

CONVENTION

on social security between the Kingdom of Belgium and the Republic of the Philippines

(Entering into force : 01.08.2005 – B.S./M.B.: 22.07.2005)

The Kingdom of Belgium

And

the Republic of the Philippines,

wishing to arrange the mutual relations between the two states in the field of social security,
have decided to conclude a convention for this purpose and have agreed as follows:

PART I - GENERAL PROVISIONS

Article 1

Definitions

1. For the implementation of this Convention:
 - (a) The term "Belgium" means: the Kingdom of Belgium;
the term "Philippines" means: the Republic of the Philippines.
 - (b) The term "national" means:
as regards Belgium: a person with Belgian nationality;
as regards the Philippines: a person with Philippine nationality.
 - (c) The term "legislation" means: the laws and regulations specified in article 2.
 - (d) The term "competent authority" means:
as regards Belgium: the Ministers, each to the extent that he is responsible for the implementation of the legislation specified in paragraph 1 (a) of article 2;
as regards the Philippines: the President and Chief Executive Officer of the Social Security System.
 - (e) The term "agency" means:
as regards Belgium: the institution, the organization or the authority responsible in full or in part for the implementation of the laws specified in paragraph 1 (a) of article 2;
as regards the Philippines: the Social Security System.

- (f) The term "insurance period" means: any period recognized as such in the legislation this period was completed under, as well as any period recognized as equivalent to an insurance period under this legislation.
- (g) The term "pension" means:
as regards Belgium: any pension or any monetary benefit, including any supplements or increases applicable to them under the laws specified in article 2;
as regards the Philippines: any pension, including any supplements or increases applicable to them under the laws specified in article 2.
- (h) The term "survivor" means: any person defined or recognized as such in the legislation under which the benefit is provided.
- (i) The term "family member" means: any person defined or recognized as a family member or designated as a member of the household in the legislation under which the benefits are provided.
- (j) The term "stateless person" means: any person defined as a stateless person in article 1 of the Convention relating to the status of stateless persons, dated September 28, 1954.
- (k) The term "refugee" means: any person recognized as having the status of refugee in application of the Convention relating to the status of refugees dated July 28, 1951, as well as to the additional protocol to that Convention dated January 31, 1967.

2. Any term not defined in paragraph 1 of this article shall have the meaning assigned to it in the applicable legislation.

Article 2

Legislative scope

1. This Convention shall apply:

(a) as regards Belgium, to the laws concerning:

- (i) retirement and survivors' pensions for salaried persons and for self-employed persons;
- (ii) the invalidity pensions of salaried persons, mine workers, sailors of the merchant marine and self-employed persons;

and, with regard to Part II only, to the laws concerning:

- (iii) social security for salaried persons;
- (iv) the social code for self-employed persons;

(b) as regards the Philippines:

- (i) to the Social Security Law as it relates to retirement, disability and death benefits;

and, with regard to Part II only, to the laws concerning:

- (ii) social security;
- (iii) employees' compensation.

2. This Convention shall apply to all acts or regulations which will amend or extend the legislation specified in paragraph 1 of this article.

It shall apply to any act or regulation which will extend the existing scheme to other categories of beneficiaries, unless, in this respect, the contracting State which has amended its legislation does notify the other contracting State of its objections within six months of the official publication of the said acts.

Article 3

Personal scope

Unless otherwise specified, this Convention shall apply:

- (a) to all persons who are or have been subject to the legislation of either of the contracting States, and who are:
 - (i) nationals of one of those States, or
 - (ii) stateless persons or refugees recognized by either of the contracting States,

as well as to their family members and survivors;

- (b) to family members and survivors of persons who have been subject to the legislation of either of the two contracting States, regardless of the latter persons' nationality, if the family members or survivors are nationals of either contracting State or stateless persons or refugees recognized by either contracting State.

Article 4

Equality of treatment

Unless otherwise specified in this Convention, the persons referred to in article 3 shall be subject to the obligations, and shall benefit from the legislation of either contracting State under the same conditions as nationals of that State.

Article 5

Export of pensions

1. Pensions acquired under the legislation of either contracting State cannot be subject to any reduction or modification owing to the fact that the beneficiary stays or resides in the territory of the other contracting State.

2. The retirement and survivor pensions due from either contracting State are paid to nationals of the other State residing in the territory of a third country, under the same conditions as if they were nationals of the first State residing in the territory of this third country.

Article 6

Reduction or suspension clauses

The reduction or suspension clauses provided in the legislation of one contracting State, in case one pension coincides with other social security benefits, or with other incomes or owing to a professional activity, shall be applied to the beneficiaries, even if these benefits were acquired by virtue of a scheme of the other State, or if they are incomes or a professional activity in the territory of the other State.

PART II - PROVISIONS CONCERNING THE APPLICABLE LEGISLATION

Article 7

General provision

Subject to articles 8 to 10, the applicable legislation is determined according to the following provisions:

- (a) persons who are engaged in a labour market activity in the territory of a contracting State are subject to the legislation of this State;
- (b) persons who are permanently engaged in a labour market activity on board a ship that flies the flag of a contracting State, are subject to the legislation of this State.

Article 8

Special provisions

1. An employed person who, being in the service of an enterprise with an office on which he normally depends in the territory of one of the contracting States, is posted by this enterprise in the territory of the other contracting State to work on its account, shall be, just like his family members who accompany him, subject to the legislation of the first State, as if he continued to be employed in his territory on the condition that the foreseeable duration of his work does not exceed twenty-four months, and that he is not sent to replace another person whose detachment period has come to an end.
2. Paragraph 1 (b) of article 7 does not apply to persons not normally employed at sea who work in the territorial waters or in a harbour of one of the contracting States on a ship that flies the flag of the other State.

Depending on the case, either paragraph 1 (a) of article 7 or paragraph 1 of this article applies.

3. Employed persons of a transport enterprise that has its head office in the territory of one of

the contracting States, who are assigned to the territory of the other contracting State, or who either work there on a short term basis or as itinerant personnel, as well as family members who accompany them, shall be subject to the legislation of the contracting State in the territory of which the enterprise has its head office.

If, however, the enterprise has a branch or permanent representation in the territory of the other contracting State, the salaried persons employed by that branch or representation shall be subject to the legislation of the contracting State in the territory in which it is located, except for those who are sent there on a temporary basis.

Article 9

Civil servants, members of diplomatic missions or consular posts

1. Civil servants and equivalent personnel are subject to the legislation of the contracting State whose administration employs them. These persons, as well as their family members are, for this purpose, considered to be residing in this contracting State, even if they are in the territory of the other contracting State.
2.
 - (a) Nationals of a contracting State sent by the government of this contracting State to the territory of the other contracting State as members of a diplomatic mission or a consular post are subject to the legislation of the first contracting State.
 - (b) Persons engaged by a diplomatic mission or a consular post of one of the contracting States in the territory of the other contracting State are subject to the legislation of the latter contracting State.

However, persons who are nationals of the first contracting State can opt for the legislation of this contracting State to be applied.

This choice is to be made within six months from the commencement date of employment or the date of the entry into force of this Convention.

- (c) When the diplomatic mission or the consular post of one of the contracting States employs persons who, pursuant to point (b) of this paragraph, are subject to the legislation of the other contracting State, the mission or post takes into account the

obligations imposed on the employers under the legislation of this contracting State.

- (d) Analogically, the provisions in points (b) and (c) of this paragraph also apply to persons employed in private service of a person specified in point (a) of this paragraph.
- (e) The provisions of points (a) to (d) of this paragraph neither apply to honorary members of a consular post nor persons employed in private service of these persons.
- (f) The provisions of this paragraph also apply to the family members of the persons referred to in points (a) to (e), living at home, unless they exercise a labour market activity.

Article 10

Derogations

In the interest of certain insured persons or certain categories of insured persons, the competent authorities can, in common agreement, specify derogations to the provisions of articles 7 to 9.

PART III - PROVISIONS CONCERNING PENSIONS

CHAPTER I - Common provisions

Article 11

For the acquisition, retention or recovery of the right to pensions, the insurance periods completed pursuant to the legislation of both contracting States are totalized where necessary and to the extent that they do not overlap.

CHAPTER II - Special provisions concerning Belgian pensions

SECTION A - Retirement and survivors' pensions

Article 12

1. Notwithstanding the provisions of article 11, if the Belgian legislation subordinates the granting of certain pensions to the condition that the insurance periods are to be completed in a given occupation, only insurance periods in the same occupation in the Philippines shall be totalized for admission to entitlement to these pensions.
2. If the Belgian legislation subordinates the granting of certain pensions to the condition that the insurance periods are to be completed in a determined occupation, and when these periods did not result in entitlement to the said pensions, the said periods shall be considered valid for the liquidation of the pensions provided in the general scheme of salaried persons.

Article 13

1. If a person is entitled to pensions under the Belgian legislation without necessarily proceeding to totalization, the Belgian agency shall calculate the pension entitlement directly on the basis of the insurance periods completed in Belgium and only under the Belgian legislation.

This agency shall also calculate the amount of pension that would be obtained by applying the rules specified in paragraph 2 (a) and (b). Only the higher of these two amounts shall be taken into consideration.

2. If a person is entitled to a pension by virtue of the Belgian legislation, with his right being created solely taking the totalization of the insurance periods into account pursuant to article 11, the following rules apply:
 - (a) the Belgian agency shall calculate the theoretical amount of the pension due as if all the insurance periods completed according to the two contracting States' legislations were exclusively completed under the legislation it applies;
 - (b) the Belgian agency shall then calculate the amount due, on the basis of the amount specified under (a), in proportion to the duration of the insurance periods under its legislation, in relation to the duration of all insurance periods accounted under (a).

SECTION B - Invalidity

Article 14

For the liquidation of invalidity pensions in application of the Belgian legislation, article 11 and article 13, paragraph 2, shall apply.

Article 15

Notwithstanding article 14, Belgium shall not grant any pensions for periods completed under its legislation and that are to be taken into account at the moment of the contingency, if the duration of the said periods is less than one year.

Article 16

If according to the Belgian legislation, a right to a pension is opened without recourse to the provisions in article 11, and if the amount of this pension is higher than the amount resulting from the sum of the Belgian and Philippine prorata pensions, the Belgian competent agency will grant, in addition to its prorata obligation, a complement equal to the difference between the total amount of these pensions and the amount of the pension due solely according to the legislation it applies.

Article 17

1. In derogation of the provisions of articles 11 and 16, the entitlement to invalidity pensions of workers who have been employed in mines or stone-pits with subterranean exploitation in Belgium and the Philippines is determined according to the rules defined in article 13, when, taking account of the periods totalized to this end, these workers meet the conditions specified in the special Belgian legislation on the invalidity of mine workers and equivalent persons.
2. For the application of paragraph 1, the periods of insurance in the same occupation exercised on the territory of the Philippines are, both for the acquisition and for the determination of the entitlement, totalized with the periods of effective occupation or equivalent periods in the Belgian mines or stone-pits with subterranean exploitation.
3. If, taking account of the periods thus totalized, the person concerned does not meet the requirements to avail of the pensions specified in the special Belgian legislation on invalidity of mine workers and equivalent persons, the periods of effective or equivalent occupation in the Belgian mines or stone-pits with subterranean exploitation shall be taken into account for the granting of pensions in the system for invalidity insurance of salaried persons.

Article 18

In case of transfer of residence and temporary stay in the other State, the Belgian competent authority can require that the person entitled to an invalidity pension obtain the authorization of the Belgian competent agency. This authorization can only be refused if the moving of the person concerned is not advisable and under the same conditions as applicable to Belgian nationals.

Article 19

1. If, because of the rising cost of living, the variation of the wage levels or other adaptation causes, the Philippine pensions are changed with a given percentage or amount, this percentage or amount should be directly applied to the Philippine pensions, without having to proceed to a new calculation of the Belgian pensions.
2. On the other hand, in case of modification of the rules or of the computation process with regard to the establishment of the pensions, a new computation shall be performed according to article 13.

CHAPTER III - Special provisions concerning Philippine pensions

Article 20

1. The competent agency of the Philippines shall not apply the provisions of article 11 if the person on whose account pensions are computed has sufficient periods of insurance to satisfy the requirements for entitlement of pensions under the legislation of the Philippines.
2. This Convention shall not prevent the application of the legislation of the Philippines concerning the payment of pensions that are more favorable to the persons listed in article 3.

Article 21

Notwithstanding the articles 11 and 20, if the total duration of the insurance periods accumulated by a person under the legislation of the Philippines is less than one year, the competent agency of the Philippines shall not be required to award a disability pension to that person.

Article 22

If a person is entitled to a pension by virtue of the legislation of the Philippines, with his right being created solely taking the totalization of the insurance periods into account pursuant to article 11, the competent agency of the Philippines shall calculate the amount of pension payable to that person in the following manner:

- (a) it shall first determine the amount of the theoretical pension which would be payable under the legislation of the Philippines solely on the basis of the minimum insurance periods required under that legislation;
- (b) it shall then multiply the theoretical pension by the fraction represented by the insurance periods actually completed under the legislation of the Philippines in relation to the total insurance periods completed under the legislation of the Philippines and of only those periods creditable under the Belgian legislation which are required to satisfy the minimum requirements for entitlement to that pension under the legislation of the Philippines.

PART IV - MISCELLANEOUS PROVISIONS

Article 23

Responsibilities of the competent authorities

The competent authorities:

- (a) shall take all administrative measures required to implement this Convention and shall designate the liaison agencies;
- (b) shall define the procedures for mutual administrative assistance, including the sharing of expenses associated with obtaining medical, administrative and other evidence required for the implementation of this Convention;
- (c) shall directly communicate to each other any information concerning the measures taken for the application of this Convention;
- (d) shall directly communicate to each other, as soon as possible, all changes in their legislation to the extent that these changes might affect the application of this Convention.

Article 24

Administrative collaboration

1. For the implementation of this Convention, the competent authorities as well as the competent agencies of both contracting States shall lend each other their good offices as they would for the application of their own legislation. In principle, this assistance shall be provided free of charge; however, the competent authorities may agree on the reimbursement of some expenses.
2. The benefit of the exemptions or reductions of taxes, or stamp duties or of registration or recording fees provided for by the legislation of one contracting State in respect of certificates or other documents which must be produced for the application of the legislation of that State shall be extended to certificates and similar documents to be produced for the application of the legislation of the other State.
3. All acts, documents and certificates which must be produced for the implementation of this Convention shall be exempt from notarization by diplomatic or consular authorities.
4. For the implementation of this Convention, the competent authorities and agencies of the contracting States may communicate directly with each other as well as with any person, regardless of the residence of such persons. Such communication may be made in one of the official languages of the contracting States.

Article 25

Claims, notices and appeals

Claims, notices or appeals which, according to the legislation of one of the contracting States, should have been submitted within a specified period to the authority, agency or jurisdiction of this State, are acceptable if they are presented within the same specified period to a corresponding authority, agency or jurisdiction of the other contracting State. In this case the claims, notices or appeals must be sent without delay to the authority, agency or jurisdiction of the first contracting State, either directly or through the competent authorities of the contracting States. The date on which these claims, notices or appeals have been submitted to an authority, institution or jurisdiction of the second contracting State shall be considered to be the date of submission to the authority, agency or jurisdiction authorized to accept such claims, notices or appeals.

An application or document may not be rejected because it is written in an official language of the other contracting State.

Article 26

Payment of pensions

The pension paying agencies may discharge their obligations under this Convention in their national currency.

Transfers resulting from the implementation of this Convention shall take place pursuant to the Conventions that exist between both contracting States.

The provisions in the legislation of one of the contracting States with regard to monetary control must not obstruct the free transfer of financial amounts resulting from the implementation of this Convention.

Article 27

Resolution of disputes

Disputes which arise in interpreting or applying this Convention shall be resolved, to the extent possible, by the competent authorities.

Article 28

Payments that are not due

When the agency of one of the contracting States has paid to a beneficiary of pensions a sum that exceeds the one he is entitled to, this agency may, under the conditions and within the limits specified by the legislation it applies, request that the pension paying agency of the other contracting State in favour of this beneficiary deduct the excess amount from the sums it pays to the said beneficiary. The latter agency makes the deduction under the conditions and within the limits such a compensation is authorized by virtue of the legislation it applies, as if it were sums paid in excess by itself, and transfers the amount so deducted to the crediting agency.

PART V - TRANSITIONAL AND FINAL PROVISIONS

Article 29

Events prior to the coming into force of the Convention

1. This Convention shall apply to events which occurred prior to its coming into force.
2. This Convention shall not create any entitlement to pensions for any period prior to its coming into force.
3. All insurance periods completed under the legislation of one of the contracting States prior to the date on which this Convention comes into force shall be taken into consideration in determining entitlement to any pension in accordance with the provisions of this Convention.
4. This Convention shall not apply to rights that were liquidated by the granting of a lump sum payment or the reimbursement of contributions.

Article 30

Revision, prescription, forfeiture

1. Any pension that was not paid or that was suspended by reason of the nationality of the interested person or by reason of his residence in the territory of a contracting State other than that in which the agency responsible for payment is located, shall, on application by the interested person, be paid or reinstated from the coming into force of this Convention.
2. The entitlement of interested persons who, prior to the coming into force of this Convention, obtained the payment of a pension may be revised upon application by those persons, in accordance with the provisions of this Convention. In no case shall such a revision result in a reduction of the prior entitlement of interested persons.
3. If the application referred to in paragraph 1 or 2 of this article is made within two years of the coming into force of this Convention, any entitlement arising from the implementation of this Convention shall be effective from that date, and the legislation of either contracting

State concerning the forfeiture or the prescription of rights shall not be applicable to such interested persons.

4. If the application referred to in paragraph 1 or 2 of this article is made after two years following the coming into force of this Convention, the rights which are not subject to forfeiture or which are not prescribed shall be acquired from the date of the application, unless more favourable legislative provisions of the contracting State concerned are applicable.

Article 31

Duration

This Convention is concluded without any limitation on its duration. It may be terminated by either contracting State giving twelve months' notice in writing to the other State.

Article 32

Guarantee of rights that are acquired or in the course of acquisition

In the event of termination of this Convention, any rights and payment of pensions acquired by virtue of the Convention shall be maintained. The contracting States shall make arrangements regarding the rights in the course of acquisition.

Article 33

Coming into force

This Convention shall come into force on the first day of the third month following the date of receipt of the note through which the last of both contracting States will have given notice to the other contracting State that all required legal formalities have been accomplished.

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

Done in two copies in Manila on the seventh day of December of the year 2001, in English, French and Dutch, each text being equally authentic.

For the Government of the Kingdom of
Belgium
Roland Van Remoortele
Ambassador
Royal Belgian Embassy

For the Government of the Republic of the
Philippines
Corazon G. De La Paz
President and CEO
Social Security System