

No. 17122

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**FEDERAL REPUBLIC OF GERMANY**  
**and**  
**SPAIN**

**Agreement on social security (with final protocol). Signed at Bonn on 4 December 1973**

**Supplementary Arrangement to the above-mentioned Agreement. Signed at Bonn on 4 December 1973**

**Supplementary Agreement to the above-mentioned Agreement of 4 December 1973. Signed at Bonn on 17 December 1975**

*Authentic texts: German and Spanish.*

*Registered by the Federal Republic of Germany on 13 October 1978*

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**RÉPUBLIQUE FÉDÉRALE D'ALLEMAGNE**  
**et**  
**ESPAGNE**

**Convention relative à la sécurité sociale (avec protocole final). Signée à Bonn le 4 décembre 1973**

**Accord complémentaire à la Convention susmentionnée. Signé à Bonn le 4 décembre 1973**

**Convention complémentaire à la Convention susmentionnée du 4 décembre 1973. Signée à Bonn le 17 décembre 1975**

*Textes authentiques : allemand et espagnol.*

*Enregistrés par la République fédérale d'Allemagne le 13 octobre 1978.*

## [TRANSLATION — TRADUCTION]

AGREEMENT<sup>1</sup> BETWEEN THE FEDERAL REPUBLIC OF GERMANY AND THE SPANISH STATE ON SOCIAL SECURITY

The President of the Federal Republic of Germany and the Head of the Spanish State,

Desiring to improve and define more clearly the relations between the two States in the field of social security and to take into account the changes made in domestic social security legislation in both States in recent years, and

Intending to offer greater protection to the workers covered by the Agreement in both States, to broaden the scope of the Agreement and to extend it to new classes of persons,

Have decided to revise the Agreement on social security of 29 October 1959,<sup>2</sup> and to that end have appointed as their plenipotentiaries:

The President of the Federal Republic of Germany:

Mr. Walter Scheel, Minister for Foreign Affairs;

The Head of the Spanish State:

Mr. Laureano López Rodó, Minister for Foreign Affairs,

who, having exchanged their full powers, found in good and due form, have agreed on the following:

## TITLE I. GENERAL PROVISIONS

*Article 1.* For the purposes of this Agreement:

1. "Spain" means the Spanish State, and "Federal Republic" means the Federal Republic of Germany;

2. "Territory" means, in relation to Spain, the territory in which the Basic Laws (*Leyes Fundamentales*) of the Spanish State are in force, and, in relation to the Federal Republic, the territory in which the Basic Law (*Grundgesetz*) of the Federal Republic of Germany is in force;

3. "National" means, in relation to Spain, anyone supplying proof of Spanish nationality in accordance with Spanish legislation and, in relation to the Federal Republic, any German within the meaning of the Basic Law of the Federal Republic of Germany.

4. "Legislation" means the laws, regulations and statutes relating to the social security insurances, schemes and benefits referred to in article 2, paragraph 1, which are in force in the territory, or part of the territory, of either Contracting State;

<sup>1</sup> Came into force on 1 November 1977, i.e., the first day of the second month following the month of the exchange of the instruments of ratification, which took place at Madrid on 29 September 1977, in accordance with article 58 (1) and (2).

<sup>2</sup> United Nations, *Treaty Series*, vol. 1157, No. I-18283.

5. “Competent authority” means, in relation to Spain, the Minister of Labour, and, in relation to the Federal Republic, the Federal Minister of Labour and Social Affairs;

6. “Insurance authority” means the institution or authority responsible for implementing the legislation, or any part thereof, specified in article 2;

7. “Competent insurance authority” means the insurance authority with which the person concerned is insured at the time of the claim to benefits or with which he has title to benefits or would have title if he were resident in the territory of the Contracting State in which he was last employed, or the insurance authority designated by the competent authority.

8. “Insurance authority of the place of residence” means the insurance authority which has competence in the place of residence of the person concerned or, when no such institution is specified in the legislation of the Contracting State in question, the insurance authority designated by the competent authority of that State;

9. “Spanish insurance authority” means any insurance authority domiciled in the territory of the Spanish State, and “German insurance authority” means any insurance authority domiciled in the territory of the Federal Republic;

10. “Family member” means any person defined or accepted as such by the applicable legislation, except as otherwise provided in this Agreement; however, if such legislation regards as family members only those persons who live with the insured person, this condition shall be regarded as fulfilled where such persons are mainly dependent on the insured person;

11. “Survivor” means any person defined or accepted as such by the applicable legislation, except as otherwise provided in this Agreement; however, if such legislation regards as survivors only those persons who have lived with the deceased insured person, this condition shall be regarded as fulfilled where the survivors have been mainly dependent on the insured person;

12. “Employment” means any employment or occupation as defined in the applicable legislation;

13. “Insurance period” means any contribution period and equivalent period as defined in the applicable legislation;

14. “Contribution period” means any period in which contributions in respect of applicable benefits have actually been paid or are treated as having been paid under the legislation of either Contracting State;

15. “Equivalent period” means any substitute period, exemption period, supplementary period or any other period which is recognized as equivalent to a contribution period under German or Spanish legislation;

16. “Benefit” or “pension” means any benefit or pension, including any supplements, allowances and increases and any rebates on contributions;

17. “Family benefits” means, in relation to Spain, the family welfare cash benefits mentioned in article 2, paragraph 1.A (1) (e), and in relation to the Federal Republic, the children’s allowance (*Kindergeld*) referred to in article 2, paragraph 1.B (d).

*Article 2.* 1. This Convention shall apply:

A) In Spain:

- (1) To the general social security scheme legislation concerning:
  - (a) Maternity, ordinary sickness, occupational diseases, temporary loss of working capacity and industrial and other accidents;
  - (b) Temporary or permanent disability;
  - (c) Old age;
  - (d) Death and survivor's benefits;
  - (e) Family welfare;
  - (f) Retraining and rehabilitation of handicapped persons;
  - (g) Welfare and social services;
- (2) To the legislation governing the special schemes applicable to the following, in respect of the categories referred to in sub-paragraph A(1) above:
  - (a) Agricultural workers;
  - (b) Seamen;
  - (c) Coal-miners;
  - (d) Railway workers;
  - (e) Self-employed persons;
  - (f) Domestic workers;
  - (g) Commercial travellers;
  - (h) Artists;
  - (i) Students;
  - (j) Writers;
  - (k) Bullfighters;

B) In the Federal Republic, to the legislation governing:

- (a) Medical insurance,
- (b) Accident insurance,
- (c) The wage earners' pension insurance, the salaried employees' pension insurance, the miners' pension insurance, the steel workers' supplementary insurance,
- (d) Family allowances,
- (e) Farmers' old-age benefits.

2. Except as otherwise provided in paragraphs 3 and 4 of this article, this Agreement shall apply also to any legislation which consolidates, amends or supplements the legislation specified in paragraph 1.

3. This Agreement shall apply also to:

- (a) Any legislation concerning a new branch of social security, if the two Contracting States so agree;

(b) Any legislation which extends the existing laws to new classes of persons, provided that neither of the Contracting States lodges an objection with the other State within three months of the date of receipt of the communication referred to in article 45, paragraph 4 (b).

4. This Agreement shall not apply to social security legislation resulting from international agreements or supranational legislation or to any legislation adopted to implement them.

*Article 3.* Except as provided in articles 7 and 8 below, this Agreement shall apply to:

- (1) Nationals of either Contracting State and their family members and survivors regardless of their nationality, provided that their rights derive from a national of either Contracting State;
- (2) Individuals and their family members and survivors who are legally stateless, under the terms of article 1 of the New York Convention relating to the Status of Stateless Persons of 28 September 1954<sup>1</sup>, or are refugees within the meaning of article 1 of the Geneva Convention relating to the Status of Refugees of 28 July 1951<sup>2</sup> and article 1 of the Protocol of 31 January 1967<sup>3</sup> to that Convention, provided that the legislation of either Contracting State includes such individuals in its social security system.

*Article 4.* 1. Except as otherwise provided in article 54, the nationals of either Contracting State referred to in article 3, subparagraph (1), and their family members and survivors shall have the same rights and obligations as do the nationals of the other State under its legislation.

2. The preceding paragraph shall also apply to the persons referred to in article 3, subparagraph (2), provided that they are ordinarily resident in the territory of one of the Contracting States.

*Article 5.* Where, under the legislation of one Contracting State, the entitlement to benefits or the award and payment of benefits, in whole or in part, is dependent on an individual's residence in his national territory, residence in the territory of the other Contracting State shall be equivalent to residence in the national territory, except as otherwise provided in this Agreement.

*Article 6.* Except as otherwise provided in articles 7 to 9, persons employed in the territory of either Contracting State, as well as their employers, shall be subject to the legislation in force in that State.

*Article 7.* 1. If a person who is ordinarily resident in the territory of a Contracting State and whose employer has his ordinary residence or principal place of business in that State is sent during his period of employment to work in the territory of the other Contracting State, he shall be subject for a period of two years from the date of his arrival in the territory of that other State to the legislation of the first-mentioned State, as if he were still employed in its territory. If the duration of his employment in the territory of the said other State exceeds the aforementioned period of two years, the legislation of the first-mentioned State shall continue to apply, provided that the employer so requests before the end of the two-year period and the competent authority of the said State, or

<sup>1</sup> United Nations, *Treaty Series*, vol. 360, p. 117.

<sup>2</sup> *Ibid.*, vol. 189, p. 137.

<sup>3</sup> *Ibid.*, vol. 606, p. 267.

the insurance authority designated by it acting in agreement with the competent authority of the first-mentioned State or the insurance authority designated by it, consents thereto. Where the duration of the employment in the territory of the said other State exceeds the period allowed by the competent authority of that State or by the insurance authority designated by it, the legislation of that State shall apply after that period has elapsed.

2. Where a self-employed person working in the territory of one Contracting State transfers temporarily to the territory of the other State and there engages in the same work, the provisions of paragraph 1 shall apply *mutatis mutandis*.

3. Persons who are employed, partly in the territory of one Contracting State and partly in the territory of the other, by a road transport enterprise which has its principal place of business in the territory of one Contracting State shall be subject to the legislation of the State in which the enterprise has its principal place of business.

4. The flight personnel of an airline which has its principal place of business in the territory of one of the Contracting States shall be subject to the legislation of that State.

5. This article shall apply regardless of the nationality of the persons in question. However, if the legislation of either Contracting State applicable under the terms of paragraphs 1 to 4 above provides that foreign nationals or stateless persons are excluded from the social security system in force in that State or from one or more of its branches, such legislation shall remain unaffected, provided that the persons in question are not nationals of the other Contracting State.

*Article 8.* 1. The crew of a vessel registered in one Contracting State shall be subject to the legislation of that State. Persons who are employed in a port of one Contracting State on board a vessel registered in the other State to perform or supervise loading, unloading or repair work shall be governed by the legislation of the State in whose territory the port is situated.

2. If a person ordinarily residing in the territory of one Contracting State is temporarily employed on board a vessel registered in the other State and receives remuneration from a person or enterprise domiciled in the territory of the first-mentioned State and not the owner of the vessel, the first-mentioned person shall be subject to the legislation of the first-mentioned State. The person or enterprise paying the remuneration shall be considered an employer within the meaning of that legislation.

3. The provisions of article 7, paragraph 5, shall apply to this article.

*Article 9.* 1. If a national of one Contracting State is employed in the service of that State in the territory of the other Contracting State and has not become a permanent resident there, he shall be subject to the legislation of the first-mentioned State as if he were employed in the territory of that State in the place where its seat of government is situated.

2. If a national of one Contracting State is employed in the service of that State in the territory of the other Contracting State and has become a permanent resident there, he may elect within four weeks after the start of employment to be subject to the legislation of either the former or the latter State; if he elects to be subject to the legislation of the first-mentioned State, he shall be treated

as if he were employed in the territory of that State in the place where its seat of government is situated. The legislation elected as applicable shall take effect retroactively, from the date of the start of employment. So long as no choice is made, article 6 above shall apply.

3. Paragraph 2 shall apply also to any national of one Contracting State who is employed in the territory of the other State in the personal employ of a member of the diplomatic or consular mission of the first-mentioned State.

4. Paragraphs 2 and 3 shall not apply to nationals of either Contracting State who are employed by an honorary consul.

5. Except as otherwise provided in paragraphs 2 and 3 above, any public administration personnel sent by one Contracting State to the territory of the other State shall be subject to the legislation of the first-mentioned State.

*Article 10.* At the request of the persons concerned, the competent authorities may, by agreement, make exceptions to the provisions of articles 6 to 9.

*Article 11.* 1. If the legislation of one Contracting State provides for the cessation, reduction or suspension of a social security benefit where the beneficiary is simultaneously in receipt of other social security benefits or other income or carries on an occupation, or if such legislation does not confer entitlement to social security benefits or to voluntary insurance while the person concerned is carrying on an occupation or has compulsory insurance under a social security scheme or a pension insurance scheme providing disability, old-age and survivor's benefits, the aforesaid legislation shall also apply, except as stipulated in paragraphs 2 and 3 of this article, where the other benefits in question are similar benefits under a social security scheme of the other Contracting State, the income is income received in the territory of that State, the occupation is an occupation carried on in that State and the compulsory insurance is compulsory under the legislation of that State. If, in cases where a benefit under the legislation of one Contracting State is received simultaneously with a benefit under the legislation of the other Contracting State and both benefits are required to be reduced or suspended, each such benefit may not be reduced or suspended by more than one half of the amount by which the benefit would be reduced or suspended in accordance with the legislation of the Contracting State under whose legislation the benefit is payable.

2. Paragraph 1 shall not apply where pensions of the same nature earned in accordance with the provisions of articles 22 to 27 are received simultaneously.

3. If a disability, old-age or survivor's pension established as stipulated in article 22 below is to be reduced or suspended, in accordance with the provisions of paragraph 1, such a reduction or suspension may be calculated only on the basis of that portion of the other benefits, income or remuneration that corresponds to the proportion between the insurance periods prescribed in article 22, paragraph 3 (b).

4. Where a disability or old-age pension to be granted under German legislation is received simultaneously with an accident pension to be awarded under Spanish legislation for an industrial accident or occupational disease, only the assessment base for calculating the German pension shall be taken into account in applying the German legislation.

## TITLE II. MEDICAL INSURANCE

(Insurance against illness, maternity insurance and life insurance—death allowance)

*Article 12.* 1. Where the completion of insurance periods is a prerequisite for entitlement to benefits, the insurance periods completed in the two Contracting States shall be aggregated, as long as they do not overlap.

2. If, under the legislation of one Contracting State, an entitlement to benefits also exists when the insurance contingency occurs within a specified period after separation from either the Spanish social security scheme or the German medical insurance scheme, that legislation shall apply when a person has been separated through involuntary loss of employment or by accepting employment offered to him in the territory of the other State, even when the insurance contingency occurs in the territory of the said other State within 21 days of the termination of insurance benefits, except where the person is entitled to benefits under the legislation of the said other State.

*Article 13.* 1. A person who is insured in the territory of one Contracting State and is ordinarily resident there shall receive benefits during a temporary stay in the territory of the other State if his condition necessitates immediate medical treatment.

2. If a person ordinarily resident in the territory of one Contracting State is entitled to sickness or maternity benefits from an insurance authority of that State and transfers his residence to the territory of the other State after the insurance contingency has occurred, he shall retain that entitlement provided that the insurance authority has given its prior consent to the transfer of residence. Such consent may be given retroactively, provided that the conditions therefor are met and that the insured person was unable to obtain prior consent for reasonable cause. In the case of maternity benefits, consent may be given before the occurrence of the insurance contingency. Consent may be withheld only when the change of residence of the person concerned would endanger his state of health or make the provision of medical treatment difficult.

3. The provisions of paragraphs 1 and 2 shall apply *mutatis mutandis* to the family members of an insured person who are temporarily resident in the territory of the other Contracting State or travel to the territory of that State after an illness or confinement.

*Article 14.* 1. The family members of a person who is insured with an insurance authority of one Contracting State shall, if they are ordinarily resident in the territory of the other Contracting State, receive benefits as provided in article 16. The foregoing shall not apply if the family members receive benefits under their own insurance or under the insurance of a person insured in the territory of the Contracting State in which the family members reside.

2. The persons and family members referred to in paragraph 1 must inform the insurance authority of the place in which the family members are resident regarding any change in their status which might alter their entitlement to benefits, in particular when the coverage of the insured person has lapsed or when that person or one of his family members transfers his residence to the territory of the other Contracting State.



3. If the family members transfer their ordinary residence to the territory of the Contracting State in which the competent insurance authority is domiciled, they shall receive benefits under the legislation applicable by that insurance authority.

4. Paragraphs 1 to 3 shall not apply to family members of persons mentioned in article 15, paragraphs 1 and 2.

*Article 15.* 1. If a person who, under the legislation of one Contracting State, is in receipt of a pension or equivalent benefit, or satisfies the conditions for receiving one and has applied therefor, is ordinarily resident in the territory of the other State, his insurance obligations and rights and his entitlement to benefits for himself and his family members shall be determined in accordance with the legislation of the first-mentioned State, as if he were ordinarily resident in its territory.

2. If a person who, under the legislation of both Contracting States, is in receipt of pensions or equivalent benefits, or satisfies the conditions for receiving them and has applied therefor, is ordinarily resident in the territory of one Contracting State, his insurance obligations and rights and his entitlement to benefits for himself and his family members resident in the territory of that State shall be determined in accordance with the legislation of that State.

3. Any person referred to in paragraph 1 must inform the insurance authority of his place of residence regarding any change in his status which might alter his entitlement to benefits, in particular when a pension is terminated or suspended or when the person or one of his family members transfers his residence to the territory of the other Contracting State.

4. If the family members of a person referred to in paragraph 2 are ordinarily resident in the territory of the other Contracting State, they shall receive benefits from the insurance authority of their place of residence as if the person in question had his ordinary residence in that place.

5. The persons referred to in paragraphs 1 and 2, as well as their family members, shall receive benefits in kind during a temporary stay in the territory of the other State from the insurance authority of the place in which they are temporarily resident, in accordance with the legislation applicable by that insurance authority.

6. Paragraphs 1 to 5 shall not apply when the persons referred to in paragraphs 1 and 2 carry on an occupation by virtue of which, under the legislation of the Contracting State in whose territory they ordinarily reside, they are insured against sickness, maternity and death (death allowance).

*Article 16.* 1. In the cases provided for in articles 7, 8, 9 (paragraphs 1 and 2), 10, 12 (paragraph 2), 13, 14 and 15 (paragraph 1), benefits shall be provided in accordance with paragraphs 2 and 3 of this article for as long as the person in question resides in the territory of the other Contracting State.

2. Benefits in kind shall be awarded in accordance with the following rules:

- (a) The scale of such benefits and the manner of providing them shall be determined in accordance with the legislation applicable to the insurance authority of the place of residence; the duration of the benefits shall, however, be that prescribed by the legislation applicable to the competent insurance authority. The question of which family members ordinarily resident in the

territory of one Contracting State are entitled to benefits shall be established in accordance with the legislation of that State;

- (b) The provision of prostheses or large orthopaedic appliances and other major benefits in kind shall be subject to prior authorization by the competent insurance authority. This rule shall not apply in cases of absolute urgency;
- (c) Persons or institutions which have concluded agreements with the insurance authorities of the place of residence concerning the provision of benefits in kind to persons insured with those insurance authorities and to their family members shall have an obligation to provide benefits in kind in accordance with those agreements.

3. Cash benefits shall be provided by the competent insurance authority in accordance with the legislation applicable to it, and, at its request, they may be paid on its behalf by the insurance authority of the place of residence.

*Article 17.* In the cases provided for in article 16, the competent insurance authority shall have an obligation to reimburse the insurance authority of the place of residence for all amounts paid for benefits in kind or cash benefits on behalf of the competent insurance authority. The amounts due shall be reimbursed in the manner established in the Supplementary Arrangement, either against vouchers showing actual costs or on a lump-sum basis.

*Article 18.* If the legislation of one Contracting State prescribes time-limits for the provision of benefits, the competent insurance authority shall include in its calculations the period for which benefits were provided under the legislation of the other State in respect of the same illness or confinement.

*Article 19.* If in respect of the same insurance contingency, a person is entitled to receive, under the legislation of both Contracting States, benefits in kind or cash benefits other than the death allowance in addition to his remuneration for work, such benefits shall be provided solely in accordance with the legislation of the Contracting State in whose territory he is ordinarily resident.

*Article 20.* 1. If a person insured under the legislation of one Contracting State, or any one of his family members, dies in the territory of the other State, the death shall for the purposes of entitlement to the death allowance be deemed to have occurred in the territory of the first-mentioned State.

2. If a person who is in the territory of one Contracting State claims the death allowance under the legislation of the other State, he shall be deemed to be resident in the territory of the said other State.

3. Death allowances may not be granted simultaneously under the legislation of both Contracting States in respect of the same death, except where the entitlement to such payments is established under the legislation of both Contracting States, irrespective of this Agreement.

4. The following provisions shall govern the entitlement for the death allowance in cases where, in accordance with paragraph 3, duplicate payment is not authorized:

- (a) If the death occurs in the territory of one Contracting State, the benefit shall be paid under the legislation of that State, and entitlement under the legislation of the other State shall be extinguished;

- (b) If the death does not occur in the territory of either Contracting State, the benefit shall be paid under the legislation of the State in whose territory the person in question was last insured before his death, and entitlement under the legislation of the other State shall be extinguished.

*Article 21.* Persons who have separated from the Spanish social security scheme may, if they are ordinarily resident in the territory of the Federal Republic, continue to be insured voluntarily against sickness under German legislation on the same terms as persons who have ceased to carry on an occupation which is subject to compulsory medical insurance under German legislation. The compulsory insurance periods completed under the Spanish social security scheme shall be deemed to be equivalent to those completed under a German sickness fund (*Krankenkasse*).

### TITLE III. PENSION INSURANCE

(Insurance against old age, disability and insurance for survivor's benefits)

#### Chapter 1. OLD AGE

*Article 22.* 1. Where a person has been insured under the legislation of both Contracting States, pensions shall be determined and awarded exclusively in accordance with the rules laid down in this chapter.

2. For the purpose of the acquisition, maintenance or reinstatement of a pension entitlement, the competent insurance authority of each Contracting State shall, to the extent necessary and in the manner stipulated in article 41 below, aggregate the insurance periods which are to be taken into account under its own national legislation and the insurance periods completed in the other State which are to be taken into account under the legislation of that State. Subsequently, the competent insurance authority of each State shall, in accordance with its own national legislation, determine if the person in question satisfies the conditions for entitlement to a pension.

3. Where entitlement to a pension exists, each insurance authority referred to in paragraph 2 shall calculate:

- (a) First the amount of the pension which, subject to articles 25 and 41, would have been due to the person concerned under its own national legislation if all the insurance periods which he completed under the legislation of the other State and which are to be taken into account in calculating the pension under that legislation had also been insurance periods which were to be taken into account in calculating the pension under its own national legislation; the German insurance authority shall not, however, take into account any contributions under the supplementary insurance scheme; and then
- (b) The amount of that part of such pension which bears the same proportion to the whole as the total of all the insurance periods completed by that person under its own national legislation before the occurrence of the insurance contingency bears to the total of all the insurance periods which he completed under the legislation of both States and which were taken into account, in accordance with sub-paragraph (a) above, in calculating the pension. This amount shall be the pension actually due to the person concerned from each insurance authority;

(c) The German insurance authority shall increase the amount of the pension for which it is liable in accordance with sub-paragraph (b) by that part of the benefits payable in respect of any voluntary contributions which, in accordance with article 41 (a), are not to be taken into account. The pension shall likewise be increased by any amount payable in respect of contributions paid under the voluntary supplementary insurance scheme.

4. Where the person concerned has completed insurance periods under the legislation of one Contracting State which amount in all to less than 12 months and has not fulfilled the waiting period under that legislation, the insurance authority of that State shall pay no pension for that period. In such cases, the insurance authority of the other State shall not apply the provisions of paragraph 3 (b) above for the purposes of calculating the amount of the pension it is liable to pay.

5. Where the legislation of one Contracting State makes it a condition for the award of particular benefits that a worker should have been subject to that legislation at the time the insurance contingency occurred, this condition shall be deemed to have been satisfied if the person was subject to the legislation of the other Contracting State at such time or, failing that, if he can justify an entitlement to benefits by virtue of the legislation of the said other State.

*Article 23.* 1. Where a person is entitled to pensions under the legislation of both Contracting States irrespective of the provisions of article 22, paragraph 2, and where the pension in one or both of the Contracting States is greater than the aggregate of the pensions calculated in accordance with article 22, paragraph 3, that person shall be entitled to an increase equal to the difference between that aggregate amount and the amount of the higher of the two pensions.

2. In the cases referred to in paragraph 1, the competent insurance authorities of both Contracting States shall be under an obligation to pay to the insured person the increase, calculated according to the proportion established in article 22, paragraph 3 (b); such payment shall in no case, however, exceed the amount of the pensions which the respective insurance authorities would have been liable to pay, irrespective of the provisions of article 22, paragraph 2, under their own national legislation. Where the total amount of the increase to be paid by the competent insurance authority of a Contracting State and the amount of the pension calculated in accordance with article 22, paragraph 3 (b), is greater than the amount to which the person concerned would have been entitled under the national legislation of that Contracting State, the competent insurance authority of the other State shall be liable for the difference.

3. Where a person is entitled to a pension under the national legislation of one Contracting State irrespective of the provisions of article 22, paragraph 2, and to a pension under the legislation of the other State only in accordance with those provisions, and where the pension under the legislation of the first-mentioned State is greater than the aggregate of the pensions calculated in accordance with article 22, paragraph 3, the competent insurance authority of the first-mentioned State shall increase the pension which it is liable to pay in accordance with article 22, paragraph 3, by the difference between the two amounts.

4. Where a person is entitled to a pension under the legislation of one Contracting State irrespective of the provisions of article 22, paragraph 2, and is not entitled to a pension under the legislation of the other State even taking those

provisions into account, the competent insurance authority of the first-mentioned State shall pay the pension according to its own national legislation, irrespective of the provisions of article 22, paragraph 3, above, and of article 25, paragraph 1 (b).

5. (a) The pension referred to in paragraph 4 shall be replaced by the pensions specified in article 22, paragraph 3, and when the beneficiary satisfies the requirements for the payment of a pension under the legislation of the other Contracting State; where appropriate, paragraphs 1 to 3 of this article shall apply.

(b) For the purposes of payment of an old-age pension under Spanish legislation in the cases provided for in sub-paragraph (a), the competent Spanish insurance authority shall consider that the person in question meets the requirements for membership of an insurance scheme or equivalent status under its legislation if that person was insured under German legislation on the date on which the insurance contingency occurred or if the person is receiving a German pension in accordance with the present title.

*Article 24.* For the purposes of article 22, the following shall apply:

- (1) Where the legislation of one Contracting State makes it a condition for the award of particular benefits that the insurance periods should have been completed in an occupation which is subject to a special insurance or a special scheme, only the periods completed under the corresponding special insurance or scheme of the other State shall be taken into account for the purpose of determining the entitlement to such benefits.
- (2) Where an occupation is subject to a special insurance or scheme in only one Contracting State:
  - (a) The competent insurance authority of that State shall take into account also, for the purpose of determining the benefit under the special insurance or scheme, the insurance periods completed in that occupation under the legislation of the other State, and
  - (b) The competent insurance authority of the other State shall take into account also, for the purpose of determining the benefit, the insurance periods completed under the special insurance or scheme under the legislation of the first-mentioned State.
- (3) Where under the legislation of one Contracting State a pension or part thereof is dependent on insurance periods during which the person concerned was employed in underground or equivalent work, the competent insurance authority shall not take insurance periods completed under the legislation of the other Contracting State into account unless they were periods during which the person was employed in mining work of the same kind.
- (4) Where under the legislation of one Contracting State the entitlement to a benefit or the amount of the benefit is dependent on the length of employment in a specific occupation, the competent insurance authority of that State shall take into account also the periods during which the person concerned was employed in the same occupation in the other State.

*Article 25.* 1. In applying article 22, the competent Spanish insurance authorities shall proceed as follows:

- (a) Where under Spanish legislation the acquisition of entitlement to a pension is dependent on the completion in Spain, before the occurrence of the insurance contingency, of insurance periods of specified duration, insurance periods completed in the Federal Republic shall be deemed to be equivalent to such periods.
- (b) Where all or part of the contribution period elected by the claimant for the purpose of calculating his pension assessment base was completed in the Federal Republic, the competent Spanish insurance authority shall determine that assessment base on the basis of the contribution bases applicable to workers in the same occupational category as the person concerned, which were in force in Spain during the entire contribution period or part thereof.

2. In applying article 22, the competent German insurance authorities shall proceed as follows:

- (a) For the purpose of calculating the pension assessment base applicable to the insured person, only those earnings shall be taken into account which accrued to him during contribution periods completed under German legislation. Any voluntary contributions which in accordance with article 41 (a) are not to be counted, shall also be taken into account for the purpose;
- (b) For the purpose of determining the number of years of insurance that are to be counted, the insurance periods which have been completed in accordance with Spanish legislation and are to be taken into account under that legislation for the purpose of calculating the pension shall be deemed equivalent to insurance periods completed under German legislation.

#### Chapter 2. DISABILITY

*Article 26.* 1. Chapter 1 shall apply *mutatis mutandis* to pensions for loss of earning capacity or capacity to work under German legislation and to disability benefits payable under Spanish legislation.

2. In taking measures to maintain, improve or restore the earning capacity of a person in the territory of one Contracting State, the competent insurance authority of that State shall take into account also the insurance periods completed under the legislation of the other Contracting State. Such measures shall be taken solely in the territory of the Contracting State in which the competent insurance authority is domiciled. The completion of a minimum insurance period of three months in the Contracting State in question shall be a prerequisite.

#### Chapter 3. SURVIVOR'S BENEFITS

*Article 27.* 1. Chapter 1 shall apply *mutatis mutandis* to survivor's pensions and other survivor's benefits, except for the death allowance, payable under German or Spanish legislation.

2. Lump-sum payments payable under German legislation to a surviving spouse in the case of remarriage may not be denied on the grounds that the entitled person is resident in Spain or has remarried in Spain.

#### Chapter 4. COMMON PROVISIONS

*Article 28.* Article 5 shall not affect the German legislation concerning *Fremdrenten* and *Auslandsrenten* under the terms of which only those persons

are entitled to benefits arising out of specified insurance periods who are ordinarily resident in the territory of the Federal Republic.

*Article 29.* 1. Persons who are ordinarily resident in the territory of Spain and who are no longer subject to compulsory insurance under German legislation may continue to be insured voluntarily in Spain under the same conditions as persons who have separated from the Spanish social security scheme. German contribution periods completed in an occupation subject to compulsory insurance shall, as necessary, be counted as Spanish contribution periods.

2. Where following his arrival in Spain a person is not, under Spanish legislation, compulsorily insured under the social security system, a special insurance agreement may be concluded with the workers' mutual benefit fund which would have been competent in respect of his last occupation in the Federal Republic, if he had been employed in that occupation in Spain. The application for voluntary continuation of insurance coverage must be made within three months of the date of cessation of employment in the occupation which under German legislation was subject to compulsory insurance.

The contribution base for the last occupational category to which the person concerned belonged during the three months prior to the signing of the special agreement shall be taken as the contribution base.

*Article 30.* 1. In so far as the right to voluntary insurance is concerned, Spanish nationals who are ordinarily resident in the territory of the Federal Republic shall be treated in the same way as German nationals.

2. Persons who are ordinarily resident in Spanish territory shall have the right to voluntary insurance under German legislation if they have at any time previously been insured compulsorily or voluntarily under the German pension insurance scheme and have not been so insured under the Spanish social security scheme.

3. Spanish nationals who are ordinarily resident in the territory of a third State shall have the right to voluntary insurance under German legislation if they were insured compulsorily or voluntarily under the German pension insurance scheme for a minimum of 60 months and are not so insured under the legislation of either Contracting State.

4. Any German domestic legislation that is more favourable shall remain unaffected.

*Article 31.* In determining the extent to which the insured person's capacity to work has been diminished, the competent insurance authorities of each Contracting State shall take into account the medical reports and administrative data furnished by the insurance authority of the other State. However, each competent insurance authority shall have the right to have the insured person examined by a physician of its choice.

*Article 32.* 1. If under German legislation the entitlement to a pension has been transferred in whole or in part, owing to the payment of cash sickness benefits, to the insurance authority competent for medical insurance, this provision shall apply even in the case of a pension due under Spanish legislation. In such a case, the competent Spanish insurance authority shall withhold the amount that corresponds to the period of time in question and shall remit it to the German insurance authority competent for medical insurance.

2. In cases where the sickness benefit is greater than the pension, the insurance authority competent for medical insurance may not claim the excess amount from either the insured person or the Spanish insurance authority.

*Article 33.* 1. For the purpose of determining whether periods classed as contribution-free periods (*Ausfallzeiten*) or supplementary periods (*Zurechnungszeiten*) under German legislation are to be reckoned as such, the compulsory contributions paid under Spanish legislation shall be considered equivalent to the compulsory contributions paid under German legislation and the date of entry into the Spanish social security scheme shall be considered equivalent to the date of entry into the German pension insurance scheme. In calculating the number of calendar months between the date of insurance affiliation and the occurrence of the insurance contingency, those periods considered equivalent under Spanish legislation and falling between the two dates shall not be taken into account, nor shall any periods during which the person concerned received a pension under Spanish legislation.

2. Paragraph 1 shall not apply to the overall contribution-free period (*pauschale Ausfallzeit*). This period shall be determined exclusively in relation to the German insurance periods.

3. For a supplementary period (*Zurechnungszeit*) in accordance with the German legislation governing the miners' pension insurance to be taken into account, an additional requirement shall be that the last contribution paid in accordance with German legislation must have been paid to the miners' pension insurance.

4. The taking into account of German substitute periods (*Ersatzzeiten*) shall be governed solely by German national legislation.

#### TITLE IV. ACCIDENT INSURANCE

(Insurance against industrial accidents and occupational diseases)

*Article 34.* 1. A person who is entitled to benefits in kind under the legislation of one Contracting States in respect of an industrial accident or occupational disease and who moves to the territory of the other Contracting State shall retain such entitlement. If the legislation of one Contracting State makes the awarding of benefits in kind to a person who resides in the other Contracting State conditional upon the prior consent of the competent insurance authority, such consent may be withheld only on the grounds that a change of residence by the person concerned would endanger his state of health or make the provision of medical treatment difficult. The competent insurance authority may give its consent retroactively, provided that the conditions therefor are met and that the entitled person was unable to obtain prior consent for reasonable cause.

2. A person who is insured under the legislation of one Contracting State and who in the territory of the other Contracting State sustains an industrial accident or contracts an occupational disease or is in need of benefits in kind by reason of a previous industrial accident or occupational disease shall receive the necessary benefits, upon application, under the legislation of the said other Contracting State.

3. The benefits in kind specified in paragraphs 1 and 2 above shall be provided in accordance with their own national legislation, by the insurance



authorities specified in the Supplementary Agreement and the cost of the benefits shall be defrayed by the competent insurance authority. Article 16, paragraph 2 (b) and (c) shall apply *mutatis mutandis*. Measures for vocational assistance under German legislation or for vocational retraining and rehabilitation under Spanish legislation shall be provided by the competent insurance authority, in accordance with its own national legislation.

4. The competent insurance authority shall repay the cost incurred to the insurance authority which provided the benefits.

*Article 35.* Temporary cash benefits awarded in place of remuneration during a loss of working capacity shall, upon the request and at the expense of the competent insurance authority, be provided by the insurance authority of the place of residence, in accordance with the legislation applicable by it, to the person entitled to such benefits and to his family members; the competent insurance authority shall inform the insurance authority providing the benefits of their amount and maximum duration.

*Article 36.* In order to determine the benefits to be awarded and the degree of loss of working capacity due to an industrial accident or occupational disease, to which the legislation of one Contracting State is to be applied, any previous industrial accidents or occupational diseases recognized as such by the legislation of the other State, as well as any previous industrial accidents or occupational diseases covered under the legislation of the first-mentioned State, shall be taken into account. By previous industrial accidents or occupational diseases are meant those industrial accidents or occupational diseases for which compensation has been or is being paid, as well as those involving a loss of working capacity which is below the minimum level stipulated for the payment of compensation.

*Article 37.* 1. Where an insured person has been employed in both Contracting States in an occupation to which, under the legislation of both States, an occupational disease may be attributed, the corresponding benefits shall be payable by the competent insurance authority of the State in whose territory the person concerned was last employed in an occupation to which such occupational disease may be attributed. If the legislation of one State makes the obligation to provide compensation for an occupational disease dependent upon the beneficiary having been employed for a minimum period of time in an occupation to which such occupational disease may be attributed, the competent insurance authority of that State shall, in determining whether that condition is satisfied, take into account also the periods during which the person concerned was employed in a similar occupation in the other State.

2. Where a person who has received or is receiving compensation for an occupational disease under the legislation of one Contracting State claims entitlement to benefits under the legislation of the other State on the ground of worsening of such disease, and where the person concerned has not been employed in the last-mentioned State in an occupation to which such occupational disease or the worsening thereof may be attributed, the competent insurance authority of the first-mentioned State shall be liable for the further benefits due on account of such worsening.

3. Where a person who has received or is receiving compensation for an occupational disease under the legislation of one Contracting State claims

entitlement to benefits under the legislation of the other State on the ground of a worsening of such disease, and where the person concerned has been employed in the last-mentioned State in an occupation to which the worsening of such disease may be attributed, the competent insurance authority of the said other State shall be liable for all the benefits, account being taken of such worsening.

*Article 38.* The competent German accident insurance authorities shall award benefits under industrial accident and occupational disease insurance schemes to persons covered by this Agreement who ordinarily reside in Spain if the industrial accidents and occupational diseases in question occurred:

- (a) Either before or after the establishment of the Federal Republic, in its territory or on ships sailing under the German flag whose ports of call were situated in its territory; the foregoing shall not apply, however, to industrial accidents and occupational diseases which occurred in the territory of the Federal Republic as a result of an occupation in which the person was or is employed outside that territory;
- (b) Outside the territory of the Federal Republic as a result of an occupation in which the person was or is employed in its territory;
- (c) In Alsace and Lorraine before 1 January 1919, provided that, by virtue of the resolution of the Council of the League of Nations dated 21 June 1921 (*Reichsgesetzblatt*, page 1289) the French social security authorities have not assumed responsibility for the insurances in question.

*Article 39.* 1. Compensation under German legislation in respect of ordinary residence abroad shall be paid only upon application by persons entitled thereto.

2. Upon application, temporary compensation under German legislation shall also be paid, for the purposes of acquiring or improving immovable property situated in Spain or of acquiring in Spain rights assimilated to immovable property, to persons ordinarily resident in Spain. If the payment of compensation is dependent on certification, through the form of payment and otherwise, that the sum awarded was used for the requisite purpose, the competent authority may make it a condition for the payment of such compensation that the Spanish insurance authority has taken appropriate steps to provide certification.

#### TITLE V. FAMILY ALLOWANCES

*Article 40.* 1. Notwithstanding the provisions of article 5 above, the following rules shall apply in the award of family allowances:

- (1) Family allowances awarded under the legislation of one Contracting State shall be granted to persons ordinarily resident in the territory of the other State, as long as they are receiving, in accordance with the legislation of the first-mentioned State, benefits under the legislation referred to in article 2, paragraph 1.A (1) (b), (c) and (d) above or pensions under the legislation referred to in article 2, paragraph 1.B(1) (b) and (c).
- (2) Where the legislation of one Contracting State provides for the payment of allowances in respect of family members ordinarily resident in its territory, such allowances shall be awarded in respect of family members residing in the territory of the other State only if they are members of the families of insured persons who:

- (a) Are working as employees in the territory of the first-mentioned State; or
  - (b) Are receiving as employees, during the first three months following the termination of employment, cash benefits under medical insurance for loss of working capacity, and are resident in the territory of the first-mentioned State; or
  - (c) Are receiving in accordance with the legislation of the first-mentioned Contracting State benefits under the legislation referred to in article 2, paragraph 1.A (1) (b), (c) and (d) or pensions under the legislation referred to in article 2, paragraph 1.B (1) (b) and (c).
- (3) For the purposes of sub-paragraphs (1) and (2) above, the following persons shall, in so far as the applicable legislation provides for the payment of family allowances in respect of them be considered as family members:
- (a) Spouses;
  - (b) Legitimate children;
  - (c) Stepchildren living in the household of the stepfather or stepmother;
  - (d) Legitimized children;
  - (e) Adopted children;
  - (f) Illegitimate children.

2. Should an employee (paragraph 1 (2) (a) and (b)) not use the allowances paid to him for the support of family members, the following shall apply:

- (1) The competent insurance authority shall, at the request and through the good offices of the insurance authority of the ordinary place of residence of the children concerned, pay the family allowances to which such children are entitled to the natural or juridical person who is actually responsible for the children, and such payment shall constitute a full discharge of the obligation. If other persons in addition to the spouse of the insured person meet the above requirement, the family allowances shall be paid to the spouse. In all other cases where several persons simultaneously meet the requirement, the family allowances shall be paid to the person who is primarily responsible for such children.
- (2) For the purposes of sub-paragraph (1), the sum obtained by dividing the family allowances paid in respect of the children among all the children concerned shall be deemed to be the family allowance to which each child is entitled.
- (3) The employee shall be deemed to be the recipient of family allowances for the purpose of applying the rules regarding the restitution of family allowances awarded without justification.

3. Paragraph 2 shall apply *mutatis mutandis* where the employee makes a request to the competent insurance authority that the allowances should be paid, through the insurance authority of the children's ordinary place of residence, to the person who is actually responsible for the children.

4. Where under the legislation of one Contracting State the completion of periods of employment or equivalent periods is a condition for the acquisition of entitlement to family allowances, all such periods completed successively in the territories of the two Contracting States shall be taken into account.

## TITLE VI. MISCELLANEOUS PROVISIONS

### Chapter 1. COMMON PROVISIONS

*Article 41.* In the application of article 12, paragraph 1, article 22, paragraphs 2 and 3 (a), article 24 and article 25, paragraph 2 (b), the insurance periods completed under the legislation of the two Contracting States shall, for the purposes of the acquisition, maintenance or recovery of entitlement to benefits and of the calculation of benefits, be aggregated as follows:

- (a) If a compulsory insurance period completed under the legislation of one Contracting State coincides with a period of voluntary insurance under the legislation of the other Contracting State, only the compulsory insurance period shall be taken into account;
- (b) If a contribution period under the legislation of one Contracting State coincides with an equivalent period under the legislation of the other Contracting State, only the contribution period shall be taken into account;
- (c) If an equivalent period under the legislation of one Contracting State coincides with an equivalent period under the legislation of the other Contracting State in whose territory the person concerned was last employed prior to the said equivalent period shall be taken into account. If the person concerned was not employed before the said period in the territory of either Contracting State, only the equivalent period under the legislation of the State in whose territory he was first employed after the said period shall be taken into account.

*Article 42.* Where, under the legislation of one Contracting State, family members must be taken into account for the purpose of calculating cash benefits, the competent insurance authority shall take into account also family members resident in the territory of the other Contracting State.

### Chapter 2. PAYMENTS AND CURRENCY CONVERSION

*Article 43.* Payments by the competent insurance authority of either Contracting State shall be made in its national currency either through the agencies of the other Contracting State which are specified in the Supplementary Arrangement or directly, and shall constitute a full discharge of the obligation.

*Article 44.* For the purposes of articles 11 and 23 and article 53, paragraph 2, the exchange rate—defined as the rate based on the parity value agreed with the International Monetary Fund—on the first day of the month in which a currency conversion is effected shall be taken as the basis for such conversion.

### Chapter 3. ADMINISTRATIVE CO-OPERATION

*Article 45.* 1. The authorities and insurance authorities of the two Contracting States shall assist one another on matters relating to the application of this Agreement as if the matters related to the application of their own legislation. The mutual assistance shall in principle be free of charge. The competent authorities of the Contracting States may, however, agree upon the repayment of specified costs.

2. The diplomatic and career consular authorities of one Contracting State may represent the nationals of their own State before the insurance

authorities, authorities and courts of the other State. Special credentials need not be submitted for the purpose.

3. Medical examinations required under the legislation of one Contracting State in respect of persons who are in the territory of the other State shall be arranged, upon the application of the competent insurance authority, by the insurance authority of the Contracting State in whose territory the persons to be examined are. The cost of such examinations, travel expenses, loss of earnings, the cost of hospitalization for observation and other out-of-pocket expenses shall be repaid by the competent insurance authority.

4. The competent insurance authorities shall exchange information on a continuing basis regarding:

- (a) Measures taken by them for the application of this Agreement;
- (b) Any amendments and additions to their domestic legislation which affect the application of this Agreement.

*Article 46.* 1. Where the legislation of one Contracting State provides that documents or other papers required to be submitted to any authority, court or insurance authority in that State shall be exempt, wholly or in part, from legal dues or charges, such exemption shall apply to documents or other papers which are required under this Agreement to be submitted to any office, court or insurance authority of the other State.

2. Documents required to be submitted under this Agreement to any authority, court or insurance authority of one Contracting State need not be authenticated for use in the territory of the other State, provided that they bear an official stamp or seal.

*Article 47.* 1. In the application of this Agreement, the authorities, courts and insurance authorities of the two Contracting States may communicate in their respective official language with each other and with persons concerned, as well as with their representatives.

2. The authorities, courts and insurance authorities of one Contracting State may not reject claims or other papers submitted to them on the grounds that they are drawn up in the official language of the other State.

3. Judgements, decisions and other documents of an authority, court or insurance authority of one Contracting State may be communicated to a person resident in the territory of the other Contracting State through the liaison offices or direct, by registered letter with advice of delivery.

*Article 48.* Any claim, notice or appeal which should, under the legislation of one Contracting State, be submitted within a prescribed time-limit to an authority, court or insurance authority of that State may be submitted within the same time-limit to a corresponding authority, court or insurance authority of the other Contracting State. In such a case, the authority, court or insurance authority applied to shall transmit the said claim, notice or appeal without delay, direct or through the competent authorities, to the competent authority, court or competent insurance authority of the first-mentioned Contracting State. The date of submission of such a claim, notice or appeal to an office, court or insurance authority of the said other Contracting State shall be considered as the date of submission to the competent office, court or insurance authority.

*Article 49.* Contributions which are owed to an insurance authority of one Contracting State may be collected in the territory of the other State by the same administrative procedure and with the same safeguards and prerogatives as apply to the collection of contributions owed to the corresponding insurance authority of the said other State.

*Article 50.* Where a person who is in receipt of benefits under the legislation of one Contracting State in respect of an injury sustained in the territory of the other Contracting State is entitled in the territory of the said other State to claim damages for such injury from a third party, the competent insurance authority shall be subrogated, in accordance with its own national legislation, to the rights of that person *vis-à-vis* the third party, especially with regard to the conditions and the amount of damages.

#### Chapter 4. APPLICATION OF THE AGREEMENT

*Article 51.* The competent authorities may conclude agreements establishing any measures necessary for the application of this Agreement. They may in particular designate liaison offices.

*Article 52.* 1. Disputes between the Contracting States regarding the interpretation or application of this Agreement shall, as far as possible, be settled by the competent authorities.

2. If a dispute cannot be resolved in this way, it shall, at the request of either of the Contracting States, be submitted to an arbitral tribunal.

3. The arbitral tribunal shall be constituted *ad hoc* as follows: each Contracting State shall appoint one member, and these two members shall agree upon a national of a third State as their chairman to be appointed by the Governments of the two Contracting States. The members shall be appointed within two months, and the chairman within three months, from the date on which either Contracting State has informed the other of its decision to submit the dispute to an arbitral tribunal.

4. If the periods specified in paragraph 3 above have not been observed, either Contracting State may, in the absence of any other arrangement, invite the President of the International Court of Justice to make the necessary appointments. If the President holds the nationality of either Contracting State or if he is otherwise prevented from discharging that function, the Vice-President shall make the appointments. If the Vice-President holds the nationality of either Contracting State or if he, too, is prevented from discharging that function, the Member of the Court next in seniority who does not hold the nationality of either Contracting State shall make the appointments.

5. The arbitral tribunal shall, on the basis of the treaties in force between the two States and of general international law, reach its decision by majority vote. Its decision shall be binding. Each Contracting State shall bear the cost of its own member and of its representatives in the arbitral proceedings; the cost of the chairman and the remaining costs shall be borne in equal parts by both Contracting States. The arbitral tribunal may make a different arrangement concerning the payment of costs. In all other respects, the arbitral tribunal shall determine its own procedure.

*Article 53.* 1. Where an insurance authority of one Contracting State has made any advance payment to a beneficiary, such insurance authority or, at its

request, the competent insurance authority of the other State may deduct the advance payment from arrears or current payments which are due to the said beneficiary.

2. Where a beneficiary receives aid from a public assistance agency of one Contracting State during a period for which he is entitled to receive a cash benefit, the insurance authority liable for such benefit shall, at the request and for the account of the public assistance agency, withhold the benefit up to the amount of the public assistance granted. Where family members of the beneficiary have received assistance, the foregoing shall apply also to any entitlement of the beneficiary in respect of such family members.

*Article 54.* The legislation of both Contracting States regarding the right of the insured and of their employers to vote for or be elected as members or representative bodies of the insurance authorities and associations of such authorities, or of the social security authorities, shall remain unaffected by the provisions of article 4 above.

#### TITLE VII. TRANSITIONAL AND FINAL PROVISIONS

*Article 55.* 1. This Agreement shall not confer any retroactive right to benefits for the period before its entry into force.

2. Any insurance period completed under the legislation of one Contracting State before the date of the entry into force of this Agreement shall be taken into account for the purpose of determining the entitlement to benefits under this Agreement.

3. Without prejudice to paragraph 1, entitlement to benefits shall be recognized even in respect of a contingency which occurred before the date of the entry into force of this Agreement.

4. Any benefit which has not been paid or which has been suspended by reason of the nationality or the place of residence of the person concerned shall, upon his application, be paid or reinstated as from the date of the entry into force of this Agreement, provided that the entitlement previously awarded has not been liquidated by a lump-sum payment.

5. If the application referred to in paragraph 4 is submitted within two years from the date of the entry into force of this Agreement, the entitlement to benefits under this Agreement shall be acquired as from that date, and time-limits and extinctive prescriptions under the legislation of a Contracting State shall not apply to the person concerned.

*Article 56.* This Agreement shall also apply to *Land Berlin* unless the Government of the Federal Republic makes a contrary declaration to the Spanish Government within three months after the entry into force of this Agreement.

*Article 57.* 1. This Agreement is concluded for a period of one year from the date of its entry into force. It shall be tacitly extended from year to year unless one of the Contracting States gives notice of termination in writing not less than three months before the expiry of the current one-year period.

2. In the event of termination of the Agreement, its provisions shall continue to apply in respect of entitlements to benefits acquired until that time; such entitlements shall not be affected by any restrictive national legislation that

may provide for non-allowance of claims or the suspension or withdrawal of benefits on the grounds of residence abroad.

3. This Agreement shall continue to apply, as determined in a supplementary agreement, to entitlements to benefits which are in the course of acquisition up to the date of its termination.

*Article 58.* 1. This Agreement shall be subject to ratification. The instruments of ratification shall be exchanged at Madrid as soon as possible.

2. This Agreement shall enter into force on the first day of the second month following the end of the month in which the instruments of ratification are exchanged. On that date the Agreement on social security of 29 October 1959 between the Federal Republic of Germany and the Spanish State shall cease to have effect.

IN WITNESS WHEREOF the Plenipotentiaries of both Contracting Parties have signed this Agreement and affixed thereto their seals.

DONE at Bonn, on 4 December 1973, in duplicate in the German and Spanish languages, both texts being equally authentic.

For the Federal Republic of Germany:  
SCHEEL

For the Spanish State:  
RODÓ

#### FINAL PROTOCOL TO THE AGREEMENT BETWEEN THE FEDERAL REPUBLIC OF GERMANY AND THE SPANISH STATE ON SOCIAL SECURITY OF 4 DECEMBER 1973

At the time of signing the Agreement on social security concluded this day between the Federal Republic of Germany and the Spanish State, the undersigned have agreed as follows:

*Article 1.* Title III of the Agreement shall not apply to the steelworkers' supplementary insurance in effect in Saarland.

*Article 2.* The competent insurance authorities of each Contracting State shall grant the insured person an advance payment while the procedure for determining pension benefits in accordance with title III of the Agreement is being carried out, provided that the insured person satisfies the requirements for receiving a pension under the legislation of that State or that the documents submitted indicate that he will satisfy the requirements for entitlement to such a pension.

*Article 3.* 1. Spanish nationals who are covered by medical insurance and occupational accident insurance in the Federal Republic shall be entitled to benefits during a temporary stay in a third State.

2. German nationals entitled to sickness, maternity and accident benefits under Spanish social security shall retain that entitlement during a temporary stay in a third State.



3. Paragraphs 1 and 2 shall apply *mutatis mutandis* to family members.

4. The signing of an agreement for the purpose between the two Contracting States and the third State in question shall be a condition for the application of paragraphs 1 to 3.

*Article 4.* Where an authorized benefit may be awarded under Spanish legislation only after the completion of a waiting period, the provisions of article 22, paragraph 2, of the Agreement shall apply *mutatis mutandis*.

*Article 5.* The Agreement shall not apply to German nationals who form part of the diplomatic, consular or administrative staff of German diplomatic or consular missions in Spain or are employed by those missions or that staff.

*Article 6.* Irrespective of the provisions of article 2, paragraph 4, of the Agreement, any agreements between a third State and either Contracting State concerning the assumption of obligations arising out of a social security scheme shall be taken into account in the dealings between the two Contracting States.

This final protocol shall form an integral part of the Agreement between the Federal Republic of Germany and the Spanish State on social security. It shall enter into force on the same day as the Agreement and shall remain in force for the same period as the Agreement.

DONE at Bonn, on 4 December 1973, in duplicate in the German and Spanish languages, both texts being equally authentic.

For the Federal Republic of Germany:

SCHEEL

For the Spanish State:

RODÓ

## [TRANSLATION — TRADUCTION]

SUPPLEMENTARY ARRANGEMENT<sup>1</sup> TO THE AGREEMENT BETWEEN THE FEDERAL REPUBLIC OF GERMANY AND THE SPANISH STATE ON SOCIAL SECURITY OF 4 DECEMBER 1973<sup>2</sup>

Pursuant to the Agreement between the Federal Republic of Germany and the Spanish State on social security of 4 December 1973,<sup>2</sup> the two Contracting States have concluded the following Supplementary Arrangement:

## TITLE I. GENERAL PROVISIONS

*Article 1.* For the purposes of this Supplementary Arrangement:

(a) "Agreement" means the Agreement between the Federal Republic of Germany and the Spanish State on social security of 4 December 1973;

(b) The definitions established in the Agreement shall have the same meaning in this Supplementary Arrangement.

*Article 2.* The competent insurance authorities within the meaning of article 1, paragraph 7, of the Agreement are the following:

## A. In the Federal Republic:

## (1) For medical insurance:

(a) The insurance authority with which the person is insured;

(b) In the case referred to in article 20 of the Agreement, the insurance authority with which the deceased was last insured;

## (2) For the wage earners' pension insurance:

(a) The Seekasse, Hamburg, or the Bundesbahnversicherungsanstalt, Frankfurt am Main, depending on which was the insurance authority with which the person was last insured;

(b) In all other cases, the Landesversicherungsanstalt Rheinprovinz, Düsseldorf;

(3) For the salaried employees' pension insurance, the Bundesversicherungsanstalt für Angestellte, Berlin, and, where contributions have been paid to it, the Seekasse, Hamburg;

(4) For the miners' pension insurance, the Bundesknappschaft, Bochum;

(5) For the steelworkers' supplementary insurance in effect in Saarland: the Landesversicherungsanstalt Saarland, Saarbrücken;

(6) For accident insurance, the insurance authority responsible in each case for accident insurance;

<sup>1</sup> Came into force on 1 November 1977, the date of entry into force of the Agreement of 4 December 1973, after the exchange of the instruments of ratification, which took place at Madrid on 29 September 1977, in accordance with article 16(1) and (2).

<sup>2</sup> See p. 321 of this volume.

(7) For family allowances, the Bundesanstalt für Arbeit—Kindergeldkasse.

B. In Spain:

- (1) The Instituto Nacional de Previsión in the case of the following benefits under the general scheme: health assistance in respect of maternity, ordinary sickness and non-occupational accidents; cash benefits in respect of transitory loss of working capacity and temporary disability and in respect of family allowances. It shall also be competent in the case of social assistance benefits and social services supplementary to the above-mentioned basic benefits;
- (2) The workers' mutual benefit funds (*mutualidades laborales*) in the case of the following benefits under the general scheme: old-age, permanent disability, death and survivors' benefits, regardless of the cause; transitory loss of working capacity and temporary disability resulting from occupational accidents or diseases. They shall also be competent in the case of social assistance benefits and social services supplementary to the above-mentioned basic benefits;
- (3) The Mutualidades Laborales del Carbón in the case of benefits under the special coal-mining scheme;
- (4) The Mutualidades Laborales de Trabajadores Autónomos in the case of benefits under the special scheme for self-employed persons;
- (5) The Mutualidad Nacional de Trabajadores Ferroviarios in the case of benefits under the special railway workers' scheme;
- (6) The Mutualidad del Seguro Escolar in the case of benefits under the special students' scheme;
- (7) The Mutualidad Nacional de Representantes de Comercio in the case of benefits under the special scheme for commercial travellers;
- (8) The Mutualidad Nacional Agraria in the case of benefits under the special agricultural scheme;
- (9) The Instituto Social de la Marina in the case of benefits under the special seamen's scheme;
- (10) The Mutualidad Nacional de Artistas in the case of benefits under the special artists' scheme;
- (11) The Mutualidad Laboral de Escritores de Libros in the case of benefits under the special authors' scheme;
- (12) The Mutualidad Nacional de Empleados del Hogar in the case of benefits under the special domestic service scheme;
- (13) The Montepío de la Asociación Benéfica de Toreros in the case of benefits under the special bullfighters' scheme;
- (14) The Fondo Compensador for the payment of pensions or annuities awarded by the competent insurance authorities in respect of occupational accidents or diseases.

*Article 3.* In accordance with article 51 of the Agreement, the following are designated liaison offices:

## (1) In the Federal Republic:

- (a) For medical insurance, the Bundesverband der Ortskrankenkassen, Bonn-Bad Godesberg;
- (b) For the wage earners' pension insurance, the Landesversicherungsanstalt Rheinprovinz, Düsseldorf;
- (c) For the salaried employees' pension insurance, the Bundesversicherungsanstalt für Angestellte, Berlin;
- (d) For the miners' pension insurance, the Bundesknappschaft, Bochum;
- (e) For the steelworkers' supplementary insurance in effect in Saarland, the Landesversicherungsanstalt Saarland, Saarbrücken;
- (f) For accident insurance, the Hauptverband der gewerblichen Berufsgenossenschaften, Bonn;
- (g) For family allowances, the Hauptstelle der Bundesanstalt für Arbeit —Kindergeldkasse, Nürnberg.

## (2) In Spain:

- (a) The Instituto Nacional de Previsión in the case of:
  - Health and cash benefits in respect of non-permanent loss of working capacity and temporary disability, regardless of the cause;
  - Health assistance to pensioners and recipients of other periodic benefits;
  - Family welfare benefits;
- (b) The Servicio de Mutualidades Laborales in the case of:
  - Old-age pensions;
  - Pensions and other cash benefits in respect of permanent disability and survivors' benefits, resulting from ordinary sickness, occupational disease, or accidents, regardless of the cause;
  - Death benefits, regardless of the cause of death;
  - Social assistance and social services.

The above-mentioned distribution of functions between the liaison offices shall extend to all schemes, both general and special, which make up the Spanish social security system.

*Article 4.* The competent authority of either Contracting State may establish other liaison offices or designate other competent insurance authorities. It shall notify the competent authority of the other Contracting State of such changes without delay.

*Article 5.* The liaison offices shall, within the scope of their competence, facilitate the application of the Agreement and of this Supplementary Arrangement, and shall inform all insured persons of their right and obligations under the Agreement. Subject to the provisions of article 51 of the Agreement, they shall, within the scope of their competence and taking into account where necessary the guidelines of the competent authorities, agree on administrative measures implementing the Agreement.

## TITLE II. SPECIAL PROVISIONS

## Chapter 1. MEDICAL INSURANCE

(Insurance against illness, maternity insurance and life insurance—death allowance)

*Article 6.* 1. In the cases indicated in article 16, paragraph 1, of the Agreement, benefits shall be provided:

- (a) In the Federal Republic, by the general local sickness fund (*Allgemeine Ortskrankenkasse*) which is competent in the beneficiary's place of residence;
- (b) In Spain, by the Instituto Nacional de Previsión.

2. The insurance authority indicated in paragraph 1 above shall be the insurance authority of the place of residence within the meaning of article 16, paragraph 3, of the Agreement.

3. In the cases referred to in article 15, paragraph 1, of the Agreement:

- (a) Where German legislation applies, the competent sickness fund (*Krankenkasse*) shall be the one which would be competent if the person concerned was ordinarily resident in the territory of the Federal Republic; if the person concerned is insured with a general local sickness fund (*Allgemeine Ortskrankenkasse*) or if it is not possible to establish the competence of any sickness fund (*Krankenkasse*), the *Allgemeine Ortskrankenkasse Bad-Godesberg, Bonn-Bad Godesberg*, shall be competent;
- (b) Where Spanish legislation applies, the Instituto Nacional de Previsión shall be competent.

*Article 7.* 1. In order to receive cash benefits during a stay in the territory of the Contracting State other than the one in which the competent insurance authority has its head office, the person concerned shall, within three days of the commencement of such loss of working capacity, submit to the insurance authority of the place of residence a statement from a doctor certifying his loss of such capacity. The insurance authority of the place of residence shall, within three days, verify and confirm the person's loss of working capacity in accordance with the procedure applicable to the persons insured with it, and shall immediately communicate its findings to the competent insurance authority.

2. In order to receive benefits in the cases referred to in article 13, paragraph 2, of the Agreement, the person concerned shall immediately submit to the insurance authority of the place of residence a certificate issued by the competent insurance authority attesting to his retention of entitlement to benefits after the change of residence.

*Article 8.* Cash benefits shall be paid to a beneficiary resident in the territory of the other Contracting State either directly or through the insurance authority of the place of residence upon the instructions and for the account of the competent insurance authority.

*Article 9.* In the cases referred to in article 21 of the Agreement, the general local sickness fund (*Allgemeine Ortskrankenkasse*) which is competent in the ordinary place of residence of the person concerned shall be responsible for continued insurance coverage.

## Chapter 2. PENSION INSURANCE

(Insurance against old-age and disability and insurance for survivor's benefits)

*Article 10.* 1. The competent insurance authority of one Contracting State shall pay directly to beneficiaries who ordinarily reside in the territory of the other Contracting State the benefits to which they are entitled.

2. Notwithstanding the provisions of paragraph 1, the competent authorities may agree upon other payment procedures, in particular payment through the liaison offices.

## Chapter 3. ACCIDENT INSURANCE

(Insurance against industrial accidents and occupational diseases)

*Article 11.* 1. The competent insurance authority of one Contracting State shall pay through the liaison offices to beneficiaries who are ordinarily resident in the territory of the other Contracting State the benefits to which they are entitled.

2. Notwithstanding the provisions of paragraph 1, the competent authorities may agree upon other payment procedures.

3. In the cases referred to in article 34, paragraphs 1 and 2, of the Agreement, benefits in kind shall be provided:

(a) In the Federal Republic: in the case of therapy, through accident insurance; in the case of prostheses and auxiliary appliances, by the Hauptverband der gewerblichen Berufsgenossenschaften; and in all other cases, by the general local sickness fund (*Allgemeine Ortskrankenkasse*) competent in the place of residence of the person concerned;

(b) In Spain: by the Instituto Nacional de Previsión.

## Chapter 4. FAMILY ALLOWANCES

*Article 12.* 1. For the purposes of article 40 of the Agreement, the insurance authority of the family members' ordinary place of residence shall, upon request, issue the necessary certificates. Such certificates shall be valid for one year from the date on which they are issued, unless they are revoked.

2. In order to receive family allowances for the family members indicated in article 40, paragraph 1, sub-paragraph (3), of the Agreement, persons entitled to such allowances must apply, where appropriate, through their employer, to the competent insurance authority.

*Article 13.* 1. Applications for payment of family allowances awarded in accordance with article 40, paragraph 2, of the Agreement shall designate the person to whom benefits are to be paid. For the purposes of the competent insurance authority, the designations shall remain in effect as long as it is not revoked. The insurance authority of the children's place of residence shall revoke that designation when the necessary conditions for the payment of benefits in accordance with article 40, paragraph 2, of the Agreement no longer obtain.

2. In the cases referred to in article 40, paragraph 3, of the Agreement, the provisions of paragraph 1, sub-paragraphs (1) and (2), of that article shall apply *mutatis mutandis*.

3. The liaison offices shall agree on the details of the procedure for effecting transfers.

#### TITLE III. COMMON PROVISIONS

*Article 14.* 1. The competent insurance authorities shall, on request, inform the public assistance agencies of the other Contracting State whether an application for benefits has been submitted to them. The public assistance agency in question shall submit the request for reimbursement of assistance payments to the competent insurance authority or, where that authority is domiciled in the territory of the other Contracting State, to the liaison office which is domiciled in the territory of its own Contracting State. The request shall indicate both the duration of and the amount of regular and one-time assistance benefits paid.

2. If the benefits have not been paid within a month of the receipt of the request from the public assistance agency, the competent insurance authority of the liaison office shall, before paying them, give the public assistance agency a suitable opportunity to notify it of the final amount of the reimbursement requested.

3. The insurance authority liable for the payment shall pay the public assistance agency the amount withheld on its behalf.

*Article 15.* This Supplementary Arrangement shall also apply to *Land Berlin*, unless the Government of the Federal Republic makes a contrary declaration to the Spanish Government within three months after the entry into force of this Supplementary Arrangement.

*Article 16.* 1. This Supplementary Arrangement shall be subject to ratification. The instruments of ratification shall be exchanged at Madrid as soon as possible.

2. This Supplementary Arrangement shall enter into force on the same day as the Agreement, following the exchange of the instruments of ratification. On that date, the Supplementary Arrangement to the Agreement on social security of 29 October 1959 between the Federal Republic of Germany and the Spanish State<sup>1</sup> shall cease to have effect.

3. This Supplementary Arrangement shall have the same duration as the Agreement.

IN WITNESS WHEREOF the Plenipotentiaries of both Contracting Parties have signed this Supplementary Arrangement and affixed thereto their seals.

DONE at Bonn, on 4 December 1973, in duplicate, in the German and Spanish languages, both texts being equally authentic.

For the Federal Republic of Germany:  
SCHEEL

For the Spanish State:  
RODÓ

<sup>1</sup> United Nations, *Treaty Series*, vol. 1157, No. I-18283.

## [TRANSLATION — TRADUCTION]

SUPPLEMENTARY AGREEMENT<sup>1</sup> TO THE AGREEMENT BETWEEN THE FEDERAL REPUBLIC OF GERMANY AND THE SPANISH STATE ON SOCIAL SECURITY OF 4 DECEMBER 1973<sup>2</sup>

The Federal Republic of Germany and the Spanish State,

Desiring to bring the Agreement concluded on 4 December 1973<sup>2</sup> between the Contracting States (hereinafter referred to as “the Agreement”) and the Supplementary Arrangement of the same date<sup>3</sup> into conformity with the Third Agreement of 12 July 1974 which was concluded to amend the Agreement on social security of 29 October 1959,<sup>4</sup> and with the requirements arising out of the latest developments in their internal legislation,

Intending to supplement the German-Spanish Agreement on social security of 4 December 1973,

Have agreed as follows:

*Article 1.* The Agreement shall include the following article 33a:

“*Article 33a.* 1. The percentage by which benefits are adjusted in one of the Contracting States following a rise in the cost of living or a change in the wage level, or for some other reason, shall apply directly to benefits established under title III, without any need for a recomputation of benefits.

2. If the benefits in the cases referred to in paragraph 1 are adjusted by a fixed sum, that sum shall be granted in the proportion established in article 22, paragraph 3, without a recomputation of benefits.

3. Where, however, changes are made in the system or method of calculation used in determining benefits, a recomputation shall be performed.”

*Article 2.* Article 40 of the Agreement shall read as follows:

“*Article 40.* 1. Notwithstanding the provisions of article 5 above, the following rules shall apply in the award of family allowances:

- (1) Family allowances awarded under the legislation of one Contracting State shall be granted to persons ordinarily resident in the territory of the other State as long as they are receiving, in accordance with the legislation of the first-mentioned State, benefits under the legislation referred to in article 2, paragraph 1.A (1) (b), (c) and (d) above or pensions under the legislation referred to in article 2, paragraph 1.B (1) (b) and (c).

<sup>1</sup> Came into force on 1 November 1977, the date of entry into force of the Agreement of 4 December 1973, after the exchange of the instruments of ratification, which took place at Madrid on 29 September 1977, in accordance with article 7 (1) and (2).

<sup>2</sup> See p. 321 of this volume.

<sup>3</sup> See p. 345 of this volume.

<sup>4</sup> United Nations, *Treaty Series*, vol. 1157, No. I-18283.



- (2) Where the legislation of one Contracting State provides for the payment of allowances in respect of family members to persons ordinarily residing in its territory, such allowances shall be awarded in respect of family members residing in the territory of the other State only if they are members of the families of insured persons who:
- (a) Are working as employees in the territory of the first-mentioned State, or
  - (b) Are receiving as employees, after the termination of employment, cash benefits under medical insurance for temporary loss of working capacity, or unemployment insurance benefits (*Arbeitslosengeld*)—in so far as the legislation of the Federal Republic of Germany is concerned—and are residing in the territory of the first-mentioned State, or
  - (c) Are receiving in accordance with the legislation of the first-mentioned Contracting State benefits under the legislation referred to in article 2, paragraph 1.A (1) (b), (c) and (d).
- (3) Where the German insurance authority is the one competent to award family allowances in the cases referred to in paragraph 2, monthly allowances shall amount to:

For the first child .....	10 Deutsche Mark
For the second child .....	25 Deutsche Mark
For the third and fourth children .....	60 Deutsche Mark each
For each subsequent child .....	70 Deutsche Mark

- (4) For the purposes of sub-paragraphs (1) and (2) above, the following persons shall, in so far as the applicable legislation provides for the payment of family allowances in respect of them, be considered as family members:
- (a) Spouses,
  - (b) Legitimate children,
  - (c) Stepchildren living in the household of the stepfather or stepmother,
  - (d) Legitimized children,
  - (e) Adopted children,
  - (f) Illegitimate children.

2. Should an employee (paragraph 1 (2) (a) and (b)) not use the allowances paid to him for the support of family members, the following shall apply:

- (1) The competent insurance authority shall, at the request and through the good offices of the insurance authority of the ordinary place of residence of the children concerned, pay the family allowances to which such children are entitled to the natural or juridical person who is actually responsible for the children, and such payment shall constitute a full discharge of the obligation. If other persons in addition to the spouse of the insured person meet the above requirement, the family allowances shall be paid to the spouse. In all other cases where several

persons simultaneously meet the requirement, the family allowances shall be paid to the person who is primarily responsible for such children.

- (2) For the purposes of sub-paragraph (1), the sum obtained by dividing the allowances paid in respect of the children among all the children concerned shall be deemed to be the family allowance to which each child is entitled.
- (3) The employee shall be deemed to be the recipient of family allowances for the purpose of applying the rules regarding the restitution of family allowances awarded without justification.

3. Paragraph 2 above shall apply *mutatis mutandis* where the employee makes a request to the competent insurance authority that the family allowances should be paid, through the insurance authority of the children's ordinary place of residence, to the person who is actually responsible for the children.

4. Where under the legislation of one Contracting State the completion of periods of employment or equivalent periods is a condition for the acquisition of entitlement to family allowances, all such periods completed successively in the territories of the two Contracting States shall be taken into account”.

*Article 3.* 1. In the Supplementary Arrangement, sub-paragraph 7 of article 2.A shall be revised as follows:

“(7) For family allowances, the Bundesanstalt für Arbeit—Kinder-geldkasse, or any public body, agency or foundation which has been authorized to implement German legislation in its stead.”

2. In article 12, paragraph 2 of the Supplementary Arrangement, “sub-paragraph 3” shall be replaced by “sub-paragraph 4”.

*Article 4.* In the final protocol, the following article 7 shall be inserted:

“*Article 7.* 1. The lump-sum payment under German legislation for the expenses incurred in connection with the delivery of a child shall be deemed to be a benefit in kind within the meaning of article 16 of the Agreement. The same shall apply to benefits in kind under article 16 of the German-Spanish Agreement on social security of 29 October 1959. Cases in which a different procedure was followed in the past shall not be affected.

2. For the purposes of the award and payment of a birth allowance (*premio de natalidad*) under Spanish legislation, the following shall apply:

- (a) Where article 16 of the Agreement applies, one third of such benefits shall be awarded under Spanish legislation to insured persons or their family members who are entitled to maternity benefits under German legislation, if they ordinarily reside in Spain.
- (b) This one-third payment shall serve as the basis for the reimbursement of costs by a German sickness fund (*Krankenkasse*).

3. The entitlement of persons referred to in paragraph 2 to maternity allowances under German legislation shall remain unchanged.”

*Article 5.* In the final protocol, the following articles 8 and 9 shall be inserted.

“*Article 8.* In the event of the entry into force between the Federal Republic of Germany and another State with whose Government it has an arrangement concerning the recruitment of workers of an agreement which provides for family allowances under German legislation in respect of foreign employees’ children residing in their country of origin which are higher than those prescribed in the present Agreement, such higher allowances shall apply also under the present Agreement.

*Article 9.* When the conditions which led to the amendment of article 40 of the Agreement have in the view of either Contracting State changed considerably, that State shall have the right to call for new negotiations”.

*Article 6.* This Agreement shall also apply to *Land Berlin*, unless the Government of the Federal Republic of Germany makes a contrary declaration to the Government of the Spanish State within three months after the entry into force of this Agreement.

*Article 7.* 1. This Agreement shall be subject to ratification. The instruments of ratification shall be exchanged at Madrid as soon as possible.

2. This Agreement shall enter into force on the same day as the Agreement, following the exchange of the instruments of ratification, and shall have the same duration as the Agreement.

IN WITNESS WHEREOF the Plenipotentiaries have signed this Agreement and affixed thereto their seals.

DONE at Bonn, on 17 December 1975, in duplicate in the German and Spanish languages, both texts being equally authentic.

For the Federal Republic of Germany:

GEHLHOFF

For the Spanish State:

GARRIGUES

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