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chapter R-9, r. 38

Regulation respecting the implementation of the Agreement on Social Security between the Gouvernement du Québec and the Government of the Republic of Slovenia

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 Republic of Slovenia, signed on 11 May 2000, and attached as Schedule I.

O.C. 30-2001, 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. 30-2001, s. 2.

3. *(Omitted).*

O.C. 30-2001, s. 3.

SCHEDULE I

(s. 1)

AGREEMENT ON SOCIAL SECURITY BETWEEN THE GOUVERNEMENT DU QUÉBEC AND THE GOVERNMENT OF THE REPUBLIC OF SLOVENIA

THE GOUVERNEMENT DU QUÉBEC

AND

THE GOVERNMENT OF THE REPUBLIC OF SLOVENIA

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

In the Agreement, unless a different meaning is indicated by the context, the following expressions shall mean :

"Slovenia" : the Republic of Slovenia ;

"competent authority" : the Minister of Québec or the Department of Slovenia responsible for the application of the statutes referred to in Article 2 ;

"competent institution" : the department or agency of Québec or the department or agency of Slovenia responsible for the administration of the statutes referred to in Article 2 ;

"statutes" : existing or future laws, regulations, statutory provisions and any other application measures concerning the branches and social security plans referred to in Article 2 ;

"period of insurance" : 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 Slovenia, any period for which contributions have been paid and special periods and any other period established or recognized as a period of insurance by the Slovene statutes ;

"basis of calculation for the pension" : the monthly average of wages or revenues, determined by the statutes of Slovenia, from which the pension is calculated ;

"benefit" : a pension, an annuity, an allowance, a lump-sum grant or any other benefit in cash provided under the statutes of each Party, including any extension, supplement or increase thereto ;

"national" : a person of Canadian citizenship who is subject to the statutes referred to in Article 2 1a or who has been subject to those statutes and has acquired rights under such statutes, or a person of Slovene citizenship,

and 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 Slovenia concerning pension insurance and disability insurance with the exception of the provisions applying to the benefits for reduced work ability.

2. The Agreement shall equally 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 a statutory or regulatory act of one Party which extends the existing systems to new categories of beneficiaries or to new benefits ; notwithstanding the preceding, that Party may, within three months of the date of the official publication of that act, notify the other Party that the Agreement shall not apply.

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

ARTICLE 3

PERSONAL SCOPE

Unless otherwise provided, the Agreement shall apply to any person who is subject to the statutes of a Party or who has acquired rights under such statutes.

ARTICLE 4

EQUAL TREATMENT

Unless otherwise provided in the Agreement, persons designated in Article 3 shall, in the application of the statutes of a Party, receive equal treatment in comparison with the nationals of that Party.

ARTICLE 5

EXPORT BENEFITS

1. Unless otherwise provided in the Agreement, any benefit acquired under the statutes of one Party, or under the Agreement, may not be reduced, modified, suspended, suppressed or confiscated solely as a result of the beneficiary residing in the territory of the other Party ; such benefit shall be payable in the territory of the other Party.

2. Benefits acquired under the statutes of one Party shall be payable to the citizens of the other Party residing in a third State under the same conditions as those that the first Party applies to its citizens residing in that third State.

3. As regards the statutes of Québec, paragraph 2 applies to any person referred to in Article 3.

4. Additional allowances, allowances for third persons and cash compensations payable under the Slovene statutes for disability are not exportable.

TITLE II

APPLICABLE STATUTES

ARTICLE 6

GENERAL RULE

Unless otherwise provided in the Agreement and subject to Articles 7, 8, 9, 10 and 11, persons working in the territory of a Party shall be subject only to the statutes of that Party.

ARTICLE 7

SELF-EMPLOYED PERSONS

Persons residing in the territory of one Party and working as self-employed persons in the territory of the other Party or in the territory of either Party shall, with respect to such work, be subject only to the statutes of their place of residence.

ARTICLE 8

DETACHED PERSONS

1. Persons subject to the statutes of one Party and temporarily detached by their employer, for a period not exceeding sixty months, to the territory of the other Party shall, with respect to such work, be subject only to the statutes of the first Party during the term of their detachment.

2. Notwithstanding the preceding, if the time required to complete the work comes to exceed sixty months, the statutes of the first Party may continue to apply provided that the competent institutions of

both Parties give their approval.

ARTICLE 9

TRAVELLING PERSONNEL EMPLOYED IN INTERNATIONAL TRANSPORT

1. Persons working in the territory of either Party as travelling personnel for an international carrier which, on behalf of others or on its own account, transports passengers or goods, by air or by sea, and which has its head office in the territory of one Party, shall, with respect to such work, be subject only to the statutes of the Party in whose territory the head office is located.
2. Notwithstanding the preceding, if those persons are employed by a branch or permanent agency which the undertaking has in the territory of one Party other than the Party in whose territory it has its head office, they shall, with respect to such work, be subject only to the statutes of the Party in whose territory the branch or permanent agency is located.
3. Notwithstanding paragraphs 1 and 2, if employees work mainly in the territory of the Party where they reside, they shall, with respect to such work, be subject to the statutes of that Party, even if the carrier which employs them has neither its head office nor a branch or permanent agency in that territory.

ARTICLE 10

PERSONS IN GOVERNMENT SERVICE

1. Persons in Government Service for one of the Parties and assigned to a post in the territory of the other Party shall be subject only to the statutes of the first Party for all matters with respect to that post.
2. Persons residing in the territory of one Party and being in that territory in Government Service for the other Party shall, with respect to that service, be subject only to the statutes that apply in that territory. Notwithstanding the preceding, if those persons are nationals of the Party by which they are employed, they may, within six months from the beginning of their employment or from the coming into force of the Agreement, choose to be subject to the statutes of the Party that employs them.

ARTICLE 11

DEROGATION FROM THE PROVISIONS ON COVERAGE

The competent authorities of both parties may, by common agreement, derogate from the provisions of Articles 6, 7, 8, 9 and 10 with respect to any persons or categories of persons.

TITLE III

BENEFITS

ARTICLE 12

APPLICABLE BENEFITS

1. This Title applies to all benefits referred to in the Act respecting the Québec Pension Plan.
2. This Title also applies to old age, disability and survivor benefits referred to in the statutes of Slovenia concerning pension and disability insurance.

ARTICLE 13

PRINCIPLE OF TOTALIZATION

1. When persons have completed periods of insurance under the statutes of either Party and are not eligible for benefits by virtue of the periods of insurance completed solely under the statutes of one Party, the competent institution of that Party shall totalize, to the extent necessary for the entitlement to benefits under the statutes it applies, the periods completed under its statutes and the periods of

insurance completed under the statutes of the other Party, provided that overlapping periods are counted only once.

2. If the total term of the creditable periods completed solely by persons under the statutes of one Party is less than one year and if the entitlement to benefits is not acquired under such statutes, the competent institution of that Party shall not be bound to award benefits to those persons with respect to the said periods.

ARTICLE 14

BENEFITS UNDER THE STATUTES OF QUÉBEC

1. When persons who have been subject to the statutes of either Party meet the requirements for entitlement to benefits, for themselves or for their dependants, survivors or other rightful claimants, under the statutes of Québec without resorting to the totalization mentioned in Article 13, the competent institution of Québec shall determine the amount of benefits in accordance with the provisions of the statutes it applies.

2. If the persons referred to in paragraph 1 do not fulfill the requirements for giving entitlement to benefits without totalization, the competent institution of Québec shall proceed as follows :

(a) it shall recognize one year of contribution if the competent institution of Slovenia certifies that a period of insurance of at least three months has been credited in a calendar year under the statutes of Slovenia, provided that the year is included in the contributory period defined in the statutes of Québec ;

(b) years recognized under subparagraph a shall be totalized with periods completed under the statutes of Québec, in accordance with Article 13.

3. When the totalization prescribed in paragraph 2 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 contributions to the Québec Pension Plan in relation to the contributory period as defined in the statutes regarding that Plan.

ARTICLE 15

BENEFITS UNDER THE STATUTES OF SLOVENIA

1. When persons who have been subject to the statutes of either Party meet the requirements for entitlement to benefits, for themselves or for surviving members of their family, under the statutes of Slovenia without resorting to the totalization mentioned in Article 13, the competent institution of Slovenia shall determine the amount of benefits in accordance with the provisions of the statutes it applies.

2. If the persons referred to in paragraph 1 do not fulfill the requirements for giving entitlement to benefits without totalization, the competent institution of Slovenia shall proceed as follows :

(a) for the purposes of giving entitlement to old age, disability or survivors' pension,

(i) it shall recognize twelve months as a period of insurance according to the statutes of Slovenia for any calendar year certified as a period of insurance by the competent institution of Québec ;

(ii) the months recognized under clause i of subparagraph a shall be totaled with the period of insurance completed under the statutes of Slovenia, in accordance with Article 13 ;

(b) where entitlement to an old age pension is not acquired with the application of clauses i and ii of subparagraph a,

(i) it shall recognize one month as a period of insurance according to the statutes of Slovenia for each month of residence within the meaning of the Old Age Security Act which applies in the territory of Québec, provided that that month is not part of a period of insurance completed under the statutes of Québec ;

(ii) the periods recognized under clause i of subparagraph a and clause i of subparagraph b shall be totaled with the period of insurance completed under the statutes of Slovenia, in accordance with Article 13.

3. Where only the totalization prescribed in paragraph 2 entitles persons to benefits, the competent institution of Slovenia shall determine the amount of the benefits in the following manner :

(a) it shall first determine the theoretical amount of the benefit it would have to pay as if all the periods of insurance had been completed under its statutes ;

(b) it shall calculate the real amount to be paid by multiplying the theoretical amount of the benefit by the fraction expressing the ratio between the period of insurance completed under the statutes of Slovenia and the total periods of insurance completed under the statutes of both Parties ;

(c) for the purposes of subparagraph a, only the period of insurance completed under the statutes of Slovenia shall be taken into account to determine the basis of calculation of the pension ;

(d) as regards subparagraph b, if the total term of the periods of insurance exceeds the maximum period necessary under the statutes of Slovenia, the partial payable amount must be calculated in accordance with the ratio between the period of insurance completed under the statutes of Slovenia and the maximum period covered by the said statutes.

ARTICLE 16

PERIODS COMPLETED UNDER THE STATUTES OF THIRD PARTIES

1. Where the national of either Party is not entitled to benefits after the totalization provided for in Article 14 or 15, the periods of insurance completed under the statutes of a third party bound to each Party by 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 of calculation provided for in Article 14 or Article 15.

2. The benefit payable under the Slovene statutes shall be calculated in accordance with the terms and conditions prescribed in Article 15 by using the fraction that expresses the ratio between the period of insurance completed under the statutes of Slovenia and the total of periods of insurance taken into account.

TITLE IV

MISCELLANEOUS

ARTICLE 17

ADMINISTRATIVE ARRANGEMENT

1. The terms and conditions for the application of the Agreement shall be set out in an Administrative Arrangement to be agreed to by the competent authorities.

2. The liaison agency of each 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 one Party after the coming into force of the Agreement shall be deemed to be a claim for a corresponding benefit under the statutes of the other Party :
 - (a) when a person asks that the claim be considered as a claim under the statutes of the other Party ; or
 - (b) when a person indicates, at the time of the claim, that periods of insurance have been completed under the statutes of the other Party.

The date of receipt of such a claim shall be deemed to be the date on which that claim was received in accordance with the statutes of the first Party.

3. Notwithstanding paragraph 2, a person may request that a claim for benefits under the statutes of the other Party be deferred.

ARTICLE 19

PAYMENT OF BENEFITS

1. All benefits under the statutes of Québec shall be payable directly to the beneficiary in Canadian currency or in a convertible currency in the place of residence of the beneficiary, without any deduction for administrative charges or for any other expenses incurred in paying the benefits.
2. Benefits under the statutes of Slovenia shall be payable directly to the beneficiary in the currency of the place of residence of the beneficiary or in any other currency that is convertible therein, without any deduction for administrative charges or for any other expenses incurred in paying the benefits.
3. For the purposes of paragraphs 1 and 2, when it is necessary to use a conversion rate, that 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 or an appeal which, under the statutes of one Party, shall be filed within a prescribed time with the authority or institution of that Party shall be accepted if filed within the same time period with the corresponding authority or institution of the other Party. In such a case, the authority or institution of the second Party shall forward immediately the request, declaration or appeal to the authority or institution of the first Party.
2. The date on which the request, declaration or appeal is filed with the authority or institution of one Party shall be considered as the date of filing with the authority or institution of the other Party.

ARTICLE 21

EXPERTS' REPORTS

1. At the request of the competent institution of one Party, the competent institution of the other Party shall make the necessary arrangements to provide experts' reports required for persons residing or staying in the territory of the latter Party.
2. The experts' reports referred to in paragraph 1 shall not be refused solely on the basis that they have been made in the territory of the other Party.

ARTICLE 22

EXEMPTION OF FEES AND AUTHENTICATION

1. Any exemption from or reduction of fees provided for in the statutes of one 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 Party.
2. Any document required for the application of the Agreement shall be exempt from authentication by diplomatic or consular authorities or from any similar formality.

ARTICLE 23

PROTECTION OF PERSONAL INFORMATION

1. In this Article, the word 'information' shall mean any indication from which the identity of an individual or legal entity can be easily established.
2. Unless disclosure is required under the statutes and regulations of one Party, any information communicated by an institution of one Party to an institution of the other 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 one 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 ;
- (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 one Party shall reimburse to the competent institution of the other Party the costs related to each expert's report produced in accordance with Article 21. Notwithstanding the preceding, the transmission of medical information or other information already in the possession of the competent institutions shall constitute an integral part of administrative assistance and shall be performed without charge.
2. The Administrative Arrangement shall provide for the terms and conditions of the reimbursement of costs referred to in paragraph 1.

ARTICLE 26

COMMUNICATION

1. The competent authorities and institutions and the liaison agencies of both Parties may communicate

with each other in their official language.

2. A decision of a tribunal or of an institution may be communicated directly to a person residing in the territory of the other Party.

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 Parties immediately at the request of one Party.

3. If a dispute between the 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 a conciliation commission.

4. Unless the contracting Parties decide otherwise by common agreement, the conciliation commission shall be composed of three conciliators, one appointed by each contracting Party and those two conciliators shall appoint a third conciliator, who shall act as president.

5. The conciliation commission shall determine its own procedure.

6. The conciliation commission shall study the dispute and try to conciliate the Parties by submitting recommendations likely to settle it. The statutes of Slovenia and Québec should be consulted for guidance in this respect.

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 :

(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 the death benefit, is due under the Agreement even if it is related to an event prior to the date of its coming into force ;

(c) benefits acquired pursuant to Article 13 shall be payable from the date of coming into force of the Agreement, or from the date of retirement, death or disability as confirmed by a medical practitioner, if it comes after, provided that the claim for benefits be filed within two years of the date of coming into force of the Agreement, notwithstanding the provisions of the statutes of either Party relative to the forfeiture of rights ;

(d) a benefit which, on account of nationality or residence, has been refused, reduced or suspended shall, at the request of the person in question, be granted or re-established from the date of coming into force of the Agreement ;

(e) benefits granted before the date of coming into force of the Agreement shall be revised, at the request of the person in question. It may also be revised *ex officio*. If the revision leads to benefits lower than those that were paid before the coming into force of the Agreement, the amount of benefits

previously paid shall be maintained ;

(f) if a request referred to in subparagraphs *d* and *e* 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 either Party relative to the forfeiture of rights ;

(g) if a request referred to in subparagraphs *d* and *e* is filed after the limit of two years following the coming into force of the Agreement, rights which are not forfeited shall be acquired from the date of the request, unless there are more favourable provisions in the applicable statutes.

3. For the purposes of Article 8, a person who was detached on the date of coming into force of the Agreement shall be deemed to have become detached on that date.

ARTICLE 29

COMING INTO FORCE AND TERM

1. The Agreement shall come into force on the first day of the fourth month after each Party has notified the other Party that all internal legal procedures required for the coming into force of the Agreement have been completed.

2. The Agreement shall be entered into for an indefinite term. It may be denounced at any time by either Party by a twelve-month prior notice in writing to the other Party, in which case the Agreement shall expire on the last day of that period.

3. If the Agreement is terminated, all rights acquired by a person under the provisions of the Agreement shall remain in effect, and negotiations shall be undertaken in order to settle any rights in the process of being acquired under the Agreement.

Given at Québec on 11 May 2000, in duplicate, in the French and Slovene languages, both texts being equally authentic.

For the Gouvernement

For the Government of the

du Québec

Republique of Slovenia

MME RAYMONDE,

M. BOZO CERAR

SAINT-GERMAIN

O.C. 30-2001, Sch. I.

SCHEDULE II

(s. 2)

ADMINISTRATIVE ARRANGEMENT FOR THE APPLICATION OF THE AGREEMENT ON SOCIAL SECURITY

BETWEEN

THE GOUVERNEMENT DU QUÉBEC

AND

THE GOVERNMENT OF THE REPUBLIC OF SLOVENIA

Considering Article 17 of the Agreement on Social Security between the Gouvernement du Québec and the Government of the Republic of Slovenia,