

No. 10899

**FRANCE
and
MADAGASCAR**

**Convention on social security (with protocols). Signed at Paris
on 8 May 1967**

Authentic text: French.

Registered by France on 31 December 1970.

**FRANCE
et
MADAGASCAR**

**Convention de sécurité sociale (avec protocoles). Signée à Paris
le 8 mai 1967**

Texte authentique: français.

Enregistrée par la France le 31 décembre 1970.

[TRANSLATION — TRADUCTION]

CONVENTION¹ ON SOCIAL SECURITY BETWEEN THE
GOVERNMENT OF THE FRENCH REPUBLIC AND THE
GOVERNMENT OF THE MALAGASY REPUBLIC

The Government of the French Republic and

The Government of the Malagasy Republic,

Being resolved to co-operate in the social field,

Affirming the principle that the nationals of one State should receive under the social security legislation of the other equal treatment with the nationals of the latter,

Desiring to enable their nationals to keep the rights which they have acquired under the legislation of one State,

Have decided to conclude a General Convention to co-ordinate the application to French and Malagasy nationals of French and Malagasy legislation on social security and, to this end, have agreed as follows:

TITLE I

GENERAL PRINCIPLES

Article 1

1. French and Malagasy employed persons or persons treated as such shall be subject to the social security legislation specified in article 2 below and applying in Madagascar and in France respectively, and they and their dependants shall, subject to the reservations set out in article 2, enjoy the benefits thereof under the same conditions as the nationals of each State.

¹ Came into force on 1 March 1968, i.e., the first day of the third month following the date (18 December 1967) of the last of the notifications by which each of the Contracting Parties notified the other of the fulfilment of the constitutional procedures required, in accordance with article 24.

2. The territories to which the provisions of this Convention shall apply are:

- in relation to France : metropolitan France and the Overseas Departments;
- in relation to the Malagasy Republic: the territory of the Malagasy Republic.

Article 2

1. The provisions of this Convention shall apply:

1. In relation to France, to

- (a) The legislation establishing the organization of social security;
- (b) The legislation establishing the social insurance scheme applicable to persons employed in non-agricultural occupations, with the exception of the provisions relating to voluntary old age insurance for persons employed outside French territory;
- (c) The social insurance legislation applicable to persons employed and persons treated as employed in agricultural occupations;
- (d) The legislation relating to the prevention of, and compensation for, industrial accidents and occupational diseases;
- (e) The legislation relating to family allowances, with the exception of the maternity allowance;
- (f) The legislation relating to special social security schemes, in so far as they deal with the risks and benefits covered by the legislation specified in the foregoing paragraphs and, in particular, the social security scheme for the mining industry.

2. In relation to Madagascar, to

- The legislation relating to family allowances;
- The legislation relating to the prevention of, and compensation for, industrial accidents and occupational diseases.

2. This Convention shall not apply to schemes for seafarers, which shall be the subject of a special agreement.

3. 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.

Provided that this Convention shall not apply:

- (a) To laws or regulations covering a new branch of social security unless the Contracting Parties have concluded an agreement to that effect;
- (b) To laws or regulations extending existing schemes to new categories of beneficiaries unless the Government of the Party amending its legislation raises no objection and notifies the Government of the other Party to that effect within a period of three months from the date of the official publication of the said laws or regulations.

Article 3

1. All employed persons or persons treated as such under the laws applicable in each of the Contracting States who are employed in the territory of one of the States shall be subject to the laws in force at their place of employment.

2. The principle laid down in paragraph 1 of this article shall apply subject to the following exceptions:

- (a) An employed person who is employed by an enterprise on a regular basis in the territory of one of the Contracting Parties and is sent by that enterprise to the territory of the other Party for the purpose of carrying out a specific assignment for the enterprise shall remain subject to the legislation of the first Party on the same basis as if he were still employed in its territory, provided that the estimated duration of his assignment, exclusive of leave, does not exceed two years.
- (b) A person other than a government official who is seconded by one of the Contracting Parties for service with the other under a technical assistance contract shall, without prejudice to the social security provisions of technical co-operation agreements, be subject to the social security legislation of the first Party.

3. The competent administrative authorities of the Contracting Parties may by agreement provide for exceptions to the rules set out in paragraph 1 of

this article. They may also agree that the exceptions provided for in paragraph 2 shall not apply in particular cases.

Article 4

1. The provisions of article 3, paragraph 1, shall apply to all employed persons and persons treated as such, regardless of nationality, who are employed in French or Malagasy diplomatic or consular missions or are in the personal employ of officers of such missions.

Provided that

- (a) Career diplomatic and consular officers and officers on the staff of chancelleries shall be excepted from the application of this article;
- (b) Employed persons or persons treated as such who are nationals of the country represented by the diplomatic or consular mission and who are not permanently established in the country in which they are employed may choose between the application of the legislation of their place of employment and that of the legislation of their country of origin.

2. Persons employed in the service of a government department of one of the Contracting Parties who are subject to the legislation of that Party and are sent to the territory of the other Party shall continue to be subject to the legislation of the sending Party.

TITLE II

SPECIAL PROVISIONS

Chapter 1

INDUSTRIAL ACCIDENTS AND OCCUPATIONAL DISEASES

Article 5

1. No provisions in the legislation of one Contracting Party in respect of industrial accidents and occupational diseases which limit the rights of aliens or disqualify them by reason of their place of residence shall apply to the nationals of the other Contracting Party.

2. The increases or supplementary allowances awarded in addition to industrial accident pensions under the legislation applying in the territory of each State shall continue to be paid to persons covered by the preceding paragraph who transfer their residence from one State to the other.

Article 6

1. Any employed person or person treated as such who sustains an industrial accident or contracts an occupational disease in France or Madagascar and transfers his residence to the territory of the other State shall receive, at the expense of the institution with which he is insured, the benefits in kind provided by the institution of his new place of residence.

2. Such persons shall, before transferring their residence, obtain the authorization of the institution with which they are insured, which shall take due account of the reasons for the transfer.

3. Benefits in kind awarded under paragraph 1 shall be provided by the institution of the new place of residence in accordance with the provisions of the legislation applied by that institution 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 State in which the person concerned is insured.

4. In the case specified in paragraph 1 of this article, the provision of prosthesis, of large appliances and of other major benefits in kind shall be subject, except in cases of absolute urgency, to authorization by the insuring institution.

5. The cost of benefits in kind provided in the case specified in paragraph 1 of this article shall be repaid by the insuring institution to the institutions which provided them, in accordance with procedures to be laid down in an administrative arrangement.

6. The provisions of paragraphs 1, 3 and 5 above shall not apply to persons who have sustained an industrial accident in agriculture in France and who transfer their residence to Madagascar. In such cases, benefits in kind shall be provided directly by the responsible employer or by the insurer acting for him.

Article 7

In the case of a transfer of residence as referred to in article 6 above, cash

benefits shall be provided by the insuring institution in accordance with the legislation applicable to it and with procedures to be laid down in an administrative arrangement.

Article 8

For the purpose of assessing the degree of disability resulting from an industrial accident or an occupational disease from the standpoint of French or Malagasy legislation, industrial accidents previously sustained and occupational diseases previously contracted under the legislation of the other Party shall be taken into account as though they had been sustained or contracted under the legislation of the first Party.

Article 9

Occupational disease benefits payable under the legislation of both Contracting Parties shall be provided only under the legislation of the Party in whose territory the occupation capable of producing such an occupational disease was last carried on, and only if the person concerned fulfils the requirements laid down by that legislation.

Article 10

Where, in the case of a deterioration in the state of an occupational disease, an employed person who has received or is receiving compensation for an occupational disease under the legislation of one of the Contracting Parties claims a benefit under the legislation of the other Party in respect of a like occupational disease, the following rules shall apply:

- (a) If the employed person has not carried on an occupation capable of producing or aggravating the occupational disease in question in the territory of the latter Party, the insuring institution of the first Party shall continue to be responsible for providing the benefits payable under its own legislation, taking the said deterioration into account;
- (b) If the employed person has carried on such an occupation in the territory of the latter Party, the insuring institution of the first Party shall continue to be responsible for providing the benefits payable under its own legislation, no account being taken of the said deterioration; the insuring institution of the other Party shall pay

the employed person an additional benefit, the amount of which shall be fixed in accordance with the legislation of that other Party and shall be equal to the difference between the amount of benefit payable after the said deterioration and that which would have been payable if the disease, before the deterioration, had been contracted in its territory.

Chapter 2

FAMILY ALLOWANCES

Article 11

Where the legislation of either Party makes the acquisition of entitlement to family allowances conditional upon the completion of periods of employment, activity in a trade or similar activity, the competent institution of that Party shall, where necessary, take into account all the periods completed in the territory of both States.

Article 12

1. Employed persons or persons treated as such, of French or Malagasy nationality, employed in the territory of either State may claim the allowances provided for in this article for their children resident in the territory of the other State if they fulfil the occupational requirements laid down in the legislation applicable in their place of employment.

2. The allowances provided for in this article shall be paid on the basis of periods of employment or periods treated as such.

3. The children eligible to receive the allowances provided for in this article shall be the dependent children of the employed person concerned, provided that they also have the status of legitimate children, recognized natural children or adopted children of the employed person or of his spouse.

4. The family allowances shall be paid by the institution of the country of residence of the children, at the rate and in accordance with the procedures provided for by the legislation applicable in that country.

5. The institution with which the employed person is insured shall pay to the central institution of his country of residence a contribution, for not more than four children, computed in accordance with a scale to be determined by

agreement between the competent authorities of the two Parties. The scale shall be subject to revision, in the light of variations in the family allowance rate applied in the two countries. Such revision may not take place more than once a year.

6. Entitlement to the benefits provided for in this article shall expire at the end of a six-year period from the date on which the employed person enters the territory of his new country of employment. Derogations from this requirement may be permitted in additional clauses to this Convention.

Article 13

The conditions for the application of article 12, including determination of the procedures for the payment of the contribution provided for in paragraph 5, shall be regulated by an administrative arrangement.

Article 14

Children of the employed persons mentioned in article 3, paragraph 2, of this Convention, who accompany such persons during their temporary employment in the other country, shall be entitled to receive the family allowances provided under the legislation of their country of origin.

TITLE III

MISCELLANEOUS PROVISIONS

Article 15

In each of the Contracting States, the Ministers responsible, each within the limits of his competence, for the application of the legislation specified in article 2 shall be deemed to be the competent administrative authorities for the purposes of this Convention.

Article 16

The competent authorities:

- (1) Shall make such administrative arrangements as may be required for the application of this Convention;
- (2) Shall communicate to each other information regarding any measure taken by them for the application of the Convention;

- (3) Shall communicate to each other, as soon as possible, information regarding any amendments to their national legislation which may affect the application of the Convention.

Article 17

1. The competent authorities and the social security institutions of the two Contracting Parties shall furnish assistance to one another with regard to any matter relating to the application of this Convention and of the social security legislation of the other State as if the matter were one affecting the application of their own social security legislation.

2. The competent authorities shall, in particular, agree upon the arrangements for medical and administrative supervision and expert services required for the application of this Convention and of the social security legislation of the two States.

Article 18

1. Any exemption from registration fees, court fees, stamp duties and consular fees provided for by the legislation of one Contracting Party in respect of documents required to be produced to the authorities or social security institutions of that Party shall be extended to similar documents required to be produced for the purposes of this Convention to the authorities or social security institutions of the other Party.

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

Article 19

Appeals which should have been presented within a prescribed time-limit to an authority or institution competent to accept appeals in matters of social security in one of the Contracting Parties shall be admissible if they are presented within the same time-limit to a corresponding authority or institution of the other Party. In such cases, the latter authority or institution shall without delay transmit the appeal to the competent authority or institution.

If the authority or institution to which the appeal has been presented does not know which is the competent authority or institution, the appeal may be transmitted through the authorities specified in article 15 above.

Article 20

Transfers of sums corresponding to the total amount of payments made in connexion with social security or social insurance transactions, either in application of this Convention or in application of the national legislation of the two States, including payments made under voluntary insurance and supplementary retirement schemes, shall not be subject to restrictions of any kind.

Article 21

Nothing in this Convention shall in any way invalidate the rules laid down in the legislation referred to in article 2 for the participation of insured persons in the elections connected with the functioning of social security.

Article 22

Any formalities which may be prescribed by the laws or regulations of one Contracting Party for the payment outside its territory of benefits provided by its competent institutions shall also apply, in the same manner as to nationals, to persons awarded such benefits under this Convention.

Article 23

1. Any difficulties relating to the application of this Convention shall be resolved by agreement between the administrative authorities referred to in article 15.

2. Where it is impossible to reach a solution by this means, the dispute shall be settled by arbitration in accordance with a procedure to be arranged by the two Governments.

Article 24

The Government of each Contracting Party shall notify the other of the completion of the constitutional procedures required, in so far as it is concerned, for the entry into force of this Convention. This Convention shall enter into force on the first day of the third month following the date of the last such notification.

Article 25

This Convention shall remain in force for a period of one year from the

date of its entry into force. Thereafter it shall continue in force from year to year unless it is denounced in writing three months before the expiry of any such one-year period.

In the event of the denunciation of this Convention, any rights acquired in accordance with its provisions shall be maintained, notwithstanding any restrictive provision made in the legislation concerned for cases where an insured person is resident abroad.

DONE at Paris on 8 May 1967 in duplicate.

For the Government
of the French Republic:

Yvon BOURGES

[SEAL]

For the Government
of the Malagasy Republic:

TSIEBO

[SEAL]

PROTOCOL CONCERNING THE SCHEME OF SOCIAL INSURANCE APPLICABLE TO STUDENTS

The Government of the French Republic and
The Government of the Malagasy Republic,

Considering that article 6 of the Convention on Establishment in force between France and Madagascar provides that the nationals of the two States shall receive equal treatment from the standpoint of social security legislation, and desiring to promote cultural exchanges between the two countries to the fullest extent possible,

Have decided to adopt the following measures:

Article 1

The French scheme of social insurance applicable to students as laid down in the Social Security Code, Book VI, Title I, shall apply to Malagasy students studying in France who are neither covered by social insurance nor dependants of persons having such coverage in France, under the same conditions as it applies to French students.

Article 2

The two Governments undertake to ensure equal treatment, in respect of social security, for Malagasy and French students in the territory of each of the two States.

Article 3

The Government of each Contracting Party shall notify the other of the completion of the constitutional procedures required, in so far as it is concerned, for the entry into force of this Protocol. This Protocol shall enter into force on the first day of the third month following the date of the last such notification.

Article 4

This Protocol shall remain in force for a period of one year from the date of its entry into force. Thereafter it shall continue in force from year to year unless it is denounced in writing three months before the expiry of any such one-year period.

In the event of the denunciation of this Protocol, any rights acquired in accordance with its provisions shall be maintained.

DONE at Paris on 8 May 1967 in duplicate.

For the Government
of the French Republic:

Yvon BOURGES

For the Government
of the Malagasy Republic:

TSIEBO

PROTOCOL CONCERNING THE GRANTING TO MALAGASY NATIONALS OF THE OLD AGE ALLOWANCE FOR EMPLOYEES PROVIDED UNDER FRENCH LAW

The Government of the French Republic and
The Government of the Malagasy Republic,

Considering that the old age allowance for employees provided under French social security legislation is, on account of its non-contributory character, reserved for French nationals,

Considering that the Convention on Establishment in force between the French Republic and the Malagasy Republic provides that the nationals of each Party shall receive in the territory of the other equal treatment with regard to social security and that the conditions for granting equal treatment shall be laid down in an agreement,

Agree to apply the following provisions :

Article 1

The old age allowance for employees shall be granted to Malagasy employees resident in France, under the same conditions as it is granted to French employees, on the date on which the allowance is payable.

Article 2

The Government of each Contracting Party shall notify the other of the completion of the constitutional procedures required, in so far as it is concerned, for the entry into force of this Protocol. This Protocol shall enter into force on the first day of the third month following the date of the last such notification.

Article 3

This Protocol shall remain in force for a period of one year from the date of its entry into force. Thereafter it shall continue in force from year to year unless it is denounced in writing three months before the expiry of any such one-year period.

In the event of the denunciation of this Protocol, any rights acquired in accordance with its provisions shall be maintained.

DONE at Paris on 8 May 1967 in duplicate.

For the Government
of the French Republic:

YVON BOURGES

For the Government
of the Malagasy Republic:

TSIEBO

PROTOCOL CONCERNING THE GRANTING TO MALAGASY NATIONALS RESIDENT IN FRANCE OF NON-CONTRIBUTORY OLD AGE BENEFITS PROVIDED UNDER FRENCH LAW

The Government of the French Republic and

The Government of the Malagasy Republic,

Considering that under French social security legislation certain old age benefits are, on account of their non-contributory character, reserved for French nationals,

Considering that the Convention on Establishment in force between the French Republic and the Malagasy Republic provides that the nationals of each Party shall receive in the territory of the other equal treatment with regard to social security and that the conditions for granting equal treatment shall be laid down in an agreement,

Agree to apply the following provisions:

Article 1

Malagasy nationals resident in France who have carried on a non-salaried profession in France covered by the old age allowance scheme provided for in the Social Security Code, Book VIII, Title I, and who have not contributed to the said scheme shall receive the non-contributory old age allowance for non-salaried persons under the same conditions as French nationals.

Article 2

Malagasy nationals in France shall receive the special allowance provided for in the Social Security Code, Book VIII, Title II, under the same conditions, including those relating to means, as French nationals.

Article 3

Payment of the allowances granted under the conditions laid down in articles 1 and 2 above shall cease when the persons concerned transfer their residence outside French territory.

Article 4

The Government of each Contracting Party shall notify the other of the

completion of the constitutional procedures required, in so far as it is concerned, for the entry into force of this Protocol. This Protocol shall enter into force on the first day of the third month following the date of the last such notification.

Article 5

This Protocol shall remain in force for a period of one year from the date of its entry into force. Thereafter it shall continue in force from year to year unless it is denounced in writing three months before the expiry of any such one-year period.

In the event of the denunciation of this Protocol, any rights acquired in accordance with its provisions shall be maintained.

DONE at Paris on 8 May 1967 in duplicate.

For the Government
of the French Republic:

YVON BOURGES

For the Government
of the Malagasy Republic:

TSIEBO

PROTOCOL CONCERNING THE GRANTING TO MALAGASY NATIONALS OF THE SUPPLEMENTARY ALLOWANCE PROVIDED UNDER THE FRENCH ACT OF 30 JUNE 1956 ESTABLISHING A NATIONAL SOLIDARITY FUND

The Government of the French Republic and
The Government of the Malagasy Republic,

Considering that the supplementary allowance provided in France under the amended Act of 30 June 1956 establishing a National Solidarity Fund is a non-contributory benefit reserved for aged persons of French nationality without sufficient means of support and that the said benefit is granted in accordance with procedures specifically relating thereto,

Considering that the Convention on Establishment in force between the French Republic and the Malagasy Republic provides that the nationals of each Party shall receive in the territory of the other equal treatment with regard

to social security and that the conditions for granting equal treatment in that regard shall be laid down in an agreement,

Agree to apply the following provisions:

Article 1

Malagasy nationals in receipt of an old age or invalidity benefit under the French scheme pursuant to the legislation specified in article 2, paragraph 1, of the General Convention on Social Security, an old age benefit paid under a contributory scheme for non-salaried persons, the old age allowance for employees, the non-contributory old age allowance for non-salaried persons, or the special allowance shall be entitled to receive the supplementary allowance under the same conditions, including those relating to means, as French nationals.

Article 2

Payment of the supplementary allowance granted under the conditions laid down in article 1 above shall cease when the beneficiaries leave French territory.

Article 3

For the purpose of the application of the means test required by French legislation, the competent Malagasy services shall assist the French institutions and services liable for the supplementary allowance with a view to :

- (a) Ascertaining what means are available to the claimants in Madagascar, including life benefits paid under Malagasy legislation and, to that end, undertaking any inquiry or investigation under the relevant conditions laid down by Malagasy social security legislation;
- (b) Evaluating property owned by the claimants in Madagascar;
- (c) Contacting, where necessary, the persons resident in Madagascar who are responsible for supporting the claimants in question.

Requests to this effect submitted by debtor French institutions and services shall be addressed to an institution designated by the Malagasy Government.

Article 4

The Government of each Contracting Party shall notify the other of the completion of the constitutional procedures required, in so far as it is concerned, for the entry into force of this Protocol. This Protocol shall enter into force on the first day of the third month following the date of the last such notification.

Article 5

This Protocol shall remain in force for a period of one year from the date of its entry into force. Thereafter it shall continue in force from year to year unless it is denounced in writing three months before the expiry of any such one-year period.

In the event of the denunciation of this Protocol, any rights acquired in accordance with its provisions shall be maintained.

DONE at Paris on 8 May 1967 in duplicate.

For the Government
of the French Republic:

YVON BOURGES

For the Government
of the Malagasy Republic:

TSIEBO

PROTOCOL CONCERNING THE RETENTION OF CERTAIN SICK-
NESS INSURANCE BENEFITS BY FRENCH OR MALAGASY
PERSONS COVERED BY SOCIAL INSURANCE WHO MOVE TO
MADAGASCAR

The Government of the French Republic and

The Government of the Malagasy Republic,

Have decided, until such time as a sickness insurance scheme is established by law in Madagascar, to adopt the following provisions relating to French or Malagasy nationals covered by the French sickness insurance scheme who move to Madagascar under certain conditions.

Article 1

A French or Malagasy employed person working in France and awarded cash benefits shall retain such benefits for a period not exceeding six months if he transfers his residence to the territory of Madagascar, provided that prior to the transfer the employed person has obtained the authorization of the institution with which he is insured, which shall take due account of the reason for the transfer.

Article 2

During the six-month period mentioned in article 1, the French insuring institution may, on the basis of a favourable opinion by its medical supervisors, pay part of the cost of medical services rendered in Madagascar to an employed person who has been authorized to transfer his residence under the conditions specified in article 1 above.

These provisions shall apply to the employed person only, to the exclusion of the members of his family.

Article 3

An administrative arrangement shall specify, *inter alia*:

- (a) The nature of the benefits payable;
- (b) The limitations and conditions to which the provision of the benefits is subject and, in particular, the list of benefits subject to prior authorization;
- (c) The rates for reimbursement by French institutions. Reimbursement may be made either in the form of a lump sum, or it may be calculated on the basis of a Malagasy scale of maximum allowances, less a deductible representing the costs to be paid by the insured person, the amount of the deductible to be determined in accordance with the legislation applied by the debtor institution;
- (d) The arrangements for the medical and administrative supervision of patients, to be undertaken in Madagascar on behalf of the insuring institution;
- (e) The institutions responsible for the provision of benefits in Madagascar and, if necessary, the French and Malagasy liaison agencies;
- (f) The procedures for inter-institutional financial settlement.

Article 4

If legislation relating to sickness insurance is enacted in Madagascar, the provisions of this Protocol shall cease to have effect, and a new agreement on sickness insurance shall be concluded between the two Parties.

Article 5

The Government of each Contracting Party shall notify the other of the completion of the constitutional formalities required, in so far as it is concerned, for the entry into force of this Protocol. This Protocol shall enter into force on the first day of the third month following the date of the last such notification.

Article 6

This Protocol shall remain in force for a period of one year from the date of its entry into force. Thereafter it shall continue in force from year to year unless it is denounced in writing three months before the expiry of any such one-year period.

In the event of the denunciation of this Protocol, any rights acquired in accordance with its provisions shall be maintained, notwithstanding any restrictive provision made in the legislation concerned for cases where an insured person is resident abroad.

DONE at Paris on 8 May 1967 in duplicate.

For the Government
of the French Republic:

Yvon BOURGES

For the Government
of the Malagasy Republic:

TSIEBO