

No. 8305

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**LUXEMBOURG  
and  
PORTUGAL**

**Convention on social security (with Special Protocol).  
Signed at Luxembourg, on 12 February 1965**

*Official text : French.*

*Registered by Luxembourg on 29 August 1966.*

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**LUXEMBOURG  
et  
PORTUGAL**

**Convention sur la sécurité sociale (avec Protocole spécial).  
Signée à Luxembourg, le 12 février 1965**

*Texte officiel français.*

*Enregistrée par le Luxembourg le 29 août 1966.*

[TRANSLATION — TRADUCTION]

No. 8305. CONVENTION<sup>1</sup> BETWEEN LUXEMBOURG AND PORTUGAL ON SOCIAL SECURITY. SIGNED AT LUXEMBOURG, ON 12 FEBRUARY 1965

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His Royal Highness the Grand Duke of Luxembourg and

His Excellency the President of the Portuguese Republic,

Desiring to regulate relations between the two States in the matter of social security,

Have decided to conclude a convention on social security and, for this purpose, have appointed as their plenipotentiaries :

His Royal Highness the Grand Duke of Luxembourg :

Mr. Pierre Werner, Minister for Foreign Affairs,

Mr. Nicolas Biever, Minister of Labour, Social Security and Mining ;

His Excellency the President of the Portuguese Republic :

Mr. Eduardo Vieira Leitao, Ambassador Extraordinary and Plenipotentiary at Luxembourg,

Who, having exchanged their full powers, found in good and due form, have agreed on the following provisions :

TITLE I

GENERAL PROVISIONS

*Article 1*

1. This Convention shall apply :

1. In Luxembourg, to the legislation concerning :

(a) Sickness and maternity insurance for manual workers and employees ;

(b) Industrial accident and occupational disease insurance ;

(c) Unemployment benefits ;

(d) Family allowances (not including birth grants) ;

(e) Pension insurance for manual workers and persons in private employment ;

(f) Additional insurance for mine workers and for manual workers in the metallurgical industries.

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<sup>1</sup> Came into force on 1 July 1966, the first day of the month following the month in which the instruments of ratification were exchanged, in accordance with article 40. The exchange of the said instruments took place at Luxembourg on 22 June 1966.

2. In Portugal, to the legislation concerning :

- (a) The general system of insurance against sickness, maternity, invalidity, old age and death ;
- (b) Industrial accidents and occupational diseases ;
- (c) The special welfare schemes for certain categories of persons relating to the matters specified above ;
- (d) Family allowances ;
- (e) Unemployment.

2. The Convention shall also apply to all laws or regulations which amend, supplement or codify the legislation specified in paragraph 1 of this article.

### *Article 2*

1. The provisions of this Convention shall apply to employed persons or persons treated as such who are or have been subject to the legislation of one of the Contracting Parties and are nationals of one of the Parties, and to the members of their families and their survivors.

For the purpose of this Convention, the term " employed person " means both employees and manual workers.

2. Nationals of one of the Contracting Parties to whom the provisions of this Convention apply shall be subject to the requirements and entitled to the advantages of the legislation specified in article 1 on the same conditions as nationals of the other Party.

3. Luxembourg or Portuguese nationals resident in Portugal or Luxembourg may be allowed to continue voluntary or optional insurance under the legislation specified in article 1 on the same conditions as nationals of the country in which they reside, account being taken of any periods of insurance in Luxembourg and Portugal.

### *Article 3*

1. Pensions or annuities, including increments, acquired under the legislation of one of the Contracting Parties shall not be reduced, modified, suspended, discontinued or withheld on the ground that the beneficiary is resident in the territory of the Contracting Party other than that in whose territory the institution liable for the benefit is situated.

2. Social security benefits of one of the Contracting Parties shall be paid to nationals of the other Contracting Party resident in the territory of a third State on the same conditions and to the same extent as to nationals of the first-named Party resident in the territory of that third State.

*Article 4*

1. The provisions of this Convention shall not operate to confer or maintain any right to receive, under the legislation of the Contracting Parties, more than one benefit of the same nature or more than one benefit relating to the same insurance period or equivalent period, save where, under the invalidity, old-age and death (pensions) insurance schemes, liability for payment is divided between the institutions of both Contracting Parties.

2. The provisions of the legislation of one Contracting Party concerning the reduction or suspension of benefits in the event of the beneficiary's being simultaneously in receipt of other social security benefits or other income or his carrying on an occupation shall apply to him even where the benefits in question are payable under a scheme of the other Party or where the income is received or the occupation carried on in the territory of the other Party.

3. Where the application of paragraph 2 results in the reduction or suspension of a benefit awarded under articles 15 and 16, account shall be taken, for the purpose of such reduction or suspension, only of such part of the benefits, income or remuneration as is determined in proportion to the duration of the periods completed in accordance with the provisions of article 16, paragraph 1, sub-paragraph (b).

## TITLE II

## PROVISIONS TO DETERMINE WHICH LEGISLATION IS APPLICABLE

*Article 5*

Subject to the provisions of this title, an employed person or a person treated as such who is employed in the territory of one of the Contracting Parties shall be subject to the legislation of that Party, even if he is still deemed to be resident in the territory of the other Party or his employer or the principal place of business of the enterprise which employs him is in the territory of the other Party.

*Article 6*

The principle laid down in the preceding article shall be subject to the following exceptions :

- (a) An employed person or a person treated as such who is resident in the territory of one of the Contracting Parties and is sent to the territory of the other Contracting Party by the enterprise which normally employs him in the territory of the first-mentioned Party shall remain subject to the legislation of the first-mentioned Party, as though he were employed in its territory, for the first twelve months of his employment in the

territory of the other Party ; if the duration of such employment exceeds twelve months, the legislation of the first-mentioned Party shall continue to apply for a further period of not more than twelve months, provided that the competent authority of the other Party has given its consent before the end of the first twelve-month period ;

- (b) An employed person or a person treated as such who is in the service of an enterprise engaged, on behalf of others or on its own account, in the transport of passengers or goods by rail, road, air or water, with its principal place of business in the territory of one of the Contracting Parties, and who is employed in a travelling or sea-going capacity shall be subject to the legislation of the Contracting Party in whose territory the enterprise has its principal place of business ; if, however, the enterprise has a branch or a permanent agency in the territory of the other Contracting Party, persons employed by such branch or permanent agency shall be subject to the legislation of the Contracting Party in whose territory the branch or permanent agency is situated.

#### *Article 7*

The competent authorities of the Contracting Parties may, by agreement, make exceptions to the provisions of articles 5 and 6 of this Convention for specific employed persons or groups of employed persons.

### TITLE III

## SPECIAL PROVISIONS

### Chapter 1

#### SICKNESS, MATERNITY AND DEATH (FUNERAL BENEFIT)

#### *Article 8*

For the purposes of the acquisition, maintenance or recovery of the right to benefits, where an employed person or a person treated as such has been subject successively or alternately to the legislation of both Contracting Parties, the insurance periods and equivalent periods completed under the legislation of each of the Parties shall be aggregated, provided that they do not overlap.

#### *Article 9*

1. An employed person or a person treated as such who has completed insurance periods or equivalent periods under the legislation of one of the Contracting Parties and who moves to the territory of the other Party shall be entitled, for himself and for such members of his family as are in that terri-

tory, to the benefits provided for by the legislation of the latter Party, provided that :

- (a) he was fit for employment when he last entered the territory of the latter Party ;
- (b) he has been subject to compulsory insurance since he last entered that territory ;
- (c) he satisfies the conditions imposed by the legislation of the latter Party, account being taken of the aggregation of periods referred to in the preceding article.

2. Where, in the cases specified in paragraph 1 of this article, an employed person or a person treated as such does not satisfy the conditions laid down in sub-paragraphs (a), (b) and (c) of that paragraph, and he would still be entitled to benefits under the legislation of the Contracting Party in whose territory he was last insured before his change of residence if he were in that territory, he shall remain entitled to benefits for a period of twenty-one days from the last day on which he was subject to the compulsory insurance scheme of that Party. The institution of that Party may request the institution of the place of residence to provide benefits in kind in accordance with the legislation applied by the latter institution.

#### *Article 10*

1. An employed person or a person treated as such who is insured with an institution of one of the Contracting Parties and is resident in the territory of that Party shall be entitled to benefits during a temporary stay in the territory of the other Party if his state of health necessitates immediate medical treatment, including admission to hospital.

2. An employed person or a person treated as such who has acquired the right to benefits from an institution of one of the Contracting Parties and who is resident in the territory of that Party shall retain that right if he transfers his residence to the territory of the other Party ; before transferring his residence, however, he must obtain the consent of the competent institution, which shall take due account of the reasons for the transfer.

3. Where an employed person or a person treated as such is entitled to benefits under the provisions of the preceding paragraphs, benefits in kind shall be provided by the institution of his temporary or new place of residence in accordance with the provisions of the legislation applied by that institution, particularly as regards the scale of such benefits and the manner of providing them ; the duration of such benefits shall, however, be that prescribed by the legislation of the competent Party.

4. In the cases specified in paragraphs 1 and 2 of this article, the provision of prosthesis, of large appliances and of other major benefits in kind shall

be subject, except in cases of absolute urgency, to authorization by the competent institution.

5. In the cases specified in paragraphs 1 and 2 of this article, cash benefits shall be paid in accordance with the legislation of the competent Party. Such benefits may be paid by the institution of the other Party as agent for the competent institution according to rules to be laid down in an administrative agreement.

6. The provisions of the preceding paragraphs shall apply *mutatis mutandis* to family members in cases where they are staying temporarily in the territory of the other Contracting Party or where they transfer their residence to the territory of the other Contracting Party after falling sick or becoming pregnant.

#### Article 11

1. Members of the family of an employed person or of a person treated as such who is insured with an institution of one of the Contracting Parties shall, when resident in the territory of the other Contracting Party, be entitled to benefits in kind as though the employed person were insured with the institution of their place of residence. The scale and duration of such benefits and the manner of providing them shall be determined in accordance with the provisions of the legislation applied by the latter institution.

2. Where family members transfer their residence to the territory of the competent Party, they shall be entitled to benefits in accordance with the provisions of the legislation of that Party. This rule shall also apply where the family members have already received, in respect of the same case of sickness or the same pregnancy, benefits provided by the institutions of the Party in whose territory they were resident before the transfer ; if the legislation applied by the competent institution prescribes a maximum duration for the provision of benefits, the period for which benefits were provided immediately before the transfer of residence shall be taken into account.

3. The provisions of this article shall not apply to family members as specified in paragraph 1 of this article who carry on an occupation in their country of residence or who receive a pension or annuity which entitles them to benefits in kind.

#### Article 12

Where the application of this chapter would entitle an employed person or a person treated as such, or a member of his family, to maternity benefits under the legislation of both Contracting Parties, the legislation of the Party

in whose territory the birth takes place shall apply, account being taken of the aggregation of periods referred to in article 8 of this Convention.

#### *Article 13*

1. Where a person in receipt of pensions or annuities payable under the legislation of both Contracting Parties is resident in the territory of one of the Parties and is entitled to benefits in kind under the legislation of that Party, such benefits shall be provided for him and for members of his family by the institution of his place of residence as though he were in receipt of a pension or annuity payable solely under the legislation of his country of residence. The cost of such benefits shall be borne by the institution of the country of residence.

2. Where a person in receipt of a pension or annuity payable under the legislation of one of the Contracting Parties is resident in the territory of the other Party, any benefits in kind to which he may be entitled under the legislation of the first-mentioned Party shall be provided for him and for members of his family by the institution of his place of residence.

3. If the legislation of one Contracting Party provides, in order to cover the cost of benefits in kind, for contributory deductions from the amounts payable to a pensioner or annuitant, the institution which is liable for the pension or annuity shall be empowered to make such deductions in the cases specified in this article.

#### *Article 14*

1. The cost of benefits in kind provided under article 9, paragraph 2, article 10, paragraphs 1, 2 and 6, article 11, paragraph 1 and article 13, paragraph 2, of this Convention shall be repaid by the competent institutions to the institutions which provided the said benefits.

2. The amount due shall be determined and repaid according to rules to be laid down in an agreement between the competent authorities; the repayment may be made in lump sums.

### Chapter 2

#### INVALIDITY, OLD AGE AND DEATH (PENSIONS)

#### *Article 15*

1. For the purposes of the acquisition, maintenance or recovery of the right to benefits, where an insured person has been subject successively or alternately to the legislation of both Contracting Parties, the insurance



periods and equivalent periods completed under the legislation of each Party shall be aggregated, provided that they do not overlap.

2. Where the legislation of one Contracting Party makes it a condition for the award of particular benefits that the insurance periods should be completed in an occupation which is subject to a special scheme, only the periods completed under the corresponding schemes of the other Contracting Party and the periods completed in the same occupation under other schemes of the latter Party shall be aggregated, provided that they do not overlap, for the purpose of qualification for such benefits.

3. If the insurance periods and equivalent periods under the legislation of one of the Contracting Parties amount in all to less than six months, no benefit shall be payable under that legislation ; in such case, the said periods shall be taken into account for the purposes of the acquisition, maintenance and recovery of the right to benefits from the other Party, but not for the purpose of determining the proportionate amount due under article 16, paragraph 1, sub-paragraph (b), of this Convention. This provision shall not, however, apply if the right to benefits was acquired under the legislation of the first-mentioned Party solely on the basis of periods completed under that legislation.

#### *Article 16*

1. The benefits to which an insured person as specified in the foregoing article or his survivors may be entitled in virtue of the legislation of the Contracting Parties under which the insured person has completed insurance periods or equivalent periods shall be determined in the following manner :

(a) The institution of each of the Contracting Parties shall determine in accordance with its own legislation, taking into account the aggregation of periods referred to in the preceding article, whether the person concerned satisfies the conditions for entitlement to the benefits provided for by that legislation ;

(b) Where the right to benefit is established in accordance with the preceding sub-paragraph, the said institution shall first calculate, for the sake of form, the amount of the benefit to which the person concerned would be entitled if all the insurance periods or equivalent periods, aggregated in the manner specified in the preceding article, had been completed exclusively under its own legislation ; on the basis of that amount, the institution shall determine the amount of benefit due according to the proportion which the duration of the periods completed under that legislation, before the contingency materialized, bears to the total duration of the periods completed under the legislation of both Contracting Parties before the contingency materialized ; the latter amount shall represent the benefit payable to the person concerned by the institution in question ;

(c) Where, at a given time, account being taken of the aggregation of periods referred to in the preceding article, the person concerned does not satisfy the conditions imposed by the bodies of legislation applicable to him but satisfies the conditions imposed by one of those bodies of legislation, the amount of the benefit shall be determined in accordance with the provisions of sub-paragraph (b) of this paragraph ;

(d) Where, at a given time, the person concerned does not satisfy the conditions imposed by the bodies of legislation applicable to him but satisfies the conditions imposed by one of those bodies of legislation irrespective of the periods completed under the other body of legislation, the amount of the benefit shall be determined exclusively in accordance with the legislation which confers the entitlement, account being taken only of the periods completed under the last-mentioned legislation ;

(e) In the cases specified in sub-paragraphs (c) and (d) of this paragraph, the benefits already determined shall be revised in accordance with the provisions of sub-paragraph (b) as and when the conditions imposed by the other bodies of legislation are satisfied, account being taken of the aggregation of periods referred to in the preceding article.

2. Where the amount of the benefit to which, but for the application of the provisions of article 15, the person concerned might be entitled solely on the basis of the insurance periods and equivalent periods completed under the legislation of one Contracting Party is greater than the total benefits which accrue from the application of the preceding paragraph of this article, he shall be entitled to receive from the institution of that Party an additional amount equal to the difference.

3. Subject to the provisions of paragraph 1, sub-paragraph (d), persons who can avail themselves of the provisions of this chapter may not elect to receive a pension solely under the provisions of the legislation of one Contracting Party.

#### *Article 17*

Insurance periods and equivalent periods completed by insured persons and persons treated as such under social security schemes of one Contracting Party to which this Convention does not apply but which are taken into account under a scheme to which the Convention does apply, shall be deemed to be insurance periods or equivalent periods to be taken into account for purposes of aggregation.

The same shall apply to insurance periods completed in the territory of a third State where these are taken into account under a scheme of one Contracting Party.

*Article 18*

The rules for the application of articles 16 and 17 may be the subject of an administrative agreement.

## Chapter 3

## INDUSTRIAL ACCIDENTS AND OCCUPATIONAL DISEASES

*Article 19*

Where, for the purpose of assessing the degree of disability in a case of industrial accident or occupational disease under the legislation of one of the Contracting Parties, that legislation explicitly or implicitly provides that previous industrial accidents or occupational diseases shall be taken into account, industrial accidents sustained and occupational diseases contracted at an earlier date under the legislation of the other Party shall also be taken into account as though they had been sustained or contracted under the legislation of the first-mentioned Party.

*Article 20*

Where an employed person or a person treated as such who has received compensation for an occupational disease from the competent institution of one of the Contracting Parties claims compensation for an occupational disease of the same nature under the legislation of the other Party, he must furnish the competent institution of the latter Party with the necessary particulars concerning the benefits previously granted in compensation for the occupational disease in question.

The institution liable for the new benefits shall take the previous benefits into account as though they had been paid on its responsibility.

*Article 21*

1. Where a national of one of the Contracting Parties contracts silicosis (sclerogenous pneumoconiosis) after being employed in work involving exposure to the disease in the territory of both Contracting Parties, the periods of exposure to the disease shall, if necessary, be aggregated. If the periods are aggregated, the competent institutions of the two Parties shall pay the benefits in proportion to the periods of old-age insurance completed in each of the two countries, save that benefits in kind shall be the responsibility of the country of residence.

2. The rules for the application of this article may be the subject of administrative agreements between the competent authorities.

## Chapter 4

## UNEMPLOYMENT

*Article 22*

An employed person or a person treated as such who moves from the territory of one of the Contracting Parties to the territory of the other Party shall be entitled while in that territory, after being employed therein, to the unemployment benefits provided for by the legislation of the latter Party, provided that he satisfies the conditions imposed by the legislation of that Party, account being taken of the aggregation of the periods conferring entitlement to unemployment benefits in each territory.

## Chapter 5

## FAMILY ALLOWANCES

*Article 23*

1. An employed person or a person treated as such who is employed in the territory of one of the Contracting Parties and who has children residing or being brought up in the territory of the other Party shall be entitled to family allowances for such children under the legislation of the first-mentioned Party up to an amount of seven European Monetary Agreement (EMA) units of account per child per month. This amount may be adjusted to the cost of living by agreement between the competent authorities.

2. The family allowances referred to in the preceding paragraph shall not be paid beyond the age specified by the legislation of the country of residence.

3. Within the limits set by the applicable legislation, the term "child" for the purposes of this article means :

- (a) the legitimate, legitimated and acknowledged natural children, adopted children and orphaned grandchildren of the employed person ;
- (b) the legitimate, legitimated and acknowledged natural children, adopted children and orphaned grandchildren of the spouse of the employed person, provided that they live with the employed person in the country in which the family resides.

*Article 24*

Where an employed person who has sustained an industrial accident is entitled on that account to family allowances, such allowances shall be paid by the competent Party to the children resident in the territory of the other Party, account being taken of the preceding article.

## TITLE IV

## MISCELLANEOUS PROVISIONS

*Article 25*

1. The competent authorities shall communicate to each other full information regarding measures taken for the application of this Convention and regarding any changes in their legislation which may affect its application.

2. For the same purpose of the application of the Convention the authorities and institutions shall assist one another and shall act as though the matter were one affecting the application of their own legislation.

*Article 26*

1. Contributions payable to an institution of one of the Contracting Parties may be recovered in the territory of the other Party, in accordance with the procedure and subject to the guarantees and privileges applicable to the recovery of contributions payable to a corresponding institution of the latter Party.

2. The rules for the application of this article may be the subject of administrative agreements between the competent authorities.

*Article 27*

Where a person in receipt of benefits under the legislation of one of the Contracting Parties for an injury sustained in the territory of the other Party is entitled, in the territory of the latter Party, to claim compensation for the injury from a third party, any rights that the institution liable for the benefits may have against the third party shall be dealt with as follows :

- (a) Where the institution liable for the benefits is entitled, under the legislation applicable to it, to exercise the rights possessed by the beneficiary with respect to the third party, each Contracting Party shall recognise such entitlement ;
- (b) Where the institution liable for the benefits has a direct right against the third party, each Contracting Party shall recognise that right.

*Article 28*

1. Any exemption from or reduction of charges, stamp duties, court fees or registration fees provided for by the legislation of one of the Contracting Parties in respect of papers or documents required to be produced pursuant to the legislation of that Party shall be extended to similar papers and documents required to be produced pursuant to the legislation of the other Party or to this Convention.

2. Legalization by diplomatic or consular authorities and payment of chancery fees shall be waived in respect of all certificates, documents and papers required to be produced for the purposes of this Convention.

*Article 29*

All communications addressed for the purposes of the application of this Convention to the institutions or judicial or other authorities of one of the Contracting Parties which are competent in social security matters shall be drawn up in one of the official languages of the Contracting Parties.

*Article 30*

Claims, declarations or appeals which should have been presented, for the purposes of the legislation of one of the Contracting Parties, within a prescribed time-limit, to an authority, institution or other agency of that Party, shall be admissible if they are presented within the same time-limit to a corresponding authority, institution or other agency of the other Contracting Party. In such cases, the authority, institution or agency concerned shall transmit such claims, declarations or appeals to the competent authority, institution or agency of the first-mentioned Party, either direct or through the competent authorities of the two Contracting Parties.

*Article 31*

1. The institutions of one Contracting Party which are liable under this Convention for the payment of cash benefits to beneficiaries who are in the territory of the other Party shall be held to discharge their liability validly by payment in the currency of the first-mentioned Party ; moneys due from such institutions to institutions which are in the territory of the other Party must be paid in the currency of the latter Party.

2. Transfers of funds required for the application of this Convention shall be effected in accordance with the relevant agreements in force between the two Parties at the time of the transfer.

*Article 32*

1. Any dispute between the Contracting Parties relating to the interpretation or application of this Convention shall be the subject of direct negotiations between the Parties.

2. If the dispute cannot be resolved by that means within a period of six months from the opening of negotiations, it shall be submitted to an arbitral commission whose composition shall be determined by agreement between the Parties. The procedure to be followed shall be determined in the same manner.

The arbitral commission shall resolve the dispute in accordance with the fundamental principles and the spirit of this Convention. Its decisions shall be binding and final.

*Article 33*

1. Where an institution of one Contracting Party has made an advance payment to a person entitled to benefits, such institution or, at its request, the competent institution of the other Party may deduct the amount of the advance from the payments to which such person is entitled.

2. Where a beneficiary has received public assistance from one Contracting Party during a period for which he is entitled to cash benefits, the institution liable for such benefits shall, at the request and for the account of the institution which granted the public assistance, withhold such benefits until the amount of the benefits paid to the beneficiary in the form of public assistance has been recovered.

*Article 34*

1. The legislation of the country of residence shall apply to benefits paid through an institution of that country in so far as concerns assignment and attachment, the safeguarding of the rights of the family and the right of succession to unpaid arrears of benefit in the event of the death of the beneficiary.

2. For the purposes of the foregoing paragraph, the institution paying the benefits shall act in the place of the competent institution in all administrative or judicial proceedings.

*Article 35*

The liaison institutions may be determined by agreement between the Parties.

TITLE V

TRANSITIONAL AND FINAL PROVISIONS

*Article 36*

1. This Convention shall not confer any right to the payment of benefits for a period before the date of its entry into force, without prejudice to more favourable provisions of national legislation.

2. Any insurance period or equivalent period completed under the legislation of one of the Contracting Parties before the date of the entry into force of this Convention shall be taken into account for the purpose of deter-

mining the right to benefits in accordance with the provisions of this Convention.

3. Subject to the provisions of paragraph 1 of this article, a pension or annuity shall be payable under this Convention even in respect of an event which occurred before the date of its entry into force. To this end, any pension or annuity which has not been paid or which has been suspended by reason of the nationality of the person concerned or because he is resident outside the territory of the competent Party shall, upon his application, be paid or reinstated in accordance with this Convention as from the date of the entry into force of the latter, provided that the entitlement previously awarded has not been liquidated by a lump-sum payment.

4. With regard to the rights arising out of the application of the preceding paragraph, the legislative provisions of the Contracting Parties concerning the lapse and extinction of rights shall not apply to the beneficiary provided that the claim is presented within a period of two years from the date of the entry into force of this Convention.

If the claim is presented after the expiry of that period, such right to benefit as has not lapsed or been extinguished shall be acquired as from the date of presentation of the claim, unless more favourable legislative provisions of one Contracting Party are applicable.

#### *Article 37*

This Convention is concluded for a term of one year. It shall be tacitly renewed from year to year unless notice of termination is given not later than three months before the expiry of the current term.

#### *Article 38*

1. In the event of the termination of this Convention, any right acquired in accordance with its provisions shall be maintained.

2. Rights which are in process of acquisition in respect of periods completed before the date on which the termination takes effect shall not be extinguished by the termination; the preservation of such rights in respect of the period after termination shall be determined by agreement or, in the absence of such agreement, by the national legislation of the institution concerned.

#### *Article 39*

This Convention shall be ratified and the instruments of ratification shall be exchanged as soon as possible.

#### *Article 40*

This Convention shall enter into force on the first day of the month following the month in which the instruments of ratification are exchanged.



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

DONE at Luxembourg, on 12 February 1965, in two original copies in the French language, both texts being equally authentic.

For the Grand Duchy  
of Luxembourg :

P. WERNER

N. BIEVER

For the Portuguese  
Republic :

E. VIEIRA LEITAO

### SPECIAL PROTOCOL

On proceeding to sign the Convention between Luxembourg and Portugal to co-ordinate the application to nationals of the two countries of Luxembourg legislation on social security and Portuguese legislation on social welfare, family allowances and industrial accidents and occupational diseases, the respective plenipotentiaries have agreed on the following provisions which shall constitute an integral part of the Convention :

#### I

The territory to which the Convention applies, with respect to Portugal, comprises continental Portugal and the adjacent islands (the Azores and Madeira).

#### II

For the purposes of article 13 of the Convention, funeral benefits shall be deemed to be benefits in kind.

Where such benefits are payable in Luxembourg, they shall be paid by the Sickness Fund to which the deceased insured last belonged.

#### III

Notwithstanding article 36, paragraph 2, of the Convention, insurance periods or equivalent periods completed before 1 January 1946 under the pensions (invalidity, old-age and death) insurance legislations shall be taken into account only to the extent that rights in course of acquisition have been preserved or recovered in accordance with that legislation.

#### IV

That part of old-age, invalidity and survivors' pensions of persons in private employment which corresponds to employment periods completed

before the entry into force of the pension insurance scheme for persons in private employment shall not be transferred abroad.

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

DONE at Luxembourg, on 12 February 1965, in two original copies in the French language.

For the Grand Duchy  
of Luxembourg :

P. WERNER

N. BIEVER

For the Portuguese  
Republic :

E. VIEIRA LEITAO

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