

Agreement on Social Security Between Canada and the Republic of Latvia

E105040

CANADA AND THE REPUBLIC OF LATVIA, hereinafter referred to as "the Parties",

RESOLVED to co-operate in the field of social security,

HAVE DECIDED to conclude an agreement for this purpose, and

HAVE AGREED AS FOLLOWS:

Part I - General Provisions

Article 1 - Definitions

1. For the purposes of this Agreement:

"benefit" means, as regards a Party, any pension or other cash benefit for which provision is made in the legislation of that Party and includes any supplements or increases applicable to such a pension or cash benefit;

"competent authority" means, as regards the Republic of Latvia, the Ministry responsible for the application of the legislation of the Republic of Latvia; and, as regards Canada, the Minister or Ministers responsible for the application of the legislation of Canada;

"competent institution" means, as regards the Republic of Latvia, the institution which is responsible for providing benefits under the applicable legislation; and, as regards Canada, the competent authority;

"creditable period" means, as regards a Party, a period of contributions or residence used to acquire the right to a benefit under the legislation of that Party; and, as regards the Republic of Latvia, it also means a period deemed under the legislation of the Republic of Latvia as equivalent to an insurance period; and, as regards Canada, a period during which a disability pension is payable under the *Canada Pension Plan*;

"legislation" means, as regards a Party, the laws and regulations specified in Article 2 with respect to that Party;

"residence" and "resides" mean, as regards the Republic of Latvia, that a person has his or her place of residence in the territory of the Republic of Latvia, including a person who has a temporary or permanent residence permit to stay in the Republic of Latvia, and shall be deemed equivalent to permanent residence.

2. Any term not defined in this Article has the meaning assigned to it in the applicable legislation.

Article 2 - Legislation to Which the Agreement Applies

1. This Agreement shall apply to the following legislation:

a. with respect to the Republic of Latvia:

i. the *Act on State Social Insurance*;

ii. the *Act on State Pensions*;

iii. the *Act on State Funded Pensions*; and

iv. the *Act on State Social Benefits*, but only to the extent that it applies to the state social security benefit;

b. with respect to Canada:

i. the *Old Age Security Act* and the regulations made thereunder; and

- ii. the *Canada Pension Plan* and the regulations made thereunder.
2. Subject to paragraph 3, this Agreement shall also apply to laws and regulations which amend, supplement, consolidate or supersede the legislation specified in paragraph 1.
3. This Agreement shall further apply to laws and regulations which extend the legislation of a Party to new categories of beneficiaries or to new benefits unless an objection on the Part of the competent authority of that Party has been communicated to the competent authority of the other Party not later than 3 months following the entry into force of such laws and regulations.

Article 3 - Persons to Whom the Agreement Applies

This Agreement shall apply to:

- a. any person who is or who has been subject to the legislation of the Republic of Latvia or Canada; and
- b. any other person who derives rights under the legislation of a Party from a person described in sub-paragraph (a).

Article 4 - Equality of Treatment

1. Subject to paragraph 2, any person who is or has been subject to the legislation of a Party, and any other person who derives rights under the legislation of that Party from that person, shall be subject to the obligations of the legislation of the other Party and shall be eligible for the benefits of that legislation under the same conditions as nationals of the latter Party.
2. Paragraph 1 shall not apply to the transitional provisions of the *Act on State Pensions* of the Republic of Latvia regarding creditable periods accumulated prior to 1 January 1991 outside the Republic of Latvia.

Article 5 - Export of Benefits

1. Unless otherwise provided in this Agreement, a benefit payable under the legislation of a Party to a person described in Article 3, including a benefit acquired by virtue of this Agreement, shall not be subject to any reduction, modification, suspension, cancellation or confiscation by reason only of the fact that the person resides in the territory of the other Party, and that benefit shall be paid when that person is in the territory of the other Party.
2. A benefit under the legislation of a Party shall be paid to a person described in Article 3 who is in a third State under the same conditions and in the same amount as to a national of that Party who is in that third State.

Part II - Provisions Concerning the Applicable Legislation

Article 6 - General Rules for Employed and Self-Employed Persons

1. Subject to Articles 7 to 9:
 - a. an employed person who works in the territory of a Party shall, in respect of that work, be subject only to the legislation of that Party;
 - b. a self-employed person who resides in the territory of a Party and who carries out his or her self-employment in the territory of the other Party or in the territories of both Parties shall, in respect of that self-employment, be subject only to the legislation of the first Party.
2. In the application of paragraph 1, if a person is subject to the legislation of a Party, that person and, as applicable, the employer of that person shall be required to pay contributions only under the legislation of that Party from the first day of the employment or self-employment and shall not be required to pay contributions in regard to that employment or self-employment under the

legislation of the other Party.

Article 7 - Detachments

An employed person who is subject to the legislation of a Party in respect of employment by an employer who has a place of business in the territory of that Party, and who is sent by his or her employer to work in the territory of the other Party for the same or a related employer shall, in respect of that work, be subject only to the legislation of the first Party as though that work were performed in its territory. This coverage may not be maintained for more than 60 months without the prior consent of the competent authorities of both Parties.

Article 8 - Employment by Diplomatic and Consular Missions

1. Notwithstanding any provision of this Agreement, the provisions regarding social security of the Vienna Convention on Diplomatic Relations of 18 April 1961 and the Vienna Convention on Consular Relations of 24 April 1963 shall continue to apply.
2. A person who resides in the territory of a Party and who is employed therein by a diplomatic or consular mission of the other Party shall, in respect of that employment, be subject only to the legislation of the first Party. However, if that person has, prior to the start of that employment, made contributions under the legislation of the employing Party, he or she may, within 6 months of the start of that employment, or the entry-into-force of this Agreement, whichever is later, choose to be subject only to the legislation of the latter Party.

Article 9 - Exceptions to Articles 6 to 8

The competent authorities of the Parties may, by common agreement, make exceptions to the provisions of Articles 6 to 8 with respect to any person or categories of persons.

Article 10 - Definition of Certain Periods of Residence with Respect to the Legislation of Canada

1. For the purpose of calculating the amount of benefits under the *Old Age Security Act*:
 - a. if a person is subject to the *Canada Pension Plan* or to the comprehensive pension plan of a province of Canada during any period of presence or residence in the Republic of Latvia, that period shall be considered as a period of residence in Canada for that person as well as for his or her spouse or common-law Partner and dependants who reside with him or her in the Republic of Latvia, and who are not subject to the legislation of the Republic of Latvia by reason of employment or self-employment;
 - b. if a person is subject to the legislation of the Republic of Latvia during any period of presence or residence in Canada, that period shall not be considered as a period of residence in Canada for that person nor for his or her spouse or common-law Partner and dependants who reside with him or her in Canada, and who are not subject to the *Canada Pension Plan* or to the comprehensive pension plan of a province of Canada by reason of employment or self-employment.
2. In the application of paragraph 1:
 - a. a person shall be considered to be subject to the *Canada Pension Plan* or to the comprehensive pension plan of a province of Canada during a period of presence or residence in the Republic of Latvia only if that person makes contributions pursuant to the plan concerned during that period by reason of employment or self-employment;
 - b. a person shall be considered to be subject to the legislation of the Republic of Latvia during a period of presence or residence in Canada only if that person or that person's employer makes contributions pursuant to legislation of the Republic of Latvia during that period by reason of employment or self-employment.

Part III - Provisions Concerning Benefits

Chapter 1 - Totalizing

Article 11 - Periods under the Legislation of the Republic of Latvia and Canada

1. Unless otherwise provided in this Agreement, if a person is not eligible for a benefit because he or she has not accumulated sufficient creditable periods under the legislation of a Party, the eligibility of that person for that benefit shall be determined by totalizing these periods and those specified in paragraphs 2 through 5, provided the periods do not overlap.
2.
 - a. For purposes of determining eligibility for a benefit under the *Old Age Security Act* of Canada, a creditable period under the legislation of the Republic of Latvia shall be considered as a period of residence in Canada.
 - b. For purposes of determining eligibility for a benefit under the *Canada Pension Plan*, a calendar year which is a creditable period under the legislation of the Republic of Latvia shall be considered as a year which is creditable under the *Canada Pension Plan*.
3. For purposes of determining eligibility for an old age pension under the *Act on State Pensions* of the Republic of Latvia:
 - a. a calendar year which is a creditable period under the *Canada Pension Plan* shall be considered as a year which is creditable under the legislation of the Republic of Latvia;
 - b. a period which is creditable under the *Old Age Security Act* of Canada and which is not Part of a creditable period under the *Canada Pension Plan* shall be considered as a creditable period under the legislation of the Republic of Latvia.
4. For purposes of determining eligibility for a disability or survivor's pension under the *Act on State Pensions* of the Republic of Latvia, a calendar year which is a creditable period under the *Canada Pension Plan* shall be considered as a year which is creditable under the legislation of the Republic of Latvia.
5. For purposes of determining eligibility for a state social security benefit under the *Act on State Social Benefits* of the Republic of Latvia, a calendar year of residence in Canada shall be considered as a creditable period under the legislation of the Republic of Latvia, provided that:
 - a. in the case of a benefit for old age or disability, the person concerned has resided in the Republic of Latvia for the 12 continuous months immediately before claiming the benefit; and
 - b. in the case of a benefit for a survivor, the deceased breadwinner has resided in the Republic of Latvia for the 12 continuous months immediately before his or her death.

Article 12 - Minimum Period to be Totalized

Notwithstanding any other provision of this Agreement, if the total duration of the creditable periods accumulated by a person under the legislation of a Party is less than one year and if, taking into account only those periods, no right to a benefit exists under the legislation of that Party, the competent institution of that Party shall not be required to pay a benefit to that person in respect of those periods by virtue of this Agreement.

Chapter 2 - Benefits Under the Legislation of Canada

Article 13 - Benefits under the *Old Age Security Act*

1. If a person is eligible for a pension or allowance under the *Old Age Security Act* solely through the application of the totalizing provisions of Chapter 1, the competent institution of Canada shall calculate the amount of the pension or allowance payable to that person in conformity with the provisions of that Act governing the payment of a Partial pension or allowance, exclusively on the

- basis of the periods of residence in Canada which may be considered under that Act.
2. Paragraph 1 shall also apply to a person outside Canada who would be eligible for a full pension in Canada but who has not resided in Canada for the minimum period required by the *Old Age Security Act* for the payment of a pension outside Canada.
 3. Notwithstanding any other provision of this Agreement:
 - a. an Old Age Security pension shall be paid to a person who is outside Canada only if that person's periods of residence, when totalized as provided in Chapter 1, are at least equal to the minimum period of residence in Canada required by the *Old Age Security Act* for the payment of a pension outside Canada;
 - b. an allowance and a guaranteed income supplement under the *Old Age Security Act* shall be paid to a person who is outside Canada only to the extent permitted by that Act.

Article 14 - Benefits under the *Canada Pension Plan*

If a person is eligible for a benefit under the *Canada Pension Plan* solely through the application of the totalizing provisions of Chapter 1, the competent institution of Canada shall calculate the amount of benefit payable to that person in the following manner:

- a. the earnings-related portion of the benefit shall be determined in conformity with the provisions of the *Canada Pension Plan*, exclusively on the basis of the pensionable earnings under that Plan;
- b. the flat-rate portion of the benefit shall be determined by multiplying:
 - i. the amount of the flat-rate portion of the benefit determined in conformity with the provisions of the *Canada Pension Plan*

by
 - ii. the fraction which represents the ratio of the periods of contributions to the *Canada Pension Plan* in relation to the minimum qualifying period required under that Plan to establish eligibility for that benefit, but in no case shall that fraction exceed the value of one.

Chapter 3 - Benefits Under the Legislation of the Republic of Latvia

Article 15 - Calculating the Amount of Benefit Payable

1. If, under the legislation of the Republic of Latvia, the conditions for eligibility for a benefit are met without the need to take into account creditable periods accumulated under the legislation of Canada, the competent institution of the Republic of Latvia shall determine the amount of that benefit exclusively on the basis of the creditable periods accumulated under its legislation.
2. If, under the legislation of the Republic of Latvia, eligibility for a benefit can be established only through the application of the totalizing provisions of Chapter 1, the competent institution of the Republic of Latvia:
 - a. shall calculate the theoretical amount of the benefit which would be paid if the totalized creditable periods had been accumulated under the legislation of the Republic of Latvia alone; and
 - b. on the basis of the theoretical amount calculated in accordance with sub-paragraph (a), shall determine the amount of benefit payable by applying the ratio of the length of the creditable periods accumulated under the legislation of the Republic of Latvia to the totalized creditable periods.

Article 16 - Entitlement and Payment of Benefits

1. A person described in Article 3 who resides in Canada shall be entitled to benefits under the *Act on State Pensions* and the *Act on State Funded Pensions* under the same terms and conditions as

if that person were residing in the Republic of Latvia.

2. When applying the transitional provisions of the *Act on State Pensions* regarding creditable periods accumulated prior to 1 January 1991 outside the Republic of Latvia, the competent institution of the Republic of Latvia shall not take into account any period which is creditable under the legislation of Canada.
3. Notwithstanding any other provision of this Agreement, benefits under the *Act on State Social Benefits* shall be paid to a person who is outside the Republic of Latvia only to the extent permitted by that Act.

Part IV - Administrative and Miscellaneous Provisions

Article 17 - Administrative Arrangement

1. The competent authorities of the Parties shall establish, by means of an administrative arrangement, the measures necessary for the application of this Agreement.
2. The liaison agencies of the Parties shall be designated in that arrangement.

Article 18 - Exchange of Information and Mutual Assistance

1. The competent authorities and institutions responsible for the application of this Agreement:
 - a. shall, to the extent permitted by the legislation which they administer, communicate to each other any information necessary for the application of this Agreement or the legislation to which it applies;
 - b. shall lend their good offices and furnish assistance to one another for the purpose of determining eligibility for, or the amount of, any benefit under this Agreement, or under the legislation to which this Agreement applies, as if the matter involved the application of their own legislation;
 - c. shall communicate to each other, as soon as possible, all information about the measures taken by them for the application of this Agreement or about changes in their respective legislation in so far as these changes affect the application of this Agreement.
2. The assistance referred to in sub-paragraph 1(b) shall be provided free of charge, subject to any provision contained in an administrative arrangement concluded pursuant to Article 17 for the reimbursement of certain types of expenses.
3. Unless disclosure is required under the laws of a Party, any information about a person which is transmitted in accordance with this Agreement to that Party by the other Party is confidential and shall be used only for purposes of implementing this Agreement and the legislation to which it applies.

Article 19 - Exemption of Taxes and Charges

Any exemption from or reduction of taxes, legal dues, consular fees and administrative charges for which provision is made in the legislation of a Party in connection with the issuing of any certificate or document required to be produced for the application of that legislation shall be extended to certificates or documents required to be produced for the application of the legislation of the other Party.

1. Any documents of an official nature required to be produced for the application of this Agreement shall be exempt from any authentication by diplomatic or consular authorities and similar formality.

Article 20 - Language of Communication

For the application of this Agreement, the competent authorities and institutions of the Parties may

communicate directly with one another in any official language of either Party.

Article 21 - Submitting a Claim, Notice or Appeal

1. Claims, notices and appeals concerning eligibility for, or the amount of, a benefit under the legislation of a Party which should, for the purposes of that legislation, have been presented within a prescribed period to a competent authority or institution of that Party, but which are presented within the same period to an authority or institution of the other Party, shall be treated as if they had been presented to the competent authority or institution of the first Party. The date of presentation of claims, notices and appeals to the authority or institution of the other Party shall be deemed to be the date of their presentation to the competent authority or institution of the first Party.
2. Subject to the second sentence of this paragraph, a claim for a benefit under the legislation of a Party made after the date of entry into force of this Agreement shall be deemed to be a claim for the corresponding benefit under the legislation of the other Party, provided that the applicant at the time of application:
 - a. requests that it be considered an application under the legislation of the other Party; or
 - b. provides information indicating that creditable periods have been completed under the legislation of the other Party.

The preceding sentence shall not apply if the applicant requests that his or her claim to the benefit under the legislation of the other Party be delayed.

3. In any case to which paragraph 1 or 2 applies, the authority or institution to which the claim, notice or appeal has been submitted shall transmit it without delay to the authority or institution of the other Party.

Article 22 - Payment of Benefits

1. The competent institution of a Party shall discharge its obligations under this Agreement in the currency of that Party.
2. The competent institutions of the Parties shall pay their benefits under this Agreement without any deduction for their administrative expenses.
3. Where a person who is in the territory of a Party is receiving a benefit under the legislation of the other Party, that benefit shall be paid by whatever method the competent institution of the latter Party deems appropriate.

Article 23 - Resolution of Difficulties

1. The competent authorities of the Parties shall resolve, to the extent possible, any difficulties which arise in interpreting or applying this Agreement according to its spirit and fundamental principles.
2. The Parties shall consult promptly at the request of either Party concerning matters which have not been resolved by the competent authorities in accordance with paragraph 1.

Article 24 - Understandings with a Province of Canada

The relevant authority of the Republic of Latvia and a province of Canada may conclude understandings concerning any social security matter within provincial jurisdiction in Canada in so far as those understandings are not inconsistent with the provisions of this Agreement.

Part V - Transitional and Final Provisions

Article 25 - Transitional Provisions

1. This Agreement shall not confer any right to receive payment of a benefit for any period before the date of entry into force of this Agreement.
2. When determining the right to a benefit or the amount of a benefit under this Agreement, any creditable period completed before the entry into force of this Agreement shall be taken into account.
3. Subject to paragraph 1, a benefit, other than a lump sum benefit, shall be paid under this Agreement in respect of events which happened before the date of entry into force of this Agreement.
4. Benefits granted before the entry into force of this Agreement may, upon application by the beneficiary, be recalculated in accordance with the provisions of this Agreement. In no case shall such a recalculation result in any reduction in the amount of a benefit.

Article 26 - Duration and Termination

1. This Agreement shall remain in force without any limitation on its duration. It may be terminated at any time by either Party giving written notice of termination through the diplomatic channel to the other Party; in such a case, the termination shall take effect on the first day of the thirteenth month following the final day of the month in which the first Party has delivered a written notice to the other Party.
2. In the event of the termination of this Agreement, any right acquired by a person in accordance with its provisions shall be maintained and negotiations shall take place for the settlement of any rights then in course of acquisition by virtue of those provisions.

Article 27 - Entry into Force

This Agreement shall enter into force on the first day of the fourth month following the final day of the month in which the Parties shall have exchanged written notices through the diplomatic channel confirming that their respective legal requirements for the entry into force of this Agreement have been completed. The date of the exchange of the written notices shall be the date of the delivery of the last notice.

IN WITNESS WHEREOF, the undersigned, being duly authorized thereto by their respective Governments, have signed this Agreement.

DONE in duplicate at Riga, this 29th day of June 2005, in the English, French and Latvian languages, each text being equally authentic.

Robert F. Andrigo
For Canada

Dagnija Stake
For the Republic of Latvia.