

No. 16176

**FRANCE
and
SENEGAL**

**Supplementary Agreement concerning the social security
scheme for seamen (with exchange of letters). Signed at
Paris on 29 March 1974**

Authentic text: French.

Registered by France on 29 December 1977

**FRANCE
et
SÉNÉGAL**

**Accord complémentaire relatif au régime de sécurité sociale
des marins (avec échange de lettres). Signé à Paris le
29 mars 1974**

Texte authentique : français.

Enregistré par la France le 29 décembre 1977.

[TRANSLATION — TRADUCTION]

SUPPLEMENTARY AGREEMENT¹ CONCERNING THE SOCIAL SECURITY SCHEME FOR SEAMEN BETWEEN THE GOVERNMENT OF THE FRENCH REPUBLIC AND THE GOVERNMENT OF THE REPUBLIC OF SENEGAL

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

Considering the bonds of friendship which exist between the two countries;

Desiring to co-operate in the social field, including co-operation with respect to seamen, on the basis of reciprocity, equality, mutual respect and mutual interest;

Affirming the principle that nationals of both States should receive equal treatment under the social security legislation of each of them;

Desiring to enable their nationals to retain rights acquired under the legislation of either State;

Have decided to conclude, pursuant to article II, paragraph 4, of the General Convention on social security between the two States of 29 March 1974,² an agreement to co-ordinate the application to French and Senegalese seamen of the French and Senegalese legislation relating to social security and, to that end, have agreed on the following provisions:

P A R T I

GENERAL PRINCIPLES

Article I

Paragraph 1. *Personal scope.* (a) The scheme described in this Agreement shall be applicable to employed seamen of French nationality engaged on board vessels of Senegalese registry and employed seamen of Senegalese nationality engaged on board vessels of French registry which have ship's articles, and their dependants.

Workers who contract with a shipowner or his representative to serve on board a merchant, fishing or pleasure vessel and whose work on deck, in the engine-room, in the radio services or in the catering services is connected with the propulsion, steering, maintenance or operation of the vessel shall be deemed to be seamen.

For the purposes of this Agreement, any individual, company or public authority on whose behalf a vessel has been commissioned shall be deemed to be a shipowner.

(b) The scheme described in this Agreement shall also be applicable to employed seamen of French or Senegalese nationality performing work — other than service at sea — covered by the legislation referred to in article II of this Agreement applicable to the French or Senegalese scheme with which they are insured by reason of their work, and their dependants.

¹ Came into force on 1 September 1976, i.e., the first day of the second month following the date of exchange of the instruments of approval, which took place at Paris on 16 July 1976, in accordance with article XXVIII.

² See p. 164 of this volume.

Paragraph 2. *Territorial scope.* The territories to which the provisions of this Agreement shall apply are:

- in the case of France: the European departments and overseas departments of the French Republic;
- in the case of Senegal: the territory of the Republic of Senegal.

Article II

Material scope

Paragraph 1. The legislation to which this Agreement shall apply is:

- (1) in France:
 - (a) the legislation relating to the seamen's retirement scheme administered by the Seamen's Superannuation Fund;
 - (b) the legislation relating to the seamen's insurance scheme administered by the Seamen's General Welfare Fund.
- (2) in Senegal:
 - (a) the legislation relating to the merchant marine (social status of seamen);
 - (b) the legislation relating to industrial accidents and occupational diseases;
 - (c) the legislation relating to family allowances;
 - (d) the legislation relating to old-age and survivors' pensions.

Paragraph 2. This Agreement shall also apply to any laws or regulations by which the legislation specified in paragraph 1 of this article has been or may hereafter be amended or supplemented.

However, it shall not apply:

- (a) to laws or regulations covering a new branch of the social security scheme for seamen only if the Contracting Parties have concluded an agreement to that effect;
- (b) to laws or regulations extending existing schemes to new categories of beneficiaries only if the Government of the Party amending its legislation has not notified the Government of the other Party within a period of three months from the date of the official publication of the said laws or regulations that it objects to such application.

Article III

Legislation applicable

Paragraph 1. Employed seamen shall be subject to the legislation of the country of registry of the vessel on board which they are engaged.

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

1. Seamen employed by an enterprise for which they normally work either on board a vessel registered in one of the two States or in the territory of that State who are sent by that enterprise to carry out on its behalf, in the other State, a specific assignment in an occupation described in article I above shall remain subject to the legislation of the first State:
 - (a) *ipso facto*, if the duration of their assignment in the second State does not exceed three years, including periods of leave;
 - (b) subject to prior joint agreement by the competent administrative authorities of the two States or the authorities they have designated for that purpose, if

the duration of the assignment, whether or not it was originally so intended, extends beyond three years.

2. Personnel, other than civil servants, placed at the disposal of one of the States by the other State on the basis of a service contract drawn up under agreements for assistance in the form of personnel concluded between France and Senegal shall be subject to the social security legislation of the last-mentioned State.

Paragraph 3. The competent administrative authorities of the Contracting Parties may by agreement, and in the interest of seamen of either State, provide for other exceptions to the rule set forth in paragraph 1 of this article. Conversely, they may agree that the exceptions provided for in paragraph 2 shall not apply in particular cases.

PART II

SPECIAL PROVISIONS RELATING TO THE VARIOUS CLASSES OF BENEFITS

CHAPTER I. INSURANCE FOR INDUSTRIAL ACCIDENTS SUSTAINED AND DISEASES CONTRACTED AT SEA

Article IV

Entitlement to benefits in kind and in cash, in case of an industrial accident sustained or a disease contracted at sea by a French or Senegalese employed seaman, shall be determined in accordance with the legislation of the State of registry of the vessel on board which he is or was serving.

For the purpose of determining entitlement to such benefits, insurance periods completed as a seaman under the legislation of each of the Contracting States shall be aggregated, provided that they do not overlap.

Article V

Waiver of residence clauses

1. Any provisions contained in the legislation of one of the Contracting States relating to industrial accidents sustained and diseases contracted at sea which limit the rights of aliens or disqualify them by reason of their place of residence shall not apply to nationals of the other State.

2. Increases or supplementary allowances awarded in addition to pensions for industrial accidents sustained at sea under the legislation applicable in each Contracting State shall continue to be paid to persons covered by the preceding paragraph who transfer their residence from one State to the other.

Article VI

Transfer of residence

1. A French seaman engaged on board a vessel of Senegalese registry who has sustained an industrial accident or contracted a disease at sea, or a Senegalese seaman engaged on board a vessel of French registry who has sustained an industrial accident or contracted a disease at sea, and who has acquired 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 State.

2. The seaman shall, before transferring his residence, obtain the authorization of the insuring institution. Such authorization shall be given up to the anticipated date of recovery or healing of the injury.

Any seaman who, as a result of an industrial accident sustained or a disease contracted at sea, and in pursuance of the maritime labour legislation of one of the Contracting States, has been landed in or repatriated to the territory of the State other than the State of registry of the vessel on board which he was engaged shall be deemed to have obtained the authorization of the insuring institution, pending a decision by that institution.

3. If, on the expiry of the period thus determined, the state of health of the person concerned so requires, he may obtain an extension of the period up to the date of recovery or effective healing of the injury. The decision shall be taken by the insuring institution in the light of the findings of the medical examination carried out by the institution of the new place of residence of the person concerned.

4. In the case of a disease contracted at sea, the total period of the benefits (initial period and extension) shall not exceed six months.

Article VII

Recurrence

If a French or Senegalese seaman suffers a recurrence of the effects of his accident or of his disease contracted at sea after transferring his residence to the other State, he shall be entitled to insurance benefits in kind and in cash for industrial accidents sustained or diseases contracted at sea, provided that he has obtained the agreement of the Senegalese or French institution with which he was insured at the time of the accident or when the disease contracted at sea was first diagnosed.

Article VIII

Provision of temporary incapacity benefits

1. Benefits in kind (treatment) under articles VI and VII shall be provided by the institution of the new country of residence of the person concerned, in accordance with the provisions of the legislation applied by that institution as regards the extent of such benefits and the manner of providing them.

In the case of an industrial accident sustained at sea, however, such benefits shall be provided for the period specified in the legislation of the insuring country. In the case of a disease contracted at sea, benefits shall be provided for a maximum period of six months.

2. Cash benefits under articles VI and VII shall be provided by the institution with which the person concerned is insured, in accordance with the legislation applied by that institution.

In the case of a disease contracted at sea, however, benefits shall be provided for a maximum of six months.

Article IX

Cost of providing temporary incapacity benefits

1. The cost of the benefits referred to in articles VI and VII shall be borne by the institution with which the person concerned is insured.

2. The administrative agreement shall specify the manner in which benefits in kind are to be reimbursed by the insuring institution to the institution of the new country of residence.

*Article X**Major benefits in kind*

In the cases specified in articles VI and VII, the provisions of prostheses, large appliances and other major benefits in kind, a list of which shall be annexed to the administrative agreement, shall be the subject, except in case of urgency, to prior authorization by the insuring institution.

*Article XI**Successive accidents*

For the purpose of assessing the degree of permanent incapacity resulting from an industrial accident sustained or a disease contracted at sea from the standpoint of the legislation of one of the Contracting States, industrial accidents previously sustained or diseases previously contracted at sea under the legislation of the other Contracting State shall be taken into account as if they had been sustained or contracted under the legislation of the first-mentioned Contracting State.

*Article XII**Pensions for surviving spouses*

In the event of death following an industrial accident at sea, if the deceased, in accordance with his civil status, had more than one wife, the pension payable to a surviving spouse shall be apportioned equally and finally between the wives.

CHAPTER II. FAMILY ALLOWANCES

Article XIII

The provisions of articles XVII to XXII inclusive of the General Convention shall be extended to seamen.

CHAPTER III. OLD-AGE INSURANCE AND DEATH INSURANCE
(SURVIVOR'S PENSIONS)*Article XIV**Waiver of residence clauses*

If the legislation of one of the Contracting States makes the award of old-age benefits and death benefits (survivor's pensions), or the performance in its territory of certain formalities in order to obtain such benefits, subject to conditions of residence in that territory, those conditions shall not apply to Senegalese or French nationals so long as they are resident or present in the territory of either Contracting State.

*Article XV**Right of option*

1. A French or Senegalese employed seaman as defined in article I above who has during his working life been subject, successively or alternately, in the territory of the two Contracting States to the old-age insurance scheme for seamen of each of those States may, when he becomes entitled to benefits, opt to have the legislation of each of the Contracting States applied jointly or separately:

(a) if he opts 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 insurance periods or equivalent periods completed

in the other country, as if he had been subject to the legislation of one country only;

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

2. If death, creating an entitlement to the award of a survivor's pension, occurs before the seaman has begun to receive his entitlements in respect of old-age insurance, his dependants may exercise the option referred to in paragraph 1 of this article.

Article XVI

Aggregation of insurance periods (general rules)

1. Insurance periods completed as a seaman under the legislation of each of the Contracting States and periods recognized as equivalent to insurance periods shall, provided that they do not overlap, be aggregated both for the purpose of determining the right to benefits and for the purpose of the maintenance or recovery of that right.

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

3. If a period recognized as equivalent to an insurance period under the legislation of one State coincides with an insurance period completed in the other State, only the insurance period shall be taken into account by the institution of the last-mentioned State.

4. If a given period is recognized as equivalent to an insurance period under both French and Senegalese legislation, that period shall be taken into account by the institution of the State in which the person concerned was last compulsorily insured before the period in question.

Article XVII

Payment of benefits

1. Taking into account the aggregation of periods as specified in the preceding article, the competent institution of each State shall determine, in accordance with its own legislation, whether the person concerned meets the requirements for entitlement to old-age insurance benefits provided for under that legislation.

2. Where such entitlement exists, the competent institution of each State shall determine *pro forma* the benefit to which the insured would be entitled if all the insurance periods or periods recognized as equivalent had been completed exclusively under its own legislation.

3. The benefits actually payable to the person concerned by the competent institution of each State shall be determined by reducing the amount of the benefit referred to in the preceding paragraph according to the proportion which the duration of the insurance periods or periods recognized as equivalent completed under its own legislation bears to the duration of all the periods completed in the two States.

4. The agencies responsible in each State for providing retirement pensions for seamen may deduct from the amount of the pensions payable to seamen who are nationals of the other State a sum corresponding to the average contribution which they receive for the payment of similar benefits to their own nationals.

The deduction shall not, however, be such that the amount of the benefits is less than the amount which would have been provided if the general scheme for other employed persons had been applied to the persons concerned.

Article XVIII

Minimum duration of insurance periods

1. If the insurance periods completed under the legislation of either State amount to less than 12 months, no benefit shall be payable under the legislation of that State.

2. The aforementioned insurance periods shall, however, be taken into account for the purpose of the acquisition of entitlement to benefits by aggregation under the legislation of the other State, within the terms of the above article, unless this would result in a reduction of the benefit payable under the legislation of that State.

Article XIX

Successive application of legislation

1. If the seaman does not simultaneously meet the requirements imposed by the two bodies of legislation applicable to him but satisfies the requirements of only one of them, payment of the old-age benefit by aggregation of the periods completed in the two States shall be postponed until the requirements imposed by the other body of legislation have also been met.

2. He shall receive only the benefits provided for under the national legislation which confers the entitlement, account being taken only of the periods completed under that legislation.

3. When the requirements imposed by the other body of legislation have been met, the benefits payable to the seaman under the terms of articles XVI and XVII shall be revised if he has opted to have the legislation of each of the Contracting States applied jointly, provided that the earlier payments did not involve a refund of contributions.

Article XX

Survivors' benefits

1. The provisions of this chapter shall apply *mutatis mutandis* to the rights of surviving spouses and children.

2. If the insured, in accordance with his civil status, had more than one wife, the benefit payable to a surviving spouse shall be apportioned equally and finally between the wives.

Article XXI

Periods completed on board vessels of Senegalese registry and taken into account by the Institution de prévoyance et de retraites de l'Afrique occidentale (IPRAO) shall be taken into account for the purposes of this chapter.

PART III

MISCELLANEOUS PROVISIONS

CHAPTER I. MEASURES FOR THE IMPLEMENTATION OF THE AGREEMENT

*Article XXII**Definition of the competent administrative authorities*

1. In each of the two States, the Ministers responsible in their respective fields for the implementation of the social security schemes by which seamen are covered shall be deemed to be the competent administrative authorities for the purposes of this Agreement.

2. However, for the purpose of the arrangements covered by Part II, chapter II, concerning family allowances, the competent administrative authorities shall be those referred to in article XXXIII of the General Convention.

*Article XXIII**Administrative agreement—Information and mutual administrative assistance*

The provisions of articles XXXIV and XXXV of the General Convention shall be extended to this Agreement.

CHAPTER II. PROVISIONS DEROGATING FROM DOMESTIC LEGISLATION

*Article XXIV**Exemption from fees and waiver of legalization—Formalities—Appeals—Recovery of contributions—Third-party liability*

The provisions of articles XXXVI, XXXVII, XXXVIII, XXXIX and XL of the General Convention shall be extended to this Agreement.

*Article XXV**Seaman on assignment*

1. French seamen in the situation referred to in article III, paragraph 2(1), of this Agreement, and members of their families accompanying them to Senegal, shall be entitled to sickness, maternity and industrial accident insurance benefits under the French social security scheme for seamen throughout their stay in Senegal.

2. Benefits, both in cash and in kind, shall be provided directly by the French institution with which the seamen concerned are insured.

CHAPTER III. TRANSFERS

*Article XXVI**Freedom to transfer social security funds—Currency and exchange rates—Centralization of benefits*

The provisions of articles XLII, XLIII and XLIV of the General Convention shall be extended to this Agreement.

CHAPTER IV. SETTLEMENT OF DISPUTES

Article XXVII

The provisions of article XLV of the General Convention shall be extended to this Agreement.

P A R T I V

FINAL PROVISIONS

Article XXVIII

This Agreement shall abrogate and supersede Supplementary Agreement No. 1 concerning social security for seamen between the Government of the French Republic and the Government of the Republic of Senegal signed on 5 March 1965, Supplementary Agreement No. 3 concerning old-age insurance for seamen signed on the same date and the Co-ordination Convention concerning seamen signed on 24 May 1966. Beneficiaries under the aforementioned instruments shall suffer no injury as a result of their abrogation and shall be entitled *de plano* to the benefits provided for under the present Agreement.

This Agreement is concluded for a period of two years, to be renewed by tacit agreement unless the Agreement is denounced by one of the Contracting Parties.

Notice of denunciation shall be given through the diplomatic channel at least six months in advance.

This Agreement shall enter into force on the first day of the second month following the exchange of instruments of approval, which shall take place at Paris as soon as possible.

In case of denunciation, the provisions of this Agreement shall continue to apply to acquired rights, notwithstanding any restrictive provisions in the relevant legislation concerning an insured person who is resident abroad.

DONE at Paris on 29 March 1974, in duplicate in the French language.

For the Government
of the French Republic:

[Signed]

JEAN DE LIPKOWSKI
Secretary of State
to the Minister for Foreign Affairs

For the Government
of the Republic of Senegal:

[Signed]

ASSANE SECK
Minister for Foreign Affairs

EXCHANGE OF LETTERS

I

Paris, 29 March 1974

Sir,

During the negotiations leading to the signing of the agreements to which we have today proceeded, it was agreed between the two Parties that the Government of the Republic of Senegal should subsequently submit to the Government of the French Republic a draft administrative agreement pursuant to article III, paragraph 3, of the Supplementary Agreement concerning the social security scheme for seamen, with respect to Senegalese seamen engaged on board French fishing boats, and that the standard forms in implementation of the general administrative agreement under the General Convention on social security, signed today, and those relating to the administrative agreement pursuant to article III, paragraph 3, of the Supplementary Agreement concerning the social security scheme for seamen, also signed today, should be considered subsequently.

It was further agreed that these two questions should be studied by the competent administrative departments of the two States, representatives of which should meet within a period of two months from the date of signature of the above-mentioned General Convention on social security.

I should be most obliged if you would inform me whether this proposal meets with your approval.

If so, this letter and your reply shall be deemed to constitute a confidential agreement between our two Governments.

Accept, Sir, etc.

[Signed]

ASSANE SECK
Minister for Foreign Affairs
of the Republic of Senegal

His Excellency Jean de Lipkowski
State Secretary to the Minister for Foreign Affairs
of the French Republic

II

Paris, 29 March 1974

Sir,

You have today addressed to me a letter reading as follows:

[See letter I]

I have the honour to inform you that my Government agrees with the foregoing.
Accept, Sir, etc.

[Signed]

JEAN DE LIPKOWSKI
State Secretary to the Minister
for Foreign Affairs of the French Republic

His Excellency Assane Seck
Minister for Foreign Affairs
of the Republic of Senegal
