

AGREEMENT ON SOCIAL SECURITY
BETWEEN THE FEDERATIVE REPUBLIC OF BRAZIL
AND THE UNITED STATES OF AMERICA

The Federative Republic of Brazil

and

The United States of America
(hereinafter individually known as "Contracting State" or collectively as
"Contracting States"),

Being desirous of regulating the relationship between their two countries
in the field of Social Security,

Hereby agree:

PART I

General Provisions

Article 1

Definitions

1. For the purposes of this Agreement:
 - a. "national" means,
as regards the United States, a national of the United States as defined in Section 101,
Immigration and Nationality Act, as amended; and,
as regards Brazil, a national of Brazil according to the Federal Constitution of Brazil;
 - b. "laws" means the laws and regulations specified in Article 2 of this Agreement;
 - c. "Competent Authority" means,
 - as regards the United States, the Commissioner of Social Security, and,
 - as regards Brazil, the Minister of Social Security;
 - d. "Competent Institution" means,
 - as regards the United States, the Social Security Administration, and,
 - as regards Brazil, the National Social Insurance Institute;
 - e. "period of coverage" means a period of payment of contributions or a period of earnings
from employment or self-employment, as defined or recognized as a period of coverage
by the laws under which such period has been completed, or any similar period insofar
as it is recognized by such laws as equivalent to a period of coverage;
 - f. "benefit" means any benefit provided for in the laws specified in Article 2 of this
Agreement; and
 - g. "personal data" means any information relating to a specific (identified or identifiable)
person, as well as any information that can be used to distinguish or trace an

individual's identity. This includes, but is not limited to, the following: any individual identifier; citizenship, nationality, statelessness or refugee status; benefits, eligibility, or other claims information; contact information; medical information or lay information used in a medical determination; information about marital, familial or personal relationships; and information pertaining to work, financial or economic status.

2. Any term not defined in this Article shall have the meaning assigned to it in the applicable laws.

Article 2

Material Scope

1. For the purposes of this Agreement, the applicable laws are:
 - (a) as regards the United States, the laws governing the Federal old-age, survivors, and disability insurance program:
 - (i) 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
 - (ii) Chapters 2 and 21 of the Internal Revenue Code of 1986 and regulations pertaining to those chapters; and
 - (b) as regards Brazil,
 - (i) the laws governing the General Regime of Social Security regarding old age, survivors and disability insurance programs; and
 - (ii) the laws governing the military's and the civil servants' social security regimes regarding old age, survivors and disability insurance programs.
1. Unless otherwise provided in this Agreement, the laws referred to in paragraph 1 supranational legislation on Social Security concluded between one Contracting State and a third State, or laws or regulations promulgated for their specific implementation.
2. Except as provided in paragraph 5 of this Article, this Agreement shall also apply to legislation which amends, supplements, consolidates, or replaces the laws specified in paragraph 1 of this Article.
3. Except as provided in paragraph 5 of this Article, this Agreement shall apply to future legislation and regulations of a Contracting State which create new categories laws of that Contracting State.
4. Paragraphs 3 and 4 of this Article shall not be applied if the Competent Authority of the Contracting State which altered its laws notifies the Competent Authority of the other Contracting State in writing within three months of the date of the official publication of the new legislation that no such extension of the Agreement is intended.

Article 3

Personal Scope

This Agreement shall apply to:

- a. persons who are or have been subject to the laws of one or both Contracting States; and
- b. other persons with respect to the rights they derive from the persons mentioned in subparagraph (a) of this Article.

Article 4

Equality of Treatment and Portability of Benefits

1. A person designated in Article 3 of this Agreement who resides in the territory of one Contracting State shall receive equal treatment with nationals of the second Contracting State resident in the first Contracting State in the application of the laws of the second Contracting State regarding entitlement to or payment of benefits.
2. Unless otherwise provided in this Agreement, any provision of the laws of a Contracting State which restricts entitlement to or payment of benefits solely because the person resides outside or is absent from the territory of that Contracting State shall not be applicable to persons who reside in the territory of the other Contracting State.

PART II

Provisions Concerning Applicable Laws

Article 5

Coverage Provisions

1. Except as otherwise provided in this Article, a person employed within the territory of one of the Contracting States shall, with respect to that employment, be subject to the laws of only that Contracting State.
2. Where a worker who is normally employed in the territory of one Contracting State by an employer located in that territory is sent by that employer to the territory of the other Contracting State for a temporary period, the worker shall be subject to the laws of only the first Contracting State as if the worker were employed in the territory of the first Contracting State, provided that the period of employment in the territory of the other Contracting State is not expected to exceed five years.
3. Paragraph 2 of this Article shall also apply where an employer in the territory of a Contracting State sends an employee to an affiliated company (as defined under the laws of the employer's Contracting State), in the territory of the other Contracting State. In this case, the employer and the affiliated company shall be considered one and the same, provided that the employment would have been covered under the laws of the employer's Contracting State in the absence of this Agreement.
4. An employee concluding a 5 (five) year exemption from a Contracting State's laws under paragraphs 2 or 3 of this Article may only qualify for an

- additional exemption upon completing a 6 (six) month absence from such Contracting State's territory.
5. Paragraphs 2 and 3 of this Article shall apply where a person who has been sent by his or her employer from the territory of a Contracting State to the territory of a third State, and who is compulsorily covered under the laws of that Contracting State while employed in the territory of the third State, is subsequently sent by that employer from the territory of the third State to the territory of the other Contracting State.
 6. A self-employed person who resides within the territory of a Contracting State shall be subject to the laws of only that Contracting State.
 7. Regarding workers in international air and maritime transportation, the following provisions shall apply:
 - (a) a person who is employed as an officer or member of a crew on a vessel which flies the flag of one Contracting State and who would otherwise be covered under the laws of both Contracting States shall be subject to the laws of only the Contracting State whose flag the vessel flies. For purposes of the preceding sentence, a vessel which flies the flag of the United States is one defined as an American vessel under the laws of the United States; and
 - (b) traveling employees of air transportation companies who perform work in the territories of both Contracting States and who would otherwise be covered under the laws of both Contracting States shall, with respect to that work, be subject to the laws of only the Contracting State in the territory of which the company has its headquarters. However, if such employees reside in the territory of the other Contracting State, they shall be subject to the laws of only that Contracting State.
 8. Regarding persons in the service of the Contracting States, the following provisions shall apply:
 - (a) this Agreement shall not 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; and
 - (b) nationals of one of the Contracting States who are employed by the Government of that Contracting State in the territory of the other Contracting State but who are not exempt from the laws of the other Contracting State by virtue of the Vienna Conventions mentioned in subparagraph (a) shall be subject to the laws of only the first Contracting State. For the purpose of this paragraph, employment by the United States Government includes employment by an instrumentality thereof.
 9. The Competent Authorities of the two Contracting States may agree to grant an exception to the provisions of this Article with respect to particular persons or categories of persons, provided that any affected person shall be subject to the laws of one of the Contracting States.

PART III

Provisions on Benefits

Article 6

United States Benefits

The following provisions shall apply to the United States:

1. Where a person has completed at least 6 (six) quarters of coverage under United States laws, but does not have sufficient periods of coverage to satisfy the requirements for entitlement to benefits under United States laws, 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 Brazilian laws and which do not coincide with periods of coverage already credited under United States laws.
2. In determining eligibility for benefits under paragraph 1 of this Article, the Competent Institution of the United States shall credit one quarter of coverage for every 3 (three) months of coverage certified by the Competent Institution of Brazil; however, no quarter of coverage shall be credited for any calendar quarter already credited as a quarter of coverage under United States laws. The total number of quarters of coverage to be credited for a year shall not exceed four. The Competent Institution of the United States shall not take into account periods of coverage which occurred prior to the earliest date for which periods of coverage may be credited under its laws.
3. Where entitlement to a benefit under United States laws is established according to the provisions of paragraph 1 of this Article, the Competent Institution of the United States shall compute a pro rata Primary Insurance Amount in accordance with United States laws based on:
 - a. the person's average earnings credited exclusively under United States laws; and
 - b. the ratio of the duration of the person's periods of coverage completed under United States laws to the duration of a coverage lifetime as determined in accordance with United States laws.

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

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 United States laws to establish entitlement to an equal or higher benefit without the need to invoke the provision of paragraph 1 of this Article.

Article 7

Brazilian Benefits

The following provisions shall apply to Brazil:

1. When Brazilian laws require the completion of certain periods of coverage for acquiring, maintaining or recovering entitlement to old-age, survivors or disability

benefits, periods of coverage completed under United States laws shall be added, when necessary, to the periods of coverage completed under Brazilian laws, provided that they do not coincide with periods of coverage already credited under Brazilian laws. In determining entitlement to benefits in accordance with this paragraph, the Brazilian Competent Institution shall credit 3 (three) months of coverage for every quarter of coverage certified by the United States Competent Institution.

2. When it is not possible to determine the time when periods of coverage were completed under United States laws within a specific year, it shall be presumed that such periods do not coincide with periods of coverage completed under Brazilian laws. Such periods may be allocated to any time during the year, in the manner most advantageous for the person.

3. When entitlement to a benefit under Brazilian laws is established in accordance with paragraph 1 of this Article, the Competent Institution of Brazil shall determine a theoretical benefit amount as if all periods of coverage completed under the laws of both Contracting States had been completed under Brazilian laws, and shall calculate the benefit payable by Brazil as the proportion of the periods of coverage completed exclusively under Brazilian laws to the total periods of coverage completed under the laws of both Contracting States. The total periods of coverage under the laws of both Contracting States to be considered shall be limited to the minimum period necessary to establish eligibility to the benefit.

4. The theoretical amount of the benefit referred to in paragraph 3 of this Article shall not, under any circumstances, be inferior to the minimum amount guaranteed by Brazilian laws.

5. If a person is eligible to a benefit under the laws of Brazil without the application of paragraph 1 of this Article, the Competent Institution of Brazil shall determine the amount of the benefit to be paid based exclusively on the periods of coverage completed by that person under the laws of Brazil.

6. If a person is not eligible for a benefit on the basis of the periods of coverage completed under the laws of both Contracting States, totalized as provided in paragraph 1 of this Article, the eligibility of that person for a Brazilian benefit shall be determined by totalizing these periods and periods of coverage completed under the laws of a third State with which Brazil is bound by a bilateral or multilateral social security agreement in force.

Article 8

Mutual Provision on Benefits

The Competent Institution of one Contracting State shall take into account periods of coverage creditable under the laws of the other Contracting State exclusively in accordance with the laws of the first Contracting State.

PART IV

Miscellaneous Provisions

Article 9

Administrative Measures

The Competent Authorities of both Contracting States shall:

- a. conclude an Administrative Arrangement and take all necessary administrative measures for the implementation of this Agreement and designate liaison agencies;
- b. communicate to each other information concerning the measures taken for the application of this Agreement; and
- c. communicate to each other, as soon as possible, information concerning all changes in their respective laws which may affect the application of this Agreement.

Article 10

Mutual Assistance

The Competent Authorities and the Competent Institutions of the Contracting States, within the scope of their respective authorities, shall assist each other in implementing this Agreement. This assistance shall be free of charge, subject to exceptions to be agreed upon in an administrative arrangement.

Article 11

Confidentiality of Exchanged Personal Data

1. Unless otherwise required by the national statutes of a Contracting State, personal data transmitted in accordance with this Agreement to one Contracting State by the other Contracting State shall be used exclusively for purposes of administering this Agreement and the laws in Article 2 of this Agreement. The receiving Contracting State's national statutes for the protection of privacy and confidentiality of personal data and the provisions of this Agreement shall govern such use.
2. The Competent Authorities of the Contracting States shall inform each other about all amendments to their national statutes regarding the protection of privacy and confidentiality of personal data that affect the transmission of personal data.
3. Any subject may request, and the Competent Authority or Competent Institution requesting or transmitting personal data must disclose to that subject upon such request, the content, receiving Competent Authority or Competent Institution, and duration of use of the subject's personal data and the purpose and legal grounds for which such data was used or requested.

4. The Competent Authorities or Competent Institutions transmitting personal data shall take all reasonable steps to ensure that transmitted personal data are accurate and limited to data required to fulfill the receiving Competent Authority or Competent Institution's request. In accordance with their respective national statutes, the receiving Competent Authority or Competent Institution shall correct or delete any inaccurate transmitted personal data and any data not required to fulfill the receiving Competent Authority or Competent Institution's request, and immediately notify the other Competent Authority or Competent Institution of such correction. This shall not limit a subject's right to request such correction directly from the Competent Authorities or Competent Institutions.

5. Both the transmitting and the receiving Competent Authorities or Competent Institutions shall effectively protect personal data against unauthorized or illegal access, alteration, or disclosure.

Article 12

Confidentiality of Exchanged Employers' Information

Unless otherwise required by the national statutes of a Contracting State, employers' information transmitted between Contracting States in accordance with this Agreement shall be used exclusively for purposes of administering this Agreement and the applicable laws. The receiving Contracting State's national statutes for the protection and confidentiality of employers' information and the provisions of this Agreement shall govern such use.

Article 13

Documents

1. Where the laws of a Contracting State provide that any document which is submitted to the Competent Authority or a Competent Institution of that Contracting State shall be exempted, wholly or partly, from fees or charges, including consular and administrative fees, the exemption shall also apply to corresponding documents which are submitted to the Competent Authority or a Competent Institution of the other Contracting State in the application of this Agreement.

2. Documents and certificates which are presented for purposes of this Agreement shall be exempted from requirements for authentication by diplomatic or consular authorities.

3. Copies of documents which are certified as true and exact copies by the Competent Institution of one Contracting State shall be accepted as true and exact copies by the Competent Institution of the other Contracting State, without further certification. The Competent Institution of each Contracting State shall be the final judge of the probative value of the evidence submitted to it from whatever source.

Article 14

Correspondence and Language

1. The Competent Authorities and the Competent Institutions of the Contracting States may correspond directly with each other and with any person wherever the person may reside whenever it is necessary for the administration of this Agreement.

2. An application or document may not be rejected by a Competent Authority or Competent Institution of a Contracting State solely because it is in the language of the other Contracting State.

Article 15

Applications

1. A written application for benefits filed with a Competent Institution of one Contracting State shall protect the rights of the persons on behalf of whom the application is filed under the laws of the other Contracting State if the applicant requests that it be considered an application under the laws of the other Contracting State.

2. If an applicant has filed a written application for benefits with a Competent Institution of one Contracting State and has not explicitly requested that the application be restricted to benefits under the laws of that Contracting State, the application shall also protect the rights of the claimants under the laws of the other Contracting State if the applicant provides information at the time of filing indicating that the person on whose record benefits are claimed has completed periods of coverage under the laws of the other Contracting State.

3. The provisions of Part III of this Agreement shall apply only to benefits for which an application is filed on or after the date this Agreement enters into force.

Article 16

Appeals and Time Limits

1. A written appeal of a determination made by a Competent Institution of one Contracting State may be validly filed with a Competent Institution of either Contracting State. The appeal shall be decided according to the procedure and laws of the Contracting State whose decision is being appealed.

2. Any claim, notice, or written appeal which, under the laws of one Contracting State, must have been filed within a prescribed period with the Competent Institution of that Contracting State, but which is instead filed within the same period with the Competent Institution of the other Contracting State, shall be considered to have been filed on time.

Article 17

Transmittal of Claims, Notices and Appeals

The Competent Institution to which a claim, notice or written appeal has been submitted under the provisions of Article 15 or 16, or both, of this Agreement shall transmit it without delay to the Competent Institution of the other Contracting State, indicating the date of receipt on the document.

Article 18

Currency

1. Payments under this Agreement may be made in the currency of the Contracting State making the payments.
2. In case provisions designed to restrict the exchange or exportation of currencies are introduced by either Contracting State, both Contracting States shall immediately take measures necessary to ensure the transfer of sums owed by either Contracting State under this Agreement.

Article 19

Resolution of Disputes

Any dispute regarding the interpretation or application of this Agreement shall be resolved by consultation between the Competent Authorities, through diplomatic channels.

Article 20

Supplementary Agreements

This Agreement may be amended in the future by supplementary agreements which, after the notification of the completion of the required internal legal procedures of each Contracting State, shall be considered, from their entry into force, an integral part of this Agreement. Such agreements may be given retroactive effect if they so specify.

PART V

Transitional and Final Provisions

Article 21

Transitional Provisions

1. This Agreement shall not establish any claim to payment of a benefit for any period before the date of entry into force of this Agreement, or to a lump-sum death benefit if the person died before the entry into force of this Agreement.
2. Any period of coverage completed under the laws of either Contracting State and other events which occurred before the entry into force of this Agreement shall be considered in determining the right to benefits under this Agreement.
3. In applying paragraph 2, 3, or 5 of Article 5 of this Agreement in the case of persons who were sent to work in the territory of a Contracting State prior to the date of entry into force of this Agreement, the period of employment referred to in that paragraph shall be considered to begin on the date of entry into force of this Agreement.
4. Determinations concerning entitlement to benefits which were made before the entry into force of this Agreement shall not affect rights arising under it.
5. The application of this Agreement shall not result in any reduction in the amount of a benefit to which entitlement was established prior to the entry into force of this Agreement.

Article 22

Duration and Termination

1. This Agreement shall remain in effect until the expiration of one calendar year following the year in which written notice of its termination is given by one of the Contracting States to the other Contracting State.
2. If this Agreement is terminated, rights regarding entitlement to or payment of benefits acquired under it shall be retained.
3. Should this Agreement be terminated, the Contracting States shall make arrangements dealing with rights in the process of being acquired.

Article 23

Entry into Force

The Governments of both Contracting States shall notify each other in writing of the completion of their respective statutory and constitutional procedures required for the entry into force of this Agreement. This Agreement shall enter into force on the first day of the month following 90 (ninety) days after the date of the last notification.

IN WITNESS WHEREOF, the undersigned, being duly authorized thereto, have signed the present Agreement.

DONE at Washington on the 30th day of June, 2015, in duplicate in the Portuguese and English languages, each text being equally authentic.