

Agreement between
Japan and the United States of America
on Social Security

Japan and the United States of America,

Being desirous of regulating the relationship between
them in the field of social security,

Have agreed as follows:

Article 1

1. For the purpose of this Agreement,

(a) "United States" means the United States of
America;

(b) "territory" means,

as regards Japan,
the territory of Japan,

as regards the United States,
the States thereof, the District of Columbia, the
Commonwealth of Puerto Rico, the United States
Virgin Islands, Guam, American Samoa and the
Commonwealth of the Northern Mariana Islands;

(c) "national" means,

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

as regards the United States,
a national of the United States as defined in
Section 101, Immigration and Nationality Act, as
amended;

(d) "laws" means,

as regards Japan,
the national statutes 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 United States,
the national statutes and regulations of the
United States specified in paragraph 2 of Article
2,

however, treaties or other international
agreements on social security concluded between
one Party and a third party, or national statutes
and regulations promulgated for the
implementation of such treaties or other
international agreements shall not be included;

(e) "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 United States,
the Commissioner of Social Security;

(f) "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 United States,
the Social Security Administration;

(g) "period of coverage" means,

as regards Japan,
a period of contributions under the laws 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 those laws
for establishing entitlement to benefits,

as regards the United States,
a period credited as a quarter of coverage under
the laws of the United States, or any equivalent
period that may be used to establish the right to
a benefit under the laws of the United States;

(h) "benefit" means any benefit provided for in the laws of either Party.

2. For the purpose of this Agreement, any term not defined in this Agreement shall have the meaning assigned to it under the respective laws of either Party.

Article 2

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 "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 national statutes, 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); and
- (vi) the Law Concerning Mutual Aid for Private School Personnel (Law No.245, 1953);

however, for the purpose of this Agreement, Articles 3, 5, 6, 8, 10, 12, 13, 15 (except for paragraph 3) and 17, paragraph 2, shall not apply to the Japanese health insurance systems; and

2. as regards the United States,

to the following national statutes and regulations, as amended, governing the Federal old-age, survivors and disability insurance program:

- (a) Title II of the Social Security Act and regulations pertaining thereto, except sections 226, 226A and 228 of that title and regulations pertaining to those sections; and

- (b) Chapters 2 and 21 of the Internal Revenue Code of 1986 and regulations pertaining to those chapters.

Article 3

1. Persons who are or have been subject to the laws of one Party, as well as family members or survivors who derive rights from such persons, who ordinarily reside in the territory of the other Party, shall receive equal treatment with nationals of that other Party in the application of the laws of that other Party regarding entitlement to and payment of benefits. However, the foregoing shall not affect the provisions on complementary periods for Japanese nationals on the basis of ordinary residence outside the territory of Japan under the laws of Japan.

2. Any provision of the laws of one Party which restricts entitlement to or payment of benefits solely because the person ordinarily resides outside or is absent from the territory of that Party shall not be applicable to persons who ordinarily reside in the territory of the other Party. However, the foregoing shall not affect the provisions of the laws 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.

Article 4

1. Unless otherwise provided in this Article, a person who works as an employee or self-employed person in the territory of one of the Parties shall, with respect to that employment or self-employment, be subject to the laws of only that Party.

2. Subject to paragraphs 5 to 7 of this Article, where a person who is covered under the laws of one Party and normally employed in the territory of that Party by an employer with a place of business in that territory is sent by that employer from that territory to work in the territory of the other Party, the employee shall be subject to the laws of only the first Party as if that employee were working in the territory of the first Party, provided that the period of such detachment is not expected to exceed five years. If the detachment continues beyond five years, the competent authority or competent institution of the second Party may grant further exemption of the employee from the laws of the second Party, subject to paragraph 8 of this Article. For the purpose of this paragraph in the case of an employee who is sent from the territory of the United States by an employer in that territory to an affiliated company of that employer (as defined under the laws of the United States) in the territory of Japan, that employer and affiliated company of that employer shall be deemed to be the same employer, provided that the employment is covered under the laws of the United States.

3. Paragraph 2 of this Article shall apply where a person who has been sent by an employer from the territory of one Party to the territory of a third country is subsequently sent by that employer from the territory of the third country to the territory of the other Party.

4. Where a person covered under the laws of one Party, who ordinarily works as a self-employed person in the territory of that Party, works temporarily as a self-employed person in the territory of the other Party, that self-employed person shall be subject to the laws of only the first Party as if that self-employed person were working in the territory of the first Party, provided that the period of such self-employment in the territory of the second Party is not expected to exceed five years. If that self-employment continues beyond five years, the competent authority or competent institution of the second Party may grant further exemption of that self-employed person from the laws of the second Party, subject to paragraph 8 of this Article.

5. A person who would otherwise be covered under the laws of both Parties with respect to employment as an officer or member of a crew on board a sea-going vessel flying the flag of Japan or an American vessel shall, with respect to that employment, be subject to the laws of the Party in whose territory the person ordinarily resides.

6. A person who would otherwise be covered under the laws of both Parties with respect to employment as an officer or member of a crew on an aircraft shall, with respect to that employment, be subject to the laws of the Party in whose territory the employer is headquartered.

7. (a) 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.

(b) Nationals of the United States who are employed by the Government of the United States in the territory of Japan but who are not exempted from the laws of Japan by virtue of the Conventions mentioned in subparagraph (a) shall be subject to the laws of only the United States. For the purpose of the foregoing, employment by the Government of the United States includes employment by an instrumentality thereof.

(c) Subject to subparagraph (a), where any civil servant of Japan or any person treated as such under the laws of Japan is sent to work in the territory of the United States, that person shall be subject to the laws of only Japan.

8. At the request of an employee and an employer or a self-employed person, the competent authority or competent institution of Japan and the competent authority of the United States may agree to grant an exception to the provisions of this Article in the interest of particular persons or categories of persons, provided that such persons or categories of persons shall be subject to the laws of one of the Parties.

9. As regards the accompanying spouse or children of a person who works in the territory of Japan and who is subject to the laws of the United States in accordance with paragraph 2, 4, 6, 7(b) or 8 of this Article,

(a) In cases in which the accompanying spouse or children are persons other than Japanese nationals, the laws of Japan shall not apply to them. However, when the accompanying spouse or children so request, the foregoing shall not apply.

- (b) In cases in which the accompanying spouse or children are Japanese nationals, the exemption from the laws of Japan shall be determined in accordance with the laws of Japan.

10. This Article shall apply only to compulsory coverage under the laws of each Party. Paragraphs 2 and 4 of this Article shall not apply to a person who is normally 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 laws of Japan concerning the Japanese pension systems specified in paragraph 1(a) (i) to (v) of Article 2.

Article 5

The following provisions shall apply to the United States:

1. Where a person has completed at least six quarters of coverage under the laws of the United States, but does not have sufficient periods of coverage to satisfy the requirements for entitlement to benefits under the laws of the United States, the competent institution of the United States shall take into account, for the purpose of establishing entitlement to benefits under this Article, periods of coverage which are credited under the laws of Japan and which do not coincide with periods of coverage already credited under the laws of the United States.

2. For the purpose of establishing entitlement to benefits under paragraph 1 of this Article, the competent institution of the United States shall credit, in accordance with the laws of the United States, one quarter of coverage for every three months of periods of coverage which are credited under the laws of Japan and certified by the competent institutions of Japan. Any remainder of less than three months of periods of coverage that results from this crediting shall be taken into account as one additional quarter of coverage. However, no quarter of coverage shall be credited for any calendar quarter already credited as a quarter of coverage under the laws of the United States. The total number of quarters of coverage to be credited under this paragraph and the quarters of coverage already credited under the laws of the United States shall not exceed four in a calendar year.

3. Where entitlement to a benefit under the laws of the United States is established according to paragraph 1 of this Article, the competent institution of the United States shall compute a pro rata Primary Insurance Amount in accordance with the laws of the United States based on:

- (a) the person's average earnings credited exclusively under the laws of the United States and
- (b) the ratio of the duration of the person's periods of coverage completed under the laws of the United States to the duration of a coverage lifetime as determined in accordance with the laws of the United States.

Benefits payable under the laws of the United States shall be based on the pro rata Primary Insurance Amount.

4. Entitlement to a benefit from the United States which results from paragraph 1 of this Article shall terminate with the acquisition of sufficient periods of coverage under the laws of the United States to establish entitlement to an equal or higher benefit without the need to apply paragraph 1 of this Article.

5. For the purpose of applying paragraphs 1 and 2 of this Article, periods of coverage credited under the laws of Japan shall include periods of contributions under the laws of Japan and any other periods taken into account under those laws for establishing entitlement to benefits, with the exception of complementary periods for Japanese nationals on the basis of ordinary residence outside the territory of Japan and periods of coverage for Category III insured persons under the National Pension.

Notwithstanding the preceding sentence, the competent institution of the United States shall also credit a maximum of eleven quarters of coverage for periods of coverage for Category III insured persons, provided that the insured person has at least one month of periods of coverage for Category I insured persons or Category II insured persons, or one quarter of coverage under the laws of the United States, both before and after the periods of coverage for Category III insured persons.

Article 6

The following provisions shall apply to Japan:

1. (a) Where a person does not have sufficient periods of coverage to fulfill the requirements for entitlement to benefits under the laws of Japan, the competent institution of Japan shall take into account, for the purpose of establishing entitlement to benefits under this Article, periods of coverage which are credited under the laws of the United States.
- (b) Subparagraph (a) shall not apply to the following benefits under the laws of Japan:
 - (i) the Disability Allowance under the Employees' Pension Insurance;
 - (ii) the disability lump-sum payments under the mutual aid pensions;
 - (iii) the additional pension for specified occupations under the mutual aid pensions;
 - (iv) the lump-sum payments upon withdrawal for persons other than Japanese nationals under the Employees' Pension Insurance and the lump-sum payments upon withdrawal for persons other than Japanese nationals under the mutual aid pensions;
 - (v) the allowance upon withdrawal under the Employees' Pension Insurance and the lump-sum payments upon withdrawal under the mutual aid pensions;
 - (vi) the special lump-sum death payments under the mutual aid pensions; and
 - (vii) any other benefits similar to those specified in (i) to (vi), to be introduced after the entry into force of this Agreement, and as may be agreed upon between the two Parties.

2. In applying paragraph 1(a) of this Article,
 - (a) the competent institutions of Japan shall credit, in each calendar year, three months of periods of coverage for every quarter of coverage which is credited in that year under the laws of the United States and certified by the competent institution of the United States. Periods of coverage to be credited by the competent institutions of Japan, the unit of which is a month, shall be allocated in chronological order starting with the first month of the calendar year, except for the months that are already credited as periods of coverage under the laws of Japan. However, the months of periods of coverage shall be allocated in the reverse order starting with the last month of the calendar year if it is necessary to establish entitlement to a benefit under the laws of Japan. The total number of months of periods of coverage to be allocated under the provision of this subparagraph and the months that are already credited as periods of coverage under the laws of Japan shall not exceed twelve in a calendar year.
 - (b) periods of coverage under the laws of the United States to be credited by the competent institutions of Japan under subparagraph (a) shall be taken into account as both periods of coverage under Japanese pension systems for employees and periods of coverage for Category II insured persons under the National Pension.
3. (a) Where the laws of Japan require for entitlement to disability pensions or survivors' pensions that the date of the first medical examination or of death lie within specified periods of coverage, this requirement shall be deemed to be fulfilled for the purpose of establishing entitlement to those pensions, provided that a person:
 - (i) has credit for at least four quarters of coverage under the laws of the United States during a period of eight calendar quarters ending with the calendar quarter in which the date of the first medical examination or death occurs; or

- (ii) has credit for at least six quarters of coverage under the laws of the United States during a period of thirteen calendar quarters ending with the calendar quarter in which the date of the first medical examination or death occurs.

However, if entitlement to disability pensions or survivors' pensions under the National Pension is established without applying this paragraph, this paragraph shall not be applied for the purpose of establishing entitlement to disability pensions or survivors' pensions based on the same insured event under Japanese pension systems for employees.

- (b) In applying subparagraph (a), as regards a person who possesses periods of coverage under two or more Japanese pension systems for employees, the requirement referred to in that subparagraph shall be deemed to be fulfilled for one of those pension systems in accordance with the laws of Japan.

4. Where entitlement to a benefit under the laws of Japan is established by virtue of paragraph 1(a) or 3(a) of this Article, the competent institution of Japan shall calculate the amount of that benefit in accordance with the laws of Japan, subject to paragraphs 5 to 9 of this Article.

5. 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(a) or 3(a) of this Article, 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 theoretical period of coverage referred to in paragraph 7 of this Article.

6. With regard to disability pensions and survivors' pensions under Japanese pension systems for employees, insofar as the amount of those pensions to be granted is calculated on the basis of the specified period determined by the laws of Japan when the periods of coverage under those systems are less than that specified period, if the requirements for receiving such pensions are fulfilled by virtue of paragraph 1(a) or 3(a) of this Article, the amount to be granted shall be calculated according to the proportion of the periods of coverage under Japanese pension systems for employees to the theoretical period of coverage referred to in paragraph 7 of this Article. However, when the theoretical period of coverage exceeds that specified period, the theoretical period of coverage shall be regarded as equal to that specified period.

7. For the purpose of paragraph 5 and 6 of this Article, "theoretical period of coverage" means the sum of the following periods (except that it shall not include the period after the month in which the day of recognition of disability occurs or the period beginning with the month in which the day following the day of death occurs):

- (a) the period from the month in which the day of attainment of age 20 occurs through the month preceding the month in which the day of attainment of age 60 occurs, except the period before April 1, 1961;
- (b) periods of contribution under the laws of Japan which do not coincide with the period referred to in subparagraph (a) of this paragraph; and
- (c) periods of coverage under the laws of the United States which do not coincide with periods referred to in subparagraph (b) of this paragraph, in case the month in which the day of recognition of disability occurs or the month preceding the month in which the day following the day of death occurs is before the period referred to in subparagraph (a) of this paragraph.

8. With regard to the calculation of the amount of benefits under Japanese pension systems for employees in accordance with paragraphs 5 and 6 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 referred to in paragraph 5 of this Article or the periods of coverage referred to in paragraph 6 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 laws of Japan within the meaning of paragraph 6 of this Article, the method of calculation stipulated in paragraph 6 of this Article and this paragraph shall not apply.

9. 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 period of coverage under Japanese pension systems for employees equals or exceeds the specified period determined by the laws of Japan, if the requirements for receiving such benefits are fulfilled by virtue of paragraph 1(a) of this Article, the amount to be granted shall be calculated according to the proportion of the periods of coverage under the Japanese pension system for employees from which such benefits will be paid to that specified period.

Article 7

The competent authorities of the two Parties shall:

- (a) agree on the administrative measures necessary for the implementation of this Agreement;
- (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 laws insofar as those changes affect the implementation of this Agreement.

Article 8

The competent authorities and competent institutions of the two Parties, within the scope of their respective authorities, shall assist each other in implementing this Agreement. Regular personnel and operating costs of the competent authorities and competent institutions providing the assistance shall be free of charge.

Article 9

1. In accordance with measures to be agreed upon by virtue of subparagraph (a) of Article 7, the competent authorities or competent institutions of one Party shall, in accordance with its national statutes and regulations, send to the competent authorities or competent institutions of the other Party information about an individual collected under its laws insofar as that information is necessary for the implementation of this Agreement.

2. Unless otherwise required by the national statutes and regulations of one Party, information about an individual which is transmitted in accordance with this Agreement to that Party by the other Party shall be used exclusively for the purpose of implementing this Agreement. Such information received by a Party shall be governed by the national statutes and regulations of that Party for the protection of confidentiality of personal data.

Article 10

1. Insofar as the laws of one Party, and in the case of Japan, other national statutes and regulations, contain provisions on an exemption or reduction of administrative charges or consular fees for documents to be submitted under the laws of that Party, those provisions shall also apply to documents to be submitted in the application of this Agreement and the laws of the other Party.

2. Documents which are presented for the purpose of this Agreement and the laws of a Party shall be exempted from requirements for authentication or any other similar formality by diplomatic or consular authorities.

3. Copies of documents which are certified as true and exact copies by a competent institution of one Party shall be accepted as true and exact copies by a competent institution of the other Party, without further certification. The competent institution receiving the copies shall be the final judge of the probative value of the evidence submitted to it from whatever source.

Article 11

1. The competent authorities and competent institutions of the Parties may communicate directly with each other and with any concerned person wherever the person may reside whenever it is necessary for the administration of this Agreement. The communication may be in the respective languages of the Parties.

2. In implementing this Agreement, the competent authorities and competent institutions of one Party may not reject applications or any other documents for the reason that they are written in the language of the other Party.

Article 12

1. When a written application for benefits, an appeal or any other declaration under the laws of one Party is submitted to a competent authority or competent institution of the other Party which is competent to receive similar applications, appeals or declarations under the laws of that other Party, that application, appeal or declaration shall be deemed to be submitted on the same date to the competent authority or competent institution of the first Party and shall be dealt with according to the procedure and laws of the first Party.

2. In any case to which this Article applies, the competent authority or competent institution of one Party to which the application for benefits, appeal or any other declaration has been submitted shall transmit it without delay to the competent authority or competent institution of the other Party.

Article 13

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

Article 14

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

Article 15

1. This Agreement shall not establish any entitlement to benefits for any period prior to its entry into force or, as regards the United States, to a lump-sum death benefit if the person died prior to its entry into force.

2. In the implementation of this Agreement, periods of coverage completed and other legally relevant events occurring before its entry into force shall also be taken into account.

3. In applying paragraph 2 or 4 of Article 4, in the case of persons whose detachment or self-employment referred to in those paragraphs commenced prior to the date of entry into force of this Agreement, the period of such detachment or self-employment 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. Articles 5 and 6 shall apply only to benefits for which an application is filed on or after the date this Agreement enters into force.

6. The application of this Agreement shall not result in any reduction in the amount of a benefit to which entitlement was established prior to its entry into force.

Article 16

This Agreement shall enter into force on the first day of the third month following the month in which the Parties shall have completed an exchange of diplomatic notes informing each other that their respective statutory and constitutional requirements necessary to give effect to this Agreement have been fulfilled.

Article 17

1. This Agreement shall remain in force and effect until the last day of the twelfth month following the month in which either Party gives the other Party written notification through diplomatic channels of its termination.

2. If this Agreement is terminated in accordance with paragraph 1 of this Article, rights regarding entitlement to and payment of benefits acquired under it shall be retained.

In witness whereof, the undersigned, being duly authorized thereto, have signed this Agreement.

Done at Washington on February 19, 2004, in duplicate in the Japanese and English languages, the two texts being equally authentic.

For Japan:

Ryozo Kato

For the United States
of America:

Jo Anne B. Barnhart