

No. 46746

**Netherlands
and
Hong Kong Special Administrative Region
(under authorization by the Government of the
People's Republic of China)**

Agreement between the Government of the Kingdom of the Netherlands and the Government of the Hong Kong Special Administrative Region of the People's Republic of China on the export of social insurance benefits. Hong Kong, 1 December 2003

Entry into force: *1 February 2005 by notification, in accordance with article 17. The Netherlands applied article 4 of the Agreement provisionally as of 1 January 2003, in accordance with article 17.*

Authentic text: *English*

Registration with the Secretariat of the United Nations: *Netherlands, 13 October 2009*

**Pays-Bas
et
Région administrative spéciale de Hong-Kong
(par autorisation du Gouvernement de la
République populaire de Chine)**

Accord entre le Gouvernement du Royaume des Pays-Bas et le Gouvernement de la Région administrative spéciale de Hong Kong de la République populaire de Chine relatif à l'exportation de prestations d'assurance sociale. Hong-Kong, 1 décembre 2003

Entrée en vigueur : *1^{er} février 2005 par notification, conformément à l'article 17. Les Pays-Bas ont appliqué l'article 4 de l'Accord à titre provisoire à compter du 1^{er} janvier 2003, conformément à l'article 17.*

Texte authentique : *anglais*

Enregistrement auprès du Secrétariat des Nations Unies : *Pays-Bas, 13 octobre 2009*

[ENGLISH TEXT – TEXTE ANGLAIS]

Agreement between the Government of the Kingdom of the Netherlands and the Government of the Hong Kong Special Administrative Region of the People's Republic of China on the export of social insurance benefits

The Government of the Kingdom of the Netherlands ("Netherlands") and the Government of the Hong Kong Special Administrative Region of the People's Republic of China ("Hong Kong") (hereinafter referred to as the "Contracting Parties"),

Wishing to allow the export and payment of Netherlands' social insurance benefits to persons residing or staying in Hong Kong and to develop co-operation between the two Governments in facilitating the export and payment of these benefits;

Have agreed as follows:

Article 1

Definitions

For the purposes of this Agreement:

- a) "beneficiary" means a person who applies for or who is entitled to a benefit;
- b) "benefit" means any cash benefit or pension paid by the Netherlands under the legislation;

c) “competent authority” means, in the case of the Netherlands, the Minister of Social Affairs and Employment of the Netherlands; and in the case of Hong Kong, the Secretary for Health, Welfare and Food;

d) “competent institution” means, regarding the branches of social insurance mentioned in paragraphs a-c of Article 2: the “Uitvoeringsinstituut werknemersverzekeringen” (Institute for Employee Benefit Schemes); regarding the branches of social insurance mentioned in paragraphs d-f of Article 2: the “Sociale verzekeringsbank” (Social Insurance Bank), or any institution authorized to perform any function at present exercised by the said institution;

e) “Hong Kong agency” means any Hong Kong governmental institution that is involved in the implementation of this Agreement in Hong Kong and includes the registration of persons offices, registries of births, deaths and marriage, tax authorities, educational institutions, police, prison services, immigration offices, social welfare offices, health care authorities, or any institution authorized to perform any function at present exercised by the said institution;

f) “member of his family” means a person defined, or recognized as such by the legislation;

g) “legislation” means the Netherlands’ legislation relating to the branches of social insurance mentioned in Article 2;

h) “liaison agent” means the Consulate General of the Netherlands in Hong Kong;

i) “stay” means to temporarily reside; and

j) “reside” means to ordinarily reside.

Article 2

Material scope

This Agreement shall apply to the Netherlands legislation concerning the following branches of social insurance:

- a) sickness and maternity benefits;
- b) disablement benefits for employed persons;
- c) disablement benefits for self-employed persons;
- d) old age pensions;
- e) survivors’ benefits; and
- f) child benefits.

Article 3

Personal scope

Unless otherwise provided for in this Agreement, this Agreement shall apply to a beneficiary as well as to the member of his family insofar as the beneficiary or the member of his family resides or stays in Hong Kong.

Article 4

Export of benefits

1. Unless otherwise provided for in this Agreement, any provision of the legislation which restricts payment of a benefit solely because a beneficiary or the member of his family resides or stays outside the Netherlands shall not be applicable with respect to a beneficiary or the member of his family who resides or stays in Hong Kong.

2. Paragraph 1 does not apply to the Netherlands' Supplementary Benefits Act of 6 November 1986.

3. Paragraph 1 is without prejudice to legislation introducing restrictions to the payment of child benefits with respect to children residing or staying outside the Netherlands or precluding such payment.

Article 5

Identification

1. In order to determine entitlement to a benefit or the legitimacy of the payment of a benefit under the legislation, a beneficiary or the member of his family shall, upon request by the Netherlands' competent institution or the liaison agent, identify himself to the liaison agent by submitting an official proof of identity. The liaison agent identifies the beneficiary or the member of his family on the basis of official proof of identity.

2. Official proof of identity includes a person's valid Hong Kong identity card, valid travel document, a document from the Commissioner of Registration of Hong Kong acknowledging that the person has applied for an identity card and other documents recognized under the laws of Hong Kong as valid proof of identity. The liaison agent may also consider accepting valid identity documents issued by the Netherlands as valid official proof of identity.

3. The liaison agent shall inform the Netherlands' competent institution that the identity of the beneficiary or the member of his family has been verified on the basis of official proof of identity.

Article 6

Verification of applications and payments

1. With regard to processing an application for a benefit or the payment of a benefit under the Netherlands' legislation, a beneficiary or a member of his family shall, at the request of the Netherlands' competent institution or the liaison agent, supply such information regarding him-

self or the member of his family as required by the relevant legislation in order to establish or support the application or payment of a benefit. Such information should be supplied in the form of a certificate, notice, statement or other document issued by a Hong Kong agency containing information of himself registered or maintained with that agency. The beneficiary or the member of his family may be required by a Hong Kong agency to pay a fee in order to obtain the requested information.

2. The liaison agent shall, at the request of the Netherlands' competent institution, verify the information regarding a beneficiary or a member of his family. The liaison agent shall forward a statement of verification along with authenticated copies of the relevant documents to the Netherlands' competent institution.

3. For the purpose of this Article, the term "information" means data regarding identity, address, household and family situation, work, education, income, state of health, death and detention, or any other data relevant for the implementation of this Agreement.

4. The Netherlands' competent institution, the Hong Kong agency and the liaison agent may directly contact each other, as well as a beneficiary or a member of his family, or an authorized representative of the person concerned for the necessary implementation of this Agreement.

Article 7

Assistance

1. The liaison agent may request the assistance of a Hong Kong agency in verifying the authenticity of information supplied to it under Articles 5 and 6.

2. The Hong Kong agency shall, upon request by the liaison agent pursuant to paragraph 1 of this Article, render such reasonable assistance as may be necessary and within the limits of its authority and available resources in verifying the authenticity of information. This assistance shall be rendered within a period of three months.

3. Where the laws of Hong Kong require that consent be required from a person before his personal data can be collected, stored, used, disclosed or otherwise handled, the Netherlands' competent institution or the liaison agent shall first procure the written consent of such person. The Netherlands' competent institution and the liaison agent undertake to inform the Hong Kong agency of any revocation or termination of any such written consent. The competent authorities of both Contracting Parties shall agree on the requisite form of written consent that is to be used.