

**AGREEMENT ON SOCIAL SECURITY BETWEEN
THE GOVERNMENT OF THE REPUBLIC OF TURKEY
AND
THE GOVERNMENT OF THE REPUBLIC OF KOREA**

The Government of the Republic of Turkey and the Government of the Republic of Korea (hereinafter referred to as the "Contracting Parties"),

Being desirous of regulating the relations between the two countries in the field of social security,

Have agreed as follows:

PART I
GENERAL PROVISIONS

Article 1
Definitions of Terms

1. For the purpose of this Agreement:

a. "national" means,

as regards the Republic of Turkey (hereinafter referred to as "Turkey"), a national of Turkey as defined in the constitution of Turkey, and as regards the Republic of Korea (hereinafter referred to as "Korea"), a national of Korea as defined in the Nationality Law;

b. "territory" means, as regards to Turkey, Turkey, and as regards to Korea, Korea;

c. "legislation" means the laws and regulations specified in Article 2 of this Agreement;

d. "Competent Authority" means,

as regards Turkey, the Ministry of Labour and Social Security, and as regards Korea, the Ministry of Health and Welfare or the Ministry of Employment and Labor as the case may require;

e. "Competent Agency" means,

as regards Turkey, the Social Security Institution and as regards Korea, the National Pension Service;

- f. "period of insurance" means any period of contributions that has been recognized and completed under the legislation of a Contracting Party, and any other period recognized as equivalent to a period of contribution under that legislation;
 - g. "benefits and pensions" means any benefit provided for in the legislation specified in Article 2 of this Agreement.
2. Any term not defined in this Article shall have the meaning assigned to it in the applicable legislation.

Article 2

Applicable Legislation

1. This Agreement shall apply to the following legislation:
- a. as regards Turkey,
 - i. regarding long term insurances, Social Insurances and Universal Health Insurance Law no. 5510 and Legislation related to funds that are subject to provisional Article 20 of Social Insurances Law No. 506, and
 - ii. with regard to Part II and only for those who are subject to Turkish legislation on long term, short term, general health and unemployment insurances therein, Social Insurances and Universal Health Insurance Law no. 5510, Legislation related to funds that are subject to provisional Article 20 of Social Insurances Law No. 506 and Unemployment Law No. 4447.
 - b. as regards Korea,
 - i. the National Pension Act, and

ii. with regard to Part II only, the Employment Insurance Act and National Health Insurance Act, Industrial Accident Compensation Insurance Act, and the Act on the Collection, etc. of Premiums for Employment Insurance and for Industrial Accident Compensation Insurance;

2. Unless otherwise provided in this Agreement, the legislation referred to in paragraph 1 of this Article shall not include treaties or other international agreements on social security that may be concluded between one Contracting Party and a third party, or legislation promulgated for their specific implementation.
3. This Agreement shall also apply to future legislation which amends, supplements, consolidates or supersedes the legislation specified in paragraph 1 of this Article.
4. Notwithstanding paragraph 3 of this Article, this Agreement shall not apply to laws or regulations which extend the existing legislation of one Contracting Party to new categories of beneficiaries, if the Competent Authority of that Contracting Party notifies the Competent Authority of the other Contracting Party in writing, within six months from the date of the entry into force of such laws or regulations, that no such extension to the Agreement is intended.

Article 3

Personal Scope

This Agreement shall apply to any person who is or who has been subject to the legislation of either Contracting Party, and to the dependants and survivors of such a person within the meaning of the applicable legislation of either Contracting Party.

Article 4

Equal Treatment

Unless otherwise provided in this Agreement, any person described in Article 3 who resides in the territory of either Contracting Party shall, in the application of the legislation of the Contracting Party, receive equal treatment with nationals of that Contracting Party.

Article 5

Export of Benefits

Unless otherwise provided in this Agreement, benefits awarded under the legislation of the Contracting Party which is responsible for payment shall be paid at the same rate to persons within the scope of Article 3 of this Agreement even when they are resident in the territory of the other Contracting Party. In cases they are resident in the territory of a third country, benefits shall be paid in accordance with the legislation of the Contracting Party which is responsible for payment.

Article 6

Reduction, Suspension and Cancellation of Benefits

Persons to whom this Agreement is applicable shall not be subject to the legislation of the two Contracting Parties concerning reduction, suspension or cancellation of benefits in case of the simultaneous receipt of the benefits from the Competent Agencies of both Contracting Parties.

PART II
PROVISIONS ON APPLICABLE LEGISLATION

Article 7

General Provisions

1. Except as otherwise provided in this Part, an employed person who works in the territory of one Contracting Party shall, with respect to that work, be subject only to the legislation of that Contracting Party.
2. A self-employed person who ordinarily resides in the territory of one Contracting Party and who works in the territory of the other Contracting Party or in the territories of both Contracting Parties shall, in respect of that work, be subject only to the legislation of the first Contracting Party.
3. A person who is employed in the territories of both Contracting Parties or self-employed in the territory of one Contracting Party and employed in the territory of the other Contracting Party shall be subject only to the legislation of the Contracting Party in whose territory he or she ordinarily resides.
4. Civil servants or persons treated as such of either Contracting Party shall be subject to the legislation of the Contracting Party in whose administration they are employed.

Article 8

Detached Workers

1. Where a person in the service of an employer having a registered office in the territory of one Contracting Party is sent by that employer to work on that employer's behalf in the territory of the other Contracting Party, only the legislation on compulsory insurance of the first Contracting Party shall continue to apply with regard to that employment during the first thirty six calendar months as though the employee were still employed in the territory of the first Contracting Party. This paragraph shall also apply to a worker who has been sent by his or her employer in the territory of one Contracting Party to the employer's affiliated or subsidiary company in the territory of the other Contracting Party.

2. In case the detachment continues beyond the period specified in paragraph 1 of this Article, the legislation of the first Contracting Party referred to in that paragraph shall continue to apply up to an additional period of twenty four months, provided that the Competent Authorities of both Contracting Parties or the Competent Agencies designated by them consent upon the joint request of the employee and the employer.

Article 9

Personnel of international transport undertakings

A person who is a member of the travelling or flying personnel of an undertaking which, for hire or on its own account, operates international transport services for passengers or goods by road, rail, air or sea and has its registered office in the territory of the other Contracting Party shall be subject to the legislation of that Contracting Party.

Article 10

Mariners

A person who, but for this Agreement, would be subject to the legislation of both Contracting Parties with respect to employment as an officer or member of a crew on a ship shall be subject only to the legislation of Turkey if the ship flies the flag of Turkey and only to the legislation of Korea in any other case.

Article 11

Members of Diplomatic Mission and Consular Posts

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. People employed in diplomatic missions or consular posts of either Contracting Party and posted to the receiving country who are not civil servants, as well as people who are employed in private service of officials of diplomatic missions or consular posts and posted to the receiving country, shall be subject to the legislation of the sending Contracting Party.
3. The persons referred to in paragraph 2 of this Article shall be subject to the legislation of the receiving Contracting Party if they are employed locally. However, they may opt for the application of the legislation of the employing Contracting Party within six months following the date of their engagement provided that they are nationals of the employing Contracting Party.

Article 12

Exceptions

The Competent Authorities of the two Contracting Parties or the Competent Agencies designated by them may agree to grant an exception to this Part with respect to particular persons or categories of persons provided that any affected person shall be subject to the legislation of one Contracting Party.

Article 13

Special Provisions for Detached Employees

1. Before the Korean employees are detached to Turkey as provided for in Article 8, the employees shall be covered by health insurance covering medical expenses for them and their dependants, and industrial accident compensation insurance for them during their stay in Turkey.
2. To any detached employees who are not covered by these insurances referred to in paragraph 1, paragraph 1 of Article 7 shall be applied.

3. In relation to the insured employees who are detached from Turkey to Korea, the rights and obligations of the insured employees and their employers related to insurance shall survive during their period of detachment.

PART III

PROVISIONS ON BENEFITS

Article 14

Totalization of Periods of Insurance

1. When periods of insurance have been completed under the legislation of the two Contracting Parties, the Competent Agency of each Contracting Party shall, in determining eligibility for benefits under the legislation which it applies, take into account, if necessary, periods of insurance under the legislation of the other Contracting Party provided that such periods of insurance do not overlap with periods of insurance under its legislation.
2. Where a person is not eligible for a benefit on the basis of the periods of insurance completed under the legislation of both Contracting Parties, aggregated as provided in paragraph 1 of this Article, the eligibility of that person for that benefit shall be determined by totalizing these periods and periods of insurance completed under the legislation of a third party with which both Contracting Parties have concluded an international social security instrument which provides for the totalizing of periods of insurance.
3. Where the right to receive benefits under the legislation of either Contracting Party is conditional upon the completion of a certain period in an occupation covered by a special scheme or in a specified occupation or employment, only periods completed under the scheme concerned or, in the absence of such a scheme, in the same occupation or employment, as appropriate, shall be taken into account for determining entitlement to such benefits under the legislation of the other Contracting Party.

4. One month of the periods in which a premium or contribution is paid under Turkish legislation shall be considered as equivalent to 30 days, and one year equivalent to 360 days.
5. For the purpose of determining the right to receive benefit under the legislation of Turkey, the date of the first working day in the other Contracting Party shall be taken into account.

Article 15

Minimum Period to be Totalized

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

Article 16

Calculation of Benefits

The calculation of benefits shall be determined by the applicable legislation of the respective Contracting Party unless otherwise provided in this Agreement.

Article 17

Special Provisions relating to Turkey

1. If entitlement to benefits under Turkish legislation is to be acquired without regard to the provisions of Article 14 of this Agreement, the Competent Agency of Turkey shall calculate the benefits to be awarded solely on the basis of the periods completed under the legislation it applies.

2. If the person concerned acquires the right to benefits under Turkish legislation only through application of Article 14 of this Agreement, the Competent Agency of Turkey shall calculate the benefits as follows:
 - a. the Competent Agency shall calculate the theoretical amount taking into account all the insurance periods completed under the legislation of both Contracting Parties as if they had been completed solely under the legislation which that Agency applies;
 - b. on the basis of the amount calculated as referred to above, the actual amount of benefit shall be computed as a proportion between the insurance periods completed exclusively according to its legislation and the total insurance periods taken into account for calculating the benefit.
3. Where benefits under Turkish legislation are calculated on the basis of earnings or contributions paid under Turkish legislation, the Turkish side shall take into account the earnings or contributions paid exclusively under the legislation it applies.
4. Where the amount of cash benefits depends on the number of family members in accordance with Turkish legislation, the Turkish side shall also take into account the family members residing in the territory of the other Contracting Party.

Article 18

Special Provisions relating to Korea

1. To obtain a disability or survivors benefit, the requirement of the Korean legislation that a person be covered when the insured event occurs shall be considered to have been met if the person is covered for a benefit under the legislation of Turkey during a period in which the insured event occurs according to the legislation of Korea.

2. Where periods of insurance under the legislation of Turkey are taken into account to establish eligibility for benefits under the legislation of Korea in accordance with Article 14 and paragraph 1 of this Article, the benefit due shall be determined as follows:
 - a. the Competent Agency of Korea shall first compute a benefit amount equal to the amount that would have been payable to the person if all the periods of insurance taken into account under the legislation of the two Contracting Parties had been completed under the legislation of Korea. To determine the benefit amount, the Competent Agency of Korea shall take into account the person's average standard monthly income while covered under the legislation of Korea;
 - b. the Competent Agency of Korea shall calculate the partial benefit to be paid in accordance with the legislation of Korea based on the benefit amount calculated according to the preceding subparagraph, in proportion to the ratio between the duration of the periods of insurance taken into consideration under its own legislation and the total duration of the periods of insurance taken into consideration under the legislation of the two Contracting Parties.
3. Lump-sum refunds shall be granted to nationals of Turkey under the same conditions as they are granted to Korean nationals. Notwithstanding Article 4 of this Agreement, lump-sum refunds shall be paid to nationals of a third State only in accordance with the legislation of Korea.
4. Provisions of the legislation of Korea restricting the entitlement to the disability or survivors benefit due to unpaid contributions at the time when the person has otherwise qualified for the benefit shall apply only to the period covered under the legislation of Korea.

PART IV
MISCELLANEOUS PROVISIONS

Article 19

Administrative Arrangement

1. The Competent Authorities of the Contracting Parties shall conclude an Administrative Arrangement that sets out the measures necessary for the implementation of this Agreement.
2. The liaison agencies of each Contracting Party shall be designated in the Administrative Arrangement.

Article 20

Exchange of Information and Mutual Assistance

1. The Competent Authorities and Competent Agencies of the Contracting Parties shall, within the scope of their respective authorities:
 - a. communicate to each other, to the extent permitted by the legislation which they administer, any information necessary for the application of this Agreement;
 - b. assist each other with regard to the determination of entitlement to, or payment of, any benefit under this Agreement, or the legislation to which this Agreement applies; and
 - c. communicate to each other, as soon as possible, information concerning the measures taken by them for the application of this Agreement and of any changes in their respective legislation which may affect the application of this Agreement.

2. The assistance referred to in sub-paragraph 1(b) of this Article shall be provided free of charge, subject to any exceptions to be jointly decided upon in the Administrative Arrangement concluded pursuant to paragraph 1 of Article 19.

Article 21

Confidentiality of Information

Unless otherwise required by the national legislation of a Contracting Party, information about an individual which is transmitted in accordance with this Agreement to the Competent Authority or Competent Agency of that Contracting Party by the Competent Authority or Competent Agency of the other Contracting Party shall be used exclusively for the purposes of implementing this Agreement and the legislation to which this Agreement applies. Such information received by the Competent Authority or Competent Agency of a Contracting Party shall be governed by the national legislation of that Contracting Party for the protection of privacy and confidentiality of personal data.

Article 22

Language of Communications

1. The Competent Authorities and Competent Agencies of the Contracting Parties may correspond directly with one another as well as with any person, wherever that person may reside, whenever it is necessary to do so for the application of this Agreement or the legislation to which this Agreement applies. The correspondence may be made in any official language of either Contracting Party.
2. An application or document may not be rejected by the Competent Authority or Competent Agency of a Contracting Party solely because it is in an official language of the other Contracting Party.

Article 23

Exemption from Fees and Certification of Documents

1. Where the legislation of a Contracting Party provides that any document which is submitted to the Competent Authority or Competent Agency of that Contracting Party 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 Competent Agency of the other Contracting Party in the application of this Agreement or of the legislation of the other Contracting Party.
2. Documents and certificates which are presented by the Competent Authority or the Competent Agency of either Contracting Party for the application of this Agreement or of the legislation of the other Contracting Party shall be exempted from requirements for authentication by diplomatic or consular authorities or any other similar formalities.
3. Copies of documents which are certified as true and exact copies by the Competent Authority or Competent Agency of one Contracting Party shall be accepted as true and exact copies by the Competent Authority or Competent Agency of the other Contracting Party, without further certification.

Article 24

Submission of Claims, Notices, or Appeals

1. Any claim, notice or appeal concerning the determination or payment of a benefit under the legislation of a Contracting Party which should, for the purposes of that legislation, have been filed within a prescribed period with the Competent Authority or Competent Agency of that Contracting Party, but which is instead filed within the same period to the Competent Authority or Competent Agency of the other Contracting Party, shall be considered to have been filed on time with the Competent Authority or Competent Agency of the first Contracting Party.

2. If, after the entry into force of this Agreement, a person files a written application for benefits with the Competent Agency of a Contracting Party under the legislation of that Contracting Party, and if that person has not explicitly requested that the application be restricted to benefits under that legislation, the application shall also protect the rights of that person to corresponding benefits under the legislation of the other Contracting Party, provided that the person at the time of application:
 - a. is entitled on age grounds to lodge a valid claim for a benefit of the other Contracting Party; and
 - b. requests that it be considered as an application under the legislation of the other Contracting Party, or
 - c. provides information indicating that periods of insurance have been completed under the legislation of the other Contracting Party.

However, the foregoing shall not apply if the applicant explicitly requests that the application be restricted to benefits under the legislation of the first Contracting Party.

3. In any case to which paragraph 1 or 2 of this Article applies, the Competent Authority or Competent Agency to which the claim, notice or appeal has been submitted shall indicate the date of receipt of the document and forward it without delay to the Competent Authority or Competent Agency of the other Contracting Party.

Article 25

Payment of Benefits

1. The Competent Agency of a Contracting Party may pay benefits in accordance with this Agreement in the currency of that Contracting Party.
2. In the event that a Contracting Party imposes currency controls or other similar measures that restrict payments, remittance or transfers of funds or financial instruments to persons who are outside the territory of that Contracting Party, it shall, without delay, take appropriate measures to ensure the payment of any amount that must be paid in accordance with this Agreement to persons described in Article 3.

Article 26

Resolution of Disputes

1. The Competent Authorities of the Contracting Parties shall jointly resolve any dispute about the interpretation or application of this Agreement through consultations.
2. If any dispute cannot be resolved as specified in paragraph 1 of this Article and within six months, it shall, at the request of either Contracting Party, be submitted to an arbitration mechanism which can resolve it in accordance with the basic principles and spirit of this Agreement. The Contracting Parties shall determine together the rules concerning the constitution and working method of the arbitration mechanism.

PART V
TRANSITIONAL AND FINAL PROVISIONS

Article 27

Transitional Provisions

1. This Agreement shall not establish any right to payment of a benefit for any period before the date of the entry into force of this Agreement.
2. Any period of insurance completed under the legislation of a Contracting Party before the entry into force of this Agreement shall be taken into account for the purpose of determining rights arising from this Agreement.

However, neither Competent Agency of the Contracting Parties shall be required to take into account any period of insurance which occurred prior to the earliest date for which any period of insurance may be credited under its legislation.

3. Determinations concerning entitlement to benefits which were made before the entry into force of this Agreement shall not affect rights arising under the Agreement.
4. Benefits determined before the entry into force of this Agreement may be newly determined upon application if a change in such benefits results solely from the provisions of this Agreement. If the new determination under the preceding sentence of this paragraph results in no entitlement or entitlement to a lesser amount of benefits than that paid for the last period prior to the entry into force of this Agreement, the same amount of benefits as previously paid shall continue to be paid.

5. In applying Article 8 in the case of persons who were sent to a Contracting Party prior to the date of entry into force of this Agreement, the periods of employment referred to in that Article shall be considered to begin on the date of entry into force of this Agreement.
6. Where the request referred to in Part III of this Agreement is submitted within two years of the date of the entry into force of this Agreement, the rights arising in accordance with the provisions of this Agreement shall be acquired as from that date and those provisions of the legislation of either Contracting Party which concern the loss or extinction of rights by lapse of time shall not be raised against the person concerned. For requests submitted after the end of two years, the date of actual request shall be taken as the date of application.

Article 28

Entry into Force

Each Contracting Party shall notify the other Contracting Party in writing through diplomatic channels of the completion of its domestic procedures for the entry into force of this Agreement. This Agreement shall enter into force on the first day of the third month following the month in which the later of such notifications shall have been received.

Article 29

Period of Duration and Termination

1. This Agreement shall remain in force for an indefinite period. Either Contracting Party may terminate this Agreement by notifying the other Contracting Party in writing through diplomatic channels of its intention to terminate this Agreement at least six months prior to the intended date of such termination.

2. If this Agreement is terminated, rights regarding entitlement to or payment of benefits acquired under it prior to its termination shall be retained. The Contracting Parties shall make arrangements for dealing with rights in the process of being acquired.

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

Done in duplicate at Ankara, on 1st day of August 2012, in the Turkish, Korean and English languages, each text being equally authentic. In case of any divergence of interpretation, the English text shall prevail.

**FOR THE GOVERNMENT
OF THE REPUBLIC OF TURKEY**

**FOR THE GOVERNMENT
OF THE REPUBLIC OF KOREA**

Faruk ÇELİK
Minister for Labour and Social Security

BARK Taeho
Minister for Trade