

**No. 18283**

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**SPAIN  
and  
FEDERAL REPUBLIC OF GERMANY**

**Convention on social security (with final protocol and supplementary agreement of 29 October 1959 and additional protocol dated 24 October 1960). Signed at Bonn on 29 October 1959**

*Authentic texts: Spanish and German.*

*Registered by Spain on 15 February 1980.*

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**ESPAGNE  
et  
RÉPUBLIQUE FÉDÉRALE D'ALLEMAGNE**

**Convention relative à la sécurité sociale (avec protocole final et accord complémentaire du 29 octobre 1959 et protocole additionnel en date du 24 octobre 1960). Signée à Bonn le 29 octobre 1959**

*Textes authentiques : espagnol et allemand.*

*Enregistrée par l'Espagne le 15 février 1980.*

## [TRANSLATION — TRADUCTION]

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

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

Desiring to regulate the mutual relations between the two States in the field of social security,

And recognizing the principle that their nationals are equal in respect of the application of the internal social security legislation of each State,

Have decided to conclude a convention and, for that purpose, have appointed as their plenipotentiaries:

The Head of the Spanish State: His Excellency Marqués de Bolarque, Ambassador of Spain in Bonn;

The President of the Federal Republic of Germany: Dr. Heinrich von Brentano, Minister for Foreign Affairs, and Mr. Theodor Blank, Minister of Labour and Social Affairs,

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

## TITLE I. GENERAL PROVISIONS

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

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

(2) "Territory" means:

- In relation to Spain, the Spanish part of the Iberian Peninsula, the Balearic Islands, the Canary Islands and the Spanish territories in North Africa;
- In relation to the Federal Republic, the territory in which the organic law of the Federal Republic of Germany is in force;

(3) "National" means:

- In relation to Spain, anyone supplying proof of Spanish nationality in accordance with Spanish legislation;
- In relation to the Federal Republic, any German within the meaning of the organic law of the Federal Republic of Germany;

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

(5) "Competent authority" means:

- In Spain; the Ministry of Labour;
- In the Federal Republic, the Federal Minister of Labour and Social Affairs;

<sup>1</sup> Came into force on 1 October 1961, i.e., the first day of the second month following the date of the exchange of the instruments of ratification, effected at San Sebastián on 23 August 1961, in accordance with article 58 (2).

(6) "Insurance authority" means the institution or authority responsible for implementing the legislation specified in article 2 or any part of that legislation;

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

(8) "Insurance authority of the place of residence" means the insurance authority which has competence in the place of residence of the person concerned or, where no such institution is specified in the legislation of the Contracting State in question, the insurance authority designated by the competent authority of that State;

(9) "Spanish insurance authority" means any insurance authority having its main office in the territory of the Spanish State, and "German insurance authority" means any insurance authority having its main office in the territory of the Federal Republic;

(10) "Family member" means a member of the family as defined in the applicable legislation;

(11) "Employment" means an employment or occupation as defined in the applicable legislation;

(12) "Contribution period" means a period in which contributions in respect of the benefits concerned have actually been paid or are treated as having been paid under the legislation of either Contracting State;

(13) "Equivalent period" means any substitute period, exemption period, supplementary period or other period which is recognized as equivalent to a contribution period under Spanish or German legislation;

(14) "Benefit" or "pension" means any benefit or pension, including any increases and supplements;

(15) "Disability pension" means:

- In relation to Spain, the disability pensions granted by the Instituto Nacional de Previsión (National Provident Institute) and the workers' mutual benefit funds (*Mutualidades Laborales*) under the applicable legislation pertaining to those insurance authorities, with the exception of pensions for industrial accidents and occupational diseases;
- In relation to the Federal Republic, the pension which, under the German legislation concerning pension insurance, is granted owing to the loss of working or earning capacity of an insured person, including the miners' pension;

(16) "Old-age pension" means the pension granted under Spanish or German legislation when the insured person reaches a specified age;

(17) "Survivors' pensions" means:

- In Spain, widows', widowers' and orphans' pensions and pensions to other beneficiaries, granted by the Instituto Nacional de Previsión and the workers' mutual benefit funds in accordance with Spanish legislation, with the exception of pensions for industrial accidents and occupational diseases;
- In the Federal Republic, widows', widowers' and orphans' pensions and pensions to a previous spouse, granted in accordance with the German legislation concerning pension insurance;

(18) "Family benefits" means:

- In Spain, the allowances specified in article 2, paragraph 1, sub-paragraph (1) (d);
- In the Federal Republic, the benefits specified in article 2, paragraph 1, sub-paragraph 2 (d);

(19) "Industrial accident" means any accident considered as such under the applicable legislation;

(20) "Vessel" means:

- In Spain, any ship flying the Spanish flag in accordance with Spanish legislation;
- In the Federal Republic, any ship flying the Federal flag in accordance with German legislation;

(21) "Aircraft" means:

- In Spain, any aircraft entered in the Spanish Register;
- In the Federal Republic, any aircraft entered in the German Aircraft Register (*Luftfahrzeugrolle*).

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

(1) In Spain, to the legislation concerning:

- (a) Sickness, maternity and death (death allowance) insurance;
- (b) Industrial accident and occupational disease insurance;
- (c) Disability, old-age and survivors' insurance;
- (d) Family allowances, widows', orphans' and educational allowances and marriage, birth and motherhood benefits;
- (e) The special schemes for particular categories of employed persons, in so far as relates to the risks or benefits specified under (a) to (d) above;
- (f) The workers' mutual benefit scheme (*Mutualismo Laboral*).

(2) In the Federal Republic, to the legislation concerning:

- (a) Sickness insurance (insurance in the event of sickness, maternity or death—death allowance);
- (b) Accident insurance (industrial accident and occupational disease insurance);
- (c) Wage earners' pension insurance, salaried employees' pension insurance, miners' pension insurance and Saar miners' and steel workers' pension insurance (old-age, disability and survivors' insurance);
- (d) The family allowance and the women's or maintenance allowance payable in the Saar;
- (e) The farmers' old-age benefit.

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

3. This Convention shall also apply to:

- (a) Any legislation concerning a new branch of social security, if the two Contracting States so agree;
- (b) Any legislation which extends the existing laws to new categories of persons, provided that the Government of one Contracting State has not lodged an objection with the other State within three months of the receipt of the communication referred to in article 47, paragraph 3 (b).

4. This Convention shall apply to amendments made, as a consequence of an international convention on social security, in the legislation specified in paragraph 1 above, provided that both Governments so agree in advance.

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

- (1) Nationals of the Contracting States, even where their rights as survivors derive from a person who was not a national of a Contracting State;
- (2) Family members of nationals of the Contracting States who are not themselves nationals of either Contracting State;
- (3) Survivors who are not nationals of either Contracting State, provided that their rights derive from a national of a Contracting State.

*Article 4.* Except as otherwise provided in article 54, the nationals of either Contracting State referred to in article 3, sub-paragraph 1, and the family members and survivors mentioned in article 3, sub-paragraphs (2) and (3), shall have the same rights and obligations as do the nationals of the other State under its legislation.

*Article 5.* 1. Where, under the legislation of one Contracting State, entitlement to benefits or the award of benefits, in whole or in part, is dependent on an individual's residence in his national territory, residence in the territory of the other Contracting State shall be equivalent to residence in such national territory, except as otherwise provided in this Convention.

2. Where the legislation of one Contracting State concerning industrial accident and occupational disease insurance requires, as a condition for the grant of benefits to nationals of that State who are resident abroad, that the entitled person should notify the competent insurance authority concerning his place of residence or that he should appear from time to time, at the request of that authority, before another authority designated by it, such legislation shall also apply to entitled persons living in the territory of the other State.

*Article 6.* Except as otherwise provided in articles 7 to 9, persons employed in the territory of either Contracting State, as well as their employers, shall be subject to the legislation in force in that State, even where such employers are ordinarily resident or have the principal place of business of their enterprise in the territory of the other Contracting State.

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

competent authority of that State or by the insurance authority designated by it, the legislation of that State shall apply after that period has elapsed.

2. Where a self-employed person working in the territory of the Federal Republic temporarily carries on the same type of work in Spain, the provisions of paragraph 1 above shall apply *mutatis mutandis*.

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

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

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

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

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

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

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

2. If a national of one Contracting State is employed in the service of that State in the territory of the other Contracting State and has taken up permanent residence there, he may, within three months of the start of employment or of the entry into force of this Convention, whichever occurs later, elect to be subject to the legislation of either the former or the latter State; if he elects to be subject to the legislation of the first-mentioned State, he shall be treated as if he were employed in the territory of that State in the place where its seat of government is situated. The choice shall become effective as from the day on which it is made; so long as no choice is made, article 6 shall apply.

3. Paragraph 2 above shall apply also to any national of one Contracting State who is employed in the territory of the other Contracting State in the personal

employ of a member of the diplomatic mission or a consular mission of the first-mentioned State.

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

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

*Article 10.* For individual cases or groups of cases, the competent authorities may, by agreement, make exceptions to the provisions of articles 6 to 9, provided that it is in the interest of the persons concerned to do so.

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

2. Paragraph 1 above shall not apply where pensions of the same nature earned in accordance with the provisions of articles 22 to 28 are received simultaneously.

3. If a disability, old-age or survivor's pension determined as stipulated in article 22 is to be reduced or suspended in accordance with the provisions of paragraph 1 above, such reduction or suspension must be calculated only on the basis of that portion of the other benefits, income or remuneration that corresponds to the proportion between completed periods defined in article 22, paragraph 4 (b).

## TITLE II. SICKNESS INSURANCE (SICKNESS INSURANCE, MATERNITY INSURANCE AND INSURANCE AGAINST DEATH (DEATH ALLOWANCE))

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

2. If under the legislation of one Contracting State entitlement to benefits exists even where the insurance contingency occurs within a specified period after the termination of insurance, that legislation shall apply to a person whose insurance has been terminated through involuntary loss of employment or through acceptance of employment offered to him in the territory of the other State, even if the insurance

contingency occurs in the territory of the said other State within 21 days after such termination of insurance, except where the person has at that time already become entitled to benefits under the legislation of the said other State.

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

2. Medical care in accordance with paragraph 1 above includes all benefits in kind, and in particular:

- (a) Care provided by physicians or midwives;
- (b) Provision of medicines, remedies and adjuvants;
- (c) Hospitalization.

3. Where a person ordinarily resident in the territory of one Contracting State is entitled to receive benefits from an insurance authority of that State and transfers his residence to the territory of the other State after the occurrence of the event giving rise to the sickness or maternity benefit, he shall retain that entitlement provided that the insurance authority has given its prior consent to the transfer of residence. Such consent may be given retroactively, provided that the conditions therefor are met and that the insured person was unable to obtain prior consent for reasonable cause. In the case of maternity benefits, consent may be given before the occurrence of the event insured against.

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

*Article 14.* 1. The family members of a person who are ordinarily resident in the territory of the other Contracting State shall receive benefits as provided in article 16, under the following conditions:

- (a) The person is insured with an insurance authority of a Contracting State, or
- (b) The person is entitled to benefits from an insurance authority of a Contracting State or would be so entitled if he were resident in the territory of that State.

The foregoing shall not apply if the family members receive benefits under their own insurance or under the insurance of a person insured in the territory of the Contracting State in which the family members reside.

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

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

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

*Article 15.* 1. If a person who, under the legislation of one Contracting State, is in receipt of a pension or satisfies the conditions for receiving a pension and



has applied therefor, is ordinarily resident in the territory of the other State, his insurance obligations and rights and his entitlement to benefits for himself and his family members shall be determined in accordance with the legislation of the first-mentioned State, as if he were ordinarily resident in its territory.

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

3. In the cases in paragraph 1 above,

- (a) Where Spanish legislation is applicable, the appropriate workers' mutual benefit fund shall be competent in respect of persons in receipt of pensions granted by such a fund and the Instituto Nacional de Previsión shall be competent in respect of persons in receipt of pensions owing to industrial accidents or occupational diseases or where the person concerned is in receipt of a pension owing to disability, old age or death solely from the Instituto Nacional de Previsión;
- (b) Where German legislation is applicable, the health insurance fund (*Krankenkasse*) under which the person was last insured shall be competent; if the person has not been insured with any health insurance fund, the General Local Health Insurance Fund of Bad Godesberg (Allgemeine Ortskrankenkasse, Bad Godesberg) shall be competent.

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

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

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

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

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

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

- (a) In Spain, by the Instituto Nacional de Previsión through the Caja Nacional del Seguro Obligatorio de Enfermedad (National Compulsory Health Insurance

Fund) or the co-operating institution with which the insurance has been contracted;

In the Federal Republic of Germany, by the competent General Local Health Insurance Fund (Allgemeine Ortskrankenkasse) for the place of residence of the person concerned, or, where no such fund exists, the competent *Land* Health Insurance Fund (Landkrankenkasse) or District Insurance Institute (Kreisversicherungsanstalt) for the said place;

- (b) The scale of such benefits and the manner of providing them shall be determined in accordance with the legislation applicable to the insurance authorities specified in sub-paragraph (a) above; the duration of the grant of benefits shall be governed by the legislation applicable to the competent insurance authorities;
- (c) The provision of prostheses, large orthopaedic appliances and other major benefits in kind shall be subject to prior authorization by the competent insurance authority; this rule shall not apply in cases of absolute urgency;
- (d) Persons or institutions having concluded agreements with the insurance authorities specified under (a) above concerning the award of benefits in kind to persons insured with those insurance authorities and to their family members shall be obliged, in accordance with those agreements, to grant the benefits in kind specified in this paragraph;
- (e) If the legislation of one Contracting State specifies a maximum duration for the grant of a benefit, the competent insurance authority shall take into account, in computing the said maximum duration, the period during which benefits have been granted in accordance with the legislation of the other State for the same case of sickness or maternity.

3. Cash benefits shall be granted by the competent insurance authority in accordance with the legislation applicable to it. At its request, they may be paid on its behalf by the insurance authorities specified in paragraph 2 (a) above.

*Article 17.* In the cases specified in article 16, the competent insurance authority shall have an obligation to reimburse the insurance authority which provided the benefits in kind or cash benefits for all amounts actually disbursed. The competent authorities may, however, agree that for all cases or certain categories of cases such reimbursement shall be effected on a lump-sum basis.

*Article 18.* If, in the case of persons who meet the requirements for receiving a pension under the legislation of one Contracting State and have applied for such pension, the legislation of that State imposes as a condition for compulsory sickness insurance that such persons must, within a specified period prior to the submission of the application for the pension, have been covered for a minimum duration under such sickness insurance, then the compulsory insurance periods or voluntary continued insurance periods completed within that period in accordance with the legislation of both States shall be aggregated for the purposes of making up the said duration, provided that they do not overlap.

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

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

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

3. Death allowances shall not be granted simultaneously under the legislation of both Contracting States in respect of the same death, except where entitlement to such allowances exists, irrespective of this Convention, under the legislation of both Contracting States.

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

- (a) If the death occurs in the territory of one Contracting State, entitlement to the benefit shall remain intact under the legislation of that State and shall be extinguished under the legislation of the other State;
- (b) If the death occurs outside the territory of both Contracting States, entitlement shall remain intact under the legislation of the State in whose territory the deceased person was last resident before his death and shall be extinguished under the legislation of the other State.

*Article 21.* Persons who have ceased to be insured under the compulsory insurance scheme of one Contracting State against sickness, maternity and death (death allowance) and are ordinarily resident in the territory of the other State may continue to be insured voluntarily under the legislation of the said other State on the same terms as persons who have ceased to be insured against sickness, maternity and death (death allowance) under a compulsory insurance scheme of the said other State. Compulsory insurance periods completed in accordance with the legislation of the first-mentioned State shall in such cases be deemed equivalent to those completed under the legislation of the other State.

### TITLE III. PENSION INSURANCE (OLD-AGE, DISABILITY AND SURVIVORS' INSURANCE)

#### Chapter 1. OLD AGE

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

2. For the purpose of the acquisition, maintenance or reinstatement of entitlement to a pension, the insurance authority of each Contracting State shall, to the extent necessary and in the manner stipulated in article 41, aggregate the contribution periods and equivalent periods which are to be taken into account under its own applicable national legislation and the contribution periods and equivalent periods completed in accordance with the legislation of the other State and to be taken into account, under that legislation, for the acquisition, maintenance or reinstatement of pension entitlement. If, under Spanish legislation, qualification for a pension is conditional on the completion of employment periods of a specified duration in Spain prior to the occurrence of the event insured against, such periods shall be equivalent

to employment periods completed in the territory of the Federal Republic. Subsequently, the competent insurance authority of each State shall, in accordance with its applicable national legislation, determine whether the person in question qualifies for a pension.

3. If Spanish legislation imposes the condition that at the time of occurrence of the event insured against, the person must belong to an enterprise affiliated with the workers' mutual benefit scheme, this condition shall be deemed satisfied if at that time the person is insured under German legislation by reason of employment in an enterprise which, if its principal place of business is situated in Spain, is affiliated with the workers' mutual benefit scheme.

4. Where entitlement to a pension exists, the insurance authority referred to in paragraph 2 above shall calculate:

- (a) First, the pension which, subject to articles 25 and 41, would have been due to the person concerned under its own applicable national legislation if all the contribution periods and equivalent periods which he completed under the legislation of the other State and which are to be taken into account in calculating the pension under that legislation had also been contribution periods and equivalent periods to be taken into account in calculating the pension under its own applicable national legislation, the German insurance authority leaving out of account, however, any contributions under the supplementary insurance scheme; and
- (b) Then, that part of such pension which bears the same proportion to the whole as the total of all the contribution periods and equivalent periods completed by that person under its own applicable national legislation before the occurrence of the insurance contingency bears to the total of all the contribution periods and equivalent periods which he completed under the legislation of both States and which were taken into account, in accordance with sub-paragraph (a) above, in calculating the pension. This amount shall be the pension actually due to the person concerned from each insurance authority;
- (c) The German insurance authority shall increase the amount of the pension for which it is liable in accordance with sub-paragraph (b) above by the additional amounts for any contributions paid under the voluntary supplementary insurance scheme.

5. For the purposes of paragraphs 2 and 4 above, the Spanish workers' mutual benefit funds shall take into account contribution periods and equivalent periods completed under German legislation only to the extent that such periods have been completed by reason of employment in an enterprise which, if its principal place of business is situated in Spain, is or has been affiliated, by reason of its activity, with the compulsory insurance scheme of the workers' mutual benefit funds.

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

*Article 23.* 1. Where a person is entitled to pensions under the legislation of both Contracting States irrespective of the provisions of article 22, paragraph 2, and

where the pension in one or both of the Contracting States is greater than the aggregate amount of the pensions calculated in accordance with article 22, paragraph 4, that person shall be entitled to an increase equal to the difference between that aggregate amount and the amount of the higher of the two pensions.

2. In the cases specified in paragraph 1 of this article, the competent insurance authority of the State in which the pension is higher shall pay the said difference, provided, however, that the competent insurance authority of the other State shall pay to the first-mentioned authority a portion of that difference calculated in accordance with the proportion stated in article 22, paragraph 4 (b), but in no case exceeding the amount of the pension which the insurance authority of the said other State would have had to grant in accordance with the applicable legislation of that State if article 22, paragraph 4, and article 25, sub-paragraph (2), were not taken into account.

3. Where a person is entitled to a pension under the national legislation of one Contracting State irrespective of the provisions of article 22, paragraph 2, and to a pension under the legislation of the other State only in accordance with those provisions, and where the amount of pension under the legislation of the first-mentioned State is greater than the aggregate amount of the pensions calculated in accordance with article 22, paragraph 4, the competent insurance authority of the first-mentioned State shall increase the pension which it is liable to pay in accordance with article 22, paragraph 4, by the difference between the two amounts.

4. Where a person is entitled to a pension under the legislation of one Contracting State irrespective of the provisions of article 22, paragraph 2, and is not entitled to a pension under the legislation of the other State even taking those provisions into account, the competent insurance authority of the first-mentioned State shall pay the pension according to its own applicable national legislation, irrespective of the provisions of article 22, paragraph 4, and of article 25, sub-paragraph (2).

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

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

- (1) Where the legislation of one Contracting State makes it a condition for the award of particular benefits that the contribution periods or equivalent periods should have been completed in an occupation for which there exists a special insurance scheme, only such periods completed under the corresponding special insurance scheme of the other State shall be taken into account for the purpose of determining entitlement to those benefits;
- (2) Where for an occupation a special insurance scheme exists in only one Contracting State:
  - (a) The insurance authority of that State shall also take into account, for the purpose of determining the benefit under the special insurance scheme, the contribution periods and equivalent periods completed in that occupation under the legislation of the other State; and
  - (b) The insurance authority of the other State shall also take into account, for the purpose of determining a benefit under the insurance for that occupation, contribution periods and equivalent periods completed under the special insurance scheme existing under the legislation of the first-mentioned State;

- (3) Where under German legislation a pension or a part thereof is dependent on contribution periods or equivalent periods during which the person concerned was employed in underground hewing operations, the German insurance authority shall not take contribution periods and equivalent periods completed under Spanish legislation into account unless they were periods during which the person concerned was employed in Spain in mining work of the same kind;
- (4) Where under the legislation of one Contracting State entitlement to a benefit or the amount of the benefit is dependent on the length of employment in a specific occupation, the competent insurance authority of that State shall take into account also the periods during which the person concerned was engaged in the same occupation in the other State.

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

- (1) For the purpose of calculating the pension assessment base applicable to the insured person, account shall be taken only of those remunerations which he earned during contribution periods completed under German legislation;
- (2) For the purpose of determining the number of years of insurance to be counted, the contribution periods and equivalent periods which have been completed in accordance with Spanish legislation and are to be taken into account under that legislation for the purpose of calculating the pension shall be deemed equivalent to contribution periods and equivalent periods completed under German legislation.

*Article 26.* 1. For the purposes of this chapter, contribution periods and equivalent periods completed under Spanish legislation shall mean all contribution periods and equivalent periods which are to be taken into account in accordance with Spanish legislation.

2. For the purposes of this chapter, contribution periods and equivalent periods completed under German legislation shall mean all contribution periods and equivalent periods which are to be taken into account in accordance with German legislation.

## Chapter 2. DISABILITY

*Article 27.* 1. Chapter 1 shall apply *mutatis mutandis* to disability pensions to be granted under Spanish and German legislation.

2. For the purpose of determining whether, in accordance with German legislation, an additional period is to be calculated in respect of the pension insurance of employed persons or of salaried employees:

- (a) Admission to the insurance scheme shall be deemed as commencing as from the date of the first such admission under either Spanish or German legislation, whichever is earlier;
- (b) An insurance contingency shall be deemed as materializing as from the time of its occurrence in accordance with Spanish legislation or German legislation, whichever is earlier;
- (c) For the purpose of determining whether contributions have been paid for at least 36 calendar months out of the last 60 calendar months preceding the occurrence of the insurance contingency, or to what extent contributions have been paid for the period from the time of admission to the insurance scheme to the occurrence

of the insurance contingency, contribution periods completed under Spanish legislation shall, in so far as they have been completed in an occupation coming under a compulsory insurance scheme, be deemed equivalent to contributions completed in an occupation subject to a compulsory insurance scheme under German legislation.

3. For the purpose of determining whether in accordance with German legislation an additional period is to be calculated in respect of miners' pension insurance, paragraph 2 above shall apply *mutatis mutandis*. A prerequisite therefor, however, is that the last contribution before the occurrence of the insurance contingency must have been paid to the miners' pension insurance scheme or to a Spanish special insurance scheme.

### Chapter 3. DEATH

*Article 28.* Chapter 1 and article 27, paragraphs 2 and 3, shall apply *mutatis mutandis* to survivors' pensions payable under Spanish or German legislation.

### Chapter 4. COMMON PROVISIONS

*Article 29.* 1. Article 5, paragraph 1, shall not affect the German legislation concerning refugees' pensions (*Fremdrenten*) and non-residents' pensions (*Auslandsrenten*) under the terms of which only those persons who are ordinarily resident in the territory of the Federal Republic are entitled to benefits in respect of specified contribution periods and equivalent periods.

2. If, however, a German insurance authority grants, in respect of the periods referred to in paragraph 1 above, a pension to a person for a period during which such person is or was resident in the territory of the Federal Republic, that insurance authority shall continue to grant the pension as long as the person is ordinarily resident in Spain; this shall not apply while the person is in receipt of benefits for such periods from an insurance authority having its headquarters outside the territory of the Federal Republic.

3. If a person to whom a pension has continued to be granted in accordance with paragraph 2 above dies and his survivors are ordinarily resident in Spain, the survivors shall be granted the pensions to which they would be entitled if ordinarily resident in the territory of the Federal Republic.

4. Contributions paid to the salaried employees' pension insurance scheme before 1 August 1953 in the territory of the Federal Republic, whether before or after its establishment, or from abroad, by persons to whom the Convention applies, shall be considered as paid to the Federal Insurance Institution for Salaried Employees (*Bundesversicherungsanstalt für Angestellte*).

*Article 30.* 1. Persons ordinarily resident in the territory of a Contracting State who have ceased to be insured under a compulsory disability, old-age and survivors' insurance scheme under the legislation of the other State may voluntarily continue to be insured in the first-mentioned State on the same conditions as persons who have ceased to be insured under the compulsory disability, old-age and survivors' insurance scheme in force there. For that purpose, contribution periods completed in accordance with the legislation of the said other State in an occupation subject to compulsory insurance shall be treated, in so far as necessary, as contribution periods of the first-mentioned State.

2. If the person has not been insured under the German compulsory pension insurance scheme after his arrival in the territory of the Federal Republic, the following shall apply:

- (a) Voluntary continued insurance shall be provided under wage earners' pension insurance or salaried employees' pension insurance according as the person was last employed in Spain as a wage earner or a salaried employee;
- (b) If such employment, owing to the amount of the person's yearly earnings, was not subject to compulsory insurance under German legislation, the continued insurance shall be provided under the salaried employees' pension insurance scheme;
- (c) If such employment was not subject to compulsory insurance under German legislation for other reasons, the continued insurance shall be provided under the wage earners' pension insurance scheme.

3. If the person has not been insured after his arrival in Spain, under a compulsory insurance scheme in accordance with Spanish legislation, voluntary continued insurance shall be provided by the workers' mutual benefit fund which, on the basis of his last occupation in the territory of the Federal Republic, would have been competent if that occupation had been carried on in the place where the person is resident. Voluntary continued insurance is permissible only if applied for within three months of the expiration of the calendar month in which the person ceased to exercise the occupation subject to compulsory insurance under German legislation.

*Article 31.* Contributions to the supplementary insurance scheme in accordance with German legislation may be paid at the same time as contributions paid under a compulsory insurance scheme to the Instituto Nacional de Previsión or the workers' mutual benefit funds by way of disability, old-age and survivors' insurance.

*Article 32.* In determining the extent to which an insured person's capacity to work has been diminished, the insurance authorities of each Contracting State shall take into account the medical report and administrative data furnished by the insurance authorities of the other State; however, each insurance authority shall retain the right to have the insured person examined by a physician of its choice.

*Article 33.* Where under Spanish legislation entitlement to an old-age pension under the workers' mutual benefit scheme exists only if article 22, paragraphs 2 and 3, of the Convention are taken into account, the pension shall remain in abeyance until the time when entitlement to an old-age or disability pension arises also in accordance with German legislation whether or not article 22 is taken into account.

#### TITLE IV. ACCIDENT INSURANCE

*Article 34.* 1. A person who is entitled to benefits in kind under the legislation of one Contracting State in respect of an industrial accident or occupational disease and who moves to the territory of the other Contracting State shall retain such entitlement. If the legislation of one Contracting State makes the award of benefits in kind to a person resident in the other Contracting State conditional upon the prior consent of the competent insurance authority, such consent shall not be withheld except by reason of the state of health of the entitled person. The competent insurance authority may give its consent retroactively, provided that the conditions



therefor are met and that the entitled person was unable, for reasonable cause, to obtain prior consent.

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

3. In the cases specified in paragraphs 1 and 2 above, benefits in kind shall be granted at the expense of the competent insurance authority and in accordance with the regulations applicable to the granting authority, as follows:

- In Spain, by the accident insurance authority with which the enterprise to which the employed person belongs is insured or, where no such authority exists, by the Instituto Nacional de Previsión;
- In the Federal Republic, by the competent General Local Health Insurance Fund (Allgemeine Ortskrankenkasse) for the place of residence of the entitled person or, where no such Fund exists, by the *Land* Health Insurance Fund (Landkrankenkasse) or District Insurance Institute (Kreisversicherungsanstalt) competent for that place.

Article 16, paragraph 2 (c), shall apply *mutatis mutandis*.

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

*Article 35.* Cash benefits to be provided under the legislation of a Contracting State which are neither pensions nor death allowances nor nursing allowances shall, upon request, at the expense of the competent insurance authority and in accordance with the regulations applicable to that authority, be granted to the entitled person and his family members. The competent insurance authority shall inform the authority providing the benefits of their amount and maximum duration. Article 34, paragraph 4, shall apply *mutatis mutandis*. That authority shall be as follows:

- In Spain, by the accident insurance authority with which the enterprise to which the employed person belongs is insured or, where no such authority exists, by the Instituto Nacional de Previsión;
- In the Federal Republic, by the competent General Local Health Insurance Fund (Allgemeine Ortskrankenkasse) for the place of residence of the entitled person or, where no such Fund exists, by the *Land* Health Insurance Fund (Landkrankenkasse) or District Insurance Institute (Kreisversicherungsanstalt) competent for that place.

*Article 36.* For the purpose of determining the benefits to be awarded and the degree of loss of working capacity resulting from an industrial accident or occupational disease which comes under the legislation of one Contracting State, previous industrial accidents and occupational diseases recognized as such by the legislation of the other State shall be treated the same as previous industrial accidents or occupational diseases coming under the legislation of the first-mentioned State. By previous industrial accidents or occupational diseases are meant those industrial accidents or occupational diseases for which compensation has been or is being paid, as well as those involving a loss of working capacity below the minimum level stipulated for the payment of compensation.

*Article 37.* 1. Where an insured person has been employed in both Contracting States in an occupation which is apt to cause a disease considered an occupational disease under the legislation of both States, the related benefits shall be payable by the insurance authority of the State in whose territory the person concerned was last employed in an occupation which is apt to cause such occupational disease. If the legislation of one State makes the obligation to provide compensation for an occupational disease conditional on the person's having been employed for a minimum period of time in occupations which are apt to cause such occupational disease, the insurance authority of that State shall, in determining whether that condition is satisfied, take into account also the periods during which the person concerned was employed in similar occupations in the other State.

2. Where a person who has received or is receiving compensation for an occupational disease under the legislation of one State claims entitlement to benefits under the legislation of the other State on the ground of aggravation of that disease, without having been employed in the last-mentioned State in an occupation which is apt to cause or aggravate such disease, the insurance authority of the first-mentioned State shall be liable for the further benefits due on account of such aggravation.

3. Where a person who has received or is receiving compensation for an occupational disease under the legislation of one Contracting State claims entitlement to benefits under the legislation of the other State on the ground of aggravation of that disease after having been employed in the last-mentioned State in an occupation which is apt to aggravate such disease, the insurance authority of the said other State shall be liable for all the benefits, account being taken of such aggravation.

*Article 38.* Entrepreneurs shall not be required, in respect of the accident insurance of a Contracting State, to pay higher contributions owing to the fact that the enterprise has its principal place of business in the other State.

*Article 39.* The German accident insurance authorities shall award benefits under industrial accident and occupational disease insurance schemes to persons covered by this Convention who are ordinarily resident in Spain if the industrial accidents (occupational diseases) in question occurred:

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

#### TITLE V. FAMILY ALLOWANCES

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

- (1) Family allowances awarded under the legislation of one Contracting State shall be granted to persons ordinarily resident in the territory of the other State as long as they are in receipt, in accordance with the legislation of the first-mentioned State, of a pension under any of the insurance schemes referred to in article 2, paragraph 1, sub-paragraphs (1) (b) and (c) or 2 (b) and (c);
- (2) Where the legislation of one Contracting State provides for the payment of allowances in respect of family members ordinarily resident in its territory, such allowances shall be awarded in respect of family members resident in the territory of the other State only if they are members of the families of insured persons who:
  - (a) Are employed in the territory of the first-mentioned State; or
  - (b) Are in receipt, in accordance with the legislation of the first-mentioned State, of a pension under any of the insurance schemes referred to in article 2, paragraph 1, sub-paragraphs (1) (b) and (c) or (2) (b) and (c);
- (3) In the cases referred to in sub-paragraph (2) (a) above, entitlement lapses at the end of two years; the competent insurance authority shall extend the two-year period for a duration of up to one year where the family members are prevented, with good reason, from transferring their residence.

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

## TITLE VI. MISCELLANEOUS PROVISIONS

### Chapter 1. COMMON PROVISIONS

*Article 41.* 1. In the application of article 12, paragraph 1, article 22, paragraphs 2 and 4 (a), article 24 and article 25, sub-paragraph (2), the contribution periods and equivalent periods completed under the legislation of both Contracting States shall, for the purposes of the acquisition, maintenance or recovery of entitlement to benefits and of the calculation of benefits, be aggregated as follows:

- (1) If a compulsory insurance period completed under the legislation of one State coincides with a period of voluntary insurance under the legislation of the other State, only the compulsory insurance period shall be taken into account;
- (2) If a contribution period under the legislation of one State coincides with an equivalent period under the legislation of the other State, only the contribution period shall be taken into account;
- (3) If an equivalent period completed under the legislation of one State coincides with an equivalent period completed under the legislation of the other State, only the equivalent period completed under the legislation of the State in whose territory the person concerned was last employed prior to the said equivalent period shall be taken into account. If the person concerned was not employed in the territory of either Contracting State before the said period, only the equivalent period completed under the legislation of the State in whose territory he was first employed after that period shall be taken into account;
- (4) If in accordance with sub-paragraph (1) above voluntary contributions which have been paid to a German pension insurance scheme are not to be taken into account, they shall be considered contributions to the German supplementary insurance scheme.

2. If the time units to be applied for the computation of insurance periods and equivalent periods under the legislation of one Contracting State differ from those to be applied under the legislation of the other State, such units shall, for the purposes of aggregation with periods of the said other State, be converted, where necessary, as follows:

- (1) 7 days shall be considered one week and vice versa;
- (2) 30 days shall be considered one month and vice versa;
- (3) 360 days shall be considered one year and vice versa;
- (4) For the purpose of converting weeks into months and vice versa, the weeks and months shall be converted into days;
- (5) The total periods completed during a calendar year shall not be considered as totalling more than 360 days or 52 weeks or 12 months as a result of the application of the rules set out in sub-paragraphs (1) to (4) above.

*Article 42.* Where, under the legislation of one Contracting State, the basis for the calculation of benefits is the average remuneration earned by the person concerned during specified periods, such average remuneration shall be ascertained, for the calculation of benefits under that legislation, on the basis of the remunerations earned by the person during the periods in which he was subject to the legislation of that State and, where applicable, to the extent of the amount of remuneration for which contributions were collected.

*Article 43.* If the legislation of a Contracting State considers as family members only those persons who live with the insured person in a joint household, that condition shall be deemed satisfied if the persons are ordinarily resident in the territory of the other State and they are supported primarily by the insured person.

*Article 44.* Where, under the legislation of one Contracting State, family members are to be taken into account in the calculation of cash benefits, the competent insurance authority shall also take into account family members resident in the territory of the other Contracting State.

#### Chapter 2. PAYMENTS AND CURRENCY CONVERSION

*Article 45.* 1. Payments to be made under this Convention by an insurance authority of one Contracting State in the territory of the other Contracting State may be made, with full discharge of the liability, in national currency. In such cases the insurance authority must, without delay, submit to the competent office of the State in which its headquarters is situated the requisite applications for the transfer of payments to the other Contracting State.

2. The competent offices for approval of the transfer of the payments referred to in paragraph 1 above shall grant such approval rapidly and without restriction, in accordance with the payments agreement in force.

The same shall apply to the transfer of the amount of contributions to be paid under the legislation of the other Contracting State.

*Article 46.* For the purposes of articles 11, 23 and 53, paragraph 2, the rate of exchange to be taken as a basis shall be that determined by agreement between the competent authorities.

## Chapter 3. ADMINISTRATIVE CO-OPERATION

*Article 47.* 1. The authorities and insurance authorities of the two Contracting States shall furnish one another mutual assistance in respect of the application of this Convention as if applying their own legislation. Such assistance shall be free of charge.

2. Medical examinations required under the legislation of one Contracting State in respect of persons who are in the territory of the other State shall be arranged, upon the application of the competent insurance authority, by the insurance authority of the State in whose territory the persons to be examined are. The cost of such examinations, travel expenses, loss of earnings, the cost of accommodation for the purposes of observation and other additional expenses shall be reimbursed by the competent insurance authority.

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

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

*Article 48.* 1. Where the legislation of one Contracting State provides that documents or other papers required to be submitted to any authority, court or insurance authority in that State shall be exempt, wholly or in part, from legal dues or charges, such exemption shall apply to documents or other papers which are required under this Convention to be submitted to any office, court or insurance authority of the other State.

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

*Article 49.* 1. In the application of this Convention, the authorities and insurance authorities of the two Contracting States may communicate directly in their respective official language with each other as well as with the persons concerned and their representatives.

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

*Article 50.* 1. Any application, declaration or appeal which should, under the legislation of a Contracting State, be submitted to an authority, court, insurance authority or other institution of that State shall be deemed submitted to the competent institution if submitted to an institution of the other Contracting State which is competent in matters of social security. The date of submission of the application, declaration or appeal to such institution shall be considered the date of submission to the competent institution.

2. Applications, declarations and appeals shall be forwarded without delay by the institution to which they have been submitted to the competent institution of the other Contracting State.

#### Chapter 4. APPLICATION OF THE CONVENTION

*Article 51.* The competent authorities may conclude an agreement establishing the necessary measures for the application of this Convention. They may also set up liaison offices to communicate with each other directly.

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

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

3. The arbitral tribunal shall be constituted *ad hoc* as follows: each Contracting State shall appoint one member, and these members shall agree upon a national of a third State as their chairman. If the members and chairman have not been appointed within three months after a State has given notice of its intention to resort to arbitration, either State may, in the absence of any other agreement, request the President of the International Court of Justice to make the necessary appointments. If the President is a national of either Contracting State or is otherwise prevented from discharging that function, the Vice-President or if he is prevented, the eldest judge, shall make the necessary appointments.

4. The arbitral tribunal shall decide by majority vote. Its awards shall be binding. Each Contracting State shall bear the costs of its own member. The remaining costs shall be borne in equal parts by both Contracting States. In all other respects, the arbitral tribunal shall determine its own procedure.

*Article 53.* 1. Where an insurance authority of one Contracting State has made an advance payment to an entitled person, such insurance authority or, at its request, the competent insurance authority of the other State may deduct the advance payment from arrears or current payments which are due to the said person.

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

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

#### TITLE VII. TRANSITIONAL AND FINAL PROVISIONS

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

2. For the purposes of this Convention, contribution periods and equivalent periods completed before its entry into force shall be taken into account.

3. This Convention shall also apply to insurance contingencies which materialized prior to its entry into force. Such cases shall be governed by the following provisions:

- (a) Pensions which, before the entry into force of this Convention, were not granted on grounds of nationality or place of residence of the entitled person shall be determined or reinstated in accordance with this Convention as from its entry into force, no account being taken of national legislation to the contrary concerning the extinction or lapse of rights, if the entitled person applies therefor within two years following the entry into force of this Convention. If the application is submitted after the expiry of that time-limit, the pension shall be determined or reinstated as from the beginning of the month of submission of the application, provided that the claim has not lapsed or been extinguished;
- (b) Pensions determined before the entry into force of this Convention shall be determined anew in accordance with this Convention as from its entry into force, no account being taken of national legislation to the contrary concerning the extinction or lapse of rights, if the entitled person applies therefor within two years following the entry into force of this Convention, the legal force of any earlier decisions notwithstanding.

*Article 56.* 1. This Convention shall also apply to *Land Berlin* unless the Government of the Federal Republic makes a declaration to the contrary to the Spanish Government within three months of the entry into force of this Convention.

2. For the purposes of this Convention, references to the Federal Republic shall also be deemed references to *Land Berlin*; in particular, references to the territory of the Federal Republic shall also be deemed references to the territory of *Land Berlin* and references to the legislation of the Federal Republic shall also be deemed references to the legislation of *Land Berlin*.

3. For the purposes of paragraph 1, the territory of *Land Berlin* shall include those territories over which the Senate of Berlin exercises administrative jurisdiction.

*Article 57.* 1. This Convention is concluded for a period of one year from the date of its entry into force. It shall be tacitly extended from year to year unless one of the Contracting States gives notice of termination in writing no less than three months before the expiry of the current one-year period.

2. In the event of termination of the Convention, its provisions shall continue to apply in respect of entitlement to benefits acquired up to that time; such entitlement shall not be affected by any restrictive national legislation that may provide for the lapse of claims or the suspension or withdrawal of benefits on the grounds of residence abroad.

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

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

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

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

DONE at Bonn, on 29 October 1959, in four copies, two in the Spanish and two in the German language, both texts being equally authentic.

For the Spanish State:

[Signed]

MARQUÉS DE BOLARQUE  
Ambassador of Spain

For the Federal Republic of Germany:

[Signed]

Dr. HEINRICH VON BRENTANO  
Minister for Foreign Affairs

[Signed]

THEODOR BLANK  
Minister of Labour and Social Affairs

#### FINAL PROTOCOL TO THE CONVENTION BETWEEN THE SPANISH STATE AND THE FEDERAL REPUBLIC OF GERMANY ON SOCIAL SECURITY

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

*Article 1.* 1. The special schemes referred to in article 2, paragraph 1, sub-paragraph 1 (e), of the Convention are as follows:

- The special social insurance scheme for agriculture;
- The special social insurance scheme for fishermen;
- The special social insurance scheme for workers employed in orange picking and handling;
- The special social insurance scheme for the resin industry;
- The special social insurance scheme for the hemp industry (applicable only in Alicante);
- The special social insurance scheme for the logging and lumbering industry;
- The special scheme for civil servants (applicable solely in respect of family allowances).

2. Special insurance schemes within the meaning of articles 24 and 27, paragraph 3, of the Convention and article 4, paragraph 3, of the final protocol are as follows:

- In Spain:
  - The workers' mutual benefit funds (*Mutualidades Laborales*) for the coal industry;
  - The workers' mutual benefit funds for lead mining;
  - The workers' mutual benefit fund for ore mining;
  - The workers' mutual benefit fund for extractive industries;
- In the Federal Republic: miners' pension insurance.

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

*Article 3.* If, under the German legislation concerning pension insurance, the contributions paid during the first five calendar years under a compulsory insurance scheme are not to



be taken into account for determining the ratio of the gross remuneration of the insured person to the average gross remuneration of all insured persons, the first five calendar years shall be considered to be those completed under a German pension insurance scheme or under a disability, old-age and survivors' (pensions) insurance scheme in accordance with Spanish legislation, whichever were earlier.

*Article 4.* 1. The German insurance authorities, in determining pensions to which the legislation in force up to 1 January 1957 is applicable, shall proceed as follows:

- (a) For the purposes of the decision whether a right in course of acquisition (*Anwartschaft*) has been maintained, contribution periods and equivalent periods under Spanish law shall be assimilated to such periods under German law;
- (b) For the purposes of half-coverage (*Halbdeckung*), the first admission to the insurance scheme shall be considered to be the first admission to such scheme under German legislation or under Spanish legislation, whichever is earlier;
- (c) For the purposes of the calculation of increments under German legislation, contribution periods completed under Spanish legislation shall be taken into account. For such periods, the increment calculated shall be that pertaining, on the average, to contribution periods and equivalent periods completed under German legislation.

2. For the purposes of the decision whether a pension should be granted in accordance with the legislation in force before 1 January 1957 concerning the composition and calculation of pensions, contributions paid under Spanish legislation after 31 December 1956 shall be treated as contributions paid under German legislation after that date.

3. In the cases specified in paragraphs 1 and 2 above, the German insurance authorities shall take into account contribution periods and equivalent periods completed under Spanish legislation:

- (a) In respect of miners' pension insurance, if such periods were completed under a Spanish special insurance scheme;
- (b) In respect of wage earners' pension insurance or salaried employees' pension insurance, according to which would have been competent if the person concerned was last employed in the territory of the Federal Republic.

4. In the cases specified in paragraph 3 (b) above, the following shall apply:

- (a) Where the occupation last carried on in Spain would not have been subject to compulsory insurance under German legislation, the contribution periods and equivalent periods shall be taken into account under salaried employees' pension insurance. Where the occupation last carried on in Spain would not have been subject to compulsory insurance under German legislation due to the fact that it involved the temporary rendering of services, the contribution periods and equivalent periods shall be taken into account under the wage earners' pension insurance scheme, if that scheme, based on the nature of the occupation, would have been competent in the case of a non-temporary rendering of services;
- (b) Where the nature of the occupation last carried on in Spain cannot be ascertained, the contribution periods and equivalent periods shall be taken into account under the wage earners' pension insurance scheme.

*Article 5.* German nationals resident in Spain who, at the time of entry into force of this Convention, are employed in an enterprise which belongs to a workers' mutual benefit fund shall be subject from that time on and irrespective of their age to compulsory insurance under the workers' mutual benefit scheme on the same terms as Spanish nationals.

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

IN WITNESS WHEREOF the plenipotentiaries of both Parties have signed this protocol and have thereto affixed their seals.

DONE at Bonn, on 29 October 1959, in four copies, two in the Spanish and two in the German language, both texts being equally authentic.

For the Spanish State:

[Signed]

MARQUÉS DE BOLARQUE  
Ambassador of Spain

For the Federal Republic of Germany:

[Signed]

Dr. HEINRICH VON BRENTANO  
Minister for Foreign Affairs

[Signed]

THEODOR BLANK  
Minister of Labour and Social Affairs

# SUPPLEMENTARY AGREEMENT TO THE CONVENTION BETWEEN THE SPANISH STATE AND THE FEDERAL REPUBLIC OF GERMANY ON SOCIAL SECURITY OF 29 OCTOBER 1959

To implement the Convention between the Spanish State and the Federal Republic of Germany on social security of 29 October 1959, the two Contracting States have concluded the following supplementary agreement:

## SECTION I. GENERAL PROVISIONS

*Article 1.* 1. Liaison offices, within the meaning of article 51 of the Convention, shall be:

(1) In Spain:

- (a) For basic sickness and maternity insurance, basic disability, old-age and survivors' insurance, industrial accident and occupational disease insurance and family benefits: the Instituto Nacional de Previsión in Madrid;
- (b) For supplementary insurance in the case of long-term illness, supplementary disability and old-age insurance and other benefits under the workers' mutual benefit scheme (*Mutualismo Laboral*): the Servicio de Mutualidades Laborales, in Madrid,

which shall be designated hereinafter as "Spanish liaison offices".

(2) In the Federal Republic:

- (a) For sickness insurance: the Bundesverband der Ortskrankenkassen, in Bad Godesberg;
- (b) For wage-earners' pension insurance: the Landesversicherungsanstalt Rheinprovinz, in Düsseldorf;
- (c) For salaried employees' pension insurance: the Bundesversicherungsanstalt für Angestellte, in Berlin;
- (d) For miners' pension insurance: the Arbeitsgemeinschaft der Knappschaften, in Bochum;
- (e) For the steelworkers' pension insurance in force in Saarland: the Landesversicherungsanstalt Saarland, in Saarbrücken;

(f) For accident insurance: the Hauptverband der gewerblichen Berufsgenossenschaften e.V., in Bonn;

(g) For family allowances: the Gesamtverband der Familienausgleichskassen, in Bonn,

which shall be designated hereinafter as "German liaison offices".

2. The competent authority of each Contracting State may designate other liaison offices, communicating each such change to the competent authority of the other Contracting State without delay.

*Article 2.* 1. Competent insurance authorities within the meaning of article 1, sub-paragraph (7), of the Convention, shall be, in Spain:

(a) For basic sickness and maternity insurance, basic disability, old-age and survivors' insurance, industrial accident and occupational disease insurance and family benefits: the Instituto Nacional de Previsión, in Madrid;

(b) For supplementary insurance in the case of long-term illness, supplementary disability and old-age insurance and other benefits under the workers' mutual benefit scheme: the Servicio de Mutualidades Laborales, in Madrid.

2. Competent insurance authorities within the meaning of article 1, sub-paragraph (7), of the Convention, shall be, in the Federal Republic:

(1) For sickness insurance:

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

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

(2) For wage-earners' pension insurance:

(a) If the entitled person lives outside of Saarland:

(aa) The Seekasse, in Hamburg, or the Bundesbahnversicherungsanstalt, in Frankfurt am Main, if the person was last insured, respectively, with either of these insurance authorities;

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

(b) If the entitled person lives in Saarland:

(aa) The Eisenbahnversicherungsanstalt, in Saarbrücken, if the insured person paid his last contribution under German legislation to that institution or to the Bundesbahnversicherungsanstalt;

(bb) In all other cases, the Landesversicherungsanstalt Saarland, in Saarbrücken;

(3) For salaried employees' pension insurance:

(a) If the entitled person lives outside of Saarland: the Bundesversicherungsanstalt für Angestellte, in Berlin;

(b) If the entitled person lives in Saarland: the Landesversicherungsanstalt Saarland, in Saarbrücken;

(4) For miners' pension insurance:

(a) If the entitled person lives outside of Saarland: the Ruhrknappschaft, in Bochum;

(b) If the entitled person lives in Saarland: the Saarknappschaft, in Saarbrücken;

- (5) For the steelworkers' pension insurance in force in Saarland: the Landesversicherungsanstalt Saarland, in Saarbrücken;
- (6) For accident insurance: the insurance authority responsible in each case for accident insurance;
- (7) For family allowances: the insurance authority competent in each case for the payment of family allowances.

3. The competent authority of either Contracting State may designate other competent insurance authorities, communicating each such change to the competent authority of the other Contracting State without delay.

*Article 3.* The liaison offices may agree on printed forms for certificates, declarations, applications and other documents required for the implementation of the Convention and this agreement. In addition, they may prepare sheets of instructions informing interested persons concerning their rights and the provisions to be observed in asserting those rights.

*Article 4.* 1. In the cases specified in articles 7 to 10 of the Convention, the competent insurance authority of the Contracting State whose legislation is applicable shall issue to the person concerned, upon request, a certificate stating that he is subject to that legislation.

2. In Spain, the Instituto Nacional de Previsión shall issue such certificates for all branches of insurance.

3. In the Federal Republic, the competent insurance authority for sickness insurance or the sickness insurance authority to which pension insurance contributions are paid shall issue such certificates for sickness insurance as well as all other branches of insurance. Where a person is insured only under an accident insurance scheme, the certificate shall be issued by the competent insurance authority for accident insurance.

*Article 5.* 1. To exercise the right of option specified in article 9, paragraphs 2 and 3, of the Convention, the person concerned shall submit the relevant application,

— If he elects the application of Spanish legislation, to the Instituto Nacional de Previsión, in Madrid;

— If he elects the application of German legislation, to the Allgemeine Ortskrankenkasse, in Bonn,

and, where appropriate, shall at the same time notify his employer.

2. The insurance authority to which the application is submitted shall, if necessary, notify the competent insurance authorities of the other branches of social security of its State.

*Article 6.* 1. Where, in the cases specified in articles 21 and 30 of the Convention, qualification for voluntary continued insurance exists only where insurance periods and equivalent periods have been completed under the legislation of the other State, the person concerned shall submit a certificate pertaining to those periods to the competent insurance authority of the Contracting State in which he is ordinarily resident. The certificate shall also contain particulars regarding the nature of the last occupation carried on in the other Contracting State and concerning the employer.

2. The certificate shall be issued by the insurance authority under which the last period to be taken into account was completed or, if that insurance authority is unable, then by the insurance authorities under which the periods in question were completed.

*Article 7.* For the purposes of the implementation of article 11 of the Convention, the competent insurance authorities of both Contracting States shall furnish each other the necessary information, on request.

## SECTION II. SPECIAL PROVISIONS

### Chapter 1. SICKNESS INSURANCE, MATERNITY INSURANCE AND INSURANCE AGAINST DEATH (DEATH ALLOWANCE)

*Article 8.* 1. Where an insured person is entitled to receive benefits only if the insurance periods completed in both Contracting States are aggregated in accordance with article 12, paragraph 1, of the Convention, he shall present to the competent insurance authority a certificate indicating the insurance periods completed under the legislation of the other State.

2. The certificate shall be issued at the request of the insured person by the insurance authority of the other State with which he was last insured. If the insured person fails to present the certificate, the competent insurance authority shall request the insurance authority of the other State to issue and send the certificate.

*Article 9.* To obtain benefits in kind in the cases specified in article 12, paragraph 2, of the Convention, the person concerned shall present to the insurance authority of his place of residence a writing from the competent insurance authority whereby that authority requests the first-mentioned authority to grant benefits at its expense and specifies the maximum duration for which such benefits may be granted. Should the person fail to present the writing, the insurance authority of the place of residence shall apply to the competent insurance authority for a communication stating that request.

*Article 10.* 1. A person coming under article 7, paragraph 1, of the Convention shall, in order to obtain medical care in the cases specified in article 13, paragraph 1, of the Convention for himself and the family members accompanying him, present the certificate mentioned in article 4 to the insurance authority of the place of residence.

2. A person who submits such a certificate shall be presumed to satisfy the requirements for entitlement to benefits. The insurance authority of the place of residence shall in that case be obliged to grant the benefits referred to in article 13, paragraph 2, of the Convention.

3. The insurance authority of the place of residence shall address itself within three days to the competent insurance authority in order to learn whether the requirements for entitlement to medical care are satisfied and for what duration such care may be granted. It shall grant medical care until the receipt of the reply from the competent insurance authority, for a maximum of 30 days.

4. The competent insurance authority shall examine whether the requirements for entitlement to medical care are satisfied and communicate its decision to the insurance authority of the place of residence within 10 days of the receipt of the inquiry

mentioned in paragraph 3. If the decision is affirmative, the competent insurance authority shall also indicate the maximum duration for which medical care may be granted under its own applicable legislation. In this case the insurance authority of the place of residence shall continue to grant medical care.

5. In lieu of the certificate referred to in article 4, the person mentioned in paragraph 1 above may present to the insurance authority of his place of residence a certificate whereby the competent insurance authority certifies that the employed person satisfies the requirements for entitlement to medical care during his temporary stay in the territory of the other Contracting State and indicates the maximum duration specified in the legislation applicable to the said insurance authority, for the grant of medical care. In this case paragraphs 1 to 3 above shall be inapplicable.

*Article 11.* 1. To obtain medical care in the cases specified in article 13, paragraph 1, of the Convention, persons other than those to whom article 7, paragraph 1, of the Convention applies shall submit to the insurance authority of the place of residence a certificate from the competent insurance authority confirming that the person in question is entitled to receive benefits; this certificate should, where possible, be issued before the beginning of temporary residence. The certificate shall also indicate the period during which such benefits may be granted. Should the person fail to present the certificate, the insurance authority of the place of residence shall request the competent insurance authority to issue and send it.

2. Except as otherwise provided by article 10, paragraph 1, paragraph 1 above shall apply *mutatis mutandis* to family members temporarily resident in the territory of the other Contracting State.

*Article 12.* 1. Where, in the cases specified in article 13, paragraph 1, of the Convention, hospital care is granted, the insurance authority of the place of residence shall, within three days after obtaining knowledge thereof, notify the competent authority of the date of admission to hospital or to any other institution providing medical care, and of the anticipated duration of hospital care. At the time of discharge from the hospital or other institution, the insurance authority of the place of residence shall, within the same time-limit, notify the competent insurance authority of the date of discharge.

2. In order to be able to grant the benefits in kind mentioned in article 16, paragraph 2 (c), of the Convention in the cases specified in article 13, paragraph 1, of the Convention, the insurance authority of the place of residence shall address a request to that effect to the competent insurance authority. Where such benefits are granted, in case of absolute urgency, without the authorization of the competent insurance authority, the insurance authority of the place of residence shall report this immediately to the competent insurance authority.

*Article 13.* 1. To obtain cash benefits in the cases specified in article 13, paragraph 1, of the Convention, a person to whom that paragraph applies must address himself without delay to the insurance authority of his place of residence and present to it a certificate concerning his incapacity for work issued by his attending physician. He shall also furnish his address in the place of residence and the name and address of the competent insurance authority. The insurance authority of the place of residence shall cause the person to be examined as quickly as possible, and in any event within three days after he addressed himself to it, by a medical examiner and shall send the medical report, which must also state the anticipated duration of

the loss of working capacity, to the competent insurance authority within three days of the examination. The said competent insurance authority shall, within eight days after receiving the report, communicate to the insurance authority of the place of residence whether the person is entitled to receive cash benefits in the Contracting State in which he is.

2. If the medical examiner ascertains that the person has recovered his working capacity, the insurance authority of the place of residence shall notify the person that he is no longer incapable of working and send a copy of such notification to the competent insurance authority without delay. Where the persons concerned are other than the person to whom a certificate was granted under article 4 and the medical examiner certifies that their state of health does not prevent them from returning to the other Contracting State, the insurance authority of the place of residence shall notify them to that effect and send a copy of such notification to the competent insurance authority without delay.

3. The insurance authority of the place of residence shall submit the person to medical examination as if he were insured with that insurance authority.

4. The competent insurance authority shall pay the cash benefits by means of transfer and shall notify the insurance authority of the place of residence concerning such payment. If the benefits must be paid by the insurance authority of the place of residence for the account of the competent insurance authority, the competent insurance authority shall communicate to the insurance authority of the place of residence the amount of such benefits, the day or days on which they are to be paid and the maximum period for which they are to be granted.

*Article 14.* 1. To obtain benefits in the cases specified in article 13, paragraph 2, of the Convention, a person to whom that paragraph applies must present to the insurance authority of his place of residence a certificate from the competent insurance authority confirming that he is still entitled to benefits after the transfer of residence and indicating, where appropriate, the maximum period for the grant of benefits in kind provided for under the legislation to be applied by the said competent insurance authority.

2. Articles 12 and 13 shall apply *mutatis mutandis* to the grant of benefits by the insurance authority of the place of residence.

3. Paragraphs 1 and 2 above shall apply *mutatis mutandis* to family members of a person in accordance with paragraph 1 above who move to the territory of the other State after the sickness or maternity insurance contingency has materialized.

4. If the insurance authority of the place of residence ascertains that the recipient of the benefits has recovered his working capacity, it shall notify him of the day as from which he is no longer incapable of working and send a copy of such notification to the competent insurance authority without delay. This rule shall also apply where the insurance authority of the place of residence ascertains that hospital care must be terminated. Cash benefits paid by the insurance authority of the place of residence shall be payable only up to the day as from which the person, according to the ascertainment of the insurance authority of the place of residence, is no longer incapable of working.

5. If the competent insurance authority decides on the basis of the information obtained that the person is no longer incapable of working, it shall request the insurance authority of the place of residence to communicate that decision to the per-

son concerned. Cash benefits shall cease on the day following the day on which the person is informed of the decision of the competent insurance authority.

6. Where the insurance authority of the place of residence and the competent insurance authority have determined two different dates for the resumption of working capacity, the date determined by the competent insurance authority shall prevail.

*Article 15.* 1. In the cases specified in article 14, paragraph 1, of the Convention, the insured person shall present to the competent insurance authority a certificate concerning his family members who are ordinarily resident in the territory of the other Contracting State. In the certificate no mention shall be made of family members who are entitled to benefits under their own insurance or under the insurance of a person resident in the territory of the said other Contracting State.

2. The certificate shall be issued by the insurance authority of the place of residence of the family members which is mentioned in article 16, paragraph 2 (a), of the Convention. It shall be valid for 12 months from its date of issue.

3. Based on the certificate referred to in paragraph 1 above, the competent insurance authority shall communicate to the insurance authority of the place of residence which family members are entitled and as of which date benefits may be granted to them. The insured person shall receive a copy of such communication.

4. If family members are in need of benefits in kind, they must present to the insurance authority of the place of residence documents evidencing that their support is provided primarily by the insured person. Such evidence may be in the form of proof that the insured person regularly remits to them a portion of his income from employment.

5. If hospital care is necessary, the insurance authority of the place of residence shall notify the competent insurance authority of the need for such care without delay. The competent insurance authority shall inform the insurance authority of the place of residence of the duration for which hospital care may be granted. In urgent cases, immediate admission to hospital may be decided.

6. The competent insurance authority shall notify the insurance authority of the place of residence of the termination of coverage under the insurance scheme.

7. If, before the insured person ceases to be insured, an insurance contingency has already occurred in respect of a family member and the person on the basis of whose status as an insured person entitlement arose is not insured afresh, the insurance authority of the place of residence shall communicate this matter to the competent insurance authority, who must make known, without delay, for what period benefits in kind may still be granted to that family member.

8. The insured person and family members shall be under the obligation to notify the competent insurance authority or the insurance authority of the place of residence concerning any change in their situation, in particular a change in the number of family members, the beginning of family members' own insurance, any change of residence of the insured person or his family members and, additionally, in the case of persons receiving pensions or their family members, the taking on of any occupation by the recipient of the pension, and the suspension or discontinuance of the pension. Changes shall be taken into account as from the date on which they took place. The insurance authorities shall inform each other of all changes that have become known to them.



9. The insurance authority of the place of residence shall assist the competent insurance authority if the latter wishes to assert its right of restitution against a person who has wrongly received benefits.

10. Where family members are entitled to receive cash benefits, they may apply for such benefits to the insurance authority of the place of residence. The application shall be forwarded to the competent insurance authority without delay.

Article 13, paragraph 4, shall apply *mutatis mutandis*.

*Article 16.* In the cases specified in article 14, paragraph 3, of the Convention, the competent insurance authority shall, if necessary, request the insurance authority of the place where the family members were last resident to indicate to it the period of time during which benefits were granted to them before their transfer of residence.

*Article 17.* 1. To receive benefits in kind in the cases specified in article 15, paragraph 1, of the Convention, a person entitled to a pension shall register with the insurance authority of his place of residence and at the same time present a certificate in which the competent insurance authority for sickness insurance shall specify the nature of the pension owed and state whether the person entitled to the pension is entitled to receive benefits in kind for himself and his family members in accordance with the legislation of the Contracting State under whose legislation the pension is payable. The certificate shall be valid until revoked. The insurance authority of the place of residence shall provide the competent insurance authority with confirmation of such registration.

2. If the person entitled to the pension or a family member ordinarily resident in the territory of the State in which that person resides is in need of benefits in kind, it is a prerequisite for the granting of such benefits that the certificate referred to in paragraph 1 above should still be valid.

3. Article 15, paragraphs 5 to 10, of this agreement shall apply *mutatis mutandis*.

*Article 18.* The family members referred to in article 15, paragraph 5, of the Convention must register with the insurance authority of their ordinary place of residence in order to receive benefits in kind. They must also provide evidence showing from which pension insurance authorities the person defined in article 15, paragraph 2, of the Convention is entitled to receive a pension. The insurance authority of the ordinary place of residence of the family members shall grant the benefits at its expense as though the said person were insured with that insurance authority. In this respect, it shall be considered as a competent insurance authority.

*Article 19.* To receive benefits in kind in the cases specified in article 15, paragraph 6, of the Convention, persons to whom that paragraph applies must address themselves to the insurance authority of their temporary place of residence and also provide evidence showing from which pension insurance authorities the person specified in article 15, paragraphs 1 and 2, of the Convention is entitled to receive a pension. Where a person satisfying the conditions of article 15, paragraph 1, of the Convention or his family members are resident in the territory of the Federal Republic, they must, in addition, provide proof as to the competent German insurance authority for sickness insurance.

*Article 20.* 1. The insurance authority of the place of residence shall, at the end of each case of sickness or maternity for which it has provided benefits in kind

pursuant to article 16, paragraph 2, of the Convention, send to the competent insurance authority, via the liaison offices, a statement of the costs actually incurred. In respect of benefits in kind the costs of which cannot be evidenced for individual cases, the liaison offices may agree on fixed amounts, which must be in keeping with the amounts prescribed or agreed on, within the State concerned, among the insurance authorities for assistance in providing benefits. Within 20 days of the receipt of the statement, the competent insurance authority shall remit the amount to be reimbursed by it, through its liaison office, to the liaison office of the other Contracting State.

2. The insurance authority of the place of residence shall, at the end of each calendar quarter in which it has granted cash benefits pursuant to article 16, second sentence of paragraph 3, of the Convention, send to the competent insurance authority, through the liaison offices, a statement of the amounts disbursed during that calendar quarter. The third sentence of paragraph 1 above shall apply.

*Article 21.* If the competent authority requires more precise information to pay the death allowance to persons entitled to receive it who are resident in the other Contracting State, it shall obtain such information from the insurance authority of the place of residence. Within 20 days of the receipt of the information, the competent insurance authority shall remit the death allowance to the entitled persons or instruct the insurance authority of the place of residence to pay them the amount in question. The competent insurance authority may also remit the death allowance through its liaison office to the liaison office of the Contracting State for payment to the entitled persons.

## Chapter 2. PENSION INSURANCE (OLD-AGE, DISABILITY AND SURVIVORS' INSURANCE)

### *Submission and handling of applications*

*Article 22.* 1. Insured persons and survivors ordinarily resident in a Contracting State shall, subject to paragraph 3 below, submit their application for benefits under title III of the Convention to the competent insurance authority of their place of residence in accordance with the legislation applicable to that authority.

2. Insured persons and survivors not ordinarily resident in the territory of a Contracting State shall submit their application for benefits to the competent insurance authority of the Contracting State under whose legislation the insured person was last insured and in accordance with the legislation applicable to that authority.

3. Paragraph 2 above shall also apply to persons who are ordinarily resident in one of the two Contracting States and claim benefits exclusively under the legislation of the other State.

4. If the authority which receives the application is not the competent insurance authority, the application shall be forwarded without delay to the competent insurance authority, together with all related documents; at the same time, the date on which the application was received by the first-mentioned authority shall be indicated.

*Article 23.* For the submission of applications, the following rules shall apply:

- (a) The application shall be accompanied by the necessary vouchers. It shall be drawn up on the printed forms specified, in the cases referred to in article 22, paragraph 1, by the legislation of the country of ordinary residence, or, in the cases referred to in article 22, paragraphs 2 and 3, by the legislation of the State in whose territory the competent insurance authority has its main office. The liaison offices shall establish by agreement printed forms to be used by applicants, on request, for providing additional information;
- (b) The correctness of the information provided by the applicant must be substantiated by means of official documents annexed to the printed forms or certified by the proper authorities of the country in which the applicant lives;
- (c) In so far as possible, the applicant must indicate on the printed forms the pension insurance authority or authorities with which the insured person was insured, the employer or employers with whom the insured person was employed in the territory of both Contracting States, and the nature of the occupation which he carried on in both Contracting States;
- (d) The applicant must further indicate with which sickness insurance authority the insured person was insured in the last five years preceding the submission of the application.

*Article 24.* Where a person was insured under the legislation of both Contracting States, applications shall be handled in accordance with articles 25 to 28. The competent insurance authority of the Contracting State in whose territory the person is ordinarily resident or, in the cases specified in article 22, paragraph 2, of the State in whose territory the insurance authority to which the application is to be submitted has its main office shall be designated hereinafter as the "handling insurance authority".

*Article 25.* The handling insurance authority shall use a printed form agreed on in accordance with article 3. The sending of such form to the competent insurance authority of the other Contracting State shall replace the sending of vouchers if the information provided on the printed form is authenticated by the handling insurance authority.

*Article 26.* The handling insurance authority shall enter on the printed form referred to in article 25 the contribution periods and equivalent periods completed under the legislation which it is required to apply and send two copies of the form to the competent insurance authority of the other Contracting State. The last-mentioned insurance authority shall complete the form with information pertaining to the contribution periods and equivalent periods completed under its own legislation and return one copy to the handling insurance authority. At the same time, it shall indicate the amount of pension for which it is liable under the Convention and the amount of pension for which it would be liable without the application of article 22, paragraph 2, of the Convention.

*Article 27.* The handling insurance authority shall determine the amount of pension for which it is liable under the Convention and the amount of pension for which it would be liable without the application of article 22, paragraphs 2 and 3, of the Convention and shall examine whether the entitled person qualifies for the payment of a difference in accordance with article 23, paragraphs 1 to 3, of the Conven-

tion. It shall notify the competent insurance authority of the other Contracting State concerning the amount of any difference and where applicable concerning the insurance authority liable for payment. It shall also communicate the amount which the competent insurance authority of one Contracting State is required to pay to the competent insurance authority of the other Contracting State under article 23, paragraph 2, of the Convention.

*Article 28.* Decisions concerning applications for benefits shall be communicated by the competent insurance authorities of both Contracting States and the applicant shall be notified of such decisions by the handling insurance authority. The handling insurance authority shall communicate to the competent insurance authority of the other Contracting State the time of such notification or, where notification is given by registered letter, the time of mailing of the registered letter. The competent insurance authorities of both Contracting States shall send each other copies of their decisions.

#### *Payment of benefits*

*Article 29.* 1. Where the competent insurance authority of a Contracting State does not pay direct to entitled persons ordinarily resident in the territory of the other Contracting State the benefits to which they are entitled, such payments shall be made, pursuant to articles 30 to 34, by the liaison office of the last-mentioned State, hereinafter designated as the "paying authority". Where the competent insurance authority pays such benefits direct to an entitled person ordinarily resident in the other Contracting State, it shall notify the liaison office of the said other Contracting State of such payments.

2. The liaison office may entrust the competent insurance authority of the State in which the liaison office has its headquarters with the duties of paying authority.

*Article 30.* The competent insurance authorities of both Contracting States shall summarize in payment schedules the payments to be made by them. Payment schedules with the names and addresses of all persons entitled to pensions shall be prepared only for the first month after the beginning of payments. For subsequent months, only schedules of new admissions and terminations shall be sent. The form of such schedules shall be determined by the liaison offices. The schedules shall be sent to the paying authority in duplicate 20 days before the due date of the benefit.

*Article 31.* The mutual set-off of amounts payable under article 29, first sentence of paragraph 1, may be effected monthly on the basis of a further agreement between the liaison offices. In that case the balance remaining to the debit of either paying authority shall be settled monthly, without delay, in accordance with the Spanish-German payments agreement, or, where no such agreement exists, by further agreement between the offices competent for such matters.

*Article 32.* 1. Where no set-off in accordance with article 31 takes place, the amounts due appearing in the schedule referred to in article 30 shall be remitted to the paying authorities 10 days before the benefits become payable. They shall be paid to the entitled persons by the paying authority on behalf of the competent insurance authority.

2. Payment shall take place in accordance with the customary procedure of the paying authority.

3. The paying authority shall undertake to guarantee the proper execution of the scheduled payments.

4. If a paying authority or an office entrusted by that authority with the execution of payment learns of any circumstance that warrants the suspension or extinction of benefits, it shall discontinue all payment. The same shall apply where the entitled person transfers his residence to another country. The paying authority shall notify the competent insurance authority of any ground for discontinuance of payment and, where applicable, the date on which an entitled person or spouse deceased or a widow or widower remarried.

*Article 33.* Benefits shall be paid to the persons entitled, without deduction of any administrative or remittance charges.

*Article 34.* As evidence of payments, the paying authorities shall, after each payment date, transmit to each other certifications as to all amounts paid and not paid, stating the reasons for any non-payment. Amounts not paid out shall be returned without delay or, in the case of settlement in accordance with article 31, taken into account in the following month. Further particulars concerning the necessary administrative measures shall be established by agreement between the liaison offices.

### Chapter 3. ACCIDENT INSURANCE

*Article 35.* 1. For the award of benefits in kind and cash benefits other than pensions, the following articles shall apply *mutatis mutandis*:

- (a) In the cases specified in article 34, paragraph 1, of the Convention: article 14;
- (b) In the cases specified in article 34, paragraph 2, of the Convention: articles 10, 11 and 12;
- (c) In the cases specified in article 34, paragraphs 1 and 2, of the Convention: articles 13, 20 and 21.

2. The German liaison office may delegate the award of benefits to an accident insurance institution with the consent of that institution, provided that such delegation seems expedient in view of the nature of the case.

*Article 36.* 1. If the competent insurance authority objects, in the cases specified in article 34, paragraph 2, of the Convention, to the application of the legislation concerning industrial accidents and occupational diseases, it shall communicate such objection without delay, through the liaison offices, to the insurance authority of the place of residence which granted the benefits in kind. In such case, the benefits granted by the last-mentioned insurance authority shall be deemed sickness insurance benefits.

2. As soon as a final decision is reached concerning the objection, the competent insurance authority shall accordingly notify the insurance authority of the place of residence through the liaison office. If it is decided that neither an industrial accident nor an occupational disease is involved, the insurance authority of the place of residence shall continue to grant the benefits under sickness insurance; otherwise, the benefits received by the insured person under sickness insurance shall be deemed industrial accident and occupational disease benefits.

*Article 37.* 1. In the cases specified in article 34, first half of paragraph 2, of the Convention, the provisions governing notice of industrial accidents and occupa-

tional diseases shall be those of the Contracting State under whose legislation the person concerned is insured.

2. The notice shall be addressed to the competent insurance authority, which shall report such notice to the insurance authority of the place of residence. It may, however, also be addressed in duplicate to the insurance authority of the place of residence, which shall send one of the two copies to the competent insurance authority and shall provide that authority, upon request, with all the particulars of the accident.

*Article 38.* In the cases specified in article 34, first half of paragraph 2, of the Convention, the insurance authority of the place of residence shall send to the competent insurance authority, via the liaison offices, the medical certificates issued in the territory of the Contracting State in which the industrial accident occurred or the occupational disease was contracted. In the case of an accident, the certificate attesting the healing of the injury—irrespective of whether such injury has resulted in a diminution of the capacity for work or not—must also contain particulars concerning the ultimate consequences of the accident and describe the condition of the injured person in detail. The related fees shall be paid, at the expense of the competent insurance authority, by the insurance authority of the place of residence in accordance with the tariff in force for the last-mentioned insurance authority.

*Article 39.* In the cases specified in article 36 of the Convention, the insured person must, for the determination of the degree of loss of working capacity, provide the competent insurance authority of the Contracting State under whose legislation the industrial accident occurred or the occupational disease was contracted with the necessary information concerning industrial accidents and occupational diseases which occurred or were contracted earlier under the legislation of the other Contracting State and without regard to the degree of loss of working capacity caused in such earlier cases. Where the said insurance authority so deems it necessary, it may, through the liaison offices, request documentation concerning such cases from the insurance authority or authorities which were liable to provide compensation in those cases.

*Article 40.* 1. Where, in the cases specified in article 37, paragraph 1, of the Convention, account must be taken of earlier employment periods, the insurance authority of the State in which such periods were completed shall issue to the insured person a certificate to be presented to the competent insurance authority of the State under whose legislation such an occupation was last carried on.

2. The insured person must provide the competent insurance authority of the Contracting State under whose legislation he is claiming a benefit with the necessary information concerning benefits determined earlier as compensation for the occupational disease in question. If the said insurance authority considers it necessary, it may, through the liaison offices, request documentation concerning such benefits from the insurance authority which earlier granted the benefits to the person in question.

#### *Submission and handling of pension applications*

*Article 41.* 1. Where an insured person or the survivor of an insured person claims a pension or a pension supplement, he must submit an application to the competent insurance authority through the liaison offices. If he is ordinarily resident in

one of the two Contracting States and claims the said benefits under the legislation of the other State, he may submit the application to the insurance authority of the place of residence. Article 22, paragraph 4, and article 23 shall apply *mutatis mutandis*.

2. The competent insurance authority shall notify the applicant of its decision, through the liaison offices. The liaison office of the State in which the applicant is ordinarily resident shall keep a copy of the decision.

#### *Payment of pensions*

*Article 42.* Pensions payable by the insurance authority of one Contracting State to persons ordinarily resident in the territory of the other State shall be paid in accordance with articles 29 to 34.

### Chapter 4. FAMILY ALLOWANCES

*Article 43.* 1. For the purposes of article 40, paragraph 2, of the Convention, the entitled person shall present to the competent insurance authority a certificate pertaining to employment periods and equivalent periods completed in the other Contracting State. In lieu of such certificate, a certificate in accordance with article 8 may be presented.

2. The certificate shall be issued, at the request of the entitled person, by the insurance authority with which he was insured during the said periods. Where the entitled person is unable to present the certificate, the competent insurance authority shall request it through the liaison offices from the first-mentioned insurance authority. The competent insurance authority may request the certificate specified in article 8 direct from the sickness insurance authority which received that certificate.

*Article 44.* 1. To obtain family allowances for the family members specified in article 40, paragraph 1, sub-paragraph (2), of the Convention, the entitled person shall address himself to the competent insurance authority, through his employer if appropriate.

2. At the request of the entitled person or the competent insurance authority, the liaison office of the Contracting State in which the family members are ordinarily resident shall send to the competent insurance authority a certificate relating to the family members and issued in accordance with the legislation of that State.

3. Article 15, paragraphs 8 and 9, shall apply *mutatis mutandis*.

*Article 45.* Application for the extension provided for under article 40, paragraph 1, sub-paragraph (3), of the Convention shall be made to the competent insurance authority at least four weeks before the expiration of the period. Documents relating to the reasons preventing the family from transferring its residence shall be annexed to the application.

### SECTION III. COMMON PROVISIONS

*Article 46.* Decisions of an insurance authority may be notified to an entitled person resident in the territory of the other Contracting State through the liaison office of that State.

*Article 47.* 1. Administrative and medical examinations of entitled persons who are ordinarily resident in the territory of one Contracting State and are in receipt

of benefits under the legislation of the other Contracting State, or to whom benefits have been granted in accordance with the Convention by the insurance authority of the place of residence on behalf of the competent insurance authority, shall be performed at the behest of the competent insurance authority through the liaison offices.

2. Examinations in accordance with paragraph 1 above shall take place, in particular, in the case of:

- (a) Sickness and maternity benefits;
- (b) Disability benefits;
- (c) Old-age benefits granted to older unemployed persons;
- (d) Old-age benefits granted on cessation of work activity;
- (e) Survivors' benefits;
- (f) Benefits granted with the proviso that the income of the entitled person, even where derived from some activity, must not exceed a specified maximum amount;
- (g) Benefits in respect of industrial accidents and occupational diseases;
- (h) Family allowances.

*Article 48.* Where, in an examination in accordance with article 47, it is ascertained that the recipient of any of the benefits referred to in article 47, paragraph 2 (a) to (f), is or was employed, or that his income is or was greater than the prescribed maximum amount, during the period for which he receives or received such benefits, a relevant report shall be sent to the competent insurance authority.

The report shall contain the following information:

- The nature of the occupation carried on;
- The amount of remuneration or income received by the person concerned during the quarter last ended;
- The usual remuneration received by an employed person of the occupational group to which the person concerned belonged before his disability and, where applicable, the opinion of a medical examiner concerning the state of health of the person concerned.

*Article 49.* Where, after the suspension or cessation of a benefit, the person concerned is again entitled to receive such benefit while resident in the territory of the other Contracting State, the insurance authority of the place of residence shall communicate to the competent insurance authority all information necessary for the resumption of payment.

*Article 50.* 1. The competent insurance authorities shall, on request, inform the public assistance agencies of the other State whether an application for benefits has been submitted to them. The public assistance agency concerned shall submit the request for reimbursement of assistance benefits to the competent insurance authority or, if that authority has its headquarters in the territory of the other Contracting State, to the liaison office which has its headquarters in the territory of its own Contracting State. The request shall indicate both the duration and the amount of regular and one-time assistance benefits paid.

2. If the benefits have not been paid within a month of the receipt of the request from the public assistance agency, the competent insurance authority or the



liaison office shall, before paying them, give the public assistance agency a suitable opportunity to notify it of the final amount of the reimbursement requested.

3. The paying authority shall pay to the public assistance agency the amount withheld on its behalf.

*Article 51.* This supplementary agreement shall have the same duration as the Convention. Article 56 of the Convention shall apply *mutatis mutandis*.

*Article 52.* 1. This agreement shall be subject to ratification. The instruments of ratification shall be exchanged at Madrid as soon as possible.

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

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

DONE at Bonn, on 29 October 1959, in four copies, two in the Spanish and two in the German language, both texts being equally authentic.

For the Spanish State:

[Signed]

MARQUÉS DE BOLARQUE  
Ambassador of Spain

For the Federal Republic of Germany:

[Signed]

Dr. HEINRICH VON BRENTANO  
Minister for Foreign Affairs

[Signed]

THEODOR BLANK  
Minister of Labour and Social Affairs

ADDITIONAL PROTOCOL TO THE CONVENTION BETWEEN THE SPANISH STATE  
AND THE FEDERAL REPUBLIC OF GERMANY ON SOCIAL SECURITY OF  
29 OCTOBER 1959 AND THE SUPPLEMENTARY AGREEMENT THERETO,  
SIGNED ON THE SAME DATE

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

Desiring to ensure that family members remaining in Spain of persons insured under a sickness insurance scheme in the Federal Republic of Germany are granted sickness insurance benefits even before the entry into force of the Convention between the Spanish State and the Federal Republic of Germany on social security of 29 October 1959,

Have decided to establish rules for that purpose in an additional protocol and to that end have appointed as their plenipotentiaries:

The Head of the Spanish State: His Excellency Marqués de Bolarque, Spanish Ambassador in Bonn;

The President of the Federal Republic of Germany: Dr. Albert Hilger van Scherpenberg, State Secretary in the Ministry of Foreign Affairs,

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

*Article 1.* Where family members of a person insured with a German sickness insurance authority are ordinarily resident in the territory of the Spanish State, they shall, starting 1 Oc-

tober 1960, receive sickness insurance benefits in accordance with the Convention between the Spanish State and the Federal Republic of Germany on social security of 29 October 1959 — hereinafter referred to as “the Convention” — and the supplementary agreement thereto signed on the same date.

*Article 2.* 1. In accordance with the Convention, the competent German insurance authorities shall repay to the Spanish insurance authorities, within three months of the entry into force of this protocol, the cost of benefits in kind provided by them under article 1 above.

2. Cash benefits to be provided by the competent German insurance authorities under article 1 above shall not be paid until after the entry into force of this protocol.

*Article 3.* This additional protocol shall also apply to *Land Berlin* unless the Government of the Federal Republic of Germany makes a declaration to the contrary to the Spanish Government within three months of the entry into force of this additional protocol.

*Article 4.* 1. This additional protocol shall be subject to ratification. The instruments of ratification shall be exchanged at Madrid as soon as possible.

2. This additional protocol shall form an integral part of the Convention. It shall enter into force on the same day as the Convention.

IN WITNESS WHEREOF the respective plenipotentiaries have signed this protocol and have thereto affixed their seals.

DONE at Bonn, on 24 October 1960, in four copies, two in the Spanish and two in the German language, both texts being equally authentic.

For the Spanish State:

[Signed]

MARQUES DE BOLARQUE  
Ambassador of Spain

For the Federal Republic of Germany:

[Signed]

ALBERT HILGER VAN SCHERPENBERG  
State Secretary  
in the Ministry of Foreign Affairs