all matters with respect to that post.

(2) No provision of the Agreement may be interpreted as being contrary to the provisions of the Vienna Convention on Diplomatic Relations of 18 April 1961, or to the provisions of the Vienna Convention on Consular Relations of 24 April 1963, relative to the statutes referred to in Article 2.

(3) Persons residing in the territory of a contracting Party and being in that territory in Government Service for the other contracting Party shall, with respect to that service, be subject only to the statutes that apply in that territory.

## **ARTICLE 10**

### **DEROGATION FROM THE PROVISIONS ON COVERAGE**

The competent authorities of both contracting Parties or the institutions delegated by those competent authorities may, by common agreement, derogate from the provisions of Articles 6, 7, 8 and 9 with respect to any persons or categories of persons.

## **TITLE III**

### **APPLICABLE BENEFITS**

## **ARTICLE 11**

### **TOTALIZATION OF PERIODS**

(1) When the statutes of a contracting Party require the completion of certain periods of insurance for entitlement to maintenance or recovery of the right to benefits, the periods completed under the statutes of the other contracting Party shall be totalized, if necessary, with the periods completed under the statutes of the first contracting Party, provided that overlapping periods are counted only once.

(2) For the application of paragraph 1, the competent institution of Québec shall proceed as follows :

(a) it shall recognize one year of contribution where the managing agency of Uruguay certifies that a period of insurance of at least 75 days in a calendar year has been credited in favour of those persons under the statutes of Uruguay, provided that the year is included in the contributory period defined in the statutes of Québec ;

(b) it shall totalize the years recognized under paragraph a with periods of insurance completed under the statutes of Québec.

(3) For the application of paragraph 1, the managing agency of Uruguay shall proceed in the following manner :

(a) it shall recognize 300 days of contribution under the statutes of Uruguay for each period of insurance certified by the competent institution of Québec ;

(b) it shall also recognize six days of contribution under the statutes of Uruguay, for each week of residence under the terms of the Old Age Security Act which applies in the territory of Québec, provided that such period does not overlap a period of insurance completed under the statutes of Québec ;

(c) it shall totalize the days recognized under subparagraphs a and b with periods of insurance completed under the statutes of Uruguay.

(4) If there is no entitlement to benefits after the totalization provided for in paragraph 2 or 3, the periods of insurance completed under the statutes of a third State that has, with each of the contracting Parties, a legal instrument on social security containing provisions on the totalization of periods of insurance shall be taken into account to determine if the person is entitled to benefits, in accordance with the terms and conditions covered by the Title.

## **ARTICLE 12**

### **BENEFITS UNDER THE STATUTES OF QUÉBEC**

(1) If persons who have been subject to the statutes of either contracting Party meet the requirements for entitlement to benefits, for themselves, for their dependants, survivors or other rightful claimants, under the statutes of Québec, without resorting to the totalization referred to in Article 11, the competent institution of Québec shall determine the amount of benefits in accordance with the provisions of the statutes it applies.

(2) When the totalization prescribed in Article 11 entitles persons to benefits, the competent institution of Québec shall determine the amount payable as follows :

(a) that part of the benefit which is related to earnings is calculated according to the provisions of the statutes of Québec ;

(b) the amount of the flat-rate portion of the benefit payable under the provisions of this Agreement shall be determined by multiplying

the amount of the flat-rate portion of the benefit determined under the provisions of the Québec Pension Plan

by

the fraction which represents the ratio of the periods of contribution to the Québec Pension Plan in relation to the contributory period as defined in statutes concerning the Plan.

## **ARTICLE 13**

### **BENEFITS UNDER THE STATUTES OF URUGUAY**

If persons have been subject successively or alternatively to the statutes of either contracting Parties, they shall be entitled to benefits, for themselves, for their dependants, survivors or other rightful claimants, under the statutes of Uruguay, in the following conditions :

#### **A. Individual Capitalization System**

(1) A worker associated with a savings fund administration company for social security (AFAP) will finance the benefits with the amount accumulated in its individual capitalization account ;

(2) Benefits granted by the capitalization plan will be added to the benefits charged to the apportionment plan when the worker meets the conditions established by the statutes in effect by applying, if necessary, the totalization of the periods of insurance ;

#### **B. Apportionment System**

(1) The managing agency of Uruguay shall determine the right and calculate the benefit by taking into account only the periods of insurance completed under the statutes of Uruguay ;

(2) The managing agency of Uruguay shall also determine the entitlement to benefits by applying the totalization provided for in Article 11. Where entitlement to benefits is acquired under the totalization, the following rules shall apply for the calculation of the amount to be paid :

(a) the managing agency shall determine the amount of benefits to which the person would be entitled if all the totalized periods had been completed under its own statutes (theoretical pension) ;

(b) then it establishes the amount of the benefits by applying to the theoretical pension, calculated under its statutes, the same proportion as that which exists between the period of insurance completed under the statutes of Uruguay and all the totalized periods (pension on a prorata basis) ;

(3) Once the rights are determined in accordance with the provisions of paragraphs 1 and 2, the managing agency shall grant and pay the benefit more favourable to the person notwithstanding the decision of the competent institution of Québec.

## **ARTICLE 14**

### **SPECIFIC CONDITIONS FOR ENTITLEMENT TO BENEFITS**

(1) If attributing benefits is conditional to the fact that persons had been subject to the statutes of Uruguay at the time where the event establishing entitlement to benefits occurs, that condition is considered met if, at the time, the persons are subject to the statutes of Québec, or reside in Québec under the Old Age Security Act or receive contributor benefits of the Québec Pension Plan or old age security pension.

The same principle applies to attributing survivor benefits for which the status of beneficiary of the person deceased under the statutes of Québec or retired under the Old Age Security Act is taken into account, if necessary.

(2) If, for attributing benefits, the statutes of Uruguay require that periods of contributions have been completed during a period determined immediately before the event for entitlement to benefits, that condition shall be considered met if those periods are included in the period of insurance of those persons under the statutes of Québec or in their period of residence under the terms of the Old Age Security Act.

(3) The provisions of the statutes related to beneficiaries who work shall apply even if that work is carried out in the territory of Québec.

## **ARTICLE 15**

### **PERIODS OF CONTRIBUTION TO SPECIAL OR SUPPLEMENTED PLANS**

(1) If the statutes submit the eligibility or attribution of certain benefits provided that periods of insurance have been completed in the practice of a profession that comes under a special or supplemented plan, or in the practice of a profession or a determined employment, the periods of insurance completed under the statutes of Québec shall be taken into account for attributing those benefits only if they were completed in the practice of the same profession or, where applicable, of an activity presenting similar characteristics.

(2) If, considering the periods thus completed, the interested person does not meet the conditions required to be entitled to benefits of the general plan or of another special or supplemented plan, those periods shall be taken into account for attributing benefits of the general plan or another special or supplemented plan from which the interested person could have acquired rights.

## **ARTICLE 16**

### **DETERMINATION OF ENTITLEMENT TO DEATH BENEFITS**

Where a person has completed periods of insurance under the statutes of each of the contracting Parties, entitlement to a death benefit shall be determined as follows :

(a) if a death benefit is payable under the statutes of Québec without having recourse to the totalization provided for in Article 11, only the competent institution of Québec is required to pay that benefit ;

(b) if the provisions of paragraph a do not apply, the competent institution of Québec and the managing agency of Uruguay shall determine entitlement to a death benefit in accordance with their respective statutes, by applying, if necessary, the totalization provided for in Article 11. If a right is then determined only under the statutes of a contracting Party, the competent institution or managing agency of that Party is required to pay that benefit.

Notwithstanding the foregoing, if after having applied the first sentence of paragraph b, there is entitlement under the statutes of each of the contracting Parties, only the agency or institution of the contracting Party under the statutes of which the beneficiary has contributed last is required to pay a death benefit.

## **TITLE IV**

## MISCELLANEOUS

### **ARTICLE 17**

#### ADMINISTRATIVE ARRANGEMENT

(1) The competent authorities of the two contracting Parties shall set out the terms and conditions for the application of the Agreement in an Administrative Arrangement.

(2) The liaison agencies of each contracting Party shall be designated in the Administrative Arrangement.

### **ARTICLE 18**

#### CLAIM FOR BENEFITS

(1) To be entitled to a benefit under the Agreement, a person shall file a claim in accordance with the terms and conditions provided for in the Administrative Arrangement.

(2) A claim for a benefit filed under the statutes of a contracting Party after the date of coming into force of this Agreement shall be deemed to be a claim under the statutes of the other contracting Party, provided that the claimant so indicates that he has completed the periods of insurance under the statutes of the other contracting Party.

The date of receipt of such a claim shall be deemed to be the date on which that claim was received by the other contracting Party. However, this shall not apply if the claimant expressly requests that the allocation of the benefit provided for by the statutes of the other contracting Party be deferred.

### **ARTICLE 19**

#### PAYMENT OF BENEFITS

(1) Benefits shall be payable directly to the person to whom they are owing, in the currency of the contracting Party making the payment or in the common currency of the place of residence of that person, without any deduction for administrative charges or for any other expenses incurred in paying the benefits.

(2) For the application of paragraph 1, when it is necessary to convert currency, the conversion rate shall be the rate of exchange in effect on the day payment is made.

### **ARTICLE 20**

#### DEADLINE FOR FILING

(1) A request, a declaration, an appeal or a claim which, under the statutes of a contracting Party, shall be filed within a prescribed time with the authority or institution of that contracting Party shall be accepted if filed within the same time period with the corresponding authority or institution of the other contracting Party. In such a case, the authority or institution of the second contracting Party shall forward immediately the request, declaration, appeal or claim to the authority or institution of the first contracting Party.

(2) The date on which the request, declaration, appeal or claim is filed with the authority or institution of a contracting Party shall be considered as the date of filing with the authority or institution of the other contracting Party.

### **ARTICLE 21**

#### MEDICAL REPORTS

(1) At the request of the competent institution of a contracting Party, the competent institution of the other contracting Party shall make the necessary arrangements to provide medical reports required for

persons residing or staying in the territory of the second contracting Party.

(2) The medical reports referred to in paragraph 1 shall not be considered invalid solely because they have been made in the territory of the other contracting Party.

## **ARTICLE 22**

### EXEMPTION FROM FEES AND AUTHENTICATION

(1) Any exemption from or reduction of fees provided for in the statutes of a contracting Party with respect to the issuing of a certificate or document required for the application of such statutes shall be extended to the certificates and documents required for the application of the statutes of the other contracting Party.

(2) Any document required for the application of the Agreement shall be exempt from authentication by diplomatic or consular authorities.

## **ARTICLE 23**

### PROTECTION OF PERSONAL INFORMATION

(1) In this Article, the word "information" shall mean any indication from which the identity of a natural or legal person can be easily established.

(2) Unless disclosure is required under the statutes of a contracting Party, any information communicated by an institution of a contracting Party to an institution of the other contracting Party shall be confidential and shall be used exclusively for the application of the Agreement.

(3) Access to a file containing information shall be subject to the statutes of the contracting Party on whose territory the file is located.

## **ARTICLE 24**

### MUTUAL ASSISTANCE

The competent authorities and institutions shall

- (a) communicate to each other any information required for the application of the Agreement ;
- (b) assist each other free of charge in any matter concerning the application of the Agreement, subject to the provisions of Article 21 ;
- (c) forward to each other any information on measures adopted for the application of the Agreement or on amendments to their statutes to the extent that such amendments affect the application of the Agreement ;
- (d) notify each other of the difficulties encountered in the interpretation or in the application of the Agreement.

## **ARTICLE 25**

### REIMBURSEMENT BETWEEN INSTITUTIONS

(1) The competent institution of a contracting Party shall reimburse to the competent institution of the other contracting Party the costs related to each expert's report produced in accordance with Article 21.

(2) The Administrative Arrangement shall provide for the terms and conditions of the reimbursement of costs referred to in paragraph 1.

## **ARTICLE 26**



## COMMUNICATION

The competent authorities and institutions and the liaison agencies of both contracting Parties may communicate with each other in their official language.

## ARTICLE 27

### SETTLEMENT OF DISPUTES

(1) Any dispute between the two contracting Parties concerning the interpretation or the application of the Agreement shall, as far as possible, be settled by the competent authorities.

(2) Questions not resolved as prescribed by paragraph 1 shall be the subject of consultation between the contracting Parties immediately at the request of a contracting Party.

(3) If a dispute between the contracting Parties concerning the interpretation of the Agreement cannot be resolved or settled by the consultation prescribed in paragraph 1 or 2, it shall be referred, at the request of one of the contracting Parties, to an arbitration board.

(4) Unless the contracting Parties decide otherwise by common agreement, the arbitration board shall be composed of three arbitrators, one appointed by each contracting Party and those two arbitrators shall appoint a third arbitrator, who shall act as chair.

(5) The arbitration board shall determine its own procedure.

(6) The decision of the arbitration board shall be final and binding on both contracting Parties.

## TITLE V

### TRANSITIONAL AND FINAL

## ARTICLE 28

### TRANSITIONAL PROVISIONS

(1) The Agreement shall not confer any right to the payment of benefits for a period preceding the date of its coming into force.

(2) For the application of Title III and subject to the provisions of paragraph 1 of this Article,

(a) a period of insurance completed prior to the date of coming into force of the Agreement shall be taken into consideration for the purposes of determining entitlement to benefits under the Agreement ;

(b) a benefit, other than a death benefit, is owing under the Agreement even if it is related to an event prior to the date of its coming into force ;

(c) when benefits are payable pursuant to Article 11 and when the claim for such benefits is filed within two years from the date of coming into force of the Agreement, rights arising from the Agreement shall be acquired

(i) from the date of coming into force of the Agreement if the event creating entitlement to benefits occurs before the date of coming into force ; or

(ii) from the date of the said event if it occurred after the date of coming into force of the Agreement ;

and this, notwithstanding the provisions of the statutes of both contracting Parties concerning the forfeiture of rights ;

(d) benefits granted before the date of coming into force of the Agreement shall be revised, at the request of the person concerned. If the revision leads to benefits lower than those paid before the coming into force of the Agreement, the amount of the benefits previously paid shall be maintained ;

(e) if a claim referred to in paragraph *d* is filed within two years of the date of coming into force of the Agreement, rights arising from the Agreement shall be acquired from that date, notwithstanding the provisions of the statutes of both contracting Parties concerning the forfeiture of rights ;

(f) if a claim referred to in paragraph *d* is filed after the expiry of the two-year period following the coming into force of the Agreement, rights which are not forfeited shall be acquired from the date of the claim, unless there are more favourable provisions in the applicable statutes.

## ARTICLE 29

### COMING INTO FORCE AND TERM OF THE AGREEMENT

(1) Each contracting Party shall notify the other when the internal procedures required for the coming into force of the Agreement have been completed.

(2) The Agreement shall be entered into for an indefinite term beginning with the date of its coming into force, which shall be set by an exchange of letters between the contracting Parties. It may be denounced by one of the contracting Parties by notifying the other contracting Party. The Agreement ends on 31 December which follows the date of notification by at least 12 months, subject to guaranteeing the rights acquired or under way of being acquired on the date on which the Agreement ends.

Given at Québec on 16 October 2001, in duplicate, in the French and Spanish languages, both texts being equally authentic.

For the Gouvernement  
du Québec

For the Government of  
the Eastern Republic of Uruguay

\_\_\_\_\_  
M. ANDRÉ BOULERICE,

\_\_\_\_\_  
M. JUAN MARIA FEDERICO

*Secretary of State for*

BOSCH INDART,

*Reception and Integration*

*Vice-Minister of Labour*

*of Immigrants*

*and of Social Security*

O.C. 1400-2001, Sch. I.

## ANNEXE II

### ADMINISTRATIVE ARRANGEMENT FOR THE APPLICATION OF THE AGREEMENT ON SOCIAL SECURITY BETWEEN QUÉBEC AND URUGUAY

#### ADMINISTRATIVE ARRANGEMENT

In accordance with paragraph 1 of Article 17 of the Agreement on Social Security entered into on 16 October 2001 between Québec and Uruguay, the competent authorities of the two contracting Parties have agreed on this Administrative Arrangement.

#### PART I

##### GENERAL PROVISIONS

##### ARTICLE 1

##### DEFINITIONS

(1) For the purposes of this Administrative Arrangement, the term "Agreement" shall mean the