

No. 8541

**AUSTRIA
and
SPAIN**

**Agreement on social security (with Final Protocol).
Signed at Madrid, on 15 July 1964**

**Additional Protocol to the above-mentioned Agreement.
Signed at Vienna, on 27 November 1964**

**Administrative Agreement for the implementation of
the above-mentioned Agreement. Signed at Vienna,
on 14 October 1964**

Official texts: German and Spanish.

Registered by Austria on 3 February 1967.

**AUTRICHE
et
ESPAGNE**

**Accord relatif à la sécurité sociale (avec Protocole final).
Signé à Madrid, le 15 juillet 1964**

**Protocole additionnel à l'Accord susmentionné. Signé à
Vienne, le 27 novembre 1964**

**Arrangement pour l'exécution de l'Accord susmentionné.
Signé à Vienne, le 14 octobre 1964**

Textes officiels allemand et espagnol.

Enregistrés par l'Autriche le 3 février 1967.

[TRANSLATION — TRADUCTION]

No. 8541. AGREEMENT¹ BETWEEN THE REPUBLIC OF AUSTRIA AND THE SPANISH STATE ON SOCIAL SECURITY. SIGNED AT MADRID, ON 15 JULY 1964

The Federal President of the Republic of Austria and
The Head of the Spanish State,

Desiring to regulate relations between the two States in the matter of social security, have decided to conclude an agreement and, for this purpose, have appointed as their plenipotentiaries :

The Federal President of the Republic of Austria :

Dr. Karl Gruber, Ambassador of Austria at Madrid ;

The Head of the Spanish State :

Mr. Fernando María Castiella y Maiz, Minister for Foreign Affairs,

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

TITLE I
GENERAL PROVISIONS

Article 1

For the purposes of this Agreement :

1. "Austria" means the Republic of Austria, and "Spain" means the Spanish State ;
2. "Territory" means, in relation to Austria, the federal territory of Austria, and, in relation to Spain, the Spanish provinces of the Iberian Peninsula, the Balearic Islands, the Canary Islands and the Spanish territories in North Africa ;
3. "National" means, in relation to Austria, a national of Austria, and, in relation to Spain, any person who proves that he possesses Spanish nationality ;

¹ Came into force on 1 February 1966, i.e. the first day of the second month following the month in which the exchange of the instruments of ratification — which took place at Vienna on 20 December 1965 — occurred, in accordance with article 44.

4. "Legislation" means the laws, ordinances and regulations relating to the matters specified in article 2 which are in force in the territory, or any part of the territory, of one of the Contracting States ;
5. "Competent authority" means, in relation to Austria, the Federal Ministry of Social Affairs, and, in relation to Spain, the Ministry of Labour ;
6. "Insurance authority" means the institute or authority appropriate for the application of the legislation, or any part thereof, specified in article 2 ;
7. "Competent insurance authority" means the insurance authority with which the person concerned is insured at the time of the claim to benefit, or with which he has title to benefit, or would have title if he were resident in the territory of the Contracting State in which he was last employed ;
8. "Dependant" means a dependant as defined in the applicable legislation ;
9. "Employment" means an employment or occupation as defined in the applicable legislation ;
10. "Insurance periods" means contribution periods and equivalent periods ;
11. "Contribution periods" means periods in respect of which contributions have actually been paid, should have been paid, or are treated as having been paid under the legislation of one of the Contracting States ;
12. "Equivalent periods" means periods which are deemed to be substitute periods or are treated as equivalent to contribution periods in accordance with the legislation of one of the Contracting States ;
13. "Cash benefit", "pension" or "annuity" means a cash benefit, pension or annuity including any increase therein and any supplementary or additional allowance payable therewith.

Article 2

(1) This Agreement shall apply :

1. In Austria, to the legislation concerning :
 - (a) Sickness insurance, excluding the following special insurance schemes :
 - (aa) Special insurance for self-employed persons,
 - (bb) Special insurance for the survivors of war victims,
 - (cc) Special insurance for war-disabled persons undergoing vocational training,

- (*dd*) Special insurance for federal employees ;
 - (*b*) Pensions insurance for manual workers, for salaried workers and for miners ;
 - (*c*) Accident insurance, excluding accident insurance for self-employed persons and accident insurance for war-disabled persons undergoing vocational training ;
 - (*d*) Unemployment insurance :
2. In Spain, to the legislation concerning :
- (*a*) Sickness insurance ;
 - (*b*) Old age and invalidity insurance ;
 - (*c*) Industrial accident and occupational disease insurance ;
 - (*d*) Unemployment insurance ;
 - (*e*) The workers' mutual benefit scheme (*Mutualismo Laboral*), in so far as it relates to employed persons ;
 - (*f*) The national agricultural provident fund (*Mutualidad Nacional de Previsión Social Agraria*), in so far as it relates to employed persons, with respect to those benefits under this special scheme which correspond to the benefits under the insurance schemes specified in sub-paragraphs (*a*) and (*b*) above ;
 - (*g*) The domestic workers' mutual benefit scheme (*Montepío Nacional del Servicio Doméstico*) ;
 - (*h*) Family allowances.

(2) Subject to the provisions of paragraphs (3) and (4) below, the Agreement shall apply also to any legislation which consolidates, amends or supplements the legislation specified in paragraph (1) above.

(3) The Agreement shall also apply :

- (*a*) To any legislation concerning a new scheme or a new branch of social insurance, if the Contracting States make an agreement to that effect ;
- (*b*) To any legislation which extends the existing laws to new classes of persons, provided that the Government of one of the Contracting States lodges no objection with the Government of the other Contracting State within three months of the date of receipt of the communication referred to in article 32, paragraph (2) (*b*).

(4) This Agreement shall apply to legislation which amends the legislation specified in paragraph (1) above for the purpose of giving effect to an international agreement relating to social security, only if the two Contracting States make an agreement to that effect.

Article 3

(1) The provisions of this Agreement shall apply to employed persons or persons treated as such who are or have been subject to the legislation of one of the Contracting States and are nationals of one of the Contracting States, and to their dependants and survivors.

(2) The provisions of this Agreement shall not apply to members of diplomatic or consular missions of the two Contracting States, including the administrative staff, or to the personal staff of the members of such missions.

Article 4

(1) Except as otherwise provided in this Agreement, nationals of one of the Contracting States to whom the provisions of this Agreement apply shall have the same obligations and rights under the legislation referred to in article 2 as nationals of the other Contracting State.

(2) This Agreement shall be without prejudice to the legislation of either of the Contracting States concerning the participation of insured persons or of other interested classes of persons in the administration of social insurance schemes.

Article 5

(1) Cash benefits, including increments, acquired under the legislation of one of the Contracting States shall not be reduced, suspended, discontinued or withheld on the ground that the beneficiary is resident in the territory of the other Contracting State.

(2) Cash benefits under the social insurance systems of one of the Contracting States shall be paid to nationals of the other Contracting State resident in the territory of a third State on the same conditions and to the same extent as if they were nationals of the first-mentioned Contracting State resident in the territory of that third State.

Article 6

(1) The provisions of this Agreement shall not operate to confer or maintain any right to receive, under the legislation of the two Contracting States, more than one benefit of the same nature or more than one benefit relating to the same contribution period or equivalent period, save where, under the pensions insurance schemes, liability for payment of such benefits is divided between the insurance authorities of the two Contracting States.

(2) Where, under the legislation of one of the Contracting States, the fact of being in receipt of a social insurance benefit or income of any other kind, or of being gainfully employed, or of participating in a social insurance scheme, has any statutory effect on the entitlement to or granting of a benefit, or on compulsory participation in the social insurance system, or on participation in the voluntary insurance scheme, any of the aforementioned circumstances shall have the same effect even if it occurs or occurred in the other Contracting State.

(3) Where the application of paragraph (2) above would result in the reduction or the total or partial suspension, simultaneously and reciprocally, of the benefits from both Contracting States, each such benefit shall be reduced or suspended only by an amount not exceeding one half of the amount which is subject to reduction or suspension in accordance with the legislation under which the benefit is payable.

Article 7

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 States shall be subject to the legislation of that Contracting State, even if he is resident in the territory of the other Contracting State or his employer or the principal place of business of the enterprise which employs him is in the territory of the other Contracting State.

Article 8

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 States and is sent to the territory of the other Contracting State by the enterprise which normally employs him in the territory of the first-mentioned Contracting State shall remain subject to the legislation of the first-mentioned Contracting State, as if he were employed in its territory, for the first twenty-four months of his employment in the territory of the other Contracting State. If the duration of his employment in the territory of the other Contracting State exceeds twenty-four months, the legislation of the first-mentioned Contracting State shall continue to apply for a further period of not more than twenty-four months, provided that the employer and the employed person jointly so request not later than one month before the end of the first period of twenty-four months and the competent authority of the other Contracting State or the agency designated by it gives its consent. The competent authority of the first-mentioned Contracting State or the agency designated by it shall be given an opportunity to express its views before the decision is taken.

- (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, with its principal place of business in the territory of one of the Contracting States, and who is employed in a travelling or seagoing capacity shall be deemed to be employed in the territory of the Contracting State in which the enterprise has its principal place of business; if, however, the enterprise has a branch in the territory of the other Contracting State, persons employed by such branch shall be deemed to be employed in the territory of the Contracting State in which the branch is situated.

Article 9

If the employer and the employed person concerned jointly so request, the competent authority of the Contracting State whose legislation should apply under the terms of article 7 may authorize the application of the legislation of the other Contracting State; the employed person shall then be deemed to be employed in the territory of the last-mentioned Contracting State. The competent authority of the other Contracting State shall be given an opportunity to express its views before the decision is taken.

TITLE II

SPECIAL PROVISIONS

Chapter 1

SICKNESS INSURANCE

Article 10

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 States, the insurance periods completed under the legislation of each of the Contracting States shall be aggregated, provided that they do not overlap.

Article 11

(1) An employed person or a person treated as such who has completed insurance periods under the legislation of one of the Contracting States and who moves to the territory of the other Contracting State shall be entitled, for himself and for such of his dependants as are in that territory, to the

benefits provided for by the legislation of the last-mentioned Contracting State, provided that :

- (a) He was fit for employment when he last entered the territory of the last-mentioned Contracting State ;
- (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 last-mentioned Contracting State, account being taken of the aggregation of periods referred to in article 10.

(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 where he would still be entitled to benefits under the legislation of the Contracting State 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 Contracting State. The insurance authority of that Contracting State may request the insurance authority of the place of residence to provide benefits in kind in the manner laid down in the legislation applicable to the last-mentioned insurance authority.

Article 12

(1) An employed person or a person treated as such who is insured with an insurance authority of one of the Contracting States and is resident in the territory of that Contracting State shall be entitled to benefits during a temporary stay in the territory of the other Contracting State if his condition necessitates immediate medical treatment, including hospitalization.

(2) An employed person or a person treated as such who has acquired the right to benefits from an insurance authority of one of the Contracting States and who is resident in the territory of that Contracting State shall retain that right if he transfers his residence to the territory of the other Contracting State. Before transferring his residence, he must obtain the consent of the competent insurance authority. Consent may be refused only on the ground of the state of health of the person concerned. Such consent may be granted subsequently, provided that the conditions therefor are satisfied and consent could not be obtained in advance for reasonable cause. In the case of maternity benefits, consent may be given before the occurrence of the insurance contingency.

(3) Where an employed person or a person treated as such is entitled to benefits under the provisions of paragraphs (1) and (2) above, benefits in kind shall be provided by the insurance authority of his new or temporary place of residence in accordance with the provisions of the legislation appli-

cable to that insurance authority, 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 Contracting State.

(4) In the cases specified in paragraphs (1) and (2) above, the provision of prosthesis, of large prosthetic appliances and of other major benefits in kind shall be subject, except in cases of absolute urgency, to prior authorization by the competent insurance authority. Absolute urgency shall be deemed to exist in cases where provision of the benefit cannot be delayed without seriously endangering the life or health of the person concerned.

(5) In the cases specified in paragraphs (1) and (2) above, cash benefits shall be paid in accordance with the legislation applicable to the competent insurance authority. Such benefits may be paid by an insurance authority of the other Contracting State as agent for the competent insurance authority in the manner to be laid down in an administrative agreement.

(6) The provisions of paragraphs (1) to (5) above shall apply *mutatis mutandis* to dependants.

Article 13

(1) Dependants of an employed person or of a person treated as such who is insured with an insurance authority of one of the Contracting States shall, when resident in the territory of the other Contracting State, be entitled to benefits in kind as if the employed person were insured with the insurance authority 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 legislation applicable to the last-mentioned insurance authority.

(2) Where dependants transfer their residence to the territory of the competent Contracting State, they shall be entitled to benefits in accordance with the legislation of that Contracting State. This rule shall also apply where the dependants have already received, in respect of the same case of sickness or the same pregnancy, benefits provided by an insurance authority of the Contracting State in whose territory they were resident before the transfer. If the legislation of one of the Contracting States prescribes a maximum duration for the provision of benefits, the competent insurance authority shall include in its computation of such maximum duration the period for which benefits were provided under the legislation of the other Contracting State in respect of the same case of sickness or the same pregnancy.

(3) The provisions of this article shall not apply to dependants as specified in paragraph (1) of this article who are gainfully employed in the Con-

tracting State in which they are resident or who receive a pension or annuity which entitles them to benefits in kind.

Article 14

(1) Where a person in receipt of pensions or annuities payable under the legislation of both Contracting States is resident in the territory of one of the Contracting States and is entitled to benefits in kind under the legislation of that Contracting State, such benefits shall be provided for him and for his dependants by the insurance authority of his place of residence as if he were in receipt of a pension or annuity payable solely under the legislation of the Contracting State in which he is resident. The cost of such benefits shall be borne by the insurance authority of the Contracting State in which the beneficiary is resident.

(2) Where a person in receipt of a pension or annuity payable under the legislation of only one of the Contracting States is resident in the territory of the other Contracting State and is entitled to benefits in kind under the legislation of the first-mentioned Contracting State, such benefits shall be provided for him and for his dependants by the insurance authority of his place of residence as if he were in receipt of a pension or annuity payable under the legislation of the Contracting State in which he is resident.

(3) If under the legislation of either of the Contracting States contributory deductions are to be made from the pension or annuity payable to the beneficiary in order to cover the cost of benefits in kind, the insurance authority which is liable for the pension or annuity shall be entitled to make such deductions in the cases specified in this article.

Article 15

In the cases specified in article 11, paragraph (2), article 12, paragraphs (1), (2) and (6), article 13, paragraph (1), and article 14, paragraph (2), benefits in kind shall be provided :

In Austria : by the Local Sickness Fund for Manual and Clerical Workers (Gebietskrankenkasse für Arbeiter und Angestellte) competent for the place of residence of the person concerned ;

In Spain : by the National Provident Institute (Instituto Nacional de Previsión).

Article 16

(1) The cost of benefits in kind provided under the terms of article 11, paragraph (2), article 12, paragraphs (1), (2) and (6), article 13, paragraph (1),

and article 14, paragraph (2), shall be repaid by the competent insurance authorities to the insurance authorities which provided them.

(2) In the interests of administrative simplification, the insurance authorities concerned may, subject to the approval of the competent authorities of both Contracting States, agree with respect to all cases or to certain classes of cases that repayment of the costs shall be made in lump sums in lieu of individual settlements.

Article 17

(1) Where an employed person or a person treated as such who is subject to the legislation of one of the Contracting States, or a person in receipt of a pension or annuity, or a dependant of such person, dies in the territory of the other Contracting State, the death shall be deemed to have occurred in the territory of the first-mentioned Contracting State.

(2) The competent insurance authority shall assume liability for the death grant even if the beneficiary is in the territory of the other Contracting State.

Chapter 2

PENSIONS INSURANCE

Article 18

(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 States, the insurance periods completed under the legislation of each of the Contracting States shall be aggregated, provided that they do not overlap. The extent to which and the manner in which insurance periods are to be taken into account shall be determined in accordance with the legislation of the Contracting State under whose insurance scheme such periods were completed.

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

(3) If the insurance periods completed under the legislation of one of the Contracting States amount in all to less than six months, no benefit shall be payable under that legislation ; in such case, the other Contracting

State shall take the said periods into account for the purposes of the acquisition, maintenance and recovery of the right to benefits, but not for the purpose of determining the proportionate amount due under article 19, paragraph (3). This provision shall not, however, apply if the right to benefits was acquired under the legislation of the first-mentioned Contracting State solely on the basis of periods completed under that legislation.

Article 19

(1) Where an insured person as specified in article 18 or his survivors claims benefits under the legislation of both Contracting States, the amount of such benefits shall be determined in accordance with the provisions of paragraphs (2) to (5) below.

(2) The competent insurance authority of each of the Contracting States shall determine in accordance with its own legislation, taking into account the aggregation of periods referred to in article 18, whether the person concerned satisfies the conditions for entitlement to the benefits provided for by that legislation.

(3) Where entitlement to a pension exists, the competent insurance authority of each of the Contracting States shall calculate :

- (a) First the amount of the pension which, subject to the provisions of paragraph (4) below, would have been due to the person concerned under its own national legislation if all the insurance periods which he completed under the legislation of the other Contracting State and which are to be taken into account in calculating the pension under that legislation had also been insurance periods which were to be taken into account in calculating the pension under its own national legislation ; the Austrian insurance authority shall not, however, take into account any contributions under the supplementary insurance scheme ; and then
- (b) The amount of that part of such pension which bears the same relation to the whole as the total of all the insurance periods completed by him under its own legislation before the occurrence of the insurance contingency bears to the total of all the insurance periods which he completed under the legislation of both Contracting States before the occurrence of the insurance contingency and which were taken into account, in accordance with the provisions of sub-paragraph (a) above, in calculating the amount of the pension. This amount shall be the pension actually due to the person concerned from the insurance authority.
- (c) The Austrian insurance authority shall increase the amount for which

it is liable in accordance with sub-paragraph (b) above by any amount payable in respect of contributions paid under the supplementary insurance scheme.

(4) For the purpose of applying the provisions of paragraph (3) above, contribution periods and equivalent periods shall be aggregated as follows:

- (a) If a compulsory insurance period completed under the legislation of one of the Contracting States coincides with a period of voluntary insurance under the legislation of the other Contracting State, only the compulsory insurance period shall be taken into account.
- (b) If a contribution period under the legislation of one of the Contracting States coincides with an equivalent period under the legislation of the other Contracting State, only the contribution period shall be taken into account.
- (c) If an equivalent period under the legislation of one of the Contracting States coincides with an equivalent period under the legislation of the other Contracting State, only the equivalent period under the legislation of the Contracting State in whose territory the person concerned last completed an insurance period prior to the said equivalent period shall be taken into account. If the person concerned did not complete any insurance periods before the said period in the territory of either of the Contracting States, only the equivalent period under the legislation of the Contracting State in whose territory he first completed an insurance period subsequent to the said period shall be taken into account.
- (d) If, in accordance with sub-paragraph (a) above, any periods of voluntary insurance under the Austrian pensions insurance scheme are not to be taken into account, the contributions paid in respect of such periods shall be deemed to be contributions under the Austrian supplementary insurance scheme.

(5) The legislation concerning reduction or suspension of pensions shall apply to pensions calculated in accordance with paragraph (3), sub-paragraph (a), above.

Article 20

(1) Where, at a given time, account being taken of the aggregation of periods referred to in article 18, a person does not satisfy the conditions imposed by the legislation of both Contracting States applicable to him but does satisfy the conditions imposed by such legislation of one of the Contracting States, the amount of the benefit shall be determined in accordance with the provisions of article 19, paragraph (3).

(2) Where, at a given time, a person does not satisfy the conditions imposed by the legislation of both Contracting States applicable to him but does satisfy the conditions imposed by such legislation of one of the Contracting States irrespective of the periods completed under the legislation of the other Contracting State, 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.

(3) In the cases specified in paragraphs (1) and (2) above, the benefits already determined shall be revised in accordance with the provisions of article 19, paragraph (3), as and when the conditions imposed by the legislation of the other Contracting State are satisfied, account being taken of the aggregation of periods referred to in article 18. The revision of the benefits paid by the insurance authority in the territory of the one Contracting State shall take effect on the date on which benefits become payable under the insurance scheme of the other Contracting State.

(4) Subject to the provisions of paragraph (2) above, persons to whom the provisions of this chapter apply may not claim a pension solely under the legislation of one of the Contracting States.

Article 21

(1) Where a person is entitled to a pension under the legislation of one of the Contracting States irrespective of the provisions of article 18, paragraph (1), and is entitled to a pension under the legislation of the other Contracting State only in accordance with those provisions, and where the pension under the legislation of the first-mentioned Contracting State is greater than the aggregate of the partial pensions calculated in accordance with article 19, paragraph (3), the insurance authority of the first-mentioned Contracting State shall increase the partial pension which it is liable to pay in accordance with article 19, paragraph (3), by the difference between the aggregate of the partial pensions and the pension payable solely under its own legislation.

(2) Where a person is entitled to pensions under the legislation of both Contracting States irrespective of the provisions of article 18, paragraph (1), and where both pensions are greater than the aggregate of the partial pensions calculated in accordance with article 19, paragraph (3), the competent insurance authority of the Contracting State under whose legislation the greater of the two pensions is payable shall increase the amount of its payment by the difference between the aggregate of the partial pensions

and the pension payable solely under its own legislation. The insurance authority of the other Contracting State shall repay to the insurance authority liable for such payment a part of the said difference bearing the relation to the whole referred to in article 19, paragraph (3) ; such repayment shall not, however, exceed the amount which the insurance authority of the last-mentioned Contracting State would have had to provide under its own legislation irrespective of the provisions of article 19, paragraph (3).

(3) In the cases specified in paragraphs (1) and (2) above, the amount of the difference shall be revised *ex officio* in the event of changes of more than 10 per cent in the rate of exchange.

Chapter 3

INDUSTRIAL ACCIDENT INSURANCE

Article 22

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

Article 23

(1) Where an insured person has been employed in both Contracting States in an occupation to which, under the legislation of both Contracting States, an occupational disease may be attributed, the benefits in respect of such occupational disease shall be payable by the insurance institution of the Contracting State in whose territory the person concerned was last employed in an occupation to which such occupational disease may be attributed. If the legislation of one of the Contracting States makes it a condition for the obligatory provision of compensation in respect of an occupational disease that the person concerned should have been employed for a specific minimum period of time in types of work to which such occupational disease may be attributed, the insurance authority of that Contracting State shall, in determining whether that condition is satisfied, take into account the periods of time for which the person concerned was employed in similar types of work in the other Contracting State.

(2) Where a person who has received or is receiving compensation in respect of an occupational disease under the legislation of one of the Con-

tracting States claims title to benefit under the legislation of the other Contracting State on the ground of a worsening of such disease, and where the person concerned has not been employed in the last-mentioned Contracting State in an occupation to which such occupational disease or the worsening thereof may be attributed, the insurance authority of the first-mentioned Contracting State shall be liable for the benefits in respect of such worsening.

(3) Where a person who has received or is receiving compensation in respect of an occupational disease under the legislation of one of the Contracting States claims title to benefit under the legislation of the other Contracting State on the ground of a worsening of such disease, and where the person concerned has been employed in the last-mentioned Contracting State in an occupation to which the worsening of such disease may be attributed, the insurance authority of the last-mentioned Contracting State shall be liable for all the benefits, account being taken of such worsening.

Article 24

(1) A person who has acquired the right to benefits in kind under the legislation of one of the Contracting States in respect of an industrial accident or occupational disease and who moves to the territory of the other Contracting State shall retain such entitlement. If the legislation of one of the Contracting States makes it a condition for the provision of benefits in kind to a person who is resident in the other Contracting State that the prior consent of the competent insurance authority should be obtained, such consent may be refused only on the ground of the state of health of the person concerned. The competent insurance authority may grant its consent subsequently, provided that the conditions therefor are satisfied and consent could not be obtained in advance for reasonable cause.

(2) A person who is insured under the legislation of one of the Contracting States and who in the territory of the other Contracting State sustains an industrial accident or contracts an occupational disease or is in need of benefits in kind by reason of a previous industrial accident or occupational disease shall be entitled to receive, upon application, benefits in kind under the legislation of the last-mentioned Contracting State.

(3) In the cases specified in paragraphs (1) and (2) above, the cost of benefits in kind shall be defrayed, in accordance with the legislation applicable to the agency providing the benefits, by the competent insurance authority, namely :

In Austria : the Local Sickness Fund for Manual and Clerical Workers competent for the place of residence of the beneficiary ;

In Spain : the National Provident Institute ;

Article 12, paragraph (4), shall apply *mutatis mutandis*.

(4) The competent insurance authority shall repay the cost incurred to the agency which provided the benefits.

(5) In the cases specified in paragraphs (1) and (2) above, cash benefits shall be paid in accordance with the legislation of the competent Contracting State. Such benefits may be paid by an insurance authority of the other Contracting State as agent for the competent insurance authority in the manner to be laid down in an administrative agreement.

Chapter 4

UNEMPLOYMENT INSURANCE

Article 25

(1) An employed person or a person treated as such who moves from the territory of one of the Contracting States to the territory of the other Contracting State shall be entitled, while in that territory, to the unemployment benefits provided for by the legislation of the last-mentioned Contracting State, provided that during the last twelve months prior to the date of the application for unemployment benefits he was employed in that territory for a total period of thirteen weeks in an occupation covered by compulsory unemployment insurance and that he satisfies the conditions for entitlement to unemployment benefits in that territory imposed by the legislation of the last-mentioned Contracting State, account being taken of the aggregation of unemployment insurance periods completed in both countries.

(2) The condition, laid down in paragraph (1) above, that the person concerned should have been employed for a period of thirteen weeks in an occupation covered by compulsory unemployment insurance shall not apply to employed persons or persons treated as such who become involuntarily unemployed.

Article 26

The provisions of article 25, paragraph (1), relating to the aggregation of insurance periods shall not apply for the purpose of the acquisition of the right to the allowance payable in Austria in respect of unpaid leave after confinement (*Karenzurlaubsgeld*).

Article 27

Spanish employed persons in Austria shall not be entitled to receive public relief (*Notstandshilfe*); Austrian employed persons in Spain shall

not be entitled to benefits which may be paid in certain cases but to which no statutory entitlement exists.

Article 28

The provisions of article 5 shall not apply to unemployment insurance benefits.

Chapter 5

WORKERS' MUTUAL BENEFIT SCHEME (MUTUALISMO LABORAL)

Article 29

(1) An Austrian employed person who is employed in Spain shall be entitled to benefits under the workers' mutual benefit scheme on the same conditions as a Spanish employed person, provided that he satisfies :

- (a) The conditions laid down in the general regulations governing the workers' mutual benefit scheme and in the supplementary general provisions relating to the said scheme ;
- (b) The conditions laid down in the statutes of the workers' mutual benefit fund with which, in virtue of his occupation, he is insured.

(2) An Austrian employed person who has paid contributions to the workers' mutual benefit scheme for five years shall be entitled to a retirement pension if the period of employment fell within the seven years immediately preceding his departure from Spain, even if the said seven years did not immediately precede his attainment of retiring age.

(3) In the cases specified in paragraph (2) above, an Austrian employed person who has paid contributions for five years shall be entitled, on reaching the age of sixty years, to a retirement pension equal to five-thirtieths of the total pension. Such retirement pension shall be increased by one-thirtieth of the total pension for each year of employment in Spain in excess of five years. The partial pension shall be calculated on the basis of the remuneration received during the last two years of employment in Spain. The said pension shall, if the occasion arises, be adjusted by the application of a revalorization coefficient equal to that applied in Spain to pensions granted during the period of the last two full years completed by the person concerned.

(4) The partial pensions specified in paragraph (3) above shall pass to the survivors of the employed person in the proportion prescribed by Spanish legislation with respect to the total pension.

(5) The pension under the unified Spanish social security system shall not be reduced where the beneficiary is in receipt of a partial pension under the workers' mutual benefit scheme calculated in accordance with the provisions of paragraph (3) above.

(6) Pensions or partial pensions granted to an Austrian employed person and his survivors under the provisions of this chapter shall be adjusted in the same proportion as those granted to Spanish nationals.

Chapter 6

FAMILY ALLOWANCES

Article 30

In the application of the Spanish legislation relating to family allowances, insurance periods completed in Austria shall be taken into account for the purpose of the acquisition of the right to benefits under that legislation.

Article 31

An Austrian employed person who is employed in Spain and who has children residing in Austria shall be entitled to benefits in respect of such children under the Spanish legislation relating to family allowances.

TITLE III

MISCELLANEOUS PROVISIONS

Article 32

(1) The competent authorities shall agree upon the measures necessary to implement this Agreement. In particular, they may agree to establish liaison offices with a view to facilitating the implementation of this Agreement.

(2) The competent authorities shall inform each other of :

- (a) Any measures taken by them for the application of this Agreement ;
- (b) Any changes made in their legislation which affect the application of this Agreement.

(3) The authorities and the insurance authorities of the two Contracting States shall assist one another with regard to any matter relating to the application of this Agreement as if the matter were one affecting the application of their own legislation. Such assistance shall be free of charge. The competent authorities may, however, agree upon the repayment of specified costs.

Article 33

Medical examinations required under the legislation of one of the Contracting States in respect of persons who are in the territory of the other Contracting State shall be arranged, upon the application of the competent insurance authority, by the insurance authority of the Contracting State in whose territory the persons to be examined are. The cost of such examinations, travel expenses, loss of earnings, the cost of hospitalization for observation and other out-of-pocket expenses, excluding postages, shall be repaid by the competent insurance authority.

Article 34

Contributions which are owed to an insurance authority of one of the Contracting States may be collected in the territory of the other Contracting State by the same procedure as applies to the collection of contributions owed to the corresponding insurance authorities of the last-mentioned Contracting State.

Article 35

Where a person who is in receipt of benefits under the legislation of one of the Contracting States in respect of an injury sustained in the territory of the other Contracting State is entitled in the territory of the last-mentioned Contracting State to claim damages for such injury from a third party, the insurance authority liable for the benefits shall be subrogated to his rights vis-à-vis the third party in accordance with the legislation applicable to that insurance authority.

Article 36

(1) Any exemption from or reduction of legal dues or charges, including consular and administrative fees, provided for by the legislation of one of the Contracting States in respect of certificates and other papers required to be submitted under that legislation shall be extended to certificates and other papers required to be submitted under the legislation of the other Contracting State in implementation of this Agreement or by virtue of the provisions thereof.

(2) Certificates, documents and papers of every kind required to be submitted under this Agreement need not be authenticated.

Article 37

The authorities and the insurance authorities of one of the Contracting States shall not reject claims or other papers submitted to them on the ground

that they are drawn up in the official language of the other Contracting State.

Article 38

Any claim, notice or appeal which should, for the purpose of the legislation of one of the Contracting States, be submitted within a prescribed time-limit to an authority, insurance authority or other agency of that Contracting State may be submitted within the same time-limit to a corresponding authority, insurance authority or other agency of the other Contracting State. In any such case, the agency to which the claim, notice or appeal has been submitted shall transmit it without delay to the appropriate agency of the first-mentioned Contracting State, either direct or through the competent authorities of the Contracting States

Article 39

(1) Insurance authorities of one of the Contracting States which are liable under this Convention for the payment of sums of money to beneficiaries who are in the territory of the other Contracting State shall be held to discharge their liability by payment in the currency of the first-mentioned Contracting State; moneys due from such insurance authorities to insurance authorities which are in the territory of the other Contracting State must be paid in the currency of the last-mentioned Contracting State.

(2) Transfers of funds required for the implementation of this Agreement shall be effected in accordance with the payments agreements in force between the two Contracting States at the time of the transfer.

Article 40

(1) Any dispute between the Contracting States concerning the interpretation or application of this Agreement shall be the subject of direct negotiations between the competent authorities of the Contracting States.

(2) If the dispute cannot be resolved in this manner within a period of six months from the opening of negotiations, it shall, at the request of one or both of the Contracting States, be submitted to an arbitral commission, whose composition shall be determined by agreement between the Contracting States. The rules of procedure to be applied shall be determined in the same manner.

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

Article 41

(1) Where an insurance authority of one of the Contracting States has made an advance payment to a person entitled to benefits, such insurance

authority or, at its request, the competent insurance authority of the other Contracting State may deduct the amount of the advance from the payments to which such person is entitled for the same period.

(2) Where, in the case of a revision under the terms of article 20, paragraph (3), an insurance authority of one of the Contracting States has paid to a beneficiary an amount higher than that to which he is entitled, that insurance authority may request the paying agency to deduct the amount of the overpayment from the payment of arrears for the same period. The paying agency shall transmit the amount deducted to the insurance authority which made the request.

(3) Where one of the Contracting States has granted public assistance to a person entitled to benefits during a period for which he is entitled to cash benefits, the insurance authority liable for such benefits or the paying agency shall, at the request and for the account of the public assistance authority, withhold payments of arrears for the same period until the amount of the public assistance granted has been recovered, as if such assistance had been in the form of a cash benefit under the legislation of the Contracting State in whose territory the public assistance authority making the request is domiciled.

TITLE IV

TRANSITIONAL AND FINAL PROVISIONS

Article 42

(1) This Agreement shall in no case confer any right to the payment of benefits for a period before the date of its entry into force.

(2) Any insurance period completed under the legislation of one of the Contracting States before the date of the entry into force of this Agreement shall be taken into account for the purpose of determining the right to benefits in accordance with the provisions of this Agreement.

(3) Subject to the provisions of paragraph (1) of this article, a pension or annuity shall be payable under this Agreement 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 in the territory of the other Contracting State shall, upon his application, be paid or reinstated as from the date of the entry into force of this Agreement, provided that the entitlement previously awarded has not been liquidated by a lump-sum payment. The application shall be submitted within a period of two years from the date of the entry into force of this Agreement.

(4) Pensions or annuities determined before the date of the entry into force of this Agreement shall, upon the application of the person concerned, be determined afresh as from the date of its entry into force. The application shall be submitted within two years of the date of the entry into force of this Agreement. Pensions or annuities may, however, be determined afresh *ex officio* at any time; in that event, the date on which the insurance authority dispatches to the beneficiary the required notification of the initiation of the relevant procedure shall be deemed to be the date of the application.

(5) With regard to the rights arising out of the application of paragraph (3) above, the legislation of the Contracting States concerning the lapse and extinction of rights shall not apply to the beneficiary, provided that the application is submitted within two years of the date of the entry into force of this Agreement. If the application is made after the expiry of that period, such right to benefits as has not lapsed or been extinguished shall be acquired as from the date of the application, unless the legislation of one of the Contracting States contains more favourable provisions.

Article 43

This Agreement shall be ratified. The instruments of ratification shall be exchanged at Vienna as soon as possible.

Article 44

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

Article 45

This Agreement shall remain in force until 31 December 1964. It shall be tacitly extended from year to year unless notice of termination is given by one of the Contracting States through the diplomatic channel not later than one month before the expiry of the current term.

Article 46

(1) In the event of the termination of this Agreement, any right to benefits acquired in accordance with its provisions shall be maintained.

(2) Rights which are in course of acquisition in respect of periods completed before the date on which the termination takes effect shall not be affected 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 legislation applicable to the insurance authority concerned.

IN WITNESS WHEREOF the aforementioned plenipotentiaries have signed this Agreement.

DONE at Madrid, on 15 July 1964, in four copies, two in the German and two in the Spanish language, both texts being equally authentic.

For the Republic of Austria :
GRUBER

For the Spanish State :
Fernando CASTIELLA

FINAL PROTOCOL TO THE AGREEMENT OF 15 JULY 1964 BETWEEN
THE REPUBLIC OF AUSTRIA AND THE SPANISH STATE ON
SOCIAL SECURITY

At the time of signing the Agreement on Social Security concluded this day between the Republic of Austria and the Spanish State, the plenipotentiaries of the two Contracting States have agreed upon the following declarations :

1. *Ad* article 2 of the Agreement :

No reference is made to the Austrian legislation concerning family assistance because such legislation, as now in force, does not provide for any restriction as concerns either the nationality of beneficiaries or the place of residence of persons in respect of whom benefits are granted. Benefits will therefore be granted to Spanish nationals under the said legislation on the same terms as to Austrian nationals. For the aforementioned reasons, no special provision is necessary.

2. *Ad* article 3 of the Agreement :

(a) The provisions of paragraph (2) shall apply *mutatis mutandis* to the Austrian Trade Delegate and the technical staff assigned to him by the Federal Chamber of Commerce (Bundeskammer der gewerblichen Wirtschaft), and to representatives of the said Chamber in matters relating to the recruitment of workers.

(b) Spanish nationals who are employed on the administrative staff of diplomatic or consular missions of Spain in Austria or of Austria in Spain or on the personal staff of the members of such missions shall be covered by social insurance under Spanish legislation.

3. *Ad* article 4 of the Agreement :

(a) Austrian nationals within the meaning of the Agreement shall be deemed to include persons who were resident in the territory of the Republic of Austria, otherwise than purely temporarily, on 11 July 1953, 1 January 1961 or 27 November 1961 and who were entitled on the date in question to be considered *Volksdeutsche* (persons of German mother tongue who are stateless or whose nationality is indeterminate).

(b) The assimilation of Spanish nationals to Austrian nationals under the terms of paragraph (1) shall not apply with respect to the fulfilment of personal requirements under Austrian legislation as concerns :

(aa) In the case of pensions (or annuities) insurance, the taking into account of contribution periods completed after 12 March 1938 and prior to 10 April 1945 under a compulsory or voluntary pensions insurance scheme of the former German Reich in respect of employment or residence outside the territory of Austria ;

(bb) In the case of industrial accident insurance, the assumption of liability for compensation in respect of industrial accidents sustained (or occupational diseases contracted) outside the territory of Austria during the period specified in (aa) above under the accident insurance scheme of the former German Reich.

(c) Under the Austrian pensions (or annuities) insurance scheme, without prejudice to other requirements, the following periods shall be deemed, in the case of Spanish nationals within the meaning of the Agreement, to be equivalent periods :

(aa) With respect to the First World War, periods of active military service in the Austrian-Hungarian Army or in the army of an allied State, and such periods of captivity as a prisoner of war (or civilian internee) and of return from such captivity as are assimilated thereto ;

(bb) With respect to the Second World War, periods of active military service in the armed forces of the former German Reich and of its allies, periods of compulsory service in the defence forces or the labour force, and such periods of emergency or civil defence service, of captivity as a prisoner of war (or civilian internee) and of return from such captivity as are assimilated thereto.

The foregoing shall be without prejudice to the Austrian legislation concerning privileges accorded to persons who have suffered injury on political, religious or radical grounds.

(d) Where periods of full-time education are taken into account subject to the subsequent completion of a period of active military service or of a period assimilated thereto, only the periods referred to in sub-paragraph (c) above shall be deemed to constitute such periods of service.

(e) The provisions of the Austrian Federal Act of 22 November 1961 concerning the right to benefits and rights in course of acquisition under the pensions (or annuities) and accident insurance schemes arising out of employment abroad shall not apply to Spanish nationals.

4. *Ad* article 5 of the Agreement :

The equalization allowance (*Ausgleichszulage*) for which Austrian legislation provides shall be added to pensions granted under the Austrian pensions insurance scheme only while the beneficiary is in the territory of Austria.

5. *Ad* article 7 of the Agreement :

Persons employed by an enterprise registered in Spain shall be deemed to be employed in Austria even if they do not fulfil the conditions relating to residence laid down by Austrian legislation.

6. *Ad* articles 8 and 9 of the Agreement :

For the purpose of the application of article 8 (a) and article 9, the competent authority in Austria shall take into account the nature and circumstances of the employment.

7. *Ad* article 12 of the Agreement :

(a) The provisions of paragraph (1) shall not apply to persons who are normally resident in the territory of one of the Contracting States and who are temporarily in the territory of the other Contracting State for reasons other than their employment.

(b) The provisions of sub-paragraph (a) above shall not apply with respect to nationals of one of the Contracting States who are employed in the territory of the other Contracting State and who are temporarily in the territory of the first-mentioned Contracting State.

(c) The provisions of sub-paragraphs (a) and (b) above shall apply also to the dependants of the persons concerned.

8. *Ad* article 14 of the Agreement :

For the purpose of the application of paragraph (2), residence in the territory of Spain shall, as concerns sickness insurance for pensioners, be assimilated to residence in the territory of Austria.

9. *Ad* article 16 of the Agreement :

The repayment of costs incurred under article 14, paragraph (2), in respect of persons in receipt of pensions or annuities under the Austrian pensions insurance scheme or accident insurance scheme shall be effected out of the pensioners' sickness insurance contributions deposited with the Federation of Austrian Social Insurance Authorities.

10. *Ad* article 18 of the Agreement :

For the purposes of paragraph (2), the following shall be deemed to be special insurance schemes :

In Austria, the pensions insurance scheme for miners ;

In Spain, the insurance system applicable to the workers' mutual benefit funds for persons employed in mining and similar enterprises.

11. *Ad* articles 18 and 19 of the Agreement :

The Austrian insurance authorities shall apply the said articles in accordance with the following rules :

(a) Insurance periods which are to be taken into account in calculating pensions under article 229 of the Austrian Federal Act of 9 September 1955 concerning general social insurance, and insurance periods which are to be taken into account under the Federal Act referred to in paragraph (3) (e) above, shall be deemed to be insurance periods completed under Austrian legislation.

(b) Where Austrian substitute periods are taken into account subject to the completion of a previous or subsequent insurance period, any such insurance period completed under the Spanish pensions insurance scheme shall also be taken into account.

(c) For the purpose of the application of article 19, paragraph (3) (a), retroactive contributions for the acquisition of substitute periods under the Austrian pensions insurance scheme shall not be deemed to be contributions to the supplementary insurance scheme.

(d) For the purpose of determining a pension under article 19, paragraph (3) (a), the basis for the calculation shall consist solely of the periods completed under the Austrian pensions insurance scheme.

(e) For the purpose of calculating the total benefit under article 19, paragraph (3) (a), the Austrian insurance authorities shall take into account the Spanish insurance periods which are to be taken into account in calculating the Spanish benefit, without applying the Austrian legislation concerning the taking into account of insurance periods.

(f) For the purpose of the application of Austrian legislation, the statutory date (*Stichtag*) shall be substituted for the insurance contingency referred to in article 19, paragraph (3) (b).

(g) For the purpose of determining the insurance authority competent to provide a benefit under the Austrian pensions insurance scheme (*Leistungszugehörigkeit und Leistungszuständigkeit*), Spanish insurance periods shall be taken into account according to the kind of employment followed during such periods. Periods during which an entitlement to benefits under the Spanish old age and invalidity pensions scheme exists or existed shall be taken into

account according to the kind of employment last followed before the occurrence of the insurance contingency. Where the kind of employment followed during a given period of time cannot be established, the insurance periods in respect of such employment shall be taken into account as if they had been completed under an insurance scheme for which the Austrian Manual Workers' Pensions Insurance Institute (*Pensionsversicherungsanstalt der Arbeiter*) would have been competent. For the purpose of determining the insurance authority competent to provide a benefit under the Austrian pensions insurance scheme for miners, only such Spanish insurance periods as were completed under the Spanish special insurance schemes specified in paragraph 10 above shall be taken into account.

(h) Where the statutory (*Stichtag*) was prior to 1 January 1962 and contribution bases cannot be established for the purpose of determining a calculation base, the contribution base shall be deemed to be the multiple currently applicable under Austrian legislation to the daily rate of pay, as at 31 December 1946, of employed persons following the same kind of occupation, provided that such contribution base shall not exceed the highest contribution base currently applicable.

(i) Where the number of insurance months taken into account for the purpose of calculating Austrian pension increments is subject to a maximum, the ratio referred to in article 19, paragraph (3) (b), shall be determined on the basis of all the insurance periods taken into account by the insurance authorities of both Contracting States, irrespective of such maximum.

(j) For the purposes of the miners' seniority bonus (*Knappschaftssold*) and miners' pension (*Knappschaftspension*) under the Austrian pensions insurance scheme for miners, insurance periods completed under any of the Spanish special insurance schemes specified in paragraph 10 above shall be taken into account; for the purpose of supplementary benefits (*Leistungszuschlag*), however, only those insurance periods in respect of which supplementary allowances for underground work were granted shall be taken into account.

(k) The provisions of articles 18 and 19 shall not apply with respect to the conditions for entitlement to, and granting of, the long-service bonus for miner (*Bergmannstreuegeld*) under the Austrian pensions insurance scheme for miners.

(l) The supplementary allowance to disabled persons (*Hilfslosenzuschuss*) shall be calculated on the basis of the partial pensions, the limits prescribed by Austrian legislation being proportionately reduced in accordance with the provisions of article 19, paragraph (3) (b). Where entitlement to an Austrian pension exists under that legislation irrespective of the provisions of article 18, the limits shall not be reduced.

12. *Ad* article 22 of the Agreement :

The Austrian legislation concerning the determination of a lump-sum benefit in the event of a second or subsequent industrial accident or a second or subsequent occupational disease shall not apply.

13. *Ad* article 29 of the Agreement :

(a) An Austrian national who, on the date of the entry into force of the Agreement, is employed in Spain in an enterprise affiliated to a workers' mutual benefit fund shall, irrespective of his age, be subject as from that date to compulsory insurance under the workers' mutual benefit scheme on the same conditions as Spanish nationals, as if his sector of employment had become subject to the workers' mutual benefit scheme on the date of the entry into force of the Agreement.

(b) For the purpose of the acquisition of the right to a retirement pension under Spanish legislation, the periods during which the employed person concerned was subject to Austrian legislation by reason of employment in an enterprise which, if it had its principal place of business in Spain, would be affiliated to the workers' mutual benefit scheme shall be taken into account by the Spanish insurance authorities in determining whether the condition imposed by Spanish legislation concerning a ten-year period of employment is satisfied.

This Final Protocol shall form an integral part of the Agreement between the Republic of Austria and the Spanish State on Social Security. It shall enter into force on the date on which the Agreement enters into force and shall remain in force for the same period as the Agreement.

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

DONE at Madrid, on 15 July 1964, in four copies, two in the German and two in the Spanish language, both texts being equally authentic.

For the Republic of Austria :

GRUBER

For the Spanish State :

Fernando CASTIELLA

ADDITIONAL PROTOCOL TO THE AGREEMENT OF 15
JULY 1964 BETWEEN THE REPUBLIC OF AUSTRIA
AND THE SPANISH STATE ON SOCIAL SECURITY.
SIGNED AT VIENNA, ON 27 NOVEMBER 1964

The Contracting Parties have agreed additionally on the following :

Article I

For the purpose of the acquisition of Austrian children's allowances by Spanish nationals who are employed in Austria but are not domiciled or normally resident in Austria, the work permit issued under the Austrian legislation concerning the employment of foreign workers shall, during the period of its validity, serve as a substitute for the requirement of domicile or normal residence in Austria.

Article II

This Additional Protocol shall be deemed to form an integral part of the Austrian-Spanish Agreement on Social Security.

Article III

This Additional Protocol shall enter into force simultaneously with the Austrian-Spanish Agreement on Social Security.

IN WITNESS WHEREOF the representatives of the two Contracting Parties, being duly authorized thereto, have signed this Additional Protocol.

DONE at Vienna, on 27 November 1964, in four copies, two in the German and two in the Spanish language, both texts being equally authentic.

For the Republic of Austria :

KREISKY

For the Spanish State :

J. S. DE ERICE

ADMINISTRATIVE AGREEMENT FOR THE IMPLEMENTATION OF THE AGREEMENT OF 15 JULY 1964 BETWEEN THE REPUBLIC OF AUSTRIA AND THE SPANISH STATE ON SOCIAL SECURITY. SIGNED AT VIENNA, ON 14 OCTOBER 1964

Pursuant to article 32, paragraph (1), of the Agreement between the Republic of Austria and the Spanish State on Social Security of 15 July 1964 (hereinafter referred to as "the Agreement"), the competent authorities of the two Contracting States, namely :

For the Republic of Austria :

The Federal Ministry of Social Affairs, represented by Dr. Ernst Willas, *Sektionschef* ;

For the Spanish State :

The Ministry of Labour and, on its behalf, the Ministry of Foreign Affairs, represented by Mr. José S. de Erice, Ambassador of Spain at Vienna ;

have agreed on the following provisions for the implementation of the Agreement :

TITLE I
GENERAL PROVISIONS

Article 1

(1) The following shall be liaison offices within the meaning of article 32, paragraph (1), of the Agreement :

1. In Austria :

The Federation of Austrian Social Security Authorities — Liaison Office for International Social Security (Hauptverband der österreichischen Sozialversicherungsträger — Verbindungsstelle für zwischenstaatliche Sozialversicherung), Vienna

(hereinafter referred to as "the Austrian liaison office") ;

2. In Spain :

(a) In the case of sickness insurance, including maternity benefits, unemployment insurance, insurance against industrial accidents and occupational diseases, and family allowances :

The Central Office of the National Provident Institute (Servicios Centrales del Instituto Nacional de Previsión), Madrid ;

(b) In the case of all benefits under the workers' mutual benefit scheme and old age, invalidity and survivors' benefits under the unified social insurance system :

The Bureau of Workers' Mutual Benefit Funds (Servicio de Mutualidades Laborales), Madrid,
(hereinafter referred to as "Spanish liaison offices").

Article 2

(1) For the purposes of this Protocol, the expressions defined in article 1 of the Agreement have the meanings ascribed to them in that article.

(2) For the purposes of this Protocol, the expression "employed person" means an employed person or a person treated as such.

(3) For the purposes of this Protocol, the insurance authorities specified in articles 15 and 24 of the Agreement are referred to as "assisting insurance authorities".

Article 3

(1) An employed person to whom article 8 (a) of the Agreement applies shall submit to the appropriate agency of the Contracting State to whose territory he is sent a certificate indicating that during his temporary employment he will remain subject to the legislation of the Contracting State in which he is normally employed.

(2) The certificate shall be issued, if the person concerned is normally employed :

In Austria,

By the competent sickness insurance authority or, if his normal employment in Austria is not subject to sickness insurance, by the Austrian liaison office ;

In Spain,

By the National Provident Institute.

(3) A request for the continued application of the legislation referred to in article 8 (a) of the Agreement shall be submitted to the competent authority, or the agency designated by it, of the Contracting State under whose legislation the employed person is insured. That authority (or the agency designated by it) shall express its views on the request and shall forward it without delay to the competent authority (or the agency designated by it) of the other Contracting State, which shall take the decision on the request and shall give notice of its decision to the person who submitted the request, to the competent insurance authority and to the competent authority (or the agency designated by it) of the Contracting State under whose legislation the employed person is insured.

TITLE II
SPECIAL PROVISIONS

Chapter 1

SICKNESS INSURANCE

Article 4

(1) In the cases specified in article 11, paragraph (1), of the Agreement, the employed person shall submit to the appropriate insurance authority a certificate of the insurance periods which he has completed under the legislation of the State from which he comes.

(2) The certificate shall, at the request of the employed person, be issued by the insurance authority with which he was last insured before his departure.

(3) If the employed person does not submit the certificate, the insurance authority referred to in paragraph (1) above may request the insurance authority referred to in paragraph (2) above to issue and forward the certificate.

Article 5

(1) In the cases specified in article 11, paragraph (2), and article 12, paragraphs (1) and (2), of the Agreement, the employed person shall submit to the assisting insurance authority a certificate issued by the competent insurance authority evidencing his entitlement. The certificate shall indicate, in particular, the length of time for which benefits may be granted. Where cash benefits are to be granted, the certificate shall also indicate the amount to be disbursed. If the employed person does not submit the certificate, the assisting insurance authority may request the competent insurance authority to issue and forward the certificate.

(2) If the insurance contingency occurs in the territory of the other Contracting State, the claim for cash benefits shall be submitted to the assisting insurance authority, which shall forward it without delay to the competent insurance authority, together with a report by its own medical officer indicating the probable duration of the disability. Paragraph (1) above shall apply *mutatis mutandis*.

(3) The assisting insurance authority shall observe the course of the beneficiary's sickness as if he were a person insured with that authority itself.

(4) The benefits referred to in article 12, paragraph (4), of the Agreement shall include, in particular, the following :

1. Artificial parts of the body, orthopaedic appliances and braces, including

- orthopaedic corsets lined with fabric, together with replacement parts, accessories and instruments ;
2. Orthopaedic footwear, and, where appropriate, the corresponding normal (non-orthopaedic) shoe ;
 3. Prosthesis of the jaw and face, wigs ;
 4. Anatomical models (reproductions of various parts of the body) used to ensure the correct fitting of the articles referred to in sub-paragraphs 1 to 3 above ;
 5. Artificial eyes, contact lenses, magnifying and telescopic spectacles ;
 6. Hearing aids, especially acoustic and phonetic appliances ;
 7. Dental prosthesis (fixed and removable), and occlusion prosthesis for the oral cavity ;
 8. Invalid carriages, wheel chairs and other mechanical means of locomotion, guide dogs for the blind ;
 9. Renovation of the articles referred to in sub-paragraphs 1 to 8 above ;
 10. Repair of the articles referred to in sub-paragraphs 1 to 8 above, where the cost of repair is likely to exceed 10 per cent of the amount specified in sub-paragraph 11 below ;
 11. All other curative and protective appliances and similar articles the cost of which exceeds, in Austria, 1,500 schillings and, in Spain, 3,500 pesetas.

Where such benefits have been granted without prior authorization by the competent insurance authority in cases of absolute urgency as defined in article 12, paragraph (4), of the Agreement, the assisting insurance authority shall notify the competent insurance authority accordingly without delay.

(5) Paragraphs (1) to (4) above shall apply *mutatis mutandis* to dependants who are temporarily in the territory of the other Contracting State.

Article 6

(1) In the cases specified in article 13, paragraph (1), of the Agreement, the following procedure shall be applied :

- (a) The insured person shall submit to the competent insurance authority a notice in triplicate, issued by the assisting insurance authority, listing the dependants who are resident in the territory of the other Contracting State. The list shall not include any dependants who are entitled to benefits under an insurance arrangement of their own.
- (b) The competent insurance authority shall certify, on two copies of the aforementioned notice, which of the persons listed therein are deemed

to be dependants under the legislation applicable to that insurance authority.

- (c) One of the two certified copies of the notice shall be forwarded without delay to the liaison office of the other Contracting State and one to the assisting insurance authority.

(2) The employed person and his dependants shall notify the assisting insurance authority of any change in their circumstances which might affect the entitlement of the dependants to benefits in kind, including, in particular, any termination or change of employment or any change in the permanent or temporary place of residence of the employed person or of any of his dependants.

(3) If any dependant loses his status as such, the competent insurance authority shall inform the liaison office of the other Contracting State and the assisting insurance authority accordingly without delay.

(4) In the cases specified in article 13, paragraph (2), of the Agreement, the assisting insurance authority shall, at the request of the competent insurance authority, inform the last-mentioned insurance authority of the manner of providing benefits granted to any dependant before the date of the transfer of residence and the scale and duration of such benefits.

Article 7

(1) In the cases specified in article 14, paragraph (2), of the Agreement, the person in receipt of a pension or annuity shall submit to the assisting insurance authority a certificate, issued by the insurance authority liable for the pension or annuity, confirming that the beneficiary is entitled to benefits in kind for himself and for his dependants in accordance with the legislation under which the pension or annuity is payable. The insurance authority issuing the certificate shall forward copies thereof to the liaison offices of the Contracting States.

(2) The insurance authority which issued the certificate shall without delay notify the liaison office of the other Contracting State in duplicate if the beneficiary ceases to be entitled to benefits in kind. The liaison office shall inform the assisting insurance authority accordingly without delay. The liaison office of the Contracting State in which the insurance authority which issued the certificate is domiciled shall be similarly notified.

Article 8

(1) Cash benefits payable on the basis of a certificate in accordance with article 5 above shall be paid by the assisting insurance authority in the currency of the State in which it is domiciled as agent for the competent insurance authority. Conversion shall be effected at the rate of exchange

prevailing on the date of payment. If no official rate of exchange is quoted in one of the Contracting States for the currency of the other Contracting State, conversion shall be effected on the basis of the official rates for the United States dollar (demand drafts on New York) quoted in the two Contracting States on the date of payment.

(2) Repayment of the amounts disbursed shall be claimed by the assisting insurance authority from the competent insurance authority after the termination of the contingency giving rise to the payment of benefits, but not later than the end of each quarter, through the liaison offices.

Article 9

The competent insurance authorities shall repay to the assisting insurance authorities which have provided benefits in kind in accordance with article 11, paragraph (2), article 12, paragraph (1), (2) and (6), article 13, paragraph (1), and article 14, paragraph (2), of the Agreement the amount of the costs actually incurred, as indicated in the account rendered by the said assisting insurance authorities. The provisions of article 8, paragraph (2), above shall apply *mutatis mutandis*.

Chapter 2

PENSIONS INSURANCE

Section 1

DETERMINATION OF BENEFITS

Article 10

(1) Applications for benefits under the provisions of title II, chapter 2, of the Agreement shall be submitted, in Austria, to the competent authority, and, in Spain, to the liaison office, in accordance with the legislation applicable to the said insurance authority or liaison office. If the application is submitted to any other agency authorized to receive it, such agency shall forward it without delay to the competent insurance authority or to the liaison office, as the case may be.

(2) Where an employed person or his survivor who is not resident in Spain or in Austria applies for benefits under the provisions of title II, chapter 2, of the Agreement, the application shall be submitted to the liaison office of the Contracting State under whose legislation the employed person was last insured.

(3) The application shall be submitted in duplicate on a standard form.

(4) The provisions of paragraph (2) above shall apply *mutatis mutandis* to applicants who are resident in the territory of one of the Contracting

States and who claim benefits solely under the legislation of the other Contracting State.

(5) The agency receiving the application shall certify that the personal particulars of the applicant or of the insured person are correct. Provided that such particulars are certified correct, the forwarding of the application shall serve as a substitute for the forwarding of the supporting evidence. Proof of insurance coverage shall be submitted in the original.

(6) The competent insurance authority or the liaison office, as the case may be, shall forward a copy of the application without delay to the liaison office of the other Contracting State, which shall transmit it as soon as possible to the competent insurance authority in the last-mentioned Contracting State.

Article 11

(1) The competent insurance authority of the State of residence shall enter on a standard form (in triplicate) all such particulars as are needed to determine the benefits.

(2) The competent insurance authority of the other Contracting State shall, after receipt of the copy of the application, likewise proceed in accordance with paragraph (1) above.

(3) As soon as one of the competent insurance authorities has entered on the standard form the insurance periods completed under the legislation applicable to it, it shall forward two copies of the form to the competent insurance authority of the other Contracting State, either direct or through the liaison office of the last-mentioned State. Where benefits are claimed on the ground of invalidity and the competent insurance authority of the State of residence has performed a medical examination, a copy of the report of its medical officer shall be attached to the form.

(4) The subsequent proceedings shall be conducted between the competent insurance authorities direct.

(5) If both the standard forms completed by the competent insurance authorities in accordance with paragraph (3) above are simultaneously in the hands of one of those insurance authorities or if they cross while being forwarded, only the form completed by the competent insurance authority of the State of residence shall be used in the subsequent proceedings.

Article 12

(1) Upon the termination of the proceedings, the competent insurance authority of the Contracting State which is not the State of residence shall forward to the competent insurance authority of the State of residence two copies of the decision which it has taken on the basis of the particulars given

in the standard form, together with the standard form duly completed (in duplicate).

(2) The competent insurance authority of the State of residence shall thereupon take its decision and communicate it to the applicant, together with the decision of the competent insurance authority of the other Contracting State.

(3) The competent insurance authority of the State of residence shall notify the competent insurance authority of the other Contracting State that its decision has been communicated to the applicant by forwarding to the last-mentioned insurance authority a copy of the standard form endorsed accordingly, together with a copy of its own decision.

(4) Each of the competent insurance authorities shall forward a copy of its decision to the liaison office of the State of residence.

Article 13

(1) If one of the competent insurance authorities establishes that entitlement to a benefit exists under article 21, paragraph (2), of the Agreement, it shall determine the amount of the benefit and notify the competent insurance authority of the other Contracting State.

(2) For the purpose of the application of article 21 of the Agreement, amounts expressed in different currencies shall be converted at the rate of exchange prevailing on the date on which the amount of the pension is calculated. If no official rate of exchange is quoted in one of the Contracting States for the currency of the other Contracting State, conversion shall be effected on the basis of the official rates for the United States dollar (demand drafts on New York) quoted in the two Contracting States on the aforementioned date.

Section 2

PAYMENT OF PENSIONS INSURANCE BENEFITS

Article 14

(1) Benefits shall be paid to beneficiaries who are resident in the other Contracting State by the liaison office of that Contracting State as agent for the competent insurance authority, at the request of the liaison office of the Contracting State in which the competent insurance authority is domiciled.

(2) The liaison office of the State of residence shall pay the benefits to the beneficiaries in the same manner as is customary in the case of the payment of benefits under the pensions insurance scheme of that State. Benefits shall become due and payable in accordance with the legislation applicable

to the competent insurance authority. Benefits shall in no case be paid before the due date.

Article 15

(1) The competent insurance authorities of each Contracting State shall prepare monthly schedules listing the payments which are to be made on their behalf to beneficiaries resident in the other Contracting State. The schedules shall include the following particulars :

Given names, surnames and addresses of beneficiaries and recipients of benefits, class and type of benefit, period to which the payment relates and amount of benefit.

(2) The schedules shall be forwarded by the competent insurance authorities of the State which is not the State of residence to the liaison office of the same State. The total amount of the schedules shall be remitted to that liaison office at the same time.

(3) The liaison office of the State which is not the State of residence shall forward all the schedules, in a single consignment not later than twenty days before the due date of the benefits, to the liaison office of the State of residence which is to effect the payments.

(4) Cover for payment of the benefits shall be remitted to the liaison office of the State of residence in such a manner that it is received by that liaison office not later than fourteen days before the due date of the benefits. The liaison offices may agree upon arrangements for such remittances. An agreement may also be made to offset equivalent amounts payable.

Article 16

(1) Benefits shall be paid by the liaison office of the State of residence, without any deduction for administrative and remittance costs, at the rate of exchange at which the total amount remitted by the liaison office of the other Contracting State in accordance with article 15, paragraph (4), above has been credited to it.

(2) If the liaison office of the State of residence learns of any circumstance which entails the suspension or termination of the benefit, it shall cease payment. The same shall apply if the beneficiary transfers his residence to a third State. The liaison office of the State of residence shall inform the liaison office of the other Contracting State without delay of the reason for any cessation of payment and, where applicable, of the date on which a beneficiary or his spouse died or a widow or widower remarried. Amounts which are not disbursed shall be refunded as soon as possible, or at least monthly in a single remittance.

Chapter 3

INDUSTRIAL ACCIDENT INSURANCE

Article 17

(1) Applications for pensions or death grants under the industrial accident insurance scheme of the other Contracting State shall be submitted to the liaison office of the State of residence on a standard form ; the application shall be forwarded without delay to the liaison office of the other Contracting State for transmittal to the competent insurance authority.

(2) The provisions of chapter 2, section 2, above shall apply *mutatis mutandis* to the payment of pensions and death grants under the industrial accident insurance scheme of either Contracting State.

Article 18

In the cases specified in article 22 of the Agreement, the applicant shall be required to provide the competent insurance authority with the necessary information concerning the industrial accidents sustained or occupational diseases contracted at an earlier date under the legislation of the other Contracting State, irrespective of the degree of disability occasioned by such previous accidents or diseases. If the competent insurance authority deems it necessary, it may request the insurance authorities which were competent with respect to the previous industrial accidents or occupational diseases to provide the relevant particulars.

Article 19

(1) Where, in the cases specified in article 23, paragraph (1), of the Agreement, it is necessary to take into account previous periods of employment, the insurance authority of the Contracting State in which such periods were completed shall issue to the insured person a certificate for submission to the competent insurance authority of the other Contracting State under whose legislation he last followed such employment.

(2) In the cases specified in article 23, paragraph (3), of the Agreement, the insured person shall be required to provide the competent insurance authority of the Contracting State under whose legislation he claims title to benefit with the necessary information concerning the benefits previously granted as compensation for the occupational disease in question. If the competent insurance authority deems it necessary, it may, either direct or through the liaison offices, request the insurance authority which previously granted benefits to the person concerned to provide particulars of such benefits.

Article 20

(1) Cash benefits, other than pensions and death grants, which are payable shall be paid to beneficiaries in the other Contracting State by the assisting insurance authority at the request and for the account of the competent insurance authority. The request shall be made on a standard form and shall be forwarded to the assisting insurance authority, either direct or through the liaison office of the State of residence. The provisions of article 5, paragraphs (1) to (3), above shall apply *mutatis mutandis*.

(2) For the purpose of repayment of the amounts disbursed, the provisions of article 8 above shall apply.

Article 21

(1) Benefits in kind to which beneficiaries resident in the other Contracting State are entitled in accordance with article 24 of the Agreement shall be provided, upon application, by the assisting insurance authority at the expense of the competent insurance authority. The application shall be submitted in duplicate on a standard form.

(2) The applicant must prove beyond reasonable doubt that the benefits in kind are claimed as the result of an industrial accident (or occupational disease) which is recognized or compensable by the competent insurance authority.

(3) The assisting insurance authority shall forward one copy of the application without delay to the competent insurance authority, either direct or through the liaison office of the other Contracting State. The competent insurance authority shall inform the assisting insurance authority without delay whether or not the conditions for the provision of benefits in kind are fulfilled.

(4) For the purposes of claiming and effecting repayment of the cost incurred in connexion with benefits in kind, the provisions of article 9 above shall apply *mutatis mutandis*.

Chapter 4

UNEMPLOYMENT INSURANCE

Article 22

(1) In the cases specified in article 25 of the Agreement, the person concerned shall submit to the appropriate agency a certificate indicating the insurance periods which he has completed under the legislation of the State from which he comes.

(2) The certificate shall be issued, upon the application of the person concerned, by the agency of the State from which he comes referred to in article 3, paragraph (2), above.

(3) If the person concerned has already submitted a certificate in accordance with article 4 above, the appropriate agency shall request the insurance authority to which the certificate was submitted to provide information concerning the insurance periods indicated therein.

(4) If the person concerned does not submit the certificate referred to in paragraph (1) above, the appropriate agency of the one Contracting State may request the competent insurance authority of the other Contracting State to issue and forward the certificate.

Chapter 5

WORKERS' MUTUAL BENEFIT SCHEME (MUTUALISMO LABORAL)

Article 23

In the cases specified in article 29, paragraphs (2) and (3), of the Agreement, the insurance authorities for the workers' mutual benefit scheme shall issue to any Austrian employed person, upon application, a certificate indicating the contributions paid and the duration and dates of the contribution periods completed. The application must be submitted within five years of the date on which the person concerned ceases to be covered by the workers' mutual benefit scheme.

Article 24

For the purpose of the payment of pensions under the workers' mutual benefit scheme to beneficiaries resident in Austria, the provisions of chapter 2, section 2, above shall apply.

Chapter 6

FAMILY ALLOWANCES

Article 25

In the cases specified in article 30 of the Agreement, the provisions of article 22 above shall apply, but only periods during which the person concerned was an employed person shall be certified.

TITLE III
FINAL PROVISIONS

Article 26

(1) The administrative assistance referred to in article 32, paragraph (3), and article 33 of the Agreement shall be rendered through the liaison offices.

(2) The cost of medical examinations, opinions and reports, including the cost of hospitalization for observation, and necessary travel expenses, incurred pursuant to article 33 of the Agreement shall be repaid through the liaison office upon presentation of an itemized account.

(3) The costs referred to in paragraph (2) above shall not be repaid in cases where the measures taken are required under the legislation of both Contracting States.

Article 27

The liaison offices may, subject to the approval of the competent authorities, agree upon models for the certificates, standard forms and other documents required for the implementation of the Agreement and of this Protocol.

Article 28

This Protocol shall enter into force simultaneously with the Agreement.

DONE at Vienna, on 14 October 1964, in four copies, two in the German and two in the Spanish language, both texts being equally authentic.

For the Federal Ministry of Social Affairs :

Dr. WILLAS

For the Ministry of Foreign Affairs :

J. S. DE ERICE