

No. 2725

**DENMARK
and
FEDERAL REPUBLIC OF GERMANY**

Agreement (with Final Protocol and Supplementary Agreement) concerning social security. Signed at Copenhagen, on 14 August 1953

Official texts: Danish and German.

Registered by Denmark on 3 December 1954.

**DANEMARK
et
RÉPUBLIQUE FÉDÉRALE D'ALLEMAGNE**

Convention sur la sécurité sociale (avec Protocole final et Accord complémentaire). Signée à Copenhague, le 14 août 1953

Textes officiels danois et allemand.

Enregistrée par le Danemark le 3 décembre 1954.

[TRANSLATION — TRADUCTION]

No. 2725. AGREEMENT¹ BETWEEN THE KINGDOM OF DENMARK AND THE FEDERAL REPUBLIC OF GERMANY CONCERNING SOCIAL SECURITY. SIGNED AT COPENHAGEN, ON 14 AUGUST 1953

His Majesty the King of Denmark and the President of the Federal Republic of Germany, desiring to regulate the mutual relations between the two States in the field of social security, have decided to conclude an agreement and have for this purpose appointed as their plenipotentiaries :

His Majesty the King of Denmark :

Miss Helga Pedersen, Minister of Justice;

The President of the Federal Republic of Germany :

Mr. Anton Storch, Federal Minister of Labour;

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

PART I

GENERAL PRINCIPLES

Article 1

(1) This Agreement shall apply to the legislation
in the Kingdom of Denmark concerning :

- (a) sickness insurance (insurance in respect of sickness, maternity and death (death grant));
- (b) accident insurance (insurance against industrial accidents and occupational diseases);
- (c) invalidity insurance;
- (d) old-age insurance;
- (e) assistance for orphans and children of widows and widowers;

in the Federal Republic of Germany concerning :

- (a) sickness insurance (insurance in respect of sickness, maternity and death (death grant));
- (b) accident insurance (insurance against industrial accidents and occupational diseases);

¹ Came into force on 1 November 1954, in accordance with article 48, the exchange of the instruments of ratification having taken place at Bonn on 28 September 1954.

(c) wage-earners' pension insurance, salaried employees' pension insurance and mineworkers' pension insurance (insurance against invalidity, incapacity for work, old age and death (pensions)).

(2) This Agreement shall also apply to all laws and regulations amending or supplementing the legislation mentioned in paragraph (1). It shall, however, apply to :

(a) laws and regulations concerning a new branch of social security only if the two Contracting States make an agreement to that effect;

(b) laws and regulations extending the existing coverage to new categories of persons only if the Government of one Contracting State does not inform the Government of the other State of its objections to such extension within three months from the official notification of the said laws or regulations.

Article 2

(1) Danish nationals in the Federal Republic of Germany and German nationals in the Kingdom of Denmark shall be subject to the legislation mentioned in article 1. They shall in that regard have the same rights and obligations as the nationals of the State concerned, unless otherwise provided in this Agreement.

(2) Danish and German nationals resident in either Contracting State who withdraw or have withdrawn from an insurance scheme of the other Contracting State shall be entitled to become voluntarily insured in the country of residence, subject to the same conditions as insured persons who have withdrawn from the insurance scheme in force in that country. For this purpose, the insurance periods which in the two Contracting States are taken into account in determining the right to voluntary insurance shall be aggregated irrespective of whether those periods relate or have related to a compulsory or voluntary form of insurance. Where, under the foregoing provisions, an insured person is entitled to continue his insurance in either the German wage-earners' pension insurance scheme (*Invalidenversicherung*) or the German salaried employees' pension insurance scheme (*Angestelltenversicherung*), such continuation shall be possible only in that one of the two branches of insurance which corresponds to the type of occupation in which the insured was last engaged in the Kingdom of Denmark. If the insured person was not engaged in the Kingdom of Denmark in an occupation that would be subject to compulsory insurance under the regulations in force in the Federal Republic of Germany, continued insurance shall be possible only in the salaried employees' pension insurance scheme (*Angestelltenversicherung*).

Article 3

(1) Unless otherwise provided in this Agreement or in a supplementary agreement hereto, Danish and German nationals resident in either Contracting

State shall be entitled to the social insurance benefits which, having regard to this Agreement, are granted under the provisions of each State, including the full amount of any grants from public funds.

(2) The social insurance benefits of one Contracting State, including grants from public funds, shall be granted to nationals of the other State resident in a third State on the same conditions and to the same extent as to its own nationals resident in such third State.

(3) The provisions of paragraphs (1) and (2) shall apply notwithstanding any domestic provisions for the exclusion of claims or the suspension or withdrawal of benefits on account of residence abroad.

(4) For the purposes of the social insurance provisions of either Contracting State respecting the commuting of claims or the granting of other lump sums, residence in the territory of the other State shall not be deemed residence in a foreign country in the case of Danish and German nationals.

Article 4

(1) Insured persons employed in either Contracting State shall be subject to the legislation in force at the place of their employment.

(2) The principle laid down in paragraph (1) shall be subject to the following exceptions :

1. If an employee of an undertaking having its principal place of business in one Contracting State is temporarily transferred to the territory of the other State, the provisions of the State where the undertaking has its principal place of business shall continue to be applicable if the stay in the other State does not exceed six months. If the period of employment in the other Contracting State is extended beyond the original period of six months for unforeseen reasons, the provisions of the State where the undertaking has its principal place of business may by way of exception continue to be applied with the consent of the supreme administrative authorities of the State in which the temporary employment takes place.
2. Where in the frontier area an undertaking is cut in two by the common frontier of the two Contracting States, only the provisions of the State in which the undertaking has its principal place of business shall be applicable to the employees of such undertaking.
3. Where employees of a public-transport undertaking having its principal place of business in one Contracting State are employed in the other State :

(a) temporarily as travelling personnel; or

- (b) temporarily or permanently on connecting sections or at frontier stations or ports,
the provisions of the Contracting State where the undertaking has its principal place of business shall alone be applicable. The same shall apply to employees of an air transport undertaking having its principal place of business in one Contracting State if such employees are nationals of that State and are employed on flying or ground duties in the territory of the other State; and to other employees of such undertakings, regardless of their nationality, who are temporarily sent to the territory of the other State.
4. The crew of a sea-going ship shall be subject to the provisions of the Contracting State under whose flag the ship sails. Persons hired in a port of one Contracting State for loading, unloading or repair work or as watchmen shall be subject to the provisions of the State to which the port belongs.
 5. Employees of official services (customs, post office, passport control, etc.) who are sent by one Contracting State to the territory of the other State shall be subject to the provisions of the sending State.
 6. The diplomatic and consular officers *de carrière* of the two Contracting States and persons in their personal employ shall be subject to the provisions of the Contracting State to which they belong, provided that persons in such personal employ may within six weeks of the coming into force of this Agreement or, where the employment begins after that date, within six weeks of beginning their employment request to be insured under the provisions of the State in which they are employed.

(3) The provisions of paragraph (2), sub-paragraphs 1 and 2, shall likewise apply where a person who works for his own account in one Contracting State is occupied in the territory of the other State in connexion with that work.

(4) The supreme administrative authorities of the two Contracting States may come to an agreement on further exceptions to the principle laid down in paragraph (1); they may also by mutual agreement permit departures from the provisions of paragraph (2) in particular cases or classes of cases.

Article 5

Where under the provisions of one Contracting State, the receipt of a social insurance or other benefit, the exercise of a gainful activity or the possession of a particular social insurance status has a legal effect on a social insurance benefit, on an insurance obligation, on exception from insurance or on voluntary insurance, the same effect shall, by virtue of the domestic legislation of that State, also be

attributed to the receipt of a similar benefit from the other State or to the exercise of a similar gainful activity or the possession of a similar social insurance status in the other State.

PART II

SICKNESS INSURANCE

(Insurance in respect of sickness, maternity and death)

Article 6

(1) A German national resident in the Kingdom of Denmark may become a member of a Danish sick fund recognized or controlled by the State on the same conditions as a Danish national. If a German or Danish national who was insured in respect of sickness in the Federal Republic of Germany removes to the Kingdom of Denmark, he shall be entitled to such membership irrespective of his age. The supreme administrative authorities of the two Contracting States shall come to an agreement on the time-limits within which such membership privileges shall apply.

(2) A Danish national employed in the Federal Republic of Germany shall be subject to German sickness insurance on the same conditions as a German national. A Danish national resident in the Federal Republic of Germany who is not subject to compulsory sickness insurance shall be entitled to become voluntarily insured on the same conditions as a German national. Application for continued insurance under the German sickness insurance scheme must be made within three months from the end of the month in which the person so entitled removed to the Federal Republic of Germany.

Article 7

German and Danish nationals who are resident in the other Contracting State and have sickness insurance in that State as provided in article 6 shall receive benefits from the sickness insurance institutions of that State, both for themselves and for their family dependants resident in that State, in accordance with the regulations applicable to those institutions.

Article 8

Where specified periods of insurance under the sickness insurance scheme are required for entitlement to benefit, the periods of insurance completed under the sickness insurance schemes of both Contracting States shall be aggregated.

Article 9

(1) Any provision of one Contracting State to the effect that entitlement to benefit shall continue to exist where the contingency insured against occurs within a specified time after withdrawal from the insurance scheme shall not apply if the contingency occurs in the territory of the other State.

(2) If a person who has withdrawn from the sickness insurance scheme of one Contracting State takes up residence in the other State within the time-limit referred to in paragraph (1) and then returns to the first State within two months after such withdrawal, he shall retain entitlement to benefit from the insurance institution of the first State for the period which at the time of the removal to the other State still remained before the expiration of the time-limit; the said remaining period shall start to run from the date on which the frontier is crossed.

Article 10

Pensioners shall be insured against sickness in virtue of their pension entitlement only in the Contracting State in which they are resident and as provided by the regulations in force in that State.

PART III

ACCIDENT INSURANCE

Article 11

(1) An injured person who because of an industrial accident or an occupational disease is entitled to benefits in kind from an accident insurance institution of one Contracting State shall, upon removing to the territory of the other State, retain such entitlement if the competent insurance institution has previously consented to the removal. Such consent may be refused only on the ground of the insured person's state of health. The insurance institution may give its consent after the removal if the conditions for granting the consent are fulfilled and the insured person was unable through no fault of his own to apply for the consent beforehand.

(2) In the cases mentioned in paragraph (1), the benefits shall, on behalf of the insurance institution from which they are due, be awarded :
in the Kingdom of Denmark, by the Directorate of Accident Insurance;
in the Federal Republic of Germany, by the sickness insurance institution whose jurisdiction embraces the insured person's place of residence;
in accordance with the regulations applying to these agencies.

(3) The insurance institution from which the benefits are due shall reimburse the agency awarding the benefits for the expenses thereby incurred. The

arrangements for such reimbursement shall be determined by agreement between the supreme administrative authorities of the two Contracting States.

Article 12

Cash benefits, other than pensions or death grants, which are payable in accordance with the legislation of one Contracting State shall, at the request and on behalf of the accident insurance institution from which they are due, be paid to the beneficiary or to his family dependants :

in the Kingdom of Denmark, through the Directorate of Accident Insurance;
in the Federal Republic of Germany, through the sickness insurance institution whose jurisdiction embraces the insured person's place of residence;
in accordance with the regulations applying to the institution from which the benefits are due. The last-mentioned institution shall inform the paying institution of the amount and the maximum duration of the benefits. The provisions of article 11, paragraph (3), shall apply.

Article 13

In the assessment of entitlement to benefit and of the degree of invalidity in the case of industrial accidents or occupational diseases coming under the legislation of one Contracting State, any earlier industrial accidents or occupational diseases coming under the legislation of the other Contracting State shall be taken into account in the same way as earlier accidents or occupational diseases coming under the legislation of the first Contracting State. Earlier industrial accidents or occupational diseases shall include both those accidents or occupational diseases for which compensation is awarded and those where the degree of invalidity is below the minimum degree for which compensation is prescribed.

Article 14

Where an insured person who has received compensation in respect of an occupational disease in one Contracting State submits a claim in respect of the same disease in the other State, the insurance institution of the first State shall continue to be liable for the payment of the benefit incumbent upon it.

Article 15

A person carrying on an undertaking shall not be required to make a larger contribution to the accident insurance scheme of one Contracting State on the ground that the undertaking has its principal place of business in the other State.

PART IV

PENSION INSURANCE

(Insurance against invalidity, incapacity for work, old age and death (pensions))

CHAPTER I

OLD-AGE PENSIONS

Article 16

In determining the amount of old-age pension payable in accordance with German regulations under the wage-earners' pension insurance scheme (*Invalidenversicherung*), the salaried employees' pension insurance scheme (*Angestelltenversicherung*), and the mineworkers' pension insurance scheme to German or Danish nationals in the Federal Republic of Germany, the periods of residence completed in the Kingdom of Denmark since the attainment of twenty-one years of age shall be credited :

- (a) towards the completion of the qualifying period if the time spent in the German pension insurance schemes can be shown to have been not less than 260 contribution weeks or 60 contribution months, which periods must, in the case of a Danish national, have been completed immediately before the pension application is submitted;
- (b) towards the maintenance of prospective rights, on condition that the said periods of residence do not overlap with periods of insurance under the German pension insurance schemes.

Article 17

(1) Pensions payable in accordance with article 16 under the German pension insurance schemes shall be calculated as follows :

1. Benefits or portions of benefits which are independent of the length of the insurance period shall be calculated in accordance with the German regulations and awarded in full.
2. Supplements shall be awarded in accordance with the German regulations in respect of :
 - (a) periods of insurance completed under the German pension insurance schemes;
 - (b) periods of residence in the Kingdom of Denmark on the basis of the average compensation which the insured person would have received from the exercise of a similar occupation in the Federal Republic of Germany or, if he did not in the Kingdom of Denmark carry on an occupation that

would be liable to insurance under German law, according to an average annual income the amount of which shall be agreed upon between the Contracting States.

(2) The periods of residence completed in the Kingdom of Denmark shall be credited in the Federal Republic of Germany under that branch of insurance which corresponds to the type of occupation in which the insured person was last engaged in the Kingdom of Denmark. If the insured person was not engaged in the Kingdom of Denmark in an occupation that would be liable to insurance under German law, his period of residence in the Kingdom of Denmark shall be credited under the salaried employees' pension insurance scheme.

(3) The periods of residence in the Kingdom of Denmark for which credit is given may not exceed a total of fifteen years.

Article 18

A German national in the Kingdom of Denmark shall be entitled to an old-age pension under the provisions of Danish law if, after attaining twenty-one years of age, he either :

- (a) has resided in the Kingdom of Denmark for a period of not less than fifteen years, at least five years of which have been completed immediately before the pension application is submitted; or
- (b) has resided in the Kingdom of Denmark for a period of less than fifteen years, at least five years of which have been completed immediately before the pension application is submitted, and the period of residence in the Kingdom of Denmark together with the periods of insurance under the German pension insurance schemes total not less than fifteen years,

on condition that these periods do not overlap.

Article 19

Where a Danish or German national in the Kingdom of Denmark is entitled, independently of the provisions of article 16, both to a Danish old-age pension and to a pension under the German pension insurance schemes, the German pension shall be payable only to the extent that it exceeds the amount of the Danish old-age pension.

CHAPTER 2

PENSIONS IN RESPECT OF INVALIDITY OR OF INCAPACITY FOR WORK

Article 20

In determining the amount of pension payable under German regulations in the case of invalidity or of incapacity for work, the provisions of article 16 shall be applicable except that the time required to be spent in the German

pension scheme shall be 52 instead of 260 contribution weeks or 12 instead of 60 contribution months, which periods must, in the case of a Danish national, have been completed immediately before the pension application is submitted.

Article 21

The provisions of article 17 shall apply to the calculation of the pensions payable under article 20, with the following exceptions :

If a Danish or German national who is resident in the Federal Republic of Germany would not, if he were resident in the Kingdom of Denmark, receive benefit because he had not yet fulfilled the requirements for entitlement to benefit under Danish law, he shall not under the German pension insurance schemes receive that part of a supplement which is based on his periods of residence in the Kingdom of Denmark until the requirements for entitlement to benefit under Danish law would have been fulfilled. Benefits or portions of benefits which are independent of the length of the insurance period shall be paid in full under the German pension insurance scheme if the qualifying period under German regulations has been covered by periods of insurance, but otherwise only to the extent that the qualifying period has been covered by periods of insurance in Germany.

Article 22

(1) A German national in the Kingdom of Denmark shall receive a Danish invalidity pension under the provisions of Danish law if, immediately before submitting the pension application, he either :

- (a) has resided in the Kingdom of Denmark for not less than five years; or
- (b) has resided in the Kingdom of Denmark for not less than one year and during that period has for not less than one year been in a state of health permitting him to do normal work.

(2) A person receiving a Danish invalidity pension under paragraph (1) shall be entitled, as provided by Danish law, to be transferred to the Danish old-age pension scheme.

Article 23

Where a Danish or German national in the Kingdom of Denmark is entitled, independently of the provisions of article 20, both to a Danish invalidity pension and to a pension under the German pension insurance schemes, the German pension shall be payable only to the extent that it exceeds the amount of the Danish invalidity pension.

Article 24

To the extent that the entitlement to benefit under the German mineworkers' pension insurance scheme is conditional upon the performance for a specified period of time of work consisting essentially of underground mining or coal extraction, the assessment and calculation of the pensions shall be based exclusively on periods of the said type of employment.

CHAPTER 3
SURVIVORS' PENSIONS

Article 25

In determining the amount of widows' pension which in accordance with German regulations is payable under the German pension insurance schemes to the widows of Danish or German nationals in the Federal Republic of Germany the periods of residence completed in the Kingdom of Denmark by the deceased husband after attaining the age of twenty-one years shall be credited :

- (a) towards the completion of the qualifying period if the time spent by the deceased husband in the German pension insurance scheme can be shown to have been not less than 52 contribution weeks or 12 contribution months, which periods must, in the case of a Danish national, have been completed immediately before the date of death;
- (b) towards the maintenance of prospective rights, on condition that the said periods do not overlap with periods of insurance under the German pension insurance schemes.

Article 26

Widows' pensions payable in accordance with article 25 under the German pension insurance schemes shall be calculated as follows :

1. Benefits or portions of benefits which are independent of the length of the insurance period shall be calculated in accordance with the German regulations and awarded in full.
2. Supplements shall be awarded in accordance with the German regulations only in respect of the periods of insurance completed under the German pension insurance schemes.

Article 27

In the assessment and calculation of the pensions which in accordance with German regulations are payable under the German pension insurance schemes to the children of widows or widowers and to orphans, the provisions of articles 25 and 26 shall apply except that supplements shall also be awarded, in accordance with the provisions of article 17, paragraph (1), sub-paragraph 2, item (b), in respect of the deceased parent's periods of residence in the Kingdom of Denmark.

Article 28

A child, being the child of a German widow or widower or an orphan whose parents were German, living in the Kingdom of Denmark, shall receive the assistance prescribed by Danish law for such a child if the deceased parent resided in the Kingdom of Denmark for not less than one year immediately preceding the date of death.

Article 29

Short interruptions in the periods of residence mentioned in articles 18, 22 and 28 shall be disregarded.

PART V

GENERAL AND MISCELLANEOUS PROVISIONS

CHAPTER I

SCOPE OF THE AGREEMENT

Article 30

(1) For the purposes of this Agreement a person shall be deemed to be a Danish or German national if he is generally treated as such.

(2) Unless otherwise provided in a supplementary agreement, the insurance institutions in the Federal Republic of Germany shall assume liability for current and prospective rights which before 8 May 1945 originated under the German accident insurance scheme or the German pension insurance schemes or were transferred before that date to these insurance schemes from the insurance schemes of other States, as follows :

1. in accident insurance, a current right arising out of an industrial accident or occupational disease which occurred in the territory of the Federal Republic of Germany or on board a sea-going ship which had its home port in that territory and sailed under the German flag; this shall also include cases which arose before the establishment of the Federal Republic of Germany. The foregoing provision shall include an industrial accident or occupational disease which although connected with employment in the territory of the Federal Republic of Germany occurred outside that territory.

2. in pension insurance, a current or prospective right relating to :
- (a) contribution periods and equivalent periods completed in the territory of the Federal Republic of Germany, including those completed before the establishment of the Federal Republic of Germany;
 - (b) such contribution periods and equivalent periods completed under the German pension insurance schemes outside the territory of the Federal Republic of Germany as must be taken into account in the case of an insured person resident in the territory of the Federal Republic of Germany, provided that :
 - (aa) the insured person, during his participation in the German pension insurance schemes, was last compulsorily insured in the territory of the Federal Republic of Germany or was in most respects compulsorily or voluntarily insured in that territory; or that
 - (bb) the contribution periods and equivalent periods had, before the coming into force of this Agreement, already been taken into account in connexion with a benefit awarded by an insurance institution established in the territory of the Federal Republic of Germany.

CHAPTER 2

TRANSFER OF PAYMENTS — CONVERSION OF CURRENCIES

Article 31

(1) The insurance institutions required under this Agreement to grant benefits shall be held to discharge their obligations validly by making payment in the currency of their country.

(2) Transfers for the purpose of payments under this Agreement shall be treated as current payments and be effected in accordance with the relevant payment agreements between the two Contracting States in force at the time of the transfer. The same shall apply to transfers to a third State if a payment agreement exists with that State.

(3) Where the provisions of one Contracting State make payments abroad conditional upon compliance with certain formalities, the provisions applicable to nationals shall similarly apply to the persons to whom and the institutions by which a payment is to be made under this Agreement.

(4) The supreme administrative authorities of the two Contracting States shall come to an agreement as regards the payment of cash benefits under the pension insurance schemes and the payment of pensions and death grants under

the accident insurance scheme in cases where such payments must be made by an insurance institution of one Contracting State to a beneficiary in the other State, and, in particular, as regards reciprocal reimbursement and the issuing of payment orders.

Article 32

Where, in determining the amount of a claim under the social insurance system of one Contracting State, allowance must be made for a social insurance benefit or other payment from the other State expressed in the currency of that State, the amount so expressed shall, subject to the clearing regulations for the time being in force in each State, be converted in accordance with those provisions of the payment agreement for the time being in force between the two States by which transfers under social insurance are governed.

CHAPTER 3

ADMINISTRATIVE ASSISTANCE

Article 33

(1) The public authorities and the social insurance institutions and federations of the two Contracting States shall, for the purpose of giving effect to this Agreement, afford each other such assistance as would be provided in giving effect to their own social insurance legislation. Such reciprocal assistance shall be free of charge.

(2) Medical examinations which are required for the purposes of the social insurance system of one Contracting State and affect persons in the other State shall, at the request and on behalf of the insurance institution responsible for the examination, be arranged by the insurance institution of the State in which the persons to be examined are resident. The supreme administrative authorities of the two Contracting States may enter into an agreement regarding reimbursement of costs.

Article 34

(1) The exemption from taxes and fees provided for in the legislation of one Contracting State in respect of documents to be produced to the public authorities and social insurance institutions of that State shall be extended to the documents to be produced for the purposes of this Agreement to the corresponding agencies of the other State.

(2) All certificates, documents and papers to be produced for the purposes of this Agreement shall be exempt from authentication or legalization by diplomatic or consular authorities.

Article 35

(1) The public authorities, courts and social insurance institutions and federations of the two Contracting States may, for the purposes of this Agreement, communicate directly and in the official language of their country with each other and with the insured persons and their representatives.

(2) An application submitted to a public authority, court or social insurance institution or federation of one Contracting State, as well as any other paper required for the administration of social insurance, may not be rejected on the ground that it is drawn up in the official language of the other State.

Article 36

The diplomatic and consular authorities of the two Contracting States may, without special authorization, represent beneficiaries of their own State in dealings with all public authorities, courts and social insurance institutions of the other State.

Article 37

(1) A claim submitted to an insurance institution or other appropriate agency of one Contracting State shall have the same effect as a claim submitted to an insurance institution or other appropriate agency of the other State.

(2) An appeal required to be lodged within a specified time-limit with an agency of one Contracting State competent to receive appeals shall be deemed to have been submitted in time if it is lodged within the same time-limit with a corresponding agency of the other State. In such cases the latter agency shall without delay transmit the appeal to the competent agency. If the agency with which the appeal is lodged does not know which agency is competent, the transmission may be effected through the supreme administrative authorities of the two Contracting States.

CHAPTER 4

IMPLEMENTATION AND INTERPRETATION OF THE AGREEMENT

Article 38

(1) The supreme administrative authorities of the two Contracting States shall mutually agree on the measures required for the implementation of this Agreement in so far as such measures require mutual agreement. They may in particular make agreements concerning :

1. the establishment in both States of liaison offices which shall facilitate the implementation of the Agreement and be in direct communication with each other;
2. the medical and administrative supervision of persons entitled to benefit.

If liaison offices are established, the liaison office in the Federal Republic of Germany competent to deal with wage-earners' pension insurance (*Invalidenversicherung*), salaried employees' pension insurance (*Angestelltenversicherung*) and mineworkers' pension insurance may also deal with claims for benefit submitted under part IV of this Agreement unless the Federal Railway Insurance Institution (*Bundesbahnversicherungsanstalt*) or the Seamen's Fund (*Seekasse*) is competent to deal with such claims. An appeal against a decision of these agencies lodged by a beneficiary resident outside the Federal Republic of Germany shall be dealt with by the superior insurance board (*Oberversicherungsamt*) in whose district the head office of the agency whose decision is appealed against is situated.

(2) The supreme administrative authorities shall also keep each other currently informed of changes in the social security provisions of their respective States.

(3) The public authorities and social insurance institutions and federations of the two Contracting States shall inform each other of all measures taken by them for the implementation of this Agreement.

Article 39

(1) Disputes concerning the interpretation or application of this Agreement shall be settled jointly by the supreme administrative authorities of the two Contracting States.

(2) If a dispute cannot be settled in this manner, it shall, at the request of either Contracting State, be submitted to an arbitration tribunal.

(3) The arbitration tribunal shall be specially constituted for each separate case through the appointment by the Contracting States of one representative each, both of whom shall then jointly choose a national of a third State as chairman. If the representatives and the chairman have not been appointed within three months after a Contracting State has given notice of its intention to have recourse to the arbitration tribunal, either Contracting State may, if no other procedure has been agreed upon, request the President of the International Court of Justice at the Hague to make the necessary appointments. In the event that the President is a national of one of the Contracting States or is otherwise prevented from exercising this function, the necessary appointments shall be made by his official deputy.

(4) The arbitration tribunal shall base its decision on this Agreement, with due regard for the generally recognized principles of law.

(5) The decisions of the arbitration tribunal shall be by a majority vote. The decisions shall be binding. Each Contracting State shall bear the costs relating to its representative. The remaining costs shall be divided equally between the two Contracting States. As regards all other matters, the arbitration tribunal itself shall decide on its procedure.

Article 40

If contributions have been paid to an insurance institution of one Contracting State when they should have been paid to an insurance institution of the other State, the first institution shall be deemed to be the competent institution until the question of competence has been determined by mutual agreement or a dispute concerning the question of competence has been finally decided under article 39. Such determination by agreement or such decision shall apply only to insurance contributions falling due in the future and to the occurrence in the future of the contingencies insured against.

Article 41

(1) In the case of a dispute between the public authorities or social insurance institutions of the two States as to the law of which State is applicable, the beneficiary shall be awarded a provisional benefit until such time as the dispute has been settled under article 39 or 40.

(2) The provisional benefit shall be payable by the insurance institution in which the claimant was last insured or, in case of doubt, by the insurance institution to which the claim was first submitted.

(3) This institution shall award to the beneficiary by way of provisional benefit the benefit for which the institution would be liable under the provisions by which it is governed.

(4) The insurance institution finally liable for benefit shall repay in a lump sum the expenses incurred by the insurance institution which awarded the provisional benefit. Where the amount received by the beneficiary by way of provisional benefit is larger than the permanent benefit to which he is entitled for the period in question, the insurance institution finally liable for benefit shall deduct the difference from the amount of benefit still to be paid, the deduction not to exceed one-third the amount of any particular benefit payment.

Article 42

The provisions of the two Contracting States concerning the right of insured persons and their employers to elect, or run as, candidates for office in a social insurance organ or a federation of such organs or in a public authority concerned with social insurance shall not be affected by the provisions of article 2.

Article 43

For the purposes of this Agreement the supreme administrative authorities are :

In the Kingdom of Denmark, the Minister of Labour and Social Affairs;
In the Federal Republic of Germany, the Federal Minister of Labour.

PART VI

TRANSITIONAL AND FINAL PROVISIONS

Article 44

(1) The provisions of this Agreement shall also apply where the contingency insured against occurred before the coming into force of the Agreement; nevertheless, benefits shall be awarded only to the extent that they become due after the coming into force of the Agreement. In the application of this Agreement, consideration shall also be given to contribution periods and equivalent periods completed before its coming into force as well as to such periods of residence in the Kingdom of Denmark, completed before its coming into force as under the provisions of the Agreement are to be taken into account.

(2) Benefits payable under this Agreement which before its coming into force were unpaid or in suspense because the beneficiary was not resident in the territory of the Contracting State in which the insurance institution liable for the benefit is situated shall be awarded upon application. Benefits assessed before the coming into force of this Agreement and falling due thereafter shall, upon application, be reassessed in accordance with the provisions of this Agreement; they may also be reassessed on the initiative of the authorities; the legal effect of earlier decisions shall not prevent such reassessment. If the application is submitted within two years after the coming into force of the Agreement, the benefit shall be awarded or reassessed with effect from the coming into force of the Agreement; and if submitted later, with effect from the first day of the month following the date on which the application is submitted. A reassessment on the initiative of the authorities shall have effect from the first day of the month following the reassessment.

(3) Unless otherwise provided in a supplementary agreement, benefits based on the provisions of this Agreement shall not be awarded in respect of periods preceding the coming into force of the Agreement.

(4) The provisions of paragraph (1), first sentence, and of paragraph (2) shall not apply to sickness insurance benefits.

Article 45

In the application of this Agreement, the fact that a period of limitation or a time-limit has expired may not be invoked if the necessary claims have been submitted within one year after the coming into force of the Agreement. This provision shall not affect the provision of article 44, paragraph (2), third sentence.

Article 46

This Agreement shall also apply to the Land Berlin unless the Government of the Federal Republic of Germany makes a declaration to the contrary to the Government of the Kingdom of Denmark within three months after the coming into force of the Agreement.

Article 47

(1) This Agreement is concluded for a period of one year from the date of its coming into force. It shall be deemed to be extended from year to year unless it is denounced in writing by the Government of either Contracting State not less than three months before the expiry of the yearly period.

(2) In the event of denunciation, the provisions of this Agreement shall continue to apply as regards rights already acquired; these rights shall not be affected by any provisions restricting the granting of insurance benefits in the event of residence abroad.

(3) The provisions of this Agreement shall, as will be provided in a supplementary agreement, continue to be applicable after its cessation to rights in process of acquisition up to that time.

Article 48

(1) This Agreement shall be ratified and the instruments of ratification shall be exchanged at Bonn as soon as possible.

(2) This Agreement shall come into force on the first day of the second month following that in which the instruments of ratification are exchanged.

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

Done in duplicate at Copenhagen on 14 August 1953, in the Danish and German languages, both texts being equally authentic.

For the Kingdom of Denmark :
(Signed) Helga PEDERSEN
[L.S.]

For the Federal Republic of Germany :
(Signed) Anton STORCH
[L.S.]

FINAL PROTOCOL

At the moment of signing the Agreement concerning social security concluded this day between the Kingdom of Denmark and the Federal Republic of Germany, the plenipotentiaries of the two Contracting States jointly declare that agreement has been reached on the following :

1. The Agreement shall apply to Danish and German nationals and to persons generally treated as such.

2. For the purposes of the Agreement, an insured person is a person who, under the legislation of either Contracting State and in accordance with the provisions of the Agreement, is entitled to benefit on the ground of his own, or another person's insurance status.

3. The application of the provisions of article 3, paragraph (2), of the Agreement to pension insurance shall be regulated by a special agreement between the Contracting States.

4. Assistance to the child of a widow or a widower or to an orphan as provided in article 28 of the Agreement shall include the benefits provided for in paragraphs 219 to 223, and 225 to 230, of the Danish Public Assistance Act of 20 May 1933.

5. For the purposes of the Agreement, voluntary insurance means voluntary self insurance or voluntary continued insurance under the social insurance system of either Contracting State.

6. As regards the application of the Agreement in the Land Berlin, the following shall apply :

(a) The functions of the insurance institutions in the Federal Republic of Germany referred to in article 30, paragraph (2), shall be exercised by the competent accident and pension insurance institutions of the Land Berlin.

(b) For the purposes of article 30, paragraph (2), subparagraph 2, item (a), taken in conjunction with article 46, of the Agreement, contribution periods and equivalent periods completed under the pension insurance schemes in the Land Berlin shall be understood to refer :

Up to 30 June 1945, to periods of membership in the authorized institutions for wage-earners' pension insurance and salaried employees' pension insurance;

From 1 July 1945 to 31 January 1949, to periods of membership in the Insurance Institution of Berlin (*Versicherungsanstalt Berlin*);

From 1 February 1949 to 31 March 1952, to periods of membership in the Insurance Institution of Berlin-Wilmersdorf (*Versicherungsanstalt Berlin-Wilmersdorf*);

From 1 April 1952 onwards, to periods of membership in the Insurance Institution of the Land Berlin (*Landesversicherungsanstalt Berlin*).

(c) For the purposes of article 30, paragraph (2), sub-paragraph 2, item (b), sub-item (bb) taken in conjunction with article 46, of the Agreement, insurance institutions established in the Land Berlin shall be those insurance institutions which for the designated periods are referred to in paragraph (b) of the present article.

(d) The Federal Insurance Institution for salaried Employees (*Reichsversicherungsanstalt für Angestellte*), the Federal Mineworkers' association (*Reichsknappschaft*) and the Insurance Institution of the Land Brandenburg (*Landesversicherungsanstalt Brandenburg*) shall not be regarded as insurance institutions established in the territory of the Federal Republic of Germany or of the Land Berlin for the purposes of article 30, paragraph (2), sub-paragraph 2, item (b), sub-item (bb), taken in conjunction with article 46, of the Agreement.

7. The Government of the Kingdom of Denmark shall so apply the Act of 30 March 1946 concerning the confiscation of German and Japanese assets that rights under this Agreement are not affected.

8. For the purposes of part II of the Agreement, membership in the Danish sickness insurance scheme shall include both contributing and full membership.

9. A deferred allowance under the Danish pension insurance scheme shall be paid to a German national in consideration of periods of residence in Denmark completed before the coming into force of the Agreement and after the attainment of the sixty-fifth year of age only if, and to such extent as, the German national was gainfully employed.

10. The average annual income referred to in article 17, paragraph (1), sub-paragraph 2, item (b), of the Agreement shall for the time being be set at three thousand German marks.

11. Short interruptions as referred to in article 29 of the Agreement mean, in the case of periods of residence of not less than fifteen years or not less than five years, interruptions no one of which exceeds four months, and, in the case of periods of residence of not less than one year, interruptions no one of which exceeds one month. In both cases a somewhat longer interruption may, if there are special reasons for doing so, be regarded as a short interruption. In this connexion, account shall be taken of the total length of time spent in the country of residence and of the reasons why the period of residence was interrupted.

12. Upon the expiration of a suitable period of time, the Governments of the two Contracting States propose to review the effects of part IV of the Agreement or of particular provisions of that part and especially those of article 17, paragraph (3), and of article 21, and in the light of the results of that review to

adapt or modify the Agreement if it appears to be working to the disadvantage of one Contracting State or to be unintentionally imposing hardship on the beneficiaries of either Contracting State.

The supreme administrative authorities of the two Contracting States shall agree on the data that will be required for the review of the financial effects of the Agreement.

13. The Government of the Federal Republic of Germany has expressed the desire to the Government of the Kingdom of Denmark that the question of paying Danish old-age and invalidity pensions to beneficiaries in the Federal Republic of Germany or in third States should be taken up at the earliest possible time. The representatives of the Government of the Kingdom of Denmark have taken note of this desire and have indicated that the question will be taken up in due course.

14. The Governments of the two Contracting States agree that an agreement between the two States on unemployment insurance is to be concluded as soon as possible.

15. The provisions of the "Supplementary Agreement to the Agreement of 14 August 1953 between the Kingdom of Denmark and the Federal Republic of Germany concerning social security, with regard to the award of pensions for the period preceding the coming into force of the Agreement and to special regulations for certain groups of persons" shall apply as appropriate to the payment of supplementary pensions effected before 8 May 1945 under section B of the former pension fund of the Prussian-Hessian Railway Company, now section B of the Federal Railway Insurance Institution. The powers of the supreme administrative authorities shall for the Federal Republic of Germany be exercised by the Federal Minister of Transport.

This Final Protocol shall form part of the Agreement between the Kingdom of Denmark and the Federal Republic of Germany concerning social security and shall have effect subject to the same conditions and for the same period as the Agreement.

DONE in duplicate at Copenhagen on 14 August 1953, in the Danish and German languages, both texts being equally authentic.

For the Kingdom of Denmark :

(Signed) Helga PEDERSEN

For the Federal Republic of Germany :

(Signed) Anton STORCH

SUPPLEMENTARY AGREEMENT TO THE AGREEMENT OF 14 AUGUST 1953 BETWEEN THE KINGDOM OF DENMARK AND THE FEDERAL REPUBLIC OF GERMANY CONCERNING SOCIAL SECURITY, WITH REGARD TO THE AWARD OF PENSIONS FOR THE PERIOD PRECEDING THE COMING INTO FORCE OF THE AGREEMENT AND TO SPECIAL REGULATIONS FOR CERTAIN GROUPS OF PERSONS

His Majesty the King of Denmark and the President of the Federal Republic of Germany have agreed to conclude this Supplementary Agreement for the purpose of giving effect to the Agreement of 14 August 1953 between the Kingdom of Denmark and the Federal Republic of Germany concerning social security and have for this purpose appointed as their plenipotentiaries :

His Majesty the King of Denmark :

Miss Helga Pedersen, Minister of Justice;

The President of the Federal Republic of Germany :

Mr. Anton Storch, Federal Minister of Labour;

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

PART I

ACCIDENT INSURANCE

Article 1

With regard to the period before the Agreement of 14 August 1953 between the Kingdom of Denmark and the Federal Republic of Germany concerning social security — hereinafter referred to as the Agreement — comes into force, accident insurance pensions (Insurance against industrial accidents and occupational diseases), including lump sums and daily cash benefits payable under Danish law shall be awarded to Danish and German nationals resident in either Contracting State, in accordance with the provisions applicable to the insurance institution responsible for the assessment of the pensions.

PART II

PENSION INSURANCE

Article 2

Persons who either :

(a) acquired Danish nationality under article 112 of the Treaty of Versailles,

or

(b) opted for Denmark under article 113 of the Treaty of Versailles, and who before 8 May 1945 became entitled to pension benefits under the German

salaried employees' pension insurance scheme shall be paid a pension in accordance with the provisions applicable to the German insurance institution concerned. The same shall apply to insured persons or their survivors where the conditions for the payment of a pension under the German salaried employees' pension insurance scheme were fulfilled before the coming into force of the Agreement or become fulfilled through the retroactive payment of contributions, but where the amount of the pension has not yet been assessed.

Article 3

The persons referred to in article 2 who maintained their prospective rights in the German salaried employees' pension insurance scheme up to 8 May 1945 may pay contributions retroactively so as to continue to maintain such rights for periods beyond 8 May 1945 up to the date on which this Supplementary Agreement comes into force or, if the contingency insured against occurred before that date, up to the date of such contingency. The retroactive contributions may only be paid within a time-limit of two years after the coming into force of this Supplementary Agreement. With regard to periods subsequent to 1 June 1949, contributions may also be paid for the purpose of increasing the amount of pension.

Article 4

The provisions of part IV, article 30, paragraph (2), sub-paragraph 2, and of article 44 of the Agreement shall not apply to the persons referred to in articles 2 and 3 hereof.

Article 5

Danish nationals who within the period from 1 September 1939 up to the coming into force of the Agreement removed from the Federal Republic of Germany to the Kingdom of Denmark and who before 8 May 1945 became entitled to pension benefits under the German pension insurance schemes shall be paid a pension in accordance with the regulations applicable to the German insurance institution concerned. The same shall apply to insured persons or their survivors where the conditions for the payment of a pension under the German pension insurance schemes were fulfilled before the coming into force of the Agreement or became fulfilled through the retroactive payment of contributions, but where the amount of the pension has not yet been assessed.

Article 6

The persons referred to in article 5 who maintained their prospective rights in the German pension insurance schemes up to the time of their removal to the Kingdom of Denmark may pay contributions retroactively so as to continue

to maintain such rights for periods subsequent to their removal from the Federal Republic of Germany up to the date on which this supplementary Agreement comes into force or, if the contingency insured against occurred before that date, up to the date of such contingency. The provisions of article 3, second and third sentences, shall apply.

Article 7

The provisions of part IV and of article 44 of the Agreement shall not apply to the persons mentioned in articles 5 and 6 hereof in respect of the period before the coming into force of the Agreement. After that time the Agreement shall have full effect.

PART III GENERAL PROVISIONS

Article 8

The provisions of the Agreement between the Kingdom of Denmark and the Federal Republic of Germany concerning social security and the arrangements made to implement or supplement that Agreement shall be applicable except as otherwise provided in this Supplementary Agreement.

Article 9

(1) Supplements to and increases in pensions shall be granted also for the period before the coming into force of the Agreement, in accordance with the provisions for the time being in force in the State concerned.

(2) Payments for the period before 1 June 1948 shall be effected at the rate of 1 Deutschemark to 10 Reichsmark.

(3) Where a person entitled to a pension dies before receiving the pension, the provisions in force in the State concerned shall apply to entitlement to the payment of pension arrears and to the procedure subsequently to be followed; the provisions of article 37 of the Agreement shall apply accordingly. Where an insured person or a person entitled to a widow's or widower's pension has died before the coming into force of the Agreement without having submitted an application for the pension, the pension application shall be deemed to have been submitted in the month in which the contingency is proved to have occurred. Payments to bodies corporate shall not be awarded for the period before the coming into force of the Agreement.

Article 10

(1) The benefits shall be assessed upon application or, in the case of accident insurance, on the initiative of the authorities. The legal effect of previous decisions shall not be a bar hereto. The pension benefits shall, notwithstanding

the provisions of the present Agreement, be granted as from the time prescribed by the regulations in force in the State concerned but in no case for periods earlier than 1 July 1945. Where a beneficiary did not submit an application for pension benefits before the coming into force of the Agreement, the application shall be deemed to have been submitted in the month in which the contingency is proved to have occurred. Where the benefits are not assessed on the initiative of the authorities, an application for assessment of the benefits may be submitted within a period of two years after the coming into force of the Agreement.

(2) Pension applications shall be submitted to the appropriate liaison office referred to in the administrative agreement concluded under the Agreement and situated in the Contracting State in which the applicant is resident.

Article 11

Transfers made under this Supplementary Agreement shall be treated as current payments in accordance with article 31, paragraph (2), of the Agreement. The same shall apply to pension payments which have already been deposited by the insurance institution concerned to the blocked account of a beneficiary.

PART IV

FINAL PROVISIONS

Article 12

The supreme administrative authorities of the two Contracting States may come to an agreement on the measures required for the implementation of this Supplementary Agreement.

Article 13

(1) This Supplementary Agreement shall be ratified and the instruments of ratification shall be exchanged at Bonn as soon as possible.

(2) This Supplementary Agreement shall take effect at the same time, and be valid for the same period, as the Agreement.

IN WITNESS WHEREOF the undersigned have signed this Supplementary Agreement and have thereto affixed their seals.

DONE in duplicate at Copenhagen on 14 August 1953, in the Danish and German languages, both texts being equally authentic.

For the Kingdom of Denmark :

(Signed) Helga PEDERSEN
[L.S.]

For the Federal Republic of Germany :

(Signed) Anton STORCH
[L.S.]