

No. 13915

**AUSTRIA
and
ISRAEL**

**Convention on social security (with final protocol). Signed
at Vienna on 28 November 1973**

**Agreement for the implementation of the above-mentioned
Convention. Signed at Vienna on 28 November 1973**

Authentic texts: German and Hebrew.

Registered by Austria on 23 April 1975.

**AUTRICHE
et
ISRAËL**

**Accord relatif à la sécurité sociale (avec protocole final).
Signé à Vienne le 28 novembre 1973**

**Arrangement pour l'exécution de l'Accord susmentionné.
Signé à Vienne le 28 novembre 1973**

Textes authentiques : allemand et hébreu.

Enregistrés par l'Autriche le 23 avril 1975.

[TRANSLATION — TRADUCTION]

CONVENTION¹ BETWEEN THE REPUBLIC OF AUSTRIA AND THE STATE OF ISRAEL ON SOCIAL SECURITY

The Republic of Austria and the State of Israel,

Desiring to regulate the reciprocal relations between the two States in the matter of social security, have agreed to conclude the following Convention:

PART I

GENERAL PROVISIONS

Article 1. (1) For the purposes of this Convention:

1. "Austria" means the Republic of Austria, "Israel" means the State of Israel;
2. "National" means,
 - in relation to Austria, a national of that State, or a person of German mother tongue (*Volksdeutscher*) who is stateless or of undetermined nationality and who was resident in the territory of Austria on other than a temporary basis on 11 July 1953, 1 January 1961 or 27 November 1961;
 - in relation to Israel, an Israeli national;
3. "Legislation" means the laws, ordinances and regulations relating to the branches of social security specified in article 2, paragraph (1);
4. "Competent public authority" means,
 - in relation to Austria, the Federal Minister of Finance, in respect of family allowances, and the Federal Minister of Social Affairs, in respect of other matters,
 - in relation to Israel, the Minister of Labour;
5. "Insurance authority" means the institute or authority responsible for the application of the legislation, or any part thereof, specified in article 2;
6. "Competent insurance authority" means the insurance authority which is competent under the relevant legislation;
7. "Competent State" means the Contracting State in whose territory the competent insurance authority is situated;
8. "Family member" means a family member according to the legislation of the Contracting State in which the insurance authority liable for the benefits has its seat;
9. "Cash benefit", "annuity" or "pension" means a cash benefit, annuity or pension including any part thereof paid out of public funds and any increase, adjustment, supplement, any allowance or lump-sum payment;
10. "Family allowances" means,
 - in relation to Austria, the family allowance,
 - in relation to Israel, the family allowance for large families and the family allowance for children of employed persons.

¹ Came into force on 1 January 1975, i.e., on the first day of the second month that followed the month of the exchange of the instruments of ratification, which took place at Jerusalem on 25 November 1974, in accordance with article 34 (2).

(2) Other expressions in this Convention have the meaning applicable to them under the relevant legislation.

Article 2. (1) This Convention shall apply:

1. In Austria, to the legislation concerning:
 - (a) sickness insurance, in so far as maternity benefits are provided thereunder;
 - (b) accident insurance;
 - (c) pension insurance;
 - (d) unemployment insurance;
 - (e) family allowances;
2. In Israel, to the legislation concerning:
 - (a) maternity insurance;
 - (b) insurance in respect of industrial accidents and occupational diseases;
 - (c) invalidity insurance;
 - (d) old age and survivors insurance;
 - (e) unemployment insurance;
 - (f) insurance for large families and for the children of employed persons.

(2) This Convention shall not apply to legislation concerning a new system of social security or a new branch thereof, nor to systems for victims of war and its aftermath; furthermore, it shall not apply to the Austrian legislation concerning accident insurance for persons with war injuries and injured military personnel undergoing vocational training, or to the legislation concerning insurance for notaries.

(3) Legislation arising out of agreements with third States shall not be taken into account in relations between the Contracting States, except in so far as it contains regulations concerning insurance liability.

Article 3. For the purpose of applying the legislation of one of the Contracting States, the following shall, unless otherwise provided be assimilated to nationals of that State:

- (a) nationals of the other Contracting State;
- (b) refugees within the meaning of article 1 of the Convention relating to the Status of Refugees of 28 July 1951¹ who are habitually resident in the territory of one of the Contracting States; or
- (c) stateless persons habitually resident in the territory of one of the Contracting States.

Article 4. A person who would be entitled to a pension, annuity or other cash benefit, excepting unemployment benefit, under the legislation of one of the Contracting States shall continue to receive such benefit while residing in the territory of the other Contracting State.

Article 5. In so far as, under the legislation of one of the Contracting States, gainful employment or a social insurance relationship has legal effects on social insurance benefits, the same effect shall be produced by a similar gainful employment or the social-insurance relationship in the other Contracting State.

¹ United Nations, *Treaty Series*, vol. 189, p. 137.

PART II

PROVISIONS CONCERNING APPLICABILITY OF LEGISLATION

Article 6. (1) Notwithstanding the provisions of articles 7 and 8, gainfully employed persons shall be subject to the legislation of the Contracting State in whose territory their occupation is exercised. This shall also apply where a person is gainfully employed by another and his domicile or the principal place of business of his employer, is situated in the territory of the other Contracting State.

(2) If according to paragraph (1) the legislation of both Contracting States would apply simultaneously, the following shall apply:

- (a) Where a person is gainfully employed by another person and also gainfully self-employed, the applicable legislation shall be that of the Contracting State in whose territory he is gainfully employed by another person.
- (b) Where a person engages simultaneously in more than one form of gainful self-employment, the applicable legislation shall be that of the Contracting State in which he is habitually resident.

Article 7. (1) A person normally employed by an enterprise in the territory of one of the Contracting States who is sent by the said enterprise to work on its behalf in the territory of the other Contracting State shall, until the end of the twenty-fourth calendar month after being sent there, continue to be subject to the legislation of the first-mentioned Contracting State as if he were still employed in its territory.

(2) A person employed by an airline having its principal place of business in the territory of one of the Contracting States who is sent from that territory to the territory of the other Contracting State shall continue to be subject to the legislation of the first-mentioned Contracting State as if he were still employed in its territory.

(3) A person employed by a transport enterprise having its principal place of business in one of the Contracting States who is employed in the territory of the other Contracting State shall be subject to the legislation of the first-mentioned Contracting State as if he were employed in its territory. If the enterprise has a branch in the territory of the second Contracting State, the persons employed by the branch shall be subject to the legislation of the latter Contracting State.

(4) The crew of a seagoing vessel shall be subject to the legislation of the Contracting State whose flag the vessel flies.

(5) A national of one of the Contracting States who is in the service of the said Contracting State or of another public employer of the said Contracting State and is employed in the territory of the other Contracting State shall be subject to the legislation of the first-mentioned Contracting State.

Article 8. (1) Subject to the provisions of paragraph (4), diplomats shall be exempt from social security legislation in the receiving State in respect of their services for the sending State.

(2) (a) The exemption provided for in paragraph (1) shall also apply to members of the administrative and technical staff of the mission and to members of the domestic staff of the mission who are not nationals of the receiving State and are not permanently resident therein.

(b) Notwithstanding the provisions of subparagraph (a), members of the administrative and technical staff of the mission who are nationals of the sending State and are permanently resident in the receiving State may, within three months after

beginning their employment, opt for application of the legislation of the sending State. The option shall become effective on the first day of the following month.

(3) The exemption provided for in paragraph (1) shall further apply to private household staff employed exclusively by a diplomat, provided that:

- (a) they are neither nationals of the receiving State nor permanently resident therein; and
- (b) they are not subject to the social security legislation in force in the sending State or in a third State.

(4) A diplomat employing persons to whom the exemption provided for in paragraph (3) does not apply shall comply with the social security legislation applicable to employers in the receiving State.

(5) Paragraphs (1) to (4) shall apply *mutatis mutandis* to career consuls and the members of consular posts headed by them and to domestic staff employed exclusively by them.

Article 9. The competent public authority of the Contracting State whose legislation is applicable under articles 6 to 8 may, at the request of the competent public authority of the other Contracting State, grant exemption from the said legislation to specific employees or groups of employees or to self-employed persons where it is in their interest to do so, due regard being given to the nature and circumstances of their employment. In such a case the legislation of the latter Contracting State shall apply to the persons concerned.

PART III

SPECIAL PROVISIONS

Chapter 1. MATERNITY

Article 10. For the establishment of entitlement to benefits and the duration of the benefits, insurance periods to be taken into account under the legislation of both Contracting States for maternity benefits shall be aggregated, in so far as they do not overlap.

Chapter 2. INVALIDITY, OLD AGE AND DEATH

Article 11. Where a person has completed insurance periods in accordance with the legislation of both Contracting States, such periods shall be aggregated for the establishment of entitlement to benefits, in so far as they do not overlap. The extent to which and the manner in which insurance periods are to be taken into account shall be governed by the legislation of the Contracting State under whose insurance scheme the periods were completed.

Article 12. (1) Where benefits are claimed under the legislation of both Contracting States by a person who has completed insurance periods under the legislation of both Contracting States, or by his survivors, the competent insurance authority shall establish the benefits as follows:

- (a) The insurance authority of each of the Contracting States shall determine according to the legislation applicable by it whether the person concerned is entitled to benefits when the insurance periods are aggregated.
- (b) If an entitlement to benefits exists, the insurance authority shall first calculate the amount of the theoretical benefits which would be due if all insurance

periods to be taken into account under the legislation of both Contracting States had been completed only in the Contracting State concerned.

- (c) The partial benefits due on the basis of the amount calculated according to subparagraph (b) shall then be calculated by the insurance authority according to the ratio between the duration of the insurance periods to be taken into account under its own legislation and the total duration of the insurance periods to be taken into account under the legislation of both Contracting States.

(2) Where the insurance periods to be taken into account under the legislation of one of the Contracting States do not amount to a total of 12 months for the calculation of the pension, the insurance authority of that Contracting State shall pay no pension and the insurance authority of the other Contracting State shall pay the pension calculated without the application of paragraph (1) (c). This provision shall not apply when an entitlement to a pension exists under the legislation of the first-mentioned Contracting State without the application of article 11.

Article 13. The competent Austrian insurance authorities shall apply articles 11 and 12 according to the following rules:

1. For the purpose of determining the insurance authority competent to provide a benefit under the pensions insurance scheme (*Leistungszugehörigkeit und Leistungszuständigkeit*), Israeli insurance periods shall be taken into account according to the nature of the gainful employment followed during those periods.
2. The provisions of articles 11 and 12 shall not apply to the prerequisites for entitlement to and to the payment or the long-service bonus for miners (*Bergmannstreuegeld*) from the Austria pensions insurance scheme for miners.
3. In the implementation of article 12, paragraph (1) (b), the following shall apply:
 - (a) Overlapping insurance periods shall be taken into account according to their actual duration.
 - (b) Contributions subsequently paid to accumulate equivalent insurance periods under the Austrian pensions insurance scheme shall not be treated as contributions to the supplementary insurance scheme (*Höherversicherung*).
 - (c) The basis of calculation shall consist exclusively of insurance periods completed under the Austrian pensions insurance scheme.
 - (d) Contributions under the supplementary insurance scheme or the supplementary benefits scheme (*Leistungszuschlag*) shall not be taken into account.
4. In the implementation of article 12, paragraph (1) (c), the following shall apply:
 - (a) If the total duration of the insurance periods to be taken into account under the legislation of both Contracting States exceeds the maximum fixed by Austrian legislation for the calculation of the increased benefit (*Steigerungsbetrag*), the partial pension payable shall be calculated according to the ratio between the duration of the insurance periods to be taken into account under Austrian legislation and the aforementioned maximum of insurance months.
 - (b) The supplementary allowance to disabled persons (*Hilflosenzuschuss*) shall be calculated, in accordance with Austrian legislation, on the basis of the Austrian partial pension, the limits (*Grenzbeträge*) being proportionately reduced. On the other hand, where entitlement to a pension exists solely on the basis of the insurance periods to be taken into account under Austrian

legislation, the supplementary allowance to disabled persons shall be payable in an amount corresponding to the said pension, unless increased benefit for disability is paid under Israeli legislation.

5. The amount calculated according to article 12, paragraph (1) (c), shall in any event be increased by supplements for contributions paid or deemed to have been paid to the supplementary insurance scheme, by supplements from the miners' pension fund (*Knappschaftlicher Leistungszuschlag*), the supplementary allowance to disabled persons and the compensatory supplement (*Ausgleichszulage*) payable under Austrian legislation.
6. Where, under Austrian legislation, the granting of benefits under the pensions insurance scheme for miners depends upon the performance in specific industries of an activity which is essentially mining activity within the meaning of Austrian legislation, only those Israeli insurance periods shall be taken into account which are based on employment in a similar industry involving the performance of a similar activity.
7. Special payments under the Austrian pensions insurance scheme shall be payable on the same scale as the Austrian partial pension; article 15 shall apply *mutatis mutandis*.

Article 14. (1) Where entitlement to a pension exists even without the application of article 11, the competent insurance authority of one of the Contracting States shall grant the pension payable solely on the basis of the insurance periods to be taken into account under the legislation applicable by it, provided that no entitlement to benefits exists under the legislation of the other Contracting State.

(2) A pension determined according to paragraph (1) shall be revised according to the provisions of article 12 if an entitlement to benefit arises under the legislation of the other Contracting State. The revision shall take effect on the date on which the benefit under the legislation of the other Contracting State begins. The validity of earlier decisions shall not preclude such revision.

Article 15. (1) Where a person is entitled to benefit under the legislation of one of the Contracting States even without the application of article II, and where that benefit would be greater than the aggregate of the benefits calculated in accordance with article 12, paragraph (1) (c), the insurance authority of that Contracting State shall increase its partial benefit, its own benefit thus calculated by the amount of the difference between the aggregate of the benefits calculated under article 12, paragraph (1) (c), and the benefit which would be payable solely under the legislation applicable by that insurance authority.

(2) The partial benefit calculated in accordance with paragraph (1) shall be revised *ex officio* when there is a change, except as a result of routine adjustments, in the amount of benefits on which the calculation of partial benefits is based, or when there is a change of more than 10 per cent in the rate of exchange.

Chapter 3. INDUSTRIAL ACCIDENTS AND OCCUPATIONAL DISEASES

Article 16. (1) A person who

- (a) has suffered an industrial accident or contracted an occupational disease in the territory of the State which is not the competent State, or
- (b) has suffered an industrial accident or contracted an occupational disease in the territory of the competent State and

- (aa) who transfers his residence to the territory of the other Contracting State, or
- (bb) whose condition during a temporary stay in the last-mentioned territory necessitates immediate medical care, including hospitalization,
- shall receive at the expense of the competent insurance authority benefits in kind to be provided to him by the insurance authority of his place of temporary stay or new place of residence according to the legislation applicable to the latter authority. In the case of a change of residence, the consent of the competent insurance authority must be obtained by the said person prior to removal. Such consent may be refused only if the change of residence would have adverse effects on his condition or on the provision of medical treatment.
- (2) Cash benefits shall be paid according to the legislation of the competent State.
- (3) The benefits in kind referred to in paragraph (1) shall be provided:
- In Austria: By the Regional Sickness Fund for Manual and Salaried Workers (*Gebietskrankenkasse für Arbeiter und Angestellte*) competent for the place of temporary stay or place of residence of the person concerned;
 - In Israel: By the National Insurance Institute.
- (4) The benefits may be provided by an insurance authority for accident insurance instead of the insurance authority mentioned in paragraph (3).
- (5) The competent insurance authority shall refund to the insurance authority under paragraph (3) the amounts disbursed in accordance with paragraph (1), less administrative costs.
- (6) The competent public authorities may agree that in the interests of administrative simplification, individual settlements in respect of the amounts disbursed shall, in all cases or in particular categories of cases, be replaced by lump-sum payments.

Article 17. If an occupational disease is compensable under the legislation of both Contracting States, benefits shall be granted only under the legislation of the Contracting State in whose territory an employment liable to cause such an occupational disease was last followed.

Chapter 4. UNEMPLOYMENT

Article 18. (1) Where a person was subject successively or alternately to the legislation of both Contracting States, his entitlement to unemployment benefits shall be calculated by aggregating the periods to be taken into account under the legislation of both Contracting States, in so far as they do not overlap.

(2) Paragraph (1) shall apply only if the person concerned has been employed in the Contracting State under whose legislation the benefit is claimed for a total of 13 weeks during the 12 months prior to the assertion of the claim, unless the employment was terminated otherwise than through the fault of the employee.

Chapter 5. FAMILY ALLOWANCES

Article 19. Where, under the legislation of one of the Contracting States, entitlement to family allowances depends on the fact that the children for whom family allowances are to be provided are domiciled or resident in the territory of the said Contracting State, children resident in the territory of the other Contracting State

shall be taken into account if they were permanently resident in the territory of the first-mentioned Contracting State.

Article 20. (1) Persons who are domiciled or habitually resident in the territory of one of the Contracting States and are gainfully employed by another person in the territory of the other Contracting State shall be entitled to family allowances under the legislation of the latter Contracting State as if they were domiciled or habitually resident in its territory.

(2) Where an employed person is sent from the territory of one of the Contracting States to the territory of the other Contracting State, the legislation thereafter applicable to him shall be that of the first-mentioned Contracting State.

Article 21. Where, under the provisions of this Convention, a person has successively met during one calendar month the conditions for entitlement in respect of a child under the legislation of each of the Contracting States, family allowances shall be paid for the entire month by the Contracting State under whose legislation they were payable at the beginning of that month.

Article 22. Children within the meaning of this chapter are persons for whom family allowances are provided under the applicable legislation.

PART IV

MISCELLANEOUS PROVISIONS

Article 23. (1) The competent public authorities may prescribe in an agreement the administrative measures necessary for the implementation of this Convention. The said agreement may be concluded before the entry into force of this Convention but may not enter into force earlier than simultaneously with this Convention.

(2) The competent public authorities of the Contracting States shall inform each other concerning

(a) all measures taken in implementation of this Convention,

(b) all changes in their legislation which affect the implementation of this Convention.

(3) In the implementation of this Convention the public authorities and insurance authorities of the Contracting States shall assist each other and shall act as if applying their own legislation. Such official assistance shall be free of charge.

(4) For the purposes of implementing this Convention, the insurance authorities and public authorities of the Contracting States may enter into direct communication with one another, and with persons concerned or their agents.

(5) The insurance authorities, public authorities and courts of one of the Contracting States shall not reject claims or other papers submitted to them on the ground that they are drawn up in the official language of the other Contracting State.

(6) Medical examinations undertaken pursuant to the legislation of one of the Contracting States in respect of persons who are staying in the territory of the other Contracting State shall be arranged, at the request of the competent office and at its expense, by the insurance authority of the place where the persons concerned are staying.

(7) In matters of judicial assistance the provisions applicable at the time to legal assistance in civil law cases shall apply.

Article 24. In order to facilitate the implementation of this Convention, and in particular to establish simple and rapid communication between the insurance authorities concerned on both sides, the competent public authorities shall establish liaison offices.

Article 25. (1) Any exemption from or reduction of charges, stamp duties, court fees or registration fees which is provided for by the legislation of one of the Contracting States in respect of certificates or other papers required to be submitted in implementation of that legislation shall be extended to the corresponding certificates and other papers required to be submitted in implementation of this Convention or the legislation of the other Contracting State.

(2) Certificates and papers of every kind required to be submitted in implementation of this Convention need not be authenticated.

Article 26. (1) Claims, declarations or appeals which, in implementation of this Convention or the legislation of one of the Contracting States, are submitted to a public authority, insurance authority or other competent agency of one of the Contracting States shall be considered as claims, declarations or appeals submitted to a public authority, insurance authority or other competent agency of the other Contracting State.

(2) A claim to a benefit submitted under the legislation of one of the Contracting States shall also be deemed to be a claim to a corresponding benefit covered by this Convention under the legislation of the other Contracting State. This shall not apply where the claimant expressly requests that the determination of an old-age benefit acquired under the legislation of one of the Contracting States should be deferred.

(3) Claims, declarations or appeals which, in implementation of the legislation of one of the Contracting States, must be submitted within a prescribed time-limit to a public authority, insurance authority or other competent agency of that Contracting State may be submitted within the same time-limit to the corresponding office of the other Contracting State.

(4) In the cases referred to in paragraphs (1) to (3) the office to which the claim, declaration or appeal has been submitted shall transmit it without delay to the corresponding competent office of the first-mentioned Contracting State.

Article 27. (1) The insurance authorities liable for benefits under this Convention shall be held to discharge their liability validly by making payment in the currency of their State.

(2) Reimbursements provided for in this Convention shall be made in the currency of the Contracting State in which the insurance authority which provided the benefits has its seat.

Article 28. (1) Enforceable court orders and enforceable decisions and statements of arrears (instruments) issued by the insurance authorities or public authorities of one of the Contracting States in matters concerning contributions and other social-insurance requirements, or concerning the recovery of family allowances, shall be recognized in the other Contracting State.

(2) Recognition may be refused only where it would run counter to the public policy of the Contracting State in which recognition of the order or instrument is sought.

(3) Enforceable orders and instruments recognized in accordance with paragraph (1) shall be enforced in the other Contracting State. The enforcement procedure shall conform to the legislation which would be applicable in the Contracting State in whose territory enforcement is sought to the enforcement of the corresponding orders and instruments issued in that State. The copy of the order or instrument must contain a statement to the effect that it is enforceable (enforceability clause).

(4) Demands for payment made by insurance authorities in the territory of one of the Contracting States on the ground of arrears in contributions shall, in the event of mandatory enforcement or bankruptcy or composition proceedings in the territory of the other Contracting State, be given priority equal to that given to corresponding demands for payment in the territory of the latter Contracting State.

Article 29. Where an insurance authority of one of the Contracting States has made an advance payment in respect of a benefit, the payment of arrears, due in the same period, of a corresponding benefit to which entitlement exists under the legislation of the other Contracting State shall be withheld by the insurance authority of that Contracting State at the request of the first-mentioned insurance authority. Where the insurance authority of one of the Contracting State has paid an amount in excess of the correct benefit for a period for which the insurance authority of the other Contracting State has to pay arrears in respect of a corresponding benefit, the overpayment, up to the amount of the arrears due, shall be regarded as an advance payment within the meaning of the first sentence.

Article 30. (1) Where a person who is to receive benefits under the legislation of one of the Contracting States in respect of an injury sustained in the territory of the other Contracting State is entitled, in accordance with the regulations of that State, to claim compensation for such injury from a third party, the claim for compensation shall be transferred to the insurance authority of the first-mentioned Contracting State in accordance with the legislation applicable to that insurance authority.

(2) Where both an insurance authority of one of the Contracting States and an insurance authority of the other Contracting State are entitled to claim compensation in respect of similar benefits as a result of the same contingency, the third party may validly discharge the claims transferred to the two insurance authorities by making payment either to the one or to the other. The insurance authorities shall make the necessary internal arrangements to divide the payment between them in proportion to the benefits payable by each of them.

Article 31. (1) Disputes between the Contracting States concerning the interpretation or application of this Convention shall be settled, in so far as possible, by the competent public authorities of the Contracting States.

(2) Where a dispute cannot be settled in such manner, it shall, at the request of one of the Contracting States, be submitted to an arbitral tribunal, to be constituted as follows:

- (a) Within one month from the receipt of a request for arbitration, each party shall appoint an arbitrator. Within two months from the notification of appointment by the party which has been last to make its appointment, the two arbitrators appointed shall choose a national of a third State as the third arbitrator.
- (b) If one of the Contracting States has not appointed an arbitrator within the specified time-limit, the other Contracting State may request the President of

the International Court of Justice to appoint one. Corresponding measures shall be taken at the instance of one of the Contracting States if the two arbitrators cannot agree on the choice of a third arbitrator.

- (c) If the President of the International Court of Justice is a national of one of the Contracting States, the functions conferred on him by this article shall be carried out by the Vice-President of the Court, and if the latter is also a national of one of the Contracting States, by the next most senior judge of the Court who is not such a national.

(3) The decisions of the arbitral tribunal shall be by majority vote. Its decisions shall be binding upon both Contracting States. Each Contracting State shall defray the expenses of the arbitrator it appoints. Other expenses shall be shared equally by the Contracting States. The arbitral tribunal shall establish its own rules of procedure.

PART V

TRANSITIONAL AND FINAL PROVISIONS

Article 32. (1) Except as otherwise provided in paragraph (7), this Convention shall not confer any entitlement to benefits for periods prior to its entry into force.

(2) Insurance periods completed under the legislation of one of the Contracting States prior to the entry into force of this Convention shall also be taken into account for the purpose of determining entitlement to benefits under this Convention.

(3) Without prejudice to the provisions of paragraph (1), this Convention shall also apply to insurance contingencies which occurred prior to its entry into force; in such cases, in accordance with the provisions of this Convention:

- (a) Pensions to which entitlement first arises under this Convention shall be determined upon the application of the beneficiary.
- (b) Pensions which were determined prior to the entry into force of this Convention shall, upon the application of the beneficiary, be revised; they may also be revised *ex officio*, and in that event the date on which the insurance authority dispatches to the beneficiary the required notice of initiation of the revision process shall be deemed to be the date of the application.

If the application for determination or revision is submitted within two years after the entry into force of this Convention, or the revision *ex officio* is initiated within that time-limit, benefits shall be payable according to the provisions of paragraph (7); in other cases, they shall be payable as from the date determined under the legislation of each of the Contracting States.

(4) Where the legislation of the Contracting States provides for the exclusion or prescription of entitlements, the relevant legislation of the Contracting States shall not apply to the beneficiary in respect of entitlements arising out of paragraph (3), if the application referred to in paragraph (3) is submitted within two years after the entry into force of this Convention. If the application is submitted after the expiry of that time-limit, entitlement to benefits which has not been excluded or prescribed shall be acquired as from the time of submission of the application, unless more favourable provisions of the legislation of one of the Contracting States are applicable.

(5) In the cases referred to in paragraph (3) (b), article 29 shall apply *mutatis mutandis*.

(6) The validity of earlier decisions shall not preclude revision.

(7) Pensions under the legislation referred to in article 2, paragraphs (1), 1 (c), and 2 (d), shall be determined and paid for the period beginning on 1 January 1973 in accordance with the provisions of this Convention.

Article 33. The rights accorded under Austrian legislation to any person who has suffered impairment of his social insurance status on political, religious or racial grounds shall not be affected by this Convention.

Article 34. (1) This Convention shall be ratified. The instruments of ratification shall be exchanged at Jerusalem as soon as possible.

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

(3) This Convention is concluded for an indefinite period. Either of the Contracting States may denounce it in writing through the diplomatic channel upon three months' notice.

(4) In the event of denunciation, the provisions of this Convention shall continue to apply to acquired entitlements, irrespective of restrictive provisions laid down by the systems concerned to cover cases in which an insured person is resident abroad.

IN WITNESS WHEREOF the plenipotentiaries of the two Contracting States have signed this Convention.

DONE at Vienna on 28 November 1973, in two original copies in the German and Hebrew languages, both texts being equally authentic.

For the Republic of Austria:
RUDOLF HÄUSER

For the State of Israel:
YITZHAK PATISH

FINAL PROTOCOL TO THE CONVENTION¹ BETWEEN THE REPUBLIC OF AUSTRIA AND THE STATE OF ISRAEL ON SOCIAL SECURITY

At the time of signing the Convention on Social Security concluded this day between the Republic of Austria and the State of Israel, the plenipotentiaries of the two Contracting States declare that agreement has been reached on the following provisions:

I. *Ad article 1 of the Convention:*

The expressions used in paragraph (1) 9 shall not include the equalization allowance (*Ausgleichszulage*) under Austrian legislation or the social allowance under Israeli law.

II. *Ad article 3 of the Convention:*

1. Regulations concerning insurance liability laid down in international treaties concluded by the Contracting States with other States shall not be affected.

¹ See p. 163 of this volume.

2. The legislation of the two Contracting States concerning the participation of insured persons and employers in the organs of insurance authorities and associations and in establishing the *usus fori* in social security matters shall not be affected.

3. The provisions of the Austrian Federal Act of 22 November 1961 concerning entitlements to benefits and rights in course of acquisition under the pensions insurance and accident insurance schemes by reason of employment abroad, and also the provisions relating to the taking into account of periods of self-employment completed in the territory of the former Austro-Hungarian monarchy outside Austria, shall not apply to Israeli nationals.

4. The Austrian legislation concerning the payment of unemployment relief (*Notstandshilfe*) shall not be affected.

III. *Ad article 5 of the Convention:*

1. For the purpose of acquiring entitlement to a pension under the Austrian pensions insurance scheme for self-employed persons in commerce, the actual termination of the corresponding self-employment in Israel shall be assimilated to the expiration of a business licence on the winding-up of a company in Austria.

2. Participation in an insurance scheme under Israeli legislation while no gainful employment is being followed shall not preclude the acquisition of entitlement to an Austrian old-age pension (miner's old-age pension (*Knappschaftsalterspension*)).

IV. *Ad article 8 of the Convention:*

1. The provision in paragraph (1) shall apply to the Austrian Trade Delegate and the technical staff assigned to him by the Federal Chamber of Commerce (*Bundeskammer der gewerblichen Wirtschaft*), on the understanding that the employment of the said persons in the territory of Israel is subject to Austrian legislation.

2. In the case of persons already employed on the date of the entry into force of the Convention, the period specified in paragraph (2) shall begin on that date.

V. *Ad article 11 of the Convention:*

This provision shall not apply with respect to entitlement to an accelerated old-age pension (miner's old-age pension) in the case of unemployment or lengthy duration of insurance under Austrian legislation.

VI. *Ad article 18 of the Convention:*

Paragraph (1) shall not apply for the purpose of the acquisition of entitlement to maternity leave benefits (*Karenzurlaubsgeld*) under the Austrian legislation.

VII. *Ad article 20 of the Convention:*

Entitlement to Austrian family allowances shall exist only where the employment in Austria does not contravene existing provisions concerning the employment of foreign workers and continues for at least one full calendar month.

VIII. *Ad article 28 of the Convention:*

The provisions shall apply with respect to family allowances only in so far as the benefits were not obtained in good faith.

IX. *Ad article 32 of the Convention:*

Part III, chapter 2, shall not apply in cases where, under the Austrian legislation concerning pensions insurance for self-employed persons in agriculture or forestry, the legislation concerning subsidized annuities insurance for farmers (*Landwirtschaftliche Zuschussrentenversicherung*) continues to apply.

This Final Protocol shall form an integral part of the Convention between the Republic of Austria and the State of Israel on social security. It shall enter into force on the same date as the Convention and shall remain in force so long as the Convention is in force.

IN WITNESS WHEREOF the Plenipotentiaries of the two Contracting States have signed this Final Protocol.

DONE at Vienna on 28 November 1973, in two original copies in the German and Hebrew languages, both texts being equally authentic.

For the Republic of Austria:

RUDOLF HÄUSER

For the State of Israel:

YITZHAK PATISH

AGREEMENT¹ FOR THE IMPLEMENTATION OF THE CONVENTION² BETWEEN THE REPUBLIC OF AUSTRIA AND THE STATE OF ISRAEL ON SOCIAL SECURITY

Pursuant to article 23, paragraph (1), of the Convention between the Republic of Austria and the State of Israel on Social Security of 28 November 1973² (hereinafter referred to as “the Convention”), the competent public authorities of the two Contracting States have agreed on the following provisions for the implementation of the Convention:

PART I

GENERAL PROVISIONS

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

(2) For the purposes of this Agreement, the insurance authorities specified in article 16 of the Agreement are referred to as “assisting insurance authorities”.

Article 2. (1) Liaison offices within the meaning of article 24 of the Convention shall be:

— In Austria:

- For accident and pensions insurance, the Federation of Austrian Social Insurance Authorities (*Hauptverband der österreichischen Sozialversicherungsträger*) at Vienna;
- For family allowances, the Federal Finance Ministry at Vienna;
- For unemployment insurance, the *Land* Labour Office at Vienna (*Landesarbeitsamt Wien*);

— In Israel: the National Insurance Institute.

(2) In order to facilitate the implementation of the Convention, the liaison offices shall, in addition to the functions prescribed in this Agreement, be responsible for all other administrative measures, especially the provision and organization of administrative assistance and the drawing up of standard forms.

Article 3. In the cases referred to in article 7, paragraph (1), of the Convention, the continued validity of the legislation of the sending State shall be certified. The certificate shall be issued:

- In Austria: By the insurance authority responsible for the sickness insurance,
- In Israel: By the National Insurance Institute.

PART II

SPECIAL PROVISIONS

Chapter 1. MATERNITY

Article 4. In the cases referred to in article 10 of the Convention, the in-

¹ Came into force on 1 January 1975, the date of entry into force of the Convention, in accordance with article 14.

² See p. 163 of this volume.

insurance authority concerned shall, on request, issue a certificate attesting to the insurance periods completed under the legislation applicable to it.

Chapter 2. INVALIDITY, OLD AGE AND DEATH

Article 5. (1) The competent insurance authorities shall notify each other without delay of claims for benefits to which part III, chapter 2, of the Convention is applicable.

(2) The competent insurance authorities shall subsequently notify each other also of any other facts which may be important for determining the benefits, appending medical reports where applicable.

(3) The competent insurance authorities shall notify each other of the decisions reached in the assessment of benefits and of the transmittal of decisions to the Parties concerned.

Article 6. The competent insurance authorities shall inform each other without delay of any change in the amount of a benefit, in so far as the change is not a consequence of a current general adjustment.

Article 7. The competent insurance authorities shall pay benefits direct to the beneficiaries. The dates on which payments are due shall be those which must be met by the competent insurance authorities under the legislation applicable to them.

Article 8. The competent insurance authorities shall annually communicate to their competent liaison office statistics concerning payments made in the other Contracting State. Such statistics shall be exchanged by the liaison offices.

Chapter 3. INDUSTRIAL ACCIDENTS AND OCCUPATIONAL DISEASES

Article 9. Chapter 2 shall apply *mutatis mutandis* to the payment of benefits.

Article 10. (1) For the purposes of applying article 16, paragraph 1, of the Convention, the competent insurance authority shall, on request, issue a certificate attesting to the entitlement.

2. The assisting insurance authority shall observe the course of the sickness as if the person concerned were insured with that authority itself and shall inform the competent insurance authority of the results of the observation.

Article 11. In the implementation of article 16, paragraph (5), of the Convention, claims for refund shall be submitted either after the termination of the contingency giving rise to the payment of benefits or for each calendar half-year, and shall be effected within two months following submission of the claim.

Chapter 4. UNEMPLOYMENT

Article 12. In the cases referred to in article 18 of the Convention, the insurance authority concerned shall, on request, issue a certificate attesting to the insurance periods which have been completed under the legislation of the State of origin.

Chapter 5. FAMILY ALLOWANCES

Article 13. The certificates required by the competent insurance authority of

one of the Contracting States for the purpose of applying articles 19 and 20 of the Convention shall, on request, be issued by those offices in the territory of the other Contracting State which are competent under the legislation of the latter State to issue them.

PART III

FINAL PROVISIONS

Article 14. This Agreement shall enter into force simultaneously with the Convention.

DONE at Vienna on 28 November 1973, in two original copies in the German and Hebrew languages, both texts being equally authentic.

For the Federal Minister of Social Affairs:
Dr. SCHUH

For the Federal Minister of Finance:
Dr. WOHLMANN

For the Minister of Labour:
AVRAHAM MAYER
