

**No. 11322**

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**NETHERLANDS  
and  
SWITZERLAND**

**Convention on social security (with final protocol). Signed at  
Berne on 27 May 1970**

**Administrative Agreement concerning the manner of applica-  
tion of the above-mentioned Convention. Signed at Berne  
on 29 May 1970**

*Authentic texts: French.*

*Registered by the Netherlands on 31 August 1971.*

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**PAYS-BAS  
et  
SUISSE**

**Convention de sécurité sociale (avec protocole final). Signée à  
Berne le 27 mai 1970**

**Arrangement administratif concernant les modalités d'applica-  
tion de la Convention susmentionnée. Signé à Berne le  
29 mai 1970**

*Textes authentiques: français.*

*Enregistrés par les Pays-Bas le 31 août 1971.*

[TRANSLATION — TRADUCTION]

CONVENTION ON SOCIAL SECURITY<sup>1</sup> BETWEEN THE  
KINGDOM OF THE NETHERLANDS AND THE SWISS  
CONFEDERATION

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The Government of the Kingdom of the Netherlands and  
The Swiss Federal Council,

Desiring to adapt the relations existing between the two countries in the matter of social security to the developments which have taken place in their respective legislations since the signature of the Convention of 28 March 1958<sup>2</sup> on social insurance and of the Supplementary Agreement of 14 October 1960,<sup>3</sup>

Having decided to conclude a Convention to replace those two instruments,

Have agreed on the following provisions:

TITLE I

DEFINITIONS AND LEGISLATION

*Article 1*

For the purpose of this Convention,

(a) “Territory” means, in the case of Switzerland, the territory of the Swiss Confederation and, in the case of the Kingdom of the Netherlands, the territory of the Kingdom situated in Europe;

(b) “National” means, in the case of Switzerland, a person of Swiss nationality and, in the case of the Netherlands, a person of Netherlands nationality;

(c) “Legislation” means, according to the context, laws or regulations of either of the Contracting Parties mentioned in article 2 of the Convention;

(d) “Swiss pensions insurance” means Swiss legislation concerning old age, survivors and invalidity insurance;

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<sup>1</sup> Came into force on 1 July 1971, the first day of the second month following the month in which the instruments of ratification were exchanged (effected at The Hague on 26 May 1971), in accordance with article 28.

<sup>2</sup> United Nations, *Treaty Series*, vol. 318, p. 175.

<sup>3</sup> *Ibid.*, vol. 450, p. 445.

(e) “Competent authority” means, in the case of Switzerland, the Federal Office of Social Insurance and, in the case of the Kingdom of the Netherlands, the Minister of Social Affairs and Public Health;

(f) “Reside” means reside habitually.

### *Article 2*

1. This Convention shall apply

(a) In Switzerland to:

1. The federal legislation concerning old age and survivors' insurance;
2. The federal legislation concerning invalidity insurance;
3. The federal legislation concerning insurance against occupational and non-occupational accidents and occupational diseases;
4. The federal legislation establishing the family allowance scheme for agricultural workers and peasant farmers;

(b) In the Netherlands to:

1. The legislation concerning old age insurance;
2. The legislation concerning widows' and orphans' insurance;
3. The legislation concerning industrial disablement insurance (invalidity insurance);
4. The legislation concerning family allowances.

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

It shall also apply

- (a) To laws or regulations covering a new branch of social security, provided that an agreement to that effect is concluded between the Contracting Parties;
- (b) To laws and regulations extending existing schemes to new categories of beneficiaries, provided that the Party concerned does not object to the Government of the other Party within three months from the date of the official publication of such laws or regulations.

## TITLE II

### GENERAL PROVISIONS

#### *Article 3*

Subject to the provisions of this Convention, nationals of one of the Contracting Parties shall be subject to the requirements and entitled to the

benefits of the legislation of the other Party on the same conditions as nationals of that Party.

#### *Article 4*

Subject to the provisions of this Convention, Swiss and Netherlands nationals who are entitled to claim benefits in cash under the legislation referred to in article 2 shall receive such benefits in full and without curtailment as long as they reside in the territory of either Contracting Party. With the same proviso, such benefits shall be granted by one of the Parties to nationals of the other Party resident in a third country, on the same conditions and to the same extent as to its own nationals resident in that country.

#### *Article 5*

1. The principle of equality of treatment set forth in article 3 of the Convention shall not apply in the case of Swiss legal provisions relating to optional pensions insurance for Swiss nationals abroad, pensions insurance for Swiss nationals working abroad for an employer in Switzerland or relief payments to Swiss nationals resident abroad.

2. The principle of equality of treatment set forth in article 3 of this Convention shall not apply in the case of Netherlands legal provisions relating to the payment of reduced contributions for optional old age insurance and optional widows' and orphans' insurance.

### TITLE III

### APPLICABLE LEGISLATION

#### *Article 6*

1. Subject to the contrary provisions in this title, nationals of the Contracting Parties who carry on an occupation shall be subject to the legislation of the Party in whose territory they carry on their occupation, even if they reside in the territory of the other Party.

2. If, as a result of the application of paragraph 1, a person is simultaneously covered by insurance of both Parties, the following rules shall apply:

(a) In the case of persons carrying on simultaneously a paid gainful occupation and a gainful occupation on their own account, the relevant insurance shall be determined according to the legislation of the Party in whose territory the paid gainful occupation is carried on.

- (b) In the case of persons carrying on simultaneously more than one gainful occupation on their own account, the relevant insurance shall be determined according to the legislation of the Party in whose territory the person resides.

#### *Article 7*

1. The principle set forth in article 6, paragraph 1, shall be subject to the following exceptions:

- (a) A person employed by an enterprise having its principal place of business in the territory of one of the Contracting Parties who is sent to work for a limited period in the territory of the other Party shall remain subject, for a period of 24 months, to the legislation of the first-mentioned Party as though he were employed in the place where the seconding enterprise has its principal place of business. If the period of secondment exceeds 24 months, the legislation of the first-mentioned Party may continue to apply by way of exception for a period to be agreed upon by the competent authorities of the two Parties.
- (b) A person employed by a transport enterprise of one of the Parties who is employed in the territory of the other Party, either transiently or as traveling personnel shall be subject to the legislation of the country in which the enterprise has its principal place of business.
- (c) A person employed by an air transport enterprise having its principal place of business in the territory of one of the Parties shall be subject to the legislation of the Party in whose territory the enterprise has its principal place of business. However, if the enterprise has a branch or permanent agency in the territory of the other Party, persons employed by such branch or permanent agency shall be subject to the legislation of the country where the branch or permanent agency is situated, with the exception of persons sent there in a temporary capacity.
- (d) A person employed in an official administrative service who is seconded from one of the Contracting Parties to the other shall be subject to the legislation of the country from which he is seconded.

2. The provisions of paragraph 1 of this article shall apply to all employed persons whatever their nationality.

#### *Article 8*

1. Nationals of one of the Contracting Parties sent as members of the diplomatic mission or of a consular post of that Party to the territory of the other Party shall be subject to the legislation of the first-mentioned Party.

2. Nationals of one of the Contracting Parties who are recruited in the territory of the other Party to work there in the service of the diplomatic mission or of a consular post of the first-mentioned Party shall be insured, if they are recruited in Switzerland, under the legislation referred to in article 2, paragraph 1(a), subparagraphs 1 and 2, and, if they are recruited in the Netherlands, under the legislation referred to in paragraph 1 (b) of the same article. They may, within a period of three months after the commencement of their employment or the entry into force of this Convention, elect to be subject to the legislation of the first-mentioned Party.

3. The provisions of paragraph 2 shall apply *mutatis mutandis* :

- (a) To Swiss nationals in the personal employ of Swiss nationals employed by the Swiss diplomatic mission or a Swiss consular post in the Netherlands;
- (b) To Netherlands nationals in the personal employ of Netherlands nationals employed by the Netherlands diplomatic mission or a Netherlands consular post in Switzerland.

4. Paragraphs 1 to 3 shall not apply to honorary members of a consular post or to their employees.

### Article 9

The competent authorities of the Contracting Parties may agree, in particular cases and in the light of the social requirements of the persons concerned, to make exceptions to the provisions of articles 6 to 8 for specific persons or specific groups of persons.

## TITLE IV

### SPECIAL PROVISIONS CONCERNING BENEFITS

#### Chapter 1

#### APPLICATION OF SWISS LEGISLATION CONCERNING PENSIONS INSURANCE

### Article 10

1. Netherlands nationals shall be entitled to ordinary annuities and to grants for cripples under Swiss invalidity insurance on the same conditions as Swiss nationals. However, ordinary annuities for insured persons whose degree of invalidity is less than 50 per cent may not be paid to Netherlands nationals who leave Switzerland permanently.

2. In order to determine the contribution periods to be used as a basis for the calculation of the ordinary annuity payable to Netherlands or Swiss nationals under Swiss invalidity insurance, the insurance periods completed under Netherlands legislation concerning industrial disablement insurance shall be treated as equivalent to Swiss contribution periods, provided that they do not overlap.

#### *Article 11*

1. Netherlands nationals residing in Switzerland shall be entitled to benefit from rehabilitation schemes under Swiss invalidity insurance if, immediately before the invalidity was sustained, they paid Swiss insurance contributions for at least one full year.

2. Wives and widows of Netherlands nationality who are not gainfully employed, as well as minor children of the same nationality, shall be entitled to benefit from rehabilitation schemes under Swiss invalidity insurance as long as they reside in Switzerland if, immediately before the invalidity was sustained, they resided in Switzerland without interruption for at least one year; in addition, minor children shall be entitled to benefit from such schemes if they reside in Switzerland and were born there with a disability or have resided there without interruption since their birth.

#### *Article 12*

Netherlands nationals shall be entitled to special annuities under Swiss pensions insurance on the same conditions as Swiss nationals, as long as they maintain their domicile in Switzerland and if, immediately before the date from which they claim the annuity, they resided in Switzerland without interruption for at least ten years in the case of an old age annuity, and for at least five years in the case of a survivor's or invalidity annuity or of an old age annuity taking the place of a survivor's or invalidity annuity.

### Chapter 2

#### APPLICATION OF NETHERLANDS LEGISLATION CONCERNING OLD AGE AND SURVIVORS' INSURANCE

#### *Article 13*

Swiss nationals shall be entitled to the interim pensions referred to in article 46 of the Netherlands General Old Age Act on the same conditions as Netherlands nationals, as long as they reside in the Netherlands and if, immediately before the date from which they claim the pension, they resided in the Netherlands without interruption for at least 10 years.

*Article 14*

1. If at the time of his death a national of one of the Contracting Parties is compulsorily insured under Swiss pensions insurance and if he has completed insurance periods under Netherlands legislation relating to widows' and orphans' insurance, his widow or his orphans may claim entitlement to a pension under that legislation.

2. The amount of the pension referred to in the preceding paragraph shall be calculated according to the proportion which the duration of the period of effective individual insurance of the deceased under Netherlands legislation relating to widows' and orphans' insurance bears to the duration of the maximum period of insurance possible under that legislation for the same insured person.

## Chapter 3

## FAMILY ALLOWANCES

*Article 15*

Persons carrying on an occupation in the territory of one of the Contracting Parties shall be entitled, in respect of children resident or brought up in the territory of the other Party, to family allowances under the provisions of the legislation of the first-mentioned Party as though the children resided in the territory of that Party.

## TITLE V

## MISCELLANEOUS PROVISIONS

*Article 16*

The competent authorities of the Contracting Parties

- (a) Shall make such administrative arrangements as may be necessary for the application of this Convention and shall each establish liaison agencies;
- (b) Shall arrange the details of their mutual assistance and the sharing of the expenses for medical and administrative investigations;
- (c) Shall communicate to each other full information regarding measures taken for the application of this Convention;
- (d) Shall communicate to each other, as soon as possible, full information regarding changes in their legislation.

*Article 17*

1. The administrative authorities and the competent insurance authorities of each Contracting Party shall assist one another in applying this Convention.



2. The competent authorities shall, in particular, agree upon the measures to be adopted for the medical and administrative supervision of persons entitled to benefit by virtue of this Convention.

3. 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 Party.

4. Legalization by diplomatic and consular authorities shall be waived in respect of all certificates and documents required to be produced for the purpose of this Convention, provided that they bear the official stamp or seal of the authority or institution from which they originate.

#### *Article 18*

1. Claims, declarations or appeals which, for the purposes of the application of the legislation of one of the Contracting Parties, must be presented within a prescribed time-limit to an administrative or judicial authority or to a social security institution 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 agency shall transmit the claims, documents or appeals in question without delay to the competent agency of the first-mentioned Party.

2. The administrative and judicial authorities and the competent institutions of one of the Contracting Parties shall not reject claims and other documents on the ground that they are drawn up in an official language of the other Party.

#### *Article 19*

1. Social security agencies which are liable under this Convention for the payment of benefits shall be held to discharge their liability validity by payment in the currency of their country.

2. If provision is made by either Contracting Party for the placing of restrictions upon the exchange of foreign currency, immediate steps shall be taken by agreement between the two Parties to ensure, in accordance with the provisions of this Convention, the transfer of amounts payable by each Party to the other.

*Article 20*

If a person who may claim benefits under the legal provisions of one of the Contracting Parties for an injury sustained in the territory of the other Party is entitled, under the legislation of the latter Party, to claim compensation for the injury from a third party, the insuring agency of the first-mentioned Party liable for the benefits shall be entitled, under the legislation applicable to it, to exercise the right to compensation with respect to the third party. The other Party shall recognize such entitlement provided that the relevant provisions of its national legislation also allow for transfer of the right to compensation.

*Article 21*

If benefits have been paid, either as an advance or in the form of public assistance, by an agency or institution of one of the Contracting Parties and if, for the same period, benefits are payable under the social insurance legislation of the other Party, the sums paid by the agency or institution of the first-mentioned Party may be deducted from the amount of arrears owed by the liable agency of the second Party, in so far as this is permitted by the legal provisions applicable to it.

*Article 22*

1. Any dispute between the Contracting Parties relating to the interpretation or application of this Convention which cannot be resolved in a satisfactory manner by the competent authorities of the two Parties shall be submitted, at the request of one of the Parties, to arbitration.

2. Each Party shall designate an arbitrator. The two arbitrators so designated shall appoint a third arbitrator who shall not be a national of either Party.

3. If one of the Parties has not designated its arbitrator within three months from the date on which that Party was invited to do so by the other, the arbitrator shall be designated, at the request of the second Party, by the President of the European Court of Human Rights. If the President is prevented from carrying out this task or if he is a national of one of the Parties, the arbitrator shall be designated by the Vice-President of the Court or, if he is a national of one of the Parties, by the judge with the longest period of service who is not a national of one of the Parties.

4. The same procedure shall be followed if the two arbitrators designated by the Parties cannot reach agreement on the choice of the third arbitrator.

5. Unless the Parties make other arrangements, the arbitral body shall determine its own procedure.

6. The arbitral body shall proceed on the basis of legality. It shall reach its decision by a majority vote. Its decision shall be final and binding on the Parties.

#### TITLE VI

### TRANSITIONAL AND FINAL PROVISIONS

#### *Article 23*

1. This Convention shall likewise apply to events which occurred before its entry into force.

2. This Convention shall in no case confer any right to benefits for a period before its entry into force.

3. Any insurance period or equivalent period and any period of residence completed under the legislation of one of the Contracting Parties before the date of the entry into force of this Convention shall be taken into account for the purpose of determining the right to a benefit in accordance with the provisions of this Convention.

4. This Convention shall not apply to an entitlement which has been liquidated by the payment of a lump sum or by the refund of contributions.

#### *Article 24*

Ordinary annuities under Swiss old age and survivors' insurance shall be granted under the provisions of this Convention only if the event occurred after 31 December 1959 and only if the contributions have not been refunded by virtue of article 6, paragraph 3, of the Convention of 28 March 1958 between Switzerland and the Netherlands. Claims which Netherlands nationals may make with respect to events which occurred before 1 January 1960 shall remain governed by article 6 of the Convention of 28 March 1958.

#### *Article 25*

The entitlement of persons who have obtained payment of a pension or annuity before the entry into force of this Convention shall be reviewed at their request, taking into account the provisions of this Convention. Such entitlement may likewise be reviewed automatically. In no case shall the review have the effect of reducing the previous entitlement of the persons concerned.

*Article 26*

In cases where the provisions of the applicable legislation constitute an obstacle to the liquidation of an entitlement by reason of the nationality or residence of the person concerned and where this Convention removes the obstacle, the periods within which claims may be made and the extinction periods laid down by the legislations of the Contracting Parties shall start to run, at the earliest, from the date of the entry into force of this Convention.

*Article 27*

The annexed Final Protocol shall be an integral part of this Convention.

*Article 28*

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

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

3. The Convention of 28 March 1958 between Switzerland and the Netherlands and the Supplementary Agreement of 14 October 1960 shall be abrogated<sup>1</sup> from the date of the entry into force of this Convention, subject to the provisions referred to in article 24 of this Convention and in point 14 of its Final Protocol.

*Article 29*

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

2. In the event of the termination of this Convention, any right acquired in accordance with its provisions shall be maintained. Rights which are in process of acquisition shall be governed by arrangements between the competent authorities of the two Contracting Parties.

IN WITNESS WHEREOF the plenipotentiaries of the Contracting Parties, duly authorized for this purpose, have signed this Convention.

<sup>1</sup> United Nations, *Treaty Series*, vol. 801, p. 393.

DONE in duplicate in the French language, at Berne, on 27 May 1970.

For the Government of the Kingdom of the Netherlands:  
DE VOS VAN STEENWIJK

For the Swiss Federal Council:  
CHRISTOFORO MOTTA

### FINAL PROTOCOL

On the signature today of the Convention on Social Security between the Kingdom of the Netherlands and the Swiss Confederation (hereinafter referred to as the Convention), the undersigned plenipotentiaries have confirmed the agreement of the Contracting Parties on the following points:

1. The Convention shall not affect the provisions of the Agreement concerning the social security of Rhine boatmen, concluded at Paris on 27 July 1950<sup>1</sup> and revised at Geneva on 13 February 1961.<sup>2</sup> With respect to entitlement to an ordinary annuity under Swiss invalidity insurance, Swiss and Netherlands nationals who were employed as Rhine boatmen on a Swiss vessel and who had to give up their employment because of industrial disablement shall be deemed to remain insured for a further 12 months after their employment ceased.

2. (a) The provisions of title III of the Convention shall apply likewise to Netherlands legislation concerning sickness insurance and unemployment insurance;

(b) The legislation concerning sickness insurance referred to in subparagraph (a) shall include:

- The *Ziektewet* (cash benefits)
- The *Ziekenfondswet* (benefits in kind)
- The *Algemene Wet Bijzondere Ziektekosten* (benefits in kind for high-risk cases);

(c) Cash benefits granted under Netherlands legislation concerning sickness insurance shall be paid to Swiss nationals residing outside the Netherlands on the same conditions and to the same extent as to Netherlands nationals residing outside the Netherlands.

3. The Convention shall also apply to refugees within the meaning of the International Convention of 28 July 1951<sup>3</sup> relating to the status of refugees and of the Protocol of 31 January 1967<sup>4</sup> relating to the status of refugees, if they reside in the territory of one of the Contracting Parties. It shall apply on the same conditions to members of their families and to their survivors, in so far as they base their entitlement on that of the above-mentioned refugees. Such application shall be subject to more favourable provisions in national legislations.

<sup>1</sup> United Nations, *Treaty Series*, vol. 166, p. 73.

<sup>2</sup> *Ibid.*, vol. 717, p. 3.

<sup>3</sup> *Ibid.*, vol. 189, p. 137.

<sup>4</sup> *Ibid.*, vol. 606, p. 267.

4. Notwithstanding article 4 of the Convention, grants for cripples under Swiss federal legislation concerning invalidity, old age and survivors' insurance shall not be paid to entitled persons resident outside Switzerland; however, the provisions of article 4 shall not constitute an obstacle to the application of more favourable provisions of one of the national legislations with respect to the award of benefits in kind.

5. In the case of article 7, paragraph 1 (c), of the Convention, the transport enterprises of one of the Contracting Parties shall identify to the competent agency of the other Party the persons seconded in a temporary capacity.

6. Persons of Swiss nationality employed in the Netherlands by the Office national suisse du tourisme shall be assimilated with persons employed in an official administrative service, within the meaning of article 7, paragraph 1 (d), of the Convention.

7. Netherlands nationals not resident in Switzerland who, because of industrial disablement, had to give up their employment in Switzerland, but remained in that country until the invalidity was sustained, shall be deemed to be insured under Swiss invalidity insurance.

8. Contribution periods completed under Netherlands legislation concerning invalidity insurance (*Invaliditeitswet* and *Interimwet invaliditeitsrentetrekkers*) between 31 December 1947 and the date of the entry into force of the Netherlands legislation concerning industrial disablement insurance shall likewise be taken into account for the purposes of the application of article 10, paragraph 2, of the Convention.

9. Netherlands nationals residing in Switzerland who leave Switzerland for a maximum period of two months do not interrupt their residence in Switzerland within the meaning of article 11, paragraph 2, of the Convention.

10. The period of residence referred to in article 12 of the Convention shall be deemed to be uninterrupted if the time spent outside Swiss territory does not exceed three months in any one calendar year. Periods of residence in Switzerland during which a person has been exempted from coverage by Swiss pensions insurance shall not be taken into account in the required period of residence.

11. Netherlands nationals shall be entitled to special annuities under Swiss invalidity insurance on the same conditions as Swiss nationals, and no account shall be taken of the period of residence required under article 12 of the Convention, if they have become disabled in Switzerland during the year immediately following the date on which they ceased to be subject to Netherlands legislation concerning industrial disablement insurance and provided that they are insured in Switzerland at the time when the insured event occurs. If, in such cases, they can be utilized in the Swiss economy, Netherlands nationals shall be entitled to benefit from rehabilitation schemes under Swiss invalidity insurance on the same conditions as Swiss nationals and no account shall be taken of the period of contributions required under article 11, paragraph 1, of the Convention.

12. For the purposes of the application of the principle of equality of treatment set forth in article 3 of the Convention, the survivors of a Netherlands national who died outside Switzerland shall likewise be entitled to survivors' benefits under Swiss old age and survivors' insurance, whatever their place of residence and on the same conditions as Swiss nationals.

13. The provisions of the Netherlands legislation governing cases of simultaneous receipt of an industrial disablement benefit or widow's pension and a similar benefit payable under a foreign legislation shall not be applicable if the Swiss annuity in question is acquired by virtue of contribution periods completed under optional insurance.

14. The Convention shall also apply to Netherlands laws concerning the liquidation of legal accident insurance and legal invalidity insurance with a view to the introduction of industrial disablement insurance. Annuities granted under those laws and supplements to those benefits shall therefore be paid in Switzerland also, in accordance with article 4 of the Convention. In addition, the provisions of articles 12 and 13 of the Convention of 28 March 1958 shall remain applicable to benefits which — under the Law on annulment of the laws on accident insurance — are still payable with respect to events occurring before 1 July 1967.

15. The provisions of the Convention concerning mutual assistance in administrative and medical matters, as well as article 20 of the Convention, shall likewise apply in the Netherlands to industrial and non-industrial accidents in accordance with Swiss legislation.

16. The beneficiary of a pension granted under Netherlands legislation concerning old age insurance or widows' and orphans' insurance or of a benefit granted under Netherlands legislation concerning industrial disablement insurance and calculated on the basis of a disablement of at least 45 per cent shall be entitled, if he resides in Switzerland, to family allowances in accordance with Netherlands legislation. If, in such cases, a full widow's pension under Netherlands legislation is received simultaneously with a special annuity under Swiss legislation, the latter benefit shall not affect the entitlement to family allowances.

17. Eligibility for Swiss sickness insurance shall be established in the following way:

- (a) If a national of one of the Contracting Parties transfers his residence from the Netherlands to Switzerland and ceases to be covered by Netherlands sickness insurance, he shall be admitted, regardless of his age, to one of the recognized Swiss sickness insurance funds designated by the competent Swiss authority and may insure himself both for daily compensation and for medical care and drugs, provided that
- he fulfils the other statutory admission requirements,
  - he was insured with a Netherlands sickness insurance institution before the transfer of residence,
  - he applies for admission to a Swiss fund within three months from the date on which his insurance in the Netherlands lapsed, and
  - he does not change his residence solely for the purpose of obtaining medical or curative treatment;

- (b) The wife and the children under the age of 20 of a national of one of the Contracting Parties shall enjoy the same right of admission to a recognized sickness insurance fund, with respect to medical care and drugs, if they satisfy the conditions set forth above, co-insurance being considered as insurance;
- (c) Insurance periods completed under Netherlands sickness insurance shall be taken into account in establishing eligibility for benefits, on condition, however, with respect to maternity benefits, that the woman concerned has been insured for three months with the Swiss sickness insurance fund.

18. Eligibility for Netherlands voluntary sickness insurance (benefits in kind and in cash) shall be established in the following way:

- (a) If a national of one of the Contracting Parties transfers his residence from Switzerland to the Netherlands and ceases to be covered by Swiss sickness insurance, he shall be admitted, regardless of his age, to one of the Netherlands sickness insurance funds and may insure himself both for daily compensation and for medical care and drugs, provided that
- he fulfils the other statutory admission requirements;
  - he was insured with a recognized Swiss sickness insurance fund before the transfer of residence;
  - he applies for admission to a Netherlands fund within three months from the date on which his insurance in Switzerland lapsed;
  - he does not change his residence solely for the purpose of obtaining medical or curative treatment;
- (b) The wife and children of a national of one of the Contracting Parties shall enjoy the same right of admission to a sickness insurance fund, with respect to medical care and drugs, if they satisfy the conditions set forth above.

This final Protocol, which is an integral part of the Convention, shall have effect on the same conditions and for the same period as the Convention itself.

DONE in duplicate, in the French language, at Berne, on 27 May 1970.

For the Government of the Kingdom of the Netherlands:  
DE VOS VAN STEENWIJK

For the Swiss Federal Council:  
CHRISTOFORO MOTTA

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ADMINISTRATIVE AGREEMENT<sup>1</sup> CONCERNING THE  
MANNER OF APPLICATION OF THE CONVENTION ON  
SOCIAL SECURITY CONCLUDED BETWEEN THE KING-  
DOM OF THE NETHERLANDS AND THE SWISS CON-  
FEDERATION ON 27 MAY 1970<sup>2</sup>

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Pursuant to article 16(a) and (b) and article 17, paragraph 2, of the Convention on Social Security concluded on 27 May 1970<sup>2</sup> between the Kingdom of the Netherlands and the Swiss Confederation, hereinafter referred to as “the Convention”, the competent Netherlands and Swiss authorities, namely:

The Minister of Social Affairs and Public Health and

The Federal Office of Social Insurance

Have agreed on the following provisions:

TITLE I

GENERAL PROVISIONS

*Article 1*

1. The following shall be designated as liaison agencies within the meaning of article 16(a) of the Convention:

In Switzerland:

- (a) For old age, survivors' and invalidity insurance, the Caisse suisse de compensation (Swiss Compensation Fund) at Geneva, hereinafter referred to as “the Caisse suisse”;
- (b) For Swiss accident insurance, the Caisse nationale suisse d'assurance en cas d'accidents (Swiss National Accident Insurance Fund) at Lucerne, hereinafter referred to as “the Caisse nationale”;
- (c) For family allowances and questions of sickness insurance covered by the Final Protocol, the Federal Office of Social Insurance at Berne.

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<sup>1</sup> Came into force on 1 July 1971, the date of entry into force of the Convention, in accordance with article 38.

<sup>2</sup> See p. 163 of this volume.

In the Netherlands:

- (a) For old age and survivors' insurance and for family allowances, the Sociale Verzekeringbank (Social Insurance Bank) at Amsterdam;
  - (b) For Swiss invalidity and accident insurance, with the exception of benefits in kind, the Gemeenschappelijk Administratiekantoor (Joint Administrative Office) at Amsterdam;
  - (c) For benefits in kind under Swiss accident insurance and questions of sickness insurance covered by the Final Protocol, the Ziekenfondsraad (Board of Sickness Insurance Funds) at Amsterdam.
2. The competent Swiss and Netherlands authorities reserve the right to designate other liaison agencies; they shall inform each other of such action.

#### *Article 2*

The competent authorities or, with their agreement, the liaison agencies, shall jointly establish the forms to be used in the application of the Convention and this Agreement.

### TITLE II

#### PROVISIONS CONCERNING APPLICABLE LEGISLATION

#### *Article 3*

1. In cases specified in article 7, paragraph 1(a), of the Convention, the agencies of the country whose legislation is applicable, which are designated in the following paragraph, shall issue at the request of the employer a certificate specifying that the worker concerned remains subject to that legislation. If several workers employed by the same enterprise are sent at the same time to work together in the other country, a single certificate may cover all such workers.

2. The certificate shall be issued:

In Switzerland:

By the competent compensation fund for old age, survivors' and invalidity insurance and, if necessary, by the competent local office of the Caisse nationale;

In the Netherlands:

By the *Gemeenschappelijk Administratiekantoor*.

3. The certificate must be produced by the employer's representative in the other country, if there is such a representative, or otherwise by the person concerned himself.

4. If the duration of the secondment is to exceed the period of 24 months specified in article 7, paragraph 1 (a), of the Convention, the agreement referred to in the second sentence of that paragraph must be requested by the employer, through the competent authority of his country, before the expiry of that period:

In Switzerland:

From the Federal Office of Social Insurance at Berne;

In the Netherlands:

From the Minister of Social Affairs and Public Health at The Hague.

The authorities designated above shall reach agreement by an exchange of letters and shall communicate their decision to the appropriate agencies of their country.

#### *Article 4*

1. For the application of article 8, paragraphs 2 and 3, of the Convention, a worker employed in Switzerland who exercises his option shall inform the Minister of Social Affairs and Public Health and a worker employed in the Netherlands shall inform the Federal Office of Social Insurance. He shall also inform his employer.

2. When a worker referred to in paragraph 1 opts for the legislation of the accrediting State or of the sending State, the authorities mentioned above shall inform each other of his action.

### TITLE III

## PROVISIONS CONCERNING BENEFITS

### Chapter I

#### OLD AGE AND DEATH

I. *Netherlands nationals residing in the Netherlands and entitled to claim benefits under Swiss insurance*

#### *Article 5*

1. Netherlands nationals shall submit their claims for benefits under Swiss old age and survivor's insurance to the *Sociale Verzekeringsbank*. If the

claim is lodged with another Netherlands agency, that agency shall enter the date of receipt on the claim and shall forward it immediately to the Sociale Verzekeringsbank.

2. Claims for benefits shall be made on the forms furnished to the Sociale Verzekeringsbank by the Caisse suisse. The particulars given on these forms shall, in so far as is required by the form, be substantiated by the necessary documentary evidence.

#### *Article 6*

1. The Sociale Verzekeringsbank shall enter the date of receipt of the claim for benefits on the form itself, shall verify whether the claim is drawn up completely and shall certify, in so far as is required by the form, that the particulars given by the claimant are accurate. It shall then forward the claim and the necessary documentary evidence to the Caisse suisse.

2. At the request of the Caisse suisse, the Sociale Verzekeringsbank shall supply further documents and certificates issued by the competent Netherlands authorities.

#### *Article 7*

The Caisse suisse shall rule on the claim and communicate its decision direct to the claimant, indicating the procedures and time-limits for the submission of appeals; it shall send a copy of the decision to the Sociale Verzekeringsbank.

#### *Article 8*

Netherlands nationals residing in the Netherlands shall lodge their complaints against decisions of the Caisse suisse or their appeals under administrative law against the rulings of the Swiss authorities of the first instance with the competent Swiss judicial authorities, either direct or through the liaison agencies. In the latter case, the Sociale Verzekeringsbank shall enter on the complaint or appeal the date of its receipt before forwarding it to the Caisse suisse for the attention of the competent judicial authority.

#### *Article 9*

Once a year the Caisse suisse shall request from recipients of benefits under Swiss old age and survivors' insurance, either direct or through the Netherlands liaison agency, a certificate of good character and the other certificates required for the payment of benefits.

II. *Swiss and Netherlands nationals residing in Switzerland and entitled to claim Netherlands old age benefits or death grants*

*Article 10*

1. Swiss and Netherlands nationals shall submit their claims for Netherlands old age benefits or death grants in duplicate to the Caisse suisse. If the claim is lodged with another Swiss agency, that agency shall enter the date of receipt on the claim and shall forward it immediately to the Caisse suisse.

2. Claims for benefits shall be made on the forms furnished to the Caisse suisse by the Sociale Verzekeringsbank. The particulars given on these forms shall, in so far as is required by the form, be substantiated by the necessary documentary evidence.

*Article 11*

1. The Caisse suisse shall enter the date of receipt of the claim for benefits on the form itself, shall verify whether the claim is drawn up completely and shall certify, in so far as is required by the form, that the particulars given by the claimant are accurate; the Caisse suisse shall then forward the claim to the Sociale Verzekeringsbank.

2. For the application of article 14 of the Convention, the Caisse suisse shall inform the Sociale Verzekeringsbank whether the deceased was compulsorily insured in Switzerland at the time of his death.

3. At the request of the Sociale Verzekeringsbank, the Caisse suisse shall provide further documents and certificates issued by the competent Swiss authorities.

*Article 12*

For the calculation of widows' and orphans' pensions payable under Netherlands legislation, the maximum period of insurance possible under that legislation, referred to in article 14 of the Convention, shall be reckoned from the date on which the insured person reached the age of 15 years.

*Article 13*

The Sociale Verzekeringsbank shall rule on the claim and communicate its decision direct to the claimant, indicating the procedures and time-limits for the submission of appeals; it shall send a copy of the decision to the Caisse suisse.

*Article 14*

Swiss and Netherlands nationals resident in Switzerland shall lodge their appeals concerning old age benefits or death grants with the Raad van Beroep (Trade Council) at Amsterdam, either direct or through the Caisse suisse. In the latter case, the date of receipt shall be entered on the appeal.

*Article 15*

Once a year the Sociale Verzekeringsbank shall request from recipients of benefits, either direct or through the Caisse suisse, a certificate of good character and the other certificates required for the payment of benefits.

III. *Swiss and Netherlands nationals residing in a third State and entitled to claim old age benefits or death grants under Netherlands or Swiss insurance*

*Article 16*

1. Swiss nationals residing in a third State who are entitled to claim a Netherlands benefit shall submit their claim direct to the Sociale Verzekeringsbank, attaching the necessary documentary evidence. In the case of a claim for survivor's benefits, article 11, paragraph 2, shall apply *mutatis mutandis*.

2. Netherlands nationals residing in a third State who are entitled to claim a benefit under Swiss insurance shall submit their claim direct to the Caisse suisse, attaching the necessary documentary evidence.

3. The Sociale Verzekeringsbank, in the cases referred to in paragraph 1, and the Caisse suisse, in the cases referred to in paragraph 2, shall rule on the claims and communicate their decisions direct to the entitled persons.

## Chapter II

## SWISS INVALIDITY INSURANCE

*Article 17*

For the purposes of the application of article 10, paragraph 2, of the Convention, the Nieuwe Algemene Bedrijfsvereniging (New General Professional Association) at Amsterdam shall inform the Caisse suisse, at the latter's request, of the insurance periods which the claimant has completed under Netherlands legislation, taking into account point 8 of the Final Protocol.

*Article 18*

If a Netherlands national who is in the Netherlands is in receipt of a Swiss annuity or claims such an annuity, articles 5 to 9 and article 17 shall apply *mutatis mutandis*.

*Article 19*

If the beneficiary of an invalidity annuity resides in the Netherlands, the Caisse suisse may, at any time, request the Nieuwe Algemene Bedrijfsvereniging to arrange for the medical examinations and to provide it with other information required by Swiss legislation. It shall retain the right to have the person concerned examined by a physician of its choice.

## Chapter III

## SWISS ACCIDENT AND OCCUPATIONAL DISEASE INSURANCE

*Article 20*

Swiss and Netherlands nationals or their survivors residing in the Netherlands who claim accident or occupational disease benefits under Swiss legislation shall submit their claims to the Caisse nationale, either direct or through Gemeenschappelijk Administratiekantoor.

*Article 21*

Swiss and Netherlands nationals or their survivors residing in the Netherlands shall lodge their complaints concerning benefits under Swiss accident insurance to the Cantonal Insurance Tribunal at Lucerne and their appeals under administrative law against the decisions of that Tribunal to the Federal Insurance Tribunal at Lucerne, either direct or through the Gemeenschappelijk Administratiekantoor. In the latter case, the date of receipt shall be entered on the complaint or appeal.

*Article 22*

1. If Swiss or Netherlands nationals or nationals of a third country insured under Swiss legislation sustain an accident or contract an occupational disease in the Netherlands, they may, under article 16(b) of the Convention, request the Algemeen Nederlands Onderling Ziekenfonds (ANOZ) (Netherlands General Mutual Sickness Insurance Fund) at Utrecht to grant them all the requisite benefits in kind.

2. The benefits referred to in the previous paragraph shall be provided by ANOZ if the person concerned proves his entitlement to the said benefits. If no documentary evidence of the entitlement can be produced, ANOZ shall request the necessary certificates and documents from the Caisse nationale.

#### Article 23

1. If Swiss or Netherlands nationals or nationals of a third country transfer their residence to the Netherlands while undergoing medical treatment and with the prior authorization of the Caisse nationale, article 22 shall apply *mutatis mutandis*. Authorization shall be granted if no objection of a medical nature is raised and if the person concerned is joining his family.

2. In the cases referred to in the previous paragraph, the Caisse nationale shall forward to the insured person a certificate establishing his entitlement to benefits after his change of residence.

#### Article 24

1. Benefits in kind which may be claimed by the persons referred to in article 22 and article 23, paragraph 1, shall be provided by ANOZ in accordance with the provisions of the legislation which it applies, as if such persons were insured with that agency.

2. The provision of prosthetic appliances and other major benefits in kind shall be subject, except in cases of absolute urgency, to the authorization of the Caisse nationale.

#### Article 25

The Caisse nationale shall repay the actual cost of benefits provided under article 22 and article 23, paragraph 1, to the Netherlands agency which advanced them. This repayment may also be made in a lump sum in accordance with a procedure to be agreed upon by the liaison agencies.

### Chapter IV

#### NETHERLANDS INDUSTRIAL DISABLEMENT INSURANCE

#### Article 26

If a person in receipt of an industrial disablement benefit resides in Switzerland, the Netherlands agency may, at any time, request the Caisse suisse to arrange for the medical examinations and to provide it with the other information required by Netherlands legislation. The Netherlands authority shall retain the right to have the person concerned examined by a physician of its choice.



*Article 27*

If a person in receipt of an industrial disablement benefit resides in Switzerland, the Netherlands agency may request from him, once a year, a certificate of good character, either direct or through the Caisse suisse.

*Article 28*

Swiss and Netherlands nationals residing in Switzerland and who claim benefits under Netherlands legislation relating to industrial disablement insurance shall submit their claims to the professional association to which their employer belongs, either direct or through the Caisse nationale or the Caisse suisse.

*Article 29*

The competent Netherlands professional association shall rule on the claim for benefits and communicate its decision direct to the claimant, indicating the procedures and time-limits for the submission of appeals; it shall send a copy of the decision to the Caisse nationale or the Caisse suisse.

*Article 30*

Swiss and Netherlands nationals residing in Switzerland shall lodge their appeals concerning benefits under industrial disablement insurance with the Raad van Beroep at Amsterdam either direct or through the Caisse nationale or the Caisse suisse. In the latter case, the date of receipt shall be entered on the appeal.

## Chapter V

## FAMILY ALLOWANCES

*Article 31*

Persons claiming family allowances under article 15 of the Convention shall attach to their claim the necessary documentary evidence issued by the competent authorities or agencies of the country of residence of the children. They shall also provide any information needed for the establishment of their entitlement to family allowances.

## Chapter VI

## SICKNESS INSURANCE

*Article 32*

1. In order to avail themselves of the facilities referred to in point 17 of the Final Protocol annexed to the Convention, the persons in question must

submit to one of the participating Swiss sickness insurance funds a certificate stating the date on which they ceased to be insured with a Netherlands sickness insurance authority and the period of insurance completed during the previous six months. The Swiss sickness insurance fund may, if necessary, request confirmation from that authority concerning longer periods.

2. The certificate shall be issued at the request of the person concerned by the Netherlands sickness insurance fund with which he was last insured. If the person does not have the said certificate, the Swiss sickness insurance fund dealing with the application for admission shall apply to the said fund for the required certificate through the Federal Office of Social Insurance.

3. The competent Swiss authority shall indicate to the competent Netherlands authority which sickness insurance funds are participating in the application of point 17 of the Final Protocol annexed to the Convention.

#### *Article 33*

1. In order to avail themselves of the facilities referred to in point 18 of the Final Protocol annexed to the Convention, the persons in question must submit to the Netherlands authority to which they are applying for admission a certificate stating the date on which they ceased to be insured with a recognized Swiss sickness insurance fund.

2. The certificate referred to above shall be issued at the request of the person concerned by the last sickness insurance fund with which he was insured. If the person does not have the said certificate, the authority dealing with the application for admission may request it from the sickness insurance fund through the Federal Office of Social Insurance.

#### TITLE IV

#### MISCELLANEOUS PROVISIONS

#### *Article 34*

Cash benefits payable by an authority of one of the countries to beneficiaries who are staying or residing in the other country shall be paid direct and on the due dates provided for by the legislation which the authority in question applies.

#### *Article 35*

1. The insuring authorities and the liaison agencies of the two countries shall agree, in response to a general or specific request, on the mutual assistance needed for the application of the Convention and of this Agreement.

2. Where the death of a person insured under Netherlands legislation creates a simultaneous entitlement to a Swiss annuity and a Netherlands widow's pension, the Caisse suisse shall delay payment of the annuity until the Sociale Verzekeringsbank informs it of the amount to be deducted under article 21 of the Convention.

*Article 36*

Recipients of benefits provided under the legislation of one of the countries who reside in the other shall inform the agency liable for payment, either direct or through the liaison agencies, of any change in their personal or family situation, in their state of health or in their work or earning capacity which may affect their entitlements or obligations under the legislations listed in article 2 of the Convention and the provisions of the Convention.

*Article 37*

1. Administrative costs proper and costs connected with the transfer of benefits resulting from the application of the Convention shall be borne by the agencies responsible for its application.

2. The costs of administrative and medical supervision shall be borne by the agency which requested it. That agency shall make separate repayment in each case, on presentation of a statement giving particulars of amounts spent and sums advanced by the agency which carried out the investigation.

*Article 38*

This Agreement shall enter into force on the same date and shall have the same period of validity as the Convention.

DONE in duplicate in the French language, at Berne, on 29 May 1970.

For the Netherlands Minister of Social Affairs and Public Health:  
The Director-General of State Insurance,  
A. C. M. VAN DE VEN

For the Swiss Federal Office of Social Insurance:  
The acting Director,  
CHRISTOFORO MOTTA