

No. 21504

**BRAZIL
and
ARGENTINA**

**Social Security Agreement. Signed at Brasília on 20 August
1980**

*Authentic texts: Portuguese and Spanish.
Registered by Brazil on 29 December 1982.*

**BRÉSIL
et
ARGENTINE**

**Convention relative à la sécurité sociale. Signée à Brasília le
20 août 1980**

*Textes authentiques : portugais et espagnol.
Enregistrée par le Brésil le 29 décembre 1982.*

[TRANSLATION — TRADUCTION]

SOCIAL SECURITY AGREEMENT¹ BETWEEN THE GOVERNMENT OF THE FEDERATIVE REPUBLIC OF BRAZIL AND THE GOVERNMENT OF THE ARGENTINE REPUBLIC

The Government of the Federative Republic of Brazil and the Government of the Argentine Republic,

Desiring to establish rules for governing the relationship between the two countries in the matter of social security,

Have decided to conclude the following Social Security Agreement:

Article I. 1. This Agreement shall apply:

(A) In Brazil:

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

1. Medical, pharmaceutical, odontological, ambulatory and hospital care;
2. Temporary incapacity for work;
3. Disability;
4. Old age;
5. Superannuation;
6. Death;
7. Childbirth;
8. Work related accidents and occupational diseases;
9. Family income.

(b) To the legislation of the Rural Workers Assistance Programme in respect of items in subparagraph (a), wherever possible.

(B) In Argentina:

- (a) To the retirement and pension schemes (disability, old age and death);
- (b) To the social services scheme (medical care benefits);
- (c) To the work-related accidents and occupational diseases scheme;
- (d) To the family allowance scheme.

2. This Agreement shall also apply to cases covered by any laws and provisions supplementing or amending the legislation referred to in the preceding paragraph.

3. This Agreement shall also apply to cases covered by laws and provisions extending existing schemes to new occupational categories or instituting new social security schemes, when the contracting States so decide.

¹ Came into force on 18 November 1982, i.e., one month following the date of the last of the notifications by which each Contracting State informed the other (on 14 June and 18 October 1982) of the completion of the formalities required by their constitutions, in accordance with article XXVII.

Article II. 1. The legislation referred to in article I in force in Brazil and Argentina, respectively, shall apply also to Brazilian workers in Argentina and Argentine workers in Brazil, who shall have the same rights and obligations as nationals of the Contracting State in whose territory they are living.

2. The legislation mentioned above shall apply also to workers of any other nationality who render or have rendered services in Brazil and Argentina when residing in one of the Contracting States.

Article III. 1. The principle laid down in article II shall be subject to the following exceptions:

(a) Workers who are employed by a public or private enterprise having its head office in one of the Contracting States and are sent to the territory of the other for a limited period shall continue to be subject to the legislation of the first State, provided that their stay for the purposes of work in the territory of the other State does not exceed 12 months. If, for unforeseeable reasons, the duration of such stay exceeds 12 months, the legislation in force in the State in which the enterprise has its head office may, as an exceptional measure, continue to apply, subject to the express consent of the competent authority of the other State, for a period of not more than 12 months.

(b) Airline flight personnel and land transport personnel shall continue to be subject solely to the legislation in force in the State in which the enterprise has its head office.

(c) Crew members of a ship registered in one of the two Contracting States shall be subject to the provisions in force in that State. All other persons employed for the purpose of loading, unloading, repairing or guarding a ship while in port shall be subject to the legislation of the State within whose jurisdiction the ship lies.

2. The competent authorities of both Contracting Parties may, in specific cases or for specific occupational categories, decide by agreement to add to, eliminate or amend the exceptions set out in the preceding paragraph.

Article IV. Members of diplomatic or consular missions, international organizations and other officials, employees and workers in the service of such missions or in domestic service with any of its members, shall be subject to the conventions and treaties applicable to them in social security matters.

Article V. 1. Workers who are entitled in one of the Contracting States to the economic benefits enumerated in article I shall retain such entitlements without any restrictions whatsoever *vis-à-vis* the insurance authority of that State, when residing temporarily in the territory of the other Contracting State or when they have moved definitively to that State, and account shall be taken of the special features of the legislation of that State. In cases where such entitlements are being acquired the legislation of the State *vis-à-vis* which they are asserted shall apply.

2. In the event of moving to a third State, the preservation of such entitlement shall be subject to the same conditions as are applied by the State granting the benefits to its nationals resident in the third State in question.

3. Workers whose benefits under this Agreement have been suspended as a result of their moving from one Contracting State to the other, may, on application, recover such benefits without prejudice to the rules in force in the Con-

tracting States regarding the expiry of and time-limitations on social security entitlements.

Article VI. 1. Recipients of retirement or pension benefits under the legislation of both Contracting States shall be entitled to medical-care benefits for themselves and their families from the institution of the Contracting State in which they reside temporarily or definitively.

2. Recipients of retirement or pension benefits under the legislation of only one of the Contracting States shall be entitled to medical-care benefits for themselves and their families from the institution of the Contracting State in which they reside temporarily or definitively, in accordance with its own legislation. The costs of the medical-care benefits referred to in this paragraph shall be repaid by the institution of the other Contracting State to the institution of the State which granted them.

3. The competent authorities may establish, by administrative agreement, the procedure for granting medical-care benefits to workers and their families residing temporarily or definitively in the territory of the other Contracting State when the institutions of the latter State are not obliged to grant them.

4. The costs of medical-care benefits granted by the institution of one of the Contracting States on behalf of the institution of the other State under this Agreement or under such administrative agreements as may be concluded shall be repaid in accordance with such procedures as the competent authorities may establish.

Article VII. 1. Periods of service completed at different times in both Contracting States may be aggregated for the granting of the benefits referred to in article I. The calculation of such periods shall be governed by the legislation of the country in which the respective services have been rendered.

2. Where qualifying periods of service have been completed simultaneously in both countries, solely for the purpose of aggregation, the simultaneous periods of service shall be deemed to have been half completed in each of the two States.

3. When, under the legislation of both Contracting States, entitlement to a benefit depends on insurance periods completed in an occupation covered by a special social security scheme, only those periods completed in the occupation in question in each State shall be aggregated for the purpose of granting such benefits. When a special social security scheme for the occupation in question does not exist in one of the Contracting States, only periods completed in such occupation in that State under the social security scheme in force shall be taken into account for the purpose of granting the said benefits in the other State. If, however, the insured person has not acquired entitlement to benefits under the special scheme, periods completed under that scheme shall be treated as if they had been completed under the general scheme.

4. In the cases referred to in paragraphs 1, 2 and 3 of this article, each insurance authority shall determine, in accordance with its own legislation and on the basis of the aggregate insurance periods completed in both States, whether the insured person meets the eligibility requirements for the benefits provided under its legislation.

Article VIII. The benefits which insured persons covered by this Agreement, or their families, may claim under the legislation of both Contracting

States on the basis of the aggregation of insurance periods shall be paid in the following manner:

(a) The insurance authority of each Contracting State shall separately determine the amount of the benefit to which the insured person would be entitled if the aggregated insurance periods had been completed under its own legislation.

(b) The share to be borne by each insurance authority shall reflect the ratio of the period completed under the legislation of its State to the aggregated insurance period.

Article IX. Where a worker, after aggregation of the periods, does not meet the requirements simultaneously under the legislations of the two Contracting States, his entitlement shall be determined under each legislation according to the extent to which these requirements are met.

Article X. An insured person may opt for recognition of his entitlements under article VII or, separately, under the legislation of one of the Contracting States, without regard to the periods completed in the other.

Article XI. 1. Periods of service completed before the date of entry into force of this Agreement shall be considered only where the insured persons have periods of service after that date.

2. The provisions of this article shall not affect application of the regulations governing time limitation or expiry in force in each Contracting State.

Article XII. 1. If the amount of the benefit established in accordance with article VIII, paragraph (a), is less than the minimum specified in the legislation of each State, each insurance authority shall raise such amount up to that minimum, applying thereto the procedure set forth in paragraph (b) of the said article.

2. Whenever, subsequent to granting the benefit the minimum specified in the legislation of each State is increased, each insurance authority shall pay the share that results from applying the procedure established in article VIII, paragraph (b), with respect to the new minimum.

Article XIII. Where, for the purposes of determining the degree of incapacity in the event of a work-related accident or an occupational disease, the legislation of one of the Contracting States provides that previously qualifying work-related accidents and occupational diseases shall be taken into consideration, previous work-related accidents and occupational diseases which qualified as such under the legislation of the other State shall also be considered as though they had qualified as such under the legislation of the first-mentioned State.

Article XIV. Benefits shall be paid by the insurance authorities of each Contracting State in the manner laid down in the administrative agreement supplementing this Agreement.

Article XV. Medical examinations, requested by the insurance authority of one Contracting State for recipients living in the territory of the other State, shall be carried out by the insurance authority of the latter State on behalf of the other State.

Article XVI. Cash benefits granted under the scheme of one or both Contracting States shall not be reduced, suspended or discontinued solely because the recipient resides in the other Contracting State.

Article XVII. Whenever the insurance authorities of the two Contracting States are obliged to pay cash benefits under this Agreement, such payments shall be made in the currency of their own country. Transfers resulting from this obligation shall be effected in accordance with the payments agreements in force between the two States or in accordance with arrangements agreed upon for such purposes by the competent authorities.

Article XVIII. 1. Any exemption from fees, charges or duties relating to social security provided for by the legislation of one of the two Contracting States shall also apply, for the purposes of this Agreement, to nationals of the other State.

2. Certificates and documents required to be submitted under this Agreement shall not need to be officially translated, certified or legalized by diplomatic or consular authorities and the public registry office, provided that they have been negotiated through one of the liaison bodies or the insurance authorities.

Article XIX. 1. For the purposes of this Agreement, competent authorities shall mean, in Brazil, the Minister of State for Social Security and Welfare and, in Argentina, the Secretary of State for Social Security.

2. These authorities shall provide each other with all information or measures taken to apply and carry out this Agreement.

Article XX. For the purposes of this Agreement, the competent authorities and the insurance authorities of the two Contracting States shall provide assistance to each other and communicate directly with each other and with the insured persons or their representatives. Any correspondence shall be drawn up in their respective official languages.

Article XXI. Claims and documents submitted by insured persons to the competent authorities or the insurance authorities of one Contracting State shall be treated as though they had been submitted to the corresponding authorities or insurance authorities of the other Contracting State.

Article XXII. Appeals which are required to be lodged with a competent authority in one of the Contracting States shall be considered to have been lodged by the prescribed date even if they are lodged with the corresponding authority in the other State, provided that they are lodged within the period prescribed by the legislation of the State in which the appeals are to be ruled upon.

Article XXIII. The consular authorities of the two Contracting States may, without special governmental authorization, represent nationals of their own State *vis-à-vis* the competent authorities, insurance authorities or social security liaison bodies of the other State.

Article XXIV. The competent authorities of the Contracting States shall settle by agreement any differences or disputes which arise in the implementation of this Agreement.

Article XXV. For the purposes of this Agreement, the competent authority of each of the Contracting States may establish such liaison bodies as it deems necessary and shall inform the competent authority of the other State accordingly.

Article XXVI. 1. This Agreement shall be implemented by the social security authorities of the two countries and regulated by administrative agree-

ments the preparation of which shall be assigned by the competent authorities to a mixed commission.

2. The mixed commission shall consist of representatives of each Contracting State and its function shall be to advise the said authorities, at their request or at its own initiative, in matters concerning the implementation of this Agreement, the administrative agreements and any other instruments that may be established, or any other function relevant to the said instruments which the competent authorities may jointly decide to assign to it.

3. The administrative agreements referred to in this Agreement shall enter into force through an exchange of diplomatic notes between the Governments of the two countries.

Article XXVII. Each of the Contracting States shall notify the other of the completion of the formalities established under its relevant constitutional provisions. This Agreement shall enter into force one month following the date of the last such notification.

Article XXVIII. 1. This Agreement shall remain in force for an indefinite period, unless it is denounced in writing by either of the Contracting States. Such denunciation shall not take effect until six months after the date of notification.

2. Regulations concerning situations arising from entitlements which are being acquired on the date of expiry of this Agreement shall be drawn up by mutual agreement between the Contracting States.

3. The provisions of this Agreement shall, in the event of denunciation by one of the States, continue to apply to entitlements acquired while it was in force.

DONE at Brasília, on 20 August 1980, in two copies, in the Portuguese and Spanish languages, both texts being equally authentic.

For the Government
of the Federative Republic of Brasil:
[RAMIRO SARAIVA GUERREIRO]

For the Government
of the Argentine Republic:
[CARLOS W. PASTOR]