

No. 3335

NETHERLANDS
and
FEDERAL REPUBLIC OF GERMANY

Convention respecting unemployment insurance (with Final Protocol). Signed at The Hague, on 29 October 1954

Administrative Agreement for carrying out the above-mentioned Convention. Signed at The Hague, on 29 October 1954

Official texts: Dutch and German.

Registered by the Netherlands on 30 April 1956.

PAYS-BAS
et
RÉPUBLIQUE FÉDÉRALE D'ALLEMAGNE

Convention relative à l'assurance-chômage (avec Protocole final). Signée à La Haye, le 29 octobre 1954

Accord technique pour l'application de la Convention susmentionnée. Signé à La Haye, le 29 octobre 1954

Textes officiels néerlandais et allemand.

Enregistrés par les Pays-Bas le 30 avril 1956.

[TRANSLATION¹ — TRADUCTION]

No. 3335. CONVENTION² BETWEEN THE KINGDOM OF THE NETHERLANDS AND THE FEDERAL REPUBLIC OF GERMANY RESPECTING UNEMPLOYMENT INSURANCE. SIGNED AT THE HAGUE, ON 29 OCTOBER 1954

In accordance with articles 2 and 29, paragraph 1, of the Convention of 29 March 1951,³ between the Kingdom of the Netherlands and the Federal Republic of Germany respecting social insurance and in accordance with sub-paragraph 3 of its Final Protocol, the following Convention in the form of an Additional Agreement has been concluded respecting unemployment insurance, including also social assistance for unemployed workers.

TITLE I

GENERAL PROVISIONS

Article 1

(1) The legislation to which this Convention applies is as follows :

In the Kingdom of the Netherlands, that on :

- (a) unemployment insurance (Unemployment Act) ;
- (b) social assistance for unemployed workers.

In the Federal Republic of Germany, that on :

- (a) unemployment insurance ;
- (b) unemployment assistance.

(2) This Convention shall also apply to all legislative and other enactments amending or supplementing the legislation listed in paragraph (1) of this article : Provided that it shall only apply to legislative and administrative enactments extending the existing law to new categories of persons if the Government of one contracting State lodges no objection with the Government of the other contracting State within three months from the date of the official publication of the enactment.

(3) The benefits under the legislation mentioned in paragraph (1) shall be deemed to include any supplements paid out of public funds for the same purpose, without limitation of their amount.

¹ Translation by the International Labour Office (International Labour Office, *Legislative Series* 1954-Int. 4, March-April 1956), with the exception of the preamble and the last two paragraphs of the Convention and the text of the Final Protocol.

² Came into force on 1 April 1956, in accordance with article 13.

³ United Nations, *Treaty Series*, Vol. 149, p. 71.

Article 2

The Social Insurance Convention of 29 March 1951 shall not apply to the legislation referred to in article 1 unless the contrary is expressly stated in this Convention.

Article 3

Save as otherwise provided in this Convention, German nationals in the Kingdom of the Netherlands and Netherlands nationals in the Federal Republic of Germany shall be subject to the legislation set out in article 1 of this Convention.

They shall have the same rights and obligations as the nationals of the State in which they are resident.

TITLE II

PROVISIONS SPECIFICALLY RELATING TO UNEMPLOYMENT INSURANCE

Article 4

The provisions of paragraphs (1), (2) and (4) of article 4 of the Social Insurance Convention of 29 March 1951 shall apply, *mutatis mutandis*, as regards the scope of compulsory insurance and the obligation to pay contributions.

Article 5

(1) For the purpose of ascertaining the right to benefit, all periods of employment which are to be taken into consideration by the insurance carrier in one of the two contracting States shall likewise be taken into consideration by the insurance carrier of the other contracting State.

(2) Subject to the provisions of paragraph (1) of article 8, the duration of employment required in order to claim benefit shall be that specified in the law of the contracting State in which the claim is made.

Article 6

(1) The duration and rate of unemployment benefit and the procedure for awarding it shall normally be determined by the law of the contracting State in which the unemployed person claims benefit.

(2) In determining the duration of benefit, any periods of receipt of benefit in the other contracting State shall be taken into account. The manner of counting such periods shall be prescribed by administrative agreement.

(3) Where benefit is based on the remuneration previously earned, remuneration from employment in the other contracting State shall be taken into account at the rate of exchange in force on the date of the claim.

Article 7

(1) Nationals of either contracting State who are covered by Netherlands unemployment insurance but :

(a) are domiciled and actually resident in the Federal Republic of Germany, and

(b) had previously acquired the right to unemployment benefit in the Kingdom of the Netherlands when they were domiciled and actually resident there (regardless of the duration of employment required for such entitlement),

shall, as regards unemployment insurance benefit, enjoy the same rights and be subject to the same obligations during unemployment as involuntarily unemployed persons entitled to unemployment benefits under German law.

(2) Nationals of either contracting State who are covered by German unemployment insurance but—

(a) are domiciled and actually resident in the Kingdom of the Netherlands, and

(b) had previously acquired the rights to unemployment benefit in the Federal Republic of Germany when they were domiciled and actually resident there (regardless of the duration required for such entitlement),

shall, as regards unemployment insurance benefit, enjoy the same rights and be subject to the same obligations during unemployment as involuntarily unemployed persons entitled to unemployment benefit payable by the Netherlands General Unemployment Fund.

(3) In the cases referred to in paragraphs (1) and (2), paragraph (2) of article 5 shall apply.

(4) Notwithstanding paragraphs (1) and (2), any person covered by this article who, on account of lack of work, has been employed in a given calendar week for less than the number of hours normally worked at this place of employment, and suffers a loss of remuneration for this reason, shall receive benefit from the insurance carrier of the State in which he is employed, in accordance with the law of that State, subject to the conditions as to domicile and actual residence being fulfilled.

Article 8

(1) If a national of one of the two contracting States moves to the territory of the other contracting State while he is in receipt of unemployment benefit, the

conditions for entitlement to benefit in the latter State shall be deemed to be fulfilled if the competent carrier in this State previously authorised the move.

(2) The duration and rate of benefit and all other rights and obligations shall be determined in accordance with the law applying to employed persons in the latter State. The provisions of paragraph (2) of article 6 shall apply in this case.

TITLE III
COMMON PROVISIONS

Article 9

No settlement of accounts in respect of contributions and benefits shall take place between the two contracting States.

Article 10

The provisions of article 20 (1) and (2), article 22, article 23 (1) to (3), articles 24 to 31, and articles 35 and 36 of the Social Insurance Convention of 29 March 1951 shall apply, *mutatis mutandis*.

Article 11

The supreme administrative authorities of the two contracting States shall agree between themselves upon the detailed rules for carrying out this Convention, in so far as these require mutual agreement.

TITLE IV
CONCLUDING PROVISIONS

Article 12

(1) This Convention is concluded for a period of one year from the date of its coming into force. It shall continue in force from year to year unless it is denounced by the Government of one of the contracting States three months before the expiration of the current period.

(2) In the event of denunciation the provisions of this Convention shall continue to apply in relation to rights already acquired, but only for one year after the date of its expiration.

Article 13

(1) This Convention shall be subject to ratification. The instruments of ratification shall be exchanged in Bonn as soon as possible.

(2) This Convention shall come into force on the first day of the second month following the exchange of the instruments of ratification.

IN WITNESS WHEREOF, the undersigned, having communicated their full powers, found in good and due form, have signed the present Convention and have thereto affixed their seals.

DONE at The Hague on 29 October 1954, in duplicate, in Dutch and German, both texts being equally authentic.

For the Kingdom of the Netherlands : For the Federal Republic of Germany :

(Signed) J. W. BEYEN

(Signed) Anton STORCH

(Signed) J. LUNS

(Signed) J. G. SUURHOFF

FINAL PROTOCOL

At the moment of signing the Convention between the Kingdom of the Netherlands and the Federal Republic of Germany respecting unemployment insurance, the plenipotentiaries of the High Contracting Parties declare that agreement has been reached on the following :

1. Sub-paragraphs 1, 4, 5 and 6 of the Final Protocol of the Convention concerning social insurance of 29 March 1951 shall be considered an integral part of the present Final Protocol.

2. The Convention and agreements for its completion, modification and execution shall also apply to the *Land* Berlin, unless the Government of the Federal Republic of Germany notifies the Government of the Kingdom of the Netherlands formally to the contrary within a period of three months after the exchange of the instruments of ratification.

3. When fixing the period in occupations subject to insurance necessary for a claim to unemployment benefit account shall also be taken of occupations subject to insurance which were exercised in the other Contracting State before the coming into force of the Convention.

4. Authorization to move to the other Contracting State in accordance with article 8 of the Convention may be granted if its refusal would result in unreasonable hardship.

5. If a person who receives unemployment benefit in the Federal Republic of Germany is entitled to claim family allowances for relatives who reside in the Kingdom of the Netherlands, then section 175, paragraph 3 of the German Labour Exchange and Unemployment Insurance Act shall apply.

This Final Protocol shall form an integral part of the Convention of this day's date between the Kingdom of the Netherlands and the Federal Republic of Germany concerning unemployment insurance. It shall have effect subject to the same conditions and for the same period as the Convention itself.

DONE at The Hague on 29 October 1954, in duplicate, in Dutch and German, both texts being equally authentic.

For the Kingdom of the Netherlands : For the Federal Republic of Germany :

(Signed) J. W. BEYEN

(Signed) Anton STORCH

(Signed) J. LUNS

(Signed) J. G. SUURHOFF

[TRANSLATION — TRADUCTION]

ADMINISTRATIVE AGREEMENT¹ FOR CARRYING OUT THE CONVENTION OF 29 OCTOBER 1954² BETWEEN THE KINGDOM OF THE NETHERLANDS AND THE FEDERAL REPUBLIC OF GERMANY RESPECTING UNEMPLOYMENT INSURANCE. SIGNED AT THE HAGUE, ON 29 OCTOBER 1954

In accordance with articles 11 and 6, paragraph 2, of the Convention of 29 October 1954² between the Kingdom of the Netherlands and the Federal Republic of Germany respecting unemployment insurance—hereinafter referred to as “the Convention”—the competent authorities of the two Contracting States, namely :

For the Kingdom of the Netherlands : the Minister of Social Affairs and Public Health,

For the Federal Republic of Germany : the Federal Minister of Labour, have agreed to the following for the purpose of carrying out the Convention :

Article 1

If an unemployed person claims benefit in the Kingdom of the Netherlands in accordance with article 5 of the Convention, then he must present to the competent industrial association (*bedrijfsvereniging*) a certificate from the German labour office (*Arbeitsamt*) which must contain the following particulars :

- a) The number of days he worked in an occupation subject to insurance during the 12 months preceding his unemployment ;
- b) The wages he last received for his employment ;
- c) His usual occupation and the occupation he exercised during the 12 months preceding his unemployment ;
- d) The daily rate and the total amount of benefit granted to him during the 12 months preceding his unemployment.

The certificate shall be granted in virtue of the work certificate (*Arbeitsbescheinigung*) by the labour office in the district in which the unemployed person had his last domicile or place of residence.

Article 2

1. If an unemployed person claims benefit in the Federal Republic of Germany in accordance with article 5 of the Convention, then he must present a certificate

¹ Came into force on 1 April 1956, in accordance with article 15.

² See p. 26 of this volume.

from the Dutch industrial association by which he was last insured, to the competent labour office which must contain the following particulars :

- a) The number of days he worked as a worker (*werknemer*) within the meaning of the Dutch Unemployment Insurance Act during the two years preceding his unemployment ;
- b) The wages he received for his last 78 working days ;
- c) The number of assistance days for which he received benefit during the 12 months preceding his unemployment.

2. If during the preceding 78 working days the unemployed person did not complete the number of hours of work customary at his place of work on account of a short working time (*Kurzarbeit*) within the meaning of article 7, paragraph 4 of the Convention, and therefore suffered a loss of remuneration, the certificate must show quite clearly the number of hours which he worked during the preceding 78 working days and the number of hours of work customary at his place of work.

Article 3

If an unemployed person claims unemployment benefit in one of the two Contracting States under articles 5 or 8 of the Convention, account shall be taken of the assistance days for which he received benefit in the other Contracting State during the 12 months preceding his unemployment, and in the case of article 8, also since the beginning of his unemployment, as if the benefit had been granted in respect thereof in virtue of the legislation of the first Contracting State, since the completion of the last waiting period (*Anwartschaft*) or respectively during the relevant assistance year. The days for which the unemployed person received no benefit unless the final date of expiration of benefit was thereby postponed shall also be reckoned as assistance days.

Article 4

The unemployment benefit to which they are entitled shall be granted to the persons mentioned in article 7 of the Convention on their request :

In the Kingdom of the Netherlands :

by the Nieuwe Algemene Bedrijfsvereniging at Amsterdam,

In the Federal Republic of Germany :

by the competent labour office of his domicile or place of residence.

Article 5

If an unemployed person claims unemployment benefit in the Kingdom of the Netherlands under article 7 of the Convention, he must submit to the Nieuwe

Algemene Bedrijfsvereniging a certificate in addition to the certificate mentioned in article 1 from the competent German labour office at his last place of work in which it is indicated that—except for the requirements of the duration of employment—he would have been entitled to unemployment benefit under German legislation, if he were resident in the Federal Republic of Germany.

Article 6

If an unemployed person claims unemployment benefit in the Federal Republic of Germany under article 7 of the Convention, he must submit to the competent labour office a certificate—in addition to the certificate mentioned in article 2—from the Nieuwe Algemene Bedrijfsvereniging in which it is indicated that—except for the requirements of the duration of employment—he would have been entitled to unemployment benefit under Dutch legislation, if he were resident in the Kingdom of the Netherlands.

Article 7

If a national of one of the two Contracting States claims benefit, in the Federal Republic of Germany, because of short working time under article 7, paragraph 4 of the Convention, he must produce evidence to his employer, by means of the relevant documents of his family status and of the other facts necessary for the grant of benefit.

Article 8

If a national of one of the two Contracting States wishes to move to the other Contracting State while he is in receipt of unemployment benefit, he can obtain the approval of the office which is competent for purposes of benefit in the other Contracting State through the competent office for benefit of the Contracting State in which he is resident. This office is bound to make clear to the unemployed person that he is not entitled to unemployment benefit from the competent office of the other Contracting States as long as this office has not given its approval.

Article 9

The competent office of the Contracting State to which the unemployed person wishes to move must communicate its decision on an application for approval of the grant of assistance in writing to the unemployed person and to the office of the other Contracting State which is competent to grant assistance.

Article 10

An unemployed person who applies for an approval in virtue of article 8 of the Convention must authenticate the requisite grounds by the relevant documents

and if he is emigrating for the purpose of joining members of his family he must obtain a certificate from the community in which the members of his family are resident.

Article 11

The denial of approval for the move is considered unreasonable hardship within the meaning of paragraph 4 of the Final Protocol, if :

- a) The unemployed person wishes to return to his home country ;
- b) If by the move a home should be established with near relatives or if the latter should thereby gain economic support ;
- c) If by continuing to remain at the place of residence or sojourn the unemployed person were to suffer a considerable disadvantage in his advancement.

Unreasonable hardship does not exist if the unemployed person is seeking above all to obtain the more favourable unemployment benefit of the other Contracting State.

Article 12

1. If the unemployed person receives approval to move to the territory of the Federal Republic of Germany, he must submit a certificate from the Dutch industrial association which must contain the following particulars :

- a) That he received unemployment benefit in accordance with the Dutch unemployment insurance legislations ;
- b) The wages he received for his last 78 working days ;
- c) The number of assistance days for which he received benefit during the 12 months preceding his unemployment and since the beginning of the unemployment.

Article 2, paragraph 2 of this Agreement shall be applied, *mutatis mutandis*.

2. If the unemployed person receives approval to move to the territory of the Kingdom of the Netherlands, he must submit a certificate from the German labour office which must contain the following particulars :

- a) That he has received unemployment benefit in accordance with the German unemployment insurance legislation ;
- b) The wages he last received ;
- c) His usual occupation and the occupation he exercised during the 12 months preceding his unemployment ;
- d) The daily rate and the total amount of benefit paid to him during the 12 months preceding his unemployment and since the beginning of his unemployment.

Article 13

If part of the unemployment benefit granted under the Final Protocol is to be paid by German labour offices to the members of the family of an unemployed

person who live in the Kingdom of the Netherlands payment shall be effected through the Office for German Affairs in Nijmegen.

Article 14

The forms necessary for carrying out the Convention and this Administrative Agreement shall be drawn up jointly by experts of both Contracting States. The experts shall be designated in each case by the competent authorities of the two Contracting States.

Article 15

This Administrative Agreement shall come into force at the same time as the Convention concerning unemployment insurance.

DONE at The Hague on 29 October 1954, in duplicate, in Dutch and German, both texts being equally authentic.

The Minister of Social Affairs
and Health :
(Signed) J. G. SUURHOFF

The Federal Minister of Labour :
(Signed) Anton STORCH