

No. 13930

**NETHERLANDS
and
AUSTRIA**

**Convention on social security (with final protocol). Signed
at The Hague on 7 March 1974**

**Agreement for the implementation of the above-mentioned
Convention (with annex). Signed at The Hague on
7 March 1974**

Authentic texts: Dutch and German.

Registered by the Netherlands on 29 April 1975.

**PAYS-BAS
et
AUTRICHE**

**Convention sur la sécurité sociale (avec protocole final).
Signée à La Haye le 7 mars 1974**

**Accord relatif à l'exécution de la Convention susmentionnée
(avec annexe). Signé à La Haye le 7 mars 1974**

Textes authentiques : néerlandais et allemand.

Enregistrés par les Pays-Bas le 29 avril 1975.

[TRANSLATION — TRADUCTION]

CONVENTION¹ BETWEEN THE KINGDOM OF THE NETHERLANDS
AND THE REPUBLIC OF AUSTRIA ON SOCIAL SECURITY

The Kingdom of the Netherlands and
The Republic of Austria,
Desiring to regulate mutual 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; "Netherlands" means the Kingdom of the Netherlands;

(2) "Territory" means:

- In the case of Austria, the territory of Austria;
- In the case of the Netherlands, the territory of the Kingdom in Europe;

(3) "National" means:

- In the case of Austria, an Austrian national or a person belonging to the German linguistic community (*Volkdeutscher*) who is stateless or of indeterminate nationality and who was in the territory of Austria, otherwise than purely temporarily, on 11 July 1953, 1 January 1961 or 27 November 1961;
- In the case of the Netherlands, a person of Netherlands nationality;

(4) "Legislation" means the laws, ordinances and regulations relating to the branches of social security specified in article 2, paragraph 1, which are in force in the territory of one of the Contracting States or in part of that territory;

(5) "Competent authority" means:

- In the case of Austria, the Federal Minister of Finance in respect of family allowances and the Federal Minister of Social Affairs in respect of other matters;
- In the case of the Netherlands, the Minister of Health and Environmental Protection in respect of benefits in kind under the sickness insurance scheme and the Minister of Social Affairs in respect of other matters;

(6) "Insurance authority" means the institute or authority responsible for the application of the legislation, or any part thereof, specified in article 2;

(7) "Competent insurance authority" means the insurance authority which is competent under the relevant legislation;

(8) "Dependant" means a dependant within the meaning of the legislation of the Contracting State in which the insurance authority liable for the benefits has its seat;

¹ Came into force on 1 January 1975, i.e. the first day of the second month that followed the exchange of the instruments of ratification, which took place at Vienna on 5 November 1974, in accordance with article 44 (1).

(9) "Insurance periods" means contribution periods and periods of employment, gainful activity or residence defined or recognized as insurance periods by the legislation under which they were completed, and any other periods assimilated to insurance periods under the relevant legislation;

(10) "Contribution periods" means periods in respect of which contributions are paid or are deemed to have been paid under the legislation of one of the Contracting States;

(11) "Equivalent periods" means periods assimilated to contribution periods;

(12) "Cash benefit", "annuity" or "pension" means a cash benefit, annuity or pension including any part thereof paid out of public funds, increases, adjustments or supplementary allowances, as well as any lump-sum payments and payments representing a refund of contributions, with the exception of the equalization allowance (*Ausgleichszulage*) payable under Austrian legislation.

2. For the purposes of this Convention, other expressions shall have the meaning which they have under the relevant legislation.

Article 2. 1. This Convention shall apply:

(1) In Austria, to the legislation concerning:

- (a) Sickness insurance;
- (b) Accident insurance;
- (c) Pensions insurance;
- (d) Unemployment insurance;
- (e) Family allowances;

(2) In the Netherlands, to the legislation concerning:

- (a) Sickness insurance;
- (b) Invalidity insurance for employed persons;
- (c) Old age insurance;
- (d) Widows' and orphans' insurance;
- (e) Unemployment insurance;
- (f) Family allowances.

2. This Convention shall also apply to all legislation codifying, amending or supplementing the legislation specified in paragraph 1.

3. This Convention shall not apply to any legislation concerning a new scheme or new branch of social security, or to schemes for war victims or victims of the consequences of war; nor shall it apply to the Austrian legislation concerning sickness insurance for the survivors of persons who have performed compulsory military service and sickness and accident insurance for disabled persons having performed compulsory military service who are undergoing vocational training, or to the legislation concerning insurance for notaries.

4. Legislation which arises out of agreements with third States or out of supranational law, or which serves for their implementation, 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 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.

Article 4. 1. For the purpose of determining whether a person is eligible for voluntary insurance or for voluntary continued insurance in accordance with the legislation of one of the Contracting States, insurance periods completed under the legislation of the other Contracting State shall, to the extent necessary, be taken into account as though they were insurance periods completed under the legislation of the first-mentioned State.

2. In the case of sickness insurance, paragraph 1 shall apply *mutatis mutandis* to persons whose right to voluntary continued insurance is derived, in accordance with Austrian legislation, from the insurance of another person.

3. If the right to voluntary insurance or voluntary continued insurance exists under the legislation of both Contracting States, the person concerned shall avail himself of that right only in accordance with the legislation of one of the Contracting States.

Article 5. Pensions, annuities and other cash benefits, with the exception of unemployment benefits, acquired under the legislation of one of the Contracting States by a national of a Contracting State or his survivors or by a refugee within the meaning of article 3, subparagraph (b), shall not be reduced, modified, suspended, discontinued or confiscated on the ground that the person concerned is resident in the territory of the Contracting State other than that in which the insurance authority liable for the benefit has its seat.

Article 6. No right to receive, on the basis of the legislation of the Contracting Parties, more than one benefit of the same nature or more than one benefit in respect of the same insurance period may be acquired or maintained by virtue of this Convention. This provision shall not apply to benefits under part III, chapters 2 and 3.

Article 7. 1. Where, under the legislation of one of the Contracting States, the receipt of a social insurance benefit or other income or the exercise of a gainful activity or the existence of a social insurance relationship has any legal effects on a social insurance benefit, on liability to compulsory insurance, on exemption from insurance or on voluntary insurance, then the receipt of similar benefits or other income from the other Contracting State or the exercise of a similar gainful activity or the existence of a similar relationship in the other Contracting State shall have the same effects.

2. Paragraph 1 shall not apply with respect to the coincidence of pensions (or annuities) of the same kind which are determined in accordance with part III, chapters 2 and 3.

PART II

PROVISIONS TO DETERMINE WHICH LEGISLATION IS APPLICABLE

Article 8. 1. Without prejudice to the provisions of articles 9 and 10, persons who are gainfully employed shall be subject to the legislation of the Contract-

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

ing State in whose territory the gainful activity is exercised. In the case of a person gainfully employed by another person, the foregoing shall apply even where the place of residence of the employee or the principal place of business of his employer is in the territory of the other Contracting State.

2. If under the provisions of paragraph 1 the legislation of both Contracting States would be simultaneously applicable, the following shall apply:

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

Article 9. 1. Where an employed person who is in the service of an enterprise which normally employs him in the territory of one of the Contracting States is assigned by that enterprise to work on its behalf in the territory of the other Contracting State, the legislation of the first-mentioned State shall continue to apply, as though he were still employed in its territory, for the first 24 months of the period of assignment.

2. Where an employed person in the service of an airline having its principal place of business in the territory of one of the Contracting States is assigned from that territory to work in the territory of the other Contracting State, the legislation of the first-mentioned State shall continue to apply as though he were still employed in its territory. If a Netherlands airline has a branch or permanent agency in Austria, Austrian legislation shall apply to the persons employed.

3. Where an employed person in the service of a transport enterprise having its principal place of business in the territory of one of the Contracting States is employed in the territory of the other Contracting State, the legislation of the first-mentioned State shall apply as though he were employed in its territory. If the enterprise has a branch in the territory of the other Contracting State, the legislation of the last-mentioned State shall apply to the persons employed by the branch.

4. Members of the crew of a seagoing vessel shall be subject to the legislation of the Contracting State in whose territory the enterprise employing them has its principal place of business.

5. Where a national of one of the Contracting States who is in the service of that State or of another public employer of that State is employed in the territory of the other Contracting State, the legislation of the first-mentioned State shall apply.

Article 10. 1. Subject to the provisions of paragraph 4, diplomats shall with respect to services rendered for the sending State be exempt from the social security legislation in force in the receiving 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 service staff of the mission who are not nationals of or permanently resident in the receiving State.

(b) Without prejudice to 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 from the start of their employment opt for the application of the legislation of the

sending State. The option shall take effect as from the first day of the following month.

3. The exemption provided for in paragraph 1 shall also apply to private servants who are in the sole employ of a diplomat, on condition:

(a) that they are not nationals of or permanently resident in the receiving State, and
(b) that they are covered by the social security legislation in force in the sending State or a third State.

4. Where a diplomat employs persons to whom the exemption provided for in paragraph 3 does not apply, he shall be required to 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 members of consular posts headed by career consuls, and to members of the service staff who are in their sole employ.

Article 11. The competent authority of the Contracting State whose legislation is applicable in accordance with articles 8 to 10 may, at the request of the competent authority of the other Contracting State, grant exemption from that legislation to specific employed persons or groups of employed persons or to self-employed persons where it is in their interest to do so, regard being had to the nature and circumstances of their employment. In that case, the legislation of the last-mentioned State shall apply to the persons concerned.

PART III

SPECIAL PROVISIONS

Chapter 1. SICKNESS AND MATERNITY

Article 12. 1. For the purpose of entitlement to benefits, insurance periods which are to be taken into account under the legislation of both Contracting States shall be aggregated, provided that they do not overlap.

2. Where a person does not satisfy the conditions for entitlement to benefits under the legislation of one of the Contracting States but is still entitled to benefits under the legislation of the other Contracting State, he shall be entitled to the provision of benefits by application *mutatis mutandis* of article 13, paragraphs 3 to 6.

Article 13. 1. A person who is entitled to benefits in kind under the legislation of one of the Contracting States shall receive benefits in kind during a temporary stay in the territory of the other Contracting State if his condition necessitates immediate medical treatment, including admission to hospital.

2. A person who is entitled to benefits in kind under the legislation of one of the Contracting States and who is resident in the territory of that State shall retain such entitlement if he transfers his residence to the territory of the other Contracting State.

Before transferring his residence, the person concerned must obtain the authorization of the competent insurance authority. However, such authorization may be refused only if the change of residence would have adverse effects on his condition or on the provision of medical treatment.

3. Where a person is entitled to benefits under the provisions of the preceding paragraphs, benefits in kind shall be provided by the insurance authority, the place of temporary stay or of his new place of residence in accordance with the legislation applicable to that authority, particularly as regards the scale of such benefits and the

manner of providing them; the duration of such benefits shall, however, be determined in accordance with the legislation applicable to the competent insurance authority.

4. In the cases specified in paragraphs 1 and 3, the provision of artificial parts of the body, large appliances and other major benefits in kind shall be subject to the authorization of the competent insurance authority, unless provision of the benefit cannot be postponed without seriously endangering the life or health of the person concerned.

5. The preceding paragraphs shall apply *mutatis mutandis* to dependants who are temporarily in the territory of one of the Contracting States or who transfer their residence to the territory of one of the Contracting States after the occurrence of the insurance contingency (sickness or pregnancy).

6. Cash benefits shall be paid in accordance with the legislation applicable to the competent insurance authority.

Article 14. 1. Dependants of a person who:

- (a) Is insured with an insurance authority of one of the Contracting States, or
- (b) Is entitled to benefits from an insurance authority of one of the Contracting States,

shall, if they are resident in the territory of the Contracting State other than that in which the competent insurance authority has its seat, be entitled to benefits in kind as though the person from whom they derive their entitlement were insured with the insurance authority of their place of residence. The scale and duration of such benefits and the manner of providing them shall be determined in accordance with the legislation applicable to the last-mentioned insurance authority.

2. Where dependants transfer their residence to the territory of the Contracting State in which the competent insurance authority has its seat, they shall receive benefits in accordance with the legislation applicable to that insurance authority. This provision shall also apply where the dependants have already received benefits in respect of the same case of sickness or the same pregnancy from the insurance authorities of the Contracting State in whose territory they were resident before the change of residence; if the legislation to be applied by the competent insurance authority prescribes a maximum duration for the provision of benefits, the period for which benefits were provided immediately before the change of residence shall be taken into account.

Article 15. Where, in accordance with the provisions of this chapter, a person is entitled to maternity benefits under the legislation of both Contracting States, such benefits shall be provided solely in accordance with the legislation of the Contracting State in whose territory the confinement took place, account being taken, so far as is necessary, of the aggregation of periods referred to in article 12, paragraph 1.

Article 16. 1. Where a person in receipt of pensions or annuities payable under the legislation of both Contracting States is resident in the territory of one of the Contracting States and is entitled in that State to benefits in kind under the legislation of that State, such benefits shall be provided to him and his dependants by the insurance authority of his place of residence as though he were in receipt of a pension or annuity payable solely under the legislation of the Contracting State in which he is resident. The cost of such benefits shall be borne by the insurance authority of the Contracting State in which the beneficiary is resident.

2. Where a person in receipt of a pension or annuity payable under the legislation of only one of the Contracting States is resident in the territory of the other Contracting State, benefits in kind shall be provided to him and his dependants by the insurance authority of his place of residence as though he were in receipt of a pension or annuity payable under the legislation of the Contracting State in which he is resident. The cost of such benefits shall be borne by the competent insurance authority of the Contracting State in which the insurance authority liable for the pension or annuity has its seat.

3. In the cases specified in paragraph 2, the provisions of article 13, paragraphs 3 and 4, shall apply *mutatis mutandis*.

4. Where the dependants of a person in receipt of a pension or annuity payable under the legislation of one of the Contracting States are resident in the territory of the Contracting State other than that in which the pensioner or annuitant is resident, they shall receive benefits in kind as though the head of the family were resident in the same State; article 14 shall apply *mutatis mutandis*.

5. If the legislation of one of the Contracting States provides for contributory deductions from the amounts payable to a pensioner or annuitant in order to cover the cost of benefits in kind, the insurance authority liable for the pension or annuity shall be empowered to make such deductions, calculated in accordance with the relevant legislation, in the cases specified in this article.

6. Paragraphs 1 and 2 shall apply *mutatis mutandis* to persons applying for pensions or annuities.

Article 17. The benefits in kind provided for in article 12, paragraph 2, article 13, paragraphs 1, 2 and 5, article 14, paragraph 1, and article 16, paragraphs 2, 4 and 6, 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 stay or place of residence of the person concerned;
- In the Netherlands: by the General Netherlands Mutual Sickness Fund (Algemeen Nederlands Onderling Ziekenfonds) in case of a temporary stay, and by the sickness fund competent for the place of residence of the person concerned in other cases.

Article 18. 1. The competent insurance authority shall reimburse to the insurance authority of the place of stay or place of residence the amounts expended under articles 12, 13, 14 and 16, with the exception of administrative costs.

2. The competent authorities may, in the interests of administrative simplification, agree that lump-sum payments shall be made in lieu of individual settlements for all cases or for specific categories of cases.

Chapter 2. OLD AGE AND DEATH (PENSIONS)

Article 19. For the purpose of the acquisition of entitlement to benefits, where a person has completed insurance periods under the legislation of both Contracting States, such periods shall be aggregated, provided that they do not overlap. The extent to which and the manner in which insurance periods are to be taken into account shall be determined in accordance with the legislation of the Contracting State under whose insurance scheme the periods in question were completed.

Article 20. 1. Where a person who has completed insurance periods under the legislation of both Contracting States, or his survivors, claim benefits in accord-

ance with the legislation of both Contracting States, the competent insurance authority shall determine the benefits in the following manner:

- (a) The insurance authority of each of the Contracting States shall determine, in accordance with the legislation which it applies, whether the person concerned is entitled to a benefit account being taken of the aggregation of insurance periods;
- (b) Where entitlement to a benefit exists, the insurance authority shall first calculate the theoretical amount of the benefit to which the person concerned would be entitled if all insurance periods to be taken into account under the legislation of both Contracting States were to be taken into account only in the Contracting State concerned. If the amount of the benefit does not depend on the duration of the insurance periods, that amount shall be regarded as the theoretical amount;
- (c) The insurance authority shall then calculate, on the basis of the amount arrived at in accordance with subparagraph (b), the partial benefit for which it is liable according to the proportion which the duration of the insurance periods to be taken into account under its legislation bears to the total duration of the insurance periods to be taken into account under the legislation of both Contracting States.

2. For the purpose of applying the provisions of paragraph 1, insurance periods shall be taken into account as follows:

- (a) If a period of compulsory insurance completed under the legislation of one of the Contracting States coincides with a period of voluntary insurance under the legislation of the other Contracting State, only the period of compulsory insurance shall be taken into account;
- (b) If a contribution period under the legislation of one of the Contracting States coincides with an equivalent period under the legislation of the other Contracting State, only the contribution period shall be taken into account;
- (c) If, in accordance with subparagraph (a), any periods of voluntary insurance are not to be taken into account, the contributions paid in respect of such periods shall be deemed to be contributions under the supplementary insurance scheme. If the relevant legislation does not provide for a supplementary insurance scheme, the contributions in question shall be taken into account as though they had been paid with a view to the acquisition of a higher benefit.

Article 21. For the purpose of applying the provisions of articles 19 and 20, the competent Austrian insurance authorities shall act in accordance with the following provisions:

1. For the purpose of determining under which pensions insurance scheme periods are deemed to have been completed and under which scheme the pension is to be granted, Netherlands insurance periods shall be taken into account according to the kind of gainful activity exercised during such periods. Netherlands insurance periods during which no gainful activity was exercised shall be taken into account according to the kind of gainful activity last exercised before the said periods; where the kind of gainful activity can no longer be established, or where no gainful activity was exercised during the whole insurance period, the said insurance periods shall be taken into account as though they had been completed under an insurance scheme for which the Manual Workers' Pensions Insurance Institute (Pensionsversicherungsanstalt der Arbeiter) would have been

- competent. The foregoing shall apply only in so far as a pension is payable under the relevant pensions insurance scheme.
2. Where under Austrian legislation, equivalent periods are to be taken into account only if they are preceded or followed by an insurance period, any Netherlands insurance period shall also be taken into account for this purpose.
 3. Netherlands insurance periods shall not be taken into account when the Austrian legislation relating to the accumulation of insurance periods is applied in the case of a widow who carries on her husband's business.
 4. Periods of a similar nature completed in the Netherlands shall be deemed to be neutral periods under Austrian legislation or periods prolonging the time laid down for completion of the waiting period under the pensions insurance scheme for self-employed persons.
 5. The provisions of articles 19 and 20 shall not apply with respect to the conditions for entitlement to, and the granting of, the long-service bonus for miners (*Bergmannstreuegeld*) under the Austrian pensions insurance scheme for miners.
 6. For the purpose of applying the provisions of article 20, paragraph 1 (b), the following provisions shall apply:
 - (a) Without prejudice to the provisions of article 20, paragraph 2, overlapping insurance periods shall be taken into account to the extent of their actual duration;
 - (b) For the purpose of determining the theoretical amount, the Netherlands insurance periods on the basis of which the Netherlands benefit is calculated shall be taken into account without the application of the Austrian legislation concerning the taking into account of insurance periods;
 - (c) Contributions paid retroactively for the acquisition of equivalent periods under the Austrian pensions insurance scheme shall not be deemed to be contributions under the supplementary insurance scheme;
 - (d) The pension basis shall be calculated solely according to the insurance periods completed under the Austrian pensions insurance scheme;
 - (e) Contributions under the supplementary insurance scheme or the supplementary benefits scheme shall not be taken into account.
 7. For the purpose of applying article 20, paragraph 1 (c), the following provisions 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 duration prescribed under Austrian legislation for the purpose of calculating increments, the partial pension for which the insurance authority is liable shall be calculated according to the proportion which the duration of the insurance periods to be taken into account under Austrian legislation bears to the said duration 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 benefit limits being proportionately reduced. However, if 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 the amount corresponding to such pension, unless an increased benefit on the ground of disability is granted under Netherlands legislation.

8. The amount calculated in accordance with article 20, paragraph 1 (c), shall where appropriate be increased by increments for contributions paid or deemed to have been paid under the supplementary insurance scheme, by the supplementary benefit for miners, by the supplementary allowance for disabled persons and by the equalization allowance under Austrian legislation.
9. Where, under Austrian legislation, the granting of benefits under the pensions insurance scheme for miners depends on the performance in specific industries of an activity which is essentially mining activity within the meaning of Austrian legislation, only such of the Netherlands insurance periods as are based on employment in a similar industry involving the performance of a similar activity shall be taken into account.
10. Netherlands insurance periods shall not be taken into account for the purpose of calculating the lump-sum payment in case of the insurance contingency of death.
11. Special payments under the Austrian pensions insurance scheme shall be payable on the same scale as the Austrian partial pension; article 23 shall apply *mutatis mutandis*.
12. If the insurance periods to be taken into account under Austrian legislation for the purpose of calculating the pension amount in all to less than 12 months, no benefit shall be granted under the Austrian pensions insurance scheme unless entitlement to a pension exists under Austrian legislation without the application of article 19.

Article 22. 1. Where entitlement to a pension exists even without the application of article 19, the competent authority of one of the Contracting States shall be requested to grant the pension which is payable solely on the basis of the insurance periods to be taken into account under the legislation applied by that insurance authority, so long as no entitlement to a corresponding benefit exists under the legislation of the other Contracting State.

2. Any pension granted in accordance with paragraph 1 shall be revised in accordance with the provisions of article 20, paragraph 1 (b) and (c), if entitlement to a corresponding benefit arises under the legislation of the other Contracting State. The revision shall take effect as from the date of commencement of the benefit payable under the legislation of the other Contracting State. The validity of earlier decisions shall not preclude such revision.

3. An insured woman's entitlement under the Austrian pensions insurance scheme shall also be revised in accordance with paragraph 2 if entitlement to a Netherlands old age pension for married couples arises.

4. The benefit payable under the Austrian pensions insurance scheme shall not be revised if the entitlement to the corresponding Netherlands pension lapses because the person concerned has become entitled to another Netherlands pension.

Article 23. 1. Where a person is entitled to a benefit under the legislation of one of the Contracting States even without the application of article 19, and that benefit would be greater than the aggregate of the benefits calculated in accordance with article 20, paragraph 1 (c), the insurance authority of that Contracting State shall increase its partial benefit, thus calculated, by the amount of the difference between the aggregate of the benefits calculated in accordance with article 20, paragraph 1 (c), and the benefit which would be payable solely under the legislation applied by that insurance authority.

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

Article 24. As regards old age, the competent Netherlands insurance authorities shall apply article 20 in the following manner:

1. Insurance periods completed under the Netherlands legislation concerning general old age insurance shall be deemed to include periods prior to 1 January 1957 during which a beneficiary who does not satisfy the conditions under which such periods may be assimilated to insurance periods was resident in the Netherlands after attaining the age of 15 years or during which he was gainfully employed in the Netherlands in the service of an employer resident in the Netherlands, unless such periods are taken into account for the purpose of a benefit under Austrian legislation or a benefit from another State.
2. Insurance periods completed under the Netherlands legislation concerning general old age insurance shall, in the case of a married woman whose husband is entitled to a pension under that legislation, be deemed to include periods of the existing marriage, prior to the date on which she attained the age of 65 years, during which she was resident in Austria, in so far as such periods coincide with insurance periods completed by her husband under the said legislation and insurance periods to be taken into account in accordance with paragraph 1. This provision shall not apply in so far as such periods are taken into account for the purpose of a benefit under Austrian legislation.
3. In the case of a woman who was formerly married and whose husband was covered by the Netherlands legislation concerning general old age insurance or is deemed to have completed insurance periods in accordance with paragraph 1, the provisions of paragraph 2 shall apply *mutatis mutandis*.
4. The periods referred to in paragraph 1 shall be taken into account for the purpose of calculating the old age pension only where a national of one of the Contracting States or a refugee within the meaning of article 3, subparagraph (b), has, after attaining the age of 59 years, been resident for six years in Austria or alternately in Austria and the Netherlands.
5. If the partial benefit calculated by the Netherlands insurance authority in accordance with article 20, paragraph 1 (c), is less than the amount calculated directly and solely on the basis of the periods to be taken into account under Netherlands legislation, the Netherlands insurance authority shall apply the latter method of calculation.

Article 25. As regards death, the competent Netherlands insurance authority shall apply article 20 in the following manner:

1. For the purpose of entitlement to a pension, insured persons within the meaning of Netherlands legislation shall be deemed to include nationals of one of the Contracting States or refugees within the meaning of article 3, subparagraph (b), who at the time of the occurrence of the insurance contingency are insured under the Austrian pensions insurance scheme. The following shall also be deemed to be insured persons:
 - (a) Persons in receipt of a pension under Austrian legislation by reason of diminished capacity to work (or permanent incapacity);
 - (b) Persons in receipt of a sickness benefit or maternity allowance under Austrian legislation;

- (c) Persons receiving institutional care at the expense of an Austrian insurance authority;
 - (d) Persons in receipt of a cash benefit under the Austrian unemployment insurance scheme.
2. If the insurance periods to be taken into account under the Netherlands legislation concerning widows' and orphans' insurance for the purpose of calculating the benefit amount to a total of less than 12 months, no benefit shall be granted under that insurance scheme unless entitlement to a benefit exists under that legislation without the application of the provisions of the Convention.
 3. Insurance periods completed under the Netherlands legislation concerning general widows' and orphans' insurance shall be deemed to include periods prior to 1 October 1959 during which the deceased was resident in the Netherlands after attaining the age of 15 years or during which he was gainfully employed in the Netherlands in the service of an employer resident in the Netherlands, unless such periods are taken into account for the purpose of a benefit under Austrian legislation or a benefit from another State.

Chapter 3. INVALIDITY (DIMINISHED CAPACITY TO WORK OR PERMANENT INCAPACITY)

Article 26. 1. For the purpose of determining benefits for invalidity (diminished capacity to work or permanent incapacity) under Austrian legislation, the provisions of chapter 2 shall apply.

2. For the purpose of determining benefits for invalidity under Netherlands legislation in cases where, in accordance with part II, that legislation is no longer applicable at the time of commencement of the invalidity, the provisions of chapter 2 shall be applied in the following manner:

- (1) Insured persons within the meaning of Netherlands legislation shall be deemed to include nationals of one of the Contracting States and refugees within the meaning of article 3, subparagraph (b), who on the day preceding the date of commencement of the invalidity are insured under the Austrian pensions insurance scheme for employed persons. Insured persons shall also be deemed to include persons in receipt of a cash benefit under the Austrian unemployment insurance scheme or of a maternity allowance under the Austrian sickness insurance scheme.
- (2) If the insurance periods to be taken into account under the Netherlands legislation concerning invalidity insurance for the purpose of calculating the benefit amount in all to less than 12 months, no benefit shall be granted under that insurance scheme unless entitlement to a benefit exists under that legislation without the application of the provisions of the Convention.
- (3) Insurance periods completed under the Netherlands legislation concerning invalidity insurance shall be deemed to include periods completed in the Netherlands prior to 1 July 1967 during which the person concerned was insured, in so far as that legislation, which came into force on 1 July 1967, would already have applied at that time.

Chapter 4. INDUSTRIAL ACCIDENTS AND OCCUPATIONAL DISEASES

Article 27. 1. A person who is entitled to benefits in kind under the Austrian legislation concerning accident insurance and

- (a) Who transfers his residence to the Netherlands, or
- (b) Whose condition during a temporary stay in the Netherlands necessitates immediate medical treatment, including admission to hospital,

shall receive at the expense of the insurance authority which is competent under that legislation benefits in kind, to be provided in the case specified in subparagraph (a) by the sickness fund competent for the place of residence of the person concerned and in the case referred to in subparagraph (b) by the General Netherlands Mutual Sickness Fund at Utrecht. In the case of a transfer of residence, the person concerned must obtain the authorization of the competent Austrian insurance authority before the transfer. However, such authorization may be refused only if the change of residence would have adverse effects on his condition or on the provision of medical treatment. In exceptional cases, the authorization may be given after the event if special circumstances made it impossible to apply for it in advance.

2. With respect to the scale and duration of benefits in kind provided in accordance with paragraph 1 and the manner of providing them, article 13, paragraphs 3 and 4, shall apply *mutatis mutandis*.

3. The costs incurred in providing benefits in kind in accordance with paragraph 1 shall be reimbursed; article 18 shall apply *mutatis mutandis*.

4. In the cases specified in paragraph 1, cash benefits shall be paid in accordance with Austrian legislation.

Chapter 5. UNEMPLOYMENT

Article 28. For the purpose of the acquisition of entitlement to unemployment benefits, where a person has been subject successively or alternately to the legislation of both Contracting States, the periods to be taken into account under the legislation of both Contracting States shall be aggregated, provided that they do not overlap.

Chapter 6. FAMILY ALLOWANCES

Article 29. 1. If, 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 habitually resident in the territory of that State, then the fact of their being domiciled or habitually resident in the territory of the other Contracting State shall be assimilated thereto.

2. If, under the legislation of one of the Contracting States, entitlement to family allowances depends on the completion of specific periods of employment or periods of residence, then periods of employment or periods of residence completed in the territory of the other Contracting State shall be taken into account.

Article 30. 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 — without prejudice to the provisions of article 9 — be entitled to family allowances under the legislation of the last-mentioned State as though they were domiciled or habitually resident in its territory.

Article 31. 1. Where, account being taken of the provisions of this Convention, a person satisfies the conditions for entitlement to family allowances, under the legislation of both Contracting States, such allowances shall be granted to him solely under the legislation of the Contracting State in which the child is habitually resident.

2. Where, in the course of a particular period, family allowances are payable to two persons in respect of the same child under the legislation of the Contracting State in which the employed person is working and under the legislation of the Contracting State in which the child is resident, family allowances shall be granted solely under the legislation of the Contracting State in which the child is habitually resident.

Article 32. For the purposes of this chapter, the term “child” means any person in respect of whom family allowances are provided under the applicable legislation.

PART IV

MISCELLANEOUS PROVISIONS

Article 33. 1. The competent authorities may prescribe in an Agreement the administrative measures necessary for implementing this Convention. The said Agreement may be concluded even before the entry into force of this Convention. However, it shall not enter into force before this Convention.

2. The competent authorities of the Contracting States shall inform one another of:

(a) All measures taken to implement this Convention;

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

3. The authorities and insurance authorities of the Contracting States shall assist one another in the application of this Convention as though they were applying their own legislation. Such official assistance shall be free of charge.

4. The insurance authorities and other authorities of the Contracting States may, for the purpose of applying this Convention, communicate directly with one another and with the persons concerned or their authorized representatives.

5. The insurance authorities and other authorities of one of the Contracting States shall not reject claims or other documents submitted to them on the grounds that they are drawn up in the official language of the other Contracting State.

6. Medical examinations, for the purposes of the legislation of one of the Contracting States, of persons who are in the territory of the other Contracting State shall, at the request of the competent agency, be arranged by the insurance authority of the place of stay at the expense of the said agency.

7. With respect to judicial assistance, the relevant provisions concerning legal assistance in civil matters shall apply *mutatis mutandis*.

Article 34. In order to facilitate the application of this Convention, and in particular to establish a simple and speedy channel for communications between the insurance authorities concerned on both sides, liaison offices shall be set up.

Article 35. 1. Any exemption from or reduction of charges, stamp duties, court fees or registration fees provided for by the legislation of one of the Contracting States in respect of documents or instruments required to be produced for the purposes of that legislation shall be extended to similar documents or instruments required to be produced for the purposes of this Convention or of the legislation of the other Contracting State.

2. Instruments and documents of any kind which are required to be produced

for the purposes of this Convention shall be exempt from any requirement of legalization.

Article 36. 1. Claims, declarations or appeals which, for the purposes of this Convention or of the legislation of one of the Contracting States, are submitted to an authority, insurance authority or other competent agency of one of the Contracting States shall be regarded as claims, declarations or appeals submitted to an 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 any corresponding benefit covered by this Convention under the legislation of the other Contracting State; the foregoing 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, for the purposes of the legislation of one of the Contracting States, must be submitted within a prescribed time-limit to an authority, insurance authority or other competent agency of that State may be submitted within the same time-limit to a corresponding authority, insurance authority or other competent agency of the other Contracting State.

4. In the cases specified in paragraphs 1 to 3, the authority, insurance authority or other competent agency to which such claims, declarations or appeals are submitted shall transmit them without delay to the authority, insurance authority or other competent agency of the other Contracting State.

Article 37. 1. Insurance authorities which are liable for benefits under this Convention shall be held to discharge their liability validly by making payment in the currency of their own country.

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.

3. Transfers of funds pursuant to this Convention shall be effected in accordance with the relevant agreements in force between the Contracting States at the time of the transfer.

Article 38. 1. Enforceable court orders and enforceable decisions and statements of one of the Contracting States in matters concerning contributions and other social insurance requirements or concerning the recovery of family allowances which were wrongfully obtained shall be recognized in the other Contracting State.

2. Recognition may be refused only where it would be contrary 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 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 enforcement or of 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 last-mentioned State.

Article 39. 1. Where an insurance authority of one of the Contracting States has made an advance payment on a benefit, the insurance authority of the other Contracting State shall, at the request of the first-mentioned insurance authority, withhold subsequent payment of any corresponding benefit in respect of the same period to which entitlement exists under the legislation of the last-mentioned State. Where the insurance authority of one of the Contracting States has paid an amount in excess of the correct benefit for a period in respect of which the insurance authority of the other Contracting State is subsequently liable for a corresponding benefit, the overpayment, up to the amount subsequently payable, shall be deemed to be an advance payment within the meaning of the first sentence of this paragraph.

2. Where an agency of one of the Contracting States has provided public assistance to a person during a period in respect of which entitlement to cash benefits subsequently arises under the legislation of the other Contracting State, the competent insurance authority of the last-mentioned State shall, at the request and for the account of the public assistance agency, withhold subsequent payments in respect of the same period, up to the amount of the public assistance provided, as though such assistance had been provided by a public assistance agency of the last-mentioned State.

Article 40. 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 under the legislation of the last-mentioned 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 to either one of them. The payment received shall be divided between the insurance authorities in proportion to the benefits for which they are respectively liable.

Article 41. 1. Disputes between the Contracting States concerning the interpretation or application of this Convention shall be settled, as far as possible, by the competent authorities of the Contracting States.

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

- (a) Each party shall, within one month from the date of receipt of the request for an arbitral decision, appoint one arbitrator. The two arbitrators so appointed shall, within two months from the date on which the last party to appoint its arbitrator has given notice thereof, select 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 European Court of Human Rights to make the appointment. The same pro-

cedure may be followed, at the request of one of the Contracting States, if the two arbitrators are unable to agree on the choice of the third arbitrator.

- (c) If the President of the European Court of Human Rights is a national of one of the Contracting States, the functions conferred on him by this article shall be performed by the Vice-President of the Court; if the Vice-President is also a national of one of the Contracting States, they shall be performed by the next most senior member of the Court who is not a national of one of the Contracting States.

3. The decisions of the arbitral tribunal shall be by majority vote. Its decisions shall be binding on both Contracting States. Each of the Contracting States shall defray the expenses of the arbitrator whom 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 42. 1. This Convention shall not confer any entitlement to benefits for periods prior to the date of its entry into force.

2. Insurance periods completed under the legislation of one of the Contracting States prior to the date of 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, provided that any entitlements previously determined have not been settled by a lump-sum payment. In such cases, in accordance with the provisions of this Convention:

- (a) Pensions or annuities to which entitlement first arises under this Convention shall, upon the application of the beneficiary, be determined as from the date of entry into force of this Convention;
- (b) Pensions or annuities 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.

Benefits shall be payable as from the date of entry into force of this Convention if the application for determination or revision is submitted, or the revision process is initiated *ex officio*, within two years from the date of entry into force of this Convention. In other cases, they shall be payable as from the date determined in accordance with the legislation of each of the Contracting States.

4. With regard to entitlements arising out of the application of paragraph 3, the legislation of the Contracting States concerning the lapse and extinction of rights shall not apply to the beneficiary if the application referred to in paragraph 3 is submitted within two years from the date of entry into force of this Convention. If the application is submitted after the expiry of that period, such entitlement to benefits as has not lapsed or been extinguished shall be acquired as from the date of submission of the application, unless more favourable provisions of the legislation of one of the Contracting States are applicable.

5. In the cases specified in paragraph 3 (b), the provisions of article 39, paragraph 1, shall apply *mutatis mutandis*.

6. Upon submission of an application for revision to an insurance authority of one of the Contracting States, the relevant insurance authority of the other Contracting State shall be required to initiate *ex officio* a determination or revision process. The initiation *ex officio* of a revision process by an insurance authority of one of the Contracting States shall be deemed to constitute an application to the insurance authority of the other Contracting State for determination or revision of the benefits.

7. If, as result of the revision referred to in paragraph 3 (b), the amount of the benefits calculated in accordance with this Convention for the same insurance contingency is less than the amount of the benefit which was payable on the day before the date of entry into force of this Convention, the insurance authority concerned shall grant, as a partial benefit, its own benefit plus the difference between the amounts which are subject to comparison.

Article 43. The rights accorded under Austrian legislation to any person who has suffered impairment of his social security entitlements on political, religious or racial grounds shall not be affected by the provisions of article 4, paragraph 3, article 7, paragraph 1, and article 19 of the Convention.

Article 44. 1. This Convention shall be ratified. The instruments of ratification shall be exchanged as soon as possible at Vienna.

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 upon three months' notice in writing through the diplomatic channel.

4. In the event of denunciation, the provisions of this Convention shall continue to apply to acquired entitlements, irrespective of any restrictive provisions laid down by the schemes concerned to cover cases where an insured person is resident abroad.

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

DONE at The Hague, on 7 March 1974, in duplicate in the Dutch and German languages, both texts being equally authentic.

For the Kingdom of the Netherlands:
M. VAN DER STOEL

For the Republic of Austria:
DR. JOHANNES CORETH

FINAL PROTOCOL

TO THE CONVENTION BETWEEN THE KINGDOM OF THE NETHERLANDS AND THE REPUBLIC OF AUSTRIA ON SOCIAL SECURITY

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

I. *Ad* article 2 of the Convention:

1. For the purpose of applying the legislation referred to in paragraph 1, subparagraph 1 (*a*), with respect to sickness insurance for public employees, habitual domicile in the Netherlands shall be assimilated to habitual domicile in Austria as regards liability to compulsory insurance.

2. The legislation concerning invalidity insurance for employed persons referred to in article 2, paragraph 1, subparagraph 2 (*b*), covers the risks of invalidity, industrial accidents and occupational diseases.

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.

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 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 Netherlands nationals.

4. The Austrian legislation concerning the taking over of insurance periods completed under the annuities insurance scheme of the former German Reich or the taking over of entitlements under the accident insurance scheme of the former German Reich shall not be affected.

5. The Austrian legislation concerning the taking into account of periods of wartime military service and periods assimilated thereto shall not be affected; the foregoing shall not apply to the Austrian legislation concerning privileges accorded to persons who have suffered injury on political, religious or racial grounds.

6. The Austrian legislation concerning unemployment relief (*Notstandshilfe*) shall not be affected.

7. The Netherlands legislation concerning the calculation of contributions for voluntary old age and widows' and orphans' insurance shall not be affected.

III. *Ad* article 7 of the Convention:

1. For the purpose of applying paragraph 1, as regards the acquisition of entitlement to a pension under the Austrian pensions insurance scheme for self-employed persons in commerce, the termination of the corresponding self-employment in the Netherlands shall be assimilated to the expiration of a business licence or the winding-up of a company in Austria.

2. For the purpose of applying paragraph 1 in the cases specified in article 25, subparagraph 1, and article 26, paragraph 2, subparagraph 1, Netherlands insurance

authorities shall take any annuity granted in respect of the same contingency under the Austrian annuity granted in respect of the same contingency under the Austrian accident insurance scheme into account only in accordance with the proportionate relationship between periods referred to in article 20, paragraph 1 (c).

IV. *Ad* article 10 of the Convention:

1. The provisions of paragraph 1 shall apply to the Austrian Trade Delegate and the technical staff assigned to him by the Federal Chamber of Commerce, on the understanding that the employment of the persons in question in Netherlands territory is subject to Austrian legislation.

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

V. *Ad* articles 12 to 18 of the Convention:

1. As regards the provision of benefits in kind, these articles shall apply in the case of a stay in Austria only to persons who are compulsorily insured under the Netherlands Sickness Insurance Act (*Ziekendwetswet*).

2. Article 13 shall, as regards treatment by self-employed physicians, dentists and dental technicians, apply in Austria only in respect of the following persons:

- (a) Persons who are in Austria in exercise of their employment, and dependants accompanying them;
- (b) Persons who are in Austria for the purpose of visiting dependants resident in that State;
- (c) Dependants, resident in Austria, of persons who are insured with a Netherlands insurance authority;
- (d) Persons who are in Austria for other reasons, if they are provided with ambulatory treatment at the expense of the insurance authority competent for the place of stay.

VI. *Ad* article 16 of the Convention:

1. In the cases specified in paragraph 1, a deduction as provided for in paragraph 5 shall be made only by the insurance authority of the place of residence.

2. An invalidity benefit under the legislation referred in article 2, paragraph 1, subparagraph 2 (b), shall be deemed to be an invalidity pension under Austrian legislation if it is based on a diminution of capacity to work of at least 45 per cent.

3. In the cases specified in paragraph 2, the cost of benefits in kind provided to persons who are in receipt of a pension under the Austrian pensions insurance scheme shall be defrayed out of the contributions to the sickness insurance scheme for pensioners received by the Federation of Austrian Social Insurance Authorities (*Hauptverband der österreichischen Sozialversicherungsträger*).

4. Paragraphs 2 and 4 shall not apply to persons who are in receipt of an old age pension under Netherlands legislation.

VII. *Ad* article 19 of the Convention:

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

VIII. *Ad* article 20 of the Convention:

Netherlands insurance authorities shall apply this provision only in the cases specified in article 25, subparagraph 1, and article 26, paragraph 2, subparagraph 1.

IX. *Ad* article 28 of the Convention:

1. In Austria, the aggregation of periods shall be subject to the person's having been compulsorily insured under the Austrian unemployment insurance scheme for a total of 13 weeks during the last 12 months preceding the date of submission of the claim, unless the employment was terminated otherwise than through the fault of the employed person.

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

X. *Ad* article 30 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 where the duration of such employment is at least a full calendar month. The periods referred to in article 29, paragraph 2, shall not be taken into account for the purpose of determining the period of employment.

XI. *Ad* article 42 of the Convention:

The provisions of part III, chapters 2 and 3, shall not apply in cases where, under the Austrian legislation concerning pensions insurance for self-employed persons in agriculture and 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 Kingdom of the Netherlands and the Republic of Austria 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 The Hague, on 7 March 1974, in duplicate in the Dutch and German languages, both texts being equally authentic.

For the Kingdom of the Netherlands:
M. VAN DER STOEL

For the Republic of Austria:
Dr. JOHANNES CORETH

AGREEMENT¹ FOR THE IMPLEMENTATION OF THE CONVENTION BETWEEN THE KINGDOM OF THE NETHERLANDS AND THE REPUBLIC OF AUSTRIA ON SOCIAL SECURITY

Pursuant to article 33, paragraph 1, of the Convention between the Kingdom of the Netherlands and the Republic of Austria on Social Security of 7 March 1974, the competent authorities, namely:

For the Kingdom of the Netherlands: The Minister of Social Affairs and The Minister of Health and Environmental Protection;

For the Republic of Austria: The Federal Minister of Social Affairs and The Federal Minister of Finance, have agreed on the following provisions for the implementation of the Convention:

PART I. GENERAL PROVISIONS

Article 1. DEFINITIONS

1. The Convention between the Republic of Austria and the Kingdom of the Netherlands on Social Security of 7 March 1974 is hereinafter referred to as "the Convention".

2. For the purposes of this Agreement, the expressions defined in article 1 of the Convention have the meanings ascribed to them in that article.

Article 2. LIAISON OFFICES

1. The following shall be liaison offices in accordance with article 34 of the Convention:

In Austria:

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

In the Netherlands:

- For sickness, invalidity, unemployment and accident insurance:
 - (a) In the case of benefits in kind: the Board of Sickness Insurance Funds (Ziekenfondsraad);
 - (b) In the case of cash benefits: the Joint Administrative Office (Gemeenschappelijk Administratiekantoor);
- For old age, widows' and orphans' insurance and family allowances: the Social Insurance Bank (Sociale Verzekeringsbank).

2. The liaison offices shall be responsible for the tasks specified in this Agreement. For the purpose of implementing the Convention, they may communicate directly with one another and with the persons concerned or their authorized representatives. They shall assist one another in the implementation of the Convention.

¹ Came into force on 1 January 1975, i.e., the date of the entry into force of the Convention, in accordance with article 23.

Article 3. AGGREGATION OF PERIODS

1. For the purpose of the application of article 4, paragraph 1, article 12, paragraph 1, and article 28 of the Convention by an insurance authority of one of the Contracting States, the person concerned must submit a certificate evidencing the periods to be taken into account under the legislation of the other Contracting State.

2. The certificate shall be issued, at the request of the person concerned, by the insurance authority of the other Contracting State with which he was last insured. Certificates concerning periods of employment in Austria shall be issued by the insurance authority for the sickness insurance scheme.

Article 4. CURRENCY CONVERSION

For the purpose of applying article 7, article 23, paragraph 1, and article 42, paragraph 7, of the Convention, the conversion of amounts expressed in a foreign currency shall be effected at the rate prevailing on the date on which the relevant determination is made.

PART II. APPLICATION OF THE PROVISIONS TO DETERMINE
WHICH LEGISLATION IS APPLICABLE

Article 5. ASSIGNMENTS

In the cases specified in article 9, paragraphs 1 and 2, of the Convention, the fact that the legislation of the sending State continues to apply shall be certified. The certificate shall be issued:

In Austria: By the insurance authority for the sickness insurance scheme;

In the Netherlands: By the Social Insurance Board (Sociale Verzekeringsraad).

PART III. APPLICATION OF THE SPECIAL PROVISIONS
CONCERNING VARIOUS TYPES OF BENEFIT

Chapter 1. *SICKNESS AND MATERNITY*

Article 6. PROVISION OF BENEFITS IN KIND

1. In the cases specified in article 12, paragraph 2, and article 13, paragraphs 1, 2 and 5, of the Convention, the insured person must submit to the insurance authority specified in article 17 of the Convention a certificate issued by the competent insurance authority evidencing his entitlement to benefits in kind.

2. Where hospital care is provided, the insurance authority specified in article 17 of the Convention shall immediately notify the competent insurance authority of the date of admission and the probable duration of stay in the hospital, and of the date of discharge.

3. For the purpose of applying article 13, paragraph 4, of the Convention, a list of artificial parts of the body, large appliances and other major benefits in kind is annexed to this Agreement. The insurance authority specified in article 17 of the Convention shall notify the competent insurance authority in advance of any application for the provision of such benefits. The competent insurance authority shall immediately inform the insurance authority specified in article 17 of the Convention of its decision. Where it is necessary in cases of absolute urgency to provide such benefits, the insurance authority specified in article 17 of the Convention shall immediately notify the competent insurance authority.

Article 7. PROVISION OF CASH BENEFITS

1. In order to receive cash benefits in the cases specified in article 13, paragraph 1 or 2, of the Convention, the person concerned must make application immediately to the insurance authority of the place of stay or place of residence.

2. The insurance authority of the place of stay or place of residence shall immediately arrange for a medical examination, as though the person concerned were insured with that insurance authority. The report of the examining physician, indicating in particular the probable duration of the incapacity, shall be transmitted immediately to the competent insurance authority by the insurance authority of the place of stay or place of residence.

3. The insurance authority of the place of stay or place of residence shall continue its medical and administrative supervision as though the person concerned were insured with that insurance authority; this obligation shall terminate upon notification to that effect by the competent insurance authority. The competent insurance authority shall be entitled in all cases to have the person concerned examined by a physician of its choice.

4. The insurance authority of the place of stay or place of residence shall notify the insured person and the competent authority of the termination of the incapacity. If the competent insurance authority itself decides that the person concerned is fit to resume work, it shall notify the insured person accordingly and shall transmit a copy of its decision to the insurance authority of the place of stay or place of residence.

5. If, in one and the same case, different dates for the termination of the incapacity are established by the insurance authority of the place of stay or place of residence and by the competent insurance authority, the date established by the competent insurance authority shall prevail.

6. Cash benefits may be paid to the beneficiary by the competent insurance authority either directly or, upon request by that insurance authority and at its expense, by the insurance authority of the place of stay or place of residence.

7. For the purposes of the preceding paragraphs, the insurance authorities of the place of stay or place of residence shall be:

In Austria: The Regional Sickness Fund for Manual and Salaried workers (Gebietskrankenkasse für Arbeiter und Angestellte) competent for the place concerned;

In the Netherlands: The New General Trade Association (Nieuwe Algemene Bedrijfsvereniging).

*Article 8. PROVISION OF BENEFITS IN KIND TO DEPENDANTS
IN ACCORDANCE WITH ARTICLE 14 OF THE CONVENTION*

1. For the purpose of applying article 14 of the Convention, dependants must register as soon as possible with the insurance authority specified in article 17 of the Convention, at which time they must submit a certificate evidencing their entitlement to benefits in kind. The certificate shall be issued by the competent insurance authority and shall remain valid until such time as the insurance authority specified in article 17 of the Convention receives notification that it has been revoked.

2. Article 6, paragraphs 2 and 3, shall apply *mutatis mutandis*.

Article 9. PROVISION OF BENEFITS IN KIND TO PENSIONERS

1. For the purpose of applying article 16, paragraph 2, of the Convention, a person in receipt of a pension or annuity must register with the insurance authority

specified in article 17 of the Convention, at which time he must submit a certificate evidencing the fact that he is in receipt of a pension or annuity. The certificate shall be issued by the competent insurance authority.

2. The pensioner or annuitant or his dependants must notify the insurance authority specified in article 17 of the Convention of any change in their circumstances which might affect the entitlement to benefits in kind, particularly any suspension or discontinuation of the pension or annuity and any change of residence.

3. The insurance authority specified in article 17 of the Convention shall notify the competent insurance authority of any change in the circumstances of the person concerned and his dependants which might affect the entitlement to benefits in kind. The competent insurance authority shall likewise notify the insurance authority specified in article 17 of the Convention of any such changes.

Article 10. PROVISION OF BENEFITS IN KIND TO DEPENDANTS
OF A PENSIONER

Article 8 shall apply *mutatis mutandis* with respect to the provisions of benefits in kind in accordance with article 16, paragraph 4, of the Convention.

Article 11. PROVISION OF BENEFITS IN KIND TO PERSONS
APPLYING FOR PENSIONS AND THEIR DEPENDANTS

Articles 9 and 10 shall apply *mutatis mutandis* with respect to the provision of benefits in kind in accordance with article 16, paragraph 6, of the Convention.

Article 12. REIMBURSEMENT FOR BENEFITS IN KIND WHERE THE AGREED
ARRANGEMENTS ARE NOT COMPLIED WITH

Where the agreed arrangements could not be complied with, the costs incurred shall, at the request of the person concerned, be reimbursed by the competent insurance authority at the rates in force for the insurance authority specified in article 17 of the Convention. The insurance authority specified in article 17 of the Convention shall supply the competent insurance authority, upon request, with the necessary information concerning those rates.

Chapter 2. OLD AGE AND DEATH

Article 13. PROCESSING OF APPLICATIONS FOR BENEFITS

1. The competent authorities shall notify one another immediately of any application for a benefit to which part III, chapter 2, of the Convention applies.

2. The competent authorities shall subsequently inform one another of all additional facts relevant to the determination of the benefit, if necessary, attaching medical reports.

3. The decisions concerning the application for benefits shall be delivered together by the competent authority of the country in which the applicant is resident.

Article 14. REVISION OF BENEFITS

The competent insurance authorities shall notify one another immediately of any change in the amount of a benefit, except where the change is the result of a general adjustment.

Article 15. PAYMENT OF PENSIONS OR ANNUITIES

The competent insurance authorities shall pay pensions or annuities in respect

of old age or death directly to the beneficiaries. Payment shall be effected on the due dates provided for in the legislation applied by the competent insurance authority.

Article 16. STATISTICS

The competent insurance authorities shall transmit to the appropriate liaison office a statistical record, to be drawn up annually, of payments made in the other Contracting State in accordance with article 15. These statistical records shall be exchanged by the liaison offices.

Chapter 3. INVALIDITY

Article 17. PROCEDURE

1. For the purpose of applying this chapter, articles 13 to 16 shall apply *mutatis mutandis*.

2. In the Netherlands, the New General Trade Association shall be responsible for applying article 26, paragraph 2, of the Convention.

Chapter 4. INDUSTRIAL ACCIDENTS AND OCCUPATIONAL DISEASES

Article 18. PROVISION OF BENEFITS

In the cases specified in article 27, paragraph 1, of the Convention, article 6 shall apply *mutatis mutandis*; in the cases specified in article 27, paragraph 4, of the Convention, article 7 shall apply *mutatis mutandis*.

Chapter 5. UNEMPLOYMENT

Article 19. PROCEDURE

Where, regard being had to article 28 of the Convention, a person applies for an unemployment benefit in the territory of one of the Contracting States, a standard form shall be transmitted to the liaison office of the other Contracting State for the purpose of obtaining any necessary information.

Chapter 6. FAMILY ALLOWANCES

Article 20. PROCEDURE

Certificates needed by the competent insurance authority of one of the Contracting States for the purpose of applying articles 29 to 32 of the Convention shall be issued, upon request, by the agencies in the territory of the other Contracting State which are competent to issue such certificates under the legislation of that State.

PART IV. FINANCIAL PROVISIONS

Article 21.

For the purpose of applying article 18 and article 27, paragraph 3, of the Convention, claims for reimbursement of the costs of benefits in kind shall be presented after the case is closed or for each calendar half-year and shall be paid within two months from the date of receipt of the claim.

PART V. FINAL PROVISIONS

Article 22. STANDARD FORMS

Models of the certificates, reports and forms provided for in this Agreement shall be drawn up by the liaison offices concerned.

Article 23. ENTRY INTO FORCE

This Agreement shall enter into force on the same date as the Convention.

DONE at The Hague, on 7 March 1974, in duplicate in the German and Dutch languages, both texts being equally authentic.

For the Minister
of Social Affairs:
P. J. J. MERTENS

For the Federal Minister
of Social Affairs

For the Minister of Health
and Environmental Protection:
J. P. M. HENDRIKS

and for the Federal Minister
of Finance:
Dr. JOHANNES CORETH

ANNEX

LIST OF ARTIFICIAL PARTS OF THE BODY, LARGE APPLIANCES
AND OTHER MAJOR BENEFITS IN KIND
(article 6, paragraph 3)

1. Artificial parts of the body, orthopaedic appliances and braces, including orthopaedic corsets lined with fabric, together with replacement parts, accessories and instruments;
2. Orthopaedic footwear and, where appropriate, the corresponding normal (non-orthopaedic) shoe;
3. Prosthesis of the jaw and face, wigs;
4. Artificial eyes, contact lenses, magnifying and telescopic spectacles;
5. Hearing aids, especially acoustic and phonetic appliances;
6. Dental prosthesis (fixed and removable) and occlusion prosthesis for the oral cavity;
7. Invalid carriages, wheel chairs and other mechanical means of locomotion;
8. Guide-dogs for the blind;
9. Replacement of articles referred to in items 1 to 7 above;
10. Courses of treatment at a spa (*Kuren*);
11. Medical treatment and care at convalescent homes and sanatoria;
12. Measures of medical and vocational rehabilitation;
13. All other curative and protective appliances and similar articles the cost of which exceeds, in Austria, 2,500 schillings and, in the Netherlands, 400 guilders.