108th Congress, 2d Session – – – – – – – – – – – – House Document 108–234

AN AGREEMENT BETWEEN THE UNITED STATES OF AMERICA AND JAPAN ON SOCIAL SECURITY

COMMUNICATION

FROM

THE PRESIDENT OF THE UNITED STATES

TRANSMITTING

AN AGREEMENT BETWEEN THE UNITED STATES OF AMERICA AND JAPAN ON SOCIAL SECURITY, WITH A PRINCIPAL AGREEMENT AND AN ADMINISTRATIVE ARRANGEMENT, BOTH SIGNED AT WASHINGTON ON FEBRUARY 19, 2004, PURSUANT TO 42 U.S.C. 433(e)(1)

NOVEMBER 18, 2004.—Referred to the Committee on Ways and Means and ordered to be printed

---

U.S. GOVERNMENT PRINTING OFFICE

96–920 WASHINGTON : 2004

To the Congress of the United States:

Pursuant to section 233(e)(1) of the Social Security Act, as amended by the Social Security Amendments of 1977 (Public Law 95–216, 42 U.S.C. 433(e)(1)), I transmit herewith the Agreement between the United States of America and Japan on Social Security, which consists of two separate instruments: a principal agreement and an administrative arrangement. The Agreement was signed at Washington on February 19, 2004.

The United States-Japan Agreement is similar in objective to the social security agreements already in force with Australia, Austria, Belgium, Canada, Chile, Finland, France, Germany, Greece, Ireland, Italy, Korea, Luxembourg, the Netherlands, Norway, Portugal Spain, Sweden, Switzerland, and the United Kingdom. Such bilateral agreements provide for limited coordination between the United States and foreign social security systems to eliminate dual social security coverage and taxation, and to help prevent the lost benefit protection that can occur when workers divide their careers between two countries. The United States-Japan Agreement contains all provisions mandated by section 233 and other provisions which I deem appropriate to carry out the purposes of section 233, pursuant to section 233(c)(4).

I also transmit for the information of the Congress a report prepared by the Social Security Administration explaining the key points of the Agreement, along with a paragraph-by-paragraph explanation of the provisions of the principal agreement and the related administrative arrangement. Annexed to this report is the report required by section 233(e)(1) of the Social Security Act, a report on the effect of the Agreement on income and expenditure of the United States Social Security program and the number of individuals affect by the Agreement.

The Department of State and the Social Security Administration have recommended the Agreement and related documents to me.

I commend to the Congress the United States-Japan Social Security Agreement and related documents.

GEORGE W. BUSH.

THE WHITE HOUSE, *November 17, 2004.*

Agreement between
the United States of America and Japan
on Social Security

The United States of America and Japan,

Being desirous of regulating the relationship between them in the field of social security,

Have agreed as follows:

Article 1

1. For the purpose of this Agreement,

(a) "United States" means the United States of America;

(b) "territory" means,

as regards Japan,
the territory of Japan,

as regards the United States,
the States thereof, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa and the Commonwealth of the Northern Mariana Islands;

(c) "national" means,

as regards Japan,
a Japanese national within the meaning of the national statute on nationality of Japan,

as regards the United States,
a national of the United States as defined in Section 101, Immigration and Nationality Act, as amended;

(d) "laws" means,

as regards Japan,
the national statutes and regulations of Japan concerning the Japanese pension systems and the Japanese health insurance systems specified in paragraph 1 of Article 2,

as regards the United States,
the national statutes and regulations of the United States specified in paragraph 2 of Article 2,

however, treaties or other international agreements on social security concluded between one Party and a third party, or national statutes and regulations promulgated for the implementation of such treaties or other international agreements shall not be included;

(e) "competent authority" means,

as regards Japan,
any of the Governmental organizations competent for the Japanese pension systems and the Japanese health

insurance systems specified in paragraph 1 of Article 2,

as regards the United States,
the Commissioner of Social Security;

(f) "competent institution" means,

as regards Japan,
any of the insurance institutions, or any association thereof, responsible for the implementation of the Japanese pension systems and the Japanese health insurance systems specified in paragraph 1 of Article 2,

as regards the United States,
the Social Security Administration;

(g) "period of coverage" means,

as regards Japan,
a period of contributions under the laws of Japan concerning the Japanese pension systems specified in paragraph 1(a)(i) to (v) of Article 2, and any other period taken into account under those laws for establishing entitlement to benefits,

as regards the United States,
a period credited as a quarter of coverage under the laws of the United States, or any equivalent period that may be used to establish the right to a benefit under the laws of the United States;

(h) "benefit" means any benefit provided for in the laws of either Party.

2. For the purpose of this Agreement, any term not defined in this Agreement shall have the meaning assigned to it under the respective laws of either Party.

Article 2

This Agreement shall apply,

1. as regards Japan,

(a) to the following Japanese pension systems:

(i) the National Pension (except the National Pension Fund);

(ii) the Employees' Pension Insurance (except the Employees' Pension Fund);

(iii) the Mutual Aid Pension for National Public Officials;

(iv) the Mutual Aid Pension for Local Public Officials and Personnel of Similar Status (except the pension system for members of local assemblies); and

(v) the Mutual Aid Pension for Private School Personnel

(the Japanese pension systems specified in (ii) to (v) shall hereinafter be referred to as "Japanese pension systems for employees");

however, for the purpose of this Agreement, the National Pension shall not include the Old Age Welfare Pension or any other pensions which are granted on a transitional or complementary basis for the purpose of welfare and which are payable wholly or mainly out of national budgetary resources; and

(b) to the Japanese health insurance systems implemented under the following national statutes, as amended:

(i) the Health Insurance Law (Law No. 70, 1922);

(ii) the Seamen's Insurance Law (including the provisions on employment insurance and workers' accident compensation insurance) (Law No. 73, 1939);

(iii) the National Health Insurance Law (Law No. 192, 1958);

(iv) the Law Concerning Mutual Aid Association for National Public Officials (Law No. 128, 1958);

(v) the Law Concerning Mutual Aid Association for Local Public Officials and Personnel of Similar Status (Law No. 152, 1962); and

(vi) the Law Concerning Mutual Aid for Private School Personnel (Law No. 245, 1953);

however, for the purpose of this Agreement, Articles 3, 5, 6, 8, 10, 12, 13, 15 (except for paragraph 3) and 17, paragraph 2, shall not apply to the Japanese health insurance systems; and

2. as regards the United States,

to the following national statutes and regulations, as amended, governing the Federal old-age, survivors and disability insurance program:

(a) Title II of the Social Security Act and regulations pertaining thereto, except sections 226, 226A and 228 of that title and regulations pertaining to those sections; and

(b) Chapters 2 and 21 of the Internal Revenue Code of 1986 and regulations pertaining to those chapters.

Article 3

1. Persons who are or have been subject to the laws of one Party, as well as family members or survivors who derive rights from such persons, who ordinarily reside in the territory of the other Party, shall receive equal treatment with nationals of that other Party in the application of the laws of that other Party regarding entitlement to and payment of benefits. However, the foregoing shall not affect the provisions on complementary periods for Japanese nationals on the basis of ordinary residence outside the territory of Japan under the laws of Japan.

2. Any provision of the laws of one Party which restricts entitlement to or payment of benefits solely because the person ordinarily resides outside or is absent from the territory of that Party shall not be applicable to persons who ordinarily reside in the territory of the other Party. However, the foregoing shall not affect the provisions of the laws of Japan which require a person who is aged 60 or over but under 65 on the date of the first medical examination or of death to reside ordinarily in the territory of Japan for the acquisition of entitlement to the Disability Basic Pension or the Survivors' Basic Pension.

Article 4

1. Unless otherwise provided in this Article, a person who works as an employee or self-employed person in the territory of one of the Parties shall, with respect to that employment or self-employment, be subject to the laws of only that Party.

2. Subject to paragraphs 5 to 7 of this Article, where a person who is covered under the laws of one Party and normally employed in the territory of that Party by an employer with a place of business in that territory is sent by that employer from that territory to work in the territory of the other Party, the employee shall be subject to the laws of only the first Party as if that employee were working in the territory of the first Party, provided that the period of such detachment is not expected to exceed five years. If the detachment continues beyond five years, the competent authority or competent institution of the second Party may grant further exemption of the employee from the laws of the second Party, subject to paragraph 8 of this Article. For the purpose of this paragraph in the case of an employee who is sent from the territory of the United States by an employer in that territory to an affiliated company of that employer (as defined under the laws of the United States) in the territory of Japan, that employer and affiliated company of that employer shall be deemed to be the same employer, provided that the employment is covered under the laws of the United States.

3. Paragraph 2 of this Article shall apply where a person who has been sent by an employer from the territory of one Party to the territory of a third country is subsequently sent by that employer from the territory of the third country to the territory of the other Party.

4. Where a person covered under the laws of one Party, who ordinarily works as a self-employed person in the territory of that Party, works temporarily as a self-employed person in the territory of the other Party, that self-employed person shall be subject to the laws of only the first Party as if that self-employed person were working in the territory of the first Party, provided that the period of such self-employment in the territory of the second Party is not expected to exceed five years. If that self-employment continues beyond five years, the competent authority or competent institution of the second Party may grant further exemption of that self-employed person from the laws of the second Party, subject to paragraph 8 of this Article.

5. A person who would otherwise be covered under the laws of both Parties with respect to employment as an officer or member of a crew on board a sea-going vessel flying the flag of Japan or an American vessel shall, with respect to that employment, be subject to the laws of the Party in whose territory the person ordinarily resides.

6. A person who would otherwise be covered under the laws of both Parties with respect to employment as an officer or member of a crew on an aircraft shall, with respect to that employment, be subject to the laws of the Party in whose territory the employer is headquartered.

7. (a) This Agreement shall not affect the provisions of the Vienna Convention on Diplomatic Relations of April 18, 1961, or the Vienna Convention on Consular Relations of April 24, 1963.

(b) Nationals of the United States who are employed by the Government of the United States in the territory of Japan but who are not exempted from the laws of Japan by virtue of the Conventions mentioned in subparagraph (a) shall be subject to the laws of only the United States. For the purpose of the foregoing, employment by the Government of the United States includes employment by an instrumentality thereof.

(c) Subject to subparagraph (a), where any civil servant of Japan or any person treated as such under the laws of Japan is sent to work in the territory of the United States, that person shall be subject to the laws of only Japan.

8. At the request of an employee and an employer or a self-employed person, the competent authority or competent institution of Japan and the competent authority of the United States may agree to grant an exception to the provisions of this Article in the interest of particular persons or categories of persons, provided that such persons or categories of persons shall be subject to the laws of one of the Parties.

9. As regards the accompanying spouse or children of a person who works in the territory of Japan and who is subject to the laws of the United States in accordance with paragraph 2, 4, 6, 7(b) or 8 of this Article,

(a) In cases in which the accompanying spouse or children are persons other than Japanese nationals, the laws of Japan shall not apply to them. However, when the accompanying spouse or children so request, the foregoing shall not apply.

(b) In cases in which the accompanying spouse or children are Japanese nationals, the exemption from the laws of Japan shall be determined in accordance with the laws of Japan.

10. This Article shall apply only to compulsory coverage under the laws of each Party. Paragraphs 2 and 4 of this Article shall not apply to a person who is normally employed in the territory of Japan by an employer with a place of business in that territory or ordinarily works as a self-employed person in the territory of Japan, if that person is not covered under the laws of Japan concerning the Japanese pension systems specified in paragraph 1(a)(i) to (v) of Article 2.

Article 5

The following provisions shall apply to the United States:

1. Where a person has completed at least six quarters of coverage under the laws of the United States, but does not have sufficient periods of coverage to satisfy the requirements for entitlement to benefits under the laws of the United States,

the competent institution of the United States shall take into account, for the purpose of establishing entitlement to benefits under this Article, periods of coverage which are credited under the laws of Japan and which do not coincide with periods of coverage already credited under the laws of the United States.

2. For the purpose of establishing entitlement to benefits under paragraph 1 of this Article, the competent institution of the United States shall credit, in accordance with the laws of the United States, one quarter of coverage for every three months of periods of coverage which are credited under the laws of Japan and certified by the competent institutions of Japan. Any remainder of less than three months of periods of coverage that results from this crediting shall be taken into account as one additional quarter of coverage. However, no quarter of coverage shall be credited for any calendar quarter already credited as a quarter of coverage under the laws of the United States. The total number of quarters of coverage to be credited under this paragraph and the quarters of coverage already credited under the laws of the United States shall not exceed four in a calendar year.

3. Where entitlement to a benefit under the laws of the United States is established according to paragraph 1 of this Article, the competent institution of the United States shall compute a pro rata Primary Insurance Amount in accordance with the laws of the United States based on:

(a) the person's average earnings credited exclusively under the laws of the United States and

(b) the ratio of the duration of the person's periods of coverage completed under the laws of the United States to the duration of a coverage lifetime as determined in accordance with the laws of the United States.

Benefits payable under the laws of the United States shall be based on the pro rata Primary Insurance Amount.

4. Entitlement to a benefit from the United States which results from paragraph 1 of this Article shall terminate with the acquisition of sufficient periods of coverage under the laws of the United States to establish entitlement to an equal or higher benefit without the need to apply paragraph 1 of this Article.

5. For the purpose of applying paragraphs 1 and 2 of this Article, periods of coverage credited under the laws of Japan shall include periods of contributions under the laws of Japan and any other periods taken into account under those laws for establishing entitlement to benefits, with the exception of complementary periods for Japanese nationals on the basis of ordinary residence outside the territory of Japan and periods of coverage for Category III insured persons under the National Pension. Notwithstanding the preceding sentence, the competent institution of the United States shall also credit a maximum of eleven quarters of coverage for periods of coverage for Category III insured persons, provided that the insured person has at least one month of periods of coverage for Category I insured persons or Category II insured persons, or one quarter of coverage under the laws of the United States, both before and after the periods of coverage for Category III insured persons.

Article 6

The following provisions shall apply to Japan:

1. (a) Where a person does not have sufficient periods of coverage to fulfill the requirements for entitlement to benefits under the laws of Japan, the competent institution of Japan shall take into account, for the purpose of establishing entitlement to benefits under this Article, periods of coverage which are credited under the laws of the United States.

(b) Subparagraph (a) shall not apply to the following benefits under the laws of Japan:

(i) the Disability Allowance under the Employees' Pension Insurance;

(ii) the disability lump-sum payments under the mutual aid pensions;

(iii) the additional pension for specified occupations under the mutual aid pensions;

(iv) the lump-sum payments upon withdrawal for persons other than Japanese nationals under the Employees' Pension Insurance and the lump-sum payments upon withdrawal for persons other than Japanese nationals under the mutual aid pensions;

(v) the allowance upon withdrawal under the Employees' Pension Insurance and the lump-sum payments upon withdrawal under the mutual aid pensions;

(vi) the special lump-sum death payments under the mutual aid pensions; and

(vii) any other benefits similar to those specified in (i) to (vi), to be introduced after the entry into force of this Agreement, and as may be agreed upon between the two Parties.

2. In applying paragraph 1(a) of this Article,

(a) the competent institutions of Japan shall credit, in each calendar year, three months of periods of coverage for every quarter of coverage which is credited in that year under the laws of the United States and certified by the competent institution of the United States. Periods of coverage to be credited by the competent institutions of Japan, the unit of which is a month, shall be allocated in chronological order starting with the first month of the calendar year, except for the months that are already credited as periods of coverage under the laws of Japan. However, the months of periods of coverage shall be allocated in the reverse order starting with the last month of the calendar year if it is necessary to establish entitlement to a benefit under the laws of Japan. The total number of months of periods of coverage to be allocated under the provision of this subparagraph and the months that are already credited as periods of coverage under the laws of Japan shall not exceed twelve in a calendar year.

(b) periods of coverage under the laws of the United States to be credited by the competent institutions of Japan under subparagraph (a) shall be taken into account as both periods of coverage under Japanese pension systems for employees and periods of coverage for Category II insured persons under the National Pension.

3. (a) Where the laws of Japan require for entitlement to disability pensions or survivors' pensions that the date of the first medical examination or of death lie within specified periods of coverage, this requirement shall be deemed to be fulfilled for the purpose of establishing entitlement to those pensions, provided that a person:

(i) has credit for at least four quarters of coverage under the laws of the United States during a period of eight calendar quarters ending with the calendar quarter in which the date of the first medical examination or death occurs; or

(ii) has credit for at least six quarters of coverage under the laws of the United States during a period of thirteen calendar quarters ending with the calendar quarter in which the date of the first medical examination or death occurs.

However, if entitlement to disability pensions or survivors' pensions under the National Pension is established without applying this paragraph, this paragraph shall not be applied for the purpose of establishing entitlement to disability pensions or survivors' pensions based on the same insured event under Japanese pension systems for employees.

(b) In applying subparagraph (a), as regards a person who possesses periods of coverage under two or more Japanese pension systems for employees, the requirement referred to in that subparagraph shall be deemed to be fulfilled for one of those pension systems in accordance with the laws of Japan.

4. Where entitlement to a benefit under the laws of Japan is established by virtue of paragraph 1(a) or 3(a) of this Article, the competent institution of Japan shall calculate the amount of that benefit in accordance with the laws of Japan, subject to paragraphs 5 to 9 of this Article.

5. With regard to the Disability Basic Pension and other benefits, the amount of which is a fixed sum granted regardless of the period of coverage, if the requirements for receiving such benefits are fulfilled by virtue of paragraph 1(a) or 3(a) of this Article, the amount to be granted shall be calculated according to the proportion of the sum of the periods of contribution and the premium-exempted periods under the pension system from which such benefits will be paid to the theoretical period of coverage referred to in paragraph 7 of this Article.

6. With regard to disability pensions and survivors' pensions under Japanese pension systems for employees, insofar as the amount of those pensions to be granted is calculated on the basis of the specified period determined by the laws of Japan when the periods of coverage under those systems are less than that specified period, if the requirements for receiving such

pensions are fulfilled by virtue of paragraph 1(a) or 3(a) of this Article, the amount to be granted shall be calculated according to the proportion of the periods of coverage under Japanese pension systems for employees to the theoretical period of coverage referred to in paragraph 7 of this Article. However, when the theoretical period of coverage exceeds that specified period, the theoretical period of coverage shall be regarded as equal to that specified period.

7. For the purpose of paragraph 5 and 6 of this Article, "theoretical period of coverage" means the sum of the following periods (except that it shall not include the period after the month in which the day of recognition of disability occurs or the period beginning with the month in which the day following the day of death occurs):

(a) the period from the month in which the day of attainment of age 20 occurs through the month preceding the month in which the day of attainment of age 60 occurs, except the period before April 1, 1961;

(b) periods of contribution under the laws of Japan which do not coincide with the period referred to in subparagraph (a) of this paragraph; and

(c) periods of coverage under the laws of the United States which do not coincide with periods referred to in subparagraph (b) of this paragraph, in case the month in which the day of recognition of disability occurs or the month preceding the month in which the day following the day of death occurs is before the period referred to in subparagraph (a) of this paragraph.

8. With regard to the calculation of the amount of benefits under Japanese pension systems for employees in accordance with paragraphs 5 and 6 of this Article, if the person entitled to the benefits possesses periods of coverage under two or more such pension systems, the periods of contribution referred to in paragraph 5 of this Article or the periods of coverage referred to in paragraph 6 of this Article shall be the sum of the periods of coverage under all such pension systems. However, when the sum of the periods of coverage equals or exceeds the specified period determined by the laws of Japan within the meaning of paragraph 6 of this Article, the method of calculation stipulated in paragraph 6 of this Article and this paragraph shall not apply.

9. With regard to the Additional Pension for Spouses which is included in the Old-age Employees' Pension and any other benefits that may be granted as a fixed sum in cases where the period of coverage under Japanese pension systems for employees equals or exceeds the specified period determined by the laws of Japan, if the requirements for receiving such benefits are fulfilled by virtue of paragraph 1(a) of this Article, the amount to be granted shall be calculated according to the proportion of the periods of coverage under the Japanese pension system for employees from which such benefits will be paid to that specified period.

Article 7

The competent authorities of the two Parties shall:

(a) agree on the administrative measures necessary for the implementation of this Agreement;

(b) designate liaison agencies for the implementation of this Agreement; and

(c) communicate to each other, as soon as possible, all information about changes to their respective laws insofar as those changes affect the implementation of this Agreement.

Article 8

The competent authorities and competent institutions of the two Parties, within the scope of their respective authorities, shall assist each other in implementing this Agreement. Regular personnel and operating costs of the competent authorities and competent institutions providing the assistance shall be free of charge.

Article 9

1. In accordance with measures to be agreed upon by virtue of subparagraph (a) of Article 7, the competent authorities or competent institutions of one Party shall, in accordance with its national statutes and regulations, send to the competent authorities or competent institutions of the other Party information about an individual collected under its laws insofar as that information is necessary for the implementation of this Agreement.

2. Unless otherwise required by the national statutes and regulations of one Party, information about an individual which is transmitted in accordance with this Agreement to that Party by the other Party shall be used exclusively for the purpose of implementing this Agreement. Such information received by a Party shall be governed by the national statutes and regulations of that Party for the protection of confidentiality of personal data.

Article 10

1. Insofar as the laws of one Party, and in the case of Japan, other national statutes and regulations, contain provisions on an exemption or reduction of administrative charges or consular fees for documents to be submitted under the laws of that Party, those provisions shall also apply to documents to be submitted in the application of this Agreement and the laws of the other Party.

2. Documents which are presented for the purpose of this Agreement and the laws of a Party shall be exempted from requirements for authentication or any other similar formality by diplomatic or consular authorities.

3. Copies of documents which are certified as true and exact copies by a competent institution of one Party shall be accepted as true and exact copies by a competent institution of the other Party, without further certification. The competent institution receiving the copies shall be the final judge of the probative value of the evidence submitted to it from whatever source.

Article 11

1. The competent authorities and competent institutions of the Parties may communicate directly with each other and with any concerned person wherever the person may reside whenever it is necessary for the administration of this Agreement. The

communication may be in the respective languages of the Parties.

2. In implementing this Agreement, the competent authorities and competent institutions of one Party may not reject applications or any other documents for the reason that they are written in the language of the other Party.

Article 12

1. When a written application for benefits, an appeal or any other declaration under the laws of one Party is submitted to a competent authority or competent institution of the other Party which is competent to receive similar applications, appeals or declarations under the laws of that other Party, that application, appeal or declaration shall be deemed to be submitted on the same date to the competent authority or competent institution of the first Party and shall be dealt with according to the procedure and laws of the first Party.

2. In any case to which this Article applies, the competent authority or competent institution of one Party to which the application for benefits, appeal or any other declaration has been submitted shall transmit it without delay to the competent authority or competent institution of the other Party.

Article 13

Payments of benefits under this Agreement may be made in the currency of either Party.

Article 14

Any disagreement regarding the interpretation or application of this Agreement shall be resolved by consultation between the Parties.

Article 15

1. This Agreement shall not establish any entitlement to benefits for any period prior to its entry into force or, as regards the United States, to a lump-sum death benefit if the person died prior to its entry into force.

2. In the implementation of this Agreement, periods of coverage completed and other legally relevant events occurring before its entry into force shall also be taken into account.

3. In applying paragraph 2 or 4 of Article 4, in the case of persons whose detachment or self-employment referred to in those paragraphs commenced prior to the date of entry into force of this Agreement, the period of such detachment or self-employment shall be considered to begin on the date of entry into force of this Agreement.

4. Decisions made before the entry into force of this Agreement shall not affect any rights to be established by virtue of this Agreement.

5. Articles 5 and 6 shall apply only to benefits for which an application is filed on or after the date this Agreement enters into force.

6. The application of this Agreement shall not result in any reduction in the amount of a benefit to which entitlement was established prior to its entry into force.

Article 16

This Agreement shall enter into force on the first day of the third month following the month in which the Parties shall have completed an exchange of diplomatic notes informing each other that their respective statutory and constitutional requirements necessary to give effect to this Agreement have been fulfilled.

Article 17

1. This Agreement shall remain in force and effect until the last day of the twelfth month following the month in which either Party gives the other Party written notification through diplomatic channels of its termination.

2. If this Agreement is terminated in accordance with paragraph 1 of this Article, rights regarding entitlement to and payment of benefits acquired under it shall be retained.

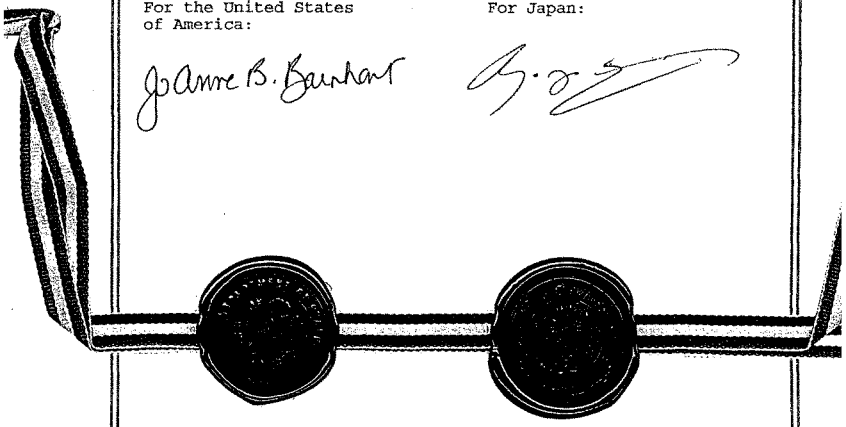
In witness whereof, the undersigned, being duly authorized thereto, have signed this Agreement.

Done at Washington on February 19, 2004, in duplicate in the English and Japanese languages, the two texts being equally authentic.

For the United States of America:

JoAnne B. Barnhart

For Japan:



Administrative Arrangement
for the Implementation of the Agreement
between the United States of America and Japan
on Social Security

The competent authority of the United States of America and the competent authorities of Japan,
in conformity with Article 7(a) of the Agreement between the United States of America and Japan on Social Security of this date, hereinafter referred to as the "Agreement", have agreed as follows:

Article 1

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

Article 2

The liaison agencies referred to in Article 7(b) of the Agreement shall be:

(a) for the United States,

the Social Security Administration,

(b) for Japan:

i) for the National Pension and the Employees' Pension Insurance,

the Social Insurance Agency;

ii) for the Mutual Aid Pension for National Public Officials,

the Federation of National Public Service Personnel Mutual Aid Associations;

iii) for the Mutual Aid Pension for Local Public Officials and Personnel of Similar Status,

the Pension Fund Association for Local Government Officials;

iv) for the Mutual Aid Pension for Private School Personnel,

the Promotion and Mutual Aid Corporation for Private Schools of Japan.

Article 3

The liaison agencies referred to in Article 2, in cooperation with the competent authorities, shall agree upon the joint procedures and forms necessary and appropriate for the implementation of the Agreement and this Administrative Arrangement.

Article 4

1. Where the laws of a Party apply to an employee or self-employed person in accordance with the provisions of paragraph 1, 2, 4, 5, 6, subparagraph (b) or (c) of paragraph 7, or paragraph 8 of Article 4 of the Agreement, the liaison agency of that Party, upon request of the persons concerned, shall issue a certificate stating that the employee or self-employed person is subject to those laws and indicating the duration for which the certificate shall be valid. The certificate shall be evidence that the employee or self-employed person is exempt from the laws on compulsory coverage of the other Party.

2. The liaison agency of a Party which issues a certificate referred to in paragraph 1 of this Article shall furnish a copy of the certificate or information from the certificate as may be agreed upon by the liaison agencies of both Parties to the liaison agency of the other Party as needed by the liaison agency of that other Party.

3. Where a person is exempt from Japanese laws solely by virtue of Article 4 of the Agreement, the employer and employee or self-employed person and any accompanying spouse or children shall nevertheless be subject to the laws of Japan as they relate to health insurance, unless the employer or self-employed person has certified to the competent institution of the United States that the employee or self-employed person and any accompanying spouse and children are covered under appropriate insurance against the cost of health care in Japan.

Article 5

1. Applications for benefits under the Agreement shall be submitted on forms to be agreed upon by the liaison agencies of both Parties.

2. The competent institution of the Party with which an application for benefits is first filed in accordance with Article 12 of the Agreement shall provide the liaison agency of the other Party with such evidence and other information in its possession as may be required to complete action on the claim.

3. The competent institution of the Party which receives an application that was first filed with a competent institution of the other Party shall, upon the request of the competent institution of that other Party, without delay provide the liaison agency of that other Party with such evidence and other available information in its possession as may be required for the competent institution of that other Party to complete action on the claim.

4. The competent institution of the Party with which an application for benefits has been filed shall verify the information pertaining to the applicant and the applicant's family members. The types of information to be verified shall be agreed upon by the liaison agencies of both Parties.

5. Upon request, the liaison agency of either Party shall furnish without cost to the liaison agency of the other Party any medical information and documentation in its possession relevant to the disability of the claimant or beneficiary.

6. In any case to which the provisions of Article 12 of the Agreement apply, the competent authority or competent institution to which the application, appeal, or declaration has been submitted shall indicate the date of receipt on the document or on a form to be agreed upon for this purpose pursuant to Article 7(a) of the Agreement prior to sending it to the appropriate competent authority or competent institution of the other Party.

Article 6

The Social Security Administration of the United States and the Social Insurance Agency of Japan shall exchange statistics on the number of certificates issued under Article 4 of this Administrative Arrangement and on the payments made under each Party's laws to beneficiaries in the territory of the other Party. These statistics shall be furnished annually in a form to be agreed upon.

Article 7

Where assistance is requested under Article 8 of the Agreement, expenses required to provide this assistance, other than regular personnel and operating costs, shall be borne by the competent authority or competent institution requesting the assistance, except as may be agreed upon in advance by the competent authorities or competent institutions of both Parties.

Article 8

1. This Administrative Arrangement shall enter into force at the same time as the Agreement enters into force and shall remain in force as long as the Agreement remains in force.

2. The competent authorities may notify each other, in writing, of changes in the names of the liaison agencies without the need to modify the Administrative Arrangement.

Done at WASHINGTON on FEBRUARY 19, 2004 in duplicate in the English and Japanese languages, both texts being equally authentic.

For the Competent Authority
of the United States of America:

James B. Burnham

For the Competent Authorities of Japan:

安藤隆春
National Police Agency

須田和博
Ministry of Public Management, Home Affairs, Posts and Telecommunications

杉本和行
Ministry of Finance

加茂川幸夫
Ministry of Education, Culture, Sports, Science and Technology

皆川尚史
Ministry of Health, Labor and Welfare

ANNEX A

PRINCIPAL AGREEMENT

ANNOTATIONS AND COMMENTS

AGREEMENT BETWEEN
THE UNITED STATES OF AMERICA
AND JAPAN
ON SOCIAL SECURITY

The United States of America and Japan,

Being desirous of regulating the relationship between them in the field of social security,

Have agreed as follows:

The document is described as an "Agreement" with the understanding that it will enter into force for Japan as a formal treaty subject to approval by the Japanese Diet and for the United States as an executive agreement under authority of Section 233 of the Social Security Act. Upon entry into force, the Agreement will have the effect of law in both countries and will be binding on both countries.

Article 1

1. For the purpose of this Agreement,

   (a) "United States" means the United States of America;

   (b) "territory" means,

   as regards Japan,
   the territory of Japan,

   as regards the United States,
   the States thereof, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa and the Commonwealth of the Northern Mariana Islands;

Article 1 defines key terms used in the Agreement.

Article 1.1(a) permits abbreviated reference to "United States of America" in the Agreement.

Article 1.1(b) defines the territory of the United States and Japan for purposes of applying the Agreement.

With respect to Japan, "territory" means Japanese national territory.

The definition of United States "territory" is identical to the definition of the United States in section 210(i) of the Social Security Act with the addition of the Northern Mariana Islands (NMI), to which the U.S. Social Security program also applies in accordance with the covenant establishing the NMI Commonwealth in political union with the United States.

(c) "national" means,

as regards Japan,
a Japanese national within the meaning of the national statute on nationality of Japan,

as regards the United States,
a national of the United States as defined in Section 101, Immigration and Nationality Act, as amended;

A Japanese national means any person who is accorded nationality under Japanese law. Japan's Nationality Law (Law No. 147 of 1950, as amended) accords Japanese nationality to a person whose mother or father was a Japanese national at the time of the person's birth, and to other persons who acquire Japanese nationality through naturalization.

Under section 101(a)(22) of the Immigration and Nationality Act, "the term 'national of the United States' means (A) a citizen of the United States, or (B) a person who, though not a citizen of the United States, owes permanent allegiance to the United States." Those in category (B) include natives of American Samoa.

(d) "laws" means,

as regards Japan,
the national statutes and regulations of Japan concerning the Japanese pension systems and the Japanese health insurance systems specified in paragraph 1 of Article 2,

as regards the United States,
the national statutes and regulations of the United States specified in paragraph 2 of Article 2,

however, treaties or other international agreements on social security concluded between one Party and a third party, or national statutes and regulations promulgated for the implementation of such treaties or other international agreements shall not be included;

The term "laws," as used in the Agreement, refers to the laws and regulations of each country as set forth in Article 2.

The laws to which the Agreement applies do not include either country's treaties or other international agreements on social security or laws to implement them. The purpose of this provision is to ensure that in cases where a person has social security coverage credits in the United States and Japan and coverage credits in a third country with which the United States or Japan has a social security agreement, neither the United States nor Japan will be obligated to combine coverage from all three countries to determine entitlement to its benefits. (See Articles 5 and 6.)

(e) "competent authority" means,

as regards Japan,
any of the Governmental organizations competent for the Japanese pension systems and the Japanese health insurance systems specified in paragraph 1 of Article 2,

as regards the United States,
the Commissioner of Social Security;

"Competent authority," as used throughout this Agreement, refers to the Government official in each country with ultimate responsibility for administering the social security program, including the provisions of the Agreement.

(f) "competent institution" means,

as regards Japan,
any of the insurance institutions, or any association thereof, responsible for the implementation of the Japanese pension systems and the Japanese health insurance systems specified in paragraph 1 of Article 2,

as regards the United States,
the Social Security Administration;

"Competent institution," as used in the Agreement, refers to the administrative agency in each country responsible for taking and processing claims and making coverage determinations under each country's social security laws.

In Japan, a number of separate agencies are responsible for administering the benefit and coverage provisions of Japanese social security and health insurance laws. Any one of these agencies may be the "competent institution" for purposes of the Agreement in a particular case. Because the provisions on coverage in Article 4 apply to the Japanese health insurance laws, the Japanese health insurance institutions were designated competent institutions for purposes of the Agreement at the Japanese side's request. The role of these institutions in administering the agreement will be limited to making coverage determinations, e.g., granting exceptions to the coverage rules of the Agreement under Article 4.8.

The Social Security Administration is the competent institution for the United States. However, the U.S. Internal Revenue Service's responsibility for determining Social Security tax liability in light of SSA coverage determinations under the Agreement is not affected.

PRINCIPAL AGREEMENT	ANNOTATIONS AND COMMENTS
(g) "period of coverage" means, as regards Japan, a period of contributions under the laws of Japan concerning the Japanese pension systems specified in paragraph 1(a)(i) to (v) of Article 2, and any other period taken into account under those laws for establishing entitlement to benefits, as regards the United States, a period credited as a quarter of coverage under the laws of the United States, or any equivalent period that may be used to establish the right to a benefit under the laws of the United States;	The term "period of coverage" means any period which is credited under the laws of either country for purposes of determining social security benefit eligibility, including periods of covered employment and self-employment.
(h) "benefit" means any benefit provided for in the laws of either Party.	"Benefit" refers to old-age, survivors, and disability benefits provided under the social security laws of either country. With respect to the United States, the term also includes the lump-sum death payment under section 202(i) of the Social Security Act, but excludes special age-72 payments provided for certain uninsured persons under section 228 of the Social Security Act.
2. For the purpose of this Agreement, any term not defined in this Agreement shall have the meaning assigned to it under the respective laws of either Party.	Each country will assign to any undefined terms used in the Agreement the same meaning as they are given under its national laws.

PRINCIPAL AGREEMENT

Article 2

This Agreement shall apply,

1. as regards Japan,

   (a) to the following Japanese pension systems:

      (i) the National Pension (except the National Pension Fund);

      (ii) the Employees' Pension Insurance (except the Employees' Pension Fund);

      (iii) the Mutual Aid Pension for National Public Officials;

      (iv) the Mutual Aid Pension for Local Public Officials and Personnel of Similar Status (except the pension system for members of local assemblies); and

      (v) the Mutual Aid Pension for Private School Personnel

   (the Japanese pension systems specified in (ii) to (v) shall hereinafter be referred to as "Japanese pension systems for employees");

   however, for the purpose of this Agreement, the National Pension shall not include the Old Age Welfare Pension or any other pensions which are granted on a transitional or complementary basis for the purpose of welfare and which are payable wholly or mainly out of national budgetary resources; and

   (b) to the Japanese health insurance systems implemented under the following national statutes, as amended:

      (i) the Health Insurance Law (Law No. 70, 1922);

ANNOTATIONS AND COMMENTS

Article 2 specifies the laws to which the Agreement applies.

The Japanese social security pension system is a two-tiered structure consisting of a basic program called the National Pension (NP), and four supplementary earnings-related programs, the most important of which is called the Employees' Pension Insurance (EPI). The NP, or first tier, is a contributory program that covers all residents of Japan. The EPI program covers workers employed in firms with at least 5 employees, while the three smaller second-tier earnings-related programs cover distinct occupational groups under government-sponsored mutual aid societies. Unless the context requires otherwise, references in these annotations to the EPI encompass all four second-tier programs.

As indicated in Article 2.1(a), both tiers of Japan's two-tiered pension system are included within the scope of the Agreement. However, several components of this system are excluded. The National Pension Fund and the Employees' Pension Fund are corporate pension funds under which both participation and contributions are voluntary. The Japanese Government does not exercise control over these private funds, which are intended to supplement the public, two-tiered system. The pension system for members of local assemblies, a supplemental pension system for local government workers, has also been excluded from the scope of this Agreement. The Agreement does not apply to the Old Age Welfare Pension or to other Japanese non-contributory, means-tested allowances paid from general revenues.

(ii) the Seamen's Insurance Law (including provisions on employment insurance and workers' accident compensation insurance)(Law No. 73, 1939);

(iii) the National Health Insurance Law (Law No. 192, 1958);

(iv) the Law Concerning Mutual Aid Association for National Public Officials (Law No. 128, 1958);

(v) the Law Concerning Mutual Aid Association for Local Public Officials and Personnel of Similar Status (Law No. 152, 1962); and

(vi) the Law Concerning Mutual Aid for Private School Personnel (Law No. 245, 1953);

however, for the purpose of this Agreement, Articles 3, 5, 6, 8, 10, 12, 13, 15 (except for paragraph 3) and 17, paragraph 2, shall not apply to the Japanese health insurance systems; and

2. as regards the United States,

to the following national statutes and regulations, as amended, governing the Federal old-age, survivors and disability insurance program:

(a) Title II of the Social Security Act and regulations pertaining thereto, except sections 226, 226A and 228 of that title and regulations pertaining to those sections; and

(b) Chapters 2 and 21 of the Internal Revenue Code of 1986 and regulations pertaining to those chapters.

The provisions of the Agreement that eliminate dual social security coverage also extend to Japan's national health insurance programs. As a result, a worker who is subject to U.S. laws and exempt from Japanese laws in accordance with Article 4 of the Agreement will be exempt, together with his or her employer, from paying contributions to Japan's national health insurance programs as well as old-age, survivors and disability insurance. Articles of the Agreement unrelated to health insurance coverage, e.g., those which extend the portability of cash benefits, provide for the computation of cash benefit amounts or obligate the two sides to provide mutual assistance, do not apply to the Japanese health insurance laws.

For the United States, the Agreement applies to title II of the U.S. Social Security Act and the corresponding tax laws (the Federal Insurance Contributions Act and the Self-Employment Contributions Act of 1954) and any regulations pertaining to those laws. However, the Agreement does not apply to Medicare provisions (section 226 and 226A of the Social Security Act) or provisions for special payments to uninsured individuals age 72 or over under section 228 of the Social Security Act. Persons to whom the Agreement applies who qualify independently for Medicare hospital insurance or age-72 payments will be entitled to receive such benefits.

Although the Agreement does not apply to Medicare, a worker who is subject only to Japanese laws by virtue of Article 4 of the Agreement will be exempt not only from U.S. retirement, survivors and disability

Article 3

1. Persons who are or have been subject to the laws of one Party, as well as family members or survivors who derive rights from such persons, who ordinarily reside in the territory of the other Party, shall receive equal treatment with nationals of that other Party in the application of the laws of that other Party regarding entitlement to and payment of benefits. However, the foregoing shall not affect the provisions on complementary periods for Japanese nationals on the basis of ordinary residence outside the territory of Japan under the laws of Japan.

2. Any provision of the laws of one Party which restricts entitlement to or payment of benefits solely because the person ordinarily resides outside or is absent from the territory of that Party shall not be applicable to persons who ordinarily reside in the territory of the other Party. However, the foregoing shall not affect the provisions of the laws of Japan which require a person who is aged 60 or over but under 65 on the date of the first medical examination or of death to reside ordinarily in the territory of Japan for the acquisition of entitlement to the Disability Basic Pension or the Survivors' Basic Pension.

insurance contributions but also from health insurance contributions under the Federal Insurance Contributions Act (FICA) and the Self-Employment Contributions Act (SECA).

Article 3.1 provides that persons to whom the Agreement applies who reside in the United States or Japan will be accorded the same treatment regarding benefit rights under that country's social security laws as that country accords its own nationals. This provision is not intended to affect the coverage provisions of either country's laws, since these are dealt with specifically in Article 4 of the Agreement.

Under Japanese social security law, Japanese nationals can be granted non-contributory coverage credits for periods of residence outside of Japan. Article 3.1 makes clear that the Agreement will not extend these complementary credits to persons other than Japanese nationals. Article 5.5 provides that SSA will not credit Japanese complementary periods in determining eligibility for U.S. benefits.

Under section 233(c)2 of the Social Security Act, U.S. totalization agreements may provide for unrestricted payment of U.S. social security benefits to individuals resident in a country party to an agreement. Accordingly, Article 3.2 provides that where the laws of either country require a person to be resident or present in that country in order to qualify for or receive social security benefits, the person may also qualify for or receive those benefits during periods of residence in the other country. Since U.S. law, coupled with a 1953 treaty between the United States and Japan, already permits payment of benefits to U.S. and Japanese nationals who reside in either country, the primary effect of Article 3.2 on U.S. law is to permit the United States to pay benefits to certain third country nationals who would otherwise be subject to the alien nonpayment provisions of section 202(t) of the Social Security Act during periods of residence in Japan.

In addition to the U.S. benefit portability guarantee provided for Japanese residents in Article 3.2, the entry into force of the Agreement will also liberalize a restriction on exportation of U.S. benefits that now applies to certain Japanese residents. Under U.S. law, Social Security dependents and survivors benefits may not be paid to aliens who first become eligible after 1984 and who are outside the United States for more than 6 months unless they satisfy certain U.S. residency requirements or they are citizens or residents of a country with which the United States has an international social security agreement in force. This restriction does not apply to Japanese citizens as a result of the 1953 treaty; however, it does apply to other aliens residing in Japan. Once this Agreement enters into force, these residents of Japan will no longer be subject to the non-payment provision.

The Japanese National Pension (NP) system is a contributory, residence-based program intended to provide all residents of Japan with a minimum or "basic" level of benefits. NP or "basic" benefits are flat-rate amounts payable on account of old-age, death and disability. Coverage under the NP system is compulsory for all Japanese residents aged 20-59, and an NP (or "basic") old-age benefit is payable at age 65. The basic survivors benefit is payable if the deceased had current coverage, i.e., was covered by the NP program on the date of death. The NP system also requires coverage on the date of the first medical examination related to the disabling condition for entitlement to the basic disability benefit. To avoid a gap in coverage, people who were covered by the NP system before reaching age 60 are deemed to meet the current coverage requirement for NP disability or survivors benefits from age 60 to 64 provided they ordinarily reside in Japan. Under Article 3.2, the Agreement will not remove this residence requirement for persons aged 60 to 64. However, a person working in employment or self-employment covered under the U.S. Social Security program could be deemed to meet the Japanese current coverage requirement for disability or survivors benefits under the provisions of Article 6.3(a).

Article 4

Article 4 is intended to eliminate dual coverage, the situation that occurs when a worker is covered under the laws of both countries with respect to the same services. In so doing, the Agreement preserves the existing coverage provisions of the laws of both countries to the greatest extent possible. The provisions in this Article are intended to eliminate dual coverage by continuing the worker's coverage and taxation under the system of the country to whose economy he or she has the more direct connection and exempting the worker from coverage and taxation under the other country's system.

Article 4.1 establishes a general rule for eliminating dual coverage and contributions for persons working in either the United States or Japan. Article 4.2 contains an exception to this general rule, which applies in the case of employees sent by an employer in one country to work temporarily in the other country. Article 4.4 provides for the elimination of dual coverage in the case of self-employed persons who move temporarily from one country to the other. Articles 4.5 and 4.6 preclude dual coverage that might otherwise occur for employees in international shipping and air transportation. Article 4.7 establishes rules applicable to persons employed in U.S. or Japanese Government service.

1. Unless otherwise provided in this Article, a person who works as an employee or self-employed person in the territory of one of the Parties shall, with respect to that employment or self-employment, be subject to the laws of only that Party.

Article 4.1 establishes a general territoriality rule, which stipulates that ordinarily a person's employment or self-employment activity in one country will be compulsorily covered by only that country. Thus, a person working in employment or self-employment that would otherwise be covered under the laws of both countries will remain covered under the laws of the country where the work takes place and will be exempt from coverage under the laws of the other country.

2. Subject to paragraphs 5 to 7 of this Article, where a person who is covered under the laws of one Party and normally employed in the territory of that Party by an employer with a place of business in that territory is sent by that employer from that territory to work in the territory of the other Party, the employee shall be subject to the laws of only the first Party as if that employee were working in the territory of the first Party, provided that the period of such detachment is not expected to exceed five years. If the detachment continues beyond five years, the competent authority or competent institution of the second Party may grant further exemption of the employee from the laws of the second Party, subject to paragraph 8 of this Article. For the purpose of this paragraph in the case of an employee who is sent from the territory of the United States by an employer in that territory to an affiliated company of that employer (as defined under the laws of the United States) in the territory of Japan, that employer and affiliated company of that employer shall be deemed to be the same employer, provided that the employment is covered under the laws of the United States.

Under Article 4.2, an employee working for an employer located in the United States or Japan who is temporarily transferred to work in the other country for the same employer will continue to be covered by the social security system of the country from which the employee has been transferred. Ordinarily, this rule will apply only if the transfer is expected to last 5 years or less, but this limit may be extended if the competent authorities or agencies of both countries agree to a requested extension.

Article 4.2 also applies in the case of certain employees who are sent by their employer in the United States to work for a subsidiary or other affiliate of that employer in Japan. Under U.S. law, American companies may arrange for U.S. citizens and resident aliens employed by an affiliated company in another country to be covered under the U.S. Social Security system. To do this, the parent company in the United States must enter into an agreement with the Internal Revenue Service (IRS) to pay Social Security contributions on behalf of all U.S. citizens and residents employed by the foreign affiliate. Under Article 4.2, U.S. citizens or resident aliens who are sent by an American employer to work for an affiliated Japanese company for 5 years or less will continue to be covered by the United States and exempt from Japanese coverage and contributions, provided the affiliate is covered by an IRS agreement.

For purposes of measuring the length of a transfer for workers who were sent from one country to the other before the Agreement entered into force, any period of work before the Agreement's entry into force will be disregarded. (See Article 15.3.)

3. Paragraph 2 of this Article shall apply where a person who has been sent by an employer from the territory of one Party to the territory of a third country is subsequently sent by that employer from the territory of the third country to the territory of the other Party.

Under Article 4.3, the provisions of Article 4.2 will apply even if an employee has not been sent directly from one country to the other but is first assigned to work in a third country.

4. Where a person covered under the laws of one Party, who ordinarily works as a self-employed person in the territory of that Party, works temporarily as a self-employed person in the territory of the other Party, that self-employed person shall be subject to the laws of only the first Party as if that self-employed person were working in the territory of the first Party, provided that the period of such self-employment in the territory of the second Party is not expected to exceed five years. If that self-employment continues beyond five years, the competent authority or competent institution of the second Party may grant further exemption of that self-employed person from the laws of the second Party, subject to paragraph 8 of this Article.

Under Article 4.4, a person who is self-employed in one country and who conducts his or her trade or business in the other country for a period of 5 years or less will remain covered only by the country from which he or she moved. Ordinarily, this rule will apply only if the person does not expect to perform self-employment in the other country for more than 5 years, but this limit may be extended if the competent authorities or agencies agree to a requested extension.

For purposes of measuring the duration of such a transfer in the case of a person who moved his or her business to the other country before the Agreement enters into force, Article 15.3 provides that any period of self-employment before the Agreement's entry into force will be disregarded.

5. A person who would otherwise be covered under the laws of both Parties with respect to employment as an officer or member of a crew on board a sea-going vessel flying the flag of Japan or an American vessel shall, with respect to that employment, be subject to the laws of the Party in whose territory the person ordinarily resides.

Under Article 4.5 a person employed on a ship who would otherwise be covered under the laws of both the United States and Japan will be covered only under the laws of the country where he or she resides. An American vessel, as defined in section 210(c) of the Social Security Act, is one that is documented or numbered under U.S. law or one that is not documented or numbered under the laws of any country if its crew is employed solely by one or more U.S. citizens or residents or corporations organized under Federal or State law.

6. A person who would otherwise be covered under the laws of both Parties with respect to employment as an officer or member of a crew on an aircraft shall, with respect to that employment, be subject to the laws of the Party in whose territory the employer is headquartered.

Under Article 4.6, a member of the flight crew of an aircraft operating between the United States and Japan who would otherwise be covered under the laws of both countries will be covered only under the laws of the country in which the company is headquartered.

7. (a) This Agreement shall not affect the provisions of the Vienna Convention on Diplomatic Relations of April 18, 1961, or the Vienna Convention on Consular Relations of April 24, 1963.

Article 4.7 provides coverage rules applicable to employees of the U.S. and Japanese Governments. Article 4.7(a) is intended to make clear that, in general, the categories of persons mentioned in the Vienna Conventions on diplomatic and consular relations will not be affected by the coverage provisions of the Agreement. The Conventions, to which both the United States and Japan are parties, apply to members of the staff of a diplomatic or consular mission, including the diplomatic, consular, administrative and technical staffs; family members of such staff who form part of their households; the domestic service staff of the mission; and private servants employed by the members of such missions.

In general, the Vienna Conventions exempt such persons from social security coverage and contributions under the laws of the host country unless specific arrangements have been made to waive their immunity from taxation. Persons whose immunity has been waived would be subject to the laws of the host country, including the coverage provisions of this Agreement.

(b) Nationals of the United States who are employed by the Government of the United States in the territory of Japan but who are not exempted from the laws of Japan by virtue of the Conventions mentioned in subparagraph (a) shall be subject to the laws of only the United States. For the purpose of the foregoing, employment by the Government of the United States includes employment by an instrumentality thereof.

Article 4.7(b) provides that if a U.S. national is employed by the U.S. Government in Japan but is not exempt from Japanese coverage by virtue of the Vienna Conventions (for example, because the person is not employed in a diplomatic or consular mission), the person will be subject only to U.S. laws. This provision applies not only to U.S. Government employees, but also to persons working for a U.S. Government instrumentality.

(c) Subject to subparagraph (a), where any civil servant of Japan or any person treated as such under the laws of Japan is sent to work in the territory of the United States, that person shall be subject to the laws of only Japan.

Article 4.7(c) provides that if a Japanese civil servant is sent by the Japanese Government to work in the United States and is not exempt from U.S. coverage by virtue of the Vienna Conventions, the person will be subject only to Japanese laws. This provision applies to career civil servants, as well as persons contracted to work for the Government of Japan.

8. At the request of an employee and an employer or a self-employed person, the competent authority or competent institution of Japan and the competent authority of the United States may agree to grant an exception to the provisions of this Article in the interest of particular persons or categories of persons, provided that such persons or categories of persons shall be subject to the laws of one of the Parties.

Under Article 4.8, either country may grant an exception to the coverage rules of the Agreement, provided that the other country agrees and the person involved remains subject to the coverage laws of one of the countries. Such an exception may be granted on behalf of an individual worker or on behalf of all workers employed under similar circumstances, e.g., in the same profession or for the same employer. This provision is designed to permit the competent authorities to correct anomalous coverage situations that may arise to the disadvantage of workers or to eliminate dual coverage in unforeseen circumstances.

9. As regards the accompanying spouse or children of a person who works in the territory of Japan and who is subject to the laws of the United States in accordance with paragraph 2, 4, 6, 7(b) or 8 of this Article,

   (a) In cases in which the accompanying spouse or children are persons other than Japanese nationals, the laws of Japan shall not apply to them. However, when the accompanying spouse or children so request, the foregoing shall not apply.

   (b) In cases in which the accompanying spouse or children are Japanese nationals, the exemption from the laws of Japan shall be determined in accordance with the laws of Japan.

In accordance with Article 4.9(a), when a worker exempted from Japanese laws under Article 4 of this Agreement is accompanied to Japan by a spouse or child who is not a Japanese national, the spouse or child will also be exempted from Japanese laws, unless he or she requests otherwise. This provision is particularly important under the Japanese NP system, which requires contributions from all Japanese residents. Under Japanese laws, a person is considered a Japanese resident, and therefore compulsorily covered under the NP system, after staying in Japan for just 90 days.

Article 4.9(b) provides that the exemption from Japanese laws for a Japanese spouse or child of a worker exempted from Japanese laws will be determined in accordance with Japanese laws. Under Japanese laws, a person who would otherwise be compulsorily covered under the NP system but whose annual income from all sources is less than an amount currently equal to ¥13,000,000 can apply to be exempted from the NP contribution requirements. If a Japanese national has annual income exceeding that amount, he or she will be subject to contributions under the National Pension system.

10. This Article shall apply only to compulsory coverage under the laws of each Party. Paragraphs 2 and 4 of this Article shall not apply to a person who is normally employed in the territory of Japan by an employer with a place of business in that territory or ordinarily works as a self-employed person in the territory of Japan, if that person is not covered under the laws of Japan concerning the Japanese pension systems specified in paragraph 1(a)(i) to (v) of Article 2.

Unlike the U.S. Social Security system, the Japanese NP system allows certain Japanese residents who are not compulsorily covered to pay contributions and obtain coverage credits on a voluntary basis. Under Article 4.10, the preceding paragraphs of Article 4 that provide for eliminating dual coverage and contributions apply only to compulsory coverage. Thus, a person who would be able to contribute voluntarily to the Japanese NP system, but who is subject to U.S. laws on compulsory coverage in accordance with Article 4, will be allowed to continue paying voluntary contributions to the NP system.

Under Japanese law, certain categories of persons are exempt from compulsory coverage and contributions under the various Japanese pension systems, most notably employees over age 70 under the EPI system and people over age 60 under the NP system. Article 4.10 makes clear that the provisions in this Article regarding workers who move temporarily from one country to the other will only apply to a person who is compulsorily covered under the Japanese pension laws. As a result, a worker who moves from Japan to the United States for 5 years or less could only be exempt from U.S. laws in accordance with Article 4.4 if the employee will be compulsorily covered under the Japanese pension system.

Article 5

The following provisions shall apply to the United States:

1. Where a person has completed at least six quarters of coverage under the laws of the United States, but does not have sufficient periods of coverage to satisfy the requirements for entitlement to benefits under the laws of the United States, the competent institution of the United States shall take into account, for the purpose of establishing entitlement to benefits under this Article, periods of coverage which are credited under the laws of Japan and which do not coincide with periods of coverage already credited under the laws of the United States.

2. For the purpose of establishing entitlement to benefits under paragraph 1 of this Article, the competent institution of the United States shall credit, in accordance with the laws of the United States, one quarter of coverage for every three months of periods of coverage which are credited under the laws of Japan and certified by the competent institutions of Japan. Any remainder of less than three months of periods of coverage that results from this crediting shall be taken into account as one additional quarter of coverage. However, no quarter of coverage shall be credited for any calendar quarter already credited as a quarter of coverage under the laws of the United States. The total number of quarters of coverage to be credited under this paragraph and the quarters of coverage already credited under the laws of the United States shall not exceed four in a calendar year.

Article 5 establishes the basic rules for determining entitlement to U.S. benefits for people who have social security coverage in both countries, and the rules for determining benefit amounts when entitlement is based on combined coverage credits.

Article 5 contains rules for determining U.S. benefit eligibility and amounts in the case of people who have periods of social security coverage in Japan and at least six quarters of coverage in the United States, but who do not have enough U.S. coverage to qualify for U.S. benefits. In such cases, the Social Security Administration, in accordance with Article 5.1, will take into account periods of Japanese coverage, insofar as these periods do not coincide with quarters of coverage already credited under U.S. laws.

Article 5.2 establishes the procedure that SSA will follow in converting periods of coverage under the Japanese system into periods of coverage under the U.S. system. Periods of coverage under the U.S. system are measured in terms of calendar quarters while coverage under the Japanese system is measured in months. Beginning in 1978, U.S. quarters of coverage are based on the amount of a person's annual earnings (e.g., for 2004, $900 in earnings equals one quarter of coverage). Under Article 5.2, SSA will credit one quarter of coverage in a calendar year for every 3 months of Japanese coverage certified for that year by the Japanese agency. (Articles 6.1(a) and 6.3(a) provide corresponding rules for converting U.S. quarters of coverage into Japanese months of coverage when determining Japanese benefit eligibility.) However, SSA will not credit months of Japanese coverage which fall within a calendar quarter that has already been credited as a U.S. quarter of coverage. In addition, SSA will not credit more than 4 quarters of coverage for any calendar year.

3. Where entitlement to a benefit under the laws of the United States is established according to paragraph 1 of this Article, the competent institution of the United States shall compute a pro rata Primary Insurance Amount in accordance with the laws of the United States based on:

   (a) the person's average earnings credited exclusively under the laws of the United States and

   (b) the ratio of the duration of the person's periods of coverage completed under the laws of the United States to the duration of a coverage lifetime as determined in accordance with the laws of the United States.

   Benefits payable under the laws of the United States shall be based on the pro rata Primary Insurance Amount.

4. Entitlement to a benefit from the United States which results from paragraph 1 of this Article shall terminate with the acquisition of sufficient periods of coverage under the laws of the United States to establish entitlement to an equal or higher benefit without the need to apply paragraph 1 of this Article.

Article 5.3 describes the method of computing U.S. benefit amounts when entitlement is established by totalizing (i.e., combining) periods of U.S. coverage and periods of Japanese coverage.

Under the procedure outlined in Article 5.3, the amount of the worker's benefit depends on both the level of his or her earnings and the duration of his or her coverage under U.S. Social Security. This computation procedure is described in detail in SSA regulations (20 CFR 404.1918 as revised July 24, 1984). The first step in the procedure is to compute a theoretical benefit amount as though the worker had spent a full coverage lifetime (i.e., full career) under U.S. Social Security at the same level of earnings as during his or her actual periods of U.S. covered work. The theoretical benefit is then prorated to reflect the proportion of a coverage lifetime completed under the U.S. program. A coverage lifetime is defined in the regulations as the number of the worker's benefit computation years, i.e., the years which must be used in determining a worker's average earnings under the regular U.S. national computation method.

Article 5.4 provides that when a worker who is entitled to a pro rata totalization benefit from the United States acquires additional U.S. coverage which enables the person to qualify for an equal or higher benefit based solely on his or her U.S. coverage, the Social Security Administration will pay the regular national law benefit rather than the totalization benefit.

5. For the purpose of applying paragraphs 1 and 2 of this Article, periods of coverage credited under the laws of Japan shall include periods of contributions under the laws of Japan and any other periods taken into account under those laws for establishing entitlement to benefits, with the exception of complementary periods for Japanese nationals on the basis of ordinary residence outside the territory of Japan and periods of coverage for Category III insured persons under the National Pension. Notwithstanding the preceding sentence, the competent institution of the United States shall also credit a maximum of eleven quarters of coverage for periods of coverage for Category III insured persons, provided that the insured person has at least one month of periods of coverage for Category I insured persons or Category II insured persons, or one quarter of coverage under the laws of the United States, both before and after the periods of coverage for Category III insured persons.

Although most Japanese periods of coverage are contributory or work-related, Japan provides "complementary" periods of coverage to Japanese nationals for periods of residence outside of Japan. (See comments on Article 3.1.) Article 5.5 makes clear that SSA will not consider Japanese complementary periods to determine eligibility for U.S. totalization benefits under the Agreement.

The National Pension program designates three categories of contributors. Category I insured persons under the NP are self-employed persons or employees who are not covered under a second-tier program or unemployed persons other than those in category III (see below). Category II insured persons are employees covered under the Employees' Pensions Insurance or one of the other three employment-related second-tier programs. A portion of the contributions made to the second-tier programs is transferred to the NP program and category II insured persons receive credit under both the NP and the second-tier program. Category III insured persons are unemployed, dependent spouses of category II insured persons. Although category III insured persons do not make NP contributions, they earn coverage credits under the NP program.

Article 5.5 makes clear that SSA will not consider periods of category III coverage to determine eligibility for U.S. totalization benefits under the Agreement, unless the period of category III NP coverage represents a temporary interruption in work activity. SSA will only count the category III NP coverage if the person has contributory coverage credited under the U.S. or Japanese system both before and after the temporary period of category III NP coverage. In addition, SSA will count no more than 11 quarters of coverage in total based on category III NP coverage. This is comparable to SSA's policy with regard to crediting periods of coverage during temporary interruptions in work activity under prior U.S. totalization agreements (e.g., the agreements with France, Germany and Switzerland).

Article 6

Japanese social security benefits are paid to workers who meet the applicable eligibility standards, including minimum length-of-coverage and recency-of-work requirements. Under Article 6, if a person has not worked long enough or recently enough to meet the normal eligibility requirements, Japan will add the person's U.S. coverage credits to his or her Japanese credits. If the person meets the requirements based on combined U.S. and Japanese credits, Japan will pay a pro rata (i.e., partial) benefit that is proportional to the amount of coverage credited under the Japanese system.

JAPANESE SOCIAL SECURITY BENEFITS

GENERAL

The Japanese social security pension system is a two-tiered structure consisting of a basic program called the National Pension (NP), and four supplementary earnings-related programs, the most important of which is called the Employees' Pension Insurance (EPI). The NP, or first tier, is a contributory program that covers all residents of Japan. NP or "basic" benefits are paid in flat-rate amounts that are prorated according to the number of years of contribution. The EPI program covers workers employed in firms with at least 5 employees, while the three smaller earnings-related programs cover distinct occupational groups that are covered under government-sponsored mutual aid societies. Benefits under the second-tier programs are based on the worker's years of contribution and earnings level, and are intended to supplement the basic (NP) benefit.

OLD-AGE BENEFITS

Under the NP, full retirement age is 65. Reduced benefits are payable as early as age 60, with increased benefits payable if retirement is deferred until age 66 or later. A minimum of 25 years of NP coverage is required. If a claimant has less than 40 years of coverage, the flat-rate benefit

amount is prorated based on the ratio of the length of the claimant's coverage to 40 years.

An EPI old-age pension is payable at age 60 to persons with at least 25 years of coverage, including coverage under the three mutual aid pension programs. The amount of an EPI old-age pension is directly related to the level of the worker's earnings and length of coverage, and is adjusted yearly for inflation. Benefit eligibility and amounts are determined similarly under the mutual aid programs.

DISABILITY BENEFITS

Both the NP and the EPI pay benefits to two classes of disability beneficiaries. Class I refers to those who are totally disabled and require constant care. Class II refers to those whose disability prevents them from working. In addition to having a Class I or Class II disability, the claimant must be covered under the EPI or the NP on the date of the first medical examination establishing the disability and have coverage credit for at least two-thirds of the period between age 20 and the date of the medical examination. The EPI also pays a Class III disability benefit for persons with a partial disability that does not prevent them from working. A lump-sum "disability allowance" can be granted under the EPI when the degree of disability is less than Class III.

SURVIVORS BENEFITS

NP survivors benefits are payable to a dependent widow who has a minor child in her care and to the children of a person who was either receiving an NP pension or covered by the NP on the date of death. In addition, the deceased must have had coverage credit for at least two-thirds of the period from age 20 to death. A lump-sum death benefit is payable if the deceased contributed for at least 3 years, was not entitled to a benefit, and had dependents who are not entitled to monthly survivors benefits.

The following provisions shall apply to Japan:

1. (a) Where a person does not have sufficient periods of coverage to fulfill the requirements for entitlement to benefits under the laws of Japan, the competent institution of Japan shall take into account, for the purpose of establishing entitlement to benefits under this Article, periods of coverage under the laws of the United States.

EPI survivors benefits are payable if the deceased was either covered by the EPI or receiving an EPI old-age or disability pension on the date of death. As under the NP, the deceased must also have had coverage credit for at least two-thirds of the period from age 20 to the date of death. EPI survivors benefits are payable to widowed mothers and orphans under age 18 (20 if disabled). If there are no orphans or widowed mother, a benefit may be paid to another survivor of the worker in the following order of priority: childless widow, widower, parents, grandchildren, or grandparents.

COST-OF-LIVING ADJUSTMENTS

At the beginning of each fiscal year in April, pensions are increased by the change in the consumer price index (CPI). In addition, once every five years, and after the benefit amount has been adjusted for the CPI, the benefit amount is further adjusted according to a wage index.

Article 6 contains rules for determining Japanese benefit eligibility and amounts in the case of people who have periods of social security coverage in Japan and the United States, but who do not have enough Japanese coverage to qualify for Japanese benefits. In such cases, the Japanese agency will add U.S. quarters of coverage to periods of Japanese coverage in determining whether a person meets the minimum coverage requirements for OASDI benefits under Japanese law (including the various recent coverage requirements). The Agreement does not include a minimum Japanese coverage requirement that a person must meet before taking advantage of the totalization provision of Article 6.1(a).

(b) Subparagraph (a) shall not apply to the following benefits under the laws of Japan:

(i) the Disability Allowance under the Employees' Pension Insurance;

(ii) the disability lump-sum payments under the mutual aid pensions;

(iii) the additional pension for specified occupations under the mutual aid pensions;

(iv) the lump-sum payments upon withdrawal for persons other than Japanese nationals under the Employees' Pension Insurance and the lump-sum payments upon withdrawal for persons other than Japanese nationals under the mutual aid pensions;

(v) the allowance upon withdrawal under the Employees' Pension Insurance and the lump-sum payments upon withdrawal under the mutual aid pensions;

(vi) the special lump-sum death payments under the mutual aid pensions; and

(vii) any other benefits similar to those specified in (i) to (vi), to be introduced after the entry into force of this Agreement, and as may be agreed upon between the two Parties.

Article 6.1(b) provides that Japan will not credit U.S. coverage for purposes of establishing entitlement to several benefits under Japan's second-tier programs. The disability benefits listed in Article 6.1(b)(i)-(ii) are lump-sum benefits payable to persons who have a disability less severe than class III (i.e., a partial disability). The additional pension paid under the mutual aid society systems, which is specified in Article 6.1(b)(iii), is a staff retirement benefit and is paid in addition to the earnings-related pension that is comparable to the EPI pension. The payments upon withdrawal in Article 6.1(b)(iv)-(v) are partial refunds of contributions payable to foreign nationals who meet certain conditions upon their departure from Japan. The lump-sum death payments specified in Article 6.1(b)(vi) are benefits paid in cases where no monthly benefit is payable upon the death of a worker who was a member of a mutual aid society before 1980 and who dies before age 60. Article 6.1(b)(vii) provides that benefits similar to those described above which are established after the Agreement's entry into force may also be excluded, but only if both sides agree.

2. In applying paragraph 1(a) of this Article,

(a) the competent institutions of Japan shall credit, in each calendar year, three months of periods of coverage for every quarter of coverage which is credited in that year under the laws of the United States and certified by the competent institution of the United States. Periods of coverage to be credited by the competent institutions of Japan, the unit of which is a month, shall be allocated in chronological order starting with the first month of the calendar year, except for the months that are already credited as periods of coverage under the laws of Japan. However, the months of periods of coverage shall be allocated in the reverse order starting with the last month of the calendar year if it is necessary to establish entitlement to a benefit under the laws of Japan. The total number of months of periods of coverage to be allocated under the provision of this subparagraph and the months that are already credited as periods of coverage under the laws of Japan shall not exceed twelve in a calendar year.

Article 6.2(a) establishes the procedure that the Japanese agencies will follow in converting U.S. quarters of coverage into periods of coverage under the Japanese system. In determining benefit eligibility based on combined periods of coverage, the Japanese agencies will credit 3 months of coverage for each quarter of coverage certified by the Social Security Administration. U.S. quarters of coverage will be credited toward Japanese benefit entitlement in the chronological order that is most advantageous for claimants and beneficiaries. However, Japan will not credit additional months of coverage based on U.S. coverage if those months are already credited under Japanese laws. In addition, Japan will not credit more than 12 months of coverage for any calendar year.

(b) periods of coverage under the laws of the United States to be credited by the competent institutions of Japan under subparagraph (a) shall be taken into account as both periods of coverage under Japanese pension systems for employees and periods of coverage for Category II insured persons under the National Pension.

Article 6.2(b) provides that the Japanese agencies will credit periods of U.S. coverage under all four of the second-tier, earnings-related Japanese pension systems. In addition, U.S. coverage will be considered as periods of category II coverage under the Japanese NP system for purposes of establishing entitlement to benefits under that program. As explained in connection with Article 5.5, category II coverage is NP coverage earned by employees who are also covered under the EPI or another second-tier program. As a result of Article 6.2(b), a person will be able to use U.S. coverage credits to qualify for the basic NP old-age, survivors and disability pensions, but not for three relatively minor benefits for which Japan only counts category I coverage. These include

3. (a) Where the laws of Japan require for entitlement to disability pensions or survivors' pensions that the date of the first medical examination or of death lie within specified periods of coverage, this requirement shall be deemed to be fulfilled for the purpose of establishing entitlement to those pensions, provided that a person:

(i) has credit for at least four quarters of coverage under the laws of the United States during a period of eight calendar quarters ending with the calendar quarter in which the date of the first medical examination or death occurs; or

(ii) has credit for at least six quarters of coverage under the laws of the United States during a period of thirteen calendar quarters ending with the calendar quarter in which the date of the first medical examination or death occurs.

However, if entitlement to disability pensions or survivors' pensions under the National Pension is established without applying this paragraph, this paragraph shall not be applied for the purpose of establishing entitlement to disability pensions or survivors' pensions based on the same insured event under Japanese pension systems for employees.

the lump-sum payment upon death and lump-sum payment upon withdrawal (which are partial refunds of contributions), and the widow's pension (which is payable only to widows aged 60 to 65 whose deceased husband had 25 years of category I contributions).

In addition to having coverage credit for at least two-thirds of the period between age 20 and the date of the medical examination, a worker must also be covered under the Japanese social security system on the date of the first medical examination establishing the disability or the date of death in order for the worker or the worker's survivors to be eligible for disability or survivors benefits. Under Article 6.3(a), a worker who has at least 4 quarters of U.S. coverage in the 8-quarter period ending with the date of the first medical examination or death, or at least 6 quarters of U.S. coverage in the 13-quarter period ending with the date of the first medical examination or death, will be deemed to meet the current coverage requirement of Japanese laws.

Under Japanese laws, a Japanese national who is resident outside of Japan and is not compulsorily covered under any of the Japanese social security programs is permitted to make voluntary contributions to the NP system to maintain his or her current coverage connection and benefit rights. If a worker or his or her survivors become entitled to a NP disability or survivors benefit based on the worker's voluntary contributions, the Japanese agencies will not apply the provisions of Article 6.3(a)(i) or (ii) for the purpose of establishing entitlement to a disability or survivors pension under the EPI or other Japanese pension system for employees based on the same insured event (i.e., the same disabling injury or illness, or death). Because only Japanese nationals

have the right to make voluntary contributions to the Japanese NP system (see comments on Article 3.2), this provision only applies to Japanese nationals and will not affect benefit rights for U.S. citizens or third-country nationals.

(b) In applying subparagraph (a), as regards a person who possesses periods of coverage under two or more Japanese pension systems for employees, the requirement referred to in that subparagraph shall be deemed to be fulfilled for one of those pension systems in accordance with the laws of Japan.

When a disabled or deceased person has contributed to the EPI and one or more of the mutual aid society pension programs during the course of his or her career, Japanese social security laws provide that the last program covering the worker (normally the one covering the worker at disability onset or death) will combine the worker's coverage under all of the second-tier systems. That program is then responsible for paying a disability or survivors benefit which corresponds to all of the worker's coverage under all of the second-tier programs. As a result of Article 6.3(b), when a person becomes disabled or dies while covered under the U.S. Social Security program and has coverage under more than one of Japan's second-tier systems, the second-tier program under which the worker was most recently covered will be responsible for consolidating the worker's coverage under the Japanese second-tier programs and paying the disability or survivors benefit.

4. Where entitlement to a benefit under the laws of Japan is established by virtue of paragraph 1(a) or 3(a) of this Article, the competent institution of Japan shall calculate the amount of that benefit in accordance with the laws of Japan, subject to paragraphs 5 to 9 of this Article.

Articles 6.4 through 6.9 set forth the rules Japan will follow in calculating benefit amounts when entitlement is established as a result of combining periods of U.S. and Japanese coverage under the Agreement. Article 6.4 is a general rule stating that when entitlement to a Japanese benefit is established using U.S. coverage to meet either the minimum coverage requirement in accordance with Article 6.1(a), or the current coverage requirements in accordance with Article 6.3(a), the amount of the benefit will be calculated in accordance with Japanese law, subject to Articles 6.5 through 6.9. Because many Japanese benefits, including old-age pensions under both EPI and NP, are directly related to the length of a person's Japanese coverage, there is no need to further pro rate such benefits when entitlement is established based on U.S. coverage. Under Article 6.4, therefore, these benefits will generally be computed exclusively according to Japanese national law.

5. With regard to the Disability Basic Pension and other benefits, the amount of which is a fixed sum granted regardless of the period of coverage, if the requirements for receiving such benefits are fulfilled by virtue of paragraph 1(a) or 3(a) of this Article, the amount to be granted shall be calculated according to the proportion of the sum of the periods of contribution and the premium-exempted periods under the pension system from which such benefits will be paid to the theoretical period of coverage referred to in paragraph 7 of this Article.

6. With regard to disability pensions and survivors' pensions under Japanese pension systems for employees, insofar as the amount of those pensions to be granted is calculated on the basis of the specified period determined by the laws of Japan when the periods of coverage under those systems are less than that specified period, if the requirements for receiving such pensions are fulfilled by virtue of paragraph 1(a) or 3(a) of this Article, the amount to be granted shall be calculated according to the proportion of the periods of coverage under Japanese pension systems for employees to the theoretical period of coverage referred to in paragraph 7 of this Article. However, when the theoretical period of coverage exceeds that specified period, the theoretical period of coverage shall be regarded as equal to that specified period.

Article 6.5 pertains to certain flat-rate benefits that are paid in amounts not related to the length of the person's coverage. These benefits include the NP disability pension and the NP survivors pension. When periods of U.S. coverage are used to establish entitlement to these benefits, the benefit amount will be determined by multiplying the flat-rate amount by a fraction consisting of the periods of coverage completed in Japan over the theoretical period of coverage described in Article 6.7. Under Article 6.7, the "theoretical period of coverage" is generally equivalent to the total number of months an individual could have been credited with Japanese coverage. In most cases, it will be equal to the period from age 20 to the time the person becomes disabled or dies.

Article 6.6 describes the computation method for EPI disability and survivors benefits that will apply if the worker had less than 25 years of Japanese coverage. Under the EPI, when a person becomes disabled or dies with less than 25 years of coverage, 25 years is used in the benefit computation to ensure an adequate benefit amount. Article 6.6 stipulates that when the EPI disability or survivors benefit is payable as a result of crediting periods of U.S. coverage under the Agreement, the amount payable will equal the benefit amount computed under Japanese national law and then multiplied by a fraction with the person's months of EPI coverage in the numerator and the "theoretical period of coverage" described in Article 6.7 in the denominator. In cases where the theoretical period (generally age 20 to disability onset or death) would exceed 25 years, the denominator will be 25 years.

7. For the purpose of paragraph 5 and 6 of this Article, "theoretical period of coverage" means the sum of the following periods (except that it shall not include the period after the month in which the day of recognition of disability occurs or the period beginning with the month in which the day following the day of death occurs):

   (a) the period from the month in which the day of attainment of age 20 occurs through the month preceding the month in which the day of attainment of age 60 occurs, except the period before April 1, 1961;

   (b) periods of contribution under the laws of Japan which do not coincide with the period referred to in subparagraph (a) of this paragraph; and

   (c) periods of coverage under the laws of the United States which do not coincide with periods referred to in subparagraph (b) of this paragraph, in case the month in which the day of recognition of disability occurs or the month preceding the month in which the day following the day of death occurs is before the period referred to in subparagraph (a) of this paragraph.

Article 6.7 establishes the "theoretical period of coverage," i.e., the denominator of the fraction to be used in computing benefits under Articles 6.5 and 6.6. Under Article 6.7(a), the theoretical period includes all potential months of NP coverage, since Japanese residents are covered under the NP program from ages 20 through 59 and compulsory, universal coverage under the NP program was implemented in April 1961. Because it is possible for a person to be covered by the EPI before age 20 or after age 60, Article 6.7(b) adds any periods of EPI coverage earned at these ages to the theoretical period of coverage. Article 6.7(c) applies only to persons who die or become disabled before age 20 and who have earned both EPI and U.S. coverage. Article 6.7(c) provides that the theoretical period in such cases will include all U.S. coverage which was earned prior to death or disability onset and which does not overlap with the worker's EPI coverage.

8. With regard to the calculation of the amount of benefits under Japanese pension systems for employees in accordance with paragraphs 5 and 6 of this Article, if the person entitled to the benefits possesses periods of coverage under two or more such pension systems, the periods of contribution referred to in paragraph 5 of this Article or the periods of coverage referred to in paragraph 6 of this Article shall be the sum of the periods of coverage under all such pension systems. However, when the sum of the periods of coverage equals or exceeds the specified period determined by the laws of Japan within the meaning of paragraph 6 of this Article, the method of calculation stipulated in paragraph 6 of this Article and this paragraph shall not apply.

Article 6.8 provides that when a person has coverage under two or more second-tier pension systems, coverage under all such systems will be combined for purposes of determining eligibility for and the amount of disability or survivors benefits under Articles 6.5 and 6.6. If the sum of a person's coverage under two or more second-tier pension systems exceeds 25 years, the pro rata computation method described in paragraph 6 will not apply. In this case, the Japanese agency will compute the benefit in accordance with Japanese national law, giving the person credit for his or her actual periods of coverage.

9. With regard to the Additional Pension for Spouses which is included in the Old-age Employees' Pension and any other benefits that may be granted as a fixed sum in cases where the period of coverage under Japanese pension systems for employees equals or exceeds the specified period determined by the laws of Japan, if the requirements for receiving such benefits are fulfilled by virtue of paragraph 1(a) of this Article, the amount to be granted shall be calculated according to the proportion of the periods of coverage under the Japanese pension system for employees from which such benefits will be paid to that specified period.

Article 6.9 applies to flat-rate benefits for which a minimum coverage requirement is set by national law, for example the flat-rate additional pension for spouses payable to an EPI old-age pensioner. The old-age pensioner must have 20 years, or 240 months, of coverage to qualify for the additional pension for spouses. When the 20-year requirement is met by totalizing U.S. coverage, the flat-rate benefit will be prorated by a fraction with months of Japanese coverage in the numerator and the minimum number of months of coverage required for entitlement to the benefit, 240 months in this case, in the denominator.

Article 7

The competent authorities of the two Parties shall:

(a) agree on the administrative measures necessary for the implementation of this Agreement;

(b) designate liaison agencies for the implementation of this Agreement; and

(c) communicate to each other, as soon as possible, all information about changes to their respective laws insofar as those changes affect the implementation of this Agreement.

Article 7 outlines various duties of the competent authorities under the Agreement. Paragraph (a) authorizes the competent authorities to make any administrative arrangements that may be necessary to implement and administer the Agreement. Paragraph (b) requires that they designate liaison agencies that will have primary responsibility for coordinating and administering the coverage and benefit provisions of the Agreement. (See Article 2 of the Administrative Arrangement for Implementation of this Agreement for these designations.) Paragraph (c) obligates the competent authorities to notify each other of any changes in their respective social security laws that may affect the application of the Agreement.

Article 8

The competent authorities and competent institutions of the two Parties, within the scope of their respective authorities, shall assist each other in implementing this Agreement. Regular personnel and operating costs of the competent authorities and competent institutions providing the assistance shall be free of charge.

Article 8 provides authority for the two countries to furnish each other nonreimbursable assistance in administering the Agreement. Such assistance may include the taking of benefit applications and the gathering and exchanging of information relevant to claims filed under the Agreement. Article 8 establishes the general principle that regular personnel and operating costs of the agency providing the administrative

assistance will be free of charge. Under Article 7 of the Administrative Arrangement, however, an agency that requests administrative assistance will be responsible for any other costs incurred by the agency providing the assistance.

Article 9

1. In accordance with measures to be agreed upon by virtue of subparagraph (a) of Article 7, the competent authorities or competent institutions of one Party shall, in accordance with its national statutes and regulations, send to the competent authorities or competent institutions of the other Party information about an individual collected under its laws insofar as that information is necessary for the implementation of this Agreement.

Article 9.1 provides for the exchange of information necessary to implement the Agreement.

2. Unless otherwise required by the national statutes and regulations of one Party, information about an individual which is transmitted in accordance with this Agreement to that Party by the other Party shall be used exclusively for the purpose of implementing this Agreement. Such information received by a Party shall be governed by the national statutes and regulations of that Party for the protection of confidentiality of personal data.

Both the United States and Japan have statutes and regulations that govern disclosure and provide safeguards for maintaining the confidentiality of information pertaining to individuals which is in the possession of their respective Governments. In the United States, these statutes include the Freedom of Information Act, the Privacy Act, section 6103 of the Internal Revenue Code, and pertinent provisions of the Social Security Act and other related statutes. Article 9.2 provides that personal information pertaining to an individual which one country furnishes to the other under the Agreement will be protected in accordance with the applicable provisions of the receiving country's privacy and confidentiality laws.

Article 10

1. Insofar as the laws of one Party, and in the case of Japan, other national statutes and regulations, contain provisions on an exemption or reduction of administrative charges or consular fees for documents to be submitted under the laws of that Party, those provisions shall also apply to documents to be submitted in the application of this Agreement and the laws of the other Party.

Article 10.1 provides that if the social security laws of a country (and, in the case of Japan, other statutes) exempt documents submitted in connection with a social security claim from fees or charges, that exemption shall also apply if such documents are sent to the other country by or on behalf of a claimant or beneficiary. In Japan, a fee is usually charged for excerpts from certain civil records used as evidence of age and family relationship; however, a person is exempted from this fee if the document is required in connection with a claim for social security benefits. Under Article 10, this exemption will also apply when such extracts are required in connection with this Agreement or under U.S. Social Security law.

2. Documents which are presented for the purpose of this Agreement and the laws of a Party shall be exempted from requirements for authentication or any other similar formality by diplomatic or consular authorities.

Some countries require that the authenticity of documents that are submitted to their social security authorities by or on behalf of persons in another country be certified by a diplomatic, consular or other official representative in the other country. (The United States has no such requirements.) Under Article 10.2, neither the United States nor Japan will require such authentication of documents submitted under the Agreement.

3. Copies of documents which are certified as true and exact copies by a competent institution of one Party shall be accepted as true and exact copies by a competent institution of the other Party, without further certification. The competent institution receiving the copies shall be the final judge of the probative value of the evidence submitted to it from whatever source.

If the agency of one country certifies that a copy of a document it furnishes to an agency of the other country is a true and exact copy of an original document, the other country will accept this certification. Nevertheless, the agency of each country will remain the final judge of the probative value of any documents submitted to it.

Article 11

1. The competent authorities and competent institutions of the Parties may communicate directly with each other and with any concerned person wherever the person may reside whenever it is necessary for the administration of this Agreement. The communication may be in the respective languages of the Parties.

Article 11.1 authorizes direct correspondence between the competent authorities and agencies of the two countries and between these bodies and any person with whom they may need to communicate.

2. In implementing this Agreement, the competent authorities and competent institutions of one Party may not reject applications or any other documents for the reason that they are written in the language of the other Party.

The competent authorities and agencies of each country may not reject an application or document because it is in the language of the other country. The United States already accepts applications and documents without regard to the language in which they are written.

Article 12

1. When a written application for benefits, an appeal or any other declaration under the laws of one Party is submitted to a competent authority or competent institution of the other Party which is competent to receive similar applications, appeals or declarations under the laws of that other Party, that application, appeal or declaration shall be deemed to be submitted on the same date to the competent authority or competent institution of the first Party and shall be dealt with according to the procedure and laws of the first Party.

Both the United States and Japan have formal procedures for applying for social security benefits, submitting documentation or appealing adverse determinations of their institutions. Under Article 12.1, an application for benefits, an appeal of a decision or any other declaration may be submitted to the competent authority or agency of either country. If an application for benefits, an appeal or any other declaration under the laws of one country is submitted to a competent authority or agency of the other country, it will be considered to have been received on the same date by the appropriate agency of the country to whose laws the matter pertains. Each country will consider an application, an appeal or any other declaration based on its own laws and procedures, and the provisions of this Agreement, regardless of where it was first filed.

2. In any case to which this Article applies, the competent authority or competent institution of one Party to which the application for benefits, appeal or any other declaration has been submitted shall transmit it without delay to the competent authority or competent institution of the other Party.

The competent authority or agency with which an application, appeal or any other declaration is filed under Article 12.1 of this Agreement shall transmit it without delay to the competent authority or agency of the other country.

Article 13

Payments of benefits under this Agreement may be made in the currency of either Party.

Benefits to be paid by a country under this Agreement may be paid in the currency of that country. This corresponds to the current U.S. practice regarding benefit payments.

Article 14

Any disagreement regarding the interpretation or application of this Agreement shall be resolved by consultation between the Parties.

Article 14 obligates the two Parties to attempt to resolve any dispute between them regarding the Agreement through direct consultation or negotiation.

Article 15

1. This Agreement shall not establish any entitlement to benefits for any period prior to its entry into force or, as regards the United States, to a lump-sum death benefit if the person died prior to its entry into force.

Under Article 15.1, periodic benefits payable as a result of the Agreement will be paid only for periods beginning with the date on which the Agreement enters into force. Any lump-sum death payments provided by section 202(i) of the U.S. Social Security Act will be payable under the Agreement only if the death occurs on or after the date the Agreement enters into force.

2. In the implementation of this Agreement, periods of coverage completed and other legally relevant events occurring before its entry into force shall also be taken into account.

In determining benefit eligibility and amounts under the Agreement, Article 15.2 provides that periods of coverage occurring before the Agreement enters into force will be taken into account. In addition, events material to the determination of benefit rights, such as marriage, death, disability or attainment of a certain age, which occurred prior to the effective date of the Agreement, will be considered in applying the Agreement.

3. In applying paragraph 2 or 4 of Article 4, in the case of persons whose detachment or self-employment referred to in those paragraphs commenced prior to the date of entry into force of this Agreement, the period of such detachment or self-employment shall be considered to begin on the date of entry into force of this Agreement.

Under Articles 4.2 and 4.4, if an employee is transferred by his or her employer in one country to work in the other country, or a self-employed person temporarily transfers his or her self-employment activity from one country to the other country, that employee or self-employed person will continue to be covered under the social security system of the first country and will be exempt from coverage in the host country provided

	the period of the transfer is for 5 years or less. Article 15.3 provides that the 5-year period will be measured beginning no earlier than the date the Agreement enters into force. Thus, for persons to whom Article 4.2 or 4.4 apply who were working in the other country before the effective date of the Agreement, that prior period will not be counted for purposes of the 5-year limit.
4. Decisions made before the entry into force of this Agreement shall not affect any rights to be established by virtue of this Agreement.	A decision to award or deny a claim which was rendered prior to the effective date of the Agreement will not prevent a person from filing a new application for additional benefits that may be payable as a result of the Agreement.
5. Articles 5 and 6 shall apply only to benefits for which an application is filed on or after the date this Agreement enters into force.	Article 15.5 requires that a person claiming benefits under the Agreement file an application either on or after the date the Agreement enters into force.
6. The application of this Agreement shall not result in any reduction in the amount of a benefit to which entitlement was established prior to its entry into force.	Article 15.6 guarantees that benefits which are already being paid at the time the Agreement becomes effective will not be reduced as a result of its entry into force.
Article 16	
This Agreement shall enter into force on the first day of the third month following the month in which the Parties shall have completed an exchange of diplomatic notes informing each other that their respective statutory and constitutional requirements necessary to give effect to this Agreement have been fulfilled.	Each country will follow its own constitutional procedures for approval of the Agreement. Once each country has completed its internal approval process, the two Governments will exchange formal instruments of approval. The Agreement will enter into force on the first day of the third calendar month after each Government has received the notification of approval from the other Government.
Article 17	
1. This Agreement shall remain in force and effect until the last day of the twelfth month following the month in which either Party gives the other Party written notification through diplomatic channels of its termination.	Article 17.1 provides for the Agreement to remain in effect until the expiration of 12 calendar months after the date notice of intent to terminate is given by one of the countries.

2. If this Agreement is terminated in accordance with paragraph 1 of this Article, rights regarding entitlement to and payment of benefits acquired under it shall be retained.

Article 17.2 provides that, in the event of termination of the Agreement, a person will retain benefit rights acquired before termination.

In witness whereof, the undersigned, being duly authorized thereto, have signed this Agreement.

Done at Washington, D.C., on February 19, 2004 in duplicate in the English and Japanese languages, the two texts being equally authentic.

The Agreement was signed on February 19, 2004, in Washington, D.C. by Jo Anne B. Barnhart, the Commissioner of Social Security, and the Japanese Ambassador to the United States, Ryozo Kato.

For the United States of America:

Jo Anne B. Barnhart

For Japan:

Ryozo Kato

ANNEX B

ADMINISTRATIVE ARRANGEMENT

ADMINISTRATIVE ARRANGEMENT FOR
THE IMPLEMENTATION OF THE AGREEMENT
BETWEEN THE UNITED STATES OF AMERICA AND JAPAN
ON SOCIAL SECURITY

The competent authority of the United States of America and the competent authorities of Japan,

in conformity with Article 7(a) of the Agreement between the United States of America and Japan on Social Security of this date, hereinafter referred to as the "Agreement", have agreed as follows:

Article 1

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

ANNOTATIONS AND COMMENTS

Article 1 provides that the terms used in both the Agreement and thi Administrative Arrangement, whether defined in the Agreement or no will have the same meaning as they have in the Agreement.

ADMINISTRATIVE ARRANGEMENT

Article 2

The liaison agencies referred to in Article 7(b) of the Agreement shall be:

(a) for the United States,

the Social Security Administration,

(b) for Japan:

i) for the National Pension and the Employees' Pension Insurance,

the Social Insurance Agency;

ii) for the Mutual Aid Pension for National Public Officials,

the Federation of National Public Service Personnel Mutual Aid Associations;

iii) for the Mutual Aid Pension for Local Public Officials and Personnel of Similar Status,

the Pension Fund Association for Local Government Officials;

iv) for the Mutual Aid Pension for Private School Personnel,

the Promotion and Mutual Aid Corporation for Private Schools of Japan.

ANNOTATIONS AND COMMENTS

Article 2 designates the agencies in each country that will have primary responsibility for coordinating implementation and administration of the coverage and benefit provisions of the Agreement. The Social Security Administration is the designated liaison agency for the United States. Japan will have four liaison agencies. The Social Insurance Agency will coordinate the OASDI coverage and benefit provisions under the National Pension and the Employees' Pension systems, which cover the vast majority of workers in Japan. The Federation of National Public Service Personnel Mutual Aid Associations, the Pension Fund Association for Local Government Officials and the Promotion and Mutual Aid Corporation for Private Schools of Japan are the designated liaison agencies for the three mutual aid pension systems.

ADMINISTRATIVE ARRANGEMENT

Article 3

The liaison agencies referred to in Article 2, in cooperation with the competent authorities, shall agree upon the joint procedures and forms necessary and appropriate for the implementation of the Agreement and this Administrative Arrangement.

Article 4

1. Where the laws of a Party apply to an employee or self-employed person in accordance with the provisions of paragraph 1, 2, 4, 5, 6, subparagraph (b) or (c) of paragraph 7, or paragraph 8 of Article 4 of the Agreement, the liaison agency of that Party, upon request of the persons concerned, shall issue a certificate stating that the employee or self-employed person is subject to those laws and indicating the duration for which the certificate shall be valid. The certificate shall be evidence that the employee or self-employed person is exempt from the laws on compulsory coverage of the other Party.

2. The liaison agency of a Party which issues a certificate referred to in paragraph 1 of this Article shall furnish a copy of the certificate or information from the certificate as may be agreed upon by the liaison agencies of both Parties to the liaison agency of the other Party as needed by the liaison agency of that other Party.

ANNOTATIONS AND COMMENTS

Article 3 authorizes and requires the liaison agencies of the United States and Japan to agree upon those procedures and forms that must be prepared jointly for the implementation of the Agreement and Administrative Arrangement.

Under Article 4.1, the agency of the country whose social security coverage laws will continue to apply to a person in accordance with the various rules set forth in Article 4 of the Agreement will issue a certificate to that effect when requested to do so by an employer or a self-employed person. When presented to the appropriate agency of the other country, the certificate will establish the basis for the exemption of the person from the coverage laws of that country. Retroactive recovery of U.S. contributions paid with respect to services for which a coverage exemption has been in effect would be subject to the time limitations for refunds of taxes in the Internal Revenue Code.

Article 4.2 provides that the agency issuing a coverage certificate will furnish a copy of the certificate or information from the certificate to the liaison agency in the other country when needed.

ADMINISTRATIVE ARRANGEMENT	ANNOTATIONS AND COMMENTS
3. Where a person is exempt from Japanese laws solely by virtue of Article 4 of the Agreement, the employer and employee or self-employed person and any accompanying spouse or children shall nevertheless be subject to the laws of Japan as they relate to health insurance, unless the employer or self-employed person has certified to the competent institution of the United States that the employee or self-employed person and any accompanying spouse and children are covered under appropriate insurance against the cost of health care in Japan.	Under Article 4 of the Agreement, in conjunction with Article 2.1(b) of the Agreement, a worker who is exempt from Japanese social security coverage will be excluded not only from the Japanese retirement, survivors and disability insurance programs, but also from the Japanese national health insurance programs. During the negotiation of the Agreement, the Japanese social security authorities expressed concern that some U.S.-based workers in Japan who are excluded from Japanese health insurance contributions and benefits as a result of the Agreement might be left without any health insurance protection and not have the financial means to use national health insurance facilities on a reimbursable basis. In order to help avoid this situation, Article 4.3 provides that such workers and their employers will only be exempt from contributions to the Japanese health insurance programs if the worker's employer, or the worker in the case of a self-employed person, attests to the fact that the worker and any family members who accompany the worker have private health insurance coverage.
Article 5	
1. Applications for benefits under the Agreement shall be submitted on forms to be agreed upon by the liaison agencies of both Parties.	The U.S. and Japanese liaison agencies will agree on special application forms to be used by individuals who wish to file for benefits based on the Agreement.
2. The competent institution of the Party with which an application for benefits is first filed in accordance with Article 12 of the Agreement shall provide the liaison agency of the other Party with such evidence and other information in its possession as may be required to complete action on the claim.	Articles 5.2 and 5.3 outline the procedures to be followed by both countries for the exchange of pertinent information needed to process claims filed under the Agreement.
3. The competent institution of the Party which receives an application that was first filed with a competent institution of the	

ADMINISTRATIVE ARRANGEMENT

other Party shall, upon the request of the competent institution of that other Party, without delay provide the liaison agency of that other Party with such evidence and other available information in its possession as may be required for the competent institution of that other Party to complete action on the claim.

4. The competent institution of the Party with which an application for benefits has been filed shall verify the information pertaining to the applicant and the applicant's family members. The types of information to be verified shall be agreed upon by the liaison agencies of both Parties.

5. Upon request, the liaison agency of either Party shall furnish without cost to the liaison agency of the other Party any medical information and documentation in its possession relevant to the disability of the claimant or beneficiary.

ANNOTATIONS AND COMMENTS

Article 5.4 deals with the verification of claims information. Both U.S. and Japanese laws require that certain information about individuals claiming benefits be verified (e.g., age and family relationship to the worker) before the claim can be approved. Article 5.4 provides that when a claim for benefits under the Agreement is filed in one country, the agency of that country will verify the relevant information and inform the agency of the other country of its findings. The liaison agencies will agree upon the specific types of information which must be verified.

The purpose of this provision is to expedite the claims process by avoiding the duplication of effort that would result if the agencies of both countries were required to verify the same information. Although an agency may accept the findings of the other agency concerning the accuracy of information, it may at its discretion request documentary evidence to support those findings.

When the liaison agency in one country requests medical information from the liaison agency in the other country, the latter agency will furnish the requesting agency any pertinent medical records it has in its possession free of charge.

ADMINISTRATIVE ARRANGEMENT

ANNOTATIONS AND COMMENTS

5. In any case to which the provisions of Article 12 of the Agreement apply, the competent authority or competent institution to which the application, appeal, or declaration has been submitted shall indicate the date of receipt on the document or on a form to be agreed upon for this purpose pursuant to Article 7(a) of the Agreement prior to sending it to the appropriate competent authority or competent institution of the other Party.

The agency with which an application, appeal or declaration is filed under Article 12 of the Agreement shall transmit it without delay to the competent authority or agency of the other country, indicating the date the document was received.

Article 6

The Social Security Administration of the United States and the Social nsurance Agency of Japan shall exchange statistics on the number of :ertificates issued under Article 4 of this Administrative Arrangement ınd on the payments made under each Party's laws to beneficiaries in he territory of the other Party. These statistics shall be furnished ınnually in a form to be agreed upon.

Article 6 provides for an exchange of statistics concerning the number of coverage certificates issued pursuant to Article 4.1 of this Administrative Arrangement and the payments made to beneficiaries in the other country.

Article 7

Where assistance is requested under Article 8 of the Agreement, :xpenses required to provide this assistance, other than regular ɔersonnel and operating costs, shall be borne by the competent authority ɔr competent institution requesting the assistance, except as may be ıgreed upon in advance by the competent authorities or competent nstitutions of both Parties.

Under Article 7, expenses incurred in responding to requests for administrative assistance which require an agency to go outside its own organization--for example, to conduct special field investigations—will be paid by the requesting agency, unless the two countries agree on a different arrangement. However, expenses for regular personnel and operating costs will not be reimbursed.

Article 8

1. This Administrative Arrangement shall enter into force at the same time as the Agreement enters into force and shall remain in force as long as the Agreement remains in force.

The Administrative Arrangement will enter into force on the same date as the Agreement and will remain in effect for the same period as the Agreement.

ADMINISTRATIVE ARRANGEMENT

2. The competent authorities may notify each other, in writing, of changes in the names of the liaison agencies without the need to modify the Administrative Arrangement.

Done at Washington, D.C. on February 19, 2004, in duplicate in the English and Japanese languages, both texts being equally authentic.

For the Competent Authority of the United States of America:

Jo Anne B. Barnhart

For the Competent Authorities of Japan:

Takaharu Ando
National Police Agency

Kazuhiro Suda
Ministry of Public Management, Home Affairs, Posts and Telecommunications

Kazuyuki Sugimoto
Ministry of Finance

Sachio Kamogawa
Ministry of Education, Culture, Sports, Science and Technology

Takashi Minigawa
Ministry of Health, Labour and Welfare

ANNOTATIONS AND COMMENTS

Article 8.2 provides that changes to the names of the liaison agencies will not require the two sides to modify the Administrative Arrangement.

The Commissioner of Social Security, Jo Anne B. Barnhart, signed the Administrative Arrangement on behalf of the United States in Washington. D.C., on February 19, 2004. Signing on behalf of Japan were officials of the five ministries and agencies that are responsible for the Japanese pension and health insurance programs to which the agreement applies.

ANNEX C

REPORT TO CONGRESS
ON THE FINANCIAL EFFECT
OF THE U.S.-JAPANESE SOCIAL SECURITY AGREEMENT

The following tables present estimates on the effects of the proposed U.S.-Japanese Social Security agreement on the income and expenditures of both countries' social security programs and the number of people who will be affected by the agreement. The estimates were prepared based on the assumption that the agreement would become efective on January 1, 2005.

Table 1 shows the estimated additional costs that would accrue to each country's system as a result of the agreement. These costs arise under the respective systems due to: (1) benefit payments that become payable by each system solely because of the agreement, and (2) tax contributions on behalf of temporary workers in the respective countries that would be forgone under the agreement.

Table 2 shows the number of people who would become eligible for a partial retirement, survivors, or disability benefit from the United States or Japan under the agreement. Also shown in Table 2 is the number of employees in each country who, along with their employers, would no longer be subject to dual coverage and taxation for social security purposes.

Table 1.--Estimated additional program costs for the U.S. and Japanese Social Security (and health insurance) systems under a proposed totalization agreement between the two countries, fiscal years 2005-2009
(In millions)

	Fiscal year				
	2005	2006	2007	2008	2009
Additional net costs to the U.S. Social Security System:					
Increase in OASDI benefit payments	$2	$6	$10	$15	$20
Reduction in OASDI tax contributions	80	100	104	106	111
Total	82	106	114	121	130
Net cost to the Medicare system	21	26	27	27	28
Additional net costs to the Social Security System of Japan:					
Increase in benefit payments	6	14	25	37	48
Reduction in tax contributions	62	77	81	84	88
Total	67	91	106	121	135
Net cost to the Japanese national health insurance system 1/	38	48	50	52	54

1/ The reduction in contributions to the Japanese national health insurance system is estimated to be $51 million in 2005 and to reach $73 million in 2009. The reduction in the amount of services provided by the Japanese national health insurance system (a gain to the Japanese system) is roughly estimated to be one-fourth of the level of the reduction in contributions. See memorandum for further discussion.

Table 2.--Estimated number of persons who would be affected by a proposed totalization agreement between the United States and Japan, fiscal years 2005-2009
(In thousands)

	Fiscal year				
	2005	2006	2007	2008	2009
Number of persons receiving a totalized OASDI benefit based in part on employment in Japan under the proposed agreement (in current-pay status at mid-year)	1.0	2.9	4.8	6.7	8.6
Number of persons receiving a totalized Japanese benefit based in part on employment in the United States under the proposed agreement (in current-pay status at mid-year)	1.5	3.9	7.0	10.1	13.2
Number of persons receiving both a totalized OASDI benefit and a totalized benefit from Japan (in current-pay status at mid-year)	.2	.6	1.0	1.3	1.7
Number of U.S. employees in Japan who, along with their employers, would no longer make tax contributions during the year to the Social Security system of Japan	11.7	15.6	15.6	15.6	15.6
Number of Japanese employees in the U.S who, along with their employers, would no longer make tax contributions during the year to the OASDHI trust funds	10.2	13.6	13.6	13.6	13.6

Social Security Administration
Office of the Chief Actuary
July 14, 2003

REPORT TO CONGRESS
TO ACCOMPANY THE SOCIAL SECURITY AGREEMENT
BETWEEN THE UNITED STATES AND JAPAN

I. INTRODUCTION

The social security agreement between the United States and Japan is intended to provide limited coordination of the old-age, survivors and disability insurance (OASDI) programs of the two countries. The agreement is similar in content and objective to social security agreements already in force between the United States and 20 other countries, including Australia, Canada, Chile, South Korea and most of Western Europe. U.S. social security agreements are negotiated under authority of section 233 of the Social Security Act. Like earlier U.S. agreements, the agreement with Japan is designed to eliminate dual Social Security coverage and taxation of the same work and to help fill gaps in benefit protection for people who have divided their careers between the two countries.

The U.S.-Japanese agreement consists of two separate instruments: (1) a principal agreement setting forth the basic rules for coordinating the two countries' systems; and (2) an administrative arrangement establishing policies and procedures to implement the principal agreement. These two documents, which were signed by representatives of the U.S. and Japanese Governments on February 19, 2004, are now being transmitted to Congress for review in accordance with section 233(e) of the Social Security Act.

Accompanying this report are paragraph-by-paragraph explanations of the provisions of the principal agreement (Annex A) and related administrative arrangement (Annex B). A report required by section 233(e)(1) of the Social Security Act on the effect of the agreement on income and expenditures of the U.S. Social Security program and the number of individuals affected by the agreement is also included (Annex C).

II. STATUTORY REQUIREMENTS

Section 233(c)(1) of the Social Security Act requires that international agreements concluded pursuant to that section provide for the elimination of dual coverage of the same work under the social security systems of the United States and the other country party to the agreement, and for combining credits earned by a worker under the two systems for benefit eligibility purposes. In addition, the law stipulates that when eligibility for U.S. Social Security benefits is established on the basis of combined credits, the amount of the U.S. benefit payable must be based on the proportion of the worker's periods of coverage completed under Title II of the Social Security Act. The U.S.-Japanese agreement includes these required provisions.

III. COVERAGE PROVISIONS

In conformity with section 233(c)(1)(B) of the Social Security Act, Article 4 of the principal agreement sets forth rules designed to eliminate dual coverage and taxation of the same work under the U.S. and Japanese systems.

Under these rules, employees who are temporarily transferred by their employer in one country to work in the other country for a period of 5 years or less would be covered only in their home country. Thus, a person working for a U.S. employer who is temporarily transferred by that employer to Japan would only be covered under and pay contributions to the U.S. program. The employer and employee would be exempt from Japanese social security and health insurance contribution requirements. Employees who are sent from one country to the other for more than 5 years, or who are hired in the host country, would generally be covered only in the country where the work is performed.

The agreement also includes provisions that apply the 5-year exemption rule to self-employed workers who transfer their trade or business from one country to the other. Other rules set forth in the agreement would eliminate dual coverage and contributions for persons employed by the Governments of the two countries and to persons employed in international air and ship transportation.

IV. BENEFIT PROVISIONS

Articles 5 and 6 of the principal agreement establish the basic rules for determining entitlement to and the amount of U.S. and Japanese benefits for persons who have worked in both countries. These benefit provisions are included pursuant to sections 233(c)(1)(A) and (C) of the Social Security Act.

A. Provisions Applicable to the United States

1. Totalization of Periods of Coverage

Under the rules that apply to the United States, if a worker has credit for at least 6 quarters of coverage under the U.S. Social Security program but not enough credits to qualify for a retirement, survivors or disability benefit, the worker's coverage credits from both the United States and Japan could be totalized (i.e., combined) to permit him or her to qualify for a partial U.S. benefit. Since periods of coverage under the Japanese social security system are measured in terms of months, the United States would credit one quarter of coverage for every three months of Japanese coverage in a calendar year. The United States would not, however, credit months of coverage under Japanese law if they coincide with quarters of coverage already credited under the U.S. system.

2. Computation of U.S. Totalization Benefit Amounts

The amount of a U.S. benefit for which a person may qualify based on totalized periods of coverage depends on both the duration of the worker's coverage under the U.S. Social Security system and the level of his or her earnings. A detailed description of the totalization benefit computation procedure is contained in regulations of the Social Security Administration (20 CFR 404.1918). The first step in the procedure is to compute a theoretical benefit amount as though the worker had worked a full coverage lifetime (i.e., a full career) under U.S. Social Security at the same earnings level as during his or her actual periods of U.S. covered work. The theoretical benefit is then prorated to reflect the proportion of a coverage lifetime the worker completed under the U.S. program. A coverage lifetime is defined in the regulations as the number of the worker's benefit computation years, i.e., the years which must be used in determining a worker's average earnings under the regular U.S. national computation method.

B. Provisions Applicable to Japan

1. Japanese Benefits

Japan provides old-age, survivors and disability benefits through two separate programs, which together make up what is often described as a two-tier system. The first tier, known as the National Pension (NP), is a contributory program that covers all residents of Japan. NP benefits, also called "basic" benefits, are paid in flat-rate amounts that are prorated according to the number of years of contribution. The second tier, known as the Employees' Pension Insurance (EPI), is a contributory, earnings-related program that covers people employed in Japanese firms with more than 5 employees. Three smaller earnings-related programs cover government employees and private school teachers in place of the EPI. Benefits under the EPI and the three smaller second-tier programs are based on years of contribution as well as earnings level, and these benefits supplement the basic (NP) benefit.

2. Totalization of Periods of Coverage

In order to qualify for Japanese benefits under both the NP program and the EPI (as well as the other earnings-related programs), a worker must meet certain eligibility standards including minimum length-of-coverage and recency-of-work requirements. Under the agreement, a person who has not worked long enough or recently enough to qualify for benefits will be able to have his or her U.S. and Japanese coverage credits combined in order to meet the applicable eligibility requirements. The benefit amount of a person who qualifies based on totalized credits will be proportional to the amount of coverage completed in Japan.

C. Benefit Portability

Section 233(c)(2) of the Social Security Act permits agreements to contain provisions suspending the application of the alien nonpayment provisions of the Social Security Act (section 202(t)) for persons residing in a foreign country with which the United States has an agreement in force.

Japanese nationals outside the United States, including those residing in Japan, are already exempt from the nonpayment provisions of section 202(t) in accordance with a 1953 treaty (and a specific treaty exception in section 202(t)(3)). However, citizens of certain other countries who reside in Japan may not be exempt from the nonpayment provisions. The agreement, therefore, would provide an exemption for insured persons and their dependents or survivors, regardless of their citizenship, if they reside in Japan.

Under section 202(t)(11), benefits generally may not be paid to nonresident aliens who first become eligible for Title II dependent or survivor benefits after 1984, unless they satisfy certain U.S. residency requirements. Citizens or residents of a country with which the United States has an agreement in force pursuant to section 233 of the Social Security Act are exempt from the residence requirements. These residence requirements do not apply to Japanese nationals as a result of the 1953 treaty; however, they do apply to other aliens residing in Japan. Once the U.S.-Japanese Social Security agreement enters into force, residents of Japan will no longer be subject to these residence requirements.

The agreement would also guarantee that U.S. residents who have been covered under the Japanese social security program, as well as their family members and survivors who reside in the United States, could qualify for and receive Japanese benefits without regard to their nationality or absence from Japan.

V. OTHER PROVISIONS

Section 233(c)(4) of the Social Security Act authorizes agreements to contain other provisions not inconsistent with Title II of the Act which are appropriate to carry out the purposes of the agreements. In accordance with this provision, the principal agreement and administrative arrangement contain a number of articles designed to permit the United States and Japan to render free or reimbursable assistance to the other country in implementing the agreement.

O