

# AGREEMENT ON

## SOCIAL SECURITY

between

THE REPUBLIC OF LITHUANIA

AND Canada

THE REPUBLIC OF LITHUANIA and CANADA, hereinafter referred to as “the Parties” ,

Resolved to co-operate in the field of social security,

Have decided to conclude an agreement for this purpose, and

Have agreed as follows:

### PART I GENERAL PROVISIONS ARTICLE 1

#### Definitions

1. For the purposes of this Agreement:

“benefit” means, as regards a Party, any cash benefit for which provision is made in the legislation of that Party and includes any supplements or increases applicable to such a cash benefit;

“competent authority” means, as regards a Party, the Minister or Ministers responsible for the application of the legislation of that Party;

“competent institution” means, as regards the Republic of Lithuania, the institution or institutions responsible for the administration of the legislation specified in Article 2; and, as regards Canada, the competent authority;

“creditable period” means, as regards a Party, a period of contributions, insurance or residence used to acquire the right to a benefit under the legislation of that Party; as regards Canada, it also means a period during which a disability pension is payable under the Canada Pension Plan;

“legislation” means, as regards a Party, the laws and regulations specified in Article 2;

“resident” means, as regards the Republic of Lithuania, a person who legally resides in the territory of the Republic of Lithuania, including a person who is granted permanent residence or temporary residence status.

2. Any term not defined in this Article has the meaning assigned to it in the applicable national legislation.

## ARTICLE 2

### Legislation to which the Agreement Applies

1. This Agreement shall apply to the following legislation:

(a) with respect to the Republic of Lithuania:

(i) the Law on State Social Insurance Pensions and the regulations made thereunder;

(ii) the Law on State Social Insurance, but only to the extent that it applies to pension insurance;

(iii) the Law on the Pension System Reform and the regulations made thereunder;

(b) with respect to Canada:

(i) the Old Age Security Act and the regulations made thereunder;

(ii) the Canada Pension Plan and the regulations made thereunder.

2. Subject to paragraph 3, this Agreement shall also apply to laws and regulations which amend, supplement, consolidate or supersede the legislation specified in paragraph 1.

3. This Agreement shall further apply to laws and regulations which extend the legislation of a Party to new categories of beneficiaries or to new benefits unless an objection on the part of that Party has been communicated to the other Party not later than three months following the entry into force of such

laws and regulations.

#### ARTICLE 3

##### Persons to Whom the Agreement Applies

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

#### ARTICLE 4

##### Equality of Treatment

Any person who is or who has been subject to the legislation of a Party, and the dependants and survivors of such a person, shall be subject to the obligations of the legislation of the other Party and shall be eligible for the benefits of that legislation under the same conditions as citizens of the latter Party.

#### ARTICLE 5

##### Export of Benefits

1. Unless otherwise provided in this Agreement, benefits payable under the legislation of a Party to any person described in Article 3, including benefits acquired by virtue of this Agreement, shall not be subject to any reduction, modification, suspension or cancellation by reason only of the fact that the person is in the territory of the other Party, and these benefits shall be paid when that person is in the territory of the other Party.
2. Benefits payable under this Agreement to a person who is or who has been subject to the legislation of both Parties, or to the dependant or survivor of

such a person, shall be paid when that person, or the dependant or survivor, is in the territory of a third State.

## PART II PROVISIONS CONCERNING THE APPLICABLE LEGISLATION ARTICLE 6

### General Rules Regarding Coverage of Employed and Self-Employed Persons

Subject to Articles 7 to 9:

(a) An employed person who works in the territory of a Party shall, in respect of that work, be subject only to the legislation of that Party.

(b) A self-employed person who resides in the territory of a Party and who works for his or her own account in the territory of the other Party or in the territories of both Parties shall, in respect of that work, be subject only to the legislation of the first Party.

## ARTICLE 7

### Detachments

An employed person who is subject to the legislation of a Party and who works in the territory of the other Party for the same or related employer shall, in respect of that work, be subject only to the legislation of the first Party as though that work is performed in its territory. In the case of an assignment, this coverage may not be maintained for more than 60 months without the prior consent of the competent authorities of both Parties.

## ARTICLE 8

### Employment by Diplomatic and Consular Missions

1. Notwithstanding any provision of this Agreement, the provisions regarding social security of the Vienna Convention on Diplomatic Relations of 18 April 1961 and the Vienna Convention on Consular Relations of 24 April 1963 shall continue to apply.
2. A person who is subject to the legislation of a Party and who goes to work for the diplomatic or consular mission of that Party in the territory of the other Party shall, in respect of that employment, be subject only to the legislation of the first Party.
3. Except as provided in paragraphs 1 and 2, a person who resides in the territory of a Party and who is employed therein by a diplomatic or consular mission of the other Party shall, in respect of that employment, be subject only to the legislation of the first Party. However, if that person has, prior to the start of that employment, made contributions under the legislation of the employing Party, he or she may, within six months of the start of that employment or the entry into force of this Agreement, whichever is later, elect to be subject only to the legislation of the latter Party.

## ARTICLE 9

### Exceptions

The competent authorities of the Parties may, by common agreement, modify the application of the provisions of Articles 6 to 8 with respect to any person or categories of persons.

## ARTICLE 10

### Definition of Certain Periods of Residence with Respect to the Legislation of Canada

1. For the purpose of calculating the amount of benefits under the Old Age Security Act:
  - (a) if a person is subject to the Canada Pension Plan or to the comprehensive pension plan of a province of Canada during any period of presence or

residence in the Republic of Lithuania, that period shall be considered as a period of residence in Canada for that person as well as for that person's spouse or common-law partner and dependants who reside with him or her and who are not subject to the legislation of the Republic of Lithuania by reason of employment or self-employment;

(b) if a person is subject to the legislation of the Republic of Lithuania during any period of presence or residence in Canada, that period shall not be considered as a period of residence in Canada for that person and for that person's spouse or common-law partner and dependants who reside with him or her and who are not subject to the Canada Pension Plan or to the comprehensive pension plan of a province of Canada by reason of employment or self-employment.

2. In the application of paragraph 1:

(a) a person shall be considered to be subject to the Canada Pension Plan or to the comprehensive pension plan of a province of Canada during a period of presence or residence in the Republic of Lithuania or Canada only if that person makes contributions pursuant to the plan concerned during that period by reason of employment or self-employment;

(b) a person shall be considered to be subject to the legislation of the Republic of Lithuania during a period of presence or residence in Canada or the Republic of Lithuania only if that person makes compulsory contributions pursuant to that legislation during that period by reason of employment or self-employment.

## **PART III PROVISIONS CONCERNING BENEFITS**

### **CHAPTER 1 TOTALIZING ARTICLE 11**

#### **Periods under the Legislation of the Republic of Lithuania and Canada**

1. If a person is not eligible for a benefit because he or she has not accumulated sufficient creditable periods under the legislation of a Party, the eligibility of that person for that benefit shall be determined by totalizing these periods and those specified in paragraphs 2 through 4, provided that the periods do not overlap.

2. (a) For purposes of determining eligibility for a benefit under the Old Age Security Act of Canada, a creditable period under the legislation of the Republic of Lithuania shall be considered as a period of residence in Canada;

(b) For purposes of determining eligibility for a benefit under the Canada Pension Plan, a calendar year including at least three months which are creditable periods under the legislation of the Republic of Lithuania shall be considered as a year which is creditable under the Canada Pension Plan.

3. For purposes of determining eligibility for an old age pension under the legislation of the Republic of Lithuania:

(a) a calendar year which is a creditable period under the Canada Pension Plan shall be considered as twelve months which are creditable under the legislation of the Republic of Lithuania;

(b) a month which is creditable under the Old Age Security Act of Canada and which is not part of a creditable period under the Canada Pension Plan shall be considered as a month which is creditable under the legislation of the Republic of Lithuania.

4. For purposes of determining eligibility for a disability, survivor's or orphan's pension under the legislation of the Republic of Lithuania, a calendar year which is a creditable period under the Canada Pension Plan shall be considered as twelve months which are creditable under the legislation of the Republic of Lithuania.

## ARTICLE 12

### Periods under the Legislation of a Third State

If a person is not eligible for a benefit on the basis of the creditable periods under the legislation of the Parties, totalized as provided in Article 11, the eligibility of that person for that benefit shall be determined by totalizing these periods and creditable periods completed under the legislation of a third State with which both Parties are bound by social security instruments which provide for the totalizing of periods.

## ARTICLE 13

### Minimum Period

Notwithstanding any other provision of this Agreement, if the total duration of the creditable periods accumulated by a person under the legislation of a 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 Party, the competent institution of that Party shall not be required to pay a benefit to that person in respect of those periods by virtue of this Agreement.

## CHAPTER 2 BENEFITS UNDER THE LEGISLATION OF CANADA ARTICLE 14

### Benefits under the Old Age Security Act

1. If a person is eligible for a pension or allowance under the Old Age Security Act solely through the application of the totalizing provisions of Chapter 1, the competent institution of Canada shall calculate the amount of the pension or allowance payable to that person in conformity with the provisions of that Act governing the payment of a partial pension or allowance, exclusively on the basis of the periods of residence in Canada which may be considered under that Act.
2. Paragraph 1 shall also apply to a person outside Canada who would be eligible for a full pension in Canada but who has not resided in Canada for the minimum period required by the Old Age Security Act for the payment of a pension outside Canada.
3. Notwithstanding any other provision of this Agreement:
  - (a) an Old Age Security pension shall be paid to a person who is outside Canada only if that person's periods of residence, when totalized as provided in Chapter 1, are at least equal to the minimum period of residence in Canada required by the Old Age Security Act for the payment of a pension outside Canada;
  - (b) an allowance and a guaranteed income supplement shall be paid to a person who is outside Canada only to the extent permitted by the Old Age Security Act.

## ARTICLE 15



## Benefits under the Canada Pension Plan

If a person is eligible for a benefit solely through the application of the totalizing provisions of Chapter 1, the competent institution of Canada shall calculate the amount of benefit payable to that person in the following manner:

(a) the earnings-related portion of the benefit shall be determined in conformity with the provisions of the Canada Pension Plan, exclusively on the basis of the pensionable earnings under that Plan;

(b) the flat-rate portion of the benefit shall be determined by multiplying:

(i) the amount of the flat-rate portion of the benefit determined in conformity with the provisions of the Canada Pension Plan

by

(ii) the fraction which represents the ratio of the periods of contributions to the Canada Pension Plan in relation to the minimum qualifying period required under that Plan to establish eligibility for that benefit, but in no case shall that fraction exceed the value of one.

## CHAPTER 3 PENSIONS UNDER THE LEGISLATION OF THE REPUBLIC OF LITHUANIA ARTICLE

16

### Calculating the Amount of Pension Payable

1. If a person is eligible for a pension solely through the application of the totalizing provisions of Chapter 1, the competent institution of the Republic of Lithuania shall calculate the amount of pension payable exclusively on the basis of the creditable periods completed under the legislation of the Republic of Lithuania.

2. For the purpose of determining the amount of a disability pension, the number of years left until the person reaches pensionable age shall be determined by the ratio of the creditable periods completed exclusively under the legislation of the Republic of Lithuania in proportion to the mandatory creditable period required under that legislation for a full pension.

## ARTICLE 17

### Entitlement and Payment of Benefits

1. Subject to paragraph 2, a person described in Article 3 who resides in Canada shall be entitled to benefits under the legislation of the Republic of Lithuania under the same terms and conditions as if that person were residing in the Republic of Lithuania.
2. When determining the right to a benefit under the legislation of the Republic of Lithuania for a person residing in Canada, creditable periods completed before June 1, 1991, in the territory of the former Soviet Union shall be taken into account only if that person has fulfilled the minimum creditable period required under the legislation of the Republic of Lithuania while working in a Lithuanian enterprise, office or organization, and without recourse to the totalizing provisions of Chapter 1.

## PART IV ADMINISTRATIVE AND MISCELLANEOUS PROVISIONS ARTICLE 18

### Administrative Arrangement

1. The competent authorities of the Parties shall conclude an administrative arrangement which establishes the measures necessary for the application of this Agreement.
2. The liaison agencies of the Parties shall be designated in that arrangement.

## ARTICLE 19

### Exchange of Information and Mutual Assistance

1. The competent authorities and competent institutions responsible for the application of this Agreement:
  - (a) shall, to the extent permitted by the legislation which they administer, communicate to each other any information necessary for the application of that legislation;
  - (b) shall lend their good offices and furnish assistance to one another for the purpose of determining eligibility for, or the amount of, any benefit

under this Agreement, or under the legislation to which this Agreement applies, as if the matter involved the application of their own legislation;

(c) shall communicate to each other, as soon as possible, all information about the measures taken by them for the application of this Agreement or about changes in their respective legislation in so far as these changes affect the application of this Agreement.

2. The assistance referred to in sub-paragraph 1(b) shall be provided free of charge, subject to any provision contained in an administrative arrangement concluded pursuant to Article 18 for the reimbursement of certain types of expenses.

3. Unless disclosure is required under the laws of a Party, any information about a person which is transmitted in accordance with this Agreement to that Party by the other Party is confidential and shall be used only for purposes of implementing this Agreement and the legislation to which this Agreement applies.

#### ARTICLE 20

##### Exemption or Reduction of Taxes, Dues and Charges

1. Any exemption from or reduction of taxes, legal dues and administrative charges for which provision is made in the legislation of a Party in connection with the issuing of any certificate or document required to be produced for the application of that legislation shall be extended to certificates or documents required to be produced for the application of the legislation of the other Party.

2. Any documents of an official nature required to be produced for the application of this Agreement shall be exempt from any authentication by diplomatic or consular authorities and similar formality.

#### ARTICLE 21

## Language of Communication

For the application of this Agreement, the competent authorities and competent institutions of the Parties may communicate directly with one another in any official language of either Party.

### ARTICLE 22

#### Submitting a Claim, Notice or Appeal

1. Claims, notices and appeals concerning eligibility for, or the amount of, a benefit under the legislation of a Party which should, for the purposes of that legislation, have been presented within a prescribed period to a competent authority or competent institution of that Party, but which are presented within the same period to a competent authority or competent institution of the other Party, shall be treated as if they had been presented to the competent authority or competent institution of the first Party. The date of presentation of claims, notices and appeals to the competent authority or competent institution of the other Party shall be deemed to be the date of their presentation to the competent authority or competent institution of the first Party.

2. Subject to the second sentence of this paragraph, a claim for a benefit under the legislation of a Party made after the date of entry into force of this Agreement shall be deemed to be a claim for the corresponding benefit under the legislation of the other Party, provided that the applicant at the time of application:

(a) requests that it be considered an application under the legislation of the other Party, or

(b) provides information indicating that creditable periods have been completed under the legislation of the other Party.

The preceding sentence shall not apply if the applicant requests that his or her claim to the benefit under the legislation of the other Party be delayed.

3. In any case to which paragraph 1 or 2 applies, the competent authority or competent institution to which the claim, notice or appeal has been submitted

shall transmit it without delay to the competent authority or competent institution of the other Party.

**ARTICLE 23**

**Payment of Benefits**

1. The competent institution of a Party shall discharge its obligations under this Agreement in the currency of either Party.
2. Benefits shall be paid to beneficiaries free from any deduction for administrative expenses that may be incurred in paying the benefits.
3. In the event that a Party imposes currency controls or other similar measures that restrict payments, remittances or transfers of funds or financial instruments to persons who are outside its territory, that Party shall, without delay, take suitable measures to ensure the payment of any amount that must be paid in accordance with this Agreement to persons described in Article 3 who reside in the territory of the other Party.

**ARTICLE 24**

**Resolution of Difficulties**

1. The competent authorities of the Parties shall resolve, to the extent possible, any difficulties which arise in interpreting or applying this Agreement according to its spirit and fundamental principles.
2. The Parties shall consult promptly at the request of either Party concerning matters which have not been resolved by the competent authorities in accordance with paragraph 1.
3. Any dispute between the Parties concerning the interpretation of this Agreement which has not been resolved or settled by consultation in accordance with paragraph 1 or 2 shall, at the request of either Party, be submitted to arbitration by an arbitral tribunal.

4. Unless the Parties mutually determine otherwise, the arbitral tribunal shall consist of three arbitrators, of whom each Party shall appoint one and the two arbitrators so appointed shall appoint a third who shall act as president; provided that if either Party fails to appoint its arbitrator or if the two arbitrators fail to agree, the competent authority of the other Party shall invite the President of the International Court of Justice to appoint the arbitrator of the first Party or the two appointed arbitrators shall invite the President of the International Court of Justice to appoint the president of the arbitral tribunal.

5. If the President of the International Court of Justice is a citizen of either Party, the function of appointment shall be transferred to the Vice-president or the next most senior member of the Court who is not a citizen of either Party.

6. The arbitral tribunal shall determine its own procedures, but it shall reach its decisions by a majority of votes.

7. The decision of the arbitral tribunal shall be final and binding.

#### ARTICLE 25

##### Understandings with a Province of Canada

The relevant authority of the Republic of Lithuania and a province of Canada may conclude understandings concerning any social security matter within provincial jurisdiction in Canada in so far as those understandings are not inconsistent with the provisions of this Agreement.

## PART V TRANSITIONAL AND FINAL PROVISIONS ARTICLE 26

### Transitional Provisions

1. Any creditable period completed before the date of entry into force of this Agreement shall be taken into account for the purpose of determining the right to a benefit under this Agreement and its amount.

2. No provision of this Agreement shall confer any right to receive payment of a benefit for a period before the date of entry into force of this Agreement.

3. Subject to paragraph 2, a benefit, other than a lump sum payment, shall be paid under this Agreement in respect of events which happened before the date of entry into force of this Agreement.

#### ARTICLE 27

##### Duration and Termination

1. This Agreement shall remain in force without any limitation on its duration. It may be terminated at any time by either Party giving twelve months' notice in writing to the other Party.

2. In the event of the termination of this Agreement, any right acquired by a person in accordance with its provisions shall be maintained and negotiations shall take place for the settlement of any rights then in course of acquisition by virtue of those provisions.

#### ARTICLE 28

##### Entry into Force

This Agreement shall enter into force on the first day of the fourth month following the final day of the month in which the Parties shall have exchanged written notices through the diplomatic channel confirming that their respective legal requirements for the entry into force of this Agreement have been completed. The date of the exchange of the written notices shall be the date of the delivery of the last notice.

IN WITNESS WHEREOF, the undersigned, being duly authorized thereto by their respective Governments, have signed this Agreement.

DONE in duplicate at Vilnius, this 5th day of July, 2005, in the Lithuanian, English and French languages, each text being equally authentic.

FOR THE REPUBLIC OF LITHUANIA

FOR CANADA