

No. 1824

**NETHERLANDS
and
LUXEMBOURG**

**General Agreement on Social Security (with special protocol).
Signed at Luxembourg, on 8 July 1950**

Official text: French.

Registered by the Netherlands on 11 August 1952.

**PAYS-BAS
et
LUXEMBOURG**

**Convention générale sur la sécurité sociale (avec protocole
spécial). Signée à Luxembourg, le 8 juillet 1950**

Texte officiel français.

Enregistrée par les Pays-Bas le 11 août 1952.

[TRANSLATION — TRADUCTION]

No. 1824. GENERAL AGREEMENT¹ ON SOCIAL SECURITY
BETWEEN THE NETHERLANDS AND THE GRAND
DUCHY OF LUXEMBOURG. SIGNED AT LUXEM-
BOURG, ON 8 JULY 1950

Her Majesty the Queen of the Netherlands
and

Her Royal Highness the Grand Duchess of Luxembourg,
desirous of guaranteeing the benefits of the legislative provisions relating
to 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
an agreement and for this purpose have appointed as their plenipotentiaries :

Her Majesty the Queen of the Netherlands :

His Excellency Mr. A. M. Joekes, Minister of Social Affairs, and

His Excellency Jonkheer G. L. van der Maesen de Sombreff, Minister
Plenipotentiary, Acting Chargé d'Affaires of the Netherlands;

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. Eugene Schaus, Minister of the Interior and Justice;

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

TITLE I

GENERAL PRINCIPLES

Article 1

Netherlands or Luxembourg nationals who are employed persons or persons
treated as employed persons under the legislative provisions relating to social
security set out in article 2 of this Agreement shall be subject respectively to the
said legislative provisions in force in Luxembourg or the Netherlands and shall
enjoy the benefits thereof under the same conditions as the nationals of each
country.

¹ Came into force on 1 June 1952, in accordance with article 27 (2), the instruments of ratifica-
tion having been exchanged at The Hague on 27 May 1952.

Article 2

Paragraph 1. The legislative provisions relating to social security to which this Agreement applies shall be :

(a) legislative provisions relating to sickness insurance, including medical treatment and maternity allowances;

(b) legislative provisions relating to old-age, invalidity and premature-death insurance;

(c) legislative provisions relating to industrial accidents and occupational diseases;

(d) legislative provisions relating to family allowances;

(e) regulations relating to the retirement pension system for miners and persons placed on the same footing as miners.

The Agreement shall not for the time being apply to lump-sum birth benefits payable in cash.

Paragraph 2. This Agreement shall also apply to any laws or regulations which have amended or supplemented, or may in future amend or supplement, the legislative provisions referred to in paragraph 1 of this article.

Nevertheless, the Agreement shall not apply to :

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

(b) laws or regulations extending existing schemes to new classes of beneficiaries, unless the Government of the country concerned 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.

Article 3

Paragraph 1. Employed persons, or persons treated as employed persons under the laws applicable in each contracting State, 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 this article :

(a) an employed person or a person treated as an employed person who is employed in a country other than that of his habitual residence by an undertaking having in the country of such residence an establishment to which the said person normally belongs shall remain subject to the legislative provisions

in force in the country in which he is normally employed on condition that the probable duration of his employment in 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 legislative provisions in force in the country in which the said person is 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) a person attached to a transport undertaking of one of the countries concerned and employed in the mobile sections (travelling personnel) of such undertaking shall be subject exclusively to the provisions in force in the country in which the undertaking has its head office.

Paragraph 3. The supreme administrative authorities of the contracting States may provide, by mutual agreement, for exceptions to the provisions of paragraph 1 of this article. They may also agree that the exceptions provided for in paragraph 2 shall not apply in specific cases.

Article 4

Paragraph 1. The provisions of article 3, paragraph 1, 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 the Netherlands or Luxembourg or are in the personal employ of persons so employed.

Nevertheless, this article shall not apply to diplomatic and consular officers *de carrière*, including officials on the staff of chancelleries.

Paragraph 2. The provisions of article 3, paragraph 2, sub-paragraph (a), may, by agreement between the Governments of the contracting States, be applied to persons in the diplomatic or consular service of the Netherlands or Luxembourg who are of the nationality of the country employing them and who are posted temporarily in the other country, even if they are expected to remain in that country for more than six months.

The provisions of this paragraph shall also apply to civil servants of the one country employed in the other country other than diplomatic or consular officers *de carrière*.

TITLE II

SPECIAL PROVISIONS

CHAPTER 1

Sickness, maternity, death insurance

Article 5

Employed persons and persons treated as employed persons who go from the Grand Duchy of Luxembourg to the Netherlands or vice versa shall, together with the legally entitled members of their household living with them in the country of the new place of employment, be eligible for sickness insurance benefits in that country if :

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

(2) the sickness has 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, account being taken of periods of insurance completed in both countries, or prove that they have satisfied the requirements of the legislation of the country they have left.

Article 6

Employed persons and persons treated as employed persons who go from the Netherlands to the Grand Duchy of Luxembourg or vice versa shall, together with the legally entitled members of their household living with them in the country of the new place of employment, be eligible for maternity benefits in that country if :

(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 one country to the other shall become eligible for the death benefits payable under the legislation of the country of their new place of employment if :

(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.

CHAPTER 2

Old-age, invalidity and death (pensions) insurance

Article 8

Paragraph 1. For Netherlands or Luxembourg employed persons or persons treated as employed persons who, in the two contracting States, have been insured, consecutively or alternately, under one or more old-age, invalidity or death (pensions) 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, and of the maintenance or recovery of this right.

Paragraph 2. Where the laws or regulations of either contracting State make 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 in one of the contracting States there is no special scheme 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 establishing 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 computation 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 establish the amount payable in proportion to the periods actually completed under that legislation.

The periods during which contributions are paid in either contracting State shall count as contribution periods in the other contracting State.

Paragraph 4. When an insured person, account being taken of the total number of periods referred to in paragraph 1, 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.

Article 9

As regards eligibility for an invalidity pension, the period during which the person concerned must have drawn a cash benefit under his sickness insurance before being awarded a pension shall in every case be the period prescribed by the legislation of the country from which he draws the corresponding sickness benefits.

Article 10

Paragraph 1. An insured person may, at the time of becoming eligible for a pension, waive the benefit of the provisions of article 8 of this Agreement. 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 8 and those of this 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 8, paragraph 4, at the time when he establishes a new pension right under one of the legislations applicable to him.

Article 11

For the purposes of article 8, paragraph 3, account shall be taken only of such insurance periods as were valid with regard to the scheme under which they were completed and as were of not less than six months' duration in either the Netherlands or Luxembourg.

Article 12

Paragraph 1. In the case of Netherlands or Luxembourg nationals who were compulsorily insured in the Grand Duchy of Luxembourg before reaching the age of 35 years, the age of 35 years referred to in article 33 of the Netherlands Invalidity Act shall be replaced by the age of 65 years, and the sum of 3,000 guilders referred to in article 4 of the said Act shall be replaced by the sum of 4,500 guilders.

Paragraph 2. In the case provided for in the preceding paragraph, article 372 of the Netherlands Act shall not apply to an insured person who has never been compulsorily insured under the Netherlands Invalidity Act and who has reached the age of 35 years; for the purpose of article 75 of the said Act the insured person shall be deemed to have been compulsorily insured from the age of 35 years.

Paragraph 3. If the above-mentioned Netherlands provisions are amended, the foregoing paragraphs shall be modified by administrative arrangement to conform with any such amendment.

Article 13

Beneficiaries of invalidity, old-age or death pensions acquired under Luxembourg or Netherlands legislation who change their place of residence from one country to the other shall continue to enjoy such pensions and any increments thereto, in the same manner as if they had not changed their place of residence, for so long as they reside in one of the contracting States.

CHAPTER 3

Industrial accidents and occupational diseases

Article 14

Nationals of the High Contracting Parties shall not be subject to such legislative provisions concerning industrial accidents and occupational diseases as restrict the rights of aliens or disqualify them solely by reason of their residence in one or other country.

Article 15

Increased rates or supplementary allowances which have been or may be granted in addition to industrial accident pensions under the legislation in force in each of the two contracting States shall be paid to the persons referred to in article 14 who change their place of residence from one country to the other.

Article 16

A worker who has received compensation for an occupational disease in one of the contracting States and who proves his right to compensation for a disease of the same nature under the legislation of his new place of employment in the other country shall be required to furnish to the competent authority of the latter country a statement of benefits and compensation previously received in respect of the same disease.

The authority paying the new benefits and compensation shall take into account benefits previously paid as though they had been paid on its responsibility.

TITLE III

GENERAL AND MISCELLANEOUS PROVISIONS

CHAPTER I

Administrative co-operation

Article 17

The authorities and the social security agencies of the two contracting States shall furnish one another mutual assistance to the same extent as they would under their own social security schemes.

Article 18

Paragraph 1. The privilege of exemption from registration or court fees, stamp duties and consular charges granted by the legislation of either contracting State 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 this Agreement, to the administrative authorities or social security agencies of the other country.

Paragraph 2. The requirement of legalization by diplomatic and consular authorities shall be waived in respect of all certificates, documents and papers to be produced for the purposes of this Agreement.

Article 19

Communications which for the purposes of this Agreement are sent by beneficiaries under the Agreement to social security agencies, authorities or bodies of one of the contracting States shall be drawn up in one of the official languages of either State.

Article 20

Appeals which must be lodged within a prescribed period with an authority or agency of either contracting State 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 transmit the appeals without delay to the competent authority.

Article 21

Paragraph 1. The supreme administrative authorities of the contracting States shall determine directly the detailed measures for the implementation of this Agreement or of the supplementary agreements provided for herein, in so far as such measures call for joint action by those authorities.

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

Paragraph 2. The supreme administrative authorities of the contracting States shall determine by mutual agreement measures to prevent the duplication of benefits in the event that the laws or regulations of both contracting States and this Agreement should confer a right to benefit under the social security systems of both countries simultaneously.

Paragraph 3. The competent authorities or departments in each contracting State shall notify one another of other arrangements made for the purpose of giving effect to this Agreement within their countries.

Article 22

For the purposes of this Agreement, the expression "supreme administrative authorities" means the ministers in each contracting State having jurisdiction over the schemes enumerated in article 2.

CHAPTER 2

Miscellaneous provisions

Article 23

The authorities responsible, by virtue of this Agreement, for the administration of social security benefits shall be held to discharge their responsibility validly by payments in the currency of their country.

In the event of the issue of regulations in either contracting State with a view to imposing restrictions upon the free exchange of currency, measures are to be taken forthwith, by agreement between the two Governments to ensure, in accordance with the provisions of this Agreement, the reciprocal transfer of sums due.

Article 24

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

Article 25

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

The said supplementary agreements based on the principles of this Agreement shall regulate *inter alia* the position of persons employed in the mining industry.

Article 26

Any dispute as to the interpretation, application or implementation of this Agreement which cannot be resolved at the administrative level shall be decided in accordance with regulations to be agreed upon between the High Contracting Parties.

Article 27

Paragraph 1. This Agreement shall be ratified, and the instruments of ratification shall be exchanged as soon as possible.

Paragraph 2. It shall come into force on the first day of the month following the exchange of the instruments of ratification.

Paragraph 3. The date of the entry into force of the supplementary agreements referred to in article 25 shall 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 States 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 this Agreement. Benefits formerly not payable to the persons concerned for the same reason shall be awarded and paid 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 this Agreement.

Paragraph 5. The rights of Netherlands or Luxembourg nationals to whom pensions or old-age insurance allowances have been awarded before the entry into force of this Agreement may be reviewed on application by the persons concerned.

The effect of such revision shall be to confer on the beneficiaries, as from the first day of the month following the entry into force of this Agreement, the same rights as they would have acquired if this Agreement had been in force when the award was made.

Paragraph 6. The supplementary agreements referred to in article 25 shall set out the conditions and methods in accordance with which rights previously awarded will be reviewed so as to bring their award into conformity with the provisions of this Agreement or of the said supplementary agreements. Where the rights previously awarded have been settled by means of a lump-sum payment, there shall be no ground for review.

Article 28

Paragraph 1. This Agreement 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 this Agreement and of the supplementary agreements referred to in article 25 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 before the date on which this Agreement ceases to have effect shall continue to be governed by the provisions of this Agreement in conformity with conditions to be laid down by the supplementary agreements.

IN WITNESS WHEREOF the respective plenipotentiaries have signed this Agreement and affixed their seals thereto.

DONE in duplicate at Luxembourg, on 8 July 1950.

A. M. JOEKES
G. L. VAN DER MAESEN DE SOMBREFF
P. DUPONG
E. SCHAUS

SPECIAL PROTOCOL

At the time of signing the General Agreement on Social Security between the Grand Duchy of Luxembourg and the Netherlands, the respective plenipotentiaries have agreed as follows :

I

The provisions of the General Agreement on Social Security shall in no way restrict the provisions of the agreement to be concluded between the countries concerned to co-ordinate the social security schemes applicable to Rhine boatmen.

II

The allowances for aged persons provided for under the Netherlands Act of 24 May 1947 or such similar allowances as may be subsequently provided for shall be granted to Netherlands nationals as provided by Netherlands law and to Luxembourg nationals, whether resident in the Netherlands or in Luxembourg, pending a subsequent arrangement.

III

An employed person or a person treated as an employed person who left Luxembourg territory before 1 July 1938 may not, for the purpose of article 8 of this Agreement, avail himself of the periods during which he was insured under a Luxembourg insurance scheme before that date unless :

(a) where he returned to Luxembourg before 1 July 1949, he shows that he was for six months insured under a Luxembourg insurance scheme subsequent to 1 July 1938; or

(b) he has maintained or recovered the rights corresponding to those periods as provided in Luxembourg law.

This provision shall not apply to insurance periods completed in the mining industry.

DONE in duplicate at Luxembourg, on 8 July 1950.

(Signed) A. M. JOEKES

(Signed) G. L. VAN DER MAESEN DE SOMBREFF

(Signed) P. DUPONG

(Signed) E. SCHAUS