

No. 20745

**NETHERLANDS
and
PORTUGAL**

**Convention on social security (with final protocol). Signed
at The Hague on 19 July 1979**

**Administrative Agreement on procedures for implementing
the above-mentioned Convention. Signed at Lisbon on
9 May 1980**

Authentic text: French.

Registered by the Netherlands on 13 February 1982.

**PAYS-BAS
et
PORTUGAL**

**Convention de sécurité sociale (avec protocole final). Signée
à La Haye le 19 juillet 1979**

**Arrangement administratif relatif aux modalités d'applica-
tion de la Convention susmentionnée. Signé à Lisbonne
le 9 mai 1980**

Texte authentique : français.

Enregistrés par les Pays-Bas le 13 février 1982.

[TRANSLATION — TRADUCTION]

CONVENTION¹ ON SOCIAL SECURITY BETWEEN THE KINGDOM OF THE NETHERLANDS AND THE PORTUGUESE REPUBLIC

The Government of the Kingdom of the Netherlands and
The Government of the Portuguese Republic,

Desiring to bring the relations existing between the two States in the matter of social security into conformity with the developments which have taken place since the entry into force of the Convention between the Kingdom of the Netherlands and the Portuguese Republic on social security signed at The Hague on 12 October 1966,²

Have decided to conclude a new Convention intended to replace that of 12 October 1966:

TITLE I. GENERAL PROVISIONS

Article 1. For the purposes of this Convention:

(a) The term “territory” means:

In the case of the Kingdom of the Netherlands: the territory of the Kingdom in Europe (hereinafter denoted by the term “the Netherlands”);

In the case of the Portuguese Republic: the territory of Portugal on the European continent and the archipelagos of the Azores and Madeira (hereinafter denoted by the term “Portugal”);

(b) The term “national” means:

In the case of the Netherlands: a person of Netherlands nationality;

In the case of Portugal: a person of Portuguese nationality;

(c) The term “employed person” means a person earning a wage or salary or a person treated as such under the legislation of the Contracting Party concerned;

(d) The term “legislation” means the laws, regulations and statutory provisions and all other implementing decisions relating to the schemes and branches of social security specified in article 2, paragraph 1;

(e) The term “competent authority” means the Minister, Ministers or corresponding authority in charge of social security schemes;

(f) The term “competent institution” means the institution with which the employed person is insured at the time of application for benefits or from which he has an entitlement to benefits or would have an entitlement to benefits if he were resident in the territory of the Contracting Party where that institution is situated;

(g) The term “competent country” means the Contracting Party in whose territory the competent institution is situated;

(h) The term “residence” means customary stay;

(i) The term “stay” means temporary stay;

¹ Came into force on 1 January 1981, i.e., the first day of the second month which followed the date of the last of the notifications by which the Contracting Parties informed each other (on 9 June and 3 November 1980) of the completion of the required constitutional procedures, in accordance with article 45.

² United Nations, *Treaty Series*, vol. 648, p. 79.

(j) The term “institution of the place of residence” means the institution authorized to provide the relevant benefits at the place where the person concerned is resident in accordance with the legislation of the Contracting Party which is applied by that institution, or, if there is no such institution, the institution designated by the competent authority of the Contracting Party concerned;

(k) The term “institution of the place of stay” means the institution authorized to provide the relevant benefits at the place where the person concerned is temporarily staying in accordance with the legislation of the Contracting Party which is applied by that institution, or, if there is not such institution, the institution designated by the competent authority of the Contracting Party concerned;

(l) The term “dependants” means dependants defined or accepted as such by the legislation of the Contracting Party in whose territory they are resident;

(m) The term “survivors” means persons defined or accepted as such by the legislation under which the benefits are awarded;

(n) The term “insurance periods” means contribution periods and periods of employment or residence which are defined or accepted as insurance periods by the legislation under which they have been completed, or are deemed to have been completed, and any similar periods in so far as they are recognized by that legislation as equivalent to insurance periods;

(o) The terms “benefits”, “pensions” and “annuities” mean any benefits, pensions or annuities, including any payments out of public funds, reassessment increases or supplementary allowances, and any lump-sum payments made in lieu of a pension.

Article 2. 1. This Convention shall apply:

A. In the Netherlands, to the legislation concerning:

- (a) Sickness insurance (benefits in cash and in kind in the event of sickness or maternity);
- (b) Insurance against the inability to work;
- (c) Old-age insurance;
- (d) Widows' and orphans' insurance;
- (e) Unemployment insurance;
- (f) Family allowances.

B. In Portugal, to the legislation concerning:

- (a) The general scheme for social welfare relating to sickness, maternity, disability, old age and death, family allowance and supplementary benefits;
- (b) Special schemes of benefits or family allowances;
- (c) Industrial accidents and occupational diseases;
- (d) Unemployment benefits.

2. This Convention shall also apply to any laws or regulations which have amended or supplemented, or may in the future amend or supplement, the legislative provisions referred to in paragraph 1 of this article.

Nevertheless, this Convention shall apply to:

- (a) Laws or regulations governing a new branch of social security only if an arrangement to that effect is agreed upon between the Contracting Parties;
- (b) Laws or regulations extending existing schemes to new classes of beneficiaries only if the Government of the Contracting Party concerned does not lodge an

objection with the Government of the other Contracting Party within a period of three months after the official publication of the said laws or regulations.

3. This Convention shall not apply to social assistance or to special schemes for civil servants or similar personnel.

Article 3. 1. The provisions of this Convention shall apply to Netherlands or Portuguese employed persons who are or have been subject to the legislation of one of the Contracting Parties, and to their dependants and survivors to the extent that they derive their insurance rights from the employed person.

2. The provisions of this Convention shall not apply to career diplomatic or consular personnel, including chancellery officials.

Article 4. 1. Subject to the provisions of this Convention, nationals of one of the Contracting Parties to whom the provisions of this Convention apply shall be subject to the requirements and entitled to the benefits of the legislation of the other Party on the same conditions as nationals of the latter Party.

2. The principle of equal treatment set forth in paragraph 1 shall not, however, apply to the provisions of Netherlands legislation relating to the payment of reduced contributions for optional old-age and survivors' insurance.

Article 5. 1. Unless otherwise provided in this Convention, invalidity, old-age or survivors' benefits in cash, industrial-accident or occupational-disease pensions and death grants acquired under the legislation of one Contracting Party shall be furnished to the beneficiaries even if they establish their residence in the territory of the other Party.

2. Cash benefits under the social security system of one of the Contracting Parties shall be furnished to the nationals of the other Party who reside in a third country on the same conditions and to the same extent as to its own nationals resident in that third country.

Article 6. The provisions of the legislation of one Contracting Party concerning the reduction, suspension or termination of benefits when the beneficiary is simultaneously in receipt of other benefits or other income or engaged in an occupation shall apply to him even when the benefits in question are acquired under the legislation of the other Contracting Party or when the income is received or the occupation carried on in the territory of the other Contracting Party.

TITLE II. PROVISIONS TO DETERMINE WHICH LEGISLATION IS APPLICABLE

Article 7. Subject to the provisions of articles 8 to 10, a person employed in the territory of one of the Contracting Parties shall be subject solely to the legislation of that Party, even if he is resident in the territory of the other Party or if the principal place of business of the enterprise which employs him, or his employer's domicile, is in the territory of the said other Party.

Article 8. The principle laid down in article 7 shall be subject to the following exceptions:

(a) (i) A person employed in the territory of one of the Contracting Parties by an enterprise for which he normally works and who is assigned to the territory of

the other Contracting Party by that enterprise in order to work there on its behalf shall remain subject to the legislation of the first-mentioned Party, provided that the foreseeable duration of the work does not exceed 12 months;

(ii) If the duration of the work to be carried out is extended for unforeseeable reasons beyond the originally foreseeable duration and comes to exceed 12 months, the legislation of the first-mentioned Party shall remain applicable for a further period of not more than 12 months, subject to the consent of the competent authority of the second Party;

(b) Employed persons in the service of an enterprise which is engaged, on behalf of others or on its own account, in the transport of passengers or goods by rail, road, air or water or in marine fishing and which has its principal place of business in the territory of one of the Contracting Parties and who are employed as travelling personnel shall be subject to the legislation of the Contracting Party in which territory the enterprise has its principal place of business, irrespective of the Contracting Party in whose territory they are resident;

However, employed persons who are employed and paid by a branch or a permanent representation which the said enterprise has in the territory of the Contracting Party other than the one in whose territory it has its principal place of business shall be subject to the legislation of the Contracting Party in whose territory the said branch or permanent representation is situated;

(c) An employed person belonging to a public administrative service of one of the Contracting Parties who is assigned to the territory of the other Party shall remain subject to the legislation of the first-mentioned Party.

Article 9. 1. Without prejudice to the provisions of article 3, paragraph 2, the provisions of article 7 shall apply to persons employed at the diplomatic missions or consular posts of the Contracting Parties and to those in the personal service of officials of those missions or posts.

2. However, an employed person, as specified in paragraph 1 of this article, who is a national of the Contracting Party represented by the diplomatic mission or consular post in question may elect to be subject to the legislation of that Party. The elective right may be exercised only once, within the three months following the date on which the person is recruited by the diplomatic mission or consular post or enters the private service of officials of the mission or post, as the case may be.

Article 10. The competent authorities of the Contracting Parties may, by agreement, make exceptions to the provisions of articles 7 to 9 on behalf of the employed person concerned.

TITLE III. SPECIAL PROVISIONS FOR VARIOUS CATEGORIES OF BENEFITS

Chapter 1. SICKNESS AND MATERNITY

Article 11. For the purposes of the acquisition, maintenance or recovery of entitlement to benefits, where an employed person has been subject successively or alternately to the legislations of both Contracting Parties, the insurance periods completed under the legislation of each of the Contracting Parties shall be aggregated, provided that they do not overlap.

Article 12. 1. An employed person who is resident in the territory of the Contracting Party other than the competent country and who satisfies the conditions required by the legislation of the competent country in order to be entitled to benefits, with due regard, where necessary to the provisions of article 11, shall be entitled in his country of residence:

- (a) To benefits in kind furnished on behalf of the competent institution by the institution of the place of residence, in accordance with the provisions of the legislation applied by it, as if he were insured by it;
- (b) To cash benefits furnished by the competent institution in accordance with the provisions of the legislation which it applies. Such benefits may be furnished by the institution of the place of residence as agent for the competent institution in a manner to be established by administrative agreement.

2. The provisions of paragraph 1 shall apply *mutatis mutandis* to dependants resident in the territory of the Contracting Party other than the competent country. However, when the dependants are engaged in an occupation in their country of residence or are in receipt of cash social security benefits which entitle them to benefits in kind, the provisions of this article shall not apply to them.

Article 13. Where an employed person who has been insured under the legislation of one of the Contracting Parties moves to the territory of the other Party and does not satisfy the conditions required for entitlement to benefits under the legislation of the last-mentioned Party, and where the said employed person would still be entitled to benefits under the legislation of the first-mentioned Party if he were in the territory of the first-mentioned Party, he shall retain that entitlement, provided that the contingency takes place within a period of 30 days after the last day on which he was subject to the compulsory insurance of the first-mentioned Party.

In such case the provisions of article 12, paragraph 1, shall apply *mutatis mutandis*.

Article 14. The employed person and his dependants referred to in article 12 who stay in or transfer their permanent residence to the competent country shall be entitled to benefits in accordance with the provisions of that country's legislation even if they have already received benefits in respect of the same case of sickness or maternity before their stay in or the transfer of their residence to the competent country; if the legislation applied by the competent institution specifies a maximum duration for the awarding of benefits, the period during which such benefits were furnished immediately before the transfer of residence shall be taken into account.

Article 15. 1. An employed person who satisfies the requirements of one of the Contracting Parties for entitlement to benefits shall be entitled to benefits during a stay in the territory of the other Contracting Party if his state of health necessitates immediate medical treatment, including admission to hospital.

2. An employed person who has acquired entitlement to benefits from an institution of one of the two Contracting Parties and who is a resident in the territory of that Party shall retain that entitlement to benefits when he transfers his residence to the territory of the Party of which he is a national. However, before the transfer, the employed person must obtain an authorization from the competent institution. The authorization may be withheld only if the transfer of residence of the person concerned is liable to jeopardize his state of health or the furnishing of medical treatment.

3. Where an employed person is entitled to benefits under the provisions of the preceding paragraphs, benefits in kind shall be furnished, at the expense of the competent institution, by the institution of his place of stay or residence in accordance with the provisions of the legislation applied by that institution, particularly as regards the scale of benefits in kind and the manner of furnishing them; the duration of such benefits shall, however, be that prescribed by the legislation of the competent country.

4. In the cases referred to in paragraphs 1 and 2 of this article, the furnishing of prostheses, of large appliances and of other major benefits in kind shall be subject, except in cases of absolute urgency, to prior authorization by the competent institution.

5. In the cases referred to in paragraphs 1 and 2 of this article, cash benefits shall be paid by the competent institution in accordance with the provisions of the legislation which it applies. Such benefits may be paid by the institution of the place of stay or residence as agent for the competent institution in the manner to be specified by administrative agreement.

6. The provisions of the preceding paragraphs shall apply *mutatis mutandis* to the employed person's dependants.

Article 16. 1. Where a person in receipt of pensions payable under the legislation of both Contracting Parties is entitled to benefits in kind under the legislation of the Contracting Party in whose territory he is resident, such benefits shall be furnished to him and to his dependants by the institution of his place of residence at the expense of that institution as if he were in receipt of a pension payable solely under the legislation of the latter Party.

2. Where a person in receipt of a pension payable under the legislation of one of the Contracting Parties is resident in the territory of the other Contracting Party, any benefits in kind to which he is entitled under the legislation of the first-mentioned Party, or would be entitled if he were resident in the territory of that Party, shall be furnished to him and to his dependants by the institution of the place of residence, in accordance with the provisions of the legislation which it applies.

3. A person in receipt of a pension payable under the legislation of one Contracting Party who is entitled to benefits in kind under the legislation of that Party shall be entitled to those benefits, as shall his dependants, during a stay in the territory of the Contracting Party other than the one in whose territory they are resident if their state of health necessitates immediate benefits.

Such benefits shall be furnished by the institution of the place of stay in accordance with the provisions of the legislation which it applies, but the cost thereof shall be payable by the competent institution or by that of the place of residence of the entitled person, as the case may be, and the duration of the furnishing of such benefits shall be that provided for by the legislation of the competent country.

The provisions of article 15, paragraph 4, shall apply *mutatis mutandis*.

4. If the legislation of one Contracting Party provides for contributory deductions from the amounts payable to a pensioner, in order to cover the cost of benefits in kind, the institution which is liable for the pension shall be authorized to make such deductions when payment for the benefits in kind devolves upon an institution of the said Party by virtue of this article.

Article 17. 1. The cost of benefits in kind furnished under the provisions of articles 12, 13 and 14, article 15, paragraphs 1, 2 and 6, and article 16, paragraphs 2 and 3, shall be reimbursed by the competent institutions or the institutions of the place of residence, as the case may be, to those institutions which furnished the said benefits.

2. The amount due shall be determined and reimbursed according to rules to be laid down by administrative agreement, subject to proof of actual expenditures or on the basis of lump sums.

Chapter 2. INVALIDITY

Article 18. For the purposes of the acquisition, maintenance or recovery of entitlement to benefits, where an insured person has been subject successively or alternately to the legislations of both Contracting Parties, the insurance periods and equivalent periods completed under the legislation of each of the Contracting Parties as an employed person shall be aggregated, provided that they do not overlap.

Article 19. 1. Cash benefits shall be paid in accordance with the provisions of the legislation which was applicable to the person concerned at the time when the inability to work, followed by invalidity, occurred, and shall be borne by the institution competent under the terms of that legislation.

2. Where the employed person, at the time when the inability to work, followed by invalidity, occurred, had been subject to Portuguese legislation, insurance periods completed under Netherlands legislation shall be likewise taken into account for the determination of the amount of the benefits to which he is entitled under Portuguese legislation.

Article 20. Where after account has been taken of the aggregation of insurance periods referred to in article 18, the person concerned does not satisfy the conditions required for entitlement to benefits provided for by the legislation which was applicable to him at the time when the inability to work, followed by invalidity, occurred and where he is still entitled to benefits under the legislation of the Contracting Party in whose territory he was insured immediately before that time, he shall be entitled to those benefits in the country to which he has moved. The cost of the said benefits shall be borne by the institution of the Party referred to above, in accordance with the provisions of its legislation.

Article 21. 1. If, after the suspension of benefits, the furnishing of benefits must be resumed, they shall be furnished by the institution which was liable for the benefits at the time of their suspension.

2. If, after the termination of benefits, the insured person's state of health becomes such as to justify the awarding of new benefits, they shall be furnished in accordance with the provisions of articles 18 to 20.

Article 22. An employed person who is entitled to invalidity benefits in cash at the expense of an institution of one of the Contracting Parties and who is resident in the territory of that Contracting Party shall retain that entitlement if he transfers his residence to the territory of the other Party. However, prior to the transfer, he must obtain authorization from the competent institution. Such authorization may be withheld only if the transfer of residence of the person concerned is liable to jeopardize his state of health or the furnishing of medical treatment.

Chapter 3. OLD AGE AND SURVIVAL

Section 1. Common provisions

Article 23. 1. Where the legislation of one Contracting Party makes the acquisition, maintenance or recovery of entitlement to benefits conditional on the completion of insurance periods, the institution which applies that legislation shall, for purposes of aggregation, take the insurance periods completed under the legislation of the other Contracting Party into account as if they were insurance periods completed under the legislation of the first-mentioned Party.

2. However, account shall not be taken, for the purposes of the preceding paragraph, of insurance periods under Netherlands legislation relating to general widows' and orphans' insurance completed by the employed person after the age of 65 years.

3. Where the legislation of one Contracting Party, while not requiring any period of insurance coverage for the acquisition of or entitlement to benefits, makes it a condition for the awarding of such benefits that the employed person must have been insured under that legislation at the time when the contingency occurred, such a condition shall be deemed to have been fulfilled if the employed person was insured at that time under the legislation of the other Party.

Article 24. The institution of each Contracting Party shall determine, in accordance with the provisions of the legislation which it applies, whether the person concerned fulfils the requirements for entitlement to benefits, account being taken of the provisions of article 23.

Where the person concerned fulfils the said requirements, the institution shall determine the amount of the benefit in accordance with the provisions of the legislation which it applies, account being taken, where necessary, of the provisions of section 2 of this chapter.

Section 2. Special provisions

Article 25. 1. For the purpose of calculating the old-age pension to which a married man is entitled under Netherlands legislation, periods prior to the date on which his wife reaches the age of 65 years and during which she, while married to him, resided in Portuguese territory shall, to the extent that such periods coincide with insurance periods completed by the husband under that legislation, also be taken into account.

2. For the purpose of calculating the old-age pension under Netherlands legislation to which the widow of a person who has completed insurance periods under that legislation is entitled, periods prior to the date on which she reached the age of 65 years and during which she, while married to the said person, resided in Portuguese territory shall, to the extent that such periods coincide with the insurance periods referred to above, also be taken into account.

3. Periods to be taken into consideration under the preceding paragraphs shall not be taken into account when they coincide with old-age insurance periods completed by the wife or widow under the legislation of a State other than the Netherlands relating to old-age pensions or with periods during which she received an old-age pension under such legislation.

Article 26. 1. Where entitlement to a survivor's pension exists under Netherlands legislation in pursuance of article 23, paragraph 3, the amount of that pension

shall be calculated on the basis of the ratio existing between the duration of effective individual insurance of the deceased in accordance with Netherlands legislation relating to widows' and orphans' insurance and the maximum possible duration of insurance under that legislation for the same insured person.

2. For the purposes of the preceding paragraph, periods considered to be insurance periods completed under that Netherlands legislation shall include the periods prior to 1 October 1959 during which the deceased was resident in the Netherlands after the age of 15 years or during which he engaged in an employment in the Netherlands for an employer established in that country. Periods to be taken into consideration shall not be taken into account when they coincide with old-age and survivors' insurance periods completed under the legislation of a State other than the Netherlands, conferring entitlement to a survivor's pension.

3. The maximum possible duration of insurance under Netherlands legislation, which is referred to in paragraph 1, shall be counted as from the date on which the insured person reached the age of 15 years until the date of his death, but not later than the age of 65 years.

4. The reduction clauses provided for in Netherlands legislation relating to widows' and orphans' insurance shall not apply to the pensions calculated according to the provisions of this article.

Article 27. If the combined sum of Netherlands and Portuguese pensions does not amount to the minimum amount guaranteed by Portuguese legislation, the insured person or his survivors, resident in Portugal, shall be entitled to a supplement equal to the difference, the cost of which shall be borne by the competent Portuguese institution.

Chapter 4. DEATH GRANTS

Article 28. 1. Where an employed person subject to the legislation of one Contracting Party or a pensioner, or a dependant of such employed person or pensioner, dies in the territory of the other Party, the death shall be deemed to have taken place in the territory of the first-mentioned Party.

2. The competent institutions shall be required to furnish the death grant even if the beneficiary is in the territory of the other Contracting Party.

Chapter 5. UNEMPLOYMENT

Article 29. For the purposes of the acquisition, maintenance or recovery of entitlement to benefits, where an employed person has been subject successively or alternately to the legislations of both Contracting Parties, the insurance periods or work periods completed under the legislation of each of the Contracting Parties shall be aggregated, provided that they do not overlap.

Article 30. An employed person who is a national of one of the Contracting Parties and travels to the territory of the other Contracting Party shall be entitled, during his stay in that territory, to the unemployment benefits provided for by the legislation of the last-mentioned Contracting Party, provided that:

(a) He was taken on in accordance with the provisions of the legislation concerning the employment of aliens;

- (b) He satisfies the requirements of entitlement to those benefits under the legislation of the last-mentioned Contracting Party, account being taken of the aggregation of periods referred to in article 29.

Article 31. 1. An unemployed person who satisfies the conditions required by the legislation of one of the Contracting Parties for entitlement to benefits, account being taken of the provisions of articles 29 and 30, and who transfers his residence to the territory of the other Party shall be deemed to have satisfied also the conditions required by the legislation of the second Party for entitlement to benefits.

2. He shall be entitled to the benefits provided for by the legislation of the country of his new residence, at the expense of the institution of the country of his last employment, for at most a period not exceeding the period during which he would be entitled to benefits under the legislation of that country, provided that he submits an application to the institution of his new place of residence within 30 days following the transfer of residence.

3. Benefits furnished under the provisions of the preceding paragraph shall be reimbursed by the institution of the country of last employment of the person concerned. The manner of reimbursement shall be fixed by administrative agreement.

Chapter 6. FAMILY ALLOWANCES

Article 32. Where the legislation of one of the Contracting Parties makes the acquisition of entitlement to family allowances conditional on the completion of insurance periods, the institution which applies that legislation shall for that purpose, in so far as necessary, take insurance periods completed under the legislation of the other Party into account as if they were periods completed under the legislation of the first-mentioned Party.

Article 33. 1. An employed person insured under Portuguese legislation who has children resident or being raised in the territory of the Netherlands shall be entitled, in respect of those children, to family allowances in accordance with the provisions of Portuguese legislation, taking into account, where appropriate, the aggregation of periods referred to in article 32.

2. An employed person insured under Netherlands legislation who has children resident or being raised in the territory of Portugal shall be entitled, in respect of those children, to family allowances in accordance with the provisions of Netherlands legislation, even if the employed person is resident in the territory of Portugal.

3. If the legislation of one of the Contracting Parties provides for family allowances to pensioners, pensioners resident in the territory of the other Party shall also be entitled to such benefits.

4. If family allowances are not awarded for the maintenance of such children by the person entitled to such benefits, the competent institution shall furnish those benefits, with the effect of discharging the obligation, to the individual or body corporate having actual custody of the children, at the request and through the intermediary of the institution of the children's place of residence.

Article 34. Entitlement to family allowances due under the legislation of the Contracting Party in whose territory the child is not resident shall be suspended when, during the same period and in respect of the same child, benefits are also due under the legislation of the Contracting Party in whose territory the child is resident.

Chapter 7. INDUSTRIAL ACCIDENTS AND OCCUPATIONAL DISEASES

Article 35. 1. An employed person insured under Portuguese legislation who suffers an industrial accident or contracts an occupational disease in Netherlands territory, or who, being entitled to benefits under Portuguese legislation, transfers his residence to Netherlands territory, shall be entitled to benefits in kind from the Netherlands institution of his place of stay, or of his new place of residence, at the expense of the competent Portuguese institution.

2. Where an employed person is entitled to benefits in kind in accordance with the provisions of the preceding paragraph, those benefits shall be furnished by the Netherlands institution of his place of stay, or of his new place of residence, in accordance with the provisions of the legislation applied by that institution, in particular with regard to the extent and manner of the furnishing of the benefits in kind; however, the duration of the furnishing of such benefits shall be that provided for under Portuguese legislation.

3. Cash benefits shall be paid in the cases referred to in this article in accordance with the provisions of article 15, paragraph 5.

TITLE IV. MISCELLANEOUS PROVISIONS

Article 36. 1. The competent authorities

- (a) Shall make such administrative arrangements as may be necessary for implementing this Convention;
- (b) Shall communicate to each other full information regarding measures taken for its implementation;
- (c) Shall communicate to each other full information regarding changes in their legislation which may affect its implementation.

2. The competent authorities shall regulate, by agreement and as necessary, the status of the individual categories of employed persons.

3. The diplomatic and consular authorities of one of the Contracting Parties may intercede with the administrative authorities and competent institutions of the other Party with a view to obtaining any useful information for protecting the interests of their nationals.

Article 37. The authorities and institutions responsible for implementing this Convention shall assist one another in so doing and shall act as if they were applying their own legislation. The mutual administrative assistance provided by such authorities and institutions shall in principle be free of charge. However, the competent authorities of the Contracting Parties may agree on the reimbursement of certain expenses.

Article 38. 1. Any exemption from or reduction of charges, stamp duties, court fees or registration fees provided for by the legislation of one of the Contracting Parties in respect of papers or documents required to be produced for the purposes of the legislation of that Party shall be extended to similar papers and documents required to be produced for the purposes of the legislation of the other Contracting Party or of this Convention.

2. Legalization and any other similar formality shall be waived in respect of all instruments, documents and papers of any kind of an official nature required to be produced for the purposes of this Convention.

Article 39. 1. For the purposes of this Convention, the institutions of the Contracting Parties shall correspond with each other direct in French or English.

2. The authorities, institutions or judicial authorities of either of the Contracting Parties shall not reject claims or other documents addressed to them on the grounds that they are drawn up in the official language of the other Contracting Party.

Article 40. Claims, declarations or appeals which, under the legislation of one of the Contracting Parties, should have been submitted within a prescribed time-limit to an authority, institution or judicial authority of that Party shall be admissible if they are submitted within the same time-limit to an authority, institution or judicial authority of the other Contracting Party.

In such case the authority, institution or judicial authority involved shall transmit the said claims, documents or appeals to the competent authority, institution or judicial authority of the first-mentioned Party.

Article 41. 1. Institutions of one of the Contracting Parties which, under this Convention, are liable for the payment of cash benefits to entitled persons who are in the territory of the other Party shall be deemed to have discharged their obligation validly in the currency of the first-mentioned Party; when they are liable for sums payable to institutions which are in the territory of the other Contracting Party, they shall be required to make payment in the currency of the said other Party.

2. Transfers of funds resulting from the implementation of this Convention shall be transacted in accordance with the relevant agreements in force between the two Contracting Parties at the time of the transfer.

Article 42. 1. Where the institution of one of the Contracting Parties has paid a recipient of benefits a sum in excess of the amount to which he is entitled, that institution may, in the manner and subject to the limitations prescribed by the legislation which it applies, request the other Contracting Party's institution liable for paying benefits to that recipient to withhold the overpayment from the sums which it remits to the recipient. The last-mentioned institution shall make the deductions in the manner and subject to the limitations prescribed for such compensation by the legislation which it applies, as if it had itself made overpayments, and shall transfer the amount thus withheld to the creditor institution.

2. Where the institution of one of the Contracting Parties has paid an advance on benefits for a period during which the recipient was entitled to receive corresponding benefits under the legislation of the other Contracting Party, it may request the institution of the other Party to withhold the amount of the advance from the sums which it is obliged to pay to that recipient for the same period. The last-mentioned institution shall make the deduction and transfer the amount thus withheld to the creditor institution.

3. Where a person has received social assistance in the territory of one of the Contracting Parties during a period when he was entitled to receive benefits under the legislation of the other Contracting Party, the agency which provided the social assistance may, if it has a legal right of recovery in respect of benefits due recipients of social assistance, request the other Contracting Party's institution liable for paying benefits to that person to withhold the amount of the social assistance disbursements over the said period from the sums that it remits to that person. The last-mentioned institution shall make the deduction in the manner and subject to the limitations pre-

scribed by the legislation which it applies and shall transfer the amount thus withheld to the creditor institution.

Article 43. 1. Any dispute which arises between the Contracting Parties concerning the interpretation or implementation of this Convention shall be the subject of direct negotiations between the competent authorities of the Contracting Parties.

2. If the dispute has not been resolved within a period of six months from the first request to open the negotiations prescribed in paragraph 1 of this article, it shall be submitted to an arbitral commission, whose composition and procedure shall be determined by agreement between the Contracting Parties. The arbitral commission shall resolve the dispute in accordance with the fundamental principles and the spirit of this Convention. Its decisions shall be binding and final.

TITLE V. TRANSITIONAL AND FINAL PROVISIONS

Article 44. 1. This Convention shall in no case confer any entitlement to the payment of benefits for a period prior to the date of its entry into force.

2. Any insurance period completed under the legislation of one of the Contracting Parties before the entry into force of this Convention shall be taken into account for the purpose of determining any entitlements deriving from the provisions of this Convention.

3. Subject to the provisions of paragraph 1 of this article, an entitlement shall be acquired under this Convention even in respect of an event which occurred before the entry into force of the Convention.

4. Where a contingency occurs on a date prior to the date of entry into force of this Convention but payment in response to the application for a pension has not been made before that date, payment in respect of the application shall be twofold, namely:

- (a) For the period prior to the date of entry into force of this Convention, in accordance with the provisions of the Convention of 12 October 1966;
- (b) For the period subsequent to the date of entry into force of this Convention, in accordance with its provisions.

5. The entitlements of persons who are receiving pension payments before the entry into force of this Convention shall be reviewed at their request, with due regard to the provisions of this Convention. Such entitlements may also be reviewed without a request being made.

Such a review shall in no case have the effect of reducing previous entitlements of the persons concerned.

6. If the request referred to in paragraph 5 of this article is submitted within two years after the date of entry into force of this Convention, any entitlements conferred under the provisions of this Convention shall be acquired as from that date, and any legislative provisions of the Contracting Party concerning the lapse or prescription of entitlement shall not apply to the persons concerned.

7. If the request referred to in paragraph 5 of this article is submitted after the expiry of two years following the entry into force of this Convention, entitlements which have not been lost through lapse or prescription shall be acquired only as from the date of submission of the request, subject to more favourable provisions of the legislation of the Contracting Party in question.

Article 45. The Governments of the Contracting Parties shall notify each other of the completion in their respective countries of the constitutional procedures required for the entry into force of this Convention.

It shall enter into force on the first day of the second month following the date of the later such notification.

Article 46. The annexed Final Protocol shall constitute an integral part of this Convention.

Article 47. As from the entry into force of this Convention, the provisions of the Convention on social security between the Kingdom of the Netherlands and the Portuguese Republic signed at The Hague on 12 October 1966 shall no longer apply. Entitlements acquired under the provisions of the said Convention shall be maintained.

Article 48. This Convention is concluded for an indefinite period. It may be denounced by either of the Contracting Parties. Notice of denunciation must be given not less than six months before the end of any calendar year; the Convention shall then cease to have effect at the end of that year.

Article 49. 1. In the event of denunciation of this Convention, any entitlement acquired in accordance with its provisions shall be maintained.

2. Entitlements which are in course of acquisition in respect of periods completed before the date on which denunciation takes effect shall not be cancelled as a result of the denunciation; subsequent preservation of such entitlements shall be determined by agreement or, in the absence of such agreement, by the legislation applied by the institution concerned.

IN WITNESS WHEREOF the undersigned, being duly authorized thereto, have signed this Convention.

DONE at The Hague on 19 July 1979, in duplicate in the French language.

For the Government of the Kingdom of the Netherlands:

C. A. VAN DER KLAUW

For the Government of the Portuguese Republic:

F. M. DA SILVA MARQUES

FINAL PROTOCOL

On the signature today of the Convention on social security between the Kingdom of the Netherlands and the Portuguese Republic (hereinafter referred to as "the Convention"), the undersigned plenipotentiaries have confirmed the agreement of the Contracting Parties on the following points:

1. For the purposes of the Convention the term "person in receipt of a pension" shall also include, in so far as Netherlands legislation is concerned, any person receiving benefits under the legislation on industrial disablement benefits.

2. With regard to Netherlands legislation concerning benefits in kind, title III, chapter 1, of the Convention shall apply only to persons insured under the Act on Sickness Fund Insurance (*Ziekenfondswet*).

3. The provisions of article 15 and article 16, paragraph 3, shall also apply to insured persons who are nationals of third countries.

This Final Protocol, which constitutes an integral part of the Convention, shall be operative in the same manner and for the same period as the Convention itself.

IN WITNESS WHEREOF the undersigned, being duly authorized thereto, have signed this Protocol.

DONE at The Hague on 19 July 1979, in duplicate in the French language.

For the Government of the Kingdom of the Netherlands:

C. A. VAN DER KLAUW

For the Government of the Portuguese Republic:

F. M. DA SILVA MARQUES

[TRANSLATION — TRADUCTION]

ADMINISTRATIVE AGREEMENT¹ ON PROCEDURES FOR IMPLEMENTING THE CONVENTION ON SOCIAL SECURITY BETWEEN THE KINGDOM OF THE NETHERLANDS AND THE PORTUGUESE REPUBLIC. SIGNED AT THE HAGUE ON 19 JULY 1979²

Pursuant to article 17, paragraph 2, article 31, paragraph 3, article 36, paragraph 1, and article 37 of the Convention on social security between the Kingdom of the Netherlands and the Portuguese Republic signed at The Hague on 19 July 1979² (hereinafter referred to as “the Convention”), the competent Netherlands and Portuguese authorities have by agreement drawn up the following provisions:

TITLE I. GENERAL PROVISIONS

Article 1. For the purposes of this Agreement the terms defined in article 1 of the Convention shall have the meaning assigned to them in that article.

Article 2. For the purposes of this Agreement the following shall be designated as “liaison agencies”:

1. In the case of the Netherlands:

(a) For benefits in kind in the event of sickness or maternity: the Ziekenfondsraad (Board of Sickness Insurance Funds) at Amstelveen;

(b) For old-age and survivors' pensions and for family allowances: the Sociale Verzekeringsbank (Social Insurance Bank) at Amsterdam;

(c) In all other cases: the Gemeenschappelijk Administratiekantoor (Joint Administrative Office) at Amsterdam.

2. In the case of Portugal:

The Caixa Central de Segurança Social dos Trabalhadores Migrantes (Central Social Security Fund for Migrant Workers) at Lisbon.

Article 3. 1. In the case referred to in article 8 (a) (i) of the Convention, the agency designated below, of the country whose legislation remains applicable, shall issue to the employed person upon request a certificate of assignment, stating that he remains subject to the legislation of that country.

2. The certificate shall be issued:

— In the Netherlands: by the Sociale Verzekeringsraad (Social Insurance Board) at The Hague;

— In Portugal: by the welfare and family allowances fund with which the employed person is obligatorily affiliated.

3. When several employed persons are sent at the same time to work together in the other country and to return to the first-mentioned country at the same time, a single certificate may cover all such persons.

¹ Came into force on 1 January 1981, the date of entry into force of the above-mentioned Convention, in accordance with article 50 of the Agreement.

² See p. 81 of this volume.

4. In the case referred to in article 8 (a) (ii) of the Convention, the employer shall, before the expiry of the first period of 12 months if possible, address a request for the extension of the assignment to the agency which issued the initial certificate; the latter shall request the consent of the competent authority of the country of the place of temporary work through the Portuguese liaison agency and shall, upon receipt of such consent, issue a second certificate.

Article 4. 1. An employed person who exercises his option under article 9, paragraph 2, of the Convention shall so inform the agency designated by the country for whose legislation he has opted, informing his employer at the same time. The said agency shall issue to the employed person a certificate attesting that he is subject to the said legislation and shall so inform the agency of the other country.

2. For the purposes of the preceding paragraph the following agencies are designated:

- In the Netherlands: the Sociale Verzekeringsraad (Social Insurance Board);
- In Portugal: the Caixa Central de Segurança Social dos Trabalhadores Migrantes (Central Social Security Fund for Migrant Workers).

3. The option shall take effect on the date on which the employed person is taken on by the diplomatic mission or consular post, or by an official of such mission or post, as the case may be.

TITLE II. SPECIAL PROVISIONS

Chapter 1. SICKNESS AND MATERNITY

Article 5. For the purposes of this chapter the terms “institution of the place of residence” and “institution of the place of stay” mean;

(a) In the Netherlands:

— For benefits in kind: the *ziekenfonds* (sickness insurance fund) competent for the place of residence and the Algemeen Nederlands Onderling Ziekenfonds (General Netherlands Mutual Sickness Insurance Fund) at Utrecht in the case of a stay;

— For cash benefits: the Nieuwe Algemene Bedrijfsvereniging (New General Occupational Association) at Amsterdam.

(b) In Portugal:

— For benefits in kind: the clinical post of the Medical-Social Services of the district of residence or stay;

— For cash benefits: the welfare and family allowances fund of the district of residence or stay.

Article 6. 1. In order to benefit from the provisions of article 11 of the Convention, an employed person must submit to the competent institution a certificate of the insurance periods completed under the legislation to which he was last subject before the date of submission.

2. The certificate shall be issued, at the request of the employed person,

(a) In so far as periods completed in the Netherlands are concerned, by the occupational association with which his last employer in the Netherlands is affiliated.

However, if the employed person was insured for benefits in kind only, the certificate shall be issued by the sickness insurance fund with which he was last insured;

(b) In so far as periods completed in Portugal are concerned, by the welfare and family allowances fund with which the employed person was last affiliated.

3. If the employed person does not submit the certificate, the competent institution shall communicate with the aforementioned institution of the other country in order to obtain it.

BENEFITS IN KIND

Article 7. 1. In order to receive benefits in kind under article 12, paragraph 2, of the Convention, an employed person shall register with the institution of his place of residence, submitting a certificate confirming that he is entitled to such benefits. The certificate shall be issued by the competent institution. If the employed person does not submit the said certificate, the institution of the place of residence shall communicate with the competent institution in order to obtain it. The certificate shall remain valid until such time as the institution of the place of residence receives notice of its annulment.

2. In order to receive benefits in kind under article 12, paragraph 2, of the Convention, dependants shall register with the institution of the place of residence, submitting the following documents:

- (i) A certificate confirming that the employed person is entitled to such benefits. The certificate shall be issued by the competent institution. If the dependants do not submit the said certificate, the institution of the place of residence shall communicate with the competent institution in order to obtain it. The certificate shall remain valid until such time as the institution of the place of residence receives notice of its annulment;
- (ii) The supporting documents normally required by the legislation of the country of residence for the award of benefits in kind.

3. The institution of the place of residence shall inform the competent institution of any registration it has made in accordance with the provisions of the preceding paragraphs.

4. The award of benefits in kind shall be conditional on the validity of the certificate referred to in paragraphs 1 and 2 (i).

5. The employed person or his dependants shall be required to inform the institution of the place of residence of any change in their situation that may modify their entitlement to benefits in kind, including in particular any termination or change of employment on the part of the employed person or any change in the place of residence or stay of the employed person or any of his dependants.

6. As soon as the institution of the place of residence learns of any change which might cancel the entitlement of the employed person or his dependants to benefits in kind, it shall inform the competent institution accordingly.

7. The institution of the place of residence shall assist the competent institution in instituting recovery proceedings against a beneficiary who has wrongfully obtained benefits.

Article 8. In the case referred to in article 14 of the Convention, the competent institution shall, if necessary, request the institution of the place of last residence

to furnish it with information relating to the period of furnishing of services immediately preceding the stay in or the transfer of residence to the competent country.

Article 9. 1. In order to receive benefits in kind, including, where necessary, admission to hospital, while staying in a country other than the competent country, an employed person, as specified in article 15, paragraph 1, of the Convention, shall submit to the institution of the place of stay a certificate issued by the competent institution, before he leaves the competent country if possible, proving that he is entitled to the aforementioned benefits in kind. The certificate shall indicate in particular the length of time for which the benefits may be furnished. If the employed person does not submit the certificate, the institution of the place of stay shall communicate with the competent institution in order to obtain it.

2. The provisions of the preceding paragraph shall apply *mutatis mutandis* to dependants in the event of a stay in a country other than the competent country.

3. The provisions of paragraph 1 shall also apply in the cases referred to in article 8 (a), article 8 (b), first sentence, and article 13 of the Convention.

Article 10. 1. In the event of admission to hospital, in the cases referred to in article 13 and article 15, paragraphs 1 and 6, of the Convention, the institution of the place of residence or stay shall notify the competent institution, within three days following the date on which it learns thereof, of the date of admission to and the probable duration of stay in a hospital or other medical establishment; upon discharge from the hospital or other medical establishment, the institution of the place of stay shall, within the same time-limit, inform the competent institution of the date of discharge.

2. For the purpose of obtaining the authorization to which the award of the benefits referred to in article 15, paragraph 4, of the Convention is subject, the institution of the place of residence or stay shall apply to the competent institution. The latter shall have a period of 15 days, counted from the sending of the application, to register an objection, where necessary, giving a statement of its reasons; the institution of the place of residence shall award the benefits if no objection has been received by the expiry of that time-limit.

3. When the benefits referred to in article 15, paragraph 4, of the Convention are to be furnished, in cases of absolute urgency, without the authorization of the competent institution, the institution of the place of residence or stay shall immediately notify the competent institution accordingly.

4. Cases of absolute urgency within the meaning of article 15, paragraph 4, of the Convention are those in which furnishing of the benefit cannot be delayed without gravely endangering the life or health of the person concerned. In cases in which a prosthesis or appliance is accidentally broken or spoiled, demonstration of the need to repair or replace the device in question shall suffice to establish absolute urgency.

5. The competent liaison agencies shall establish the list of benefits to which the provisions of article 15, paragraph 4, of the Convention shall apply.

Article 11. 1. In order to retain entitlement to benefits in kind in his new country of residence, an employed person in the cases referred to in article 15, paragraph 2, of the Convention shall submit to the institution of his new place of residence a certificate in which the competent institution authorizes him to retain entitlement to benefits after his change of residence. The said institution shall, where necessary, indicate in the certificate the maximum duration of the furnishing of bene-

fits in kind as provided for by the legislation which it applies. The competent institution may issue the certificate after the change of residence of the employed person, at his request or at the request of the institution of the new place of residence, if it was not possible for the last-mentioned institution to do so in advance for justifiable reasons.

2. The provisions of article 10 shall apply *mutatis mutandis* to the furnishing of benefits in kind by the institution of the new place of residence.

Article 12. 1. In order to receive benefits in kind in his country of residence, a pensioner in the cases referred to in article 16, paragraph 2, of the Convention and his dependants shall register with the institution of his place of residence, submitting the following documents:

(i) A certificate confirming that the employed person is entitled to such benefits for himself and his dependants. The certificate shall be issued by the competent institution, which shall transmit a duplicate of the certificate to the other country's liaison agency.

If the pensioner does not submit the certificate, the institution of the place of residence shall communicate with the competent institution in order to obtain it.

The certificate shall remain valid until such time as the other country's liaison agency receives notice of its annulment from the institution which issued the certificate;

(ii) The documentary evidence normally required under the legislation of the country of residence for the award of benefits in kind.

2. The institution of the place of residence shall inform the competent institution of any registration it has made in accordance with the provisions of paragraph 1.

3. The award of benefits in kind shall be conditional on the validity of the certificate referred to in paragraph 1 (i).

4. A pensioner must inform the institution of his place of residence of any change in his circumstances which may affect his entitlement to benefits in kind, including in particular any suspension or discontinuance of his pension and any transfer of his residence or that of his dependants.

5. If the institution of the place of residence learns of any change which might cancel the entitlement to benefits in kind of a pensioner or his dependants, it shall immediately notify the fact to the competent institution.

6. The institution of the place of residence shall assist the competent institution in instituting recovery proceedings against a beneficiary who has wrongfully obtained benefits.

Article 13. The provisions of articles 9 and 10 shall apply *mutatis mutandis* to the furnishing of benefits in kind to pensioners and their dependants during a stay as specified in article 16, paragraph 3, of the Convention.

Article 14. 1. Where the formalities referred to in article 9 could not be completed during the stay, the costs incurred shall be reimbursed, at the request of the employed person or of the pensioner, by the competent institution at the rates applied by the institution of the place of stay.

2. The institution of the place of stay must furnish the necessary information concerning the said rates to the competent institution requesting it.

CASH BENEFITS

Article 15. 1. An employed person who claims entitlement to cash benefits from Netherlands sickness insurance for an industrial disablement which arose while he was in the territory of Portugal shall immediately submit his application to the institution of his place of residence or stay, as the case may be, together with a medical certificate from the physician treating him. The certificate shall indicate the date of commencement of the disablement and the diagnosis and prognosis.

2. An employed person who claims entitlement to cash benefits from Portuguese sickness insurance for an industrial disablement which arose while he was in the territory of the Netherlands shall immediately submit his application to the regional office of the *Gemeenschappelijk Administratiekantoor* (Joint Administration Office) competent for his place of residence or stay, as the case may be.

Article 16. 1. The institution of the place of residence or stay, as the case may be, shall exercise medical and administrative supervision in accordance with the procedures applicable to its own policyholders.

2. In the case referred to in article 15, paragraph 1, the institution of the place of residence or stay, as the case may be, shall without delay inform the competent institution of the submission of the application for benefits, stating the date of submission and the name and address of the employer and transmitting the medical certificate which had been attached to the application.

3. In the case referred to in article 15, paragraph 2, the institution of the place of residence or stay, as the case may be, shall without delay have the person concerned examined by its examining physician. The report, prepared for that purpose within three days following the examination, shall be transmitted without delay to the competent institution together with the information relating to the submission of the application for benefits. Such information shall, in particular, include the date of submission of the application and the name and address of the employer.

4. The institution of the place of residence or stay, as the case may be, shall regularly transmit to the competent institution the medical and administrative reports resulting from the supervision exercised in accordance with paragraph 1.

5. Where the examining physician finds that the employed person is or will be capable of resuming work, the institution of the place of residence or stay, as the case may be, shall immediately inform him of the termination of his period of disablement and shall without delay transmit a copy of the notice to the competent institution, annexing the report of the examining physician.

6. Where the competent institution decides to deny or discontinue cash benefits, it shall notify its decision direct to the employed person and shall at the same time transmit a copy of the notice to the institution of the place of residence or stay. In such case the latter institution shall decide upon the supervisory measures.

Article 17. 1. An employed person resident or staying in a country other than the competent country shall he subject to the supervisory regulations of the institution of the place of residence or stay, as the case may be.

2. Where the institution of the place of residence or stay finds that the employed person has infringed the supervisory regulations, it shall notify the competent institution immediately, describing the nature of the infringement and indicating what action is normally taken in the case of such infringement committed by one of its own policy-holders.

3. Where an employed person under medical treatment wishes to travel to the competent country, he shall immediately inform the institution of the place of residence or stay, as the case may be. The said institution shall instruct an examining physician to determine whether or not the transfer is liable to jeopardize the state of health or the application of the medical treatment of the employed person.

The institution of the place of residence or stay shall, as soon as possible, communicate the finding of its examining physician to the competent institution and to the employed person.

Article 18. The competent institution shall pay cash benefits by any appropriate means, in particular by international postal money order. However, if the institution of the place of residence or stay, as the case may be, agrees, such benefits may be paid by the last-mentioned institution as agent for the competent institution. In such case the competent institution shall indicate to the institution of the place of residence or stay the amount of the benefits, the dates on which they are to be paid and the maximum length of time for which they are to be awarded.

FINANCIAL PROVISIONS

Article 19. 1. The actual amounts of the costs relating to benefits in kind furnished under article 12, paragraph 1, articles 13, 15, paragraphs 1, 2 and 6, and article 16, paragraph 3, of the Convention shall be reimbursed by the competent institutions to the institutions which have furnished the said benefits, as indicated by the amounts of the last-mentioned institutions.

2. No rates higher than those applicable to benefits in kind furnished to employed persons who are subject to the legislation applied by the institution which furnished the benefits referred to in paragraph 1 of this article may be taken into account for the purpose of reimbursing costs.

Article 20. 1. Costs relating to benefits in kind furnished under article 12, paragraph 2, of the Convention shall be estimated at a lump sum for each calendar year.

2. The amount of the lump sum to be paid by the Netherlands institutions shall be arrived at by multiplying the average annual cost per family by the average annual number of families to be taken into account. The average annual cost per family shall be equal to the average per family of the costs relating to all benefits in kind furnished by Portuguese institutions to all families of insured persons who are subject to Portuguese legislation.

3. The amount of the lump sum to be paid by the Portuguese institutions shall be arrived at by multiplying the average annual cost per dependant by the average annual number of dependants to be taken into account. The average annual cost per dependant shall be equal to the average of the costs relating to all benefits in kind furnished by Netherlands institutions to all insured persons who are subject to Netherlands legislation.

Article 21. 1. Costs relating to benefits in kind furnished under article 16, paragraph 2, of the Convention shall be estimated at a lump sum for each calendar year.

2. In the case of the Netherlands, the amount of the lump sum shall be arrived at by multiplying the average annual cost per pensioner and per pensioner's de-

pendant by the average annual number of pensioners and pensioners' dependants to be taken into account. The average annual cost per pensioner and per pensioner's dependant shall be equal to the average cost per pensioner and per pensioner's dependant of the costs relating to all benefits in kind furnished by Netherlands institutions to all insured persons who are subject to Netherlands legislation.

3. In the case of Portugal, the amount of the lump sum shall be arrived at by multiplying the average annual cost per pensioner and per pensioner's dependant by the average annual number of pensioners and pensioners' dependants to be taken into account. The average cost per pensioner and per pensioner's dependant shall be equal to the average per pensioner and per pensioner's dependant of the costs relating to all benefits in kind furnished by Portuguese institutions to all pensioners, including their dependants, who are subject to Portuguese legislation.

Article 22. The liaison agencies may agree, with the consent of the competent authorities, on other methods of reimbursement of all benefits in kind or of part thereof than those provided for in articles 19, 20 and 21.

Article 23. 1. The reimbursements provided for in article 17 of the Convention shall be made through the competent liaison agencies.

2. The agencies referred to in the preceding paragraph may agree that the amounts referred to in articles 20 and 21 shall be increased by a percentage for administrative expenses.

3. For the purposes of the provisions of articles 20 and 21, the competent liaison agencies shall make arrangements for the possible payment of advances.

Chapter 2. INVALIDITY BENEFITS

Article 24. In order to receive invalidity benefits, in the case referred to in article 20 of the Convention, the person concerned must submit an application to the institution of his place of residence, which shall then transmit the application to the competent institution of the other country, adding thereto the following data and information:

- (a) The reasons why the person concerned is not entitled to benefits in pursuance of article 19 of the Convention;
- (b) A medical report concerning the commencement, cause and degree of the invalidity, as well as possible measures with a view to the recovery of working capacity;
- (c) A certificate concerning the insurance periods completed under the legislation applied by the institution of the place of residence;
- (d) The date of receipt of the application.

Chapter 3. OLD-AGE AND SURVIVORS' BENEFITS SUBMISSION AND HANDLING OF APPLICATIONS

Article 25. 1. An employed person, or a survivor of an employed person, resident in Portugal or in the Netherlands who applies for a benefit under the legislation of the other country shall submit his application to the competent institution of his country of residence.

2. Where the person concerned is resident in the territory of a third State, he shall submit his application to the competent institution of the country under whose legislation the employed person was last insured.

3. Applications shall be submitted on forms specified by the legislation of the country where the application is to be submitted in accordance with the preceding paragraphs of this article.

4. The applicant must indicate, in so far as possible, the institution or institutions of the two countries with which the employed person was affiliated. He shall, in addition, furnish all other information which the competent institution requests on special forms prepared for the purpose.

5. An institution other than the one referred to in paragraph 1 or 2 of this article which has received an application must immediately transmit it to the institution referred to in paragraph 1 or 2 of this article, informing it of the date of receipt of the application. That date shall be considered to be the date of submission to the last-mentioned institution.

Article 26. 1. In their handling of applications for benefits, the competent institutions of the two countries shall use a liaison form. The said form shall include, *inter alia*, the essential civil registry information, a statement of account and a summary of insurance periods completed by the insured person under the legislations to which he has been subject.

2. Transmittal of the aforementioned form to the competent institution of the other country shall take the place of transmittal of documentary evidence.

Article 27. 1. The competent institution of the country of residence shall enter on the form referred to in the preceding article the insurance periods completed under the legislation which it applies and shall send two copies of the form to the competent institution of the other country.

2. The last-mentioned institution shall complete the form by indicating:

- (a) The insurance periods completed under the legislation which it applies;
- (b) The amount of the entitlements acquired under that legislation.

3. It shall thereafter return one copy of the form thus completed to the institution of the country of residence, accompanied by two copies of the final decision. It shall also specify the procedures and the time-limits for the submission of appeals which are provided for by the relevant legislation.

Article 28. 1. The competent institution of the country of residence shall communicate the decisions taken to the applicant, by means of a summary note drawn up in the applicant's language, to which are annexed the decisions taken by the institutions concerned. The note shall also include an indication of the procedures and time-limits for appeal provided for by the legislations of the two countries. The time-limits for appeal shall not begin to run until after the date of receipt of the summary note by the applicant.

2. Thereafter it shall inform the competent institutions of the other country of the date on which it notified the two decisions to the applicant, annexing thereto a copy of its own decision and of the summary note.

Article 29. In cases in which a delay may occur, the competent institution of the country of residence shall make a recoverable advance payment to the bene-

fiary, the amount of which shall be as close as possible to the amount that will probably be disbursed, account being taken of the provisions of the Convention.

Article 30. For the purposes of the provisions of article 27 of the Convention, amounts expressed in different national currencies shall be converted at the official exchange rate prevailing on the day when those provisions are to be applied.

PAYMENT OF BENEFITS

Article 31. 1. Subject to the provisions of paragraph 2, benefits shall be paid directly by the institution liable to pay them, irrespective of whether the entitled person is resident in one country or in the other. In the case of periodic benefits, payment shall be made through a bank or a post office or in cash within the time-limits provided for by the legislation which the institution applies. On the other hand, payments of arrears shall be made to the competent institution of the country of residence.

2. However, if the liable institution does not pay the benefits directly to entitled persons who reside in the other country, payment shall be made at the request of the institution liable to pay them by the institution of the place of residence of the entitled person or by the competent liaison agency, by agreement between them.

Chapter 4. UNEMPLOYMENT

Article 32. 1. In order to avail himself of the provisions of article 29 of the Convention, an employed person shall submit to the competent institution a certificate of the insurance periods or work periods completed under the legislation to which he was last subject prior to his present situation.

2. The certificate shall be issued, at the request of the unemployed person, by the institution competent for unemployed insurance of the other country in which he was last employed prior to his present situation. If the person concerned does not submit the certificate, the competent institution shall communicate with the relevant institution in order to obtain it.

Article 33. In order to avail himself of the provisions of article 31, an unemployed person shall submit to the institution of his new place of residence a certificate proving that he has satisfied the conditions required by the legislation of the country of his last employment in order to be entitled to benefits. The said certificate, issued by the competent institution of the country of last employment, at the request of the unemployed person before his change of residence, shall indicate, *inter alia*, the maximum period for which such benefits may be furnished at the expense of the said country.

One copy shall be transmitted to the competent institution of the other country. If the unemployed person does not submit the said certificate, or if the competent institution has not received a copy of the said certificate, the said institution shall communicate with the competent institution of the country of last employment in order to obtain it.

Article 34. 1. The competent institution of the new place of residence of the unemployed person shall furnish the benefits referred to in article 31, paragraph 2, of the Convention, in accordance with the provisions of the legislation which it applies, as if he were entitled to the said benefits under that legislation. It shall inform the

institution of the country of last employment concerning the date of the commencement of the furnishing benefits and concerning the amount of those benefits.

2. The institution of the country of last employment must reimburse the institution which furnished the benefits the actual amount of those benefits, as indicated by its accounting.

3. The competent liaison agencies may, by agreement, provide for other methods of reimbursement, subject to the consent of the competent authorities of both countries.

Chapter 5. FAMILY ALLOWANCES

Article 35. 1. In order to avail himself of the provisions of article 32 of the Convention, the person concerned shall submit to the competent institution a certificate of the insurance periods completed under the legislation to which he was last subject prior to his present situation.

2. The certificate shall be issued, at the request of the person concerned, by the institution of the other country which was competent on the last prior occasion. If the person does not submit the said certificate, the competent authority shall communicate with the institution in question in order to obtain it.

Article 36. A person who applies for family allowances in respect of children who are resident or being brought up in a country other than the competent country shall produce a family status certificate issued by the competent civil registry authorities of that country.

Article 37. Family allowances shall be paid in accordance with the provisions of the applicable legislation and within the time-limits laid down therein.

Chapter 6. INDUSTRIAL ACCIDENTS AND OCCUPATIONAL DISEASES

Article 38. 1. Cash benefits due those beneficiaries who are in the Netherlands shall be paid directly by the institution liable therefor within the time-limits provided for in the legislation which it applies.

2. The provisions of this Administrative Agreement concerning benefits in kind in the event of sickness shall be applicable *mutatis mutandis* to the furnishing of benefits in kind in the event of an industrial accident or occupational disease.

TITLE III. MISCELLANEOUS PROVISIONS

Article 39. 1. For the aggregating of the insurance periods completed under the legislation of the two countries, as provided for in the Convention, the competent institutions shall apply the following rules:

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

- (c) Any period which is an equivalent period under the legislations of both countries shall be taken into account only by the institution of the country to whose legislation the person concerned was last compulsorily subject prior to the said period; where the person concerned was not compulsorily subject to the legislation of either country prior to the said period, that period shall be taken into account by the competent institution of the country to whose legislation he was first compulsorily subject after the period in question;
- (d) If it is not possible to determine precisely when particular insurance periods were completed under the legislation of one country, it shall be assumed that those periods do not overlap with periods completed under the legislation of the other country, and they shall be taken into account to the extent that they can be usefully considered.

2. If, under paragraph 1 (a) of this article, insurance periods completed in a voluntary or optionally continued insurance scheme under the legislation of one country concerning old-age and survival insurance are not to be taken into account for the purposes of aggregation, the contributions in respect of such periods shall be deemed to be intended for the purpose of increasing the benefits payable under the said legislation.

Article 40. 1. The Administrative and medical supervision of persons in receipt of cash benefits under Portuguese legislation who are resident in the Netherlands shall be conducted, at the request of the competent institution, through:

- (a) The Nieuwe Algemene Bedrijfsvereniging (New General Occupational Association) in the case of benefits in respect of sickness, invalidity and industrial accidents;
- (b) The Sociale Verzekeringsbank (Social Insurance Bank) in the case of other benefits.

2. The administrative and medical supervision of persons entitled to cash benefits under Netherlands legislation who are resident in Portugal shall be conducted, at the request of the competent institution, through the Caixa Central de Segurança Social dos Trabalhadores Migrantes (Central Social Security Fund for Migrant Workers).

3. Information transmitted to the competent institutions, including medical reports, shall be accompanied by a translation thereof into French or English.

4. Each competent institution shall, however, retain the right to have the person in receipt of benefits examined by a physician of its choice.

Article 41. Where, as a result of the supervision referred to in article 40, it is found that the recipient of the benefits is gainfully employed or that he has at his disposal means in excess of the prescribed limit, or that he has resumed work, a report shall be sent to the competent institution which requested the supervision. The report shall *inter alia* indicate the nature of the employment engaged in, the amount of the earnings or means which the person concerned had at his disposal during the past three months, the normal remuneration received in the same locality by a person in the occupational category to which the person concerned belonged in the occupation he exercised before his invalidity and where appropriate, the opinion of a medical specialist on the state of health of the person concerned.

Article 42. The competent institutions of the two countries may request each other at any time to verify or monitor any facts and actions which may, under their

own legislation, cause the modification, suspension or cancellation of the entitlement to benefits which is recognized by them.

Article 43. The costs of administrative supervision, as well as of medical examinations, medical observation, travel and verification procedures of all kinds, required for the granting or reviewing of benefits shall be reimbursed to the institution responsible for the supervision or verification, on the basis of the rates applied by the last-mentioned institution.

Article 44. Where, after the suspension of the benefits to which he was entitled, the person concerned recovers his entitlement to benefits while resident in the territory of the other country, the institutions concerned shall exchange all necessary information with a view to resuming the furnishing of the said benefits.

Article 45. All benefits shall be furnished to recipients without deductions for postal or bank charges.

Article 46. The competent institutions of the two countries may request, either directly from the beneficiary or through the competent institution of the place of residence, the certificate of continuing entitlement, civil status certificate and any other documents required for establishing the entitlement to or the maintenance of benefits.

Article 47. For the purposes of article 40 of the Convention, the authority, institution or judicial authority which has received a claim, declaration or appeal which should have been submitted to an authority, institution or judicial authority of the other country shall indicate the date on which it received the claim, declaration or appeal.

Article 48. Any difficulties concerning the implementation of this Administrative Agreement shall be resolved by a commission composed of representatives of the competent authorities who are competent in social security matters and who may be accompanied by experts. The commission shall meet alternately in the two countries.

Article 49. 1. The liaison agencies may agree upon standard forms for the certificates, applications and other documents required for implementing the Convention and this Administrative Agreement.

2. In addition, they may, by agreement, take supplementary steps of an administrative nature for implementing this Administrative Agreement.

Article 50. This Administrative Agreement shall enter into force on the same date as the Convention. It shall remain in force for the same period as the Convention.

DONE in duplicate in the French language, at Lisbon on 9 May 1980.

For the competent Netherlands Authorities:

J. L. R. HUYDECOPER

For the competent Portuguese Authority:

A. J. DE CASTRO BAGAO FELIX