

**No. 20769**

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**FRANCE  
and  
BENIN**

**General Convention on social security (with protocols).  
Signed at Cotonou on 6 November 1979**

*Authentic text: French.*

*Registered by France on 25 February 1982.*

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**FRANCE  
et  
BÉNIN**

**Convention générale sur la sécurité sociale (avec pro-  
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*Texte authentique : français.*

*Enregistrée par la France le 25 février 1982.*

## [TRANSLATION — TRADUCTION]

GENERAL CONVENTION<sup>1</sup> ON SOCIAL SECURITY BETWEEN  
THE GOVERNMENT OF THE FRENCH REPUBLIC AND THE  
GOVERNMENT OF THE PEOPLE'S REPUBLIC OF BENIN

The Government of the French Republic and the Government of the People's Republic of Benin,

Being resolved to co-operate in the social field,

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

Desiring to enable their nationals to retain in the territory of each State the rights they had acquired in the territory of the other State,

Have decided to conclude a General Convention to co-ordinate the application to French and Beninese nationals of the French and Beninese legislation relating to social security and, to that end, have agreed on the following provisions:

## PART I. GENERAL PROVISIONS

*Article 1. EQUAL TREATMENT*

1. French nationals engaged in Benin in paid employment or in an activity treated as such shall be subject to the social security legislation specified in article II applicable in Benin, and they and their dependants resident in Benin shall enjoy the benefits thereof on the same conditions as Beninese nationals.

2. Beninese nationals engaged in France in paid employment or in an activity treated as such shall be subject to the social security legislation specified in article II applicable in France, and they and their dependants resident in France shall enjoy the benefits thereof on the same conditions as French nationals.

3. The provisions of paragraphs 1 and 2 shall be without prejudice to the rules laid down by the legislation specified in article II with respect to the participation of aliens in the constitution or reconstitution of the bodies required for the functioning of the social security institutions of each Contracting Party.

*Article 2. MATERIAL SCOPE*

1. The legislation to which this Convention shall apply is:

## A. In France:

(a) The legislation relating to the organization of social security;

(b) The legislation relating to social insurance applicable:

—to persons employed in non-agricultural occupations;

<sup>1</sup> Came into force on 1 September 1981, i.e., the first day of the second month that followed the last of the notifications (effected on 4 February and 29 July 1981) by which the Parties informed each other of the completion of the required constitutional procedures, in accordance with article 55.

—to persons employed in agricultural occupations and persons treated as such, with the exception of provisions which extend the option of joining a voluntary insurance scheme to persons of French nationality engaged in employment or other work outside French territory;

- (c) The legislation relating to the prevention of and compensation for industrial accidents and occupational diseases;
- (d) The legislation relating to family allowances;
- (e) The legislation relating to special social security schemes, in so far as they concern the risks or benefits covered by the legislation specified in the foregoing subparagraphs, and in particular the social security scheme for the mining industry.
- (f) The legislation relating to the scheme for seafarers, subject, if appropriate, to the conditions laid down by administrative agreement.

**B. In Benin:**

- (a) The legislation relating to the organization of social security, with the exception of provisions which specify that the option of joining a voluntary insurance scheme is open only to persons of Beninese nationality who work outside Beninese territory;
- (b) The legislation relating to maternity insurance;
- (c) The legislation relating to family allowances;
- (d) The legislation relating to compensation for and the prevention of industrial accidents and occupational diseases;
- (e) The legislation relating to old-age, disability and survivors' pensions.

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

However, it shall apply:

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

3. The conditions on which the benefits of the social security scheme for students provided for under the legislation of one of the Parties may be enjoyed by nationals of the other Party shall be the subject of a protocol to be annexed to this Convention.

*Article 3. TERRITORIAL SCOPE*

The territories to which the provisions of this Convention shall apply are:

—In the case of France: the European departments and overseas departments of the French Republic;

—In the case of Benin: the territory of the People's Republic of Benin.

*Article 4. PERSONAL SCOPE*

1. This Convention shall cover nationals of either Contracting Party engaged or having been engaged as permanent or seasonal workers, in paid employment or in an activity treated as such, and their dependants.

2. This Convention shall also cover stateless persons and refugees resident in the territory of either Contracting Party and their dependants.

3. The following shall be excluded from the scope of this Convention:

- (a) Workers other than those engaged in paid employment or in an activity treated as such;
- (b) Civil servants, military personnel and persons treated as such;
- (c) Officials of diplomatic missions and consular posts.

*Article 5. APPLICABLE LEGISLATION*

1. Nationals of one of the Contracting Parties engaged in paid employment or in an activity treated as such in the territory of the other Contracting Party shall be compulsorily subject to the social security scheme of the last-mentioned Party.

2. Notwithstanding the provisions of paragraph 1 of this article:

(a) Workers who ordinarily work in the territory of one of the Contracting Parties for an enterprise by which they are normally employed and who are assigned to the territory of the other Contracting Party by that enterprise in order to carry out specific work there on behalf of that enterprise shall remain subject to the legislation of the former Party as if they were still working in its territory, provided that the expected duration of the work to be carried out does not exceed 12 months.

If, as a result of unforeseen circumstances, the time required for the work exceeds the 12-month period originally planned, the legislation of the first Party shall remain applicable until completion of that work, subject to the concurrence of the competent authorities of the two Contracting Parties or authorities delegated by them for that purpose.

(b) Employed persons other than those covered in article 4, paragraph 3 (b), who are in the service of an administrative department of one of the Contracting States and are sent to the territory of the other State shall continue to be subject to the social security system of the sending State.

(c) The provisions of article 1 of this Convention shall be applicable to persons employed at diplomatic missions or consular posts, other than the persons referred to in article 4, paragraph 3 (c), and to workers in the personal service of officials of such missions or posts. However, employed persons who are nationals of the country represented by the diplomatic mission or consular post at which they are employed may choose to have either the legislation of their place of employment or that of their country of origin applied to them.

(d) Personnel, other than civil servants, placed by one of the Contracting Parties at the disposition of the other Party on the basis of a technical-assistance contract drawn up under co-operation agreements concluded between France

and Benin shall be subject to the legislation of the first-mentioned Contracting Party.

(e) Persons employed by public or private transport enterprises of one of the Contracting Parties who are employed in the territory of the other Party as travelling personnel shall be subject to the social security scheme in force in the territory of the Contracting Party in which the enterprise has its head office.

If the enterprise has a branch or permanent agency in the territory of the other Party, the non-travelling personnel employed by that branch or agency shall be subject to the legislation of the country in which the latter are established.

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

#### *Article 6.* VOLUNTARY INSURANCE

1. Nationals of either Contracting Party may opt to join the voluntary insurance scheme provided for under the legislation of the State in which they are resident, account being taken, where appropriate, of any insurance periods or equivalent periods completed under the scheme of the other State.

2. The provisions of article 5, paragraph 1, shall not prevent French workers who are subject to the Beninese social security scheme and Beninese workers who are subject to the French social security scheme from contributing or continuing to contribute to the voluntary insurance scheme provided for under the legislation of the State of which they are nationals.

### PART II. SPECIAL PROVISIONS RELATING TO THE VARIOUS CLASSES OF BENEFITS

#### CHAPTER I. MATERNITY INSURANCE

##### *Article 7.* AGGREGATION OF INSURANCE PERIODS

1. If, for the purpose of establishing the right to benefits under the maternity insurance scheme provided for under the legislation of the new State of employment, a French female employed person in Benin or a Beninese female employed person in France has not been insured for the length of time required under the said legislation, insurance periods previously completed in the territory of the other State shall be added to the insurance periods completed in the new State of employment.

2. Insurance periods shall be aggregated only if not more than four months have elapsed between the end of the insurance period in the territory of the first State and the beginning of the insurance period in the new State of employment.

##### *Article 8.* TRANSFER OF RESIDENCE

1. A French female employed person working in Benin or a Beninese female employed person working in France who is entitled to maternity insurance benefits in kind (daily allowances) from a Beninese institution in the first case or a French institution in the second case shall retain her entitlement to such

benefits when she transfers her residence to the territory of the other Party, provided that prior to her departure, except in the case of *force majeure*, she obtained the authorization of the Beninese or French institution with which she is insured.

2. Such benefits shall not be payable after the end of the compensation period provided for by the legislation of the country of employment.

3. In the event of a pathological pregnancy or pathological postpartum effects, the provision of benefits in kind may continue beyond that period at the discretion of the institution with which she is insured and on the advice of its medical staff, on conditions laid down by administrative agreement.

4. The benefits referred to above shall be furnished and paid for by the institution with which the person concerned is insured.

#### *Article 9.* PAID LEAVE

1. A French female employed person working in Benin or a Beninese female employed person working in France shall be entitled to maternity benefits in kind (daily allowances) during a temporary stay in the territory of the State of which she is a national while on paid leave, subject to the prior agreement of the Beninese or French institution with which she is insured.

2. Such benefits shall not be payable after the end of the compensation period provided for by the legislation of the State of employment.

3. In the event of a pathological pregnancy or pathological postpartum effects, the provision of benefits in kind may continue beyond that period at the discretion of the insuring institution and on the advice of its medical staff, on conditions laid down by administrative agreement.

4. The benefits referred to above shall be furnished and paid for by the institution with which the person concerned is insured.

### CHAPTER II. DISABILITY INSURANCE

#### *Article 10.* AGGREGATION OF INSURANCE PERIODS

In the case of employed persons or persons treated as such who move to the territory of the other State, insurance periods or equivalent periods completed under the social insurance scheme of the first State shall be aggregated, provided that they do not overlap with insurance periods or equivalent periods completed under the scheme of the other State, both for the purpose of establishing the right to disability insurance benefits and for the purpose of maintaining or recovering that right.

#### *Article 11.* PAYMENT OF THE BENEFIT

1. The disability pension shall be paid in the manner prescribed in the legislation applicable to the person concerned at the time when, owing to illness or an accident, the interruption of work followed by disability occurred.

2. The costs of the disability pension shall be borne by the competent institution in accordance with the legislation referred to in paragraph 1 of this article.

*Article 12.* SUSPENSION AND DISCONTINUANCE

1. If, after the suspension of a disability pension, the insured person recovers his right to a pension, the institution liable for the pension originally granted shall resume payment thereof.

2. If, after the discontinuance of a pension, the condition of the insured person justifies the grant of a new disability pension, the latter shall be awarded in accordance with the rules laid down in article 11.

*Article 13.* CONVERSION OF THE BENEFITS

1. Where appropriate, a disability pension shall be converted into an old-age pension when the conditions required under the legislation by virtue of which it was granted have been satisfied.

2. If the total amount of benefits to which an insured person is entitled under each of the old-age insurance schemes of the two countries is smaller than the amount of the disability pension, a supplement equal to the difference shall be paid to him by the insurance scheme which was liable for that pension.

*Article 14.* SPECIAL PROVISIONS FOR MINING

1. The provisions of this chapter shall apply to workers who have been employed in the mining industry in France and in Benin for the purpose of determining rights to the disability payments provided for under the French social security scheme for mine workers and for the purpose of maintaining or recovering those rights.

2. The occupational disability pension provided for under the special legislation relating to mine workers in France shall be granted to insured persons who were subject to that legislation at the time when the interruption of work followed by disability occurred and who have resided in France or in Benin until the time of payment of the said pension. The pension shall cease to be paid to pensioners who resume work outside France.

CHAPTER III. OLD-AGE INSURANCE AND SURVIVORS' INSURANCE  
(SURVIVORS' BENEFITS)

*Article 15.* METHODS OF PAYMENT OF OLD-AGE BENEFITS

French or Beninese employed persons who have during their working lives been subject successively or alternately in the territory of the two Contracting States to one or more old-age insurance schemes of each of those States shall be entitled to receive benefits on the following conditions:

I. If the person concerned satisfies the conditions required by the legislation of each of the States for entitlement to benefits, the competent institution of each Contracting Party shall determine the amount of the benefits in accordance with the provisions of the legislation which it applies, account being taken only of those insurance periods completed under the said legislation.

II. If the person concerned has not been insured for the length of time which is required by both national legislations, the benefits which he is entitled to receive from the institutions applying such legislations shall be paid in accordance with the following rules:

### A. *Aggregation of insurance periods*

1. The insurance periods, and for the purpose of the application of Beninese legislation the registration periods, completed under the legislation of each of the two Contracting States, and periods recognized as equivalent to insurance periods, shall, provided that they do not overlap, be aggregated both for the purpose of determining the right to benefits and for the purpose of maintaining or recovering that right.

2. The periods recognized as equivalent to insurance periods shall, in each country, be those which are recognized as such under the legislation of that country. The administrative agreement shall determine the rules to be followed in the event of overlapping of periods.

### B. *Payment of benefits*

1. Taking into account the aggregation of periods as specified above, the competent institution of each country shall determine, in accordance with its own legislation, whether the person concerned meets the requirements for entitlement to an old-age pension under that legislation.

2. Where the entitlement to a pension exists, the competent institution of each country shall determine *pro forma* the benefit to which the insured person would be entitled if all the insurance periods or periods recognized as equivalent, aggregated in accordance with the rules stated in section II, A, of this article, had been completed exclusively under its own legislation.

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

III. Where the right exists only under the legislation of one of the two States, account being taken only of the periods completed under that legislation, the competent institution of that State shall determine the amount of the benefits, as stated in section I of this article.

The competent institution of the other Party shall proceed to pay the benefits for which it is liable under the conditions referred to in section II.

### *Article 16. MINIMUM DURATION OF INSURANCE*

1. The French side shall be required to pay separately the benefits due by reason of insurance periods completed under French legislation when those periods amount to less than 12 months.

Such periods may, however, be taken into consideration for the purpose of establishing the right to benefits under Beninese legislation, on the terms referred to in article 15, section II, above, provided that no reduction of the benefits payable under Beninese legislation results.

2. When the total amount of insurance periods completed under Beninese legislation is less than 12 months, no benefits shall be due under that legislation.



*Article 17. SPECIAL SCHEMES*

1. Where the legislation of one of the Contracting Parties makes it a condition for the award of certain old-age benefits that the insurance periods shall have been completed in an occupation which is subject to a special insurance scheme, only those periods completed under the corresponding special scheme of the other Party shall be taken into consideration for the purpose of entitlement to receive such benefits.

2. If in one of the two Contracting States there is no corresponding special scheme for the occupation under consideration, the insurance periods completed in the said occupation shall be taken into account for entitlement to receive benefits under the general scheme.

3. Notwithstanding the provisions of paragraphs 1 and 2 of this article, there shall be aggregated with the periods completed under the French scheme relating to social security in mines the periods of work completed in mine workings in Benin which, if they had been completed in France, would have entitled the person concerned to receive benefits under the French scheme.

*Article 18. SUCCESSIVE APPLICATION OF LEGISLATION*

1. If the insured person does not simultaneously satisfy the requirements imposed by the legislations of the two Contracting Parties but satisfies the requirements of only one of them, the amount of the benefits payable under the legislation under which he is entitled to benefits shall be calculated in accordance with the provisions of article 15, section I or II, as the case may be.

2. The above solution shall also be applicable when the person concerned simultaneously satisfies the conditions required by the old-age legislations of both States but has taken advantage of the opportunity offered by the legislation of one of the States for postponing the payment of his old-age benefits.

3. Where the conditions required by the legislation of the other State are satisfied, or where the insured person requests payment of the benefits which he had postponed under the legislation of one of the Contracting States, there shall be paid the benefits due under that legislation in accordance with the provisions of article 15 without any revision of the benefits already paid under the legislation of the first Party.

*Article 19. SURVIVORS' BENEFITS*

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

2. Where the death giving rise to the award of the survivor's pension takes place before the worker has obtained payment of his benefits under old-age insurance, the benefits due the dependants shall be paid under the conditions specified in article 15.

3. If the insured person, in accordance with his civil status, had more than one wife at the time of his death, the benefit due a surviving spouse shall be paid as soon as one of the wives satisfies the conditions required for entitlement to such benefit.

(a) Where all the wives are resident in Benin at the time of the payment of the survivor's pension, the arrears of such pension shall be paid to the

Beninese liaison office, which shall determine its apportionment in accordance with the civil status of the women concerned. The payments thus made shall absolve from liability both the paying institution and the women concerned.

- (b) Where the wives are not all resident in Benin at the time of the payment of the survivor's pension, the arrears of such pension shall be paid in their entirety to the wife whose right exists irrespective of her place of residence. If there exist several wives with such entitlement, the benefit shall be apportioned equally between them. A new apportionment must be made each time a wife, in her turn, satisfies the requirements for entitlement to benefits.

The disappearance of a wife shall not give rise to a new apportionment.

#### CHAPTER IV. REVISIONS COMMON TO DISABILITY INSURANCE, OLD-AGE INSURANCE AND LIFE INSURANCE (SURVIVORS' BENEFITS)

##### *Article 20. WAIVER OF RESIDENCE CLAUSES*

If under the legislation of one of the Contracting Parties, the award of disability benefits, old-age benefits and death benefits, or the performance in its territory of certain formalities in order to obtain such benefits, is subject to conditions of residence in that territory, those conditions shall not apply to Beninese or French nationals so long as they are residing or staying in the territory of one of the two Contracting Parties.

##### *Article 21. SPECIAL PROVISIONS FOR MINING*

Notwithstanding the provisions of the preceding article:

(a) The special allowance and cumulative grant provided for by the special French legislation applicable to mine workers shall be payable only to persons who continue to work in the French mines when they have acquired an entitlement to pensions under the mining scheme;

(b) The allowances for dependent children provided for by the special French legislation applicable to mine workers shall be paid in accordance with the conditions laid down in that legislation.

##### *Article 22. CALCULATION OF BENEFITS*

If, under the legislation of one of the Contracting Parties, the benefits paid are based on the average wage for all or part of the insurance period, the average wage to be taken into account in calculating the benefits payable by the institutions of that Party shall be determined on the basis of the wages recorded during the insurance period completed under the legislation of that Party.

#### CHAPTER V. INDUSTRIAL ACCIDENTS AND OCCUPATIONAL DISEASES

##### *Article 23. WAIVER OF RESIDENCE CLAUSES*

1. Any provisions contained in the legislation of one of the Contracting Parties which relate to industrial accidents and occupational diseases and which limit the rights of aliens or disqualify them by reason of their place of residence shall not apply to nationals of the other Party.

2. Increases or supplementary allowances awarded in addition to industrial-accident annuities under the applicable legislation of each Contracting Party shall continue to be paid to persons covered by the preceding paragraph who transfer their residence from the territory of one of the States to the territory of the other.

*Article 24. TRANSFER OF RESIDENCE*

1. A French employed person who has sustained an industrial accident or contracted an occupational disease in Benin, or a Beninese employed person who has sustained an industrial accident or contracted an occupational disease in France, and who has acquired the right to the benefits payable during the period of temporary incapacity shall retain the right to such benefits if he transfers his residence to the territory of the other Party.

2. Before transferring his residence, the employed person must, except in the event of *force majeure*, obtain the authorization of the insuring institution. Such authorization shall be granted up to the anticipated date of recovery or of healing of the injury.

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

*Article 25. RECURRENCE*

If a French or Beninese employed person suffers a recurrence of the effects of his accident or occupational disease after transferring his residence temporarily or permanently to the territory of the other State, he shall be entitled to industrial-accident insurance benefits in kind and in cash, provided that he has obtained the consent of the Beninese or French institution with which he was insured at the time of the accident or when the occupational disease was first diagnosed.

*Article 26. PROVISION OF TEMPORARY-INCAPACITY BENEFITS*

1. Benefits in kind (treatment) under articles 24 and 25 shall be provided by the institution of the new place of residence of the person concerned, in accordance with the provisions of the legislation applied by that institution as regards the extent of such benefits and the manner of providing them.

2. Cash benefits under articles 24 and 25 shall be provided by the institution with which the person concerned is insured, in accordance with the legislation applied by that institution.

*Article 27. COST OF PROVIDING TEMPORARY-INCAPACITY BENEFITS*

1. The cost of the benefits referred to in articles 24 and 25 shall be borne by the institution with which the person concerned is insured.

2. The Administrative Agreement shall specify the manner in which benefits in kind are to be reimbursed by the insuring institution to the institution of the new place of residence.

*Article 28. MAJOR BENEFITS IN KIND*

In the cases specified in articles 24 and 25, the provision of prostheses, large appliances and other major benefits in kind, a list of which shall be annexed to the Administrative Agreement, shall be subject, except in case of emergency, to prior authorization by the insuring institution.

*Article 29. SUCCESSIVE ACCIDENTS*

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

*Article 30. ANNUITIES FOR SURVIVING SPOUSES*

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

*Article 31. OCCUPATIONAL DISEASES*

1. Where a person suffering from an occupational disease has been engaged in the territory of both Parties in an occupation capable of producing that disease, the benefits which he or his survivors may claim shall be awarded exclusively under the legislation of the Party in whose territory he was last engaged in the occupation in question, provided that he satisfies the conditions laid down in that legislation.

2. Where the legislation of one of the Parties makes it a condition for the award of occupational-disease benefits that the disease shall have been diagnosed for the first time in its territory, that condition shall be deemed to be satisfied if the disease was first diagnosed in the territory of the other Party.

3. In cases of sclerogenous pneumoconiosis, the following provisions shall apply:

(a) Where the legislation of one of the Parties makes it a condition for the award of occupational-disease benefits that an activity capable of producing the disease in question shall have been carried on for a certain length of time, the competent institution of that Party shall take into account, to the extent necessary, the periods during which such an activity has been carried on in the territory of the other Party;

(b) The costs of annuities shall be apportioned between the competent institutions of the two Parties in a manner specified by administrative agreement.

*Article 32. WORSENING OF AN OCCUPATIONAL DISEASE*

In the event of a worsening of an occupational disease for which compensation is being paid under the legislation of one of the Parties, while the person

concerned is resident in the territory of the other Party, the following rules shall apply:

(a) If the worker has not been engaged in the territory of his new country of residence in an occupation capable of producing the occupational disease in question, the institution of the first country shall bear the costs of the worsening of the disease under the terms of its own legislation;

(b) If the worker has been engaged in the territory of his new country of residence in an occupation capable of producing the occupational disease in question:

—The institution of the first-mentioned Party shall continue to be liable for the benefit payable to the person concerned under its own legislation as if there had been no worsening of the disease;

—The institution of the other Party shall bear the cost of additional benefits associated with the worsening of the disease. The amount of the additional benefits shall then be determined in accordance with the legislation of that Party as if the disease had been contracted in its own territory; it shall be equal to the difference between the amount of the benefit which would have been payable after the worsening of the disease and the amount of the benefit which would have been payable before the worsening occurred.

#### CHAPTER VI. FAMILY ALLOWANCES

##### *Article 33.* AGGREGATION OF PERIODS OF EMPLOYMENT

If a worker has not completed the entire period of employment required under the legislation of the new State of employment in order to create an entitlement to family allowances, the period of employment or period treated as such completed in the territory of the other State shall be utilized to make up the said period.

##### *Article 34.* ENTITLEMENT TO FAMILY ALLOWANCES FROM THE COUNTRY OF RESIDENCE OF THE CHILDREN

Employed persons working in France or in Benin may claim for their children resident in the territory of the other State the family allowances provided for under the legislation of the State in whose territory the children are resident if they fulfil in the territory of the State in which they are employed the occupational requirements laid down in the Administrative Agreement.

##### *Article 35.* ELIGIBLE CHILDREN

Children eligible for the family allowances referred to in article 34 shall be the worker's dependent children within the meaning of the legislation of their country of residence.

##### *Article 36.* PAYMENT OF FAMILY ALLOWANCES

Family allowances shall be paid direct to the person in charge of the children in the territory of the other State by the institution of the State of residence of the children, in the manner and at the rates provided for under the legislation applicable in the territory of that State.

*Article 37.* REIMBURSEMENT

The manner of reimbursement for the benefits provided under article 36 shall be determined by administrative agreement.

*Article 38.* WORKERS ON ASSIGNMENT

1. The workers referred to in article 5, paragraph 2 (a), shall be entitled, in respect of their children accompanying them to the other country, to the family allowances provided for under the legislation of the State of origin, as specified in the Administrative Agreement.

2. The family allowances shall be paid direct by the competent family allowance institution of the State of origin of the persons concerned.

PART III. MISCELLANEOUS PROVISIONS

CHAPTER I. MEASURES FOR THE IMPLEMENTATION OF THE CONVENTION

*Article 39.* DEFINITION OF THE COMPETENT ADMINISTRATIVE AUTHORITIES

In the territory of each Contracting Party, the Ministers responsible in their respective fields for the implementation of the legislations specified in article 2 shall be deemed to be the competent administrative authorities for the purposes of this Convention.

*Article 40.* GENERAL ADMINISTRATIVE AGREEMENT

1. A general Administrative Agreement drawn up by the administrative authorities of the two Contracting Parties shall determine, to the extent necessary, the manner of implementation of this Convention, and in particular of those articles which refer expressly to the said Administrative Agreement.

2. In particular, the general Administrative Agreement shall:

- (a) Designate the liaison offices of the two countries;
- (b) Regulate such arrangements for medical and administrative supervision and expert services as are required for the implementation both of this Convention and of the social security legislations of the two countries.

3. Models of the standard forms required for the purpose of the procedures and formalities agreed upon shall be annexed to the general Administrative Agreement or, where appropriate, to a supplementary administrative agreement.

*Article 41.* INFORMATION AND CO-OPERATION

1. The competent administrative authorities of the two countries shall:

- (a) Adopt, in addition to the general Administrative Agreement referred to in article 40, all administrative agreements supplementing or amending it;
- (b) Communicate direct to each other the full information regarding measures taken in their respective countries for the implementation of this Convention and of the agreements thereunder;
- (c) Report to each other any difficulties which may arise at the technical level from the implementation of the provisions of the Convention or of the agreements thereunder;

(d) Communicate direct to each other all information regarding amendments to the laws and regulations referred to in article 2, in so far as they might affect the implementation of this Convention or of the agreements adopted for its implementation.

2. The competent administrative authorities and social security institutions of each Contracting Party shall assist those of the other in the implementation both of this Convention and of the social security legislation of the other Party as if the matter were one affecting the implementation of their own social security legislation.

## CHAPTER II. PROVISIONS DEROGATING FROM DOMESTIC LEGISLATION

### *Article 42.* EXEMPTION FROM FEES AND WAIVER OF LEGALIZATION

1. Any exemption from registration fees, court fees, stamp duties and consular fees provided for under the legislation of one of the Contracting Parties in respect of documents required to be produced to the social security administrations or institutions of that Party shall be extended to similar documents required to be produced for the implementation of this Convention to the social security administrations or institutions of the other Party.

2. Legalization by consular authorities shall be waived in respect of all certificates, documents and papers required to be produced for the implementation of this Convention.

### *Article 43.* FORMALITIES

Any formalities prescribed by the laws or regulations of one of the Contracting Parties for the provision of benefits payable to its nationals in the territory of the other Party shall also apply, on the same conditions, to nationals of the other Party eligible for such benefits under this Convention.

### *Article 44.* APPEALS

Appeals in social security matters which should have been presented within a prescribed time-limit to an authority, institution or court of one of the Contracting Parties competent to receive them shall be receivable if they are presented within the same time-limit to a corresponding authority, institution or court of the other Party. In such cases, the appeals shall be transmitted without delay to the competent authority, institution or court of the first-mentioned Party.

### *Article 45.* RECOVERY OF CONTRIBUTIONS

Unpaid contributions and penalties due an institution of one of the Contracting Parties may be recovered in the territory of the other Party, in accordance with the procedures and subject to the guarantees and privileges applicable to the recovery of unpaid contributions and penalties due the institution of the first-mentioned Party.

### *Article 46.* THIRD-PARTY LIABILITY

In the case of a person receiving benefits under the legislation of one Contracting Party for an injury caused or sustained in the territory of the other Contracting Party, the rights of the institution liable for the payment of such benefits

*vis-à-vis* the third party liable for compensation for the injury shall be regulated as follows:

- (a) When, under the legislation applied by the institution liable for payment, all or some of the beneficiary's rights *vis-à-vis* the third party are delegated to that institution, the other Contracting Party shall recognize such delegation;
- (b) When the institution liable for payment has a direct right *vis-à-vis* the third party, the other Contracting Party shall recognize such right.

#### Article 47. WORKERS ON ASSIGNMENT

1. French workers in the situation referred to in article 5, paragraph 2 (a) of this Convention, and members of their families accompanying them to Benin, shall be entitled to sickness and maternity insurance benefits under the French social security scheme throughout their stay in Benin.

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

### CHAPTER III. TRANSFERS

#### Article 48. FREEDOM TO TRANSFER SOCIAL SECURITY FUNDS

Notwithstanding any domestic provisions relating to the regulation of changes, the two Governments undertake to present no obstacle to the transfer of funds corresponding to all payments made in connection with social security or social welfare transactions, pursuant either to this Convention or to the domestic legislation of each of the Parties relating both to employed persons and persons treated as such and to persons engaged in other work, including payments under voluntary insurance and supplementary retirement schemes.

#### Article 49. CURRENCY AND EXCHANGE RATES

1. The institutions liable under this Convention or under their own legislation for the payment of benefits shall be deemed to discharge their liability validly by payment in the currency of their State.

2. The amounts of reimbursements provided for under this Convention, calculated on the basis of actual expenditure or on a lump-sum basis, shall be expressed in the currency of the State in whose territory the institution which provided the benefits is established, at the rate of exchange prevailing on the day of settlement.

#### Article 50. CENTRALIZATION OF BENEFITS

The competent administrative authorities of the two States may, by administrative agreement, delegate to the liaison agencies of the two States the task of centralizing, with a view to their transfer to the other State, all or some of the benefits provided for under this Convention. The transfer of such benefits shall be effected through the banks of issue of the two Contracting Parties.



## CHAPTER IV. SETTLEMENT OF DISPUTES

*Article 51.* SETTLEMENT BY DIRECT AGREEMENT  
OR THROUGH THE DIPLOMATIC CHANNEL

1. Difficulties relating to the implementation of the provisions of this Convention shall be settled by direct agreement between the competent administrative authorities, and if that method fails, through the diplomatic channel.

2. Disputes relating to the interpretation of the provisions of this Convention shall be settled through the diplomatic channel.

*Article 52.* SETTLEMENT BY ARBITRATION

1. If a dispute cannot be settled in the manner described in the preceding article, it shall, at the request of either Contracting Party, be submitted to an arbitral tribunal, which shall be constituted in the following manner:

- (a) Each of the Parties shall appoint an arbitrator within one month from the date of receipt of the request for arbitration; the two arbitrators thus appointed shall agree on a national of a third State as a third arbitrator within two months after the notification from the last Party to appoint its arbitrator;
- (b) If one of the Parties fails to appoint an arbitrator within the prescribed time-limit, the other Party may request the Secretary-General of the United Nations to make the appointment. The same request may be made by either Party if the two arbitrators fail to agree on the choice of the third arbitrator.

2. The arbitral tribunal shall establish its own rules of procedure; its decisions shall be taken by majority vote and shall be binding on both Parties.

3. Each Contracting Party shall defray the expenses of the arbitrator whom it appoints. Other expenses shall be shared equally between the two Parties.

## PART IV. TRANSITIONAL AND FINAL PROVISIONS

*Article 53.* RIGHTS EXISTING PRIOR TO THE CONVENTION

1. This Convention shall create no entitlement to the payment of benefits for a period prior to the date of its entry into force.

2. Notwithstanding the provisions of paragraph 1, annuities or pensions which, prior to the entry into force of this Convention, had not been awarded or had been awarded separately, or which had been suspended or reduced by reason of the nationality or residence of the recipients in implementation of the provisions in force in the territory of either of the Contracting Parties, may be awarded, restored or reviewed under the terms of the Convention.

3. The award, restoration or review shall be made in accordance with the rules provided for in this Convention, it being understood that any insurance period completed under the legislation of a Contracting Party before the entry into force of this Convention shall be taken into consideration in determining entitlements under the provisions of this Convention.

4. When the entitlements previously awarded have been the subject of a lump-sum settlement there shall be no review.

*Article 54.* POINT OF DEPARTURE OF THE REVIEW  
OF ENTITLEMENTS

1. The annuities or pensions in question shall be awarded, restored or reviewed on the application of the persons concerned. The application shall be submitted to the competent institutions of either Contracting Party. It shall take effect from the first day of the month following that in which the application was submitted.

2. If the application is submitted within one year from the date of entry into force of the Convention, it shall take effect retroactively from that date.

*Article 55.* ENTRY INTO FORCE OF THE CONVENTION

The Government of each Contracting Party shall notify the other of the completion of the constitutional procedures required for the entry into force of this Convention. The Convention shall enter into force on the first day of the second month following the date of the last such notification.

*Article 56.* PERIOD OF VALIDITY OF THE CONVENTION

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 it is denounced; denunciation must be notified three months before the expiry of the period.

2. In the event of denunciation, the provisions of this Convention shall continue to apply to acquired rights, notwithstanding any restrictive provisions in the relevant legislation concerning an insured person who is residing abroad.

DONE at Cotonou on 6 November 1979, in duplicate.

For the Government  
of the French Republic:

[Signed]

PIERRE DÉCAMPS  
Ambassador Extraordinary  
and Plenipotentiary to Benin

For the Government  
of the People's Republic of Benin:

[Signed]

ADOLPHE BIAOU  
Minister of Public Administration  
and Labour

PROTOCOL NO. I RELATING TO THE MAINTENANCE OF CERTAIN  
SICKNESS INSURANCE ADVANTAGES AVAILABLE TO BENINESE  
OR FRENCH NATIONALS INSURED UNDER A SOCIAL SECURITY  
SCHEME WHO MOVE TO BENIN

The Government of the French Republic and the Government of the People's Republic of Benin

Have decided to adopt, until such time as a sickness insurance scheme is instituted by law in Benin, the following provisions concerning French or Beninese nationals covered by the French sickness insurance scheme who move to Benin in certain circumstances.

*Article 1.* A Beninese or French employed person working in France who has acquired an entitlement to cash benefits shall retain such entitlement for a period not exceeding six months if he transfers his residence to the territory of Benin, provided that, prior to the transfer, he has obtained, except in case of *force majeure*, the authorization of the institution with which he is insured, which shall take due account of the reason for the transfer.

*Article 2.* During the six-month period referred to in article 1, the French insuring institution shall, on the basis of a favourable opinion by its medical staff, reimburse part of the cost of any treatment received in Benin by an employed person authorized to transfer his residence in the circumstances described in article 1.

In the case of an exceptionally grave disease which is included in a list established by administrative agreement, benefits in kind may be provided, on the basis of a favourable opinion by the medical staff, for a period longer than the period specified above.

These provisions shall apply only to the employed person himself and not to members of his family.

*Article 3.* An administrative agreement shall specify, *inter alia*:

- (a) The nature of the benefits for which reimbursement shall be made;
- (b) The list of the exceptionally grave diseases which are referred to in article 2 of this Protocol;
- (c) The list of prostheses, large appliances and other major benefits in kind the award of which is subject to prior authorization;
- (d) The basis on which reimbursement shall be made by French institutions, where such reimbursement may be made either at a flat rate or on the basis of a scale of maximum charges drawn up in Benin, subject to a deduction representing the proportion of the costs to be borne by the insured person, the amount of which shall be determined in accordance with the legislation applied by the reimbursing institution;
- (e) The arrangements for medical and administrative supervision of patients in Benin on behalf of the insuring institution;
- (f) The institutions responsible for the provision of benefits in Benin and, where necessary, the Beninese and French liaison agencies;
- (g) The procedures for inter-institutional financial settlements.

*Article 4.* If sickness insurance legislation is enacted in Benin, the provisions of this Protocol shall cease to have effect; a new agreement on sickness insurance shall be concluded between the two Parties.

*Article 5.* The Government of each Contracting Party shall notify the other of the completion of the constitutional procedures required, in so far as it is concerned for the entry into force of this Protocol. The Protocol shall enter into force on the first day of the second month following the date of the last such notification.

*Article 6.* This Protocol 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 it is

denounced; denunciation must be notified three months before the expiry of the period.

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

DONE at Cotonou on 6 November 1979, in duplicate.

For the Government  
of the French Republic:

[PIERRE DÉCAMPS]

For the Government  
of the People's Republic of Benin:

[ADOLPHE BIAOU]

### PROTOCOL No. 2 CONCERNING THE SOCIAL SECURITY SCHEME FOR STUDENTS

The Government of the French Republic and the Government of the People's Republic of Benin;

Desiring to co-operate in the cultural field and to ensure in the social field protection of the nationals of each State pursuing their studies in the territory of the other, have decided to adopt the following measures:

*Article 1.* The French social security scheme for students instituted in the Social Security Code, book VI, part I, shall apply, on the same conditions as for French students, to Beninese students studying in France who are not covered by French social insurance and are not dependants of persons having such coverage.

*Article 2.* The two Governments undertake to ensure equal treatment with respect to social security for Beninese and French students in the territory of each of the two Parties.

*Article 3.* The Government of each Contracting Party shall notify the other of the completion of the constitutional procedures required, in so far as it is concerned, for the entry into force of this Protocol. The Protocol shall enter into force on the first day of the second month following the date of the last such notification.

*Article 4.* This Protocol 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 it is denounced; denunciation must be notified three months before the expiry of the period.

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

DONE at Cotonou on 6 November 1979, in duplicate.

For the Government  
of the French Republic:

[PIERRE DÉCAMPS]

For the Government  
of the People's Republic of Benin:

[ADOLPHE BIAOU]

PROTOCOL No. 3 CONCERNING THE GRANTING TO BENINESE NATIONALS OF THE ALLOWANCE FOR ELDERLY EMPLOYED PERSONS UNDER FRENCH LEGISLATION

The Government of the French Republic and the Government of the People's Republic of Benin,

Considering that it is desirable that elderly employed persons of each of the two Parties should be entitled in the territory of the other to equal treatment with the latter's nationals in the field of social security,

Agree to apply the following provisions:

*Article 1.* The allowance for elderly employed persons shall be granted to Beninese elderly employed persons resident in France on the same conditions as for French elderly employed persons.

*Article 2.* Payment of the allowance shall continue if the persons concerned transfer their residence to Beninese territory.

*Article 3.* The Government of each Contracting Party shall notify the other of the completion of the constitutional procedures required, in so far as it is concerned, for the entry into force of this Protocol. The Protocol shall enter into force on the first day of the second month following the date of the last such notification.

*Article 4.* This Protocol 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 it is denounced; denunciation must be notified three months before the expiry of the period.

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

DONE at Cotonou on 6 November 1979, in duplicate.

For the Government  
of the French Republic:  
[PIERRE DÉCAMPS]

For the Government  
of the People's Republic of Benin:  
[ADOLPHE BIAOU]

PROTOCOL No. 4 CONCERNING THE GRANTING OF NON-CONTRIBUTORY OLD-AGE BENEFITS UNDER FRENCH LEGISLATION TO BENINESE NATIONALS RESIDENT IN FRANCE

The Government of the French Republic and the Government of the People's Republic of Benin,

Considering that French social security legislation provides for a number of old-age benefits which are, on account of their non-contributory character, reserved for French nationals,

Considering that the Beninese retirement system includes an old-age allowance and a survivor's allowance for the same purposes and that French

nationals in Benin are not excluded from entitlement to such benefits by reason of their nationality,

Agree to apply the following provisions:

*Article 1.* Beninese nationals resident in France who have been engaged in France in work, other than paid employment, which is covered by the old-age allowance scheme provided for in the Social Security Code, book VIII, part I, and who have not contributed to that scheme shall be entitled to the non-contributory old-age allowance for workers not engaged in paid employment on the same conditions as French nationals.

*Article 2.* Beninese nationals in France shall be entitled to the special allowances provided for in the Social Security Code, book VIII, part II, on the same conditions, including conditions as to means, as French nationals.

*Article 3.* Payment of allowances awarded on the conditions specified in articles 1 and 2 shall be discontinued if the persons concerned transfer their residence outside French territory.

*Article 4.* The Government of each Contracting Party shall notify the other of the completion of the constitutional procedures required, in so far as it is concerned, for the entry into force of this Protocol. The Protocol shall enter into force on the first day of the second month following the date of the last such notification.

*Article 5.* This Protocol 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 it is denounced; denunciation must be notified three months before the expiry of the period.

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

DONE at Cotonou on 6 November 1979, in duplicate.

For the Government  
of the French Republic:  
[PIERRE DÉCAMPS]

For the Government  
of the People's Republic of Benin:  
[ADOLPHE BIAOU]

PROTOCOL No. 5 CONCERNING THE SUPPLEMENTARY ALLOWANCE  
INTRODUCED IN FRANCE UNDER THE ACT OF 30 JUNE 1956  
ESTABLISHING A NATIONAL SOLIDARITY FUND

The Government of the French Republic and the Government of the People's Republic of Benin,

Considering that the supplementary allowance introduced in France under the amended act of 30 June 1956 establishing a National Solidarity Fund is a non-contributory benefit reserved for elderly persons of French nationality without adequate means and that the said benefit is granted in accordance with special procedures,

Considering that the Beninese retirement system includes an old-age allowance and a survivor's allowance for the same purposes, and that French nationals in Benin are not excluded from entitlement to such benefits by reason of their nationality,

Agree to apply the following provisions:

*Article 1.* Beninese nationals who are in receipt of an old-age or invalidity benefit under the French scheme pursuant to the legislation referred to in article 2, paragraph 1, of the General Convention on Social Security, of an old-age benefit provided under a contributory scheme for workers not engaged in paid employment, of the allowance for elderly employed persons, of the old-age allowance under a non-contributory scheme for workers not engaged in paid employment, or of the special allowance shall be entitled to the supplementary allowance on the same conditions, including conditions as to means, as French nationals.

*Article 2.* Payment of supplementary allowances awarded on the conditions specified in article 1 shall be discontinued if the beneficiaries transfer their residence outside French territory.

*Article 3.* With a view to the implementation of the means clauses of French legislation, the competent Beninese services shall assist the French institutions and services liable for the payment of the supplementary allowance in:

- (a) Tracing any means which claimants may have in Benin, including life annuities under the Beninese social security scheme, and carrying out any investigations or inquiries to that end in the manner provided for in the Beninese social security legislation;
- (b) Appraising property owned by claimants in Benin.

Requests for assistance by the French institutions and services liable for payment shall be addressed to an agency designated by the Beninese Government.

*Article 4.* The Government of each Contracting Party shall notify the other of the completion of the constitutional procedures required, in so far as it is concerned, for the entry into force of this Protocol. The Protocol shall enter into force on the first day of the second month following the date of the last such notification.

*Article 5.* This Protocol 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 it is denounced; denunciation must be notified three months before the expiry of the period.

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

DONE at Cotonou on 6 November 1979, in duplicate.

For the Government  
of the French Republic:  
[PIERRE DÉCAMPs]

For the Government  
of the People's Republic of Benin:  
[ADOLPHE BIAOU]