

No. 9273

NETHERLANDS
and
PORTUGAL

**Convention on Social Security. Signed at The Hague, on
12 October 1966**

**Administrative Agreement concerning the manner of appli-
cation of the above-mentioned Convention. Signed at
Lisbon, on 1 May 1968**

Official texts: French.

Registered by the Netherlands on 3 October 1968.

PAYS-BAS
et.
PORTUGAL

**Convention sur la sécurité sociale. Signée à La Haye, le 12
octobre 1966**

**Arrangement administratif relatif aux modalités d'application
de la Convention susmentionnée. Signé à Lisbonne, le
1^{er} mai 1968**

Textes officiels français.

Enregistrés par les Pays-Bas le 3 octobre 1968.

[Translation - Traduction]

No. 9273. CONVENTION¹ BETWEEN THE KINGDOM OF THE NETHERLANDS AND THE PORTUGUESE REPUBLIC ON SOCIAL SECURITY. SIGNED AT THE HAGUE, ON 12 OCTOBER 1966

Her Majesty the Queen of the Netherlands and

The President of the Portuguese Republic,

desiring to co-ordinate the application to nationals of their countries of Netherlands legislation on social security and Portuguese legislation on social insurance, family allowances and industrial accidents and occupational diseases,

Have decided to conclude a convention with this object and, for this purpose, have appointed as their plenipotentiaries:

Her Majesty the Queen of the Netherlands:

Dr. J. M. A. H. Luns, Minister for Foreign Affairs,

The President of the Portuguese Republic:

Dr. Carlos de Liz Branquinho, Ambassador Extraordinary and Plenipotentiary at The Hague,

Who, having exchanged their full powers, found in good and due form,

Have agreed on the following provisions:

TITLE I

GENERAL PROVISIONS

Article 1

Paragraph 1. This convention shall apply:

a. In the Netherlands, to the legislation concerning:

1. Sickness insurance (benefits in cash and in kind in the event of sickness or maternity);
2. Invalidity insurance;
3. Old age insurance;
4. Widows' and orphans' insurance;

¹ Came into force on 1 June 1968, the first day of the month following that of the exchange of the instruments of ratification, which took place at Lisbon on 1 May 1968, in accordance with article 44.

5. Industrial accident and occupational disease insurance, including increases in annuities;
 6. Unemployment insurance;
 7. Family allowances;
 8. Special schemes for persons employed by coal-mining enterprises;
- b. In Portugal, to the legislation concerning:
1. Social insurance concerning sickness, maternity, invalidity, old age and death;
 2. Industrial accidents and occupational diseases;
 3. Special insurance schemes for particular categories, in so far as they concern the risks or benefits covered by the legislation specified in the preceding sub-paragraphs, and particularly the legislation relating to the staff of enterprises holding concessions to operate public transport service;
 4. Family allowances;
 5. Protection against involuntary unemployment.

The term "legislation" shall, where appropriate, also include regulations.

Paragraph 2. This Convention shall also apply to all laws or regulations by which the legislation specified in paragraph 1 of this article has been or may be amended or supplemented.

It shall apply to:

- a. Laws or regulations covering a new branch of social insurance, provided that an agreement to that effect is concluded between the Contracting Parties.
- b. Laws or regulations extending existing schemes to new categories of beneficiaries, provided that the Government of the Contracting Party concerned raises no objection within a period of three months from the date of notification of the official publication of such laws or regulations.

Paragraph 3. The competent authorities within the meaning of this Convention shall be the ministers respectively responsible for the schemes specified in article 1.

Article 2

Paragraph 1. The provisions of this Convention shall apply to employed persons or persons treated as such who are or have been subject to the legislation

of one of the Contracting Parties and are nationals of one of the Parties, and to their dependants and survivors.

Paragraph 2. For the purposes of the interpretation of the term “employed persons” within the meaning of this Convention, no distinction shall be made, as regards Portuguese legislation, between salaried employees and wage-earners.

Paragraph 3. The provisions of this Convention shall not apply to career diplomatic or consular agents, including chancellery officials, or to persons who are in the government service of one of the Contracting Parties and are sent by their Government to the territory of the other Party.

Article 3

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

Article 4

Paragraph 1. Subject to the provisions of article 25, pensions or annuities, including increases, acquired under the legislation of one of the Contracting Parties shall not be reduced, modified, suspended, discontinued or confiscated on the ground that the beneficiary is resident in the territory of the Contracting Party other than that in whose territory the institution liable for the benefit is situated.

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

Article 5

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

Paragraph 2. The provisions of the legislation of one Contracting Party concerning the reduction or suspension of benefits in the event that the beneficiary is simultaneously in receipt of other social security benefits or other income

or carries on an occupation shall apply to him even where the benefits in question are acquired under a scheme of the other Contracting Party or where the income is received or the occupation carried on in the territory of the other Contracting Party.

Paragraph 3. Where the application of this rule would result in the reduction or suspension of the benefits payable under the legislation of both Contracting Parties, the amount of each such benefit affected by the reduction or suspension shall not exceed one half of the amount which is not to be paid.

Paragraph 4. The provisions of the preceding paragraph shall not, however, apply in cases where benefits of the same nature are acquired under articles 18 and 19 of this Convention.

Paragraph 5. Where the application of paragraph 2 results in the reduction or suspension of a benefit awarded under articles 18 and 19, account shall be taken, for the purpose of such reduction or suspension, only of such part of the benefits, income or remuneration as is determined in proportion to the duration of the periods completed in accordance with the provisions of article 19, paragraph 1, sub-paragraph *b*.

TITLE II

METHOD OF DETERMINING WHICH LEGISLATION IS APPLICABLE

Article 6

Paragraph 1. Subject to the provisions of this title, an employed person or a person treated as such who is employed in the territory of one of the Contracting Parties shall be subject to the legislation of that Party, even if he is still deemed to be resident in the territory of the other Party or his employer or the principal place of business of the enterprise which employs him is in the territory of the other Party.

Paragraph 2. Members of the crew of a ship or aircraft shall be subject to the legislation of the Contracting Party in whose territory the ship or aircraft is registered.

Article 7

The principles 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 Contracting Party and is sent to the territory of the other Contracting Party by the enterprise which normally employs him in the territory of the first-mentioned Party shall remain subject to the legislation of the first-mentioned Party, as though he were employed in its territory, for the first twelve months of

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

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

c. Members of the crew of a ship registered in the territory of one Contracting Party who are remunerated by an enterprise, establishment or person having its or his principal place of business or legal domicile in the territory of the other Party shall be subject to the legislation of that other Party, as though the ship were registered in its territory. For the purposes of the said legislation, the enterprise, establishment or person paying the remuneration shall be deemed to be the employer.

Article 8

Paragraph 1. Without prejudice to the provisions of article 2, paragraph 2, the provisions of article 6 shall apply to employed persons or persons treated as such who are employed at the diplomatic or consular posts of the Contracting Parties or are in the personal employ of the agents of such posts.

Paragraph 2. However, an employed person as specified in paragraph 1 of this article who is a national of the Contracting Party represented by the diplomatic or consular post in question may, within a period of three months after the commencement of his employment or the entry into force of this Convention, elect to be subject to the legislation of the sending State.

Article 9

The competent authorities of the Contracting Parties may, by agreement, make exceptions to the provisions of articles 6 to 8 of this Convention for specific employed persons or groups of employed persons, as regards the applicable legislation.

TITLE III
SPECIAL PROVISIONS

CHAPTER I

SICKNESS, MATERNITY AND DEATH (FUNERAL GRANT)

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

Article 11

Paragraph 1. An employed person or a person treated as such who has completed insurance periods or equivalent periods under the legislation of one of the Contracting Parties and who moves to the territory of the other Contracting Party 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 latter Contracting Party, provided that:

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

Paragraph 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 Party in whose territory he was last insured before his change of residence if he were in that territory, he shall remain entitled to such benefits for a period of twenty-one days from the last day on which he was subject to the compulsory insurance scheme of that Party. The institution of that Party may request the institution of the place of residence to provide benefits in kind in accordance with the legislation applied by the latter institution.

Article 12

Paragraph 1. An employed person or a person treated as such who is insured with an institution of one of the Contracting Parties and is resident in

the territory of that Party shall be entitled to benefits while temporarily resident in the territory of the other Contracting Party if his state of health necessitates immediate medical treatment, including admission to hospital.

Paragraph 2. An employed person or a person treated as such who has acquired the right to benefits from an institution of one of the Contracting Parties and who is resident in the territory of that Party shall retain that right if he transfers his residence to the territory of the other Contracting Party; before transferring his residence, however, he must obtain the authorization of the competent institution, which may refuse it only where a physician of that institution reports that the employed person's state of health precludes the transfer of residence to the territory of the other Contracting Party.

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

Paragraph 4. In the cases specified in paragraphs 1 and 2 of this article, the provision of prosthesis, of large appliances and of other major benefits in kind shall be subject, except in cases of absolute urgency, to prior authorization by the competent institution.

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

Paragraph 6. The provisions of the preceding paragraphs shall apply *mutatis mutandis* to dependants in cases where they are temporarily resident in the territory of the other Contracting Party or where they transfer their residence to the territory of the other Contracting Party after the occurrence of the insurance contingency (sickness or pregnancy).

Article 13

Paragraph 1. The dependants of an employed person or of a person treated as such who is insured with an institution of one of the Contracting Parties shall, when resident in the territory of the other Contracting Party, be entitled to benefits in kind as though the employed person were insured with the institution of the place of residence.

The scale and duration of such benefits and the manner of providing them

shall be determined in accordance with the provisions of the legislation applied by the latter institution.

Paragraph 2. Where dependants transfer their residence to the territory of the competent country, they shall be entitled to benefits in accordance with the provisions of the legislation of that country. 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 the institutions of the Contracting Party in whose territory they were resident before the transfer; if the legislation to be applied by the competent institution prescribes a maximum duration for the provision of benefits, the period for which benefits were provided immediately before the transfer of residence shall be taken into account.

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

Paragraph 4. For the purposes of the preceding paragraphs, the term "dependants" means persons who are deemed to be dependants under the legislation of the Contracting Party in whose territory they are resident.

Article 14

Where the application of this chapter would give an employed person or a person treated as such, or one of his dependants, an entitlement to maternity benefits under the legislation of both Contracting Parties, the legislation in force in the territory of the Contracting Party in which the birth takes place shall apply to the person concerned, account being taken, to such extent as may be necessary, of the aggregation of periods referred to in article 10 of this Convention.

Article 15

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

Paragraph 2. Where a person in receipt of a pension or annuity payable under the legislation of one of the Contracting Parties is resident in the territory of the other Contracting Party, any benefits in kind to which he is entitled under

the legislation of the first-mentioned Party shall be provided for him and for his dependants by the institution of his place of residence.

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

Article 16

Paragraph 1. The cost of benefits in kind provided under article 11, paragraph 2, article 12, paragraphs 1, 2 and 6, article 13, paragraph 1, and article 15, paragraph 2, of this Convention shall be repaid by the competent institutions to the institutions which provided the said benefits.

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

Article 17

Paragraph 1. Where an employed person or a person as such who is subject to the legislation of one Contracting Party, or a person in receipt of a pension or annuity, or one of his dependants, dies in the territory of the other Party, the death shall be deemed to have occurred in the territory of the first-mentioned Party.

Paragraph 2. The competent institution shall assume liability for the death grant, even if the beneficiary is in the territory of the other Contracting Party.

CHAPTER 2

INVALIDITY, OLD AGE AND DEATH (PENSIONS)

Section 1

GENERAL PROVISIONS

Article 18

Paragraph 1. For the purposes of the acquisition, maintenance or recovery of the right to benefits, where an insured person has been subject successively or alternately to the legislation of both Contracting Parties, the insurance periods and equivalent periods completed under the legislation of each of the Contracting Parties shall be aggregated, provided that they do not overlap.

Paragraph 2. Where the legislation of one Contracting Party makes it a condition for the provision of particular benefits that the insurance periods should be completed in an occupation which is subject to a special scheme, for the purpose of qualification for such benefits only the periods completed under the corresponding schemes of the other Contracting Party and the periods completed in the same occupation under other schemes of the latter Contracting Party shall be aggregated, provided that they do not overlap. If, despite the aggregation of such periods, the insured person does not satisfy the conditions for entitlement to such benefits, the periods in question shall nevertheless be aggregated for the purpose of qualification for benefits under the general scheme of the Contracting Parties.

Paragraph 3. If the insurance periods and equivalent periods under the legislation of one of the Contracting Parties amount in all to less than six months, no benefit shall be payable under the said legislation; in such case, the aforementioned periods shall be taken into account for the purposes of the acquisition, maintenance and recovery of the right to benefits from the other Contracting Party, but not for the purpose of determining the *pro rata* amount payable under article 19, paragraph 1, sub-paragraph *b*, of this Convention. However, this provision shall not apply if the right to benefits is acquired under the legislation of the first-mentioned Contracting Party solely on the basis of the periods completed under its legislation.

Article 19

Paragraph 1. The benefits which an insured person who has been subject to the legislation of both Contracting Parties may claim under such legislation shall be determined in the following manner:

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

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

c. Where, at a given time, account being taken of the aggregation of periods

referred to in the preceding article, the person concerned does not satisfy the conditions imposed by the bodies of legislation applicable to him but satisfies the conditions imposed by one of those bodies of legislation, the amount of the benefit shall be determined in accordance with the provisions of sub-paragraph *b* of this paragraph;

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

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

Paragraph 2. Where the amount of the benefit to which, but for the application of the provisions of article 18, the person concerned might be entitled solely on the basis of the insurance periods and equivalent periods completed under the legislation of one Contracting Party is greater than the total benefits which accrue from the application of the preceding paragraph of this article, he shall be entitled to receive from the institution of that Party an additional amount equal to the difference.

Paragraph 3. Subject to the provisions of paragraph 1, sub-paragraph *d*, of this article and the provisions of article 22, persons who avail themselves of the provisions of this chapter may not elect to receive a pension solely under the provisions of the legislation of one Contracting Party.

Section 2

SPECIAL PROVISIONS

Article 20

Paragraph 1. An employed person or a person treated as such who is insured under Netherlands legislation concerning general old age insurance and general widows' and orphans' insurance shall, throughout any period of temporary or permanent incapacity attributable to sickness, industrial accident or occupational disease which entitles him to a cash benefit from the Netherlands, continue to be insured if the degree of incapacity is not less than 50 per cent, even if he transfers his residence to Portuguese territory, provided that he has not become employed or self-employed in Portugal.

Paragraph 2. A married woman resident in Portugal and under sixty-five years of age, whose husband is insured under Netherlands legislation concerning general old age insurance, shall also be insured, except for any period during which:

- a. She has simultaneously completed insurance or contribution periods or equivalent periods under a Portuguese compulsory scheme of old age insurance;
- b. She is in receipt of an old age pension under such a scheme.

Article 21

Netherlands institutions may calculate old age pensions directly and exclusively on the basis of the insurance periods and equivalent periods completed under the relevant legislation.

Article 22

Paragraph 1. Where an employed person or a person treated as such was subject successively or alternately to the legislation of both Contracting Parties, his survivors shall be entitled only to the benefits provided for by the legislation to which such person was subject at the time of his death.

Paragraph 2. Where such person was subject to Portuguese legislation at the time of his death, the insurance periods and equivalent periods completed under Netherlands legislation shall also be taken into account for the purposes of establishing entitlement to, and determining the amount of, the benefit payable to his survivors under Portuguese legislation.

Article 23

Paragraph 1. The interim pensions provided for by Netherlands legislation concerning old age insurance for persons who had reached the age of sixty-five years on 1 January 1957 shall be granted to Portuguese nationals under the same conditions as to Netherlands nationals.

Paragraph 2. The interim advantages provided for by the Netherlands legislation concerning old age insurance for persons who were between fifteen and sixty-five years of age on 1 January 1957 shall be granted to Portuguese nationals under the same conditions as to Netherlands nationals.

Article 24

The advantages afforded by the transitional provisions of Netherlands legislation concerning widows' and orphans' insurance in cases where a death occurred before 1 October 1959 shall be granted to Portuguese nationals under the same conditions as to Netherlands nationals.

Article 25

The provisions of article 4, paragraph 1, of this Convention shall not apply to:

- a. Interim pensions granted under article 23, paragraph 1, of this Convention;
- b. Interim pensions and advantages, as specified in the preceding articles, granted to Netherlands nationals.

CHAPTER 3

INDUSTRIAL ACCIDENTS AND OCCUPATIONAL DISEASES

Article 26

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

Article 27

Paragraph 1. Any provisions contained in the legislation of one of the Contracting Parties concerning industrial accidents and occupational diseases which limit or invalidate the rights of aliens or make such rights liable to forfeiture by reason of the place of residence shall not apply to nationals of the other Contracting Party.

Paragraph 2. Increases or additional grants awarded as a supplement to industrial accident pensions under the legislation applicable in each of the two contracting countries shall be retained by persons specified in the preceding paragraph who transfer their residence from one of the countries to the other.

Article 28

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

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

CHAPTER 4

UNEMPLOYMENT

Article 29

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

Article 30

An employed person or a person treated as such who has completed insurance periods or equivalent periods under the legislation of one of the Contracting Parties and who moves to the territory of the other Contracting Party shall be entitled, while in that territory, to the unemployment benefits provided for by the legislation of the latter Contracting Party, provided that:

- a. He has been subject to compulsory unemployment insurance since he last entered that territory;
- b. He satisfies the conditions imposed by the legislation of the latter Contracting Party, account being taken of the aggregation of periods referred to in the preceding article.

CHAPTER 5

FAMILY ALLOWANCES

Article 31

Where the legislation of one of the Contracting Parties makes the acquisition of the right to family allowances conditional upon the completion of insurance periods or equivalent periods, the competent institution of that Party shall take into account, to such extent as may be necessary, all periods completed in the territory of each of the Contracting Parties.

Article 32

Paragraph 1. An employed person or a person treated as such who is insured under the legislation of one Contracting Party and who has children residing or being brought up in the territory of the other Party shall be entitled, account being taken, where applicable, of the aggregation of periods referred to in the preceding article, to family allowances for such children under the provisions of the legislation of the first-mentioned Contracting Party, even if he is deemed to be resident in the territory of the other Party.

Paragraph 2. Where the legislation of one Contracting Party provides family allowances for persons in receipt of a pension or annuity, pensioners or annuitants who are deemed to be resident in the territory of the other Party shall likewise be entitled to such allowances.

Paragraph 3. Where, in the course of a particular period, family allowances are payable in respect of the same child under the legislation of both Contracting Parties, only the family allowance payable under the legislation of the Contracting Party in whose territory the child is residing or being brought up shall be paid.

TITLE IV

MISCELLANEOUS PROVISIONS

Article 33

Paragraph 1. The competent authorities:

1. Shall make such administrative arrangements as may be necessary for the application of this Convention;
2. Shall communicate to each other full information regarding measures taken for the application of this Convention;
3. Shall communicate to each other full information regarding any changes in their legislation which may affect its application.

Paragraph 2. If necessary the competent authorities may, by agreement, lay down special regulations for the benefit of particular categories of employed persons, especially seamen and persons employed by coal-mining enterprises.

Paragraph 3. The diplomatic and consular authorities of either of the two Contracting Parties may approach the administrative authorities and competent agencies of the other Contracting Party with a view to obtaining any information which may serve to protect the interests of their nationals.

Article 34

Paragraph 1. The authorities and institutions responsible for the implementation of this Convention shall assist one another in applying this Convention and shall act as though the matter were one affecting the application of their own legislation.

Paragraph 2. The institutions and authorities of the two Contracting Parties shall, for the purposes of the application of this Convention, communicate directly with one another and with the persons concerned or their authorized representatives.

Article 35

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

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

Article 36

Paragraph 1. Direct correspondance between institutions for the purposes of the application of this Convention shall be conducted in the French language.

Paragraph 2. The institutions and authorities of one of the Contracting Parties shall not reject requests or other documents addressed to them on the ground that they are drawn up in the official language of the other Contracting Party.

Article 37

Claims, declarations or appeals which, for the purposes of the legislation of one of the Contracting Parties, should be presented within a prescribed time-limit to an authority, institution or other agency of that Party shall be admissible if they are presented within the same time-limit to a corresponding authority, institution or other agency of the other Contracting Party. In such cases, the authority, institution or agency concerned shall transmit such claims, declarations or appeals without delay to the competent authority, institution or agency of the first-mentioned Party, either direct or through the competent authorities of the Contracting Parties.

Article 38

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

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

Article 39

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

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

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

Article 40

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

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

TITLE V

TRANSITIONAL AND FINAL PROVISIONS

Article 41

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

Paragraph 2. Any insurance period or equivalent period completed under the legislation of one of the Contracting Parties before the date of entry into force of this Convention shall be taken into account for the purpose of determining the right to benefits in accordance with the provisions of this Convention.

Paragraph 3. Subject to the provisions of paragraph 1 of this article, a pension or annuity shall be payable under this Convention even in respect of an event which occurred before the date of its entry into force. To this end, any pension or annuity which has not been paid or which has been suspended by reason

of the nationality of the person concerned or because he is resident in the territory of the other Contracting Party shall, at the request of the person concerned, be paid or reinstated as from the date of the entry into force of this Convention, provided that the entitlement previously awarded has not been settled by a lump-sum payment.

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

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

Article 42

In the case of the Kingdom of the Netherlands, this Convention shall apply only to the Kingdom in Europe. In the case of Portugal, this Convention shall apply only to the territory of mainland Portugal, the adjacent islands (the Azores and Madeira) and the Cape Verde Islands.

Article 43

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

Article 44

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

Article 45

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

Article 46

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

Paragraph 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 extinguished as a result of the termination; the preservation of such rights for the

subsequent period shall be determined by agreement or, in the absence of such agreement, by the legislation applicable to the institution concerned.

IN WITNESS WHEREOF the aforementioned plenipotentiaries have signed this Convention.

DONE at The Hague, on 12 October 1966 in duplicate, in the French language.

For the Kingdom of the Netherlands:

J. LUNS

For the Portuguese Republic:

Alberto Carlos DE LIS-TEIXEIRA BRANQUINHO

ADMINISTRATIVE AGREEMENT¹ CONCERNING THE MANNER OF APPLICATION OF THE CONVENTION ON SOCIAL SECURITY BETWEEN THE KINGDOM OF THE NETHERLANDS AND THE PORTUGUESE REPUBLIC SIGNED AT THE HAGUE ON 12 OCTOBER 1966.²
SIGNED AT LISBON, ON 1 MAY 1968

Pursuant to article 33 of the Convention between the Kingdom of the Netherlands and the Portuguese Republic on Social Security, signed at The Hague on 12 October 1966 (hereinafter referred to as "the Convention"), the competent Netherlands and Portuguese authorities have, by agreement, issued the following provisions:

TITLE I

GENERAL PROVISIONS

Article 1

For the purposes of the Convention and of this Agreement:

a. The term "legislation" means the existing and future laws, regulations and statutory instruments concerning the schemes and branches of social security referred to in article 1, paragraph 1, of the Convention;

b. The term "territory" means:

In the case of the Netherlands: the territory of the Kingdom of Europe;

In the case of Portugal: the territory of mainland Portugal and the adjacent islands (the Azores and Madeira);

c. The term "nationals" means:

In the case of the Netherlands: persons of Netherlands nationality;

In the case of Portugal: persons of Portuguese nationality;

d. The term "competent authority" means:

In the case of the Netherlands: the Minister of Social Affairs and Public Health;

In the case of Portugal: the Minister for Corporations and Social Insurance;

e. The term "institution" means the agency responsible for applying all or part of the legislation;

f. The term "competent institution" means the institution with which the person concerned is insured at the time of the application for benefits or against

¹ Came into force on 1 June 1968, i.e. the same day as the Convention, in accordance with article 39.

² See p. 81 of this volume.

which he has or would continue to have an entitlement to benefits if he was resident in the country in which such institution is situated;

g. The term “competent country” means the country in which the competent institution is situated;

h. The term “residence” means habitual residence;

i. The term “institution of the place of residence” means the institution with which the person concerned would be insured if he was insured in his country of residence, or the institution designated by the competent authority of the country concerned;

j. The term “institution of the place of temporary residence” means the institution with which the person concerned would be insured if he was insured in the country in which he is temporarily resident, or the institution designated by the competent authority of the country concerned;

k. The term “dependants” means persons defined or accepted as such by the legislation of the country in which they are resident; the term “survivors” means persons defined or accepted as such by the legislation under which the benefits are provided;

l. The term “insurance periods” includes contribution periods or employment periods defined or accepted as insurance periods according to the legislation under which they have been completed;

m. The term “equivalent periods” means periods assimilated to insurance periods, in so far as they are recognized by the legislation under which they have been completed as being equivalent to insurance periods;

n. The terms “benefits”, “pensions” or “annuities” mean all benefits, pensions, annuities, including any payments out of public funds, increases, adjustments or supplementary allowances, as well as any lump-sum payments made in lieu of pensions or annuities;

o. The term “death grant” means any lump sum paid in respect of a death;

p. The term “liaison agency” means:

1. In the Netherlands:

a. For benefits in kind in the event of sickness or maternity: the Ziekenfondsraad (Board of Sickness Insurance Funds) at Amsterdam;

b. For old age and survivors’ pensions and for family allowances: the Sociale Verzekeringsbank (Social Insurance Bank) at Amsterdam;

c. In all other cases: the Gemeenschappelijk Administratiekantoor (Office commun d’administration) at Amsterdam;

2. In Portugal:

The Caixa Central de Segurança Social dos Trabalhadores Migrantes.

Article 2

In cases specified in article 7, *a*, of the Convention, the competent liaison agency of the country whose legislation remains applicable shall issue the employed person with a certificate of detachment certifying that he remains subject to that legislation.

The certificate must be produced, as necessary, by the employer's agent in the other country if there is such an agent, or otherwise by the employed person himself.

When several employed persons are sent at the same time to work together in the other country and to return at the same time, a single certificate may cover all such employed persons.

Article 3

1. In order to exercise his option under article 8, paragraph 2, of the Convention, an employed person shall, while simultaneously informing his employer, make application to the competent liaison agency of the sending country.

2. The liaison agency to which the application is made shall inform the liaison agency of the other country accordingly.

TITLE II

SPECIAL PROVISIONS

Chapter 1

SICKNESS, MATERNITY AND DEATH (FUNERAL GRANT)

Article 4

1. In order to benefit from the aggregation of insurance periods and equivalent periods, an employed person in cases specified in article 11, paragraph 1, of the Convention must submit to the competent institution a certificate of the insurance periods and equivalent periods completed under the legislation to which he was subject immediately before the date on which he last entered the competent country.

2. The certificate shall be issued, at the request of the employed person, by the sickness insurance (cash benefits) institution with which the person was last insured before the said date. Where the employed person was insured only for benefits in kind, the certificate shall be issued by the sickness insurance (benefits in kind) institution. The said institution shall certify that the employed person was not insured under the sickness insurance (cash benefits) scheme. The certificate shall cover a period of one year. If the employed person does not submit the certificate, the competent institution of the country to which he has moved shall request the institution indicated above to issue and forward the certificate.

3. Where an employed person in cases specified in article 11, paragraph 1, of the Convention has been granted, for himself or one of his dependants, the right to prosthesis, to large appliances or to other major benefits in kind by the competent institution of the country in which such person was last insured before entering the other country, the cost of such benefits shall be borne by that institution, even if they are in fact provided after his departure.

Article 5

1. In order to receive benefits under article 11, paragraph 2, of the Convention, the employed person shall submit to the institution of his place of residence a certificate issued by the competent institution of the country in which he was last insured before his change of residence, proving that he is entitled to such benefits and containing the request to the first-mentioned institution to provide such benefits. The certificate shall also indicate in particular the maximum length of time for which the benefits may be provided. If the employed person does not submit the certificate, the institution of the place of residence shall request it from the other institution.

2. The provisions of article 12, paragraph 4, of the Convention shall apply *mutatis mutandis*.

Article 6

1. In order to receive medical treatment including, where necessary, admission to hospital while temporarily resident in the country other than the competent country, an employed person in cases specified in article 12, paragraph 1, of the Convention must submit to the institution of the place of temporary residence a certificate issued by the competent institution, if possible before the commencement of the temporary residence, stating that he is entitled to the aforementioned benefits. The certificate shall indicate, in particular, the length of time for which the benefits may be provided. If the employed person does not submit the certificate, the institution of the place of temporary residence shall request it from the competent institution.

2. In the event of admission to hospital, the institution of the place of temporary residence shall notify the competent institution, within a period of three days from the date on which it learns of the occurrence, of the date of admission and the probable duration of stay in a hospital or other medical establishment; upon discharge from the hospital or other medical establishment, the institution of the place of temporary residence shall, within the same period, notify the competent institution of the date of discharge.

3. For the purpose of obtaining the authorization to which the provision of the benefits referred to in article 12, paragraph 4, of the Convention is subject,

the institution of the place of temporary residence shall make application to the competent institution. Where such benefits have been provided, in cases of absolute urgency, without the authorization of the competent institution, the institution of the place of temporary residence shall advise that institution immediately.

4. For the purposes of article 12, paragraph 4, of the Convention, the term "cases of absolute urgency" means cases where provision of the benefit cannot be delayed without seriously endangering the life or health of the person concerned. In the event of accidental breakage of or damage to a prosthetic or other appliance, proof of the need for repair or replacement of the appliance in question shall suffice to establish absolute urgency.

Article 7

1. In order to receive benefits in kind in his new country of residence, an employed person in cases specified in article 12, paragraph 2, of the Convention must submit to the institution of his new place of residence a certificate stating that he is authorized to retain the right to benefits after his change of residence.

The competent institution shall, where necessary, indicate in the certificate the maximum length of time for which such benefits may still be provided, in accordance with the provisions of the legislation of the competent country.

The competent institution may issue the certificate after the departure, at the request of the employed person, if it was not possible to do so in advance for reasons of *force majeure*.

2. For the purposes of the provision of benefits by the institution of the new place of residence of the employed person, the provisions of article 6, paragraphs 2 and 3, of this Agreement shall apply *mutatis mutandis*.

3. The institution of the new place of residence shall, either on its own initiative or at the request of the competent institution, have the beneficiary examined at regular intervals with a view to determining whether medical treatment is actually and regularly provided. It shall advise the competent institution of the findings immediately. The continued defrayal of the cost of medical treatment by the competent institution shall be subject to compliance with these rules.

4. If the institution of the place of residence finds that hospital treatment should be terminated, it shall notify the employed person of the date of termination of hospital treatment and shall send a copy of the notification to the competent institution immediately.

Article 8

The provisions of articles 6 and 7 shall apply *mutatis mutandis* to the provision of benefits in kind to dependants in cases specified in article 12, paragraph 6, of the Convention.

Article 9

1. In order to receive benefits in kind in their country of residence, dependants in cases specified in article 13, paragraph 1, of the Convention must register with the institution of their place of residence, submitting the following documentary evidence:

- (i) A certificate issued by the competent institution, at the request of the employed person, stating that the employed person is entitled to benefits in kind and indicating the names of his dependants, as reported by him. The certificate shall be valid until such time as the competent institution notifies the institution of the place of residence of the cancellation of the said certificate;
- (ii) The documentary evidence normally required by the legislation of the country of residence for the provision of benefits in kind to dependants.

2. The institution of the place of residence shall inform the competent institution whether or not the dependants are entitled to benefits under the legislation applied by the first-mentioned institution.

3. The provision of benefits in kind to dependants shall be subject to the validity of the certificate referred to in paragraph 1 of this article.

4. The employed person and his dependants must inform the institution of the place of residence of such dependants 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 on the part of the employed person or any change in the place of residence or of temporary residence of the employed person or any of his dependants.

5. The institution of the place of residence shall assist the competent institution for the purpose of instituting recovery proceedings against a beneficiary who has wrongfully obtained benefits.

Article 10

In cases specified in article 13, paragraph 2, of the Convention, the competent institution shall, if necessary, request the institution of the last place of residence of any dependant who has transferred his residence to the competent country to furnish information concerning the period during which benefits were provided immediately before the transfer.

Article 11

1. In order to receive benefits in kind in his country of residence, a person in receipt of a pension or annuity in cases specified in article 15, paragraph 2, of the Convention must register with the institution of his place of residence,

submitting a certificate in which the Caixa Central de Segurança Social dos Trabalhadores Migrantes or the Ziekenfondsraad, according as the institution liable for the pension or annuity is a Portuguese or a Netherlands institution, indicates that the pensioner or annuitant is entitled, for himself and his dependants, to benefits in kind. The agency issuing the certificate shall forward a copy thereof to the liaison agency of the country of residence of the pensioner or annuitant.

2. The pensioner or annuitant must inform the institution of his place of residence of any change in his circumstances which might affect his entitlement to benefits in kind, including, in particular, any suspension or discontinuance of his pension or annuity and any change in his or his dependants' place of residence.

3. The agency issuing the certificate may inform the agency of the place of residence of the pensioner or annuitant when the entitlements to benefits in kind terminate.

Article 12

1. In order to receive cash benefits while temporarily resident in the country other than the competent country, an employed person must make application immediately to the institution of the place of temporary residence, submitting in cases specified in article 11, paragraph 2, of the Convention the certificate referred to in article 5, paragraph 1, in cases specified in article 12, paragraph 1, of the Convention the certificate referred to in article 6, paragraph 1, and in cases specified in article 12, paragraph 2, of the Convention the certificate referred to in article 7, paragraph 1. He shall, if the legislation applied by that institution so requires, attach a certificate of incapacity issued by the physician attending him. He shall also give his address in the country in which he is, as well as the names and addresses of his employer and of the competent institution.

2. If the employed person does not submit the certificate referred to in the preceding paragraph, the institution of the place of temporary residence shall request from the competent institution such a certificate or a statement that the employed person is still insured under the legislation of the competent country. However, the certificate referred to in article 7, paragraph 1, shall be issued after the change of residence only if, for reasons of *force majeure*, it was not possible to issue it in advance.

Article 13

1. The institution of the place of temporary residence shall, as soon as possible and in any event within three days following the date on which the employed person has made application to that institution, have the employed person placed under medical control by one of its examining physicians. If the competent institution has indicated in the certificate referred to in article 7,

paragraph 1, a date on which the employed person must be placed under medical control, the institution of the new place of residence may defer the first medical examination until that date.

2. The report of the examining physician, which shall state whether the employed person is incapacitated and, if so, the date on which the incapacity began, the diagnosis and the probable duration of the incapacity, shall be sent to the competent institution by the institution of the place of temporary residence within three days following the date of the examination. The institution of the place of temporary residence shall indicate the date on which the employed person made application to that institution.

Article 14

1. The employed person shall be subject to the administrative control regulations of the institution of the place of temporary residence.

2. After the first medical examination, the institution of the place of temporary residence shall continue the medical and administrative control as though the case were one concerning a person insured with that institution itself. The medical control shall be conducted at such intervals that the employed person is re-examined at the end of the period for which he is likely, according to the last medical control report, to remain incapacitated.

3. The medical reports, indicating whether the employed person is still incapacitated, the diagnosis and the probable duration of the incapacity, shall be forwarded to the competent institution by the institution of the place of temporary residence within three days following the date of the examination.

4. If the institution of the place of temporary residence finds that the employed person is infringing the administrative control regulations, it shall notify the competent institution immediately, describing the nature of the infringement and indicating what action is normally taken by the institution of the place of temporary residence in the case of such infringement by a person insured with that institution itself.

Article 15

1. If the examining physician finds that the employed person is or will be fit to resume work, the institution of the place of temporary residence shall notify the employed person immediately of the termination of his incapacity and shall send a copy of the notification to the competent institution without delay, attaching the examining physician's report.

2. If the competent institution decides, on the basis of information it has received, that the employed person is fit to resume work, it shall notify him of its decision, forwarding a copy of the notification to the institution of the place of residence.

3. If, in the same case, two different dates for the termination of incapacity are established by the institution of the place of residence and by the competent institution, the date set by the competent institution shall prevail.

Article 16

If it is medically established that the employed person's state of health does not preclude his return to the competent country, the institution of the place of temporary residence shall notify him immediately and shall forward a copy of the notification to the competent institution.

Article 17

The competent institution shall pay cash benefits by international postal money order. However, such benefits may be paid by the institution of the place of temporary residence as agent for the competent institution, if the latter so agrees. In that case, the competent institution shall inform the institution of the place of temporary residence of the amount of the benefits and the date or dates on which they are to be paid, and of the maximum length of time for which the benefits are to be provided.

Article 18

1. In the case of benefits in kind provided under article 11, paragraph 2, and article 12, paragraphs 1, 2 and 6, of the Convention, the actual amount of the costs relating to such benefits, as shown in the books of the institutions, shall be repaid by the competent institutions to the institutions which provided the aforementioned benefits.

2. No rates higher than those applicable to benefits in kind provided to employed persons who are subject to the legislation applied by the institution which provided the benefits referred to in paragraph 1 of this article may be taken into account for the purposes of the repayment of costs.

3. The provisions of paragraph 1 of this article shall apply *mutatis mutandis* to the repayment of cash benefits provided under the provisions of the second sentence of article 17 of this Agreement.

Article 19

1. In the case of benefits in kind provided under article 13, paragraph 1, of the Convention, the costs relating to such benefits shall be estimated at a lump sum for each calendar year.

2. The amount of the lump sum shall be arrived at by multiplying the average annual cost per family by the average annual number of families involved.

3. The average annual cost per family shall, for each country, be equal to the average per family of the annual costs relating to all benefits in kind provided by the institutions of the country in which the family is resident to all families of insured persons who are subject to the legislation of that country.

Article 20

1. In the case of benefits in kind provided under article 15, paragraph 2, of the Convention, the costs relating to such benefits shall be estimated at a lump sum for each calendar year.

2. The amount of the lump sum shall be arrived at by multiplying the average annual cost per pensioner or annuitant and dependant of such person by the average annual number of pensioners or annuitants and dependants of such persons involved.

3. The average cost per pensioner or annuitant and dependant of such person shall, for each country, be equal to the average per pensioner or annuitant and dependant of such person of the annual costs relating to all benefits in kind provided by the institutions of the country in which the pensioner or annuitant is resident to all pensioners or annuitants (including dependants of such persons) who are subject to the legislation of that country.

4. In the application of paragraphs 1, 2 and 3 of this article, calculations may vary according to the age group to which the pensioners or annuitants belong.

Article 21

1. The repayments provided for in article 16 of the Convention shall be made through the competent liaison agencies.

2. The agencies referred to in the preceding paragraph may agree that the amounts referred to in articles 19 and 20 of this Agreement shall be increased by a specified percentage for administrative expenses. For the purposes of the application of the provisions of articles 18 to 20, they may agree on more detailed arrangements, particularly with regard to the advance payments.

Chapter 2

INVALIDITY, OLD AGE AND DEATH (PENSIONS) SUBMISSION AND EXAMINATION OF APPLICATIONS

Article 22

1. In order to receive benefits under the provisions of title III, chapter 2, of the Convention, an employed person or a survivor of an employed person must

make application to the competent institution of his place of residence, in the manner laid down by the legislation of the country of residence.

2. Where an employed person or a survivor of an employed person, not being resident in the Netherlands or Portugal, requests payment of a benefit under the provisions of title III, chapter 2 of the Convention, he must make his application to the competent institution of the country to whose legislation the employed person was last subject.

3. The applicant shall, so far as possible, specify either the institution or institutions of the two countries with which the employed person was insured or the employer or employers for whom he worked in the two countries.

Article 23

Applications submitted in accordance with the provisions of the preceding article shall be examined by the competent institution to which they are made. Such institution is hereinafter referred to as "the examining institution".

Article 24

1. In its examination of applications for benefits, the examining institution shall use a standard form which includes, *inter alia*, the essential personal particulars and a statement and summary of the insurance periods and equivalent periods completed by the insured person under the bodies of legislation to which he has been subject.

2. The forwarding of the standard form to the competent institution of the other country shall serve as a substitute for the forwarding of documentary evidence.

Article 25

1. The examining institution shall enter on the standard form referred to in the preceding article the insurance periods and equivalent periods completed under its own legislation and shall send two copies of the form to the competent institution of the other country.

2. The last-mentioned institution shall complete the form by indicating the insurance periods and equivalent periods completed under its own legislation and shall return it in duplicate to the examining institution. The following information shall also be entered on the form:

The amount of the entitlement to benefits provided under the legislation applied by that institution, account being taken of the provisions of title III, chapter 2 of the Convention, the amount of the benefit to which, but for the application of the provisions of article 18 of the Convention, the applicant might

be entitled solely on the basis of the insurance periods and equivalent periods completed under its own legislation, and the procedures and time-limits for the submission of appeals.

Article 26

1. If the examining institution finds that the applicant is entitled to avail himself of the provisions of article 19, paragraph 2, of the Convention, it shall determine the additional amount to which the applicant is entitled under those provisions.

2. In the application of the provisions of article 19, paragraph 2, of the Convention, the conversion of sums expressed in different national currencies shall be effected on the basis of the official rate of exchange prevailing on the date on which the amount of the pension is calculated. In the event of fluctuations in the rate of exchange, the amount of the pension shall be reviewed only when the fluctuations exceed 10 per cent.

Article 27

1. The examining institution shall notify the applicant of all decisions taken regarding the assessment of benefits payable to him, and of the procedures and time-limits for the submission of appeals provided for by each of the bodies of legislation which have been applied.

2. The examining institution shall forward a copy of the notification to the competent institution of the other country, indicating the date on which such notification was sent to the applicant.

PAYMENT OF BENEFITS

Article 28

1. Benefits payable by an institution of one country to beneficiaries who are resident in the other country shall be paid direct and on the due dates provided for by the legislation which the institution applies.

2. The institution liable for the benefits shall pay the benefits by international postal money order and shall, on the first occasion, inform the institution of the place of residence. However, payment of the benefits shall, at the request of the institution liable therefor, be effected by the institution of the place of residence. In that case, the competent institution shall inform the institution of the place of residence of the amount of the benefits and the date or dates on which they are to be paid, and of the maximum length of time for which the benefits are to be provided.

Article 29

Benefits shall be paid to the persons concerned without deduction of postal or bank charges.

Chapter 3

INDUSTRIAL ACCIDENTS AND OCCUPATIONAL DISEASES

Article 30

The provisions of this Agreement relating to sickness benefits shall apply *mutatis mutandis* to the benefits which may be claimed by an employed person who sustains an industrial accident or contracts an occupational disease.

Chapter 4

UNEMPLOYMENT AND FAMILY ALLOWANCES

Article 31

1. In order to avail himself of one of the provisions of articles 29 and 31 of the Convention, the person concerned must submit to the competent institution a certificate of the periods which are to be taken into account, to such extent as may be necessary, in addition to the periods completed under the legislation applied by that institution.

2. The certificate shall be issued, at the request of the person concerned, by the institution with which he was last insured in the other country. If the person concerned does not submit the certificate, the competent institution shall request the institution in question to issue and forward the certificate.

TITLE III

MISCELLANEOUS PROVISIONS

Article 32

1. In cases specified in article 10, article 18, paragraph 1, article 19, paragraph 1, *b*, and articles 29 and 31 of the Convention, the insurance periods and equivalent periods completed under the legislation of both countries shall be aggregated, to such extent as may be necessary, for the purposes of the acquisition, maintenance or recovery of the right to benefits, and for the calculation of benefits, in accordance with the following rules:

- a.* Where an insurance period completed in a compulsory insurance scheme under the legislation of one country coincides with an insurance period completed in a voluntary or optionally continued insurance scheme under the legislation of the other country, only the first-mentioned period shall be taken into account;
- b.* Where an insurance period completed under the legislation of one country coincides with an equivalent period under the legislation of the other country, only the first-mentioned period shall be taken into account;

- c. Any period which is an equivalent period under the legislation of both countries shall be taken into account only by the institution of the country under whose legislation the person concerned was last compulsorily insured prior to the said period; if the person concerned was not compulsorily insured under the legislation of either country prior to the said period, it shall be taken into account by the competent institution of the country under whose legislation he was first compulsorily insured after the period in question;
- d. If it is not possible to determine precisely when particular periods were completed under the legislation of one country, it shall be presumed that such periods do not overlap with insurance periods completed under the legislation of the other country and they shall, wherever admissible, be taken into account.

2. If, under paragraph 1, *a*, of this article, insurance periods completed in a voluntary or optionally continued insurance scheme under the legislation of one country concerning invalidity, old age and death (pensions) insurance are not to be taken into account, the contributions in respect of such periods shall be deemed to be for the purpose of improving the benefits payable under the said legislation.

ADMINISTRATIVE AND MEDICAL CONTROL

Article 33

1. The administrative and medical control of persons in receipt of benefits under Portuguese legislation who are resident in the Netherlands shall be conducted, at the request of the competent institution, through:

- a.* The Nieuwe Algemene Bedrijfsvereniging, in the case of cash benefits payable in the event of sickness or invalidity;
- b.* The Sociale Verzekeringsbank, in the case of other cash benefits.

2. The administrative and medical control of persons in receipt of benefits under Netherlands legislation who are resident in Portugal shall be conducted, at the request of the competent institution, through the Caixa Central de Segurança Social dos Trabalhadores Migrantes.

3. Each competent institution shall, however, retain the right to have the person in receipt of benefits examined by a physician of its choice.

4. For the purposes of the assessment of the degree of incapacity, the institutions of each country shall take account of the medical reports and administrative information obtained by the institutions of the other country.

5. The information forwarded to the competent institutions, and particularly the medical reports, shall be accompanied by a translation in French or English.

Article 34

Where, as a result of the control referred to in article 33 of this Agreement, it is found that the beneficiary is employed while in receipt of benefits, or that he has available to him means in excess of the prescribed limit, or that he has resumed work, a report shall be sent to the competent institution. The report shall indicate, in particular, the nature of the employment carried on, the amount of the earnings or means available to the person concerned during the last three months, the normal remuneration received in the same locality by a person in the occupational category to which the person concerned belonged in the occupation he exercised before he became incapacitated and, where appropriate, the opinion of a medical specialist concerning the state of health of the person concerned.

Article 35

Where, after suspension of the benefits which he formerly received, the person concerned recovers his entitlement to benefits while resident in the territory of the other country, the institutions concerned shall exchange all necessary information with a view to resuming the provision of the said benefits.

Article 36

The costs of administrative control and of medical examinations, medical observation, travel of physicians and investigations of any kind, required for the award or review of benefits, shall be repaid to the institution responsible for such control or investigations on the basis of the rates applied by that institution.

Article 37

Any difficulties concerning the application of this Agreement shall be resolved by a commission composed of representatives of the competent authorities who are competent in social security matters and who may be accompanied by experts. The commission shall meet in each country alternately.

Article 38

1. The liaison agencies may agree upon standard forms for the certificates, requests and other documents required for the application of the Convention.
2. In addition, they may, by agreement, take supplementary administrative measures for the application of this Agreement.

Article 39

This Agreement shall enter into force on the same date as the Convention. It shall have effect for the same period as the Convention.

DONE in duplicate in the French language, at Lisbon, on 1 May 1968.

For the Netherlands Minister:

G. E. VAN ITTERSUM

The Portuguese Minister:

José João GONÇALVES DE PRÓENÇA
