

No. 18226

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**SPAIN**  
**and**  
**PORTUGAL**

**General Convention on social security. Signed at Madrid on 11 June 1969**

**Administrative Agreement concerning the modalities of implementation of the above-mentioned General Convention. Signed at Madrid on 22 May 1970** ✓

**Additional Agreement to the above-mentioned General Convention of 11 June 1969. Signed at Madrid on 22 May 1970**

**Administrative Agreement concerning the social security scheme applicable to frontier workers. Signed at Madrid on 15 July 1971**

**Supplementary Agreement to the above-mentioned General Convention of 11 June 1969. Signed at Madrid on 7 May 1973**

*Authentic texts: Spanish and Portuguese.*

*Registered by Spain on 10 January 1980.*

[TRANSLATION — TRADUCTION]

GENERAL CONVENTION<sup>1</sup> ON SOCIAL SECURITY BETWEEN THE  
GOVERNMENT OF SPAIN AND THE GOVERNMENT OF POR-  
TUGAL

His Excellency the Head of the Spanish State and His Excellency the President of the Portuguese Republic,

Considering the historic bonds of friendship between the two nations and the development of social security in them and prompted by the common desire that Portuguese workers in Spain and Spanish workers in Portugal should enjoy maximum social security benefits,

Have decided to conclude a Convention on such matters and for that purpose have appointed as plenipotentiaries:

His Excellency the Head of the Spanish State: Mr. Fernando María Castiella y Maíz, Minister for Foreign Affairs,

His Excellency the President of the Portuguese Republic: Dr. Manuel F. Rocheta, Ambassador Extraordinary and Plenipotentiary of Portugal in Spain,

who, having exchanged their full powers, found in good and due form, have agreed as follows:

TITLE I. GENERAL PROVISIONS

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

(a) "Territory" means:

- In relation to Spain, the territory of Spanish sovereignty;
- In relation to Portugal, the territory of Portuguese sovereignty;

(b) "National" means:

- In relation to Spain, a person who proves that he has Spanish nationality in accordance with its legislation;
- In relation to Portugal, a person who proves that he has Portuguese nationality in accordance with its legislation;

(c) "Legislation" means the laws, ordinances and other regulations which are in force in the territory of one of the Contracting Parties in respect of the matters specified in article 2;

(d) "Competent authority" means:

- In relation to Spain, the Minister of Labour;
- In relation to Portugal, the Minister of Corporations and Social Security;

(e) "Institution" means the institution to which belongs the total or partial application of the bodies of legislation specified in article 2;

(f) "Competent institution" means the institution with which the person concerned is insured at the time of the claim to benefits, the institution with which he is

<sup>1</sup> Came into force on 1 July 1970, i.e., the first day of the second month following the exchange of the instruments of ratification, which took place at Lisbon on 22 May 1970, in accordance with article 36 (2).

entitled to benefits or would be so entitled if he were resident in the territory of the Contracting Party in which he was last employed, or that specified by the competent authority;

(g) “Liaison institutions” means the institutions designated by the competent authorities to initiate and to forward, to the competent institutions, the documents for claiming benefits;

(h) “Institution of the place of residence or abode” means the institution which is competent in the place where the person concerned is or, if the legislation of the Contracting Party concerned does not specify such an institution, that designated by the competent authority of that Party;

(i) “Family members” means persons considered as such by the applicable legislation;

“Survivor” means an individual defined or accepted as such by the applicable legislation;

(j) “Contribution period” means any period in respect of which the contributions relating to the relevant benefits have actually been paid, should have been paid, or are treated as having been paid under the legislation of one of the Contracting Parties;

(k) “Assimilated period” means any period exempt from contributions which is considered equivalent to a contribution period under Spanish or Portuguese legal provisions;

(l) “Insurance periods” means periods of contribution or employment and assimilated periods;

(m) “Benefits, pensions and annuities” means all benefits, pensions and annuities, including all increases and supplements and such benefits as may be granted in the form of lump-sum payments or indemnities in lieu thereof.

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

A. In Spain:

(a) To the general social security scheme legislation concerning:

- i) Temporary loss of working capacity resulting from ordinary or occupational disease, maternity and industrial and other accidents;
- ii) Temporary and permanent invalidity;
- iii) Old age;
- iv) Death and survivors’ insurance;
- v) Family welfare;
- vi) Unemployment;
- vii) Retraining and rehabilitation of invalids;
- viii) Social assistance benefits of a benevolent character;

(b) To the legislation governing the following special schemes:

- i) Agricultural scheme;
- ii) Seamen;
- iii) Self-employed persons;
- iv) Domestic servants.

**B. In Portugal:**

To the legislation concerning:

- i) The general scheme of sickness, maternity, invalidity, old-age and death and survivors' insurance;
- ii) Industrial accidents and occupational diseases;
- iii) Special social-security schemes for certain categories, in so far as they relate to the risks or benefits specified in the foregoing sub-paragraphs;
- iv) Family allowances;
- v) Technological unemployment.

2. It shall also apply:

- (a) To all laws or regulations which amend, supplement or codify the legislation specified in paragraph 1 of this article;
- (b) To legislation establishing a new branch of social security, not provided for in the Convention, subject to the condition that an agreement shall be reached for this purpose between the Contracting Parties; and
- (c) To legislation extending the existing schemes to new categories of beneficiaries, if there is no opposition thereto by the Party concerned, notified to the other Party within a period of three months from the official publication of such provisions.

*Article 3.* 1. The provisions of this Convention shall apply to employed persons or persons treated as such who are or have been subject to the legislation of one of the Contracting Parties and are nationals of the other Party and to their family members and survivors.

For the interpretation of the term "employed" for the purposes of this Convention, no distinction shall be made between salaried workers and manual workers.

2. Nationals of one of the Contracting Parties to whom this Convention applies shall be subject to the requirements and entitled to the advantages of the legislation specified in article 2 on the same conditions as nationals of the other Party, except as otherwise provided in this Convention.

3. Spanish or Portuguese nationals who are resident in one of the two countries may take out optional insurance under the legislation specified in article 2 on the same conditions as nationals of the country in which they are resident, account being taken, if necessary, of insurance periods completed in Spain and Portugal.

*Article 4.* 1. Spanish and Portuguese nationals who are entitled to benefits under the legislation mentioned in article 2 shall receive them in full and without any restriction throughout the entire time during which they are resident in the territory of one of the Contracting Parties.

2. Social-security benefits granted by one of the two Contracting Parties to nationals of the other Contracting Party who are resident in a third country shall be granted to them on the same conditions and in the same amount as they are granted to its own nationals resident in that country.

*Article 5.* 1. Nationals of one of the Contracting Parties who carry on an occupation in either of them shall be subject to the legislation of the Party in whose territory they carry on such occupation.

2. The principle established in paragraph 1 of this article shall have the following exceptions:

(a) Workers who belong to an enterprise having its principal place of business in the territory of one of the Contracting Parties and are sent to the territory of the other Party for a limited period shall continue to be subject to the legislation of the Party in whose territory the enterprise has its principal place of business, provided that their stay in the territory of the other Contracting Party does not exceed a period of twelve months. The same rule shall apply to works who belong to an enterprise having its principal place of business in the territory of one of the Contracting Parties and who repeatedly move to the territory of the other Party, owing to the special nature of the work which they must perform, provided that each stay does not exceed twelve months.

If for any unforeseeable reason the duration of such relocation is extended beyond the said time-limit, the application of the legislation of the Contracting Party in whose territory the usual work is performed may exceptionally be maintained, by authorization of the competent authority of the country in which the occasional work is performed.

- (b) Workers of transport enterprises or communication lines having their principal place of business in the territory of one of the Contracting Parties who are employed in the territory of the other Party as transient or itinerant personnel shall be subject to the legislation of the Party in whose territory the enterprise has its principal place of business; however, where the enterprise has a permanent agency or branch office in the territory of the other Party, workers employed in them on a permanent basis shall be subject to the legislation of the Party in whose territory such branch office or agency is situated.
- (c) Members of the crew of a vessel or aircraft of one of the Contracting Parties shall be subject to the provisions in force in the country to which the vessel or aircraft belongs.

*Article 6.* 1. The provisions referred to in article 5, paragraph 1, shall apply to permanent or temporary workers and administrative staff who are employed in the diplomatic or consular missions of both Contracting Parties or are in the personal employ of the heads, members or employees of such missions.

2. Workers specified in paragraph 1 who are nationals of the country represented by the diplomatic or consular mission and who are not permanently established in the country of employment may choose between the application of the legislation of the Contracting Party of which they are nationals and that of the legislation of the other Party.

3. Chancellery officials and career diplomatic and consular agents shall be outside the purview of the foregoing paragraphs 1 and 2.

4. Paragraphs 1 and 3 shall not apply to employees of honorary members of consular posts.

5. Persons employed in the service of the Government of one of the Contracting Parties who are subject to the legislation of that country and are sent to the other country shall continue to be subject to the legislation of the sending country.

*Article 7.* The competent authorities may, by agreement, establish exceptions to the rules set forth in articles 5 and 6 or agree that the exceptions specified in the said articles shall not apply in certain cases.

## TITLE II. SPECIAL PROVISIONS

*Chapter 1. SICKNESS, MATERNITY AND MEDICAL ASSISTANCE*

*Article 8.* 1. Workers who move from Spain to Portugal or vice versa shall, together with their family members, be entitled to sickness and maternity benefits in the country of the new place of work, provided that:

- (a) In the country to which they have moved they have done work which is subject to insurance;
- (b) In the said country they fulfil the requisites for obtaining benefits, insurance periods completed in the other country being cumulatively taken into account if necessary.

2. If, in the cases specified in paragraph 1 of this article, workers do not fulfil the conditions laid down in sub-paragraphs (a) and (b) of that paragraph but are still entitled to benefits under the legislation of the Contracting Party in whose territory they were last insured before transferring their residence, the right to such benefits shall be maintained during the period established by that legislation. The competent institution may request the institution of the place of residence to provide health benefits in the manner specified by the legislation applied by the latter institution.

*Article 9.* 1. Health benefits by reason of sickness and maternity, including hospitalization, shall be granted by the institution of the place of residence for the account of the competent institution in the following cases:

- (a) If workers referred to in article 5, paragraph 2, sub-paragraph (a), temporarily move from the territory of one Contracting Party to that of the other during the period of their stay in the second country;
- (b) To members of the families of workers ordinarily residing in one of the two countries, while the worker is carrying on his activity in the other country;
- (c) To workers qualifying for benefits in kind who transfer their residence from the country in which they perform their work to the other country, provided that, before such transfer, they have obtained authorization from the competent institution, which may be denied only if some objection thereto on grounds of health has been formulated;
- (d) To workers who need immediate medical assistance during their temporary stay, by reason of paid vacations, in the country of origin.

2. In the cases specified in this article, benefits in kind shall be provided by the institution of the place of residence in accordance with the provisions of the legislation applied by that institution, particularly as regards the scale of such benefits and the manner of providing them. The duration of such benefits shall, however, be that prescribed by the applicable legislation of the competent institution.

3. The provision of prostheses, orthopedic appliances and other major benefits in kind shall be subject, except in cases of absolute urgency, to prior authorization by the competent institution. The concept of absolute urgency shall be defined in an administrative agreement.

The grant of benefits to family members in the cases referred to in paragraph 1, sub-paragraph (b), of this article shall be outside the purview of this paragraph.

*Article 10.* 1. The cost of health benefits provided under article 9 of this Convention shall be reimbursed by the competent institution to the institution of the country of residence which provided such benefits.

2. The reimbursement referred to in the previous paragraph may be made on the basis of fixed sums, in accordance with rules to be laid down for that purpose by the competent authorities.

### *Chapter 2. INVALIDITY*

*Article 11.* Pensions relating to situations of invalidity which are not derived from an industrial accident or occupational disease and to which entitlement is recognized through aggregation of the insurance periods specified in paragraph 1, sub-paragraph (b), of article 15 shall be paid by each of the competent institutions in the manner provided in the said article.

*Article 12.* 1. Where, after an invalidity pension has been suspended, the beneficiary regains his right to it, the payment of the pension shall be resumed by the institution or institutions liable for the original pension. Where, following the discontinuance of an invalidity pension, the state of the insured person's health justifies the grant of a new pension, the latter shall be paid in accordance with what is laid down in the foregoing article.

2. Where the competent institution of a Contracting Party has decided to discontinue an invalidity pension, whatever the cause may be, it shall notify the competent institution of the other Party of such decision.

*Article 13.* Where an invalidity pension is converted into an old-age pension under the conditions of the legislation by virtue of which it was granted, the provisions of chapter 3 of this title shall apply.

### *Chapter 3. OLD AGE, DEATH AND SURVIVAL*

*Article 14.* 1. For the purposes of the acquisition, maintenance, enhancement or recovery of the right to benefits, where a worker has been subject successively or alternately to the legislation of both Contracting Parties, the insurance periods and assimilated periods completed under the legislation of each of the Parties shall be aggregated, provided that they do not overlap.

2. Where the legislation of one Contracting Party makes it a condition for the award of particular benefits that the insurance periods should be completed in an occupation which is subject to a special scheme, only the periods completed under the corresponding schemes of the other Party and the periods completed in the same occupation under other schemes of the latter Party shall be aggregated, provided that they do not overlap, for the purpose of entitlement to such benefits.

3. If the insurance periods and assimilated periods under the legislation of one of the Contracting Parties amount in all to less than six months, no benefits shall be payable under that legislation; in such case, the said periods shall be taken into account for the purposes of the acquisition, maintenance, enhancement and recovery of the right to benefits from the other Party, but not for the purpose of determining the proportionate amount due under article 15 of this Convention. This rule shall not, however, apply if the right to benefits is acquired under the legislation of the first-mentioned Party solely on the basis of periods completed under that legislation.

*Article 15.* 1. The benefits which a person or his survivors may claim, in accordance with the preceding article, in virtue of the legislation of the Contracting

Parties under which the insured person has completed insurance periods or assimilated periods shall be determined in the following manner:

- (a) The competent institution of each of the Contracting Parties shall determine in accordance with its own legislation, taking into account the aggregation periods referred to in the preceding article, whether the person concerned satisfies the conditions for entitlement to the benefits provided for by that legislation;
- (b) Where the right to benefit is established in accordance with the preceding subparagraph, the said institution shall calculate the amount of the benefit to which the person concerned would be entitled if all the insurance periods or assimilated periods, aggregated in the manner specified in the preceding article, had been completed exclusively under its own legislation; on the basis of that amount, the institution shall determine the amount of the benefit due according to the proportion which the duration of the periods completed under that legislation bears to the total duration of the periods completed and contributions paid under the legislation of both Contracting Parties before the contingency materialized; the latter amount shall represent the benefit payable to the person concerned by the first-mentioned institution;
- (c) Where at a given time, account being taken of the aggregation of periods specified in the preceding article, the person concerned does not satisfy the conditions imposed by the applicable bodies of legislation but rather satisfies the conditions of only one of those bodies of legislation, the amount of the benefit shall be determined in accordance with the provisions of subparagraph (b) of this paragraph;
- (d) Where, at a given time, the person concerned does not satisfy the conditions imposed by the applicable bodies of legislation, but satisfies the conditions of one of those bodies of legislation without there being any need to compute the periods completed under the other, the amount of the benefit shall be determined solely in accordance with the legislation which confers the entitlement, account being taken only of the periods completed under the last-mentioned legislation;
- (e) In the cases specified in subparagraphs (c) and (d) of this paragraph, the benefits already determined shall be revised in accordance with the provisions of subparagraph (b) as and when the conditions imposed by the other body of legislation are satisfied, account being taken of the aggregation of periods referred to in the preceding article.

2. Where the amount of the benefit to which, but for the application of the provisions of article 14, the person concerned might be entitled solely on the basis of the insurance periods or assimilated periods completed under the legislation of one Contracting Party is greater than the total benefits accruing from the application of the preceding paragraph of this article, he shall be entitled to an additional amount equal to the difference, from the competent institution of that Party.

*Article 16.* 1. Periods of employment completed in one Contracting Party but not covered by the social-security schemes of that Party shall be taken into account by the other Party for the purpose of entitlement to benefits if such employment would have been covered under its legislation.

2. Insurance periods completed in the territory of a third State shall also be taken into account if they are taken into consideration under a scheme of one Contracting Party.

*Article 17.* 1. Where insurance periods or assimilated periods credited in the two countries must be computed, the application of Spanish legislation for the recognition of entitlement to old-age and invalidity pensions not arising from an industrial accident or occupational disease shall be subject to the following special provisions:

- (a) Spanish and Portuguese nationals who, when claiming a benefit, are contributing to any of the schemes specified in article 2, paragraph 1, sub-paragraph B, of this Convention for the coverage of old-age and invalidity contingencies or are in an equivalent situation in accordance with the applicable legislation shall be deemed by Spanish social security to be in a situation equivalent to that of “*alta*”;
- (b) Out of the minimum period of contribution required for entitlement to a pension, a period of at least seven hundred days comprised in the seven years immediately preceding the event giving rise to the benefit must involve contributions made to Spanish or Portuguese social security;
- (c) For the purposes of determination of the regulatory base of the pension, the average of the contributions paid in Spain in the months taken into account within the period elected or, in the absence thereof, the period of 24 consecutive months preceding the last departure from Spain, shall be applied to insurance periods in Portugal;
- (d) In order to benefit from the provisions pertaining to the minimum amount of the old-age pension, the person concerned must have completed ten full years of contribution to Spanish social security.

2. For the determination of the wage or salary constituting the base of the old-age or invalidity pension in accordance with Portuguese legislation, the mean of the wages or salaries on which contributions have been paid in Portugal shall be applicable to insurance periods completed in Spain.

*Article 18.* Workers who move from Spain to Portugal or from Portugal to Spain shall become entitled or give rise to entitlement, depending upon the case, to death benefits, provided that:

- (a) They have been engaged in an occupation subject to insurance in the country to which they have moved; and
- (b) They satisfy, in that country, the conditions imposed for entitlement to benefits, insurance periods or assimilated periods completed in the other country being taken into account cumulatively in so far as necessary.

#### *Chapter 4.* INDUSTRIAL ACCIDENTS AND OCCUPATIONAL DISEASES

*Article 19.* 1. In the recognition of the right to benefits by reason of industrial accidents and the determination of the nature and amount of such benefits, the legislation of the country in which the accident occurred shall apply.

2. The provisions of article 9 shall apply, *mutatis mutandis*, to benefits owing to industrial accidents and occupational diseases.

*Article 20.* 1. Spanish and Portuguese nationals and nationals of a third country coming under the legislation of one of the Contracting Parties who have suffered an industrial accident or contracted an occupational disease in the territory of the other Party may request that the necessary health assistance should be provided to them in the territory of the last-mentioned Party by the institution designated.

2. Spanish and Portuguese nationals in receipt of benefits in kind owing to an industrial accident or occupational disease under the legislation of one of the Contracting Parties shall continue to receive such benefits if, during their treatment, they transfer their residence to the territory of the other Party with the prior consent of the competent institution.

3. Benefits in kind in the cases referred to in paragraphs 1 and 2 of this article shall be granted in accordance with the applicable legislation by the institution of the place of residence.

4. The provision of prostheses, orthopedic appliances and other major benefits in kind shall be subject, except in cases of absolute urgency, to prior authorization by the competent institution.

5. The competent institution shall reimburse to the institution of the place of residence the amount of the benefits granted by the latter institution in accordance with the provisions of this article.

*Article 21.* Work which a national of one Contracting Party has performed in the territory of both Parties and which, owing to its nature, is capable of having caused an occupational disease, shall be taken into consideration by the two Contracting Parties in determining entitlement to benefits. To this end, the following provisions shall apply:

- (a) The competent institution of each of the Contracting Parties shall determine in accordance with its own legislation whether the conditions for the provision of benefits are satisfied;
- (b) If the beneficiary is entitled to benefits in accordance with the legislation of both Contracting Parties, such benefits shall be granted to him solely under the legislation of the Party in whose territory he is resident, with the exception of any annuities to which he may be entitled;
- (c) Where the right to an annuity accrues under the legislation of the two Contracting Parties, each competent institution shall provide the portion for which it is liable, account being taken of the duration of the work performed in its territory and the total duration of the work to be taken into consideration, in accordance with the provisions of the first paragraph of this article;
- (d) The provisions of sub-paragraph (c) shall also apply to the revision of annuities in the event of aggravation of the disease.

#### *Chapter 5.* UNEMPLOYMENT

*Article 22.* Where an unemployed person who satisfies the conditions laid down by the legislation of one Contracting Party for entitlement to benefits transfers his residence or returns to the territory of the other Contracting Party, he shall retain the right to the unemployment benefits provided for by the legislation of the first-mentioned Party, subject to prior authorization by the competent institution to effect such transfer. The manner in which such benefits are to be paid shall be established in an administrative agreement.

#### *Chapter 6.* FAMILY ALLOWANCES

*Article 23.* A worker who satisfies the conditions imposed by the legislation of one of the Contracting Parties for entitlement to family allowances shall also receive them in the event that the members of his family are resident or abiding in the other

country. The competent authorities may agree on the manner in which such benefits are to be provided.

*Article 24.* An unemployed person receiving unemployment benefits under the legislation of one Contracting Party shall be entitled, for members of his family resident in the territory of the other Party, to the family allowances provided for by the legislation of the country liable for the payment of the unemployment benefits.

*Article 25.* 1. A person in receipt of a pension or annuity payable under the legislation of a Contracting Party shall be entitled to the family allowances provided for in the legislation of that Party, even if the members of his family are resident in the other country.

2. The cost of family allowances payable to persons in receipt of pensions due under the legislation of both Contracting Parties shall be borne by the competent institution under whose legislation the longer insurance period has been completed.

*Article 26.* 1. If entitlement to family allowances arises for a person under the legislation of both Contracting Parties, only the allowances due under the legislation of the place of work of the father shall be granted to that person.

2. If, during a given period, eligibility for benefits arises under the legislation of both Contracting Parties for the same family member, only those payable in accordance with the legislation of the country in which that family member is resident shall be granted.

### TITLE III. MISCELLANEOUS PROVISIONS

*Article 27.* The competent authorities:

- a) Shall conclude such administrative agreements as may be necessary for the application of this Convention and for the regulation of the rights of frontier workers;
- b) Shall communicate to each other all information regarding measures adopted for the application of the Convention and regarding any changes in applicable legislation that might alter its application;
- c) May, by agreement, designate liaison institutions.

*Article 28.* 1. The administrative authorities of the Contracting Parties and the institutions in charge of social security shall assist each other in implementing this Convention as if the implementation of their own legislation were in question. Such collaboration shall be gratuitous.

Wherever necessary they may also resort, for the same purpose, to the intervention of the diplomatic and consular missions of the other country.

2. The competent administrative authorities shall lay down procedures for the administrative inspection and medical examinations which are required, at the expense of the institutions of one Contracting Party, for a beneficiary who is in the territory of the other Party and which shall be carried out by the institution of the place of residence at the request and for the account of the competent institution.

*Article 29.* 1. Any exemption from or reduction of duties, charges or fees provided for in the legislation of one Contracting Party shall also apply to nationals of the other Party for the purposes of this Convention.

2. Any exemption from registration fees, court costs, stamp duties and consular fees provided for in the legislation of one of the Contracting Parties in respect of documents to be submitted to the authorities or institutions of that Party shall be extended to similar documents required to be submitted for the purposes of this Convention to the competent authorities or institutions of the other Party.

*Article 30.* Communications which for the purposes of this Convention must be addressed to the institutions, authorities or courts of a Contracting Party which are competent in social security matters shall be drawn up in the official language of one of the Contracting Parties.

*Article 31.* Any application, claim or appeal which must be submitted to an authority or institution of either Contracting Party within a prescribed time-limit shall be deemed so submitted if presented within that time-limit to a corresponding authority or institution of the other Contracting Party. In such cases, the latter authority or institution shall forward the claim or appeal without delay to the competent institution of the first-mentioned Party, either direct or through the competent authorities or the liaison institutions.

*Article 32.* The institutions liable for the payment of cash benefits under this Convention shall be held to discharge their liability validly by payment in the currency of their country in accordance with the payment agreements in force.

If regulations are at any time adopted in either Contracting Party with a view to imposing restrictions on foreign-exchange dealings, the necessary measures for ensuring the requisite reciprocal transfers in accordance with the provisions of this Convention shall be taken by agreement between the two Governments.

*Article 33.* 1. Any dispute that may arise between the Contracting Parties concerning the interpretation or application of this Convention shall be resolved through direct negotiations between them.

2. If the dispute is not resolved within a period of six months from the opening of negotiations, it shall be submitted to an arbitral commission, whose composition shall be determined by agreement between the Parties. The arbitral commission shall resolve disputes in accordance with the fundamental principles and the spirit of this Convention. Its decisions shall be binding and final.

#### TITLE IV. TRANSITIONAL AND FINAL PROVISIONS

*Article 34.* 1. This Convention shall not affect rights acquired before its entry into force.

2. This Convention shall not give rise to any rights for periods prior to the date of entry into force.

3. Any insurance period or assimilated period completed under the legislation of one of the Contracting Parties prior to the date of entry into force of this Convention shall be taken into account for the purpose of determining the right to benefits in accordance with the provisions of this Convention.

4. This Convention shall not apply to rights that have been satisfied through the grant of a lump-sum compensation or the reimbursement of contributions.

*Article 35.* 1. This Convention shall remain in force for a period of one year. Thereafter it shall continue in force from year to year unless it is denounced by

either of the Contracting Parties at least three months before the expiry of any such one-year period.

2. In the event of denunciation, all rights acquired under the Convention shall be maintained in accordance with its provisions.

3. The Convention between Spain and Portugal of 20 January 1962 and the Supplementary Agreement thereto shall be abrogated as from the date of entry into force of this Convention.

4. Administrative Agreements numbers 1 and 2 for the implementation of the Convention of 20 January 1962 shall continue in force, in so far as they are applicable to this Convention, until the date of approval of the Administrative Agreement for the implementation of this Convention.

*Article 36.* 1. This Convention shall be ratified and the instruments of ratification shall be exchanged at Lisbon as soon as possible.

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

DONE at Madrid, on 11 June 1969, in two copies, one in Spanish and the other in Portuguese, both texts being equally authentic.

For the Spanish Government:

[Signed]

FERNANDO M<sup>A</sup> CASTIELLA Y MAÍZ  
Minister for Foreign Affairs

For the Portuguese Government:

[Signed]

MANUEL FARRAJOTA ROCHETA  
Ambassador of Portugal at Madrid

[TRANSLATION — TRADUCTION]

## ADMINISTRATIVE AGREEMENT<sup>1</sup> CONCERNING THE MODALITIES OF IMPLEMENTATION OF THE GENERAL CONVENTION ON SOCIAL SECURITY BETWEEN SPAIN AND PORTUGAL

Pursuant to article 27 of the General Convention on Social Security between Spain and Portugal of 11 June 1969,<sup>2</sup> the Spanish and Portuguese administrative authorities, represented:

For Spain, by Mr. Gregorio López Bravo, Minister for Foreign Affairs;

For Portugal, by Dr. Rui Patrício, Minister for Foreign Affairs;

Establish by agreement the following modalities for the implementation of the General Convention on Social Security between Spain and Portugal.

### TITLE I. IMPLEMENTATION OF ARTICLES 5 AND 6 OF THE CONVENTION

*Article 1.* Where employed persons or persons treated as such are employed in a country other than that of their usual residence by an enterprise to which they belong and continue to be subject to the legislation in force in the country of their usual work in accordance with article 5, paragraph 2, sub-paragraph (a), of the General Convention, the competent institutions of the country of the usual place of work shall deliver to each person concerned a certificate attesting that he continues to be subject to the social security legislation of the last-mentioned country, in accordance with a model to be established by the competent authorities of the two countries.

Each such certificate shall be submitted to the competent institution of the other country by the legal representative of the employer in that country, if such a representative exists, and if not, by the worker.

Where more than one worker leaves the country of the usual place of work at the same time to work together in the other country and returns to the first country at the same time, all of such workers may be covered by a single certificate.

*Article 2.* The right of option provided for in article 6, paragraph 2, of the General Convention must be exercised within three months from the date on which the person concerned begins to work in the diplomatic or consular mission, with effect from that same date.

For the exercise of that right, it shall suffice for the worker to address the related request to the competent institution of the country of the place of work.

### TITLE II. SPECIAL PROVISIONS

#### *Chapter I.* SICKNESS, MATERNITY AND MEDICAL ASSISTANCE

*Article 3.* The competent institution of the country of the new place of work shall, upon being requested to provide benefits, address itself to the competent insti-

<sup>1</sup> Came into force on 1 July 1970, in accordance with article 53.

<sup>2</sup> See p. 132 of this volume.

tution of the other country in order to obtain information concerning the contribution or insurance periods completed by the worker, where the aggregation of periods referred to in article 8, paragraph 1, sub-paragraph (b), of the General Convention is necessary for entitlement to such benefits. The standard form model approved by the competent authorities of both countries shall be used for that purpose.

*Article 4.* Where family members transfer their residence to the territory of the country in which the worker is carrying on his occupation, they shall be eligible for health benefits in accordance with the legislation of that country. This rule shall also apply where such family members have already received, for the same case of sickness or maternity, benefits provided by the institution of the country in whose territory they resided before such transfer.

Where the legislation applied by the competent institution specifies a maximum duration for the grant of benefits, account shall be taken of the period during which the family members have received such benefits before the transfer of residence.

*Article 5.* In order for the family members referred to in article 9, paragraph 1, sub-paragraph (b), of the Convention to qualify for health benefits in the country of their residence, they must register with the institution of the place of residence, presenting a certificate and such other vouchers as are required under the regulations applicable in that country, for the provision of such benefits. If they were already in receipt of the same benefits, either by reason of their own occupation or as beneficiaries of an insured person employed in the country of residence, the cost of such benefits shall be borne by the institution of that country.

When the registration referred to in the preceding paragraph is effected, the institution of the place of residence shall, using the appropriate standard form, communicate to the competent institution whether or not the family members are entitled to benefits under its own legislation.

The validity of the registration shall terminate when the competent institution, using the appropriate printed form, communicates such termination to the institution of the place of residence of the family members. Such notification shall take effect as from the date of its receipt by the institution of the place of residence.

*Article 6.* The institution of the country of residence may request family members at any time, by way of proof, to present the certificate evidencing the worker's right to health benefits and the documentation confirming that the family members are mainly dependent on the worker, in which case the latter condition shall be deemed satisfied.

It may also, at any time, request from the competent institution of the other country data pertaining to the worker's entitlement to such benefits.

*Article 7.* The worker or the members of his family must notify the institution of the country of residence of such family members regarding any change in their situation that might affect the right of those family members to health benefits, in particular the cessation of or any change in the employment of the worker or any transfer of residence of the worker or any member of his family.

*Article 8.* The institution of the country of residence shall notify the competent institution of the other country concerning any change in the situation of the worker or his family members that might terminate their right to health benefits, especially in the cases referred to in articles 6 and 7 of this Agreement.

*Article 9.* In order to maintain entitlement to health benefits in the case of sickness and maternity in the new country of residence, a worker referred to in article 9, paragraph 1, sub-paragraph (c), of the Convention must present to the institution of his new place of residence a certificate, in accordance with the model to be established, whereby the competent institution authorizes him to maintain such entitlement following his transfer of residence.

The maximum duration of the health benefits provided for by the legislation of the country to which the competent institution belongs must be indicated in all such certificates.

The competent institution shall send a copy of the certificate to the institution of the worker's new country of residence.

If, owing to *force majeure*, it has not been possible to issue the certificate prior to the transfer of residence, the competent institution may, at the request of the worker or of the institution of his new place of residence, issue the certificate subsequent to the transfer of residence.

*Article 10.* If a worker who has moved in accordance with the conditions set forth in article 9 of this Agreement is hospitalized in his new country of residence, the institution of the place of residence shall, within a period of three days from the date on which it obtains knowledge of the event, notify the competent institution of the date of admission to the hospital or other health establishment and the probable duration of hospitalization.

When the worker is discharged from the hospital or other health establishment, the institution of the place of residence shall, within the same time-limit, notify the competent institution of the date of discharge.

The notifications referred to above shall be in accordance with such models as will be established.

*Article 11.* The institution of the new place of residence shall, either on its own initiative or at the request of the competent institution, conduct medical examinations of the beneficiary to determine whether medical assistance is being provided effectively and regularly and shall immediately inform the competent institution of its findings.

The continued provision of medical assistance at the expense of the competent institution shall be subject to compliance with these rules.

*Article 12.* The provisions of the foregoing articles 9, 10 and 11 shall apply, *mutatis mutandis*, to the members of the worker's family.

*Article 13.* In order to qualify for health benefits owing to sickness and maternity, including any hospitalization during a temporary abode on the occasion of paid leave, a worker to whom article 9, paragraph 1, sub-paragraph (d), of the Convention pertains shall present to the institution of the place of abode a certificate, in accordance with the model to be established, issued by the competent institution, if possible before the beginning of the worker's temporary abode, and evidencing his entitlement to such benefits.

The certificate shall indicate, in particular, the length of the period during which the benefits may be granted.

If the worker does not present such certificate, the institution of the place of abode shall apply to the competent institution in order to obtain it.

*Article 14.* Any worker to whom article 5, paragraph 2, sub-paragraph (a), of the Convention pertains must, in order to qualify for the benefits specified in article 9, paragraph (a), of the Convention, present the certificate provided for in article 1 of this Agreement to the institution of the place of abode.

When the worker has submitted the certificate referred to in the preceding paragraph, the conditions for recognition of the right to benefits shall be deemed satisfied, and, should his state of health require immediate medical assistance, including any hospitalization, the institution of the place of abode shall be obliged to provide it.

*Article 15.* Where workers to whom article 9, paragraph 1, sub-paragraphs (a) and (d), of the Convention pertain are hospitalized in the country of the place of abode, the institution of that place shall apply the rules laid down in article 10 of this Agreement.

*Article 16.* The provisions of articles 13 and 15 above shall apply, *mutatis mutandis*, to members of the worker's family who accompany him during his temporary abode.

*Article 17.* Cases of absolute urgency, within the intendment of article 9, paragraph 3, of the Convention, are those in which the grant of any of the benefits referred to in that article cannot be postponed without seriously jeopardizing the life or health of the person concerned.

In the case of a prosthesis or orthopedic appliance that is accidentally broken or damaged, it shall suffice, in order to determine absolute urgency, to prove the need to repair or replace such appliance or prosthesis.

*Article 18.* The authorization required for the grant of the benefits specified in article 9, paragraph 3, of the Convention shall be requested by the institution of the place of abode from the competent institution by means of the appropriate standard form.

Where, in cases of absolute urgency, the benefits in question have been provided without the authorization of the competent institution, the institution of the place of abode shall immediately notify the competent institution to that effect by sending the appropriate form.

Requests for authorization to grant benefits and, in cases of absolute urgency, notifications of the grant of benefits must be accompanied by a detailed statement of the reasons for such grant and include an estimate of the cost.

*Article 19.* In pursuance of article 10, paragraph 2, of the Convention, the cost of health benefits provided to members of the worker's family in the cases referred to in article 9, paragraph 1, sub-paragraph (b), of the Convention shall be calculated on the basis of an overall charge for each calendar year.

The amount of the overall charge shall be obtained by multiplying the mean annual cost per family by the number of families to be taken into account; the elements of calculation shall be determined as follows:

- (a) The mean annual cost per family shall be established by each Contracting Party by dividing the annual cost of all the health benefits provided by the institutions of the country in question to all members of the families of insured persons subject to the legislation of that country by the mean annual number of insured persons subject to that legislation with family members who may be entitled to benefits;

- (b) The number of families and months for which the amount of the overall charge is payable shall be the subject of a detailed yearly statement. For the purpose of determining the number of months in which members of a worker's family have been recognized as having the right to assistance, the period to be taken into account shall begin with the month in which the registration of those family members took place, whatever the date of such registration may have been, as it appears on the form referred to in the second paragraph of article 5 of this Agreement; the last month of the said period shall be deemed to be the month preceding the month of receipt of the form referred to in the third paragraph of the said article 5 or, if the worker continues to be insured, December of the year to which the statement relates. The statement in question shall be sent to the competent institution, through the liaison institutions, within six months from the close of the fiscal year to which it relates.

*Article 20.* The cost of health benefits provided to persons mentioned in articles 9, 12, 13, 14, 16 and 22 of this Agreement shall be reimbursed semi-annually by the competent institution to the institution which provided them, upon presentation of an individual expenses-incurred form, the model for which shall be established by agreement.

Costs relating to pharmaceutical products, however, may be evaluated by means of an overall charge; the manner of calculating the amount of such overall charge shall be fixed by agreement.

*Article 21.* The cost of medical examinations performed by the institution of the place of abode at the request of the competent institution shall be borne by the latter institution.

Such costs shall be established by the creditor institution in accordance with its standard rates and shall be reimbursed by the debtor institution through the liaison institutions against presentation of an individual statement in accordance with the model to be established.

The competent authorities may, however, specify, by agreement, other manners of payment, in particular reimbursement in lump sums.

*Article 22.* For the provision of health benefits during a period of temporary loss of working capacity or temporary or permanent invalidity, in the case of an industrial accident or occupational disease, the provisions of articles 9 to 15 and 17 and 18 of this Agreement shall apply *mutatis mutandis*.

## *Chapter II.* INVALIDITY, OLD AGE, DEATH AND SURVIVAL

*Article 23.* A worker or his survivors or, if the survivors are minors or legally disqualified, their legal representatives, must, in order to be eligible for the benefits governed by title II, chapters 2, 3 and 4, of the Convention, submit an application to the competent institution of the country in which they are resident, in compliance with the procedures laid down by the legislation of that country.

Where a worker or a worker's survivor not resident in Spain or Portugal applies for a benefit under the provisions of title II, chapters 2, 3 and 4, of the Convention, he must submit his application to the competent institution of the country under whose legislation the worker was last insured.

The applicant must, by means of the relevant documentation, substantiate each of the facts on which entitlement to the benefits is founded, indicating, in particular, with which institutions of the two countries the worker has been insured.

*Article 24.* The time-limits for applying for benefits shall be those established, for each benefit, in the legislation of the country or countries by which they must be granted.

*Article 25.* For the handling of applications submitted in accordance with the foregoing articles, the institution of the place of residence shall use the standard form to be established for that purpose, which shall include, in particular, an account and summary of the insurance periods and assimilated periods completed by the insured person under the legislations to which he has been subject.

The correctness of the data provided by the application must be confirmed by the official documents accompanying the application or by a certificate issued by the competent institution of the appropriate country.

The sending of the form referred to in this article to the competent institution of the other country shall stand in lieu of the sending of the supporting documents.

*Article 26.* The institution of the place of residence shall enter, on the form referred to in the preceding article, the insurance periods and assimilated periods completed under its own legislation and shall send two copies of the form to the competent institution of the other country through the liaison institution.

The competent institution of the other country shall make its decision regarding those portions of the application which concern it and shall, through the same channel, return to the institution of the place of residence one copy of the form, on which, in addition to entering the insurance periods and assimilated periods completed under its own legislation, it shall indicate the amount of the benefits to which the person concerned would be entitled pursuant to article 15 of the Convention.

In cases in which it proves evident that entitlement exists, the competent institution, before determining the amount of the benefit, may, in accordance with the rules in force in the country of the institution of the place of residence and with a view to avoiding, in so far as possible, any harm that might result for the person concerned from a delay in processing the file, grant to the person concerned a reimbursable advance, calculated on the basis of the amount of benefit which will be payable to the applicant under the national legislation applied by the last-mentioned institution.

*Article 27.* Each competent institution shall, for the purpose of determining entitlement to benefits in the cases specified in article 15, paragraph 1, sub-paragraph (b), of the Convention, add the insurance periods and assimilated periods completed under the legislation of the other country to those completed in its own country, provided that they do not overlap and in accordance with the following rules:

- (a) Where an insurance period completed under a compulsory insurance scheme in accordance with the legislation of one country coincides with a period of voluntary insurance completed under the legislation of the other country, only the first-mentioned period shall be taken into account;
- (b) Where an insurance period completed under the legislation of one country coincides with an assimilated period under the legislation of the other country, only the first-mentioned period shall be taken into account;

- (c) Where the legislation of both countries simultaneously takes into consideration a given assimilated period, only the period applicable by the competent institution of the country under whose legislation the insured person was last insured under a compulsory scheme before that period shall be taken into account; where the insured person was not compulsorily subject to the legislation of either country before the said assimilated period, such period shall be taken into account by the competent institution of the country under whose legislation he was first insured under a compulsory scheme after the assimilated period.

*Article 28.* The competent institution of each of the two countries shall calculate the benefit for which it is liable, recording the related data on the form, whether the benefit is determined in accordance with article 15, sub-paragraph (b), of the Convention or whether it is obtained exclusively by virtue of the respective country's own legislation.

*Article 29.* The competent institution of each of the two countries shall, through the liaison institution of the Contracting Party in whose territory the relevant file was compiled, notify the beneficiary of the decision reached in respect of the application, either to grant or deny the pension, informing him, in either case, of any appeal which he may file in order to contest the decision, the time-limit within which such appeal must be filed, and the competent body to which it must be submitted. In addition, each competent institution shall send to the competent institution of the other country a copy of such notification, communicating to it, in addition, the beneficiary's place of residence to which the notification was sent.

*Article 30.* Benefits payable by the institutions of one country to beneficiaries resident in the other country shall be paid directly and within the time-limits imposed by the respective legislation.

The competent institution shall pay cash benefits by international money order or bank transfer and shall notify the institution of the place of residence of the remittance or transfer of the first payment. With the consent of the competent institution, however, such benefits may be paid by the institution of the place of residence for the account of the competent institution. In such cases the competent institution shall communicate to the institution of the place of residence, through the respective liaison institutions, the amounts of the benefits, the dates on which they must be paid, and such other details of procedure as may be established, by agreement, between the liaison institutions of the two countries.

*Article 31.* Spanish nationals who are resident in a third State and exercise their rights to benefits exclusively in accordance with Portuguese legislation must address their applications, accompanied by the requisite documentation, to the competent Portuguese institution, in accordance with Portuguese legislation.

Applications presented to a Spanish institution shall be transmitted by that institution to the competent Portuguese institution through the liaison institutions.

The competent Portuguese institution shall pay the benefits for which it is liable, in accordance with the provisions in force for payments in the third country.

*Article 32.* Portuguese nationals who are resident in a third State and exercise their rights to benefits exclusively in accordance with Spanish legislation must address their applications, accompanied by the requisite documentation, to the competent Spanish institution, in accordance with Spanish legislation.

Applications presented to a Portuguese institution shall be transmitted by that institution to the competent Spanish institution through the liaison institutions.

The competent Spanish institution shall pay the benefits for which it is liable, in accordance with the provisions in force for payments in the third country.

*Article 33.* Where a death allowance payable by the competent institution of the country in which the deceased was insured at the time of the event giving rise to the benefit must be granted to beneficiaries resident in the other country, such grant must be preceded by information of the institution of the place of residence. After this formality has been completed, the competent institution shall transfer the amount required for payment to the beneficiary by international money order or shall remit it to the institution of his place of residence to be delivered to the persons concerned.

*Article 34.* For the handling of applications for benefits in the cases specified in articles 11, 12 and 13 of the Convention, the provisions of articles 23 and 33 of this Agreement shall apply, *mutatis mutandis*.

*Article 35.* An institution of one of the two countries which is paying a pension on behalf of the competent institution of the other country shall, upon learning of the death of the recipient of that benefit or any other cause of extinction or suspension of the benefit, withhold the payment thereof and give notice to that effect to the competent institution of the other country so as to enable it to take such decisions as are appropriate under the circumstances.

### *Chapter III.* INDUSTRIAL ACCIDENTS AND OCCUPATIONAL DISEASES

*Article 36.* Applications for benefits in connection with industrial accidents or occupational diseases must be formulated in accordance with the legislation in force in the place where the industrial accident occurred or the occupational disease manifested itself and submitted directly to the competent institution on the standard form to be established, for that purpose, by the competent authorities.

If the applicant is abiding in a third State, the rules laid down in articles 31 and 32 of this Agreement shall apply, *mutatis mutandis*.

*Article 37.* The provisions of the preceding article shall also apply in respect of applications for the resumption of payment of an annuity already liquidated by the competent institutions of one of the two countries, where the beneficiary transfers his residence to the other country.

*Article 38.* Cash benefits payable by an institution of one of the two countries in respect of beneficiaries abiding in the other country shall be paid either direct or through the institution of the place of residence. The provisions of article 30 of this Agreement shall apply, *mutatis mutandis*.

The rules contained in this Agreement, relating to health benefits in the event of sickness, shall also apply to the grant of health benefits owing to industrial accidents or occupational diseases, subject to the provisions of article 21 of the Convention.

*Article 39.* For the provision, repair or replacement of prosthetic appliances in the cases specified in article 9, paragraph 3, and article 20, paragraph 4, of the Convention, the person concerned must submit the application direct to the competent institution.

The institution of the place of residence shall, at the request of the worker himself or of the competent institution, communicate to that institution the result of the inquiries made concerning the need to provide, repair or renew the appliances mentioned in the foregoing paragraph.

*Article 40.* For the purposes of articles 19, 20 and 21 of the Convention, the competent Spanish and Portuguese authorities shall, at the request of the person or institution concerned, send each other copies of all documents that may be of consequence in questions arising from industrial accidents or occupational diseases.

At the request of the competent institution, the institution of the country of residence shall check recipients of benefits arising from industrial accidents or occupational diseases who reside or abide in the territory of that country, in accordance with its own legislation and without prejudice to such investigations as may be made by the competent institution itself.

The expenses occasioned by special medical examinations or those performed during periods of observation in health institutions and travel expenses incurred by annuitants in order to present themselves for medical observation shall be reimbursed by the competent institution, on prior presentation of a detailed invoice, at the standard rates applied by the institution which performed the examination.

*Article 41.* For the handling of applications for benefits in the cases referred to in article 19 of the Convention, the provisions contained in articles 24 and 25 of this Agreement shall apply, *mutatis mutandis*.

#### Chapter IV. UNEMPLOYMENT

*Article 42.* An unemployed person to whom article 22 of the Convention applies must, in order to maintain in his new country of residence the right to benefits provided for under the legislation of the country where he was last employed, present to the institution of his new place of residence a certificate whereby the competent institution authorizes him to maintain that right after the change of residence.

In the certificate the competent institution shall expressly indicate the amount of benefits owed under the legislation of the competent country and the maximum period during which the right to such benefits may be maintained; it shall also indicate whether any right to family allowances and medical assistance exists, and, in the affirmative case, shall include the data pertaining to family members for whom the benefits indicated are granted.

The certificate must be issued, if possible, before the change of residence. If the unemployed person does not present such certificate, the institution of his new place of residence shall request the competent institution to issue and send it.

*Article 43.* The institution of the new place of residence shall provide unemployment benefits, taking into account, as relates to their duration and amount, what is specified by the competent institution in the certificate referred to in the preceding article.

If any event occurs which might entail the suspension of unemployment benefits, the institution of the new place of residence shall immediately report that event to the competent institution, in order to enable it to take the appropriate decision, and shall discontinue payment of those benefits until it is apprised of the decision taken by the competent institution.

*Article 44.* The institution of the new place of residence which has provided benefits pursuant to article 22 of the Convention shall request the amounts to be reimbursed to it by the competent institution by means of a standard form to be established jointly by the liaison institutions.

Upon the extinction of the right to benefits derived from the situation of unemployment, the reimbursement forms shall be sent to the competent institution through the liaison institution. Within a period of three months from the receipt of the forms, the amount to be reimbursed shall be transferred by the competent institution through the liaison institution. The liaison institutions may agree on the details of the liquidation procedure.

#### *Chapter V. FAMILY ALLOWANCES*

*Article 45.* Where a worker asserts, pursuant to article 23 of the Convention, his right to family allowances in one of the two countries for beneficiaries resident in the territory of the other country, he must present to the competent institution of his place of work, either directly or through his employer, an application including such personal and family particulars as are provided for on a standard form to be established for that purpose. The application must be accompanied by a certificate or similar document concerning his family situation, issued by the competent civil authority of the place of residence of the beneficiaries who are dependants of the worker.

The provisions of the preceding paragraph shall apply, *mutatis mutandis*, where changes occur in the worker's family situation.

Where no changes occur in the situation of the worker's family, the certificate shall be valid for one year from the date of the application for benefits. Successive renewals shall be effected within the month following the end of each year of the worker's stay in the other country.

Family allowances shall be paid by the competent institution at the end of each monthly payment period, in accordance with the legislation applied by that institution, either directly to the worker or to such person as he may designate.

*Article 46.* For the payment of family allowances to workers in receipt of unemployment benefits and to pensioners or annuitants, in the cases specified in articles 24 and 25 of the Convention, respectively, the provisions of the preceding article shall apply, *mutatis mutandis*.

#### TITLE III. MISCELLANEOUS AND FINAL PROVISIONS

*Article 47.* For the purposes of the Convention and this Agreement, the competent institutions of the two countries shall take into account insurance periods and assimilated periods and, if necessary, employment periods completed prior to the entry into force of the Convention as though it had been in force during the completion of such periods.

*Article 48.* The transfer, between the two countries, of any sum payable under the Convention or this Agreement shall be effected in accordance with the payment agreements in force between Spain and Portugal at the time of the transfer.

*Article 49.* No administrative, postal or bank charges shall be deducted from cash benefits paid to beneficiaries as provided in the Convention.

*Article 50.* The competent institutions are:

A. In Spain:

- (a) For medical assistance, cash benefits owing to temporary loss of working capacity or temporary invalidity resulting from ordinary sickness or a non-industrial accident, unemployment and family-welfare benefits, and for the various situations and contingencies covered by the special schemes for persons employed in agriculture, livestock-breeding and domestic service: the Instituto Nacional de Previsión;
- (b) For seamen's protection: the Instituto Social de la Marina;
- (c) For situations deriving from industrial accidents and occupational diseases, permanent invalidity, death and survival, old age, social assistance and the protection of workers belonging to the Mutualidades de Trabajadores Autónomos, de la Industria, Servicios y Actividades Directas para el Consumo: the various Mutualidades Laborales through the Servicio de Mutualidades Laborales;

B. In Portugal:

- (a) For sickness and maternity insurance and family allowances: the Caixa Sindical de Previdência, the Caixa de Reforma ou de Previdência, or the Caixa de Previdência e Abono de Família, by which the benefits are payable;
- (b) For invalidity, old-age and death insurance: the Caixa Nacional de Pensões for beneficiaries registered with the Caixa de Previdência e Abono de Família; in the remaining cases: the Caixa Sindical de Previdência, the Caixa de Reforma ou de Previdência or the Caixa de Pensões, by which the benefits are payable;
- (c) For insurance against industrial accidents and occupational diseases: the Caixa Nacional de Seguros de Doenças Profissionais or the insurance institution with which the enterprise in which the worker is employed is insured.

The designated liaison institutions for the purposes of the Convention are:

- In Spain: the Instituto Nacional de Previsión.
- In Portugal: the Caixa Central de Segurança Social dos Trabalhadores Migrantes.

The competent authorities of the two countries may designate other liaison institutions.

*Article 51.* At the end of each year the liaison institution of each of the two countries shall communicate to the liaison institution of the other country the nature and total amount of benefits paid directly under the Convention, to persons resident in the other country.

*Article 52.* The models of standard forms required for the performance of this Agreement shall be established by the competent authorities of each of the two countries.

The said authorities may, for that purpose, delegate the appropriate powers to the respective liaison institutions.

The liaison institutions may, furthermore, adopt instructions for informing persons concerned regarding their rights and the rules with which they must comply for the exercise of those rights.

*Article 53.* This Agreement shall enter into force at the same time as the Convention and shall remain in force for the same period.

Upon its entry into force, Administrative Agreements 1 and 2 for the implementation of the Convention of 20 January 1962 shall be abrogated.

DONE at Madrid, on 22 May 1970, in two copies, one in Spanish and the other in Portuguese, both texts being equally authentic.

For the Spanish State:

[*Signed*]

GRÉGORIO LÓPEZ BRAVO  
Minister for Foreign Affairs

For the Portuguese State:

[*Signed*]

RUI PATRÍCIO  
Minister for Foreign Affairs

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[TRANSLATION — TRADUCTION]

ADDITIONAL AGREEMENT<sup>1</sup> TO THE GENERAL CONVENTION  
ON SOCIAL SECURITY BETWEEN SPAIN AND PORTUGAL OF  
11 JUNE 1969

The Head of the Spanish State and the President of the Portuguese Republic,  
Have decided to develop further the principle established in article 16, para-  
graph 2, of the General Convention on social security between Spain and Portugal  
signed at Madrid on 11 June 1969<sup>2</sup> and, for this purpose, have appointed as their  
plenipotentiaries:

The Head of the Spanish State: Mr. Gregorio López Bravo, Minister for Foreign  
Affairs;

The President of the Portuguese Republic: Dr. Rui Patrício, Minister for Foreign  
Affairs,

who have agreed as follows:

*Article 1.* 1. Insurance periods completed in third countries by nationals of  
one of the Contracting Parties shall be taken into account and aggregated for the  
purpose of entitlement to and the calculation of invalidity, old-age and survivors'  
benefits.

2. For the purposes of the foregoing rule, the competent institutions of the two  
Contracting Parties shall apply articles 11 to 16 of the Hispano-Portuguese General  
Convention on social security, subject to the provisions of this Agreement.

*Article 2.* 1. Except where relevant bilateral conventions signed with third  
countries provide that benefits applied for must be determined in accordance with the  
legislation of only one of the States parties to such conventions, the competent insti-  
tution of the Contracting Party of which the applicant is a national shall, for the pur-  
pose of determining the benefit for which it is liable, treat insurance periods and  
assimilated periods completed by the person concerned in such third countries as  
assimilated periods completed in its own country, aggregating them — for the pur-  
poses of calculation of the theoretical benefit — with those completed by him in the  
other Contracting State party to this Agreement.

The resulting benefit shall be granted by the said competent institution in the  
amount corresponding to the proportion which the insurance periods and assimilated  
periods completed by the applicant in that institution's State alone bear to the sum of  
the periods completed under the legislation of both Contracting Parties, the said sum  
including periods treated as though completed in that competent institution's own  
country as provided in the foregoing paragraph.

2. The competent institution of the other Contracting Party, however, shall  
determine the benefits for which it is liable in accordance with the proportion existing  
between the insurance periods and assimilated periods completed in its country and

<sup>1</sup> Came into force on 7 May 1973 by the exchange of the instruments of ratification, which took place at Madrid, with  
retroactive effect from 1 July 1970, in accordance with article 4.

<sup>2</sup> See p. 132 of this volume.

the periods completed by the insured person exclusively in the State of which he is a national, no account being taken, among the last-mentioned periods, of those treated as assimilated periods in accordance with the foregoing rule.

*Article 3.* The application of the rules contained in this Agreement shall be subject, as relates to each Contracting Party, to the condition that such Party should have agreed upon similar rules with third countries to which this Agreement relates.

*Article 4.* This Agreement shall be ratified, shall enter into force on the same date as the General Convention on social security of 11 June 1969, and shall be abrogated on the same date as that Convention.

DONE at Madrid, on 22 May 1970, in two copies, one in Spanish and the other in Portuguese, both texts being equally authentic.

For Spain:

[Signed]

GREGORIO LÓPEZ BRAVO  
Minister for Foreign Affairs

For Portugal:

[Signed]

RUI PATRÍCIO  
Minister for Foreign Affairs

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[TRANSLATION — TRADUCTION]

## ADMINISTRATIVE AGREEMENT<sup>1</sup> CONCERNING THE SOCIAL SECURITY SCHEME APPLICABLE TO FRONTIER WORKERS

Pursuant to article 27, paragraph (a), of the Hispano-Portuguese Convention on social security dated 11 June 1969,<sup>2</sup> the competent Spanish and Portuguese authorities, represented:

For Spain, by Mr. Gregorio López Bravo de Castro, Minister for Foreign Affairs;

For Portugal, by Dr. Rui Patrício, Minister for Foreign Affairs;

Have agreed that the application of the Convention on social security in respect of frontier workers of both countries shall be subject to the following provisions:

### TITLE I. GENERAL PROVISIONS

*Article 1.* Spanish and Portuguese nationals who, while maintaining their residence in the frontier zone of one of the two countries, to which they return every day, travel to the frontier zone of the other country to work as wage-earning employees, shall, solely for the purposes of application of the Hispano-Portuguese Convention on social security, be considered frontier workers.

*Article 2.* Frontier zones, for the purposes of this Agreement, are those situated within 20 kilometres of the Hispano-Portuguese border on each side. Notwithstanding, the competent authorities may, by agreement, declare to be included in the frontier zone workers domiciled or employed in specified localities near the border.

*Article 3.* The status of frontier worker shall be certified:

- (a) By means of a frontier pass, to be issued, renewed or extended, without charge:
- In Spain, by the civil government of the province of the worker's place of residence;
  - In Portugal, by the Direcção Geral de Segurança;
- (b) By means of the registration of the worker:
- In Spain, in the *registro de contrataciones* (register of contracts) kept by each Delegación Provincial del Trabajo;
  - In Portugal, with the regional divisions of the Serviço Nacional de Emprego.

*Article 4.* The proper authorities shall establish, by agreement, the rules of procedure for the documentation of frontier workers, as specified in the preceding article of this Agreement, notice of such rules being given by an exchange of notes between the two Governments.

<sup>1</sup> Came into force on 1 September 1971, i.e., the first day of the second month following the date of signature, in accordance with article 35.

<sup>2</sup> See p. 132 of this volume.

*Article 5.* 1. Subject to the provisions of this Administrative Agreement, frontier workers shall be governed by the provisions of the Convention on social security between Spain and Portugal.

2. For the purposes of this Agreement, the institutions from which the worker would be entitled to benefits if he were employed in the territory of the Contracting Party in which he is resident shall be considered competent institutions, in addition to those specified in article 1, paragraph (f), of the Convention.

## TITLE II. SICKNESS AND MATERNITY

### *Chapter 1.* COMMON PROVISIONS

*Article 6.* 1. Health benefits owing to ordinary sickness, maternity or accidents other than industrial accidents shall be provided to frontier workers either in the country of employment or in the country of residence.

2. In the country of employment, health benefits shall be provided by the institution with which the worker is insured, in the manner provided by the legislation applicable in that country.

3. In the country of residence, health benefits shall be provided by the competent institution of the place of residence, in accordance with the legislation applied by that institution and for the account of the institution with which the worker is insured.

4. Maternity health benefits shall in all cases be provided in accordance with the legislation applied by the competent institution of the country in which the birth takes place.

*Article 7.* Cash benefits, in cases of sickness and maternity, shall be paid to frontier workers by the competent institution of the country of employment, in the manner provided by its legislation.

*Article 8.* The provisions of article 6 shall apply, *mutatis mutandis*, to the members of the family of a frontier worker, provided that they are not entitled to health benefits, in accordance with the legislation of the country of residence.

### *Chapter 2.* SPECIAL PROVISIONS APPLICABLE TO FRONTIER WORKERS RESIDENT IN PORTUGAL AND EMPLOYED IN SPAIN

*Article 9.* Frontier workers resident in Portugal and employed in Spain shall register with the competent Portuguese institution, evidencing their status as frontier workers by presenting the document specified in article 3, paragraph (b), of this Agreement.

*Article 10.* 1. In order to obtain health benefits pursuant to article 6, paragraph 3, of this Agreement, the person concerned shall apply for them from the Portuguese institution specified in the preceding article, provided that he satisfies the conditions imposed by Spanish legislation in respect of entitlement to benefits.

2. For this purpose the frontier worker must obtain a certificate issued by the competent Spanish institution on the established standard form and must send it to the Portuguese institution of the place of residence. The certificate shall be renewable every three months.

*Article 11.* In order to obtain maternity health benefits, if the birth takes place in the country of residence of the worker, the person concerned shall request the Spanish institution to issue to him a certificate, in conformity with an appropriate standard form, attesting that he satisfies the conditions for entitlement laid down by Spanish legislation and, upon the presentation of that certificate, the benefits shall be granted to him by the Portuguese institution.

*Article 12.* 1. Where medical assistance owing to sickness or maternity is provided in Portugal, if the patient's condition requires his hospitalization, the Portuguese institution shall, without delay, notify the Spanish institution of the date of admission to and discharge from the establishment.

2. When an employed person is discharged for work, the Portuguese institution shall send to the Spanish institution a certificate attesting the end of the period of loss of working capacity.

*Article 13.* A frontier worker or the members of his family shall, when applying for benefits in Spain, provide the competent Spanish institution with the documents required by Spanish legislation and evidence of registration with the Portuguese institution.

*Article 14.* Where the competent Spanish institution deems it appropriate that a medical or administrative check should be carried out, it shall be done, at the request of that institution, by the insuring Portuguese institution.

### *Chapter 3. SPECIAL PROVISIONS APPLICABLE TO FRONTIER WORKERS RESIDENT IN SPAIN AND EMPLOYED IN PORTUGAL*

*Article 15.* Frontier workers resident in Spain and employed in Portugal shall register with the competent Spanish institution, evidencing their status as frontier workers by presenting the document specified in article 3, paragraph (b), of this Agreement.

*Article 16.* 1. In order to obtain health benefits pursuant to article 6, paragraph 3, of this Agreement, the person concerned shall apply for them from the Spanish institution specified in the preceding article, provided that he satisfies the conditions imposed by Portuguese legislation in respect of entitlement to benefits.

2. For this purpose the frontier worker must obtain a certificate issued by the competent Portuguese institution on the established standard form and must send it to the Portuguese institution of the place of residence. The certificate shall be renewable every three months.

*Article 17.* In order to obtain maternity health benefits, if the birth takes place in the worker's country of residence, the person concerned shall request the Portuguese insurance institution to issue to him a certificate, in conformity with an appropriate standard form, attesting that he satisfies the conditions for entitlement laid down by Portuguese legislation and, upon the presentation of that certificate, the benefits shall be granted to him by the appropriate Spanish institution.

*Article 18.* 1. Where medical assistance owing to sickness or maternity is provided in Spain, if the patient's condition requires his hospitalization, the Spanish institution shall, without delay, notify the Portuguese institution of the date of admission to and discharge from the establishment.

2. When an employed person is discharged for work, the Spanish institution shall send to the Portuguese institution a certificate attesting the end of the period of loss of working capacity.

*Article 19.* A frontier worker or the members of his family shall, when applying for benefits in Portugal, provide the competent Portuguese institution with the documents required by Portuguese legislation and evidence of registration with the appropriate Spanish institution.

*Article 20.* Where the competent Portuguese institution deems it appropriate that a medical or administrative check should be carried out, it shall be done, at the request of that institution, by the Spanish institution.

#### *Chapter 4.* REIMBURSEMENTS

*Article 21.* 1. Expenses incurred by the competent Portuguese institution pursuant to article 6, paragraph 3, of this Administrative Agreement shall be reimbursed in a lump sum by the competent Spanish institution, account being taken of the actual cost of health benefits received directly from the competent Spanish institution by frontier workers resident in Portugal and members of their families.

2. The lump sum shall be established on the basis of the number of frontier workers and the average cost of health benefits in Portugal for that country in its entirety, as shown by its statistical and accounting data.

*Article 22.* 1. Expenses incurred by the competent Spanish institution pursuant to article 6, paragraph 3, of this Administrative Agreement shall be reimbursed in a lump sum by the competent Portuguese institution, account being taken of the actual cost of health benefits received directly from the competent Portuguese institution by frontier workers resident in Spain and members of their families.

2. The lump sum shall be established on the basis of the number of frontier workers and the average cost of health benefits in Spain for that country in its entirety, as shown by its statistical and accounting data.

### TITLE III. INDUSTRIAL ACCIDENTS AND OCCUPATIONAL DISEASES

#### *Chapter 1.* COMMON PROVISIONS

*Article 23.* 1. Health benefits in accordance with the legislation concerning industrial accidents and occupational diseases shall be provided to frontier workers in the country of employment or in the country in which they have their residence.

2. The right of a victim of an industrial accident to prostheses and occupational retraining benefits, however, may only be exercised in the country of employment and in accordance with the conditions imposed by the legislation of that country.

3. In the country of employment, health benefits shall be provided by the competent institution, unless the applicable legislation imposes that obligation on the employer.

4. In the country of residence, health benefits shall be provided by the competent institution of that country, in accordance with its legislation and for the account of the competent institution of the other country.

*Article 24.* Cash benefits provided under the legislation pertaining to industrial accidents and occupational diseases shall be paid to the frontier worker by the competent institution of the country of employment.

*Article 25.* Expenses incurred by the institution of the country of residence in the cases specified in article 23, paragraph 4, shall be reimbursed to that institution by the competent institution of the place of work, provided, however, that such reimbursements shall not be in excess of the costs resulting from the application of the current standard rates of the country of the last-mentioned institution.

*Article 26.* 1. For the purposes of this title, the institutions responsible, in accordance with the respective legislation of each of the two countries, for compensation for industrial accidents and occupational diseases shall be considered competent institutions of those countries.

2. For the same purposes, the following shall be considered competent institutions for the provision of health benefits:

- In Spain: The Instituto Nacional de Previsión;
- In Portugal: The Caixa de Previdência e Abono de Família of the District of the place of residence.

*Article 27.* 1. This Administrative Agreement shall apply in respect of industrial accidents occurring in Spain or Portugal in accordance with the conditions specified by the legislation of each country, respectively, during travel from the domicile of the person concerned to the place of work and vice versa.

2. Regardless in which country the industrial accident *in itinere* occurs, the legislation of the country of employment shall apply.

#### *Chapter 2.* SPECIAL PROVISIONS APPLICABLE TO FRONTIER WORKERS RESIDENT IN SPAIN AND EMPLOYED IN PORTUGAL

*Article 28.* The competent Portuguese institution which receives the declaration of an industrial accident or occupational disease and assumes the consequent liability shall issue a document certifying entitlement to benefits, which the person concerned must present to the *delegación provincial* (provincial office) of the Instituto Nacional de Previsión in order to be able to receive the proper health assistance in Spain.

*Article 29.* Medical certificates concerning an accident which are issued in Spain shall be sent to the competent Portuguese institution.

*Article 30.* The Spanish institution shall notify the Portuguese institution, and, at the same time, the victim, of the date of healing or consolidation of injuries.

#### *Chapter 3.* SPECIAL PROVISIONS APPLICABLE TO FRONTIER WORKERS RESIDENT IN PORTUGAL AND EMPLOYED IN SPAIN

*Article 31.* The competent Spanish institution which receives the declaration of an industrial accident or occupational disease shall issue a document certifying entitlement to benefits, which the person concerned must present to the appropriate Portuguese institution in order to be able to receive the proper health assistance in Portugal.

*Article 32.* Medical certificates concerning an accident which are issued in Portugal shall be sent to the competent Spanish institution.

*Article 33.* The appropriate Portuguese institution shall notify the competent Spanish institution, and, at the same time, the victim, of the date of healing or consolidation of injuries.

#### *Chapter 4.* REIMBURSEMENTS

*Article 34.* In the cases specified in article 23, paragraph 1, of this Agreement, the institution of the country of employment shall reimburse to the institution of the country of residence the cost of health benefits provided for the account of the first-mentioned institution in the case of an industrial accident or occupational disease. The liquidation of such reimbursements shall take place on a provisional basis at the end of each calendar half-year by correspondence between the institutions concerned, and such provisional liquidations shall become final upon being approved by a commission appointed, by agreement, by the competent authorities.

#### TITLE IV. FINAL PROVISION

*Article 35.* This Agreement shall enter into force on the first day of the second month following the month of its signature and shall remain in force for the same period as the General Convention on social security of 11 June 1969.

DONE at Madrid, on 15 July 1971, in four copies, two in the Spanish and two in the Portuguese language, both texts being equally authentic.

For the Spanish State:

[Signed]

GREGORIO LÓPEZ BRAVO  
Minister for Foreign Affairs

For the Portuguese Republic:

[Signed]

RUI PATRÍCIO  
Minister for Foreign Affairs

[TRANSLATION — TRADUCTION]

SUPPLEMENTARY AGREEMENT<sup>1</sup> TO THE GENERAL CONVENTION  
ON SOCIAL SECURITY BETWEEN SPAIN AND PORTUGAL

The Contracting Parties, represented:

For Spain, by Mr. Gregorio López Bravo, Minister for Foreign Affairs;

For Portugal, by Dr. Rui Patrício, Minister for Foreign Affairs;

Desiring that the provisions of the General Convention on social security between Spain and Portugal of 11 June 1969<sup>2</sup> should apply to new categories of employed persons and that its benefits in matters of medical assistance should be granted with no restriction by reason of the place of residence of the persons concerned, have agreed on the following provisions:

*Article 1.* Article 2, paragraph 1, of the Convention on social security of 11 June 1969 shall read as follows:

1. This Convention shall apply:

A. In Spain:

(a) To the general social security scheme legislation concerning:

- i) Temporary loss of working capacity resulting from ordinary or occupational disease, maternity and industrial and other accidents;
- ii) Temporary and permanent invalidity;
- iii) Old age;
- iv) Death and survivors' insurance;
- v) Family welfare;
- vi) Unemployment;
- vii) Retraining and rehabilitation of invalids;
- viii) Social assistance benefits of a benevolent character;

(b) To the legislation governing the special social security schemes applicable to employed persons, as relates to the risks and benefits specified in section (a) above.

B. In Portugal:

(a) To the legislation concerning:

- i) The general scheme of sickness, maternity, invalidity, old-age, death and survivors' insurance provided for employed persons who are not self-employed;
- ii) The general provident scheme for self-employed persons;
- iii) Industrial accidents and occupational diseases;
- iv) Family allowances;
- v) Technological unemployment;

<sup>1</sup> Came into force on 1 June 1978, i.e., the first day of the second month following the exchange of the instruments of ratification, which took place at Lisbon on 27 April 1978, in accordance with article 5 (2).

<sup>2</sup> See p. 132 of this volume.

- (b) To the legislation relative to the special provident schemes applicable to employed persons, as relates to the risks and benefits specified in section (a) above.

*Article 2.* Article 3, paragraph 1, of the Convention is amended as follows:

1. The provisions of this Convention shall apply to Spanish and Portuguese employed persons who are or have been subject to the legislation of one of the Contracting Parties and to their family members and survivors.

*Article 3.* To title II, chapter 1, of the Convention there shall be added the following provisions:

*Article 10/1.* 1. Where a person in receipt of a pension or annuity payable under the legislation of both Contracting Parties is entitled to health benefits in accordance with the legislation of the Contracting Party in whose territory he is resident or is abiding temporarily, such benefits shall be provided to him by and at the expense of the competent institution of the country of residence or abode, as though the person in question were in receipt of a pension or annuity payable under the legislation of the last-mentioned Party only.

2. Where a person in receipt of a pension or annuity is entitled to health benefits under the legislation of one only of the Contracting Parties and is resident or temporarily abiding in the territory of the other Party, health benefits shall be provided to him by the institution of the country of residence or abode as though he were in receipt of a pension under the legislation of the last-mentioned Party.

The social security scheme of the country by which the pension is payable shall be liable for the payment of those benefits and shall reimburse the amount thereof to the competent institution of the country of residence or abode in the form of an overall charge or actual costs, in cases of residence or temporary abode, respectively.

3. The provisions of the preceding paragraphs shall apply, *mutatis mutandis*, to the members of the family of a person in receipt of a pension or annuity.

*Article 10/2.* A person in receipt of a pension or annuity and the members of his family must notify the institution of the place of residence or abode of any change in their situation that might affect the right to medical assistance, and of transfers of residence from one country to the other.

*Article 10/3.* With a view to maintaining the right to medical assistance for the persons referred to in article 10/1, paragraph 2, and the members of their families, the persons concerned must submit to the institution of the place of residence or abode a standard form issued by the competent institution, certifying that right.

*Article 4.* In title III, "Miscellaneous Provisions," there is included a new article, bearing number 27/1 and worded as follows:

*Article 27/1.* 1. For the purposes of implementation of the provisions contained in the General Convention and the other texts which complement and further develop it there shall be constituted a technical mixed commission, whose members shall be appointed by the respective competent authorities.

2. The mixed commission shall have the following tasks:
- (a) To establish the rules of procedure for the implementation of the General Convention by the liaison institutions and those in charge of social security;
  - (b) To fix the lump-sum amounts to be reimbursed by the competent institution to the institution which provides medical assistance to persons eligible for such benefits;
  - (c) Such other matters as are submitted to it by the competent authorities.

3. The commission shall meet alternately in each of the two countries, under the chairmanship of a member of the delegation from the country in which the commission is meeting.

*Article 5.* 1. This Supplementary Agreement shall be ratified and the instruments of ratification shall be exchanged at Lisbon as soon as possible.

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

3. It shall have the same duration as the General Convention of 11 June 1969.

DONE at Madrid, on 7 May 1973, in four copies, two in the Spanish and two in the Portuguese language, both texts being equally authentic.

For the Spanish State:

[Signed]

GREGORIO LÓPEZ BRAVO  
Minister for Foreign Affairs

For the Portuguese Republic:

[Signed]

RUI PATRÍCIO  
Minister for Foreign Affairs

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