

Agreement

between

the Republic of the Philippines

and

the Federal Republic of Germany

on

Social Security

The Republic of the Philippines
and
the Federal Republic of Germany

desiring to regulate their relations in the area of Social Security

have agreed upon the following:

Part I
General Provisions

Article I
Definitions

(1) For the purposes of this Agreement,

1. "Contracting State" means

the Republic of the Philippines or the Federal Republic of Germany

2. "territory" means,

as regards the Republic of the Philippines,

the territory of the Republic of the Philippines in accordance with the 1987 Constitution of the Republic of the Philippines and in accordance with International Law;

as regards the Federal Republic of Germany,

the territory of the Federal Republic of Germany.

3. "national" means,
as regards the Republic of the Philippines,
a Philippine citizen within the meaning of the 1987 Constitution of the Republic of the Philippines;

as regards the Federal Republic of Germany,
a German citizen within the meaning of the Basic Law for the Federal Republic of Germany (Grundgesetz);
 4. "legislation" means
the laws, regulations, by-laws and other general legislative acts related to the branches of social security covered by the legislative scope of this Agreement;
 5. "competent authority" means,
as regards the Republic of the Philippines, the President and Chief Executive Officer of the Social Security System and the President and General Manager of the Government Service Insurance System to the extent of their respective responsibilities in the application of the legislation specified in Article 2 of this Agreement;

as regards the Federal Republic of Germany,
the Federal Ministry of Labour and Social Affairs (Bundesministerium für Arbeit und Soziales);
 6. "institution" means
an agency responsible for the implementation of the legislation covered by the legislative scope of this Agreement;
 7. "periods of coverage" means
periods of contributions and periods of employment defined as such by the legislation under which such periods have been completed, as well as any other creditable periods recognized by that legislation;
 8. "pension" or "cash benefit" means
a pension or any other cash benefit including any supplement, allowance or increase provided for under the legislative scope of this Agreement;
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9. "ordinary residence" means
the place of a person's actual non-temporary residence;

10. "body" means (Einrichtung)
an institution authorized to request, transmit, receive, or use personal data in accordance
with Article 18 of this Agreement.

(2) Other terms shall have the meaning assigned to them pursuant to the applicable
legislation of the respective Contracting State.

Article 2 Legislative scope

(1) This Agreement shall apply to

1. as regards the Federal Republic of Germany, the legislation concerning the

a) Pension insurance,

b) Steelworkers' Supplementary Insurance (Hüttenknappschaftliche Zusatzversicherung),

c) Farmers' Old-Age Security (Alterssicherung der Landwirte);

2. as regards the Republic of the Philippines, the legislation concerning the

a) retirement, disability and death benefits in accordance with the Social Security Act,

b) retirement, disability, death and survivorship benefits in accordance with the
Government Service Insurance Act,

c) totalization of periods of contributions under the laws specified in sub-paragraphs a) and

b) in accordance with the Portability Law.

(2) This Agreement shall also apply to amendments or supplements to the legislation of the
Contracting States mentioned in paragraph 1.

Article 3
Personal scope

Unless otherwise provided in this Agreement, this Agreement shall apply to the persons who are or have been subject to the legislation of either or both Contracting States and other persons to the extent they derive rights from such persons.

Article 4
Equality of treatment

Unless otherwise provided in this Agreement, the persons covered by the personal scope of this Agreement shall receive equal treatment with nationals of that Contracting State in the application of the legislation of that Contracting State.

Article 5
Equal status of ordinary residence and export of benefits

Unless otherwise provided in this Agreement, restrictive legislation of one Contracting State according to which the entitlement to benefits or the payment of benefits is dependent on ordinary residence in the territory of that Contracting State shall not apply to persons covered by the personal scope of this Agreement if their ordinary residence is in the territory of the other Contracting State.

Part II
Applicable Legislation

Article 6
General Regulations

(1) Unless otherwise provided in this Agreement, an employee shall be subject only to the legislation of the Contracting State in whose territory he or she actually works.

(2) A person who is a member of the flying personnel of an enterprise which operates international transport services for passengers or goods and has its registered office in the

territory of one Contracting State shall be subject to the legislation of that Contracting State.

(3) This Agreement shall not affect the legislation of either Contracting State regarding compulsory insurance of a person who ordinarily works on board a seagoing vessel that flies the flag of a Contracting State.

(4) Paragraphs 1 to 3 shall apply analogously to self-employed persons.

Article 7 Detached Persons

(1) When an employee who is habitually employed in the territory of one Contracting State is sent by his employer, who ordinarily engages in considerable business activities in the sending State, to the territory of the other Contracting State in the context of that employment to perform services there for this employer that are known to be time-limited beforehand, only the legislation of the first Contracting State shall continue to apply with regard to that employment during the first 48 months as though the employee were still employed in the territory of the first Contracting State.

(2) Paragraph 1 shall only apply to a person detached again to the territory of the other Contracting State if this detachment occurs in the framework of an employment relationship with another employer or if more than 12 months have elapsed between the end of the last detachment period and the second detachment.

(3) Paragraphs 1 and 2 shall apply analogously to self-employed persons.

Article 8 Persons employed with diplomatic missions and consular posts

(1) This Agreement shall not affect the application of the Vienna Convention on Diplomatic Relations of 18 April 1961, and of the Vienna Convention on Consular Relations of 24 April 1963.

(2) If a national of a Contracting State is employed by a diplomatic mission or a consular post or by a member of a diplomatic mission or a consular post of this Contracting State in the territory of the other Contracting State, the legislation of the employment State shall, in principle, apply. Within the first six months after taking up employment or after the entry into force of this Agreement, he or she can however elect to be subject to the legislation of the first Contracting State which shall then apply for the duration of the employment as if he or she was employed there. The employer shall be notified of this decision.

Article 9
Exceptions

(1) At the joint request of the employee and the employer or at the request of a self-employed person, the competent authorities of the Contracting States or the institutions designated by them may, by mutual agreement, make exceptions from the provisions of this Agreement in relation to the applicable legislation. A prerequisite for this exception shall be that the person concerned remains subject to the legislation of one of the Contracting States or shall become subject to it. The decision shall consider the nature and circumstances of the gainful employment.

(2) The application shall be filed in the Contracting State whose legislation is to apply.

Part III
Special provisions

Article 10
Totalization of periods of coverage and calculation of pensions

(1) In determining entitlement to benefits under the applicable legislation, periods of coverage which are creditable under the legislation of the other Contracting State shall also be taken into account provided the periods do not overlap. The length of the periods of coverage to be taken into account shall be determined by the legislation of the Contracting State under which they were completed.

(2) Where, under the legislation of one Contracting State, not only the conditions for the application of this Agreement but also the conditions for the application of another

agreement or of a supranational arrangement are satisfied, that other agreement or the supranational arrangement shall not be taken into account by the institution of this Contracting State in the application of this Agreement unless otherwise provided.

(3) Paragraph 2 shall apply with the proviso that periods of coverage of a person completed in a third country with which both Contracting States have concluded social security agreements of the same kind shall be taken into account. This shall also apply to periods of coverage completed in a country in which Regulation (EC) No. 883/2004 is to be applied provided the Republic of the Philippines has concluded a social security agreement with that country.

(4) If an entitlement to benefits requires the completion of certain periods of coverage, only comparable periods of coverage under the legislation of the other Contracting State shall be taken into account for this purpose.

(5) The calculation of the pension shall be determined by the applicable legislation of the respective Contracting State unless otherwise provided in this Agreement.

Article 11

Special provisions relating to the Federal Republic of Germany

(1) Personal earnings points shall be determined on the basis of the earning points acquired under German legislation. In the Farmers' Old-Age Security, the incremental figure shall be the basis for the pension calculation.

(2) The provision on the totalization of periods of coverage shall apply analogously to benefits which are granted at the discretion of the institution.

(3) Periods of coverage completed underground in mining enterprises pursuant to Philippine legislation shall be taken into account in the Miners' Pension Insurance (knappschaftliche Rentenversicherung). If, under German legislation, an entitlement to benefits requires that permanent work underground or equivalent work was performed, the German institution shall take into account periods of coverage completed under the Philippine legislation only in so far as activities of the same kind were performed during these periods.

(4) If German legislation provides that an entitlement to benefits requires the completion of certain periods of coverage within a specified time, and if the legislation provides further that this time is extended by certain circumstances or periods of coverage, periods of coverage under the legislation of the other Contracting State or comparable circumstances in the Republic of the Philippines shall also be taken into account for such an extension. Comparable circumstances are periods during which disability or old-age pensions or benefits on account of sickness, unemployment or occupational accidents (with the exception of pensions) were paid under Philippine legislation as well as periods of child-raising in the Republic of the Philippines.

(5) As for periods of coverage to be taken into account according to the provision on the totalization of periods of coverage, only their actual length shall be taken into account.

(6) If the Farmers' Old-Age Security makes the granting of certain benefits dependent on whether periods of coverage have been completed in the special system for farmers, the periods of coverage that have to be completed under Philippine legislation in order to receive these benefits shall only be taken into account if they were completed during a period of work as a self-employed farmer.

Article 12

Special provisions relating to the Republic of the Philippines

(1) If a person is not entitled to the payment of a benefit because he or she has not completed the required periods of coverage under the Philippine legislation, the Philippine institution shall take into account periods of coverage which are creditable under the German legislation.

(2) Paragraph 1 shall not apply if the person, on whose account the benefits are computed, has completed the required periods of coverage for entitlement to the benefits under the Philippine legislation.

(3) Notwithstanding any other provision of this Agreement, if the total duration of the periods of coverage completed under the Philippine legislation is less than 12 months, paragraph 1 shall not apply.

(4) If a person is not entitled to the payment of a benefit solely on the basis of the periods of coverage completed under the Philippine legislation, but is entitled to the payment through the application of paragraph 1, the amount of benefit payable to that person shall be computed in the following manner:

1. The amount of the minimum benefit which would be payable under the Philippine legislation solely on the basis of the minimum periods of coverage required under that legislation shall first be determined.
2. The minimum benefit shall then be multiplied by the fraction represented by the periods of coverage actually completed under the Philippine legislation, in relation to the minimum period of coverage required under that legislation.

Part IV

Miscellaneous provisions

Chapter 1

Administrative and Legal Assistance

Article 13

Administrative and legal assistance, medical examinations

(1) The institutions of the Contracting States shall provide mutual assistance to each other in the implementation of the legislation covered by the legislative scope of this Agreement and in the implementation of this Agreement as if they were applying their own legislation. The assistance shall be provided free of charge.

(2) Official assistance shall also comprise medical examinations in the framework of the pension insurance. The costs of the examinations, the travel expenses, the loss of earnings, the costs of in-patient observation and other payments to third parties with the exception of expenses for communication shall be reimbursed by the requesting institution. The costs shall not be reimbursed if the medical examination is in the interest of the institutions of both Contracting States.

Article 14

Recognition of enforceable decisions and deeds

(1) Enforceable court decisions as well as enforceable deeds from institutions, or from the authorities of one Contracting State regarding contributions and other claims in the framework of the legislative scope of this Agreement shall be recognized in the other Contracting State.

(2) Recognition may be denied only if it is in contradiction with the public order of the Contracting State in which the decision or deed shall be recognized.

(3) The enforceable decisions and deeds recognized according to paragraph 1 shall be enforced in the other Contracting State. The enforcement procedure shall be governed by the legislation which has been enacted for the enforcement of decisions and deeds in the Contracting State in whose territory the enforcement shall take place.

(4) Claims of institutions in the territory of one Contracting State that are based on contribution arrears shall have the same priority in execution proceedings as well as in insolvency and litigation proceedings in the territory of the other Contracting State as corresponding claims in the territory of that Contracting State.

Article 15

Charges

An exemption from or reduction of taxes or administrative charges including consular fees provided in the legislation of one Contracting State as well as the refund of expenditures for documents to be submitted in the application of this legislation shall also apply to corresponding documents to be submitted in the application of this Agreement or of the legislation of the other Contracting State covered by the legislative scope of this Agreement.

Article 16

Publication of documents and official languages

(1) In implementing this Agreement and the legislation covered by the legislative scope of this Agreement, the institutions of the Contracting States may communicate in their official languages directly with each other as well as with persons concerned and their representatives. Any legislation on the recourse to interpreters shall remain unaffected.

(2) Notifications or other documents may be communicated directly by simple letter or by registered mail with return receipt to persons residing in the territory of the other Contracting State. This shall also apply to notifications and other documents requiring service, which have been enacted in order to implement the German law on assistance to war victims (Federal War Victims' Compensation Act) or of legislation declaring it analogously applicable.

(3) The institutions of the Contracting States may not reject requests and instruments because they are formulated in the official language of the other Contracting State.

Article 17

Equal status of applications

(1) If an application for a benefit payable under the legislation of one Contracting State has been received by an institution in the other Contracting State, that application shall be deemed submitted to the institution of the first Contracting State. This shall apply analogously to other applications, declarations, information and appeals.

(2) The applications, declarations, information or appeals received by an institution of one Contracting State shall be forwarded to the institution of the other Contracting State without delay.

(3) An application for benefits payable under the legislation of one Contracting State shall be deemed to be also an application for a corresponding benefit under the legislation of the other Contracting State provided the application reveals that periods of coverage have been completed under the legislation of the other Contracting State. This shall not apply if the applicant explicitly requests that the determination of entitlement to old-age pensions acquired under the legislation of the other Contracting State be deferred.

Article 18
Data protection

(1) Where personal data is transmitted under this Agreement, the following shall apply whilst the legislation applicable to each Contracting State shall be duly observed:

1. The data may, for the purposes of implementing this Agreement and the legislation to which it applies, be transmitted to the competent bodies in the receiving State. The receiving body may only use the data for these purposes. The passing on of this data to other bodies within the receiving State or the use of this data in the receiving State for other purposes is permissible in the framework of the law of the receiving State provided this serves social insurance purposes including related judicial proceedings. Moreover, the use of this data is permissible for the purposes of preventing and prosecuting criminal offences of substantial significance and of warding off substantial dangers to public security.
2. The receiving body of the data shall, at the request of the transmitting body, inform that body of the use of the transmitted data and the results obtained thereof.
3. The transmitting body shall ensure that the data to be transmitted is correct and that its transmission is necessary and proportionate with regard to the purposes pursued with the transmission of the data. In this context, any prohibition to transmit data under the respective national law has to be respected. Data shall not be transmitted if the transmitting body reasonably assumes that doing so would violate the purpose of a national law or injure any interests of the person concerned that are worthy of protection. If it becomes evident that incorrect data or data the transmission of which was not permissible under the law of the transmitting State has been transmitted, the receiving body has to be immediately notified of this fact. The receiving body is obliged to correct or delete this data without delay.
4. Upon request, the person concerned shall be informed of any personal data transmitted and the intended use of that data. In all other cases, the right of the person concerned to receive information about any personal data held in relation to that person shall be determined by the national law of the Contracting State whose body requests the information.

5. Where a body of one Contracting State transmitted personal data on the basis of this Agreement, the receiving body of the other Contracting State may, in the framework of its liability according to national law, not claim relief vis-à-vis the aggrieved party by arguing that the data transmitted were incorrect or were data the transmission of which was not permissible.
 6. Transmitted personal data shall be deleted as soon as it is no longer required for the purpose for which it was transmitted and if there is no reason to assume that social insurance interests of the person concerned which are worthy of protection will be affected by the deletion of the data.
 7. The transmitting and the receiving bodies shall document the transmission and the receipt of personal data.
 8. The transmitting and the receiving bodies shall protect transmitted personal data effectively against unauthorized access, unauthorized modification and unauthorized disclosure.
- (2) Paragraph 1 shall apply analogously to business and industrial secrets.

Chapter 2

Implementation and Interpretation of this Agreement

Article 19

Implementation of this Agreement and Liaison Agencies

- (1) The Governments or the competent authorities of the Contracting States may conclude arrangements necessary for the implementation of this Agreement. The competent authorities shall inform each other of any amendments and additions to their legislation which is covered by the legislative scope of this Agreement.
- (2) The liaison agencies set up for the implementation of this Agreement shall be:
 1. in the Federal Republic of Germany

- a) for the pension insurance
 - the German Pension Insurance (Deutsche Rentenversicherung) Braunschweig-Hannover, Laatzen
 - the German Federal Pension Insurance (Deutsche Rentenversicherung Bund), Berlin
 - the German Pension Insurance Mining-Railways-Seafaring (Deutsche Rentenversicherung Knappschaft-Bahn-See), Bochum,
- b) for the Steelworkers' Supplementary Insurance (Hüttenknappschaftliche Zusatzversicherung)
 - the German Pension Insurance for the Saarland (Deutsche Rentenversicherung für das Saarland), Saarbrücken,
- c) for the Farmers' Old-Age Security (Alterssicherung der Landwirte)
 - the Social Insurance for Agriculture, Forestry and Horticulture (Sozialversicherung für Landwirtschaft, Forsten und Gartenbau), Kassel,
- d) in so far as health insurance funds are involved in the implementation of this Agreement,
 - the National Association of Statutory Health Insurance, German Liaison Agency Health Insurance – International (Spitzenverband Bund der Krankenkassen (GKV-Spitzenverband), Deutsche Verbindungsstelle Krankenversicherung – Ausland (DVKA)), Bonn;

2. in the Republic of the Philippines

- a) for the implementation of the Social Security Act and the Portability Law, the Social Security System,
- b) for the implementation of the Government Service Insurance Act and the Portability Law, the Government Service Insurance System.

(3) In the context of the assignment of German pension insurance tasks to a regional institution, the German Pension Insurance (Deutsche Rentenversicherung) Braunschweig-Hannover, Laatzen, shall be responsible for all procedures, including the determination and award of benefits, provided that

1. periods of coverage have been completed or are to be credited under German legislation and under Philippine legislation, or

2. the ordinary residence of the person entitled to a benefit is in the territory of the Republic of the Philippines, or

3. the person entitled is a Philippine national whose ordinary residence is outside the territories of both Contracting States.

This shall apply to benefits to facilitate rehabilitation and participation only if they are provided in the context of ongoing pension procedures.

(4) The liaison agencies shall be authorized to agree, within their respective areas of jurisdiction and with the participation of the competent authorities, upon the administrative measures necessary and appropriate for the implementation of this Agreement, including procedures for the reimbursement and the payment of cash benefits.

(5) The provisions of paragraph 4 shall apply analogously to the institutions designated by the competent authorities under Article 9 of this Agreement.

Article 20

Currency and exchange rates

(1) Cash benefits may be validly paid by an institution of one Contracting State to a person ordinarily residing in the territory of the other Contracting State in the currency of the latter Contracting State. In the relationship between the institution and the person entitled, the conversion rate shall be the rate of exchange on which the remittance of the cash benefits was based.

(2) If an institution has to make payments to the institution of the other Contracting State, such payments shall be made in the currency of the latter Contracting State.

Article 21

Refunds

(1) Where the institution of one Contracting State has made an overpayment of a cash benefit, the amount of the overpayment may be deducted from a corresponding benefit

payable under the legislation of the other Contracting State for the account of that institution.

(2) Where, under the legislation of one Contracting State, a person is entitled to a cash benefit for a period for which he or she or any family member received benefits from a welfare institution of the other Contracting State, such cash benefit shall be recovered, at the request and for the account of the welfare institution entitled to a refund, as if that welfare institution were a welfare institution based in the territory of the first Contracting State. There shall be no obligation of recovery if the institution had paid out the benefit before becoming aware of the benefits paid by the welfare institution.

Article 22

Resolution of disputes

(1) Disputes between the two Contracting States regarding the interpretation or application of this Agreement shall be resolved, to the extent possible, by the competent authorities.

(2) If a dispute cannot be resolved in this way, it shall be settled by a joint ad hoc commission set up by mutual agreement.

Part V

Transitional and final provisions

Article 23

Benefit entitlements under this Agreement

(1) This Agreement shall not establish any entitlement to benefits for any period prior to its entry into force.

(2) Periods of coverage completed under the legislation of the Contracting States before the entry into force of this Agreement and other legally relevant events that occurred before its entry into force shall be taken into consideration in the application of this Agreement.

(3) Decisions taken prior to the entry into force of this Agreement shall not preclude the application of this Agreement.

(4) If an application for a pension, to which a person is only entitled by virtue of this Agreement, is filed within 12 months after its entry into force, the pension shall commence at the beginning of a calendar month if the eligibility criteria were met at the beginning of the same calendar month; otherwise, the pension shall commence at the beginning of the following calendar month.

(5) Pensions determined before the entry into force of this Agreement may be newly determined upon application if a change results solely from the provisions of this Agreement. Pensions determined before the entry into force of this Agreement may also be newly determined ex officio. In these cases, the date on which the institution initiates the procedure is deemed to be the date of application under the legislation of the other Contracting State.

(6) If the new determination under paragraph 5 results in no entitlement or in an entitlement to a lesser amount of pension than that paid for the last period prior to the entry into force of this Agreement, the same amount of pension as previously paid shall continue to be paid.

Article 24

Concluding Protocol

The attached Concluding Protocol shall form an integral part of this Agreement.

Article 25

Ratification and entry into force

(1) This Agreement shall be subject to ratification; the instruments of ratification shall be exchanged as soon as possible in XX.

(2) This Agreement shall enter into force on the first day of the third month following the month in which the instruments of ratification have been exchanged.

Article 26
Duration and Termination

(1) This Agreement shall remain in force for an indefinite period of time. Either Contracting State may terminate it through diplomatic channels on or before the thirtieth day of September in the calendar year by giving written notice of termination. The termination shall take effect on the first day of January of the calendar year following termination.

(2) If, after termination, this Agreement ceases to have effect, the provisions of this Agreement shall continue to apply in respect of claims to benefits acquired up to that date. Restrictive legislation regarding the exclusion of an entitlement or the suspension of withdrawal of benefits on the grounds of ordinary residence abroad shall not be applicable to such claims.

Done in on in duplicate in the German and English languages, both texts being equally authentic.

For the
Republic of the Philippines



For the
Federal Republic of Germany



Concluding Protocol
of the
Agreement
between
the Republic of the Philippines
and
the Federal Republic of Germany
on
Social Security

At the time of signing the Agreement between the Republic of the Philippines and the Federal Republic of Germany on Social Security concluded today, the plenipotentiaries of both Contracting States state that they are in agreement on the following points:

1. With reference to Article 1, paragraph 1, number 9 of the Agreement:

Ordinary residence is determined by a person's actual and lawful stay intended to be permanent and the centre of his or her vital interests.

2. With reference to Article 2 of the Agreement:

The special provisions (Part III) shall not apply to the Steelworkers' Supplementary Insurance (Hüttenknappschaftliche Zusatzversicherung) of the Federal Republic of Germany.

3. With reference to Article 4 of the Agreement:

- a) The legislation of one Contracting State which guarantees participation of the insured and of employers in the organs of self-government of institutions, and associations of institutions, as well as in the adjudication of social security matters shall remain unaffected.

- b) As regards the Federal Republic of Germany, provisions relating to the apportionment of insurance burdens contained in intergovernmental agreements or in the supranational law shall remain unaffected.
 - c) Persons whose ordinary residence is outside the Federal Republic of Germany and who are nationals of a Contracting State under the Agreement on the European Economic Area or of Switzerland, shall be entitled to voluntary coverage under the German pension insurance under Regulation (EC) No. 883/2004 only.
 - d) Philippine nationals whose ordinary residence is outside the territory of the Federal Republic of Germany shall be entitled to voluntary coverage under the German pension insurance if they have completed periods of contributions to this insurance of at least 60 months. This shall apply accordingly to refugees within the meaning of Article 1 of the Geneva Convention Relating to the Status of Refugees of 28 July 1951 and of the Protocol of 31 January 1967 to that Convention and to stateless persons within the meaning of Article 1 of the New York Convention Relating to the Status of Stateless Persons of 28 September 1954, whose ordinary residence is in the territory of the Republic of the Philippines. For all other persons covered by the Agreement, Article 4 of the Agreement shall not apply to voluntary coverage in the German Pension Insurance. More favourable domestic legislation shall remain unaffected.
 - e) German nationals whose ordinary residence is outside the Philippines may continue to pay voluntary contributions to the Social Security System (SSS). They cannot, however, be registered as new members under the Voluntary Coverage for Overseas Filipino Workers.
 - f) The legislation of the Contracting States on compulsory coverage of gainfully employed persons on board a sea-going vessel shall remain unaffected.
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4. With reference to Article 5 of the Agreement:

- a) Persons whose ordinary residence is in the territory of the Republic of the Philippines shall only receive a reduced earning capacity pension under the German pension insurance provisions if the entitlement exists irrespective of the labour market situation.
- b) The German legislation on benefits based on periods of coverage not completed within the territory of the Federal Republic of Germany shall remain unaffected.
- c) The German legislation on medical rehabilitation, on the promotion of participation in working life as well as on additional benefits provided by the pension insurance and farmers' old-age security institutions shall remain unaffected.
- d) The German legislation providing for the suspension of claims for pension insurance benefits for persons who go abroad to evade criminal proceedings against them shall not be affected.

5. With reference to Articles 6 to 9 of the Agreement:

- a) Where in accordance with Articles 6 to 9 of the Agreement the German legislation applies to a person, then the German legislation on mandatory insurance under the law on employment promotion (unemployment insurance) shall apply in the same manner to this employment.
 - b) Where in accordance with Articles 6 to 9 of the Agreement the Philippine legislation applies to a person, then the German legislation on mandatory insurance under the law on employment promotion (unemployment insurance) shall not apply to this employment.
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6. With reference to Article 7 of the Agreement:

- a) It shall not be considered a case of detachment to the other Contracting State in particular when:
 - aa) the work of the detached employee does not correspond to the employer's business operations in the sending State;
 - bb) the ordinary residence of the person recruited for the purpose of detachment is not in the sending State at that time.
- b) The period of 48 months shall start on the day of entry into force of the Agreement in the event of persons who have been detached before or on the day of entry into force of the Agreement.
- c) The 48 months can be completed as sub-periods.

7. With reference to Article 9 of the Agreement:

Article 9 of the Agreement shall in particular apply to an employee who

- a) is employed at a company with its registered office in the territory of one Contracting State, and
 - b) is assigned temporarily for not more than two months in one calendar year to a legally independent holding company of this company in the territory of the other Contracting State and
 - c) obtains a remuneration for this period from the holding company in the country of employment.
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8. With reference to Article 10 paragraph 2 of the Agreement:

a) For the Federal Republic of Germany, Article 10 paragraph 2 of the Agreement shall apply provided that the institution also considers periods of coverage completed in another Member State of the European Union or in another Contracting State of the Agreement on the European Economic Area, or in Switzerland, if necessary.

b) As regards the Federal Republic of Germany, Article 10 paragraph 2 of the Agreement shall not apply in so far as that other agreement or the supranational arrangement contains provisions on the apportionment of insurance burdens stipulating that periods of coverage were definitively apportioned to, or taken out of the insurance burden of one of the Contracting States.

Arrangement

for

the implementation of the Agreement

between

the Republic of the Philippines

and

the Federal Republic of Germany

on

Social Security

The Government of the Republic of the Philippines
and
the Government of the Federal Republic of Germany—

on the basis of paragraph 1 of Article 19 of the Agreement between the Republic of the Philippines and the Federal Republic of Germany on Social Security, hereinafter referred to as "Agreement" –

have agreed as follows:

Section I
General Provisions

Article 1
Definitions

Where terms which appear in the Agreement are used in this Arrangement, they shall have the same meaning as defined in the Agreement.

Article 2
Duty to inform

The liaison agencies designated pursuant to paragraph 2 of Article 19 of the Agreement and the institutions designated by the competent authorities pursuant to Article 9 of the Agreement shall, within their respective areas of jurisdiction, be responsible for generally informing the relevant persons about their rights and duties pursuant to the Agreement.

Article 3

Duty to communicate facts

(1) The liaison agencies and institutions referred to in Article 19, paragraphs 2 and 5 and in Article 13 of the Agreement shall, within their respective areas of jurisdiction, communicate to each other and to the persons concerned the facts and transmit the evidence necessary to secure the rights and obligations that follow from the legislation specified in Article 2 of the Agreement and from the Agreement and the Arrangement.

(2) Where a person is obliged, under the legislation specified in Article 2 of the Agreement, under the Agreement or under this Arrangement, to communicate certain facts to the institution or another body, this obligation shall also apply with regard to corresponding facts obtaining in the territory of the other Contracting State or under its legislation. This shall also apply if a person has to transmit certain evidence.

(3) With regard to paragraph 2 of Article 8 of the Agreement the employer in the Federal Republic of Germany shall communicate his decision to the collecting body and in the Republic of the Philippines to the Social Security System (SSS).

Article 4

Certificate on the applicable legislation

(1) In the circumstances described in Articles 7 and 9 of the Agreement, a certificate will be issued upon request in the Contracting State whose legislation is applicable, stating that this legislation is applicable to the employee and his employer or to the self-employed person in respect of the employment in question. A specific period of validity must be given on the certificate.

(2) Where the German legislation is applicable, the certificate shall, in the circumstances described in Article 7 of the Agreement, be issued by the health insurance institution to which the pension contributions are paid, and by the Deutsche Rentenversicherung Bund

(German Federal Pension Insurance), Berlin, in any other case. In the circumstances described in Article 9 of the Agreement, the Spitzenverband Bund der Krankenkassen (GKV-Spitzenverband), Deutsche Verbindungsstelle Krankenversicherung – Ausland (DVKA) (National Association of Statutory Health Insurance, German Liaison Agency Health Insurance – International), Bonn, shall issue the certificate.

(3) Where the Philippine legislation is applicable, this certificate shall be issued by the Social Security System for private sector workers or the Government Service Insurance System for public sector workers.

Article 5

Payment procedure

Pensions and any other cash benefits payable to recipients in the territory of the other Contracting State shall be paid out directly.

Article 6

Recovery of contribution arrears

The recovery of contribution arrears in the framework of the legislative scope of the Agreement shall be effected through

1. in the Federal Republic of Germany

the German Pension Insurance (Deutsche Rentenversicherung) Braunschweig-Hannover, Laatzen

the German Federal Pension Insurance (Deutsche Rentenversicherung Bund), Berlin,

the German Pension Insurance Miners, Railway Workers and Seamen (Deutsche Rentenversicherung Knappschaft-Bahn-See), Bochum, or
the social insurance for agriculture, forestry and horticulture,
(Sozialversicherung für Landwirtschaft, Forsten und Gartenbau), Kassel;

2. in the Republic of the Philippines

the Social Security System for private sector workers, or
the Government Service Insurance System for public sector workers.

Section II

Special provisions

Article 7

Statistics

The liaison agencies designated pursuant to paragraph 2 of Article 19 of the Agreement shall annually compile statistics as of 31 December on the payments made in the territory of the other Contracting State. Where possible, these statistics should show the number and total amount of payments, by type of benefit. The liaison agencies shall regulate the details. The statistics shall be exchanged.

Section III

Final provision

Article 8

Entry into force and validity of the Arrangement

(1) This Arrangement shall enter into force on the date on which the Agreement between the Republic of the Philippines and the Federal Republic of Germany on Social Security has entered into force.

(2) This Arrangement shall apply from the date of the entry into force of the Agreement and shall have the same duration.

Done at on in duplicate in the German and English languages, both texts being equally authentic.

For the Government of the
Republic of the Philippines

For the Government of the
Federal Republic of Germany



Abkommen



zwischen

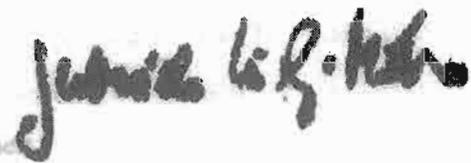
der Republik der Philippinen

und



der Bundesrepublik Deutschland

über



Soziale Sicherheit

