

No. 1241

BELGIUM
and
LUXEMBOURG

General Convention on social security. Signed at Luxembourg, on 3 December 1949

Supplementary Agreement to the General Convention on social security of 3 December 1949, concerning the social security system applicable to persons employed in underground mines and pits. Signed at Luxembourg, on 3 December 1949

Official texts: French.

Registered by Belgium on 14 June 1951.

BELGIQUE
et
LUXEMBOURG

Convention générale sur la sécurité sociale. Signée à Luxembourg, le 3 décembre 1949

Accord complémentaire à la Convention générale du 3 décembre 1949, sur le régime de sécurité sociale, applicable aux travailleurs des mines et des carrières souterraines. Signé à Luxembourg, le 3 décembre 1949

Textes officiels français.

Enregistrés par la Belgique le 14 juin 1951.

TRANSLATION — TRADUCTION

No. 1241. GENERAL CONVENTION¹ ON SOCIAL SECURITY
BETWEEN BELGIUM AND THE GRAND DUCHY OF
LUXEMBOURG. SIGNED AT LUXEMBOURG, ON
3 DECEMBER 1949

His Royal Highness the Prince Regent of Belgium
and

Her Royal Highness the Grand Duchess of Luxembourg,
desirous of guaranteeing the benefits of the legislative provisions respecting
social security in force in the two contracting States to the persons to whom
these legislative provisions apply or have been applied, have resolved to conclude
a convention and for this purpose have appointed as their plenipotentiaries :

His Royal Highness the Prince Regent of Belgium :

His Excellency Mr. Oscar Behogne, Minister of Labour and Social
Welfare, and

His Excellency Viscount Joseph Berryer, Envoy Extraordinary and
Minister Plenipotentiary of Belgium to Luxembourg;

Her Royal Highness the Grand Duchess of Luxembourg :

His Excellency Mr. Pierre Dupong, Minister of State, President of
the Government. Minister of Labour and Social Welfare, and

His Excellency Mr. Joseph Bech, Honorary Minister of State, Minister
of Foreign Affairs and Foreign Trade;

Who, having communicated their full powers, found in good and due
form, have agreed as follows :

TITLE I.—GENERAL PRINCIPLES

*Article 1**Paragraph 1*

Belgian or Luxembourg employed persons and persons treated as employed
persons under the legislative provisions relating to social security set out in
article 2 of the present Convention shall be subject respectively to the said

¹ Came into force on 1 May 1951, in accordance with article 33, paragraph 2, the instruments
of ratification having been exchanged at Brussels on 20 March 1951.

legislative provisions in force in the Grand Duchy of Luxembourg or in Belgium and shall enjoy the benefits thereof under the same conditions as nationals of each country.

Paragraph 2

Belgian or Luxembourg nationals other than those referred to in paragraph 1 of the present article shall be eligible for family benefits and for old-age or premature-death benefits, in accordance with the legislative provisions set out in article 2, in force in the Grand Duchy of Luxembourg or in Belgium under the same conditions as nationals of each country.

Article 2

Paragraph 1

The legislative provisions respecting social security to which the present Convention applies shall be :

(1) In Belgium :

- (a) the legislation relating to sickness and invalidity compulsory insurance;
- (b) the general legislation relating to old-age and premature-death insurance;
- (c) the legislation relating to employees' old-age and premature-death insurance;
- (d) the legislative provisions relating to family allowances for wage-earning and non-wage-earning employees;
- (e) the legislative provisions relating to industrial accidents and occupational diseases;
- (f) the special legislation relating to the retirement pension system for miners and persons placed on the same footing as miners.

(2) In the Grand Duchy of Luxembourg :

- (a) the legislation relating to sickness compulsory insurance;
- (b) the general legislation relating to old-age, invalidity and premature-death insurance;
- (c) the legislation relating to employees' old-age, invalidity and premature-death insurance;
- (d) the legislative provisions relating to family allowances for wage-earning and non-wage-earning employees;
- (e) the legislation relating to industrial accidents and occupational diseases;
- (f) the legislation relating to the supplementary insurance of miners and metallurgical workers and of mine technicians employed underground.

Paragraph 2

The present Convention shall also apply to any laws or regulations which have amended or supplemented, or which may in future amend or supplement, the legislative provisions referred to in paragraph 1 of the present article.

Nevertheless, the present Convention shall not apply :

(a) to laws or regulations covering a new branch of social security, unless an arrangement to that effect is agreed upon between the contracting Governments;

(b) to laws or regulations extending existing schemes to new classes of beneficiaries, if the Government of the country affected lodges an objection with the Government of the other country within a period of three months after the official publication of the said laws or regulations;

(c) to laws or regulations concerning family allowances for non-wage-earning employees in the Grand Duchy of Luxembourg until an arrangement to that effect has been agreed upon between the competent authorities of the contracting States.

*Article 3**Paragraph 1*

Employed persons, or persons treated as employed persons under the laws applicable in both countries, who are employed in either country, shall be subject to the laws in force at their place of employment.

Paragraph 2

The following exceptions shall be made to the principle laid down in paragraph 1 of the present article :

(a) employed persons and persons treated as employed persons who are employed in a country other than that of their normal residence by an undertaking having in this latter country an establishment to which the persons concerned normally belong, shall remain subject to the legislation in force in the country in which they are normally employed, provided that the duration of their employment within the territory of the second country does not exceed six months; where, for unforeseeable reasons, this employment is extended beyond the period originally contemplated and exceeds six months, the application of the legislation in force in the country in which they are normally employed may, as an exceptional measure, be continued with the agreement of the Government of the country in which the temporary place of employment is situated;

(b) in the case of undertakings or workplaces through which the common frontier of the two countries passes, the legislation applicable to persons employed in these undertakings or workplaces shall, without exception, be the legislation in force in the country in which the undertaking has its head office;

(c) employed persons or persons treated as employed persons belonging to public transport undertakings in either country who are employed in the other country either temporarily or, on a permanent basis, on lines of inter-communication or at frontier stations, shall be subject to the provisions in force in the country in which the undertaking has its head office;

(d) with respect to transport undertakings other than those referred to in (c) above which extend from one contracting country into the other, persons employed in the mobile sections (travelling personnel) of these undertakings shall be subject exclusively to the provisions in force in the country in which the undertaking has its head office;

(e) employed persons or persons treated as employed persons belonging to official administrative departments (Customs, post office, passport control etc.) who are posted by one of the contracting countries for employment in the other country shall be subject to the provisions in force in the country by which they are so posted.

Paragraph 3

Belgian or Luxembourg nationals other than employed persons or persons treated as employed persons shall be subject to the legislation concerning family benefits in force at the place of their principal occupation.

If they carry on no occupation they shall be subject to the legislation concerning family benefits in force at the place of their normal residence.

Paragraph 4

The competent authorities of the contracting States may provide, by mutual agreement, for exceptions to the rules laid down in paragraph 1 of the present article. They may also agree that the exceptions provided for in paragraph 2 shall not be applied in certain particular cases.

Article 4

The provisions of paragraph 1 of article 3 shall be applicable to employed persons or persons treated as employed persons, whatever their nationality, who are employed in the diplomatic or consular offices of Belgium or Luxembourg or who are in the personal employ of such diplomatic or consular officers.

Nevertheless :

(1) the present article shall not apply to diplomatic and consular officers *de carrière*, including officials on the staff of chancelleries;

(2) employed persons and persons treated as employed persons who are of the nationality of the country represented by the diplomatic or consular office and who are posted temporarily in the country where they are employed may opt between the application of the legislation of the country in which they are employed and the application of the legislation of their country of origin.

TITLE II.—SPECIAL PROVISIONS

CHAPTER 1.—SICKNESS, MATERNITY, DEATH INSURANCE

Article 5

Employed persons and persons treated as employed persons who go from Belgium to Luxembourg or *vice versa* shall be eligible in the country of the new place of employment for the cash benefits payable under the sickness insurance schemes of that country, provided that :

(1) they have been in employment for wages or in equivalent employment in that country;

(2) the sickness must have become apparent after their entry into the territory of that country, unless the legislation applicable to them at their new place of employment provides more favourable conditions governing eligibility;

(3) they fulfil the conditions required for eligibility for benefit under the legislation of the country of their new place of employment, or prove that they have satisfied the requirements of the legislation of the country they have left, account being taken of periods of insurance completed in both countries.

Article 6

Women employees and persons treated as women employees who go from Belgium to the Grand Duchy of Luxembourg or *vice versa* shall be eligible for cash maternity benefits in the country of the new place of employment, provided that :

(1) they have been in employment for wages or in equivalent employment in that country;

(2) they fulfil the conditions required for eligibility for benefit under the legislation of the country of their new place of employment, or prove that they have satisfied the requirements of the legislation of the country they have left, account being taken of the period of registration in the latter country and the period elapsed since their registration in the country of their new place of employment.

Article 7

Employed persons and persons treated as employed persons who go from Belgium to the Grand Duchy of Luxembourg and *vice versa* shall become eligible for the funeral allowances payable under the legislation of the country of their new place of employment, provided that :

(1) they have been in employment for wages or in equivalent employment in that country;

(2) they fulfil the conditions required for eligibility for benefit under the legislation of the country of their new place of employment or prove that they have satisfied the requirements of the legislation of the country they have left, account being taken of the period of registration in the latter country and of the period elapsed since their registration in the country of their new place of employment.

Article 8

Paragraph 1

Insurance benefits in kind shall be payable to insured persons who go from Belgium to the Grand Duchy of Luxembourg and *vice versa* as well as to persons entitled through them subject to the same conditions as those laid down in articles 5 and 6 in respect of cash benefits.

Paragraph 2

Insurance benefits in kind payable to persons who are in receipt of invalidity or old age pensions under the legislation of one of the contracting countries and who transfer their residence to the other country, and benefits in kind payable to the legally entitled members of the households of such persons in their country of residence, shall be paid in accordance with the legislation of the latter country :

in Belgium, by the insurance authority approved for compulsory insurance and chosen by the insured person;

in the Grand Duchy of Luxembourg, by the appropriate sickness fund.

Paragraph 3

Persons who have obtained the payment of an invalidity or old-age pension, in accordance with the present Convention, on the basis of the aggregation of the insurance periods, shall be entitled to the sickness insurance benefits in kind, provided that, for the whole of the said periods, they satisfy the conditions laid down by either of the two national legislations.

The social security agencies of the country in which the insured persons have completed the majority of the said insurance periods shall be responsible for the payment of these benefits.

Article 9

The competent authorities of the two contracting countries shall establish, by mutual agreement, the procedure for the application of the provisions of paragraphs 2 and 3 of article 8 and shall, where necessary, compute the amount of the lump-sum reimbursements payable by the Belgian and Luxembourg authorities, respectively, by way of counterpart of the benefits in kind paid to the nationals of either country.

In cases where insured persons or persons entitled through them would be unable effectively to receive the benefits in kind under the legislation of the country of their place of new employment, the competent authorities of the contracting countries shall make arrangements for such persons to receive the said benefits in kind under the legislation of the country of residence and shall compute the amount of the lump-sum reimbursements payable by the Belgian and Luxembourg authorities, respectively, in such cases.

CHAPTER 2.—INVALIDITY INSURANCE

Article 10

Paragraph 1

For Belgian or Luxembourg employed persons or persons treated as employed persons who, in the two countries, have been insured, consecutively or alternately, under one or more invalidity insurance schemes, the insurance periods completed under these schemes or the periods recognized as equivalent to insurance periods by virtue of the said schemes, shall, provided that they do not overlap, be aggregated for the purposes both of the determination of the right to benefit in cash or in kind, and of the maintenance or recovery of this right.

Paragraph 2

Cash benefits under the invalidity insurance system shall be paid in accordance with the law applicable to the person concerned at the time of the first medical declaration of sickness or accident, and the costs shall be borne by the social security agency competent under the terms of that law.

Paragraph 3

Nevertheless, if, at the beginning of the calendar quarter in the course of which the sickness began, the disabled person, previously insured under an invalidity insurance scheme of the other country, had not been subject for at least one year to the legislation of the country in which the sickness was declared, he shall receive from the competent social insurance agency of the other country the cash benefits payable under and subject to the conditions laid down in the legislation of that country. This provision shall not apply if invalidity is the result of an accident.

Article 11

If, after suspension or discontinuance of the invalidity pension or compensation, the insured person again becomes entitled to benefit, the payment of benefit shall be resumed by the authority responsible for the pension or com-

pension originally granted, if the state of invalidity is attributable to the disease or disablement in respect of which such pension or compensation was previously granted.

Article 12

An invalidity pension or compensation shall be converted where necessary into an old-age pension under the conditions laid down by the legislation in virtue of which the pension or compensation was granted.

CHAPTER 3.—OLD-AGE AND PREMATURE-DEATH INSURANCE

Article 13

Paragraph 1

For Belgian or Luxembourg nationals who, in the two contracting countries, have been insured, consecutively or alternately, under one or more old-age or death insurance schemes, the insurance periods completed under these schemes or the periods recognized as equivalent to insurance periods by virtue of the said schemes, shall, provided that they do not overlap, be aggregated for the purposes both of determining the right to benefit and of maintaining or recovering this right.

Paragraph 2

Where the legislation of either of the contracting countries makes the grant of certain benefits conditional upon the periods being completed in an occupation subject to a special insurance scheme, only the periods completed under the corresponding special scheme or schemes of the other country shall be aggregated for admission to the grant of these benefits. If there is no special scheme in either country governing the particular occupation, the insurance periods completed in the said occupation under one of the schemes referred to in paragraph 1 above shall be aggregated.

Paragraph 3

The amount of benefit which an insured person may claim from the competent authorities of either country shall, as a rule, be determined by reducing the amount of the benefit to which he would have been so entitled if the total number of periods referred to in paragraph 1 above had been completed under the appropriate scheme, the reduction being effected on a *pro rata* basis having regard to the periods actually completed under that scheme.

The social insurance agencies of each country shall determine, in accordance with the legislation applicable to them and taking into account the total number of insurance periods, irrespective of the contracting country in which they were completed, whether the person concerned satisfies the conditions required in order to be entitled to the benefits provided by that legislation.

The said agencies shall determine, as a matter of form, the amount of the cash benefit to which the person concerned would be entitled if the total number of insurance periods had been completed exclusively under their own legislation and shall reduce this amount in proportion to the periods actually completed under that legislation.

Article 14

If, under the legislation of either country, account is taken in the payment of benefits of the average wage during the whole or part of the insurance period, the average wage to be taken into account in computing the benefits to be borne by that country shall be determined on the basis of the wages paid during the insurance period completed in that country.

Article 15

When an insured person, account being taken of the total number of periods referred to in paragraph 1 of article 13, does not simultaneously satisfy the conditions required by the laws of both countries, his right to a pension shall be established under each legislation as and when he satisfies those conditions.

An authority shall not be responsible for a benefit where the periods completed under the relative legislation do not total one year.

Article 16

Paragraph 1

Any insured person may, at the time of becoming eligible for a pension, waive the benefit of the provisions of article 13 of the present Convention. The benefits to which he may be entitled by virtue of the laws of each country shall then be paid separately by the competent authorities, independently of the insurance periods, or their recognized equivalents, completed in the other country.

Paragraph 2

The insured person shall be entitled to make a fresh choice between the provisions of article 13 and those of the present article when it becomes advantageous to him to do so either as a result of an amendment to one of the national legislations or of the transfer of his place of residence from one country to the other, or, in the case referred to in article 14, at the time when he establishes a new pension right under one of the legislations applicable to him.

Article 17

Where the legislation of one of the contracting countries makes the grant of certain benefits conditional upon residence, this shall not apply to Belgian

or Luxembourg nationals as long as they are resident in either of the two contracting countries, except where the grant of such benefits is conditional upon a means test.

The non-payment of contributions during a certain period shall not result in any loss of rights, if, during the period in question, the insured person was subject to the insurance system of the other contracting country.

CHAPTER 4.—FAMILY BENEFITS

Article 18

Where the national legislation of one of the contracting parties makes eligibility for family allowances properly so called conditional upon the completion of periods of occupation or other activity treated as occupation, account shall be taken of the periods completed consecutively in either country.

Article 19

Family allowances properly so called shall be granted, in whichever of the two countries the children of the employed person are brought up.

Such allowances shall be paid exclusively in accordance with the general scale normally in force.

Article 20

The competent authorities of the two contracting countries may lay down, by mutual agreement, the measures necessary to prevent cumulative benefits.

CHAPTER 5.—INDUSTRIAL ACCIDENTS AND OCCUPATIONAL DISEASES

Article 21

Nationals of either country shall not be subject to the provisions incorporated in the other country's legislation concerning industrial accidents and occupational diseases which restrict the rights of foreigners or which impose loss of right by reason of their place of residence.

Article 22

Increased rates, re-assessed or supplementary allowances granted in addition to industrial accident pensions under the legislation in force in each of the two contracting countries shall be paid to the persons to whom article 21 above applies who change their place of residence from one country to the other.

For this purpose the necessitous condition of the beneficiaries, which is a prerequisite for the grant of certain benefits under Belgian legislation, will, in the Grand Duchy of Luxembourg, be determined by the competent Luxembourg authorities.

TITLE III.—GENERAL AND MISCELLANEOUS PROVISIONS

CHAPTER I. ADMINISTRATIVE CO-OPERATION

Article 23

The authorities and the social security agencies of the two contracting countries shall furnish one another mutual assistance to the same extent as if application of their own social security schemes were involved.

The competent authorities of the contracting countries shall regulate, by mutual agreement, the details of the medical and administrative control of sick and disabled persons.

Article 24

Paragraph 1

The privilege of exemption from liability to pay registration or court fees, stamp duties and consular charges granted by the legislation of either country in respect of documents to be produced to the administrative authorities or social security agencies of that country shall be extended to the corresponding documents to be produced, for the purposes of the application of the present Convention, to the administrative authorities or social security agencies of the other country.

Paragraph 2

The requirement of legalization by the diplomatic and consular authorities shall be waived in respect of all certificates, documents and papers to be produced for the purposes of the operation of the present Convention.

Article 25

Communications relating to the application of the present Convention sent by beneficiaries under the Convention to the social security agencies and other administrative or judicial authorities of either contracting country dealing with social security matters shall be drawn up in an official language of the one or the other of the two countries.

Article 26

Appeals which have to be lodged within a prescribed period with an authority or agency of either contracting country competent to accept appeals

relating to social security shall be deemed admissible if they are lodged within the same period with a corresponding authority or agency in the other country.

In such cases, the latter authority or agency shall be bound to transmit the appeals without delay to the competent authority.

Article 27

Paragraph 1

The competent administrative authorities of the contracting States shall determine directly the detailed measures for the implementation of the present Convention or of the supplementary agreements referred to herein, in so far as these measures call for joint action by those authorities.

The same administrative authorities shall notify one another in due course of the changes that have taken place in the laws or regulations of their respective countries concerning the schemes enumerated in article 2.

Paragraph 2

The competent authorities or departments in each country shall notify one another of the other arrangements made within their countries for the purpose of giving effect to the present Convention.

Article 28

The Ministers having among their functions the administration of the schemes enumerated in article 2 shall be deemed in each of the contracting countries to be the competent authorities within the meaning of the present Convention, to the extent to which those schemes fall within their competence.

CHAPTER 2.—MISCELLANEOUS PROVISIONS

Article 29

Nothing in this Convention shall be held to invalidate the rules laid down in the schemes referred to in article 2 respecting the conditions under which insured persons may take part in the elections in connexion with the functioning of the social security system.

Article 30

The formalities that may be laid down by the statutory provisions or regulations of either of the contracting States in respect of the payment, outside the limits of their territory, of the benefits distributed by social security agencies shall also apply, on the same terms as to nationals, to persons entitled to receive such benefits by virtue of the present Convention.

Article 31

The provisions necessary for the application of the present Convention, as regards the several branches of social security included in the schemes referred to in article 2, will form the subject of one or more supplementary agreements.

A supplementary agreement based on the principles of the present Convention will regulate the position of persons employed in the mining industry and in underground pits.

*Article 32**Paragraph 1*

All difficulties relating to the carrying out of the present Convention shall be resolved by agreement between the competent authorities of the contracting States.

Paragraph 2

Should it prove impossible to arrive at a solution by this means, the disagreement shall be settled by arbitration, in accordance with a procedure to be arranged between the two Governments. The arbitral body shall settle the dispute according to the fundamental principles and in the spirit of the present Convention.

*Article 33**Paragraph 1*

The present Convention shall be ratified, and the instruments of ratification shall be exchanged at Brussels, as soon as possible.

Paragraph 2

It shall come into force on the first day of the month following the month after the exchange of the instruments of ratification.

Paragraph 3

The date of the entry into force of the supplementary agreements referred to in article 31 will be stated in the said agreements.

Paragraph 4

Benefits, the payment of which was suspended under the provisions in force in one of the contracting countries by reason of the residence abroad of the persons concerned, shall be paid as from the first day of the month following the entry into force of the present Convention. Benefits formerly not payable to the persons concerned for the same reason shall be paid and granted as from the same date.

The provisions of this paragraph shall not apply unless the claims are made within one year from the date of the entry into force of the present Convention.

Paragraph 5

In the case of Belgian or Luxembourg employed persons or persons treated as employed persons who left Luxembourg territory before 1 July 1938, periods of membership of the Luxembourg insurance system prior to that date may not be taken into account for the purposes of the application of article 13 of the present Convention unless they can prove that since that date they have been insured under the Luxembourg insurance system for six months and returned to the Grand Duchy before 1 July 1949.

In the case of Luxembourg or Belgian employed persons or persons treated as employed persons who left Belgian territory before 1 July 1938, periods of membership of the Belgian insurance system prior to that date may not be taken into account for the purposes of the application of article 13 of the present Convention unless they can prove that since that date they have been insured under the Belgian insurance system for six months subsequent to that date and returned to Belgium before 1 July 1949.

Paragraph 6

The supplementary agreements referred to in article 31 shall determine the conditions and methods in accordance with which rights previously awarded and rights revived or awarded in pursuance of the preceding paragraph will be reviewed so as to bring their award into conformity with the provisions of the present Convention or the said agreements.

Where the rights previously awarded have been settled by means of a lump-sum payment, there shall be no ground for review.

Article 34

Paragraph 1

The present Convention is concluded for the duration of one year. It will continue in force from year to year unless notice of termination is given three months before the expiration of the period.

Paragraph 2

In the event of such notice being given, the provisions of the present Convention and of the supplementary agreements referred to in article 31 will remain applicable to acquired rights, notwithstanding any restrictive provisions that the schemes concerned may have laid down for cases where an insured person resides in a foreign country.

Paragraph 3

Any rights that are in process of acquisition in respect of insurance periods completed prior to the date on which the present Convention ceases to have effect, shall continue to be governed by the provisions of this Convention in conformity with conditions to be laid down by supplementary agreements.

Article 35

The following shall cease to have effect as from the date of the entry into force of the present Convention :

(1) the Belgo-Luxembourg Convention of 15 April 1905 and the Supplementary Convention of 22 May 1906 regarding compensation in case of injuries resulting from accidents in the course of employment;

(2) the Belgo-Luxembourg Protocol of 2 May 1947 extending to the nationals of the two member countries of the Belgo-Luxembourg Economic Union the benefit of the respective legislations concerning old-age and premature-death insurance.

IN WITNESS WHEREOF the respective plenipotentiaries have signed the present Convention and affixed their seals thereto.

DONE in duplicate, at Luxembourg, 3 December 1949.

O. BEHOGNE
Viscount BERRYER
P. DUPONG
Joseph BECH

SUPPLEMENTARY AGREEMENT¹ TO THE GENERAL CONVENTION ON SOCIAL SECURITY OF 3 DECEMBER 1949 BETWEEN BELGIUM AND THE GRAND DUCHY OF LUXEMBOURG, CONCERNING THE SOCIAL SECURITY SYSTEM APPLICABLE TO PERSONS EMPLOYED IN UNDERGROUND MINES AND PITS. SIGNED AT LUXEMBOURG, ON 3 DECEMBER 1949

TITLE I.—GENERAL PROVISIONS

Article 1

The present Agreement defines the system applicable to Belgian and Luxembourg employed persons who are or who have been employed in underground mines or pits situated in either country, as well as to the persons entitled through them.

Article 2

The provisions of the General Convention of 3 December 1949, with the exception of the provisions of chapters 2 and 3 of title II and of article 33, paragraph 5, shall be applicable to the employed persons referred to in article 1, and to the persons entitled through them.

TITLE II.—OLD-AGE, PREMATURE-DEATH
AND INVALIDITY INSURANCE

CHAPTER I.—COMMON PROVISIONS

Article 3

For employed persons who, in the two countries, have been subject consecutively or alternately to the special legislation for persons employed in underground mines and pits, the insurance periods computed under either legislation or the periods recognized as equivalent to insurance periods by virtue of the said legislations shall be aggregated for the purposes both of determining the right to old-age, premature-death and invalidity insurance benefit and of maintaining or recovering this right.

When a category of employment is subject to the special legislation for persons employed in underground mines and pits in one only of the contracting

¹ Came into force on 1 May 1951, the date of entry into force of the General Convention, in accordance with article 19.

countries, the insurance authority to which the person concerned has been affiliated in each of the countries shall take into consideration the total number of periods completed in that category in Belgium and in the Grand Duchy of Luxembourg.

The periods of employment completed in underground mines and pits in the Grand Duchy of Luxembourg which are deemed to be periods of employment underground or above ground for the purpose of the application of the present Agreement, may be laid down in a technical agreement.

In the absence of such an agreement, the persons concerned may establish by any legal process the periods of employment completed underground.

Article 4

Any period recognized as equivalent to an insurance period under the legislation of either country shall only be taken into account by the authorities of the country in which the person concerned was last employed in an undertaking of the nature described in article 1 before the period in question.

If the person concerned was not employed in such an undertaking before the said period, such period shall be taken into account by the authorities of the country in which he was first employed in an undertaking of the nature described in article 1.

Article 5

The social insurance agencies of each country shall determine, in accordance with the legislation applicable to them, and taking into account the aggregate of the insurance periods, irrespective of the contracting country in which they were completed, whether the person concerned satisfies the conditions required in order to be entitled to the benefits provided by that legislation.

The said agencies shall determine, as a matter of form, the amount of benefit to which the person concerned would be entitled if all the aggregated insurance periods had been completed exclusively under their own legislation and shall reduce this amount in proportion to the periods actually completed under that legislation.

Nevertheless, an authority shall not be responsible for a benefit where the periods completed under the relative legislation do not total one year comprising the minimum number of days per annum of actual employment or of days treated as actual employment stipulated by that legislation.

Article 6

When an insured person, account being taken of the total number of insurance periods, does not simultaneously satisfy the conditions required by the laws of both countries, his right to benefit shall be established under each legislation as and when he satisfies those conditions.

Article 7

Notwithstanding the provisions of article 5 of the present Agreement, orphans' allowances shall be the exclusive responsibility of the social insurance authorities of the country in which the insured person was last employed in an undertaking of the nature described in article 1.

CHAPTER II.—OLD-AGE AND PREMATURE-DEATH INSURANCE

Article 8

Any insured person may, at the time of becoming eligible for a pension, waive the benefit of the provisions of articles 3 to 6 of the present Agreement.

The benefits to which he may then be entitled by virtue of the laws of each country shall be paid separately by the competent authorities, independently of the insurance periods, or their recognized equivalents, completed in the other country.

The insured person shall be entitled to make a fresh choice between the provisions of the above-mentioned articles and those of the present article when it becomes advantageous to him to do so, in the following circumstances :

- (1) in the event of an amendment to one of the national legislations;
- (2) in the event of the transfer of his place of residence from one country to the other;
- (3) in the case referred to in article 6 of the present Agreement at the time when he establishes a new pension right under one of the legislations applicable to him.

Article 9

Insured persons who have ceased work in a Luxembourg undertaking for one of the reasons which under Belgian legislation call for payments to be made for maintenance of the right to old-age insurance benefits, shall be entitled to the said benefits under the present Agreement, to be paid by the Belgian authority, if they have complied with the laws or regulations in force in the Grand Duchy of Luxembourg for maintenance of the right to old-age insurance benefits.

Article 10

Insured persons who, after having ceased work in a Belgian undertaking for one of the reasons referred to in article 9, have established their residence in the Grand Duchy of Luxembourg, shall be entitled to old-age insurance benefits, to be paid by the Belgian authority, if they have made the payment provided for under Belgian legislation for maintenance of the right to the said benefits.

They shall have the right to make this payment, when they reach the statutory age of retirement, in the form of an equalization payment. The amount of this payment shall be determined by the *Fonds national de Retraite des ouvriers mineurs* (National Miners' Pension Fund).

CHAPTER III.—INVALIDITY INSURANCE

Article 11

For the purpose of establishing the right (if any) to invalidity pensions, the period throughout which the person concerned must have been in receipt of the cash compensation paid under sickness insurance prior to the award of his pension shall, in all cases, be that stipulated by the legislation of the country in which he was working at the time of the occurrence of the sickness which caused the invalidity.

Article 12

When an insured person does not satisfy the conditions laid down for the grant of an invalidity pension by each of the special legislations for persons employed in the underground mines and pits of the two countries, the benefits to which he is entitled shall be determined in accordance with the law applicable to him at the time of the first medical declaration of the sickness from which his invalidity resulted, taking into account, where necessary, the provisions of this Agreement respecting the aggregation of insurance periods.

The invalidity pensions shall be borne exclusively by the social security authority competent under the terms of the latter law.

Article 13

Where at the time when the accident or sickness which caused invalidity occurred the person concerned was employed in the country other than that of the debtor authority, account shall be taken, in determining the amount of the invalidity pension, of the wage granted in the country of the debtor authority to employed persons of the occupational category to which the person concerned belonged at that time.

Article 14

For the purpose of determining the degree of invalidity the social insurance authorities of each country shall take into account the medical declarations and the information collected by the social insurance authorities of the other country.

Nevertheless, they shall retain the right to have the person concerned examined by a medical practitioner of their own choice.

Article 15

If, after suspension or discontinuance of the invalidity pension, the insured person again becomes entitled to benefit, the payment of benefit shall be resumed by the authority responsible for the pension originally granted, if the state of invalidity is attributable to the disease in respect of which such pension had originally been granted.

Article 16

Invalidity pensions shall be converted, where necessary, into old-age pensions, under the conditions laid down by the law by virtue of which they were granted.

CHAPTER IV.—MISCELLANEOUS PROVISIONS

Article 17

Applications for cash benefits due under the provisions of the present Agreement shall be submitted to the social insurance authority with which the person concerned has been insured.

The date of applications shall be deemed by all the authorities referred to in the first paragraph to be the date of their receipt by one of the said authorities.

The applications shall be accompanied by the papers and documentary evidence required under the legislation of the various insurance schemes under which the person concerned has been insured.

Article 18

The *Établissement d'assurance contre la vieillesse et l'invalidité* (Old-Age and Invalidity Insurance Institution) and the *Caisse de pension des employés privés* (Private Employees Pension Fund) at Brussels and Luxembourg and the *Fonds national de Retraite des ouvriers mineurs* (National Miners' Pension Fund) at Brussels shall assist one another in the application of the present Agreement and shall correspond directly with one another for this purpose.

Article 19

The present Agreement shall be ratified and the instruments of ratification shall be exchanged as soon as possible.

It shall come into force on the same date as the General Convention on Social Security.

Article 20

The present Agreement is concluded for the duration of one year. It will continue in force from year to year unless notice of termination is given by either Government to the other three months before the expiration of the period.

DONE in duplicate, at Luxembourg, on 3 December 1949.

O. BEHOGNE
Viscount BERRYER
P. DUPONG
Joseph BECH