

AGREEMENT ON SOCIAL SECURITY
BETWEEN THE GOVERNMENT OF JAPAN
AND THE GOVERNMENT OF THE PEOPLE'S REPUBLIC OF CHINA

The Government of Japan and the Government of the People's Republic of China,

Aiming to further develop the friendly relations between Japan and the People's Republic of China (hereinafter referred to as "the Contracting Parties") and,

Being desirous of advancing their mutual cooperation 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) "national" means,

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

as regards the People's Republic of China,
any individual possessing the nationality of the People's Republic of China;

(b) "legislation" means,

as regards Japan,
the laws and regulations of Japan concerning the Japanese pension systems specified in paragraph 1(b) of Article 2,

as regards the People's Republic of China,
the laws, the administrative, ministerial and local rules and regulations and other legal provisions concerning the social insurance system specified in paragraph 1(a) of Article 2;

(c) "competent authority" means,
as regards Japan,
any of the Governmental organizations competent
for the Japanese pension systems specified in
paragraph 1(b) of Article 2,
as regards the People's Republic of China,
the Ministry of Human Resources and Social
Security;

(d) "competent institution" means,
as regards Japan,
any of the insurance institutions, or any
association thereof, responsible for the
implementation of the Japanese pension systems
specified in paragraph 1(b) of Article 2,
as regards the People's Republic of China,
the Social Insurance Administration of the
Ministry of Human Resources and Social Security
or other bodies designated by the said Ministry.

2. For the purpose of this Agreement, any term not defined in this Agreement shall have the meaning assigned to it in the applicable legislation of the respective Contracting Parties.

Article 2 Scope of Legislation

1. This Agreement shall apply:

- (a) as regards the People's Republic of China, to the legislation concerning the Basic Old-Age Insurance for Employees;
- (b) as regards Japan, to the legislation concerning the following Japanese pension systems:
 - (i) the National Pension (except the National Pension Fund); and
 - (ii) the Employees' Pension Insurance (except the Employees' Pension Fund);

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.

2. The legislation referred to in paragraph 1 of this Article shall not include any treaty or other international agreement on social security concluded between a Contracting Party and a third State, or legislation promulgated exclusively for the specific implementation of that treaty or agreement.

Article 3 Personal Scope

This Agreement shall apply to all persons who are or have been subject to the legislation of a Contracting Party, as well as to the family members or survivors who derive rights from such persons.

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 Party, shall receive equal treatment with nationals of that Contracting Party in the application of the legislation of that Contracting Party.

However, the foregoing shall not affect the provisions under the legislation of Japan on complementary periods for Japanese nationals on the basis of ordinary residence outside the territory of Japan.

PART II PROVISIONS CONCERNING THE APPLICABLE LEGISLATION

Article 5 General Provision

Unless otherwise provided in this Agreement, a person who works as an employee in the territory of a Contracting Party shall, with respect to that work, be subject only to the legislation of that Contracting Party.

Article 6
Detached Persons

1. Where a person who is covered under the legislation of a Contracting Party and employed in the territory of that Contracting Party by an employer with a place of business in that territory is sent by that employer to the territory of the other Contracting Party in the context of that employment to perform services there for that employer, only the legislation of the first Contracting Party shall apply with respect to that employment during the first five years of such detachment as if the employee were still working in the territory of the first Contracting Party.

2. In case the detachment referred to in paragraph 1 of this Article continues beyond five years, the competent authorities or the competent institutions of both Contracting Parties may agree that the employee remains subject only to the legislation of the first Contracting Party.

Article 7
Employees on Board Sea-going Vessels and Aircraft

1. Where a person works as an employee on board a sea-going vessel flying the flag of one Contracting Party and would otherwise be subject to the legislation of both Contracting Parties, that person is subject only to the legislation of the first Contracting Party.

Notwithstanding the foregoing, that person shall be subject only to the legislation of the other Contracting Party, if that person ordinarily resides in the territory of that other Contracting Party.

2. A person who works as an employee on an aircraft in international traffic and would otherwise be subject to the legislation of both Contracting Parties shall, with respect to that employment, be subject only to the legislation of the Contracting Party in whose territory the employer is located.

Article 8
Members of Diplomatic Missions
and Consular Posts and Civil Servants

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

2. Where any civil servant of a Contracting Party or any person treated as such in the legislation of that Contracting Party is sent to work in the territory of the other Contracting Party, that person shall be subject only to the legislation of the first Contracting Party as if that person were working in the territory of the first Contracting Party.

Article 9 Exceptions

The competent authorities or competent institutions of both Contracting Parties may agree to grant an exception to Articles 5 to 8 in the interest of particular persons or categories of persons, provided that such persons or categories of persons shall be subject to the legislation of either Contracting Party.

Article 10 Spouse and Children

While a person works in the territory of Japan and is subject only to the legislation of the People's Republic of China in accordance with Article 6, paragraph 2 of Article 8 or Article 9, the spouse or children coming with that person shall be exempted from the legislation of Japan concerning the Japanese pension system specified in paragraph 1(b)(i) of Article 2, provided that the requirements specified in the legislation of Japan concerning the enforcement of the agreements on social security are fulfilled. However, when those spouse or children so request, the foregoing shall not apply.

Article 11 Compulsory Coverage

Articles 5 to 7, paragraph 2 of Article 8 and Article 10 shall only apply to compulsory coverage under the legislation of each Contracting Party.

PART III MISCELLANEOUS PROVISIONS

Article 12 Implementing Collaboration

1. The competent authorities of both Contracting Parties shall:

- (a) jointly establish an Administrative Arrangement that sets out the measures necessary for the implementation of this Agreement;

- (b) designate liaison agencies for the implementation of this Agreement;
- (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. Upon written request, the competent authorities and competent institutions of both Contracting Parties, within the scope of their respective authorities, shall provide any information and assistance free of charge for the implementation of this Agreement.

Article 13 Issue of Certificates

The competent institutions of a Contracting Party or the liaison agencies designated by the competent authorities of that Contracting Party in accordance with the provision of paragraph 1(b) of Article 12 shall, upon request, issue a certificate stating that an employee is subject to the legislation of that Contracting Party.

Article 14 Languages of Communication and Authentication

1. In implementing this Agreement, the competent authorities and competent institutions of the Contracting Parties may communicate directly with each other or with any concerned person in Japanese, Chinese or English.
2. In implementing this Agreement, applications or any other documents shall not be rejected by the competent authorities and competent institutions of one Contracting Party for the reason that they are written in Japanese, Chinese or English.
3. Documents, especially certificates, to be submitted in the implementation of this Agreement shall be exempted from the requirements for authentication or any other similar formality.

Article 15
Confidentiality of Information

1. The competent authorities or competent institutions of one Contracting Party shall, in accordance with its laws and regulations, transmit to the competent authorities or competent institutions of the other Contracting Party information about an individual collected under the legislation of the first Contracting Party insofar as the information is necessary for the implementation of this Agreement.

2. Information about an individual which is transmitted in accordance with the provision of Paragraph 1 of this Article by one Contracting Party to the other Contracting Party shall be used exclusively for the purpose of implementing this Agreement, unless otherwise required by the laws and regulations of that other Contracting Party. Such information received by that other Contracting Party shall be governed by the laws and regulations of that other Contracting Party for the protection of confidentiality of personal data.

Article 16
Resolution of Disputes

Any dispute regarding the interpretation or application of this Agreement shall be resolved by consultation between the competent authorities or relevant authorities of the Contracting Parties.

Article 17
Headings

The headings of Parts and Articles of this Agreement are inserted for convenience of reference only and shall not affect the interpretation of this Agreement.

PART IV
TRANSITIONAL AND FINAL PROVISIONS

Article 18
Detachment prior to the Entry into Force

In applying paragraph 1 of Article 6, in the case of a person who has been working in the territory of a Contracting Party prior to the entry into force of this Agreement, the period of detachment referred to in paragraph 1 of Article 6 shall be considered to begin on the date of entry into force of this Agreement.

Article 19
Entry into Force

Both Contracting Parties shall exchange diplomatic notes indicating that they have completed the internal legal procedures necessary for the entry into force of this Agreement. The Agreement shall enter into force on the first day of the fourth month following the month in which the exchange of the notes is completed.

Article 20
Duration and Termination

This Agreement shall remain in force for an indefinite period. Either Contracting Party may give to the other Contracting Party, 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 is notified.

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

Done in duplicate at Tokyo on 9 May, 2018 in the Japanese, Chinese and English languages, each text being equally authentic. In case of any divergence of interpretation, the English text shall prevail.

FOR THE GOVERNMENT
OF JAPAN

河野太郎

FOR THE GOVERNMENT
OF THE PEOPLE'S REPUBLIC
OF CHINA

王毅