

No. 49925

**Republic of Korea
and
China**

Exchange of notes constituting an agreement on the provisional measures for the mutual exemption of pension coverage between the Government of the Republic of Korea and the Government of the People's Republic of China. Beijing, 28 February 2003

Entry into force: *provisionally on 28 February 2003 by the exchange of the said notes and definitively on 23 May 2003 by notification, in accordance with the provisions of the said notes*

Authentic texts: *Chinese, English and Korean*

Registration with the Secretariat of the United Nations: *Republic of Korea, 6 July 2012*

**République de Corée
et
Chine**

Échange de notes constituant un accord sur les mesures provisoires pour l'exemption réciproque relative au régime de pension entre le Gouvernement de la République de Corée et le Gouvernement de la République populaire de Chine. Beijing, 28 février 2003

Entrée en vigueur : *provisoirement le 28 février 2003 par l'échange desdites notes et définitivement le 23 mai 2003 par notification, conformément aux dispositions desdites notes*

Textes authentiques : *chinois, anglais et coréen*

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[ENGLISH TEXT – TEXTE ANGLAIS]

I

**EMBASSY OF THE REPUBLIC OF KOREA
BEIJING, CHINA**

Beijing, February 28, 2003

Excellency,

I have the honour to refer to the recent discussions between the representatives of our two Governments regarding issues related to mutual exemption of pension coverage between the Republic of Korea and the People's Republic of China.

As a result of the above-mentioned discussions, I have further the honour to propose, on behalf of the Government of the Republic of Korea, that the Government of the Republic of Korea and the Government of the People's Republic of China conclude an Agreement on the Provisional Measures for the Mutual Exemption of Pension Coverage (hereinafter referred to as the "Agreement") for this purpose as follows:

**Article 1
General Objective**

For the purpose of avoiding the double coverage of pension, the nationals referred to in Article 2 of one State shall be exempt from the application of the other State's legislation on compulsory pension coverage, provided that they shall be subject to the legislation of the first-mentioned State.

**Article 2
Personal Scope**

The nationals to be covered under Article 1 are as follows:

His Excellency
Tang Jiaxuan
Minister
Ministry of Foreign Affairs of the People's Republic of China

1. **Employees who are normally employed in the territory of one State by an employer having a place of business in that territory and who are sent by that employer to a company or an organization, including an affiliated or subsidiary company or a branch office of the employer, to work for the same employer in the territory of the other State.**
2. **Self-employed persons who have permanent residence in one State but temporarily reside in the other State.**

Article 3 Definition

For the purpose of this Agreement,

- a. **"State" shall mean the Republic of Korea or the People's Republic of China.**
- b. **"National" shall mean a person that has the nationality of a State in accordance with its laws and regulations.**
- c. **"Legislation" shall mean:**
 - (i) **For the Republic of Korea: the National Pension Act and regulations thereto.**
 - (ii) **For the People's Republic of China: the laws, regulations and rules concerning the Basic Old-Age Pension.**

Article 4 Exemption of Compulsory Coverage for Industrial Trainees

Subject to Article 7 of this Agreement, the issue of exemption of compulsory pension coverage for the nationals from one State who work as industrial trainees in the enterprises of the other State shall be settled through the Social Insurance Agreement negotiation between the two Governments.

Article 5
Retroactive Clause

Subject to Article 7 of this Agreement, the issue of the outstanding Basic Old-Age Pension contribution by Korean employees and self-employed persons who work in China during the period before this Agreement enters into force and the issue of refunding of National Pension contribution paid by Chinese employees and Chinese industrial trainees who work in the Republic of Korea to the relevant Korean agency shall be settled through the Social Insurance Agreement negotiation between the two Governments.

Article 6
Issue of Certificates and Administrative Assistance

1. Where the legislation of one State is applicable to its nationals, the agency of that State shall issue, upon request of the employer or self-employed person referred to in Article 2 of this Agreement, a certificate stating that the person is subject to the legislation. This certificate shall be a proof that the employee or self-employed person referred to in Article 2 is exempt from the compulsory pension coverage provided by the legislation of the other State.
2. The agency issuing the certificates referred to in paragraph 1 of this Article shall be:
 - (1) For the Republic of Korea: the National Pension Corporation.
 - (2) For the People's Republic of China: the Social Insurance Administration of the Ministry of Labour and Social Security.
3. The agency of a State which issues the certificates referred to in paragraph 1 of this Article shall furnish a copy of the certificates to the employee or self-employed person in question as well as the employer of the employee and the agency of the other State.

4. The agencies referred to in paragraph 2 of this Article shall communicate directly or through diplomatic channels to consult on matters related to this Agreement

Article 7
Conclusion of Social Insurance Agreement

The two Governments shall make their best efforts for an early conclusion of the Social Insurance Agreement between the two Governments.

Article 8
Other Provisions

1. This Agreement herein proposed shall enter into force thirty (30) days after the receipt of the last notification through which either Government has notified the other that its internal legal procedures for entry into force has been completed and continue in force until the Social Insurance Agreement between the two Governments enters into force, unless terminated by either Government at any time on thirty (30) days written notice through diplomatic channels.

2. Any dispute regarding the interpretation or implementation of this Agreement shall be settled through diplomatic consultations.

If a reply Note is issued by Your Excellency on behalf of the People's Republic of China to confirm the acceptance of the foregoing Articles, I have the honour to propose that this Note, together with Your Excellency's Note in reply, constitute an Agreement on the Provisional Measures for the Mutual Exemption of Pension Coverage between the two Governments. This Agreement shall be provisionally applied from the date of Your Excellency's