

No. 14952

**FRANCE
and
SPAIN**

**General Convention on social security (with protocol).
Signed at Paris on 31 October 1974**

Authentic texts: French and Spanish.

Registered by France on 13 August 1976.

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et
ESPAGNE**

**Convention générale sur la sécurité sociale (avec protocole).
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Enregistrée par la France le 13 août 1976.

[TRANSLATION — TRADUCTION]

GENERAL CONVENTION¹ ON SOCIAL SECURITY BETWEEN
THE GOVERNMENT OF THE FRENCH REPUBLIC AND THE
GOVERNMENT OF THE SPANISH STATE

The Government of the French Republic and the Government of the Spanish State,

Being resolved to co-operate more closely in social matters,

Reaffirming the principle that nationals of both States should receive equal treatment under the legislation of each of them,

Desiring to afford the workers of each country who are or have been engaged in employment in the other country better protection of the rights they have acquired,

Considering that it is appropriate, to that end, to improve and consolidate in a single instrument the provisions contained in the General Convention on Social Security of 27 June 1957² and the various agreements supplementing or amending it,

Have agreed as follows:

TITLE I. GENERAL PROVISIONS

Article 1. 1. French nationals engaged in employment in Spain or in an activity treated as such shall be subject to the social security legislation specified in article 5 below and applying in Spain, and they and their dependents resident in Spain shall enjoy the benefits thereof under the same conditions as Spanish nationals.

2. Spanish nationals engaged in employment in France or in an activity treated as such shall be subject to the social security legislation specified in article 5 below and applying in France, and they and their dependents resident in France shall enjoy the benefits thereof under the same conditions as French nationals.

Article 2. 1. French nationals resident in Spain shall have the option of being admitted to the voluntary insurance scheme provided for under Spanish legislation and of enjoying the benefits thereof under the same conditions as Spanish nationals, account being taken, as appropriate, of insurance periods and equivalent periods completed under the French system.

Insurance periods and equivalent periods completed, as appropriate, under the French system may also be taken into consideration for the purpose of admitting Spanish nationals to the voluntary insurance scheme provided for under Spanish legislation.

¹ Came into force on 1 April 1976, i.e., the first day of the second month which followed the date of the last of the notifications (effected on 21 June 1975 and 9 February 1976) by which the Contracting Parties informed each other of the completion of their respective constitutional procedures, in accordance with article 75.

² United Nations, *Treaty Series*, vol. 746, p. 2.

2. Spanish nationals resident in France shall have the option of being admitted to the voluntary insurance scheme provided for under French legislation and of enjoying the benefits thereof under the same conditions as French nationals, account being taken, as appropriate, of insurance periods or equivalent periods completed under the Spanish system.

Insurance periods and equivalent periods completed, as appropriate, under the Spanish system may also be taken into consideration for the purpose of admitting French nationals to the voluntary insurance scheme provided for under French legislation.

3. The provisions of article 1 above shall not prevent French workers subject to the Spanish social security system from contributing or continuing to contribute to the voluntary insurance scheme provided for under French legislation.

Article 3. Pensions, annuities and survivors' allowances acquired under the legislation of one of the Contracting States shall not be reduced, modified, suspended, discontinued or confiscated on the ground that the beneficiary is resident in the territory of the Contracting State other than the one in which the institution liable for the benefits is situated.

Article 4. The territories to which the provisions of this Convention shall apply are:

- in relation to France: the European departments and the overseas departments (Guadeloupe, Guiana, Martinique and Réunion) of the French Republic;
- in relation to Spain: the provinces of the peninsula, the Balearic Islands, the Canary Islands and the Spanish provinces of North Africa.

Article 5. 1. This Convention shall apply to the following social security legislation:

A. In France, to:

- (a) the legislation relating to the organization of social security;
- (b) the legislation establishing the social insurance scheme applicable to persons employed in non-agricultural occupations and the social insurance legislation applicable to persons employed in agricultural occupations, with the exception of the provisions relating to voluntary old-age insurance for French nationals who are or have been employed outside French territory;
- (c) the legislation relating to the prevention of and compensation for industrial accidents and occupational diseases;
- (d) the legislation relating to family benefits, with the exception of the maternity allowance;
- (e) the legislation relating to special social security schemes, in so far as they affect the risks and benefits covered by the legislation specified in the foregoing paragraphs and, particularly, the social security scheme applicable in the mining industry;
- (f) the legislation relating to the scheme for seafarers, subject, if appropriate, to the conditions laid down by the Administrative Agreement.

B. In Spain, to:

(a) the legislation under the general social security scheme concerning the benefits for:

- maternity, occupational and other diseases, temporary incapacity for work and industrial and other accidents;
- temporary and permanent disability;
- old age, death and survivors;
- family welfare, with the exception of childbirth;

(b) the legislation relating to special social security schemes, in so far as they affect the risks and benefits covered by the legislation specified in the foregoing paragraphs and, particularly, the special scheme applicable to coal-miners;

(c) the legislation relating to persons employed at sea, subject, if appropriate, to the conditions laid down by the Administrative Agreement.

2. This Convention shall also apply to all laws or regulations amending or supplementing the legislation specified in paragraph 1 of this article.

It shall, however, apply to:

- (a) laws or regulations covering a new branch of social security only if the two Contracting Parties have concluded an agreement to that effect;
- (b) laws or regulations extending existing schemes to new categories of beneficiaries only if the Contracting Party concerned does not oppose such application and notifies the other Party to that effect within a period of three months from the date of the official publication of the said laws or regulations.

3. This Convention shall not apply to the provisions relating to social security for students, which are dealt with in a special protocol.

4. This Convention shall not apply to non-contributory old-age insurance benefits, which are dealt with in a special protocol.

Article 6. 1. The general or specific provisions of this Convention shall apply to nationals of either Contracting State who are or have been engaged in employment or in an activity treated as such as permanent, seasonal or frontier workers and their dependants.

2. The following shall be outside the scope of this Convention:

- (1) workers other than persons engaged in employment or in an activity treated as such;
- (2) civil servants and military officials and persons treated as such;
- (3) career diplomatic and consular officers and officials on the staff of chancelleries.

Article 7. Notwithstanding the provisions of article 1 of this Convention:

1. The following shall not be subject to the social security system of the country of the place of employment, and shall remain subject to the social security system of the country of origin:

- (a) *ipso facto*, employed persons sent by their employer to the other country for the purpose of carrying out a specific temporary assignment, provided that the duration of the assignment does not exceed two years, including periods of leave;
- (b) subject to prior and mutual agreement between the competent administrative authorities of the two countries or the authorities which they have designated for that purpose, employed persons sent by their employer to the other country for the purpose of carrying out a specific temporary assignment the duration of which, whether or not it is originally intended to be so, is extended beyond two years.

2. Employed persons, other than those referred to in article 6, paragraph 2 (2), who are in the service of an administrative department of one of the Contracting States and are sent to the territory of the other State shall continue to be subject to the social security system of the sending State.

3. Employed persons who are employed in diplomatic or consular missions, other than those referred to in article 6, paragraph 2 (3), are in the personal employ of officers of such missions shall have the option of being subject to the legislation of the sending State, provided that such persons are not nationals of the host State. This right of option may be exercised only once under the conditions and within the time-limits specified in the Administrative Agreement.

4. Employed persons who are in the service of a public or private transport enterprise in one contracting country and are employed in the other country, whether permanently or temporarily or as travelling personnel, shall be subject to the social security system in force in the country in which the enterprise has its principal place of business.

If, however, the enterprise has a branch or a permanent agency in the territory of the other country, the Administrative Agreement shall specify the conditions under which persons employed by the branch or permanent agency shall be subject to the legislation of the country in which such establishment is situated.

Article 8. The competent administrative authorities of the Contracting States may, by agreement, and in particular in the interest of workers of either country, provide for other exceptions to the provisions of article 1.

On the other hand, they may agree that the exceptions provided for in the preceding article shall not apply in particular cases.

TITLE II. SPECIAL PROVISIONS RELATING TO EACH CATEGORY OF BENEFITS

Chapter I. SICKNESS AND MATERNITY

Article 9. Employed persons who go from France to Spain or vice versa shall, together with the members of their family who accompany them, be eligible for the sickness and maternity benefits provided for under Spanish or French legislation if:

- (a) they were considered fit for employment when they last entered the territory of the new country of residence;

- (b) they have begun an insurance period under the legislation of the said State;
- (c) they satisfy the conditions imposed for the receipt of benefits in that country, account being taken, in so far as necessary, of the insurance periods or equivalent periods previously completed under the legislation of the other country.

Nevertheless, these periods may be aggregated only if not more than one month has elapsed between the end of the insurance period in the employed person's country of origin and the beginning of the insurance period in his new country of residence.

Article 10. If, in the case referred to in article 9 above, an employed person or a person treated as such does not fulfil the conditions laid down in that article but is still entitled to benefits under the legislation of the country where he was previously insured or could claim benefits if he continued to reside in that country, he shall receive benefits payable by the institution of the latter country.

Article 11. A French or Spanish employed person or a person treated as such working in either country shall be eligible for sickness or maternity benefits while staying temporarily in his country of origin during paid leave or an authorized absence when his state of health necessitates immediate medical treatment, including hospitalization, provided that the institution with which he is insured has certified that he is entitled to such benefits.

Such certification, which is equivalent to an authorization, shall be valid for a maximum period of three months.

This period may, however, be extended for a further three months by a decision of the insuring institution on the basis of a favourable opinion by its medical supervisors.

Article 12. An employed person or a person treated as such who is entitled to sickness or maternity benefits from the competent institution in the country of employment shall retain this entitlement when he transfers his residence to the territory of the other country, provided that he obtains the prior authorization of the institution liable for the benefits.

The authorization concerning the transfer of residence may be refused only if it is established that movement of the person concerned would be prejudicial to his state of health or the receipt of medical treatment.

Such authorization shall be valid for a maximum period of three months.

This period may, however, be extended for a further three months by a decision of the insuring institution on the basis of a favourable opinion by its medical supervisors.

In cases of exceptionally serious illness, as defined by the Administrative Agreement, the insuring institution may allow benefits to be continued after the expiry of the above-mentioned period of six months.

Article 13. The provisions of article 11 and 12 shall be applicable to members of the employed person's family.

Article 14. In the cases specified in articles 11, 12 and 13 above:

- benefits in kind (treatment) shall be provided by the institution in the country in which the employed person is staying or has taken up residence in accordance with the legislation applicable in that country as regards the scope of such benefits and the manner of providing them;
- cash benefits (daily allowances) shall be paid by the institution with which the person concerned is insured.

Article 15. In the cases specified in articles 11, 12 and 13, the cost of benefits shall be borne by the social security system of the country where the employed person is insured. The Administrative Agreement shall specify the manner in which benefits in kind shall be reimbursed to the institution in the country in which the employed person is staying or has taken up residence.

The Administrative Agreement shall also specify the procedures for the reimbursement of expenses arising from any medical or administrative supervision undertaken by the institution of the country in which the employed person is staying or has taken up residence on behalf of the institution with which that person is insured.

Article 16. Members of the family of a French or Spanish employed person who reside or return to reside in France or in Spain while that person is employed in the other country, shall be entitled to benefits under the legislation of the country of residence.

The family members covered and the scope and duration of the benefits received and the manner of providing them shall be determined in accordance with the provisions of the legislation of the family's country of residence.

Benefits shall be provided by the institution in the family's country of residence.

The cost of such benefits shall be borne by the social security system of the country in which the employed person is insured, which shall repay to the social security system of the family's country of residence four fifths of the costs relating to the benefits, at a flat rate and in a manner to be determined by administrative agreement.

Article 17. If an employed person or a person treated as such or a member of his family is entitled to maternity benefits under French or Spanish legislation, the applicable legislation shall be that of the State in whose territory the confinement takes place.

Article 18. The French or Spanish employed persons referred to in article 7, paragraph 1, of this Convention, together with the members of their families accompanying them, shall be eligible for sickness and maternity benefits for the entire duration of their stay in their country of employment.

Benefits in kind shall be provided either by the institution in the country in which the person concerned is staying, on behalf of the insuring institution, or directly by that institution, in a manner to be determined in an administrative agreement.

Article 19. 1. If a person in receipt of an old-age benefit granted by aggregating the insurance periods completed in both countries is entitled or becomes entitled to benefits in kind (treatment) under the legislation of the

Contracting State in whose territory he is resident, such benefits shall be provided for him and for the members of his family by and at the expense of the institution of the country of residence as though he were in receipt of a pension solely under the legislation of the latter country.

2. If a person in receipt of an old-age or disability pension or an industrial accident annuity payable solely under the legislation of one of the contracting countries is resident in the territory of the other country, benefits in kind (treatment) shall be provided for him and for the members of his family by the institution of the country of residence as though he were in receipt of a pension under the legislation of the latter country.

Entitlement to such benefits shall be established in accordance with the provisions of the legislation of the country which is liable for the pension. The scope and duration of such benefits and the manner of providing them shall be determined in accordance with the provisions of the legislation of the pensioner's country of residence.

The cost of such benefits shall be borne by the social security system of the country which is liable for the pension, which shall repay to the social security system of the pensioner's country of residence four fifths of the costs relating to the benefits at a flat rate and in a manner to be determined by administrative agreement.

3. The provisions of paragraphs 1 and 2 above shall also apply, under Spanish legislation, to persons in receipt of a survivor's pension.

4. If, under the legislation of either Contracting Party, the recipient of a pension or annuity is required to contribute in order to cover the cost of benefits in kind (treatment), the institution liable for the pension or annuity may withhold the appropriate amount from the pension or annuity, in accordance with the legislation it applies, on condition that the cost of the benefits in kind to be provided under this article is borne by the social security system of the country of that institution.

Article 20. The provision of prostheses, large appliances and other major benefits in kind, a list of which shall be annexed to the Administrative Agreement, shall be subject, except in cases of urgency to authorization by the institution with which the person concerned is insured. Such authorization shall not, however, be required for expenditure which is repayable at a flat rate.

SPECIAL PROVISIONS

1. *Frontier workers*

Article 21. 1. Benefits in kind provided under the legislation concerning sickness and maternity insurance in the country of employment may be awarded to frontier workers either in the country where they work or in the country where they have their permanent residence.

2. If benefits in kind are awarded in the country of the place of work, the award shall be made by the institution with which the worker is insured, according to the provisions of the legislation applied by that institution.

3. If benefits in kind are awarded in the country of permanent residence, the award shall be made by the institution of the place of residence, according to the legislation applied by it and on behalf of the institution with which the worker is insured.

4. Maternity insurance benefits in kind shall be provided in their entirety under the legislation applicable in the country in which the confinement takes place and by the appropriate institution of that country.

Article 22. Cash benefits provided under the legislation concerning sickness and maternity insurance shall be paid to frontier workers by the institution with which they are insured in the country of employment, according to the legislation applied by it.

Article 23. The provisions of article 21 shall apply, by analogy, to the members of the frontier worker's family, provided that they are not entitled to benefits in kind under the legislation of the country of residence.

Article 24. The expenses incurred by the institution of the country of residence pursuant to articles 21 and 23 shall be reimbursed by the scheme with which the worker is insured in the manner laid down in the Administrative Agreement.

2. Seasonal workers

Article 25. In order to become eligible, under article 16 of this Convention, for benefits in kind under sickness and maternity insurance for members of his family resident in the country other than the one in which he is employed, the seasonal worker must show proof of possession of a labour contract valid for at least one month and of fulfilment of the obligations under the contract.

Entitlement to benefits shall be limited to the period covered by the contract.

Article 26. Spanish seasonal workers employed in agriculture in France and members of their families accompanying them shall qualify for sickness insurance benefits under the French social security system only in respect of those diseases contracted after their arrival in France and certified as having been contracted after arrival by the medical inspectors of the Mutual Social Insurance Scheme for Agricultural Workers.

In order to determine whether the persons concerned are entitled to benefits, account is taken, in so far as necessary and in the manner set forth in article 9 of this Convention, of insurance periods or equivalent periods previously completed under Spanish legislation.

If despite the aggregation of insurance periods or equivalent periods completed in both countries, the persons concerned do not meet the normal requirements for entitlement laid down by the French legislation concerning social insurance for agricultural workers, during each stay in France they shall be treated as newly enrolled participants aged under 25 years.

Chapter II. DISABILITY

Article 27. 1. In the case of employed persons who move from one country to the other, insurance periods or equivalent periods completed under

the social security system of the first country shall, provided that they do not overlap, be aggregated with insurance periods or equivalent periods completed under the system of the other country, for the purposes both of determining the right to disability insurance benefits in cash (pensions) or in kind (treatment) and of maintaining or recovering this right.

2. The disability pension shall be paid in the manner prescribed in the legislation applicable to the person concerned at the time when, owing to illness or an accident other than an industrial accident, the interruption of work followed by disability occurred.

The cost of the disability pension shall be borne by the competent institution in accordance with that legislation.

3. If, however, at the time of the interruption of work followed by disability a worker has not been covered by the social insurance scheme in the last country of employment for at least one year, the entitlements shall be examined in the light of the legislation of the country of origin.

If entitlement exists under the legislation of the country of origin, account being taken, if appropriate, of the aggregation of the insurance periods or equivalent periods completed in the two countries, the pension shall be paid and its cost borne by the institution of the country of origin.

4. If the disability is the result of an accident other than an industrial accident, the provisions of paragraph 3 shall not apply.

The conditions relating to the payment of the disability pension and the defrayal of its cost shall, in any event, be those laid down in paragraphs 1 and 2.

Article 28. For the purpose of applying article 27 above to seafarers, the minimum duration of the insurance referred to in paragraph 3 shall be two years in the event of disability resulting from a non-work-related accident or a disease contracted outside navigation and one year in the event of disability resulting from an illness contracted during navigation.

Article 29. 1. If, after suspension of the disability pension, the insured person recovers his entitlement, the provision of benefits shall be resumed by the institution liable for the pension originally awarded.

2. If, after discontinuance of the pension, the state of health of the insured person justifies the grant of another disability pension, the latter shall be paid in accordance with the rules laid down in article 27.

Article 30. Where appropriate, a disability pension shall be converted into an old-age pension when the conditions, notably with respect to age, required under the legislation of either country for the award of an old-age pension, have been satisfied.

If the total amount of benefits to which an insured person is entitled under each of the old-age insurance schemes of the two countries is smaller than the amount of the disability pension, a supplement equal to the difference shall be paid to him by the insurance scheme which was liable for that pension.

Article 31. The provisions of this chapter shall apply to the occupational disability pension provided for under the special legislation relating to mine-workers in France.

However, it shall be awarded only to workers who were subject to that legislation at the time of the interruption of work followed by disability and who have resided in French territory up to the time of payment of such pension.

The pension shall cease to be paid to pensioners who resume work after leaving France.

Chapter III. OLD AGE AND DEATH

Article 32. 1. A French or Spanish employed person who, during his career has been insured, successively or alternately in both contracting countries by one or more old-age insurance schemes in each of those countries shall, at the time when he becomes entitled to benefits, be free to choose whether the legislation of the two contracting countries shall be applied jointly or separately.

If he chooses to have the legislation of the two countries applied separately, the benefits which he may claim under the legislation of each country shall be paid without taking into account the insurance periods or equivalent periods completed in the other country, as though the insured person had been subject to the legislation of one country only.

If, on the other hand, he chooses to have the legislation of the two countries applied jointly, the benefits which he may claim under the legislation of both shall be paid in accordance with the rules laid down in the following articles of this chapter.

2. If the death creating entitlement to the award of a survivor's pension or other benefit occurs before the worker has secured payment of his entitlements in respect of the old-age insurance, his heirs may exercise the choice referred to in paragraph 1 of this article.

Article 33. 1. Insurance periods completed under the legislation of each of the two contracting countries, together with periods recognized as equivalent to insurance periods, shall, provided that they do not overlap, be aggregated for the purposes of determining entitlement to benefits and of maintaining or recovering that entitlement.

2. Periods recognized as equivalent to insurance periods shall, in each country, be those which are recognized as such under the legislation of that country.

If a period recognized as equivalent to an insurance period under the legislation of one country coincides with an insurance period completed in the other, only the insurance period shall be taken into consideration by the institution of the latter country.

If any single period is recognized as equivalent to an insurance period under both French and Spanish legislation, that period shall be taken into consideration by the institution of the country in which the person was last compulsorily insured before the period in question.

3. If the legislation of one contracting country makes the award of certain old-age benefits subject to the requirement that the insurance periods should have been completed in an occupation which is subject to a special insurance scheme, only periods completed under the special scheme of the other country

or, failing that, in the same occupation, shall be taken into account for the purpose of qualifying for such benefits.

In particular, only periods of employment completed in Spain in mining operations not covered by the special scheme applicable to coal-miners which, if they had been completed in France, would have created entitlement under the special legislation relating to social security in the mining industry shall be deemed to qualify for aggregation with insurance periods completed under the French scheme of social security in the mining industry.

If, notwithstanding the aggregation of such periods, the person concerned does not qualify for benefits under the special scheme, the periods in question shall then be aggregated for the purpose of qualification for benefits under the general system.

Article 34. The competent institution of each country shall determine, bearing in mind the aggregation of the periods completed as stated in the preceding article and in accordance with its own legislation, whether the person concerned satisfies the requirements for entitlement to the old-age insurance benefits provided for under that legislation.

If such entitlement exists, the competent institution of each country shall compute the theoretical benefit to which the insured person would be entitled if all the insurance periods or periods recognized as equivalent, aggregated in accordance with the rules laid down in the preceding article, had been completed exclusively under its own legislation.

The benefit actually payable to the person concerned by the competent institution of each country shall be computed by reducing the amount of the benefit referred to in the preceding paragraph by a fraction representing the ratio of the length of the insurance periods or periods recognized as equivalent completed under its own legislation to the aggregate length of the periods completed in the two countries.

Article 35. If the insurance periods completed under the legislation of either country total less than one year, no benefit shall be payable under the legislation of that country.

Such periods shall, however, be taken into consideration for the purpose of acquiring by aggregation entitlement to benefits under the legislation of the other country, under the terms of article 32 above, provided that no reduction of the benefit payable under the legislation of that country results.

Article 36. If an insured person does not simultaneously satisfy the conditions imposed by the legislation of both countries, but satisfies only the requirements imposed by the legislation of one country, his entitlement to a pension shall be established under the latter legislation, account being taken of the aggregation of the insurance periods or equivalent periods completed in the two countries.

The benefit payable to the insured person by the institution responsible for implementing the legislation in question shall be determined in accordance with the rules set forth in article 33.

When the requirements imposed by the legislation of the second country are satisfied, the benefits payable to the insured person under the terms of articles 33 and 35 of this Chapter shall be reviewed.

Article 37. The provisions of this Chapter shall apply, by analogy, to the rights of surviving family members.

SPECIAL PROVISIONS

Implementation of the special legislation applicable to mine-workers

Article 38. Notwithstanding the provisions of article 3 of this Convention, allowances for dependent children payable to recipients of pensions under the special French legislation applicable to mine-workers shall be payable only in respect of children resident in France and subject to other requirements laid down in that legislation.

Article 39. The special allowance and the cumulative grant provided for by the special French legislation applicable to mine-workers shall be payable only to persons who continue to work in the French mines after they have qualified for an old-age pension under the social security scheme for the mining industry.

Chapter IV. PROVISIONS COMMON TO DISABILITY, OLD-AGE AND DEATH (SURVIVORS' PENSIONS) BENEFITS

Article 40. If under the legislation of either contracting country, the benefits paid are based on the average wage or salary for the whole or part of the insurance period, the average wage or salary to be taken into account in computing the benefits to be paid by that country shall be determined solely on the basis of the insurance period completed under its legislation.

Chapter V. INDUSTRIAL ACCIDENTS AND OCCUPATIONAL DISEASES

Article 41. 1. No provisions in one Contracting Party's legislation concerning industrial accidents and occupational diseases which limit the rights of aliens or disqualify them by reason of their place of residence shall apply to the nationals of the other Contracting Party.

2. Increases or supplementary allowances awarded in addition to industrial accident pensions under the applicable legislation in each contracting country shall continue to be paid to persons covered by the preceding paragraph who transfer their residence from one country to the other.

Article 42. A French or Spanish employed person who sustains an industrial accident or contracts an occupational disease in the territory of either Contracting Party, and who acquires the right to the benefits payable during the period of temporary incapacity, shall retain the right to such benefits if he transfers his residence to the territory of the other country provided that, prior to his departure, he obtains the authorization of the Spanish or French institution with which he is insured.

Such authorization shall be valid only for the period fixed by the insuring institution.

If, on the expiry of the period thus fixed, the state of health of a person who has sustained an industrial accident or contracted an occupational disease so requires, the period shall, by a decision of the insuring institution on the

basis of a favourable opinion by its medical supervisors, be extended until he has recovered or until the wound has healed properly.

Article 43. If a French or Spanish employed person suffers a recurrence of the effects of his accident or occupational disease after transferring his residence to the other country, he shall be entitled to benefits under the legislation relating to industrial accidents and occupational diseases, provided that he has obtained the agreement of the Spanish or French institution with which he was insured at the time of the accident or when the occupational disease was first certified.

Article 44. In the cases specified in articles 42 and 43, benefits in kind (treatment) shall be provided by the institution of the new country of residence of the employed person, in accordance with the provisions of the legislation applicable in that country as regards the scope of such benefits and the manner of providing them. Cash benefits (daily allowances) shall be paid by the institution with which the person concerned is insured, in accordance with the legislation applicable to him.

However, if a French or Spanish employed person sustained an industrial accident in agriculture in France prior to 1 July 1973, cash benefits and benefits in kind shall be provided directly by the responsible employer or by the insurer acting for him.

Article 45. The cost of benefits provided under articles 42, 43 and 44 shall be borne by the institution with which the employed person is insured.

The Administrative Agreement shall determine the manner in which benefits in kind shall be reimbursed by the insuring institution to the institution of the new country of residence.

Article 46. In the case specified in articles 42 and 43, the provision of prostheses, large appliances and other major benefits in kind, a list of which shall be annexed to the Administrative Agreement, shall be subject, except in urgent cases, to authorization by the institution with which the person concerned is insured.

Article 47. For the purpose of assessing the degree of permanent incapacity resulting from an industrial accident or occupational disease from the standpoint of the legislation of one of the countries, industrial accidents previously sustained and occupational diseases previously contracted under the legislation of the other country shall be taken into account as though they had been sustained or contracted under the legislation of the first country.

Article 48. 1. If a person who has contracted an occupational disease has been engaged in the territory of both countries in an occupation capable of producing that disease, the benefits which he or his survivors may claim shall be granted solely under the legislation of the country in whose territory he last engaged in the occupation in question, provided that he satisfies the requirements imposed by that legislation.

2. If the legislation of one of the countries makes it a condition for the award of occupational disease benefits that the disease should have been medically certified for the first time in its territory, that condition shall be deemed to have been fulfilled if the disease was certified for the first time in the territory of the other country.

Article 49. In the event of a deterioration of an occupational disease for which compensation is paid under the legislation of one of the countries while the person concerned is resident in the other country, the following rules shall apply:

- (a) if the employed person has not engaged in the territory of his new country of residence in an occupation capable of aggravating the occupational disease in question, the institution of the first country shall be responsible for benefits in respect of the deterioration as prescribed in its own legislation;
- (b) if the employed person has engaged in the territory of his new country of residence in an occupation capable of aggravating the occupational disease in question:
 - the institution of the first country shall continue to be responsible for the benefits payable under its own legislation, as if there had been no deterioration;
 - the institution of the new country of residence shall be responsible for the additional benefit payable in respect of the deterioration. The amount of the additional benefit shall be fixed in accordance with the legislation of that country as though the disease had been contracted in its own territory; it shall be equal to the difference between the amount of the benefit payable after the said deterioration and the benefit which would have been payable prior to the deterioration.

SPECIAL PROVISIONS

Frontier workers

Article 50. 1. Benefits in kind (treatment) due under the legislation concerning compensation for industrial accidents and occupational diseases may be provided to frontier workers either in the country of the place of work or in the country of permanent residence.

Nevertheless, the right of the victim of an industrial accident to receive appliances and benefits for the purpose of vocational rehabilitation may be exercised only in the country of the place of work and under the conditions laid down by the legislation applicable in that country.

2. If benefits in kind are provided in the country of the place of work, they shall be provided by the institution with which the worker is insured, unless the applicable legislation lays this obligation on the employer.

3. If benefits in kind are provided in the country of permanent residence, they shall be provided by the competent institution of that country in accordance with the legislation it applies and on behalf of the institution with which the worker is insured in the other country.

Nevertheless, benefits in kind due in respect of an industrial accident sustained by an agricultural worker in France prior to 1 July 1973 shall be provided directly by the employer or by the insurer acting for him.

Article 51. Cash benefits (daily allowances) provided under the legislation concerning compensation for industrial accidents and occupational diseases shall be paid to the frontier workers by the competent institution of the country

of the place of work, unless the legislation of that country lays this obligation on the employer.

Article 52. Expenses incurred by the institution of the country of residence under article 50 shall be reimbursed by the institution with which the worker is insured, in an amount not exceeding the expenses which would result if the rates in effect in the country of employment were applied.

Chapter VI. DEATH GRANTS

Article 53. Employed persons who transfer their residence from Spain to France or from France to Spain shall be eligible for death grants in France or in Spain if:

1. they have been engaged in an occupation subject to insurance in the country to which they have transferred their residence;
2. they satisfy, in that country, the conditions imposed for receipt of such benefits.

Article 54. If, with respect to eligibility for death grants, the requirement regarding duration of insurance laid down by the legislation of the new country of employment has not been satisfied at the time of death, the insurance periods or equivalent periods completed by the employed person in the other country shall be added to the insurance periods or equivalent periods completed in the new country of employment.

Article 55. In the cases specified in articles 11, 12 and 19, if the person concerned dies in the country where he is staying or resident, his death shall be deemed to have occurred in the country of employment or in the country where the institution liable for the pension or annuity is located.

Chapter VII. FAMILY BENEFITS

Article 56. In determining entitlement to the family benefits payable to French or Spanish employed persons for their children who accompany them, the periods of employment in the new country of residence shall be supplemented, in so far as necessary, by the period of employment previously completed by the employed person in the other country.

Article 57. French or Spanish employed persons working in the territory of either Contracting Party may claim dependency allowances for their children resident in the territory of the other Party under the conditions specified below provided that they satisfy the occupational requirements imposed by the legislation concerning family allowances of the country of employment:

1. Dependency allowances shall be paid in respect of periods of employment and periods treated as such.

In determining eligibility for dependency allowances, if an employed person has not completed the full period of employment required by the legislation concerning family benefits of the new country of employment, the period of employment or period treated as such completed in the other country shall be counted to make up the difference;

2. Dependency allowances shall be paid when there are at least two dependent children.

3. The dependency allowances provided for in this article shall be paid for children under 16 years of age who are dependants of the employed person as defined in the legislation of the family's country of residence. However, the above age limit of 16 years shall be raised to 20 years in the case of children who, owing to disability or chronic illness, are certified to be incapable of engaging in an occupation.

4. Dependency allowances shall be provided directly to the person having charge of the children in the territory of the other country by the family benefits institution which is responsible for the employed person in the country of employment.

Article 58. The amount of the dependency allowances shall vary according to a scale determined by mutual agreement by the competent administrative authorities of the two countries.

Article 59. The conditions for the implementation of article 57 shall be laid down in an administrative agreement.

Article 60. Children of the workers referred to in article 7, paragraph 1, of this Convention who accompany them to the other country shall be entitled to the family benefits provided for in the legislation to which such workers are subject, as enumerated in the Administrative Agreement.

Such benefits shall be paid directly to the persons concerned by the competent family benefits institution.

SPECIAL PROVISIONS

Seasonal workers

Article 61. French and Spanish seasonal workers employed in the territory of either Contracting Party shall be entitled to dependency allowances for their dependent children resident in the territory of the other Party, in accordance with articles 57, 58 and 59 of this Convention.

However, entitlement to these benefits shall be created only if the seasonal worker shows proof of possession of a labour contract valid for at least one month in the new country of employment and of fulfilment in that country of the obligations under the contract.

TITLE III. MISCELLANEOUS PROVISIONS

Article 62. A general Administrative Agreement, drawn up by the competent administrative authorities of the two countries, shall, as necessary, determine the conditions for the application of this Convention, in particular those concerning the articles which expressly refer to the said Agreement.

That Agreement shall designate the liaison agencies of the two countries.

Furthermore, models of the standard forms required for the implementation of the procedures and formalities jointly agreed upon shall be prepared.

Article 63. In each contracting country, the Ministers responsible, each within the limits of his competence, for the application of the legislation enumerated in article 5 shall be deemed to be the competent administrative authorities for the purposes of this Convention.

Article 64. The competent administrative authorities of the two countries shall:

- in addition to drawing up the general Administrative Agreement referred to in article 62, make any administrative arrangements supplementing or amending that Agreement;
- communicate to each other directly full information regarding any measures taken in their respective countries for the application of this Convention and the agreements drawn up or arrangements made for its application;
- report to each other any difficulties which may arise, at the technical level, from the implementation of the provisions of this Convention or the agreements drawn up or arrangements made for its application;
- communicate to each other directly all information regarding amendments to the legislation and regulations referred to in article 5 in so far as such amendments might affect the application of this Convention or the agreements drawn up or arrangements made for its application.

Article 65. The competent administrative authorities and the social security institutions of the two Contracting Parties shall assist each other in implementing this Convention and the social security legislation of the other country as if the implementation of their own legislation were in question, particularly with regard to the amicable collection of social security contributions payable to an institution of one country by a person resident in the territory of the other country.

Article 66. The competent administrative authorities shall lay down in an administrative agreement procedures for medical and administrative supervision and for expert services required for the application of this Convention.

Article 67. 1. Any exemption from registration fees, court fees, stamp duties and consular fees provided for by the legislation of one contracting country in respect of documents required to be produced to the social security authorities or institutions of that country shall be extended to similar documents required to be produced for the purposes of this Convention to the social security authorities or institutions of the other country.

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

Article 68. Appeals in social security matters which should have been presented within a prescribed time-limit to an authority, institution or court of one contracting country competent to receive them shall be admissible if they are presented within the same time-limit to a corresponding authority, institution or court of the other country. In such cases, the appeals shall be transmitted to the competent authority, institution or court of the first-mentioned country without delay.

Article 69. Communications which for the purposes of this Convention are sent by beneficiaries under the Convention or by authorities, institutions or

courts of either country to authorities, institutions or courts of the other country shall be drawn up in the official language of either country.

Article 70. The institutions liable for the payment of benefits under this Convention shall be deemed to discharge their liability validly in the currency of their country.

Article 71. Notwithstanding any internal provisions relating to exchange regulations, the two Governments undertake not to obstruct in any way the free transfer of moneys in all financial transactions resulting from the application both of this Convention and of the social security legislation of the other Party, particularly in respect of voluntary insurance and supplementary retirement schemes.

The competent administrative authorities of the two countries may, by agreement, make the liaison agencies of the two countries responsible for centralizing some of the benefits provided for in this Convention, with a view to their transfer to the other country.

Article 72. There shall be no derogation from the rules laid down by the legislation referred to in article 5 with respect to the participation of aliens in elections connected with the functioning of the social security systems of each country.

Article 73. Any formalities which may be prescribed by the laws or regulations of one contracting country for the furnishing in the other country of benefits provided by the competent institutions of the first-mentioned country shall also apply, in the same manner as to nationals, to persons awarded such benefits under this Convention.

Article 74. 1. Any difficulties relating to the application of this Convention shall be resolved by agreement between the administrative authorities referred to in article 63.

2. Where it is impossible to reach a solution by this means, the dispute shall be settled through the diplomatic channel or, failing that, by arbitration in accordance with a procedure agreed upon by the two Governments.

TITLE IV. TRANSITIONAL AND FINAL PROVISIONS

Article 75. The Government of each Contracting Party shall notify the other of the completion of the constitutional procedures required by it for the entry into force of this Convention. The Convention shall enter into force on the first day of the second month following the date of the latter of such notifications.

Article 76. The General Convention on Social Security between France and Spain of 27 June 1957 and the various agreements and protocols supplementing or amending it¹ shall cease to have effect on the date of the entry into force of this Convention.

The persons covered by the General Convention of 27 June 1957 and by the agreements and protocols supplementing or amending it shall suffer no loss as a result of the abrogation of the said instruments and shall be automatically entitled to the benefits provided for under this Convention.

¹ United Nations, *Treaty Series*, vol. 746, p. 2.

Article 77. This Convention shall remain in force for a period of one year from the date of its entry into force. Thereafter, it shall continue in force from year to year unless it is denounced in writing three months before the expiry of any such yearly period.

In the event of denunciation, the provisions of this Convention shall remain applicable to the acquired rights, notwithstanding any restrictive provisions in the schemes concerned for cases where an insured person is resident abroad.

DONE at Paris, on 31 October 1974, in duplicate in the French and Spanish languages, both texts being equally authentic.

For the Government of the French Republic:

[Signed]

GILBERT DE CHAMBRUN

For the Government of the Spanish State:

[Signed]

MIGUEL DE LOJENDIO

PROTOCOL CONCERNING SOCIAL SECURITY BETWEEN THE GOVERNMENT OF THE FRENCH REPUBLIC AND THE GOVERNMENT OF THE SPANISH STATE

Upon signing the new General Convention of today's date between the Government of the French Republic and the Government of the Spanish State designed to afford the workers of each country who are or have been engaged in employment in the other country better protection of the rights they have acquired, the Contracting Parties agree on the following provisions:

I. ON THE FRENCH SIDE

1. *Elderly employed person's allowance*

The elderly employed person's allowance shall be awarded, on the conditions laid down by French legislation concerning elderly employed persons, to elderly Spanish employed persons of insufficient means who show proof on the day on which they claim the allowance of at least fifteen years' uninterrupted residence in France.

2. *Old-age allowance for self-employed persons*

Spanish nationals who have engaged as self-employed persons in France in an occupation covered by the old-age allowance scheme provided for in the Social Security Code, book VIII, part I, and who have never contributed to the said scheme shall receive the non-contributory old-age allowance for self-employed persons on the same terms as French nationals, provided that they show proof of residence in France for a total of at least fifteen years since the age of twenty and of uninterrupted habitual residence there for at least five years at the time of claiming the benefit.

3. *Special allowance*

Spanish nationals shall receive the special allowance provided for in the Social Security Code, book VIII, part II, on the same conditions as French nationals, provided that they show proof of residence in France for a total of at least fifteen years since the age of twenty and of uninterrupted habitual residence there for at least five years at the time of claiming the allowance.

4. *Supplementary allowance from the National Mutual Aid Fund*

Spanish nationals in receipt of an old-age or disability benefit under a French scheme for employed persons, pursuant to the legislation referred to in article 5 of the General Convention on Social Security of 31 October 1974 or the legislation concerning the elderly employed person's allowance referred to in section 1 above of this Protocol, shall be entitled to the supplementary allowance on the terms laid down for French nationals.

Payment of the allowances referred to in sections 1, 2, 3 and 4 above shall cease when the recipients leave French territory.

For the purpose of applying the means requirements laid down by French legislation, the competent Spanish authorities shall assist the French institutions and authorities responsible for payment of the allowances with a view to:

- (a) ascertaining what means applicants may have in Spain, including lifetime benefits due under the Spanish social security system and, to that end, undertaking any inquiry or investigation in the manner laid down by Spanish social security legislation;
- (b) evaluating property owned by the applicants in Spain;
- (c) using their good offices, if appropriate, with persons resident in Spain who are responsible for supporting the applicants in question.

Requests submitted for this purpose by the French institutions and authorities responsible for payment of the allowances shall be addressed to an institution designated by the Spanish authorities.

5. *Social insurance for students*

The French social insurance scheme for students instituted in the Social Security Code, book VI, part I, shall apply, on the same terms as to French students, to Spanish students studying in France who are neither covered by French social insurance nor dependants of persons having such coverage.

II. ON THE SPANISH SIDE

1. *Non-contributory old-age and disability pensions*

French nationals resident in Spain shall be entitled to the following benefits:

- (a) an old-age or disability benefit, under a non-contributory scheme, provided that they show proof of having worked in Spain for five years or more on terms which would have qualified them for coverage by the former compulsory workers' retirement scheme or the compulsory old-age allowance

scheme or the compulsory old-age and disability scheme, even though they were not insured under those schemes or did not complete the statutory contributory period creating entitlement to benefits;

- (b) an old-age or disability pension, under a non-contributory scheme, payable by the special fund established for that purpose with the Compensation and Reinsurance Fund for workers' mutual benefit schemes, provided that they show proof of having worked in Spain for ten years or more on terms which would have qualified them for coverage by an occupational mutual benefit scheme, even though they were not insured under such a scheme or did not complete the statutory contributory period creating entitlement to benefits.

The amount of these benefits shall not exceed either the maximum amount payable under the Spanish old-age and disability insurance scheme or that payable at the age of sixty under the pertinent mutual benefit scheme.

Payment of the benefits provided for under paragraphs (a) and (b), which are granted on an individual basis and cannot be transferred, shall cease when the French national leaves Spanish territory.

2. *Special social security schemes for self-employed persons*

In view of the fact that the French social security legislation concerning self-employed persons is already applied to self-employed Spanish nationals in France, the special Spanish social security schemes for self-employed persons shall apply to French self-employed persons in Spain on the same terms as are applied to Spanish nationals.

3. *Special social security scheme for students*

The Spanish insurance scheme for students shall apply on the same terms as to Spanish students, to French students studying in Spain.

The provisions of this Protocol shall enter into force on the same date as the new General Convention.

On that date the Protocols annexed to the General Convention of 27 June 1957 shall cease to apply, and the rights of persons covered by that Protocol shall be automatically protected under the present Protocol.

DONE at Paris, on 31 October 1974, in duplicate in the French and Spanish languages, both texts being equally authentic.

For the Government of the French Republic:

[Signed]

GILBERT DE CHAMBRUN

For the Government of the Spanish State:

[Signed]

MIGUEL DE LOJENDIO