

No. 19011

**SPAIN
and
ITALY**

**Convention on social security. Signed at Madrid on 20 July
1967**

**Administrative Agreement for the implementation of the
above-mentioned Convention. Signed at Rome on
7 June 1977**

**Protocol for the implementation of the above-mentioned
Convention of 20 July 1967. Signed at Rome on 7 June
1977**

Authentic texts: Spanish and Italian.

Registered by Spain on 22 July 1980.

[TRANSLATION — TRADUCTION]

CONVENTION¹ BETWEEN SPAIN AND ITALY ON SOCIAL SECURITY

The Head of the Spanish State and the President of the Italian Republic have decided to conclude a new Convention on social security and, to that end, have appointed as their plenipotentiaries:

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

The President of the Italian Republic: the Honorable Senator Giorgio Oliva, Under-Secretary for Foreign Affairs,

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

PART I. GENERAL PROVISIONS

Article 1

For the purposes of this Convention:

1. "Spain" means the Spanish State and "Italy" means the Italian Republic;
2. "National" means, in the case of Spain, any person who can prove that he possesses Spanish nationality and, in the case of Italy, any Italian citizen;
3. "Legislation" means the laws, regulations and other provisions of each of the two countries governing the matters specified in article 2;
4. "Competent authority" means, in the case of Spain, the Minister of Labour and, in the case of Italy, the Minister of Labour and Social Security;
5. "Competent institution" means: (a) the institution with which the person in question is insured at the time of the claim to benefit, or (b) the institution with which the person concerned has title to benefit or would have title if he or his family members resided in the territory of the Contracting Party in which the said institution is situated;
6. "Liaison institutions" means the offices designated by administrative agreement which may communicate directly with each other and forward claim forms to the competent institutions;
7. "Family members" means persons defined as such by the applicable legislation;
8. "Insurance periods" means contribution periods and equivalent periods;
9. "Contribution periods" means periods in respect of which contributions have actually been paid, should have been paid or are deemed to have been paid under the legislation of either Contracting Party;

¹ Came into force on 1 August 1976, i.e., the first day of the month following the month of the exchange of the instruments of ratification, which took place at Rome on 21 July 1976, in accordance with article 51 (2).

10. "Equivalent periods" means periods which are deemed equivalent to, or interchangeable with, contribution periods or insurance periods;

11. "Cash benefits, pensions and annuities" means all cash benefits, pensions and annuities, including any supplements, additions and increases.

Article 2

Paragraph 1. This Agreement shall apply:

(1) In Spain:

- A. To the legislation governing the general social security scheme with regard to the following contingencies and situations:
- (a) Maternity, ordinary sickness or occupational diseases, and industrial or other accidents;
 - (b) Temporary and permanent invalidity;
 - (c) Unemployment;
 - (d) Old-age, death and survivors' insurance;
 - (e) Family allowances;
 - (f) Social services for retraining and rehabilitation of invalids;
 - (g) Optional social-assistance benefits;
- B. To the legislation applicable to workers covered by the following special schemes:
- (a) Workers employed in agriculture, forestry and stockbreeding;
 - (b) Seamen;
 - (c) Miners;
 - (d) Domestic servants.

(2) In Italy:

To the legislation concerning:

- (a) Invalidity, old-age and survivors' insurance;
- (b) Insurance against industrial accidents and occupational diseases;
- (c) Sickness insurance, including allowances for funeral expenses and benefits in kind for beneficiaries of pensions and annuities;
- (d) Tuberculosis insurance;
- (e) Physical and economic protection for working mothers;
- (f) Insurance against involuntary unemployment;
- (g) Family allowances;
- (h) Special insurance schemes for specific categories of workers in so far as they relate to risks or benefits covered by the legislation specified in the preceding subparagraphs;
- (i) Voluntary and optional insurance provided for in the legislation specified in the preceding subparagraphs.

Paragraph 2. This Convention shall also apply to special schemes relating to self-employed workers engaged in activities to be specified by agreement between the competent authorities.

Paragraph 3. This Convention shall also apply to any legislation amending or supplementing the legislation specified in paragraph 1. However, it shall not apply:

- (a) To legislation extending the existing schemes to new categories of workers, if the other Contracting Party raises an objection thereto within three months of the official publication of such legislation;
- (b) To legislation establishing a new social security scheme, unless an express agreement to that effect has been concluded in advance by an exchange of notes between the Contracting Parties.

Article 3

Spanish wage-earners in Italy and Italian wage-earners in Spain, or workers recognized as wage-earners by the legislation specified in article 2 above, as well as their family members, shall, except as otherwise provided in this Convention, have the same rights and obligations as nationals of the other State.

Article 4

Paragraph 1. For the purpose of membership in voluntary or optional insurance schemes in accordance with the legislation of one Contracting State, insurance periods completed in accordance with the legislation of that State shall be aggregated as necessary with insurance periods completed in accordance with the legislation of the other Contracting State.

Paragraph 2. Spanish and Italian workers who have been insured under a compulsory insurance scheme in one of the two States and leave that State in order to move to the other State and who do not satisfy in the latter State the conditions necessary for membership in the compulsory insurance scheme may take advantage of the voluntary or optional insurance covered by the legislation specified in article 2. For that purpose, the insurance periods completed in the first-mentioned State shall be taken into account, as necessary.

Article 5

Paragraph 1. Wage-earners or workers recognized as wage-earners who are nationals of one of the Contracting Parties and are employed in the territory of the other Party shall be subject to the legislation of the other Party, even if they maintain their residence in the territory of the first-mentioned Party or even if their employer or the principal place of business of the enterprise which employs them is in the territory of the first-mentioned Party.

Paragraph 2. The rule laid down in the preceding paragraph shall be subject to the following exceptions:

- (a) Workers who are employed by an enterprise having its principal place of business in one of the two States and are sent to the other State for a limited period of time shall remain subject to the legislation of the State in which the enterprise has its principal place of business, provided that their stay in the other State does not exceed a period of 24 months. The same rule shall apply to workers who are employed by an enterprise having its principal place of business in one of the two States and who travel repeatedly to the other State owing to the special nature of the work that they must perform, provided that each stay does not exceed 24 months. If such employment should for

unforeseen reasons last longer than originally anticipated and exceed 24 months, the legislation in force in the State in which they are normally employed may as an exception continue to apply, with the consent of the competent authority of the State in which they are temporarily working. The same rules shall apply to persons who are normally self-employed in one of the two States and who travel to the territory of the other State to perform the same work for a limited period of time, provided that their work falls under the categories of employment specified in subparagraph (d) of this article.

- (b) Workers employed by a transport enterprise of one of the two States who work either temporarily or permanently in the other State shall be subject to the legislation in force in the State in which the enterprise has its principal place of business.
- (c) Members of the crew of a vessel flying the flag of one of the two States shall be subject to the legislation in force in the State to which the vessel belongs. However, workers hired by such a vessel to engage in loading and unloading, on-board repairs or surveillance, while the vessel is in a port of the other State, shall be subject to the legislation of the State to which the port belongs.
- (d) Workers employed by enterprises of national interest which provide telecommunication services or which transport passengers or goods by rails, road, air or water, and any other enterprises that may subsequently be agreed upon through an exchange of notes, shall remain subject to the legislation in force in the State in which such enterprises have their principal place of business, unless such workers opt, within a period of three months from the start of their work, to be subject to the legislation of the country in which they work.

Article 6

The competent authorities of the two States may, by mutual agreement, establish exceptions to the provisions of article 5, paragraph 1, regarding applicable legislation, in the interest of certain workers or certain categories of workers. The said authorities may also agree to suspend the application of the exceptions provided for in paragraph 2 of that article, or to amend or supplement them in special cases or for particular categories of workers.

Article 7

Paragraph 1. The provisions referred to in article 5, paragraph 1, shall apply to workers who are employed in Spanish and Italian diplomatic and consular missions or are in the personal employ of the heads, members or employees of such missions.

Paragraph 2. The workers referred to in paragraph 1 who are nationals of the State to which the diplomatic or consular mission belongs may opt to be subject to the legislation of either the State of which they are nationals or the State in which they work.

Paragraph 3. Paragraphs 1 and 2 shall not apply to career diplomatic and consular officials and to chancellery officials.

Paragraph 4. Personnel in the public administration of one of the two States who are sent to work in the other State shall remain subject to the legislation of the sending State.

Article 8

Except as provided in this Agreement, workers entitled to social security benefits from one Contracting Party shall receive them in their entirety and without any limitation or restriction while they reside in the territory of either of the Contracting Parties. Such benefits shall be granted by both Contracting Parties to the nationals of the other Party who reside in a third country, under the same conditions and in the same amount as to their own nationals residing in that third country.

PART II. SPECIAL PROVISIONS

Chapter I. INVALIDITY, OLD-AGE AND SURVIVORS' BENEFITS

Article 9

Paragraph 1. Employment or insurance periods completed by Spanish and Italian workers who have been insured under one or more invalidity, old-age or survivors' insurance schemes in either State shall be aggregated for the purposes of determining entitlement to benefits and of maintaining or recovering such entitlement.

Paragraph 2. If the legislation of one of the two Contracting Parties makes the granting of certain benefits dependent on the completion of insurance periods in an occupation which is subject to a special insurance scheme, only periods completed under the corresponding scheme of the other country shall be aggregated for the purpose of granting such benefits. If there is no special scheme in the other country which covers the occupation in question, the periods completed in the same occupation under one of the other schemes provided for in paragraph 1 shall be aggregated for the purpose of granting such benefits. If, however, the person concerned does not satisfy the requirements for entitlement to the benefit in question, the period completed under the special scheme shall be aggregated for the purpose of granting benefits under the other scheme provided for in paragraph 1.

Paragraph 3. In the cases provided for in paragraphs 1 and 2, each competent institution shall, in accordance with its own legislation and bearing in mind the aggregation of the insurance periods completed regardless of the country in which they have been completed, determine whether the person concerned qualifies for the benefits provided for under that legislation.

The Administrative Agreement provided for in article 45 shall specify the conditions and procedures whereby the insurance periods completed in the two countries shall be taken into account for the purpose of determining the benefits in question.

Article 10

Where a person does not simultaneously satisfy the conditions laid down by the legislation of both States, account being taken of the aggregation of periods referred to in article 9, paragraphs 1 and 2, his entitlement to a pension shall be established, with respect to each legislation, as and when he is able to satisfy such conditions.

Article 11

At the time that a person becomes entitled to receive a pension, he may decline to take advantage of the provisions of article 9. In that case, the benefits shall be determined separately by the competent institution of each State according to its own legislation, disregarding the insurance periods completed in the other State.

Chapter II. INDUSTRIAL ACCIDENTS AND OCCUPATIONAL DISEASES

Article 12

For the purpose of ascertaining entitlement to benefits and determining the nature and amount of the benefits in the event of an industrial accident, the legislation of the State in which the accident occurred shall apply.

Article 13

Paragraph 1. Where an insured person contracts an occupational disease after having been engaged exclusively in the territory of one State in an occupation which, under the legislation of that State, is liable to give rise to that disease, the legislation of that State shall apply to that person even though the disease manifests itself in the other State.

Paragraph 2. Except as provided in article 16, if an insured person contracts an occupational disease after having been engaged in the territory of both States in an occupation which, under the legislation of those States, is liable to give rise to such a disease, the legislation of the State in whose territory that person was last engaged in such an occupation shall apply.

Article 14

If the legislation of one of the two States expressly or implicitly makes it a condition for the award of occupational disease benefits that an occupation liable to give rise to the disease in question should have been exercised for a specific period, the competent institution of that State shall take into account any periods during which such an occupation was exercised under the legislation of the other State.

Article 15

Except as provided in article 16:

- (a) If a worker who has received occupational disease compensation in one of the two States establishes entitlements for additional benefits in respect of the same disease in the other State, the competent institutions of the first-mentioned State shall continue to be responsible for granting the benefits in question;
- (b) Where it is ascertained that the worker has suffered an aggravation of such an occupational disease as a consequence of an occupation exercised in the second State, he shall be entitled to compensation under the legislation applicable in that country for the difference between the degree of incapacity for which he has already been compensated and the added degree which he is recognized to have suffered.

Article 16

If an insured person contracts silicosis or asbestosis after having engaged in the territory of each of the two States in an occupation liable to give rise to such diseases, the competent institution of each State shall take into account also the occupation exercised in the territory of the other State and shall observe the insurance regulations of both States in determining the entitlement to and the amount of the benefits to be awarded. In such a case, the following provisions shall apply:

- (a) The competent institution of each State shall consider whether, on the basis of its own legislation, the worker satisfies the requirements for entitlement to the benefits provided for under that legislation, taking into account the length of time during which the occupation was exercised in the territory of the other State in accordance with the insurance regulations of that other State;
- (b) If, by virtue of subparagraph (a), the worker is entitled to benefits provided for under the legislation of both States, benefits in kind and cash benefits shall be granted for a period of three months solely by the competent institution of the State in whose territory the worker resides, in accordance with the legislation in force in that territory;
- (c) At the end of the three months, the further cost of the benefits in question shall be divided between the competent institutions in the manner specified in subparagraph (d);
- (d) For the purpose of calculating the annuities to be granted, each competent institution shall first determine the periods during which the worker exercised in the territory of both States an occupation subject to insurance and liable to give rise to silicosis or asbestosis or to aggravate them. Each competent institution shall next calculate the amount of the annuity to which the worker would have been entitled if the occupation liable to give rise to the occupational disease in question, which was exercised in the territory of the two States, had been exercised solely in the territory of the State in which the competent institution is situated. On the basis of that amount, each competent institution shall work out its share by taking into account the relationship between the length of time during which the occupation in question was exercised in the territory of the State in which the institution is situated and the total length of time during which the occupation in question was exercised in the territory of both States. The amount thus determined shall represent the benefit payable to the worker by the competent institution;
- (e) In the event that an annuity must be recalculated owing to an aggravation of the occupational disease, the proportional share of each competent institution shall remain the same.

Article 17

Article 16, subparagraphs (a) and (d), shall apply also for the purpose of determining survivors' annuities.

Article 18

Where the amount of the benefit to which, but for the application of articles 16 and 17, the person concerned might be entitled solely on the basis of the employment periods completed in the territory of one State in accordance with the insurance regulations of that State is greater than the total benefits which

accrue from the application of the said articles, he shall be entitled to receive under the insurance of that State an additional amount equal to the difference.

Article 19

Any industrial accident sustained by a national of one of the two States employed in the territory of the other State which has caused or might cause either death or permanent incapacity, whether total or partial, must be notified without delay by the competent institution to the diplomatic or consular mission of the State of which the victim is a national.

Article 20

Except as provided in article 16, if the legislation of one of the two States establishes explicitly or implicitly that previously-verified industrial accidents or occupational diseases shall be taken into consideration for the purpose of assessing the degree of an incapacity resulting from an industrial accident or occupational disease, such accidents and diseases previously verified under the legislation of the other State shall also be taken into account as though they had been verified under the legislation of the first-mentioned State.

Chapter III. PROVISIONS COMMON TO INVALIDITY, OLD-AGE AND SURVIVORS' BENEFITS AND TO BENEFITS FOR INDUSTRIAL ACCIDENTS AND OCCUPATIONAL DISEASES; PROVISION OF BENEFITS

Article 21

Paragraph 1. Invalidity, old-age and survivors' pensions and annuities or cash compensation for industrial accidents and occupational diseases, including additional or supplementary cash benefits, shall be paid to both Spanish and Italian beneficiaries regardless of the country in which they reside.

Paragraph 2. Cash benefits and benefits in kind for temporary incapacity, including hospitalization costs, payable by the competent institutions of one of the two States under the legislation governing industrial accidents and occupational diseases, shall be paid by those competent institutions as provided for under their own legislation, even if the worker concerned moves to the other country, provided that his move has been authorized by the competent institution liable for such benefits.

Paragraph 3. Where certain costs relating to the benefits specified in paragraph 2 are paid in advance by the competent institution of the State in which the person concerned resides or is staying with the authorization prescribed for that purpose, that institution shall be subrogated to the rights of the person concerned *vis-à-vis* the institution liable for payment of the benefits.

Paragraph 4. The competent institution liable for payment of an annuity shall be responsible for supplying and replacing prosthetic appliances.

The Administrative Agreement provided for in article 45 shall determine the procedures for supplying and replacing such appliances both in the case of an aggravation of a condition and in the case of residence or stay in the State not liable for payment of the annuity.

Article 22

In the cases referred to in article 21, the institutions of one State which are liable for payment may delegate the provision of benefits as well as the medical and administrative supervision of persons residing or staying in the other State to the competent institutions of that State, with the prior consent of the latter institutions. The related costs shall be reimbursable.

Chapter IV. SICKNESS AND MATERNITY BENEFITS

Article 23

Workers who move from Italy to Spain or vice versa shall, together with their family members, be entitled to sickness benefits in Spain and to benefits under sickness and tuberculosis insurance in Italy, provided that:

- (1) They have been engaged in an occupation subject to insurance in the State to which they have last moved;
- (2) They satisfy the requirements in that State for entitlement to such benefits, employment or insurance periods completed in the other State being aggregated to the extent necessary.

Article 24

Workers who move from Italy to Spain or vice versa shall, together with their family members, be entitled to maternity benefits in Spain or in Italy, provided that:

- (1) They have been engaged in an occupation subject to insurance in the State to which they have last moved;
- (2) They satisfy the requirements in that State for entitlement to such benefits, the employment or insurance periods completed in the other State being aggregated to the extent necessary.

Article 25

Workers who move from Italy to Spain or vice versa shall acquire or give rise to entitlement, as the case may be, to death allowances in Spain or in Italy, provided that:

- (1) They have been engaged in an occupation subject to insurance in the State to which they have last moved;
- (2) They satisfy the requirements in that State for entitlement to such benefits, the employment or insurance periods completed in the other State being aggregated to the extent necessary.

Article 26

The Administrative Agreement provided for in article 45 shall, as appropriate, determine:

- (a) The terms or procedures for maintaining entitlement to benefits acquired in one of the two States when the beneficiaries move to the other State;

- (b) The terms or procedures applicable in the case of cash benefits and benefits in kind awarded in special circumstances or situations to workers and their family members who are in the other State;
- (c) The procedure for the proportionate reimbursement of related costs to each competent institution concerned.

Article 27

Paragraph 1. A person in receipt of a pension or annuity payable under the legislation of one or both Contracting Parties shall be entitled, for himself and his family members, to benefits in kind provided for under the legislation of the State in whose territory he resides.

Paragraph 2. In the cases specified in the preceding paragraph, the following criteria shall determine which institution shall bear the cost of the benefits in kind:

- (a) If the recipient is entitled to the benefits in question by virtue of the legislation of only one State, the cost shall be borne by the competent institution of that State;
- (b) If the recipient is entitled to such benefits by virtue of the legislation of both Contracting Parties, the cost shall be borne by the competent institution of the State under whose legislation the beneficiary has completed the longer insurance period reckonable for the purposes of the pension or annuity;
- (c) Where the recipient has completed the same insurance periods reckonable for the purpose of the pension or annuity in each of the two States, the cost of the benefits shall continue to be borne by the competent institution of the State in which the beneficiary resides.

Paragraph 3. The benefits in kind referred to in paragraph 1 shall be granted in accordance with the legislation of the State of residence. They shall be reimbursed by the competent institution liable for their cost as specified in paragraph 2.

Paragraph 4. The Contracting Parties may agree that the reimbursements provided for in paragraph 3 may be made in the form of a lump sum.

Chapter V. UNEMPLOYMENT BENEFITS

Article 28

Workers who move from Italy to Spain or vice versa shall be entitled to unemployment benefits in Spain or in Italy, provided that:

- (1) They have engaged in an occupation subject to insurance in the State to which they have last moved;
- (2) They satisfy the requirements in that State for entitlement to such benefits, the employment or insurance periods completed in the other State being aggregated to the extent necessary.

Article 29

In the case provided for in article 28, account shall be taken, for the purpose of determining the duration of benefits to be provided by the competent

institution, of any period in which benefits of the same kind have been awarded in either Contracting State to the worker in question during the 365 days immediately preceding the claim for benefits.

Article 30

An unemployed worker who satisfies the conditions laid down by the legislation of one Contracting Party for entitlement to benefits, account being taken, if necessary, of the aggregation of insurance periods provided for in article 28, and who returns or transfers his residence to the territory of the other Contracting Party, shall be entitled to unemployment benefits under the legislation of the first-mentioned Party.

The manner in which such benefits are to be paid shall be established in the Administrative Agreement provided for in article 45.

Chapter VI. FAMILY ALLOWANCES

Article 31

If the legislation of one of the two States makes the acquisition of entitlement to the family allowances specified in article 2 of this Convention dependent on the completion of insurance or employment periods, the insurance or employment periods completed under the legislation of the other State shall be aggregated for that purpose.

Article 32

A worker who satisfies the conditions laid down in the legislation of one of the two States for entitlement to family allowances, account being taken, where necessary, of the provisions of the preceding article, shall receive such allowances also for his family members who reside or are staying in the other State. These allowances shall be paid directly to the beneficiaries by the competent institution.

The competent authorities of the two States may mutually agree that the allowances shall be paid through the liaison institution or an institution of the State of residence of the family members which has been designated by those authorities.

Article 33

An unemployed worker who is receiving unemployment benefits under the legislation of one Contracting Party shall be entitled, for his family members resident in the territory of the other Party, to family allowances under the legislation of the State liable for the payment of the unemployment benefits.

Article 34

A person in receipt of a pension or annuity payable under the legislation of only one Contracting Party shall be entitled to family allowances under the legislation of that same Party, even if his family members reside in the other State.

Article 35

Paragraph 1. The cost of family allowances for persons in receipt of a pension payable under the legislation of both Contracting Parties shall be borne by the competent institution under whose legislation the recipients have completed the longer insurance period reckonable for the purposes of the pension, regardless of the Contracting Party in whose territory the family members are staying.

Paragraph 2. Where the person in receipt of a pension has completed the same insurance periods in each of the two States, the cost of the allowances shall be borne by the competent institution of the State in which the beneficiary resides.

Paragraph 3. If the legislation under which family allowances are payable provides that the amount of the allowances shall be calculated in relation to the amount of the pension, the amount of the allowances shall be calculated in relation to the theoretical amount determined in accordance with article 9.

Article 36

If, during a given period, family allowances are payable to the same family member under the legislation of both Contracting Parties, only those payable in accordance with the legislation of the State in which that family member resides shall be granted.

PART III. MISCELLANEOUS, TRANSITIONAL AND FINAL PROVISIONS

Article 37

Paragraph 1. The competent authorities and institutions of the two States shall assist one another in applying this Convention as if their own legislation were being applied; such reciprocal assistance shall be free of charge. They may also, where necessary, make investigations in the other State, using for this purpose the competent diplomatic or consular authority of that State.

Paragraph 2. Any medical examination required by the competent institutions of one of the two States in respect of a beneficiary who is staying in the other State shall be conducted by the competent institution of the latter State at the request and expense of the institution liable for payment.

Article 38

The diplomatic and consular authorities of the two States shall be authorized to communicate directly with the competent authorities and institutions of the other State to obtain any information useful for the protection of the interests of their respective nationals, and also to represent them without a special mandate.

Article 39

Paragraph 1. Any exemption from taxes, charges and fees provided for in the legislation of either State shall apply also for the purposes of this Convention, regardless of the nationality of the persons concerned.

Paragraph 2. Certificates, documents or papers which have to be submitted under this Convention shall not require a stamp of approval or legalization by diplomatic or consular authorities.

Article 40

The competent authorities and institutions of the two States shall, for the purpose of applying this Convention, communicate directly with one another, with insured persons and with their representatives. They shall draft their correspondence in their own official language.

Article 41

Claims addressed by the persons concerned to the competent authorities and institutions of one of the two States for the purpose of applying this Convention, as well as any other documents required for the purpose of applying the legislation specified in article 2, may not be rejected on the ground that they are drawn up in the official language of the other State.

Article 42

Claims and other documents submitted to the competent authorities or institutions of one of the two States shall have the same effect as if they had been submitted to the corresponding authorities or institutions of the other State.

Article 43

Appeals which must be submitted within a prescribed time-limit to a competent authority or institution of one of the two States shall be deemed so submitted if they are submitted within that time-limit to a corresponding authority or institution of the other State. In such cases, the latter authority or institution, acknowledging its receipt to the person concerned shall forward the appeal without delay to the competent authority or institution of the first-mentioned State.

Article 44

This Convention shall not derogate from the provisions of the legislation referred to in article 2 with respect to the participation of aliens in elections connected with the functioning of social security schemes.

Article 45

The two Contracting Parties shall by mutual agreement establish administrative measures for the application of this Convention. They may in particular establish procedures for avoiding duplication of benefits, regulating the aggregation of periods and organizing payment and inspection services between the two countries.

Article 46

Paragraph 1. Measures taken unilaterally by one of the two States for the application of this Convention shall be communicated to the competent authorities of the other State through the Ministries of Foreign Affairs.

Paragraph 2. The competent authorities of the two States shall inform each other as soon as possible, through the Ministries of Foreign Affairs, of any measures which change or supplement the legislation specified in article 2.

Article 47

Paragraph 1. The competent authorities of the two States shall resolve by mutual agreement any disagreement which may arise as to the application of this Convention.

Paragraph 2. Where it is impossible to reach a solution by this means, the dispute shall be settled by an arbitral procedure established by mutual agreement between the Governments of the two States. The arbitral body shall resolve the dispute in accordance with the spirit and the fundamental principles of this Convention. Its decision shall be binding and final.

Article 48

Paragraph 1. Where disagreements arise between the competent authorities or institutions of the two States regarding the applicable legislation, the person concerned shall be granted provisional assistance until the dispute is resolved in accordance with the preceding article.

Paragraph 2. Such assistance shall be payable by the competent institution with which the person concerned was last insured; in case of doubt, it shall be payable by the competent institution to which claim was first submitted.

Paragraph 3. The said competent institution shall grant the person concerned, by way of provisional assistance, the benefits for which it would be liable under its own legislation.

Paragraph 4. The competent institution which ultimately proves to be liable shall make a lump-sum reimbursement to the insuring institution for the expenses it incurred when it paid the provisional assistance.

Paragraph 5. If the amount paid to the beneficiary by way of provisional assistance is higher than the amount of the compulsory benefits to which he is entitled for the corresponding period, the competent institution which ultimately proves to be liable shall apply the difference against future payments by means of deductions no higher than one fifth of the amount of each payment.

Article 49

Paragraph 1. The competent institutions of one State which are liable for payment of benefits in the other State under this Convention shall discharge their liability validly by payment in the currency of their own country, in accordance with the payment agreements in force between the two States.

Paragraph 2. If regulations imposing restrictions on exchange transactions are adopted in either of the two States, the two Governments shall immediately take appropriate steps to ensure, in conformity with the provisions of this Convention, the transfer of moneys due by each Party.

Article 50

The Administrative Agreement provided for in article 45 shall determine the conditions and procedures for recognizing, reinstating, determining the amount of, or paying benefits which were suspended or could not be granted, under the legislation in force in one of the two States, by reason of the foreign nationality of the persons concerned or their residence or stay abroad, as well as benefits which were paid in amounts not determined in accordance with the provisions of this Convention. The Administrative Agreement shall also determine the conditions and procedures for taking into account employment or insurance periods prior to the entry into force of this Convention, in so far as such periods would have been taken into account if this Convention had been in force.

Article 51

Paragraph 1. This Convention shall be ratified and the instruments of ratification shall be exchanged at Rome as soon as possible.

Paragraph 2. This Convention shall enter into force on the first day of the month following the month in which the instruments of ratification are exchanged and shall at that time supersede the Convention signed at Madrid on 21 July 1956.

Paragraph 3. This Convention is concluded for a period of five years from the date of its entry into force. It shall be automatically renewed thereafter from year to year, unless it is denounced with at least six months' notice before expiry.

Paragraph 4. In the event of denunciation, the provisions of this Convention shall remain applicable to acquired rights, notwithstanding any restrictive provisions in the legislation of the two States which may apply in the case of the foreign nationality of the persons concerned or their residence or stay abroad.

Paragraph 5. Any rights in course of acquisition in respect of employment or insurance periods completed before the date on which this Convention ceases to have effect shall be maintained in accordance with appropriate agreements concluded between the competent authorities of the two States.

Paragraph 6. The Administrative Agreement of 25 November 1957 shall remain in force, in so far as it conforms to this Convention, until another Administrative Agreement superseding it enters into force.

IN WITNESS WHEREOF, the undersigned have signed this Convention and affixed thereto their seals.

DONE at Madrid on 20 July 1967, in four original copies, two in Spanish and two in Italian, the four texts being equally authentic.

For the Spanish State:

[Signed]

FERNANDO MARÍA CASTIELLA

Minister for Foreign Affairs

For the Republic of Italy:

[Signed]

GIORGIO OLIVA

Under-Secretary for Foreign Affairs

[TRANSLATION—TRADUCTION]

ADMINISTRATIVE AGREEMENT¹ FOR THE IMPLEMENTATION
OF THE CONVENTION BETWEEN SPAIN AND ITALY ON
SOCIAL SECURITY OF 20 JULY 1967²

Pursuant to article 45 of the Convention on social security between Spain and Italy, signed at Madrid on 20 July 1967,² the competent authorities of the two Parties, represented:

In the case of Spain: in the name of the Spanish Government, by His Excellency Carlos Robles Piquer, Ambassador of Spain to the Italian Republic;

In the case of Italy: in the name of the Government of the Italian Republic, by Ambassador Plenipotentiary Salvatore Saraceno, Director-General for Emigration and Social Affairs,

have agreed on the following provisions for the implementation of the Convention:

PART I

GENERAL PROVISIONS

Article 1. 1. The institutions referred to in this Agreement for the implementation of the Convention shall be those designated in this article.

2. The following are designated competent institutions:

A. In Spain:

- (a) The Instituto Nacional de Previsión, in the case of benefits under the general social security scheme in respect of maternity, ordinary sickness and non-industrial accidents, transitory incapacity for work and temporary invalidity not resulting from industrial accidents or occupational diseases, unemployment and family allowances, as well as in the case of all benefits under the special schemes administered by the said Instituto;
- (b) The Servicio de Mutualidades Laborales, in the case of benefits under the general social security scheme arising from permanent invalidity, old age, death and survival, industrial accidents and occupational diseases, as well as in the case of the application of the special schemes administered by the said Servicio;
- (c) The Instituto Social de la Marina, in the case of benefits under the special seamen's scheme.

B. In Italy:

In addition to the other institutions competent for special categories of workers:

- The Istituto Nazionale della Previdenza Sociale, in the case of invalidity, old-age and survivors' insurance, tuberculosis insurance, insurance against involuntary unemployment and family allowances;

¹ Came into force on 1 August 1976, the date of entry into force of the above-mentioned Convention of 20 July 1967, in accordance with article 43.

² See p. 399 of this volume.

- The Istituto Nazionale per l'Assicurazione contro gli Infortuni sul Lavoro, in the case of insurance against industrial accidents and occupational diseases;
 - The Istituto Nazionale per l'Assicurazione contro le Malattie, in the case of sickness insurance and physical and economic protection for working mothers, where the Istituto Nazionale della Previdenza Sociale is not competent under the terms of article 33.
3. The following are designated liaison institutions within the meaning of article 1, paragraph 6, of the Convention:
- A. In Spain:
- (a) The Servicio del Mutualismo Laboral, in the case of:
 - Retirement pensions;
 - Pensions and other cash benefits in respect of permanent invalidity and survivors' insurance, resulting from ordinary sickness or occupational diseases and any accident regardless of the cause;
 - Death benefits;
 - Social assistance and social service.
 - (b) The Instituto Nacional de Previsión, in the case of:
 - Health benefits in respect of sickness and maternity;
 - Cash benefits in respect of transitory incapacity for work and temporary invalidity;
 - Health assistance to pensioners and recipients of other periodic benefits;
 - Family welfare benefits;
 - Unemployment benefits.
- B. In Italy:
- (a) The head office of the Istituto Nazionale della Previdenza Sociale in Rome, in the case of invalidity, old-age and survivors' insurance, tuberculosis insurance, insurance against involuntary unemployment, and family allowances;
 - (b) The head office of the Istituto Nazionale per l'Assicurazione contro gli Infortuni sul Lavoro in Rome, in the case of insurance against industrial accidents and occupational diseases;
 - (c) The head office of the Istituto Nazionale per l'Assicurazione contro le Malattie in Rome, in the case of sickness and maternity insurance.
4. The following are designated institutions of the place of residence or stay:
- A. In Spain: the provincial offices of the Instituto Nacional de Previsión, Servicio de Mutualidades Laborales and Instituto Social de la Marina;
- B. In Italy: the branch offices of the institutions specified in paragraph 2 above.
5. The competent authorities of both States may, simply by communicating with one another, designate institutions other than those specified in paragraphs 2, 3 and 4 of this article.

Article 2. 1. Where a worker has recourse to article 4 of the Convention for the purpose of membership in voluntary or optional insurance schemes under the

legislation of one State, he shall submit to the competent institution of that State a certificate attesting to the insurance periods and equivalent periods completed in the other State.

2. For the purposes of the legislation of either State governing the voluntary maintenance of compulsory insurance, the advantage provided for in article 4, paragraph 2, of the Convention shall take effect when the worker becomes subject to the compulsory insurance scheme of that State.

Article 3. 1. In the cases provided for in article 5, paragraph 2(a), of the Convention, workers shall be obliged to show proof that they remain subject to the legislation of that State during their period of temporary employment in the territory of the other State, by submitting a certificate to that effect issued by the competent institution of the State in which the enterprise which employs them has its principal place of business (in Spain, the Instituto Nacional de Previsión; in Italy, the Istituto Nazionale per l'Assicurazione contro le Malattie).

2. If the employment lasts for more than 24 months, the employer must submit, on the appropriate form, a request for the consent provided for in article 5, paragraph 2(a), of the Convention from the competent authority of the State in which the person is temporarily employed. The decision of that authority shall be immediately notified to the authority of the other State.

3. Where several workers are sent together by the same employer to work in the territory of the other State for the same period of time, a single collective certificate may be issued for all of them.

4. The certificate referred to in paragraphs 1 and 3 shall be submitted, where necessary, in the other State by a representative of the employer, if there is one, or otherwise by the worker himself.

5. In the cases referred to in paragraphs 1, 2 and 3, the provisions of articles 19, 23 and 26 below shall apply, where necessary.

Article 4. 1. In order to exercise the right of option in the cases provided for in article 5, paragraph 2(d), and article 7, paragraph 2, of the Convention, the worker shall submit an application, which his employer shall refer to the competent institution, which shall be, in Spain, in the case of article 5, paragraph 2(d), the Ministry of Labour, and in the case of article 7, paragraph 2, the Instituto Nacional de Previsión, and, in Italy, the Istituto Nazionale per l'Assicurazione contro le Malattie, which shall inform the other competent institutions of the application.

2. Such an application must be submitted within three months of the start of employment. In the case of workers already employed on the date of entry into force of the Convention, the three-month period shall be calculated as from that date.

3. In the cases provided for in article 5, paragraph 2(d), and article 7, paragraph 2, of the Convention, the provisions of article 3, paragraph 5, of this Agreement shall apply.

Article 5. With the exception of invalidity, old-age and survivors' benefits and benefits in respect of occupational diseases and industrial accidents, which shall be paid in amounts determined by the institutions of both countries in accordance with articles 9, 16 and 20 of the Convention, the Convention itself shall not confer or maintain entitlement to additional benefits of the same kind or additional benefits in respect of a given compulsory insurance period.

PART II

SPECIAL PROVISIONS

CHAPTER I. INVALIDITY, OLD-AGE AND SURVIVORS' BENEFITS

Section I. SUBMISSION AND REVIEW OF CLAIMS—DETERMINATION OF AMOUNT OF PENSIONS

Article 6. 1. Insured persons and survivors of insured persons resident in one of the two States who claim entitlement to benefits under part II, chapter I, of the Convention shall submit a claim to the institution of that State which is competent to review claims.

2. Paragraph 1 shall apply also to applicants resident in one of the two States who claim entitlement to benefits exclusively on the basis of the legislation of the other State.

3. Where the claim referred to in paragraphs 1 and 2 is submitted to an institution other than the institution competent to review it, the former shall immediately forward the claim to the institution competent to review it in the State in which the applicant resides, informing it of the date on which the claim was submitted. The date on which the claim was received by the first-mentioned institution shall be regarded as the date of submission of the claim.

Article 7. 1. The following shall be competent to review claims:

- (a) In Spain, the Instituto Nacional de Previsión and its provincial offices, the Mutualidades Laborales, the Servicio de Mutualidades Laborales and its provincial offices, and the Instituto Social de la Marina;
- (b) In Italy, the branch offices and the head office of the Istituto Nazionale della Previdenza Sociale.

2. In order to obtain benefits under part II, chapter I, of the Convention, a worker or his survivor must address a claim to the competent institution of the State in which he is resident, complying with the procedures laid down by the legislation of that State.

3. Where a worker or the survivor of a worker not resident in Spain or Italy claims a benefit under part II, chapter I, of the Convention, the claim must be addressed to the competent institution of the State under whose legislation the worker was last insured or that of his State of origin.

4. The applicant shall indicate, where possible, the institution or institutions of the two States with which the worker has been insured and shall submit the necessary supporting documents together with the claim.

Article 8. 1. For the processing of claims submitted in accordance with this Agreement, the reviewing institution shall use a standard form prescribed for the purpose, which contains, in particular, a record and summary of the insurance periods and equivalent periods completed by the insured person under the legislation to which he has been subject.

2. The accuracy of the information provided by the applicant shall be substantiated by official documents accompanying the claim or certified by the competent institutions of the two States.

The forwarding of the form referred to in paragraph 1 to the competent institution of the other State shall be a sufficient substitute for the transmittal of supporting documents.

Article 9. 1. For the purpose of determining entitlement to benefits in the cases provided for in article 9, paragraph 3, first sentence, of the Convention, each institution shall aggregate the insurance periods and equivalent periods completed under its own scheme with those completed in the other State, provided that they do not overlap.

2. A period recognized as an equivalent period by both States shall be taken into consideration only by the institution of the State in which the insured person was employed immediately before the period in question. Where the insured person was not employed before that period, the period shall be taken into account by the competent institution of the State in which the insured person was first employed.

3. Contribution periods which coincide shall be taken into account only by the State under whose legislation they have been completed. Where a period recognized as equivalent by one State coincides with an insurance period completed in the other State, only the latter period shall be taken into account.

4. Where a period of compulsory insurance completed under the legislation of one State coincides with a period of voluntary insurance according to the legislation of the other State, only the former period shall be taken into account.

5. Where the time-span of certain periods completed in one State cannot be determined accurately, such periods shall be presumed, if it is advantageous to take them into account, not to overlap with periods completed in the other State.

Article 10. 1. For the purposes of article 9, paragraph 3, second sentence, of the Convention, each competent institution shall determine benefits according to its own legislation, as if all the insurance periods and equivalent periods completed in the two States had been completed in its own State.

2. Where, under the legislation of one State, benefits must be calculated in relation to payments or premiums, periods completed in the other State shall be taken into account by the competent institution, which shall determine the benefits on the basis of the average payments or premiums for the periods completed under its own scheme.

3. Benefits determined in accordance with paragraphs 1 and 2 shall be payable in a proportionate amount corresponding to the relationship between the insurance periods and equivalent periods completed under the insurance scheme of the institution granting the benefits and the total of all periods completed under the schemes of both States.

4. The total sum of the benefits granted by the competent institutions of both States may not be less than the minimum pension provided for by the legislation of the State in which the beneficiary has completed the longest total insurance period. The competent institution of that State shall be responsible for paying the amount needed to equal that minimum pension.

5. Where, in accordance with the legislation of the two Contracting Parties and taking into account article 9 of the Convention, there is entitlement to a pension only in one of the two States and where the pension to be granted in that State does not amount to the minimum pension, the competent institution determining the amount of the pension shall award a supplement equivalent to the difference between the benefit granted and the minimum pension.

Section II. PAYMENT OF PENSIONS

Article 11. 1. Pensions payable on the basis of Italian invalidity, old-age and survivors' insurance shall be paid directly to beneficiaries in Spain by the competent Italian institutions within the time-limits provided for by Italian legislation and in accordance with article 39 of this Agreement.

2. Spanish invalidity, old-age and survivors' pensions shall be paid directly to beneficiaries in Italy by the competent Spanish institutions within the time-limits provided for by Spanish legislation and in accordance with article 39 of this Agreement.

Section III. MISCELLANEOUS PROVISIONS

Article 12. 1. Spanish nationals who reside in a third State and claim entitlement to benefits exclusively on the basis of Italian legislation must submit a claim, accompanied by the requisite documentation, to the competent Italian institution, in accordance with Italian legislation. Claims submitted to a Spanish institution shall be forwarded to the competent Italian institution.

2. Italian nationals who reside in a third State and claim entitlement to benefits exclusively on the basis of Spanish legislation must submit a claim, accompanied by the requisite documentation, to the competent Spanish institution, in accordance with Spanish legislation. Claims submitted to an Italian institution shall be forwarded to the competent Spanish institution.

CHAPTER II. INDUSTRIAL ACCIDENTS AND OCCUPATIONAL DISEASES

Section I. ANNUITIES AND CASH COMPENSATION

Article 13. 1. Applications for the award of an annuity or cash compensation in respect of industrial accidents or occupational diseases must be submitted either directly to the competent institution of the State in which the industrial accident occurred or the occupational disease first manifested itself, or to the institution of the place of residence or stay. The applications must be accompanied by the requisite documentation.

2. If the application is submitted to the institution of the place of residence or stay, that institution shall forward it without delay to the competent institution of the other State, informing it of the date of submission. The date on which the claim was received by the institution of the place of residence or stay shall be established as its date of submission.

3. Paragraph 2 shall apply also where the competent institution of the other State may be responsible for coverage of the risk of an occupational disease because of the nature of work previously performed in its territory.

4. Where the applicants reside in a third State, article 12 of this Agreement shall apply *mutatis mutandis*.

5. In the cases provided for in articles 14 and 16 of the Convention, the competent institutions of the two States shall, using the appropriate form, exchange full information on occupations exercised in their respective territories by the persons concerned.

Article 14. Article 13 shall apply also in the case of applications for the resumption of payment of an annuity already paid at a fixed amount by the

competent institutions of one State, when the beneficiary transfers his residence to the other State.

Article 15. For the purpose of assessing the degree of incapacity in the case provided for in article 20 of the Convention, the worker must furnish the institution of the State in which the last accident occurred or the occupational disease manifested itself with full information on industrial accidents sustained or occupational diseases contracted previously in the other State, regardless of the degree of incapacity resulting from them.

Article 16. 1. Cash benefits payable to beneficiaries resident in Spain shall be paid directly by the competent Italian institutions within the time-limits provided for by Italian legislation and in accordance with article 39 of this Agreement.

2. Cash benefits payable to beneficiaries resident in Italy shall be paid directly by the competent Spanish institutions within the time-limits provided for by Spanish legislation and in accordance with article 39 of this Agreement.

Article 17. For the purposes of article 16 of the Convention, where the length of time during which an occupation liable to give rise to an occupational disease was exercised in one of the two States is less than one tenth of the total length of time the pathogenic occupation was exercised, the competent institution of the other State shall bear the total cost of the benefits.

The institution not liable for payment shall notify the person concerned that the institution of the other State is the competent institution.

In the cases provided for in the present article, benefits arising from the aggravation of a disease shall be paid by the institution which has assumed responsibility for the case.

Article 18. 1. For the purposes of article 16(b) of the Convention, the period of three months during which benefits are to be paid by a workers' country of residence shall be calculated only once, even if payment is divided into several instalments.

If the worker should move to the other State during the three-month period, the competent institution of that other State shall assume liability for the benefits only in proportion to the remaining fraction of the three months.

2. The legislation referred to in article 16(a) of the Convention shall also apply where the institution of one State grants annuities and the institution of the other State grants temporary cash benefits.

Section II. BENEFITS OTHER THAN ANNUITIES AND CASH COMPENSATION

Article 19. 1. With regard to cash benefits and health benefits, including the cost of hospitalization in cases of transitory incapacity for work, the rules set forth in articles 23 to 26 below shall apply, in so far as they are pertinent.

2. Where the competent institutions have recourse to article 22 of the Convention, the provisions of articles 25, 26 and 30 below shall apply, in so far as they are pertinent.

Article 20. 1. The person concerned may submit a claim for the supply, repair or replacement of prosthetic appliances in the cases provided for in

article 21, paragraph 4, of the Convention directly to the competent institution or the institution of the place of residence or stay.

2. The institution of the place of residence or stay, at the request of the competent institution or of the person concerned, shall communicate to the competent institution the results of any inquiries made as to the need for the supply, repair or replacement of such appliances.

3. Where the competent institutions have recourse to article 22 of the Convention, the reimbursement of expenses shall be effected in accordance with article 38 below.

Section III. VERIFICATION

Article 21. 1. For the purposes of articles 12 through 20 of the Convention, the competent Italian and Spanish institutions shall, at the request of the party concerned, send each other copies of all documents that may be of consequence in relation to industrial accidents, occupational diseases and prior employment.

2. At the request of the competent institution, the institution of the place of residence or stay shall conduct a check of applicants and beneficiaries of benefits in respect of industrial accidents or occupational diseases, under the terms of its own legislation and without prejudice to such investigations as may be made directly by the competent institution in accordance with its own legislation.

CHAPTER III. SICKNESS, MATERNITY, TUBERCULOSIS

Article 22. 1. In order to obtain the sickness, tuberculosis and maternity benefits referred to in articles 23 and 24 of the Convention, an insured person who moves from the territory of one State to that of the other State shall, where necessary, submit to the competent institution of the State to whose territory he has moved a certificate, issued in Spain by the Instituto Nacional de Previsión and in Italy by the Istituto Nazionale per l'Assicurazione contro le Malattie or, in the case of tuberculosis, by the Istituto Nazionale della Previdenza Sociale, indicating the insurance periods and equivalent periods completed in the first-mentioned State.

2. If the insured person is unable to submit the certificate provided for in paragraph 1, the competent institution liable for the benefits shall request the institution of the other State, as specified in the preceding paragraph, to issue it.

3. Where an insured person who has moved from the territory of one State to that of the other State does not satisfy the conditions provided for in articles 23 and 24 of the Convention but is still entitled to benefits under the legislation of the first-mentioned State, or would be so entitled if he were present in the territory of that State, he shall receive such benefits in the State to which he has moved. In this case, the rules set forth in article 23 below shall apply *mutatis mutandis*.

The cost of the benefits shall be borne by the competent institution and shall be reimbursed to the institution which paid them.

4. The provisions of the preceding paragraph shall be valid also for eligible family members.

Article 23. 1. In order to obtain health benefits during a temporary stay in the other State, a person insured in either State must submit to the institution of the place of stay a certificate indicating the maximum period during which the

benefits may be provided to him. The said certificate shall be issued, at the request of the insured person:

- (a) In Spain, by the institution competent in each case;
- (b) In Italy, by the provincial offices of the Istituto Nazionale per l'Assicurazione contro le Malattie.

2. If the insured person is unable to submit the certificate provided for in the preceding paragraph, the institution of the place of stay shall request it from the institution specified in paragraph 1, subparagraphs (a) and (b).

3. The provisions of the preceding paragraph shall apply *mutatis mutandis* to the eligible family members of the insured person, as well as to persons in receipt of pensions or annuities provided by the institutions of either State and their eligible family members.

4. The cost of the benefits shall be borne by the competent institution and shall be reimbursed to the institution which paid them.

Article 24. 1. An insured person who is entitled to sickness, tuberculosis or maternity benefits from the competent institution of one of the two States who, after the occurrence of the insured contingency, moves to the other State, shall retain entitlement to such benefits, provided that the said institution has authorized the transfer. Such authorization may be refused only for reasons relating to the insured person's state of health. In the case of maternity benefits, authorization may be given even before the confinement has occurred. The competent institution may issue the authorization after the fact, where the conditions for granting it have been met and the insured person was for valid reasons unable to request it before the transfer.

2. In the case provided for in the preceding paragraph, the competent institution shall, before the transfer, issue the authorization to the person concerned and send a copy to the institution of the place of residence or stay. Where, for valid reasons, the authorization was not requested before the transfer, it shall be requested from the institution of the place of residence or stay.

3. The cost of the benefits shall be borne by the competent institution and shall be reimbursed to the institution which paid them.

Article 25. 1. In the cases provided for in articles 23 and 24 of this Agreement, health benefits shall be paid through the institution of the place of residence or stay, in accordance with the legislation applicable by that institution.

2. In the event that hospitalization is necessary, the institution of the place of residence or stay shall notify the competent institution without delay of the date of admission to hospital and, at the appropriate time, of the date of discharge.

3. Where the institution of the place of residence or stay deems it necessary to prolong the duration of health care, including hospital care, it shall so propose to the competent institution, which shall decide on the extension of benefits. If the competent institution does not authorize the continuation of benefits, its reimbursement obligation shall cease on the eighth day after the date on which the communication of the relevant decision was received by the institution of the place of residence or stay.

4. The cost of the benefits shall be borne by the competent institution and shall be reimbursed to the institution which paid them.

Article 26. 1. For the purpose of the provision of cash benefits, the institution of the place of residence or stay shall, after having ascertained a person's incapacity for work, notify without delay the competent institution, indicating also the expected duration of such incapacity. The competent institution shall promptly inform the institution of the place of residence or stay of the amount and maximum duration of the cash benefits. In the event that the incapacity for work lasts longer than the expected period indicated in the first communication, the institution of the place of residence or stay shall notify without delay the competent institution, indicating the further expected duration of the incapacity for work.

2. The cash benefits referred to in paragraph 1 shall be granted to the beneficiaries by the competent institution on the basis of the communications of the institution of the place of residence or stay, either directly or through the latter institution.

3. The institution of the place of residence or stay shall conduct checks of the beneficiaries of the benefits as if they were beneficiaries under its own insurance.

Article 27. 1. The eligible family members of a worker insured in one of the two States who reside in the territory of the other State shall receive sickness, tuberculosis and maternity benefits through the institution of the place of residence or stay, in accordance with the legislation applicable by that institution.

2. For the purposes of paragraph 1, the competent institution of the State in whose territory the worker is insured shall promptly inform the institution of the family member's place of residence of the initial date of the insurance of the head of household and its expiration date. The expiration shall take effect eight days after the date on which the notification of it is received by the institution of the place of residence.

3. Costs relating to the provision of the benefits specified in paragraph 1 shall be borne by the competent institution of the State in which the worker is insured.

4. For the application of paragraph 1, eligible family members shall be those treated as such by the legislation of the State of residence. If that legislation recognizes as beneficiaries only those persons who live with the worker, that condition shall be deemed to be satisfied where the worker is primarily responsible for their support.

Article 28. 1. Persons in receipt of an invalidity, old-age or survivors' pension or of an industrial-accident or occupational-disease annuity payable by the competent institution of either State, as well as their family members, shall, if they reside in the territory of the other State, receive sickness, tuberculosis and maternity benefits from the institution of the State of residence, in accordance with the legislation applicable by that institution.

2. For the application of paragraph 1 and the provision of the benefits specified therein, the competent institution of the State in which the institution liable for the pension or annuity is located shall promptly inform the institution of the beneficiary's place of residence of the effective date and the expiration date of entitlement to such benefits.

3. Where a person in receipt of a pension or annuity requires the health benefits referred to in paragraph 1, he must show proof of entitlement to the

institution of the place of residence by submitting a certificate issued by the competent institution attesting that he and his family members are entitled to the benefits.

4. The person in receipt of a pension or annuity shall further be required to inform the institution of the place of residence of any change in his status which might modify his entitlement to health benefits, in particular any interruption or suspension of his receipt of the pension or annuity and any change in his place of residence or in that of his family members. The institutions liable for the pension or annuity may also inform the institution of the place of residence of any of the above-mentioned changes.

5. Where the person in receipt of a pension or annuity is engaged in an occupation giving rise to entitlement to sickness or maternity benefits under the legislation of the State of residence, the provisions of the Convention and of this Agreement concerning the entitlement of the worker and of his family members to health benefits shall apply, provided that the person is entitled to such benefits by virtue of his occupation.

6. Costs relating to the provision of the benefits specified in paragraph 1 shall be borne by the competent institution of the State in which the institution liable for the pension or annuity is located.

Article 29. For the purposes of the supply, repair or replacement of prosthetic appliances in cases other than those provided for in article 21, paragraph 4, of the Convention, the provisions of article 20 of this Agreement shall apply *mutatis mutandis*.

CHAPTER IV. DEATH ALLOWANCES

Article 30. For the purpose of the provision of death allowances to beneficiaries who reside in the other State, the competent institution shall, after having requested the necessary information from the institution of the beneficiaries' place of residence, send to the latter institution the amount due for payment or shall pay it directly by international postal money order.

Article 22 of this Agreement shall, where necessary, apply *mutatis mutandis*.

CHAPTER V. UNEMPLOYMENT BENEFITS

Article 31. 1. Where, in order to establish eligibility for unemployment benefits in either State within the meaning of article 28 of the Convention, it is necessary to aggregate insurance periods and equivalent periods completed in the other State, the provisions of article 22, paragraphs 1 and 2, of this Agreement shall apply, as appropriate.

2. With regard to unemployment benefits, the certificate provided for in the said article 22 shall be issued:

- (a) In Spain, by the provincial offices of the Instituto Nacional de Previsión;
- (b) In Italy, by the provincial offices of the Istituto Nazionale della Previdenza Sociale.

3. For the purposes of article 29 of the Convention, the said certificate shall also indicate, where appropriate, any periods in which unemployment benefits have been awarded to the worker concerned by the institution issuing the

certificate, in the course of the 365 days immediately preceding the date on which the claim for benefits was submitted to the institution of the other State.

4. If, at the time of issuing the certificate, the institution concerned has no knowledge of that date it shall, where necessary, request it from the institution of the other State in order to be able to indicate the benefits paid during the period referred to in paragraph 3 above.

Article 32. 1. In the cases provided for in article 30 of the Convention, an unemployed worker who returns or transfers his residence to the territory of the other State shall submit to the institution of the place to which he has moved a certificate issued at his request by the competent institution, attesting that he is still entitled to benefits. The said certificate shall, in particular, indicate the time-limit during which the unemployed worker must register with the employment office of the State to which he is returning or is transferring his residence, as well as the maximum period during which the worker will still be entitled to benefits, and also the amount of the benefits calculated in the currency of the State of the competent institution. If the certificate was not requested before the date of the transfer of residence, the institution of the place of residence or stay shall contact the competent institution in order to obtain it.

2. The time-limit during which the unemployed worker must register with the employment office shall be 15 days from the date of the certification of entitlement to benefits. If the unemployed worker registers with the employment office after the above-mentioned time-limit, he shall lose his entitlement to benefits in respect of all subsequent days before the late registration.

3. The institution of the place of residence or stay shall conduct a check of the beneficiaries as if they were beneficiaries under its own insurance.

4. The institution of the place of residence or stay shall pay benefits to beneficiaries on behalf of the competent institution on the basis of the certificate referred to in paragraph 1 of this article, at the exchange rate applicable on the day on which payment is made.

5. Payment of benefits shall be made by the institution of the place of residence in accordance with the procedures provided for in the legislation which the said institution applies in the case of its own insured persons.

Article 33. 1. Unemployment benefits paid by the institution of the place of residence or stay shall be reimbursed by the competent institution in accordance with the provisions of this article.

2. The liaison institutions of each Party:

— In Spain, the Instituto Nacional de Previsión (I.N.P.) in Madrid;
— In Italy, the Istituto Nazionale della Previdenza Sociale (I.N.P.S.) in Rome, shall send to the liaison institution of the other State, during the first quarter of each calendar year, a report on the benefits awarded during the preceding year, containing in particular the following information:

- (a) The unemployed person's full name and date of birth;
- (b) The name and address of the competent institution which issued the certificate referred to in article 32, paragraph 1, of this Agreement;
- (c) The period during which benefits have been awarded;
- (d) The number of days for which benefits must be reimbursed;

(e) The amount of the benefits which must be taken into account for the purposes of reimbursement.

The liaison institutions may agree among themselves that the reimbursements shall be made in respect of other periods.

3. Upon receipt of the report on the payments made referred to in the preceding paragraph, the liaison institution shall, after having made any necessary inquiries, transfer to the liaison institution of the other State the entire amount of the benefits paid in advance within three months after receipt of the report.

CHAPTER VI. FAMILY ALLOWANCES

Article 34. 1. A worker who claims entitlement to family allowances under article 32 of the Convention in one of the two States for dependants habitually or temporarily resident in the territory of the other State shall submit to the competent institution of his place of employment, through his employer if need be, a claim indicating the name, date, place of birth and place of residence of the dependants for whom the family allowances are being claimed. The claim must be accompanied by a certificate of family status or a similar document issued by the authority of the dependants' place of residence competent in the matter and, where necessary, any other document certifying the entitlement to family allowances under the legislation to which the worker is subject.

2. Paragraph 1 shall apply *mutatis mutandis* where changes occur in the worker's family status.

3. Where the worker's family status remains unchanged, the certificate shall be valid for one year. It shall be renewed within the month following the end of each year of the worker's stay in the other State.

4. The family allowances referred to in this article shall be paid directly to the beneficiaries by the competent institution, unless the competent authorities of the two States agree otherwise, as provided in article 32, paragraph 2, of the Convention.

Article 35. For the purpose of the payment of family allowances to unemployed workers and to persons in receipt of pensions or annuities in the cases referred to in articles 33 and 34 of the Convention respectively, the provisions of article 34 above shall apply *mutatis mutandis*.

PART III

MISCELLANEOUS AND FINAL PROVISIONS

Article 36. For the purposes of the Convention and of this Agreement, the competent institutions of the two States shall take into account insurance periods and equivalent periods and, where necessary, employment periods completed prior to the entry into force of the Convention, as though it had been in force during the completion of such periods.

Article 37. 1. Benefits in respect of contingencies which occurred prior to the entry into force of the Convention which have not yet been claimed by that date shall, at the request of the persons concerned, be determined in accordance with the provisions of the Convention and of this Agreement.

2. Paragraph 1 shall apply only to invalidity, old-age and survivors' pensions and to industrial-accident and occupational disease annuities.

3. If the claim referred to in paragraph 1 is submitted within two years of the date of the entry into force of the Convention, the regulations concerning the extinction and lapse of rights provided for in the legislation of the two States shall not apply.

4. The benefits referred to in paragraph 1 shall be payable as from the date of entry into force of the Convention.

Article 38. 1. The cost of health benefits provided by virtue of articles 3, 20, 21, 22, 23, 24 and 25 of this Agreement shall be reimbursed by the competent institution to the institution of the place of residence or stay which paid them, on the basis of expenses actually incurred.

Health benefits which cannot be calculated separately shall be determined in lump sums for each year on the basis of the accounting records of the institutions of residence or stay for the year covered by the benefits.

2. With regard to health benefits provided by virtue of articles 27 and 28 of this Agreement, the competent institution shall reimburse the institution which paid them in lump sums established for each calendar year by agreement between the liaison offices in accordance with the following rules:

- (a) The amount of the lump sum shall be obtained by multiplying the average annual cost per family by the average annual number of families to be taken into account, as shown by the notices of enrolment sent by the institutions concerned;
- (b) The average annual cost per family shall, in the case of each Party, equal the amount obtained by dividing the total costs of the health benefits awarded to families insured in its own State by the number of such families, as shown by the official statistics of the institutions concerned.

3. The amounts determined according to paragraph 2 shall be divided into 12 parts in order to keep account of the duration of the coverage for each individual family.

For the purpose of calculating the number of monthly contributions, the initial month of entitlement to benefits shall always be taken into account, whereas the month of cessation of entitlement to benefits shall not be calculated unless such cessation coincides with the last day of the month.

Article 39. 1. All transfers of funds made between the two States by virtue of the Convention and this Agreement shall be effected in accordance with the payment agreements in force between Spain and Italy at the time of the transfer.

2. Except in the cases provided for in paragraph 3, the determination of the amount of benefits as well as their payment by the institutions of the two States to one another shall be effected on a quarterly basis in the manner provided in paragraph 1, during the course of the first month of the following quarter.

3. In the cases referred to in articles 27 and 28 of this Agreement, for which lump-sum reimbursement is provided, the determination of the amount of benefits and their payment shall be effected annually, during the year following the year covered by the benefits.

However, within the first six months of that following year, advances amounting to 75 per cent of the sum accrued for the previous year shall be paid.

Article 40. All cash benefits provided for in the Convention shall be paid to the beneficiaries without the deduction of administrative, postal or bank charges.

Article 41. The liaison institutions of each of the two States shall notify the liaison institutions of the other State at the end of each year of the nature and total amount of benefits paid directly, under the Convention, to beneficiaries resident in the other State.

Article 42. The liaison institutions of the two States shall establish by mutual agreement the models for any forms deemed necessary for the purposes of the Convention and this Agreement, and shall inform the competent authorities.

Article 43. This Agreement shall enter into force on the same date as the Convention. It shall replace, for all purposes, the Administrative Agreement of 25 November 1957.

DONE at Rome on 7 June 1977 in duplicate in the Spanish and Italian languages, both texts being equally authentic.

For the Spanish Government:
[CARLOS ROBLES PIQUER]

For the Italian Government:
[SALVATORE SARACENO]

[TRANSLATION—TRADUCTION]

PROTOCOL¹ FOR THE IMPLEMENTATION OF THE CONVENTION ON SOCIAL SECURITY BETWEEN SPAIN AND ITALY OF 20 JULY 1967²

On this day, the plenipotentiaries of the Spanish Government and the Italian Government, in order to put into effect the commitments undertaken in article 2, paragraphs 2 and 3 (b) of the Convention on social security between Spain and Italy, signed at Madrid on 20 July 1967,² have agreed as follows:

I. With regard to special schemes for self-employed workers:

- (a) The Italian Government specifies that under existing Italian legislation persons falling under the following categories shall be deemed to be beneficiaries of the special scheme for self-employed workers:
- Independent farmers, sharecroppers, tenant farmers and persons belonging to the family units concerned;
 - Owners of crafts enterprises and the family members working with them;
 - Persons engaged in small businesses, their assistants and the family members working with them;
 - Fishermen engaged in small-scale fishing at sea and in internal waters.
- (b) The Spanish Government specifies that, as provided in Decree No. 2530 of 20 August 1970, persons habitually, personally and directly engaged in a lucrative activity not governed by a work contract shall, even though they may employ the remunerated services of other persons, be beneficiaries of the special scheme for self-employed persons.

II. With regard to the legislation on new social security schemes, the two Governments are in agreement on the need to apply the Convention to such new schemes and to that end specify, respectively, that in the period that has elapsed between the signing the Convention on Social Security between Spain and Italy on 20 July 1967 and its entry into force on 21 July 1976;

- (a) In Italy, no new social security schemes have been established;
- (b) In Spain, together with the above-mentioned special scheme for self-employed workers, new special social security schemes have been established for the following categories:
- Commercial travellers, governed by Decree No. 218 of 19 August 1967;
 - Coal miners, governed by Decree No. 384 of 17 March 1969;
 - Railway workers, governed by Decree No. 1495 of 6 July 1967;
 - Artists, governed by Decree No. 635 of 12 March 1970;
 - Writers, governed by Decree No. 3662 of 29 October 1970;
 - Bullfighters, governed by Decree No. 1600 of 8 June 1972.

The present provisions shall enter into force on the date of this Protocol.

¹ Came into force on 7 June 1977 by signature, in accordance with its provisions.

² See p. 399 of this volume.

This Protocol has been drawn up in duplicate, in the Spanish and Italian languages, both texts being equally authentic.

DONE at Rome on 7 June 1977.

For the Spanish Government:

[*Signed*]

CARLOS ROBLES PIQUER

Ambassador of Spain in Rome

For the Italian Government:

[*Signed*]

SALVATORE SARACENO

Director-General for Emigration
and Social Affairs
