

No. 21889

**SWITZERLAND
and
ITALY**

Convention on social security (with final protocol). Signed at Rome on 14 December 1962

Administrative Arrangement concerning the manner of application of the above-mentioned Convention. Signed at Berne on 18 December 1963

Supplementary Agreement to the above-mentioned Convention. Signed at Berne on 18 December 1963

Additional Agreement to the above-mentioned Convention (with final protocol). Signed at Berne on 4 July 1969

Additional Protocol to the above-mentioned Additional Agreement of 4 July 1969. Signed at Berne and Rome on 25 February 1974

Authentic texts: French and Italian.

Registered by Switzerland on 6 May 1983.

**SUISSE
et
ITALIE**

Convention relative à la sécurité sociale (avec protocole final). Signée à Rome le 14 décembre 1962

Arrangement administratif concernant les modalités d'application de la Convention susmentionnée. Signé à Berne le 18 décembre 1963

Accord complémentaire à la Convention susmentionnée. Signé à Berne le 18 décembre 1963

Avenant à la Convention susmentionnée (avec protocole final). Signé à Berne le 4 juillet 1969

Protocole additionnel à l'Avenant susmentionné du 4 juillet 1969. Signé à Berne et à Rome le 25 février 1974

Textes authentiques : français et italien.

Enregistrés par la Suisse le 6 mai 1983.

[TRANSLATION — TRADUCTION]

CONVENTION¹ BETWEEN THE SWISS CONFEDERATION AND
THE ITALIAN REPUBLIC ON SOCIAL SECURITY

The Swiss Federal Council and the President of the Italian Republic, desiring to adapt the existing relations between Switzerland and Italy in the field of social insurance to the developments that have taken place in the legislation of the two States, have decided to conclude a Convention to replace that of 17 October 1951 and have for that purpose appointed as their plenipotentiaries:

The Swiss Federal Council: Mr. Arnold Saxer, Officer in charge of international conventions in the field of social insurance, Berne,

The President of the Italian Republic: Mr. Giuseppe Lupis, Under-Secretary of State for Foreign Affairs, Rome,

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

PART I. GENERAL PROVISIONS

Article 1. 1. This Convention shall apply:

(a) In Switzerland:

- (i) To the federal legislation concerning old-age and survivors' insurance;
- (ii) To the federal legislation concerning invalidity insurance;
- (iii) To the federal legislation concerning insurance against industrial and non-industrial accidents and occupational diseases;
- (iv) To the federal legislation fixing the scheme of family allowances for agricultural workers and small farmers;

(b) In Italy:

- (i) To the legislation concerning invalidity, old-age and survivors' insurance, including the special schemes that replace the general scheme for certain categories of employed persons;
- (ii) To the legislation concerning insurance against industrial accidents and occupational diseases;
- (iii) To the legislation concerning family allowances.

2. This Convention shall apply also to laws and regulations codifying, amending or supplementing the legislation specified in the paragraph 1 of this article.

It shall also apply to:

- (a) Laws and regulations covering a new branch of social security, provided that there is an agreement to that effect between the Contracting Parties;

¹ Came into force on 1 September 1964, i.e., the first day of the month following the exchange of the instruments of ratification, which took place at Berne on 27 August 1964, in accordance with article 26 (2).

- (b) Laws and regulations extending existing schemes to new classes of beneficiaries, if no objection by the Party concerned has been communicated to the Government of the other Party within a period of three months after the official publication of the said laws or regulations.

Article 2. Subject to the provisions of this Convention and its Final Protocol, Swiss and Italian nationals shall enjoy equal treatment in respect of rights and obligations under the legislation specified in article 1.

Article 3. Subject to the provisions of this Convention and its Final Protocol, Swiss and Italian nationals who are eligible for benefits under the legislation specified in article 1 shall receive those benefits in full and without curtailment as long as they reside in the territory of either Contracting Party. With the same proviso, such benefits shall be granted by one of the Contracting Parties to nationals of the other Party resident in a third country on the same conditions and to the same extent as to its own nationals resident in that country.

PART II. APPLICABLE LEGISLATION

Article 4. 1. The applicable legislation shall be, in principle, that of the Contracting Party in whose territory the determinant activity with respect to insurance is carried on.

2. If, by reason of occupations exercised in the territory of both Parties, the legislation of both Parties is applicable under the principle set forth in paragraph 1, contributions to the insurance of each of the two Parties shall be due only for that part of the income earned in their respective territories.

Article 5. The principle set forth in article 4, paragraph 1, shall admit of the following exceptions:

- (a) Persons employed by an enterprise having its principal place of business in the territory of one of the Contracting Parties who are seconded for a limited period to the territory of the other Party shall remain subject, for the first 12 months of their employment in that territory, to the statutory provisions of the Party where the enterprise has its principal place of business. If the duration of their employment in the territory of the said other Party extends beyond that period, the application of the statutory provisions of the first-mentioned Party may be maintained by way of exception for an additional 12-month period, provided that there is agreement to that effect between the competent authorities of the two Parties;
- (b) Employed persons who belong to a transport enterprise of one of the Contracting Parties and are employed temporarily in the territory of the other Party shall be subject to the statutory provisions of the Party in whose territory the enterprise has its principal place of business. The same rule shall apply to persons permanently employed on intercommunication routes or in border stations;
- (c) Persons hired on behalf of the shipowner aboard a vessel engaging in sea navigation shall be subject, from the time of their signing on to the time of their signing off, to the statutory provisions of the Contracting Party whose flag the vessel flies;
- (d) Where enterprises or farms extend from the territory of one Contracting Party into the territory of the other Party, persons employed by such enterprises or

farms shall be subject to the statutory provisions of the Party in whose territory the enterprise or farm has its principal place of business;

- (e) Employed persons who belong to an official administrative department (customs, post office, passport control, etc.) and are seconded from the territory of one of the Contracting Parties to the territory of the other shall be subject to the statutory provisions of the Party from which they are seconded;
- (f) Heads and members of diplomatic and consular missions of one of the Contracting Parties, including chancellery officers, who are sent to the territory of the other Party shall be subject to the statutory provisions of the sending Party if they are nationals of that Party. The same rule shall apply to chancellery employees and persons in the personal service of such heads, members and officers if those employees and persons are nationals of the represented Party and do not expressly request to be subject to the statutory provisions of the Party in whose territory they are employed.

Article 6. The competent authorities of the two Contracting Parties may agree upon other exceptions to the principle of applicable legislation than those contained in article 5.

PART III. SPECIAL PROVISIONS

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

Article 7. The following special provisions concerning annuities under Swiss old-age and survivors' insurance shall apply to Italian nationals and their survivors:

- (a) When the partial ordinary annuity which an Italian national not resident in Switzerland may claim is less than $\frac{3}{20}$ of the full ordinary annuity, that Italian national shall be entitled only to a lump-sum grant equal to the current value of the annuity due. An Italian national who has received such a partial annuity in Switzerland and who leaves Swiss territory for good shall also receive such a grant. The lump-sum grant shall be paid to Italian nationals resident in Italy through the Italian social insurance schemes. The persons concerned may waive the receipt of such grant from the said insurance schemes and request them to pay them instead an equivalent life annuity.

When the lump-sum grant has been paid by Swiss insurance, neither the beneficiary nor the survivors shall be entitled any longer to make a claim against that insurance on account of contributions paid up to that time;

- (b) An Italian national shall be entitled to a special annuity only as long as he maintains his domicile in Switzerland and provided that, immediately before the date from which he claims the annuity, he has resided in Switzerland without interruption for at least 10 full years in the case of an old-age annuity and at least five full years in the case of a survivors' annuity or an old-age annuity that replaces a survivors' annuity.

Article 8. The following special provisions concerning benefits under Swiss invalidity insurance shall apply to Italian nationals:

- (a) An Italian national shall be entitled to take advantage of rehabilitation measures only as long as he maintains his domicile in Switzerland and provided that, immediately before the onset of the invalidity, he has paid contributions to Swiss insurance for at least one full year;

- Married women and widows of Italian nationality who are not gainfully occupied and minors of the same nationality shall be entitled to take advantage of rehabilitation measures only as long as they maintain their domicile in Switzerland and provided that, immediately before the onset of the invalidity, they have resided in Switzerland without interruption for at least one year; minors shall also be entitled to take advantage of such measures if they have their domicile in Switzerland and were born there handicapped or have resided in Switzerland without interruption since birth;
- (b) Regarding entitlement to an ordinary invalidity annuity, Italian nationals who are insured under Italian insurance schemes or who have already received such an annuity before quitting Switzerland shall be treated the same as persons insured in accordance with Swiss legislation;
 - (c) Article 7, sub-paragraph (a), shall apply *mutatis mutandis* to ordinary invalidity-insurance annuities;
 - (d) Article 7, sub-paragraph (b), shall apply *mutatis mutandis* to ordinary invalidity-insurance annuities, the required duration of residence in Switzerland being at least five full years for such annuities and for old-age annuities which replace them;
 - (e) Ordinary annuities for insured persons whose degree of invalidity is less than 50 per cent and allowances for cripples may be granted to Italian nationals only as long as they maintain their domicile in Switzerland.

Article 9. 1. If an insured person is not eligible, on the basis of the insurance periods and periods treated as such completed in accordance with Italian legislation alone, for an invalidity, old-age or death benefit under that legislation, periods completed under Swiss old-age and survivors' insurance (contribution periods and periods treated as such) shall be aggregated with the periods completed under Italian insurance for the purpose of entitlement to those benefits in so far as the said periods do not overlap.

2. If the granting of the benefits specified in the preceding paragraph is subject to the condition that such insurance periods must have been completed in an occupation which is subject to a special scheme, only periods completed in Switzerland in the same occupation shall be aggregated for the purpose of entitlement to such benefits. If, notwithstanding the aggregation of the said periods, the person concerned does not satisfy the requirements for entitlement to benefits under the special scheme in question, such periods shall also be aggregated for the purpose of entitlement to benefits under the general scheme.

3. When, in accordance with paragraphs 1 and 2 above, a benefit under Italian social insurance is awarded taking into account Swiss insurance periods, it shall be calculated as follows:

- (a) The Italian insurance institution charged with calculating it shall first determine the amount of benefit to which the insured person would be entitled if all the insurance periods to be taken into account pursuant to paragraphs 1 and 2 above had been completed exclusively under Italian insurance. In the case of insurance periods completed under Swiss legislation, however, the contributions relating to those periods shall be taken into account only on the basis of the mean contribution for the insurance periods completed under Italian legislation;

(b) On the basis of that amount, raised if necessary to the minimum pension guaranteed under Italian legislation, the Italian insurance institution shall determine the benefit due in proportion to the duration of the insurance periods completed under Italian insurance as related to the total duration of the periods completed under the insurance schemes of both Parties, those completed under Swiss insurance, however, being taken into account only in so far as they do not overlap with Italian periods.

Article 10. 1. Swiss nationals who, in spite of the application of article 9, are not eligible for any benefit under the Italian social insurance schemes shall be entitled to reimbursement of the compulsory contributions paid to those schemes by them and by their employers.

2. A Swiss national whose contributions have been reimbursed shall have no further claim against the Italian insurance schemes in respect of those contributions.

Chapter 2. INSURANCE AGAINST ACCIDENTS AND OCCUPATIONAL DISEASES

Article 11. Swiss and Italian nationals insured under the legislation of one of the Contracting Parties who sustain an accident or contract an occupational disease in the territory of the other Party shall be entitled to claim all necessary medical care from the accident-insurance or sickness-insurance institution of the Party in whose territory they are. In such cases the insurance institution with which the person concerned is insured shall reimburse the costs of such medical care to the insurance institution which provided it.

Article 12. Where an insurance institution of one of the Contracting Parties is required to pay benefits to an insured person, the insurance institution of the other Party, should it have to determine benefits for another accident or another occupational disease of the same insured person, shall take into account the benefits granted by the first insurance institution as though the insurance institution of the said other Party were itself liable for those benefits.

Article 13. 1. Benefits in the case of an occupational disease which may be compensated under the legislation of both Parties shall be awarded only under the legislation of the Party in whose territory the person concerned was last employed in the occupation likely to have caused such a disease and provided that the person concerned fulfills the conditions imposed by that legislation.

2. However, the competent authorities may agree, in the interest of employed persons, to adopt a regulation introducing the aggregation of the relevant periods of work completed in the territory of the two Contracting Parties and the allocation of liability for benefits according to the duration of those periods.

Article 14. 1. Where, in the event of aggravation of an occupational disease, an employed person who has received or is receiving compensation in respect of an occupational disease under the legislation of one of the Parties claims, in respect of an occupational disease of the same nature, entitlement to benefits under the legislation of the other Party, the following rules shall apply:

(a) If the person concerned has not been employed in the territory of the last-mentioned Party in an occupation to which the occupational disease or the aggravation thereof may be attributed, the insurance institution of the first-

mentioned Party shall remain responsible for benefits under its own legislation, account being taken of such aggravation;

- (b) If the person concerned has been employed in the territory of the said last-mentioned Party in such an occupation, the insurance institution of the first-mentioned Party shall remain responsible for providing benefits under its own legislation, but no account shall be taken of the aggravation; the insurance institution of the other Party shall award the employed person a supplement, the amount of which shall be determined in accordance with the legislation of the second Party and shall be equal to the difference between the amount of the benefit due after the aggravation and the amount which would have been due if the disease as it existed before the aggravation had been contracted in its territory.

2. In the cases specified in the preceding paragraph of this article, the person concerned shall be required to furnish the insurance institution of the Party under whose legislation he is claiming benefits with the necessary information relating to benefits previously paid as compensation for the occupational disease in question. Should the said institution so deem necessary, it may obtain documentation regarding such benefits from the institution which granted the previous benefits to the person concerned.

Chapter 3. FAMILY ALLOWANCES

Article 15. Agricultural workers of Italian nationality shall be entitled, while they are employed in Switzerland, to the child allowances provided for by the federal legislation concerning the scheme of family allowances for agricultural workers and small farmers, irrespective of the place of residence of the persons on whose account the entitlement to child allowances arises.

Article 16. Swiss nationals shall be entitled, while they are employed in Italy, to the child allowances provided for by Italian legislation, irrespective of the place of residence of the persons on whose account the entitlement to child allowances arises.

Article 17. Where entitlement to child allowances exists for a child under both Swiss legislation and Italian legislation, the only allowances payable shall be those due under the legislation of the father's place of work.

PART IV. PROVISIONS RELATING TO IMPLEMENTATION

Article 18. 1. For the implementation of this Convention, the authorities and institutions of each of the Parties shall assist each other as though the application of their own social security legislation were in question.

2. The competent authorities:

- (a) Shall make all administrative arrangements necessary for the application of this Convention. They shall regulate, among other things, the details of mutual assistance and the sharing of costs for medical and administrative investigations in the case of persons who, being in the territory of one of the Parties, request the grant or are in receipt of insurance benefits of the other Party;
- (b) May, with a view to facilitating relations between the insurance institutions of the Contracting Parties, agree each to designate centralizing agencies;
- (c) Shall communicate to each other all information regarding measures taken for the application of this Convention;

(d) Shall communicate to each other, as soon as possible, all information regarding changes made in their legislation.

3. For the purposes of this Convention, the term "competent authority" means:

—In relation to Switzerland: the Federal Office of Social Insurance;

—In relation to Italy: the Ministry of Labour and Social Security.

Article 19. 1. The insurance institutions required to provide benefits under this Convention shall be held to discharge their responsibility validly by payment in the currency of their country.

2. Transfers required in the execution of this Convention shall take place in accordance with the agreements on such matters in force between the Contracting Parties at the time of the transfer.

3. If currency restrictions are at any time imposed by either Contracting Party, measures shall be taken forthwith by agreement between the two Parties to ensure, in accordance with the provisions of this Convention, the reciprocal transfer of sums due.

Article 20. 1. Any exemption from, or reduction of, legal dues, charges or fees provided for in the legislation of one Contracting Party in connection with the issue of any document required to be produced for the purposes of that legislation shall be extended to documents required to be produced for the purposes of the legislation of the other Party.

2. Where any certificate or other document has to be produced to the authorities or institutions of either of the Contracting Parties for the purpose of applying this Convention, that authority or institution shall not require the certificate or other document to be legalized by a diplomatic or consular authority.

Article 21. Any application, declaration or appeal which must be lodged within a prescribed period with an institution of one of the Contracting Parties shall be considered admissible if it is lodged within the same period with a corresponding institution of the other Party. In such cases, the last-mentioned institution shall transmit the application, declaration or appeal without delay to the competent institution of the first-mentioned Party.

Article 22. 1. The Governments of the two Contracting Parties shall appoint a joint commission to be charged with ensuring the proper application of this Convention, settling any conflicts relating to its application and discussing any question concerning social security. It may make proposals for the revision of the Convention, its Final Protocol or the related Administrative Arrangement.

2. The joint commission shall be composed of equal numbers of representatives of the administrations concerned of the two Parties. Each delegation may appoint the necessary experts.

3. The joint commission shall convene alternately in Switzerland and Italy at the request of either of the Contracting Parties.

4. The joint commission shall itself determine its organization and its work procedures.

5. Where a dispute cannot be resolved in this manner, it shall be submitted to a board of arbitration composed of one representative of each Contracting Party and a president belonging to a third State.

PART V. TRANSITIONAL PROVISIONS

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

Article 23. 1. On the Swiss side, benefits shall in principle be granted in accordance with the provisions of this Convention also in cases where the insurance contingency occurred before the entry into force of the Convention. Ordinary annuities under old-age and survivors' insurance, however, shall be granted under the said provisions only if the insurance contingency occurred after 31 December 1959 and the contributions have not been and will not be transferred or reimbursed under the Convention of 17 October 1951 or under paragraph 5 of this article.

In the case of insurance contingencies which occurred before the entry into force of this Convention, benefits shall be granted under the Convention as follows:

- (a) In the case of rehabilitation measures under invalidity insurance: from the entry into force of the Convention;
- (b) In the case of ordinary and special annuities and allowances for cripples under old-age and survivors' insurance and invalidity insurance for which entitlement exists for the month of entry into force: from 1 January 1962 at the earliest, subject to sub-paragraph (c) of this paragraph;
- (c) In the case of special annuities under old-age and survivors' insurance for which entitlement exists for the month of entry into force: from 1 January 1961 at the earliest, for the following Italian nationals:
 - (i) Persons born before 1 July 1883 and their survivors;
 - (ii) Women widowed and children orphaned before 1 December 1948.

2. On the Italian side, benefits shall in principle be granted under this Convention in cases where the insurance contingency occurs on or after the date of its entry into force. However, if the insurance contingency has occurred before that date, benefits shall be granted under this Convention from its entry into force if owing to insufficiency of insurance periods no pension can be paid and if the contributions have not been reimbursed by the Italian social insurance schemes.

3. Subject to paragraphs 1 and 2 above, insurance periods, contribution periods and periods of residence completed before the entry into force of this Convention shall also be taken into account.

4. The time-limits specified by the legislation of the two Contracting Parties for asserting rights shall begin to run from the entry into force of this Convention at the earliest.

5. During a period of five years from the entry into force of this Convention, Italian nationals shall have the right, notwithstanding the provisions of article 7, to apply, upon the occurrence of the old-age insurance contingency in accordance with Italian legislation, for the transfer to Italian insurance of the contributions paid by them and their employers to Swiss old-age and survivors' insurance, provided, however, that they quitted Switzerland in order to take up residence in Italy or in a third country before the end of the year in which the said contingency occurred. In respect of the use of the contributions transferred, any reimbursement to the person concerned and the effects of such transfer, article 5, paragraphs 4 and 5, of the Convention of 17 October 1951 shall apply.

Chapter 2. INSURANCE AGAINST ACCIDENTS AND OCCUPATIONAL DISEASES

Article 24. 1. Italian nationals who have not, during the period preceding the entry into force of this Convention, had the benefit of supplementary insurance compensating for a reduction of benefits under non-industrial accident insurance in accordance with article 90 of the Swiss federal law on sickness and accident insurance shall receive, in respect of accidents sustained by them after the entry into force of the Convention, full benefits in accordance with the said law. For accidents which occurred before the date of the entry into force of the Convention, invalidity benefits and survivors' benefits to spouses and children shall be paid from that date without reduction.

2. Italian nationals who enjoyed the benefit of supplementary insurance as defined in the preceding paragraph before 1 January following the date of entry into force of this Convention shall receive, in respect of accidents occurring on or after the said 1 January, full benefits in accordance with the Swiss federal law on sickness and accident insurance. If they sustained an accident before that date, the reduction of benefits in accordance with article 90 of the said law shall continue to apply.

Chapter 3. FAMILY ALLOWANCES

Article 25. Family allowances shall be granted in accordance with the provisions of this Convention starting 1 January 1963.

PART VI. FINAL PROVISIONS

Article 26. 1. The present Convention shall be ratified and the instruments of ratification shall be exchanged at Berne as soon as possible.

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

3. The Convention on Social Security between Switzerland and Italy of 17 October 1951 shall be abrogated as from the date of entry into force of the present Convention, except its article 24, paragraph 2, and, for the purposes of article 23, paragraph 5, of the present Convention, its article 5, paragraphs 4 and 5.

Article 27. 1. This Convention is concluded for a period of one year. It shall be renewed by tacit agreement from year to year unless notice of termination is given by either of the Contracting Parties at least three months before the expiration of the term.

2. In the event of termination of the Convention, any right acquired in accordance with its provisions shall be maintained. Arrangements shall be concluded for the determination of any rights then in course of acquisition pursuant to its provisions.

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

DONE at Rome, on 14 December 1962, in two copies, one in French and one in Italian, both texts being equally authentic.

For the Swiss Federal Council:
SAXER

For the Government
of the Italian Republic:
G. LUPIS

FINAL PROTOCOL

At the time of signing the Convention on Social Security concluded this day between Switzerland and Italy (hereinafter referred to as "the Convention"), the plenipotentiaries of the two Contracting Parties have agreed on the following:

1. The Convention shall also apply to survivors of Swiss and Italian nationals, irrespective of their nationality.

2. "Survivors" or "children" shall mean, for the purposes of the Convention, those persons designated as such by the applicable legislation.

3. The principle of equal treatment laid down in article 2 of the Convention shall not extend, in respect of Switzerland, to the provisions concerning optional old-age and survivors' insurance and optional invalidity insurance of Swiss nationals abroad, old-age and survivors' insurance and invalidity insurance of Swiss nationals working abroad for an employer in Switzerland, or relief benefits paid to Swiss cripples resident abroad.

4. The regulation in article 5 of the Convention shall apply to all employed persons irrespective of their nationality, subject to sub-paragraph (f) of that article.

5. Where, pursuant to article 5 of the Convention, an employed person is subject to Swiss legislation, this means that he shall be treated, as regards his situation with respect to Swiss insurance, as though he engaged in his occupation in Switzerland, except in the cases specified in sub-paragraph (c).

6. The following persons shall be treated as persons employed in official departments, within the meaning of article 5, sub-paragraph (e), of the Convention:

- (i) Persons of Swiss nationality employed by the Swiss National Tourist Office who are sent to Italy;
- (ii) The Swiss teaching staff of Swiss schools in Italy;
- (iii) The staff members of Swiss nationality of the Swiss Institute of Rome.

7. Swiss nationals insured under the Italian social insurance schemes specified in article 1, paragraph 1 (b), of the Convention who return to Switzerland may voluntarily continue such insurance on the same terms as Italian nationals.

8. The lump-sum grant provided for in article 7, sub-paragraph (a), and article 8, sub-paragraph (c), of the Convention shall be equal to the present value of the annuity due at the time of occurrence of the insurance contingency according to Swiss law or the present value of that annuity at the time when the insured person definitively quits Switzerland, if such departure occurs after the grant of the annuity.

9. For the purposes of article 7, sub-paragraph (b), and article 8, sub-paragraphs (a) and (d), of the Convention, the term "domicile" shall be taken in the sense of the Swiss civil code, according to which a domicile is in principle the place where a person resides with the intention of establishing himself there.

10. In respect of entitlement to special annuities, the residence in Switzerland of an Italian national who leaves Switzerland for a period not exceeding three months shall not be deemed interrupted within the meaning of article 7, sub-paragraph (b), and article 8, sub-paragraph (d), of the Convention. Furthermore, periods during which an Italian national resident in Switzerland was exempt from Swiss old-age and survivors' insurance and Swiss invalidity insurance shall not be reckoned for the purpose of the time limits specified in article 7, sub-paragraph (b), and article 8, sub-paragraph (d), of the Convention.

11. Frontier workers domiciled in Switzerland who, prior to the entry into force of the Convention, were exempt from Italian social insurance pursuant to section 2 of the

Final Protocol to the Italian-Swiss Convention on Social Insurance of 17 October 1951, shall continue to be so exempt.

12. Contributions paid to Swiss old-age and survivors' insurance which have been transferred to Italian social insurance pursuant to the Italian-Swiss conventions of 4 April 1949 and 17 October 1951 may no longer be transferred back to a Swiss insurance. No further claim may be made on that insurance on the basis of those contributions.

13. When Italian employed persons are not already covered by medical and pharmaceutical insurance within the meaning of the federal law of 13 June 1911 on sickness and accident insurance, their employer must see to it that they take out such insurance, and if they do not, he must do so for them. He may deduct the necessary contribution from their wages, different understandings between the parties concerned being unaffected.

The present Final Protocol, which is an integral part of the Convention on Social Security concluded this day between Switzerland and Italy, shall be ratified and shall remain in effect subject to the same conditions and for the same period as the Convention itself.

DONE at Rome, on 14 December 1962, in two copies, one in French and one in Italian, both texts being equally authentic.

For the Swiss Federal Council:

SAXER

For the Government
of the Italian Republic:

G. LUPIS

[TRANSLATION — TRADUCTION]

ADMINISTRATIVE ARRANGEMENT¹ CONCERNING THE MANNER OF APPLICATION OF THE CONVENTION BETWEEN THE SWISS CONFEDERATION AND THE ITALIAN REPUBLIC ON SOCIAL SECURITY²

Pursuant to article 18, paragraph 2 (a) and (b), of the Convention between the Swiss Confederation and the Italian Republic on Social Security, of 14 December 1962,² hereinafter referred to as "the Convention", the competent authorities, namely:

—For Switzerland: the Federal Office of Social Insurance, represented by Mr. Cristoforo Motta, Vice-Director of the said Office; and

—For Italy: the Ministry of Labour and Social Security, represented by Mr. Giovanni Caporaso, Inspector-General of the said Ministry,

have agreed on the following provisions concerning the manner of application of the Convention.

PART I. GENERAL PROVISIONS

Article 1. The following are designated as centralizing agencies within the meaning of article 18, paragraph 2 (b), of the Convention:

(1) In Switzerland:

(a) The Caisse suisse de compensation (Swiss Compensation Fund), at Geneva, hereinafter referred to as "the Caisse suisse", for:

—Swiss old-age, survivors' and invalidity insurance;

—Italian invalidity, old-age and survivors' insurance, including the special schemes that replace the general scheme for certain categories of employed persons;

—The Swiss federal family-allowance scheme;

—The Italian family-allowance scheme;

(b) The Caisse nationale suisse d'assurance en cas d'accidents (Swiss National Accident Insurance Fund), at Lucerne, hereinafter referred to as "the Caisse nationale", for:

—Swiss industrial and non-industrial accident and occupational disease insurance;

—Italian industrial accident and occupational disease insurance;

(2) In Italy:

(a) The Istituto Nazionale della Previdenza Sociale (National Institute of Social Security), hereinafter referred to as "INPS", for:

¹ Came into force on 1 September 1964, the date of entry into force of the Convention, in accordance with article 54.

² See p. 116 of this volume.

- Italian invalidity, old-age and survivors' insurance, including the special schemes that replace the general scheme for certain categories of employed persons;
 - Swiss old-age, survivors' and invalidity insurance;
 - The Italian family-allowance scheme;
 - The Swiss federal family-allowance scheme;
- (b) The Istituto Nazionale per l'Assicurazione contro gli Infortuni sul Lavoro (National Industrial Accident Insurance Institute), hereinafter referred to as "INAIL", for:
- Italian industrial accident and occupational disease insurance;
 - Swiss industrial and non-industrial accident and occupational disease insurance.

The competent authority of each of the Contracting Parties, specified in article 18, paragraph 3, of the Convention, reserves the right to designate other centralizing agencies, in which case it shall inform the competent authority of the other Contracting Party.

PART II. EMPLOYED PERSONS TEMPORARILY SECONDED

Article 2. 1. For employed persons seconded to the territory of the other country in accordance with article 5, sub-paragraph (a), of the Convention, a certificate on a special form shall be drawn up, stating that the prescriptions of the legislation of the country where the employer has his principal place of business shall remain applicable to those persons throughout the duration of their temporary employment.

2. Where several employed persons are seconded together for the same period and for the purpose of performing work for the same enterprise in the other country, a group certificate may be issued.

3. The certificate shall be issued:

- (a) To employed persons temporarily seconded to Italy: by the competent Swiss old-age, survivors' and invalidity insurance fund and by the competent *arrondissement* agency of the Caisse nationale;
- (b) To employed persons temporarily seconded to Switzerland: by the competent provincial headquarters of the Istituto Nazionale per l'Assicurazione contro le Malattie (National Sicknes Insurance Institute—INAM).

4. The certificate must be presented, in so far as necessary, to the competent institutions of the country of the temporary place of work by the employer's agent in that country, if any, and otherwise by the employed person himself.

5. If an employed person so seconded is unable to produce the certificate provided for in paragraph 1 above, the competent *caisse de compensation* for Swiss old-age, survivors' and invalidity insurance, in Switzerland, and the competent provincial headquarters of INAM, in Italy, shall procure the certificate from the centralizing agency of the country of the ordinary place of work.

Article 3. In the cases specified in article 5, sub-paragraph (a), second sentence, of the Convention, the employers concerned must present an application for maintenance of the application of the legislation of the country where

the employer has his principal place of business: in Switzerland, to the Federal Office of Social Insurance; in Italy, to the Ministry of Labour and Social Security, Direzione generale della previdenza e dell'assistenza sociale (General Direction of Social Security and Welfare).

These institutions shall take their decisions after consulting each other, and each shall, for its own part, inform the institutions responsible for execution.

Article 4. 1. For the exercise of the option provided for in article 5, subparagraph (f), of the Convention, the person concerned shall submit his application, within six months from the starting date of his activity:

—In Switzerland: to the competent cantonal *caisse de compensation* for old-age, survivors' and invalidity insurance;

—In Italy: to the competent provincial headquarters of INAM.

2. For persons who are employed in a diplomatic or consular post or are in the service of an employee of such post on the date of entry into force of this Administrative Arrangement, the six-month period specified in paragraph 1 of this article shall be reckoned starting from that date and the legislation selected shall become applicable on the expiry of the said period.

However, an option exercised pursuant to article 3, paragraph 2 (f), of the Convention of 17 October 1951 shall remain valid unless revoked within the above-mentioned six-month period.

PART III. PROVISIONS CONCERNING BENEFITS

Chapter 1. INVALIDITY, OLD-AGE AND SURVIVORS' INSURANCE

1. *Italian nationals resident in Italy and eligible for benefits under Swiss old-age, survivors' and invalidity insurance*

A. Submission and examination of claims

Article 5. 1. Italian nationals in Italy who claim an annuity under Swiss old-age, survivors' and invalidity insurance must address their claim to the competent provincial headquarters of INPS. Annuity claims addressed to another Italian institution must be forwarded to the said headquarters.

When a claim is submitted to a Swiss institution corresponding to INPS, that institution shall forward the claim to the competent headquarters of INPS, indicating the date on which it was filed; this date shall be considered the date of filing of the claim for the purposes of Swiss legislation.

2. Claims must be submitted on the form provided to the competent provincial headquarters of INPS by the Caisse suisse. The information given on the form shall be supported by vouchers in so far as the form so specifies.

3. The competent provincial headquarters of INPS shall enter the date of receipt of the claim on the claim itself, verify, in so far as possible, whether it has been filled in completely and whether the requisite vouchers have been furnished, and certify, also on the claim, the validity of the official Italian documents annexed to it; it shall then forward the claim together with the vouchers and annexed documents to the Caisse suisse.

4. At the request of the Caisse suisse, the provincial headquarters of INPS shall furnish it with other information and certificates issued or legalized by the competent Italian authorities.

Article 6. 1. When an Italian national in Italy submits a claim for an annuity under Swiss invalidity insurance, the competent provincial headquarters of INPS shall transmit it to the Caisse suisse, together with any medical certificates and other documents produced by the person concerned, after carrying out the medical examinations and administrative investigations which would have been performed if the claimant had claimed an invalidity pension payable by Italian invalidity, old-age and survivors' insurance.

At the same time, the said headquarters shall communicate to the Caisse suisse whether the claimant is insured under Italian insurance schemes, whether he has also claimed an Italian invalidity pension and whether on previous application he was denied a pension. In the case of a person in receipt of an Italian invalidity pension or of a claimant denied an Italian pension because he was not recognized as suffering from an invalidity, the provincial headquarters shall also communicate to the Caisse suisse the results of the previous medical examinations and administrative investigations. Where such examinations and investigations date back less than two years, INPS shall refrain, as a rule, from undertaking any new examinations or investigations; notwithstanding, the Caisse suisse may charge INPS with carrying out such medical examinations and administrative investigations as it deems necessary.

2. The Caisse suisse shall retain the right to have the claimant examined by a physician of its choice.

Article 7. The Caisse suisse shall rule on the annuity claim and communicate its decision direct to the claimant; it shall send a copy of the decision to the competent provincial headquarters of INPS.

Article 8. Italian nationals resident in Italy shall lodge their appeals against decisions of the Caisse suisse or against judgments of the Swiss courts of first instance either directly with the competent Swiss judicial authorities or with the competent provincial headquarters of INPS. In the latter case, the said headquarters shall enter on the appeal the date of its receipt and shall forward it immediately to the Caisse suisse for the attention of the competent Swiss judicial authority. The envelope in which the appeal was sent shall, in so far as possible, also be forwarded.

B. Payment of annuities

Article 9. The Caisse suisse shall pay Swiss old-age, survivors' and invalidity insurance annuities quarterly to Italian nationals resident in Italy through the General Direction (Direzione Generale) of INPS.

Article 10. 1. The Caisse suisse shall send to the General Direction of INPS, within one month following the entry into force of this Administrative Arrangement, a basic list, in duplicate, of payments to be made, indicating for each beneficiary:

- (a) The type of annuity;
- (b) The number of the insured person;

- (c) The full name (and, in the case of married women, the maiden name), date of birth and address of the beneficiary or, if such is the case, of a third person to whom the annuity is to be paid;
- (d) The amount to be paid (in Swiss francs) and, in two distinct columns, any arrears and the quarterly amount;
- (e) The period to which such arrears pertain.

The list shall be organized according to the beneficiaries' insurance numbers.

2. For the purpose of updating the basic list, the Caisse suisse shall send for each due date, within the first days of the second month of the payment period specified in article 9, two partial lists, namely:

- (a) A list of persons whose names are to be stricken from the basic list;
- (b) A list of new beneficiaries.

Annuities the amount of which changes shall be mentioned on the list referred to in (a) above in the old amount and on the list referred to in (b) in the new amount.

3. Single payments shall be indicated at the end of the basic list at the time of the first payment and in the list of new beneficiaries at the time of subsequent payments; they shall appear in the column reserved for arrears.

4. For beneficiaries of annuities for couples or annuities with supplements, the Caisse suisse shall mention on the basic list and on the list of new beneficiaries the wife and all persons for whom such supplements are payable.

Article 11. 1. The Caisse suisse shall, at the same time that it sends the quarterly list provided for in article 10, transfer the amount needed for the payment of annuities for the current quarter to the Swiss National Bank to be credited to the current account of the General Direction of INPS with the Banca Nazionale del Lavoro, at Rome. Advice of such transfer shall be given at the same time to the General Direction of INPS.

2. Payment made in accordance with paragraph 1 shall constitute full discharge on the part of the Caisse suisse.

Article 12. Annuities shall be paid to beneficiaries by the General Direction of INPS within the first days of the third month of the payment period provided for in article 9.

Article 13. Annuities shall be paid to beneficiaries in Italian currency at the rate of exchange at which the corresponding amounts transferred in Swiss francs were credited to the General Direction of INPS.

Article 14. 1. At the end of each payment period, the General Direction of INPS shall send to the Caisse suisse a complete statement of the annuities paid.

2. The General Direction of INPS shall certify on the statement that the payments made correspond to the amounts indicated in Swiss francs; the statement must specify the rate of exchange at which the annuities were paid.

Article 15. 1. Italian nationals in Italy who are in receipt of an annuity under Swiss old-age, survivors' and invalidity insurance must immediately communicate to the General Direction of INPS any change:

—Either in their personal or family situation;

—Or, depending on the case, in their state of health or their working or earning capacity.

2. The competent provincial headquarters of INPS shall of its own accord transmit to the General Direction of that institution all information of the same nature which is available to it pursuant to Italian legislation or which comes to its knowledge through other channels.

3. The General Direction of INPS shall immediately forward to the Caisse suisse all information which it has obtained pursuant to paragraphs 1 and 2 and information of the same nature which comes to its knowledge through other channels. In the event of the death of the beneficiary, his wife or other members of his family entitled or giving rise to entitlement to annuities or annuity supplements, the General Direction of INPS shall transmit an official document establishing the date of death.

Article 16. 1. INPS must ascertain each year, in the same manner as in the case of beneficiaries of Italian invalidity, old-age and survivors' insurance, in particular by the production of a certificate of family status, that the beneficiaries of an annuity under Swiss old-age, survivors' and invalidity insurance, their wife and all other members of their family for whom entitlement to annuities exists are living.

2. The certificate of family status shall be transmitted to the Caisse suisse only in cases in which the composition of the family has changed.

Article 17. 1. The General Direction of INPS shall refrain from any payment whenever it has reason to believe that the conditions for the grant of an annuity are no longer satisfied, and more particularly if it learns:

- (a) That the beneficiary has transferred his domicile out of Italy;
- (b) That the beneficiary, his wife or other members of his family by reason of whom entitlement to annuities exists have died;
- (c) That a widow has remarried.

2. The General Direction of INPS shall notify the Caisse suisse of such cases in accordance with the provisions of article 15, paragraph 3, of this Arrangement.

Article 18. The General Direction of INPS shall vouch for the proper execution of the payment of benefits. At the request of the Caisse suisse, the General Direction of INPS shall render its collaboration for the recovery of sums improperly received as if its own benefits were involved.

Article 19. Where it is not possible to effect the payment of an annuity, the amount thereof shall be offset at the time of the next transfer.

Article 20. 1. Where an Italian national who is in receipt, in Switzerland or in a third State, of an annuity under Swiss old-age, survivors' and invalidity insurance transfers his domicile to Italy, he must apply either to the General Direction of INPS or the Caisse suisse for continued payment of the annuity.

2. For the continuation of payment of the annuity, articles 9 to 19 shall apply *mutatis mutandis*.

C. Other benefits

Article 21. 1. Where an Italian national is entitled to a lump-sum grant in accordance with article 7, sub-paragraph (a), and article 8, sub-paragraph (c), of

the Convention, it shall be paid to him in the manner laid down in articles 10 to 19 of this Arrangement.

2. The competent Italian authority shall adopt every measure necessary for the application of the provision of article 7, sub-paragraph (a), of the Convention, whereby the persons concerned are granted the option of obtaining a life annuity under Italian insurance in lieu of the lump-sum grant referred to in the said article.

II. *Swiss and Italian nationals resident in Switzerland and eligible for benefits under Italian invalidity, old-age and survivors' insurance*

A. Submission and examination of claims

Article 22. 1. Swiss and Italian nationals resident in Switzerland who claim a pension under Italian invalidity, old-age and survivors' insurance must address their claim to the Caisse suisse. Pension claims addressed to another Swiss institution must be forwarded to the Caisse suisse.

When a claim is submitted direct to INPS, INPS shall forward it to the Caisse suisse, indicating the date on which it was filed; this date shall be considered the date of filing of the claim for the purposes of Italian legislation.

2. Claims must be submitted on the form provided to the Caisse suisse by the General Direction of INPS. The information given on the form shall be supported by vouchers in so far as the form so specifies.

3. The Caisse suisse shall enter the date of receipt of the claim on the claim itself, verify, in so far as possible, whether it has been filled in completely and whether the requisite vouchers have been furnished, and certify, also on the claim, the validity of the official Swiss documents annexed to it; it shall then forward the claim together with the vouchers and annexed documents to the competent provincial headquarters of INPS.

4. At the request of the provincial headquarters of INPS, the Caisse suisse shall furnish it, in so far as possible, with other information and certificates issued or legalized by the competent Swiss authorities.

Article 23. 1. When a Swiss or Italian national in Switzerland submits a claim for an invalidity pension under Italian insurance, the Caisse suisse shall transmit it to the competent provincial headquarters of INPS, together with any medical certificates and other documents produced by the person concerned, after carrying out the medical examinations and administrative investigations which would have been performed if the claimant had claimed an invalidity pension payable by Swiss invalidity insurance.

At the same time, the Caisse suisse shall communicate to the said headquarters whether the claimant has also claimed a Swiss invalidity annuity and whether on previous application he was denied an annuity. In the case of a person in receipt of a Swiss invalidity annuity or of a claimant denied a Swiss annuity because he was not recognized as suffering from an invalidity, the Caisse suisse shall also communicate to the said provincial headquarters the results of the previous medical examinations and administrative investigations. Where such examinations and investigations date back less than two years, the Caisse suisse shall refrain, as a rule, from undertaking any new examinations or investigations;

notwithstanding, INPS may charge the Caisse suisse with carrying out such medical examinations and administrative investigations as it deems necessary.

2. INPS shall retain the right to have the claimant examined by a physician of its choice.

Article 24. The competent provincial headquarters of INPS shall rule on the pension claim and communicate its decision direct to the claimant; it shall send a copy of the decision to the Caisse suisse.

Article 25. Swiss and Italian nationals resident in Switzerland may lodge their appeals against decisions of the competent provincial headquarters of INPS or other Italian insurance institutions with the Caisse suisse. The Caisse suisse shall enter on the appeal the date of its receipt and the date of transmission of the disputed decision to the person concerned and shall forward the appeal immediately to the competent provincial headquarters of INPS for the attention of the competent Italian authority. The envelope in which the appeal was sent shall, in so far as possible, also be forwarded.

B. Payment of pensions

Article 26. The General Direction of INPS shall pay Italian invalidity, old-age and survivors' insurance pensions quarterly to Swiss nationals resident in Switzerland through the Caisse suisse.

Article 27. 1. The General Direction of INPS shall send to the Caisse suisse, within one month following the entry into force of this Administrative Arrangement, a basic list, in duplicate, of payments to be made, indicating for each beneficiary:

- (a) The type of pension;
- (b) The identifying number of the pension certificate;
- (c) The full name (and, in the case of married women, the maiden name), date of birth and address of the beneficiary or, if such is the case, of a third person to whom the pension is to be paid;
- (d) The amount to be paid (in lire) and, in two distinct columns, any arrears and the quarterly amount;
- (e) The period to which such arrears pertain.

The list shall be organized according to the identifying number of the pension certificate.

2. For the purpose of updating the basic list, the General Direction of INPS shall send for each due date, within the first days of the second month of the payment period specified in article 26, two partial lists, namely:

- (a) A list of persons whose names are to be stricken from the basic list;
- (b) A list of new beneficiaries.

Pensions the amount of which changes shall be mentioned on the list referred to in (a) above in the old amount and on the list referred to in (b) in the new amount.

3. Single payments shall be indicated at the end of the basic list at the time of the first payment and in the list of new beneficiaries at the time of subsequent payments; they shall appear in the column reserved for arrears.

4. For beneficiaries of pensions comprising supplements for dependents, INPS shall mention on the basic list and on the list of new beneficiaries the persons for whom such supplements are payable.

Article 28. 1. The General Direction of INPS shall, at the same time that it sends the quarterly list provided for in article 27, transfer the amount needed for the payment of pensions to the Banca Nazionale del Lavoro, at Rome, to be credited to the current account of the Caisse suisse with the Swiss National Bank. Advice of such transfer shall be given at the same time to the Caisse suisse.

2. Payment made in accordance with paragraph 1 shall constitute full discharge on the part of INPS.

Article 29. Pensions shall be paid to beneficiaries by the Caisse suisse within the first days of the third month of the payment period provided for in article 26.

Article 30. Pensions shall be paid to beneficiaries in Swiss francs at the rate of exchange at which the corresponding amounts transferred in lire were credited to the Caisse suisse.

Article 31. 1. At the end of each payment period, the Caisse suisse shall send to the General Direction of INPS a complete statement of the pensions paid.

2. The Caisse suisse shall certify on the statement that the payments made correspond to the amounts indicated in lire; the statement must specify the rate of exchange at which the pensions were paid.

Article 32. 1. Swiss and Italian nationals resident in Switzerland who are in receipt of a pension under Italian invalidity, old-age and survivors' insurance must immediately communicate to the Caisse suisse:

- (a) Any change in their personal or family situation or, depending on the case, in their state of health or their working or earning capacity;
- (b) The fact that they are gainfully employed.

2. The Caisse suisse shall immediately forward to the General Direction of INPS all information which it has obtained pursuant to paragraph 1 and information of the same nature which comes to its knowledge through other channels. In the event of the death of the beneficiary or of members of his family entitled or giving rise to entitlement to pension supplements, the Caisse suisse shall transmit an official document establishing the date of death.

Article 33. The Caisse suisse must ascertain each year, in the same manner as in the case of beneficiaries of Swiss old-age, survivors' and invalidity insurance, that beneficiaries of a pension under Italian invalidity, old-age and survivors' insurance and the members of their family for whom entitlement to pension supplements exists are living.

At the same time, it shall ascertain that a widow in receipt of an Italian reversionary pension has not remarried and that the dependent daughters of a pensioner have remained unmarried.

Article 34. 1. The Caisse suisse shall refrain from any payment whenever it has reason to believe that the conditions for the grant of a pension are no longer satisfied, and more particularly if it learns:

- (a) That the beneficiary has transferred his domicile out of Switzerland;

- (b) That the entitled person or the members of his family by reason of whom entitlement to pension supplements exists have died;
- (c) That a widow has remarried;
- (d) That dependent daughters of the pensioner have married.

2. The Caisse suisse shall notify the General Direction of INPS of such cases in accordance with the provisions of article 32, paragraph 2, of this Arrangement.

Article 35. The Caisse suisse shall vouch for the proper execution of the payment of benefits. At the request of the General Direction of INPS, the Caisse suisse shall render its collaboration for the recovery of sums improperly received as if its own benefits were involved.

Article 36. Where it is not possible to effect the payment of a pension, the amount thereof shall be offset at the time of the next transfer.

Article 37. 1. Where a Swiss or Italian national who is in receipt, in Italy or in a third State, of a pension under Italian invalidity, old-age and survivors' insurance transfers his domicile to Switzerland, he must apply either to the Caisse suisse or the competent provincial headquarters of INPS for continued payment of the annuity.

2. For the continuation of payment of the annuity, articles 26 to 36 shall apply *mutatis mutandis*.

C. Reimbursement of contributions

Article 38. 1. For the reimbursement of contributions paid to Italian invalidity, old-age and survivors' insurance in accordance with article 10, paragraph 1, of the Convention, articles 22 to 36 of this Arrangement shall apply *mutatis mutandis*.

2. In cases in which the competent provincial headquarters of INPS has no knowledge of the Swiss contribution periods of a claimant and such claimant is not entitled to benefits under Italian legislation alone, that headquarters shall, prior to any reimbursement of contributions, ask the Caisse suisse to communicate to it the said Swiss periods and to indicate whether the claimant was gainfully employed and specify what periods, to the nearest month, would be taken into account for the calculation of a Swiss annuity.

D. Voluntary continuation of Italian invalidity, old-age and survivors' insurance

Article 39. 1. Swiss and Italian nationals in Switzerland shall submit their applications for voluntary continuation of Italian invalidity, old-age and survivors' insurance to the Caisse suisse, using the special forms provided to the Caisse by the General Direction of INPS.

2. The Caisse suisse shall write the date of receipt of the application on the application itself and forward it together with any vouchers furnished by the applicant to the competent provincial headquarters of INPS, which shall decide on the application and notify the applicant of its decision.

3. Article 25 of this Arrangement shall apply *mutatis mutandis*.

4. A person who has obtained authorization to continue Italian insurance on a voluntary basis may pay contributions, at his own discretion, within a class ranging from the minimum to the maximum contribution class as indicated to him by the provincial headquarters of INPS when notifying him that his application has been accepted.

The person concerned may entrust the payment of contributions to a trusted person domiciled in Italy, who shall procure the stamps corresponding to the contribution class selected and affix them to the insurance card furnished by the competent provincial headquarters of INPS.

Should he so wish, the person concerned may effect the payment of voluntary contributions in advance, in six-month periods, to the current bank account indicated to him by the provincial headquarters of INPS.

Each half-yearly payment must be made in one and the same contribution class; changing to a higher or lower class shall be permitted only for the payment relating to the following six-month period.

E. Communication of periods completed under Swiss insurance

Article 40. When a provincial headquarters of INPS with which an Italian pension claim has been lodged so requests, the Caisse suisse shall communicate to it, for the purposes of article 9 of the Convention, the insurance periods completed by the claimant under Swiss old-age, survivors' and invalidity insurance, indicating whether the claimant has been gainfully employed and specifying what periods, to the nearest month, would be taken into account for the calculation of a Swiss annuity.

III. *Swiss and Italian nationals resident in a third country and eligible for a benefit under Italian or Swiss invalidity, old-age and survivors' insurance*

Article 41. 1. Swiss nationals resident neither in Switzerland nor in Italy who claim a benefit under Italian invalidity, old-age and survivors' insurance must address their claim to one of the provincial headquarters of INPS to which they have paid contributions, attaching the vouchers required by Italian legislation.

2. Italian nationals resident neither in Switzerland nor in Italy who claim a benefit under Swiss old-age, survivors' and invalidity insurance must address their claim direct to the Caisse suisse, attaching the vouchers required by Swiss legislation.

3. INPS, in the cases specified in paragraph 1, and the Caisse suisse, in the cases specified in paragraph 2, shall rule on the claim, transmitting their decision and effecting the payment of the benefit direct to the beneficiary in accordance with the payment agreements existing between the country of the insurance institution and the third country. In the determination of the rights of the persons concerned, the provisions of this Administrative Arrangement shall apply *mutatis mutandis*.

Chapter 2. ACCIDENT AND OCCUPATIONAL DISEASE INSURANCE

Article 42. 1. Italian nationals resident in Italy who claim a benefit under Swiss accident insurance shall address their claim to the Caisse nationale, either direct or through INAIL. The decision of the Caisse nationale shall be com-

municated direct to the claimant; if the claim was submitted through INAIL, a copy of the decision shall be addressed to the General Direction of INAIL.

2. Swiss nationals resident in Switzerland who claim a benefit under Italian accident insurance shall address their claim to INAIL, either direct or through the Caisse nationale. The decision of INAIL shall be communicated direct to the claimant; if the claim was submitted through the Caisse nationale, a copy of the decision shall be addressed to the Caisse nationale.

Article 43. 1. Italian nationals resident in Italy shall address their appeals relative to Swiss accident insurance benefits to the Cantonal Insurance Tribunal at Lucerne and their appeals against decisions of a cantonal insurance tribunal to the Federal Insurance Tribunal at Lucerne. Such appeals may also be addressed to INAIL, which shall transmit them to the said tribunals, either direct or through the Caisse nationale. The envelope used for mailing shall also be transmitted; in the absence of an envelope, the date of receipt must be noted on the appeal.

2. Swiss and Italian nationals resident in Switzerland shall address their appeals against a decision of the competent provincial headquarters of INAIL direct to that headquarters. They may also send them to the Caisse nationale for the attention of the said headquarters. In the latter case, the Caisse nationale shall enter the date of receipt on the appeal.

Article 44. The Caisse nationale and INAIL shall pay cash benefits on the dates specified by their respective legislation direct to beneficiaries resident in Italy and in Switzerland.

Article 45. 1. If a person domiciled in the territory of one of the Contracting States who is insured against accident or occupational disease risks needs, in the other Contracting State, medical care within the meaning of article 11 of the Convention, he shall apply, in Switzerland, to the competent agency of the Caisse nationale, and in Italy, to the competent provincial headquarters of INAIL.

2. These institutions shall grant medical care in accordance with the provisions of their own legislation; hospital care, however, shall be granted only if the insurance institution under which the claimant is insured evidences the fact that he is insured. Protheses shall be granted, however, only on prior authorization by the said insurance institution.

3. The institution with which the person is insured shall reimburse his expenses to him through the competent centralizing agency at the request of the insurance institution which grants the benefits. Such reimbursement shall be effected at the rates applied by the institution which granted the benefits.

Article 46. In the cases referred to in article 12 of the Convention, annuities payable by the insurance institutions shall be taken into account in accordance with the following criteria:

- (a) For an accident or occupational disease which occurred previously (previous injury), the competent insurance institutions shall be liable for payment in accordance with the provisions of their own legislation;
- (b) For a new accident or occupational disease (subsequent injury), the competent insurance institution shall be required to grant benefits in accordance with its own legislation, taking into account the difference, expressed in per cent, between the total degree of reduction of earning capacity resulting

from all injuries covered by the insurance institutions and the degree of reduction of earning capacity existing prior to the subsequent injury.

Chapter 3. FAMILY ALLOWANCES

Article 47. 1. Italian nationals resident in Switzerland who claim child allowances under Swiss federal legislation for children who have remained in Italy must attach to their claim a certificate of family status evidencing the existence of those children. The certificate must be renewed every year.

2. In addition to the certificate mentioned in paragraph 1, the said Italian nationals must produce, for children for whom they claim allowances, depending on the case:

- An attestation of the competent labour office, in the case of apprenticeship, or
- A certificate of regular school attendance, or
- A medical certificate drawn up by a trusted doctor of the person concerned on the form specified by Italian legislation and authenticated by the competent municipal authority.

They shall furnish, in addition, all other information and all documentation which, in accordance with Swiss legislation, the family allowance funds (*caisses d'allocations familiales*) require to be produced.

3. The family allowance funds shall retain the right to have examined by a physician of their choice those children for whom allowances are paid by reason of their health.

Article 48. 1. Swiss nationals resident in Italy who claim child allowances under Italian legislation for persons who have remained in Switzerland must provide proof of the existence of those persons by producing a certificate drawn up by the authority competent in matters of control of inhabitants of the municipality where those persons are domiciled. The certificate must be renewed every year.

2. In addition to the certificate mentioned in paragraph 1, the said Swiss nationals must produce, for persons for whom they claim family allowances, depending on the case:

- Articles of apprenticeship, or
- A certificate of regular school attendance, or
- A medical certificate by the attending physician.

They shall furnish, in addition, all other information and all documentation which, in accordance with Italian legislation, INPS requires to be produced.

Furthermore, they shall communicate to INPS without delay any change in their family situation or in the economic condition of the persons for whom they receive allowances.

3. INPS shall retain the right to have examined by a physician of its choice those persons for whom allowances are paid by reason of their health.

PART IV. GENERAL PROVISIONS ON MUTUAL ADMINISTRATIVE ASSISTANCE

Article 49. Through the Caisse suisse and the Caisse nationale, on the one hand, and INPS and INAIL, on the other, the insurance institutions of the two

Contracting States shall grant each other, pursuant to article 18 of the Convention, the necessary assistance for the application of the branches of insurance specified by in the Convention. On either a general request or a request pertaining to a specific case, they shall substitute for one another and take all useful steps or have such steps taken. In particular, they shall undertake investigations on behalf of the insurance institution of the other Contracting Party, make original documents or copies available to it and furnish, in so far as possible, all information required by that institution.

Article 50. 1. Administrative costs resulting from the application of this Arrangement, including costs arising from the transfer and payment of benefits and, notably, those resulting from the investigations to be made in pursuance of articles 6, 23, 42, 45 and 49 of this Arrangement, shall be borne by the insurance institutions of the Contracting Parties responsible for the measures of implementation, with the exception of those referred to in paragraph 2.

2. The costs of medical examinations and investigations to determine working or earning capacity, as well as the costs of travel, food and housing and all other resulting costs shall be advanced by the institution responsible for the investigation and repaid by the requesting institution. Repayment shall be made through the competent centralizing agencies on the basis of the rates and provisions applied by the institution responsible for the examination and must be effected within six months from the receipt of the list of costs. Such repayment shall not take place, however, where the examinations or investigations in question would have been required independently of the said request. The insurance institutions in question shall communicate to each other, on request, the approximate costs that will be entailed by the examinations and investigations requested.

Article 51. The forms called for by this Arrangement shall be established by mutual consent, in respect of Switzerland, by the Federal Office of Social Insurance, and in respect of Italy, by the institutions designated by the competent authority.

PART V. TRANSITIONAL AND FINAL PROVISIONS

Article 52. The competent authorities of the Contracting Parties may decide by agreement that articles 5 to 20 shall apply in whole or in part to Swiss nationals domiciled in Italy.

Article 53. 1. Italian nationals who request the transfer of contributions pursuant to article 23, paragraph 5, of the Convention must address their application to the competent provincial headquarters of INPS. Those resident in Italy shall use for that purpose the special form provided to INPS by the Caisse suisse.

2. The Caisse suisse shall send any transfer applications addressed to it direct to the competent provincial headquarters of INPS or, if it does not know which headquarters is competent, to the General Direction of INPS, after entering the date of receipt of the application on the application itself.

3. The Caisse suisse shall rule on the application and send its decision, in duplicate, to the General Direction of INPS, which shall forward one copy to applicant.

4. Article 8 of this Arrangement shall apply *mutatis mutandis*.

5. At the same time that it transfers the contributions to the General Direction of INPS, the Caisse suisse shall send it a list, in duplicate, of insured persons for whom the contributions have been transferred.

Article 54. This Arrangement shall enter into force on the same date as the Convention between the Swiss Confederation and the Italian Republic on Social Security concluded on 14 December 1962 and shall have the same period of validity as the Convention.

DONE at Berne, on 18 December 1963, in duplicate in the French and Italian languages, both texts being equally authentic.

For the Federal Office
of Social Insurance:

MOITA

For the Ministry of Labour
and Social Security:

CAPORASO

[TRANSLATION — TRADUCTION]

SUPPLEMENTARY AGREEMENT¹ TO THE CONVENTION BETWEEN THE SWISS CONFEDERATION AND THE ITALIAN REPUBLIC ON SOCIAL SECURITY OF 14 DECEMBER 1962²

In pursuance of article 13, paragraph 2, of the Convention between the Swiss Confederation and the Italian Republic on Social Security of 14 December 1962² (hereinafter referred to as "the Convention"), the competent authorities pursuant to article 18, paragraph 3, of the Convention, namely:

—In relation to Switzerland: the Federal Office of Social Insurance, represented by Mr. Cristoforo Motta, its Vice-Director;

—In relation to Italy: the Ministry of Labour and Social Security, represented by Mr. Giovanni Caporaso, Inspector-General of the said Ministry,

have agreed on the following provisions concerning benefits in cases of occupational diseases (articles 13 and 14 of the Convention):

Article 1. If an insured person contracts an occupational disease after having engaged, in the territory of both Contracting Parties, in an occupation liable to cause that disease, the insurance institution of each Party shall take into account also the occupation exercised in the territory of the other Party and subject to the insurance of that Party in determining entitlement to and the amount of benefits to be awarded. For that purpose, the following provisions shall apply:

- (a) The insurance institution of each Contracting Party shall consider, on the basis of the statutory provisions which apply to it, whether the insured person satisfies the requirements for entitlement to the benefits provided for under those provisions, taking into account the occupation exercised in the territory of the other Party and subject to the insurance of that Party;
- (b) If, by virtue of sub-paragraph (a), the insured person is entitled to benefits provided for under the legislation of both Contracting Parties, benefits in kind and temporary cash benefits shall be granted, for a period of three months, solely by the insurance institution of the Contracting Party in whose territory the insured person resides, in accordance with the statutory provisions in force in that territory;
- (c) At the end of the three months, the further cost of the benefits in question shall be divided between the insurance institutions in accordance with the procedures laid down in sub-paragraph (d). These same procedures shall apply after three months in the case of silicosis and asbestosis where the Italian institution grants annuities and the Swiss institution grants temporary cash benefits;
- (d) For the calculation of the annuities to be paid, each insurance institution shall first determine the period during which the insured person exercised in

¹ Came into force on 1 September 1964, the date of entry into force of the Convention, in accordance with article 5 (1).

² See p. 116 of this volume.

the territory of the two Contracting Parties an occupation subject to insurance and liable to cause or to aggravate an occupational disease. Each institution shall next determine the amount of the annuity to which the insured person would have been entitled if the occupation liable to give rise to the occupational disease which was exercised in the territory of both Contracting Parties had been exercised solely in the territory of the Party in whose territory the said institution is situated. On the basis of that amount, each insurance institution shall next determine its share by taking into account the relationship between the length of time during which the occupation in question was exercised in the territory of the Contracting Party in which the institution is situated and the total length of time during which the occupation in question was exercised in the territory of both Contracting Parties. The amount thus determined shall constitute the benefit payable to the insured person by that institution;

(e) In case an annuity must be recalculated owing to aggravation of the occupational disease, the proportional share of each insurance institution shall remain unchanged.

Article 2. Article 1, sub-paragraphs (a) and (d), shall apply also for the purpose of determining survivors' annuities.

Article 3. Where the amount of the benefit to which, but for the application of articles 1 and 2, the person concerned would be entitled solely in respect of the occupation periods completed in the territory of one Contracting Party and subject to the insurance of that Party is greater than the total benefits accruing from the application of the said articles, he shall be entitled to receive under the insurance of that Party an additional amount equal to the difference.

Article 4. If the insurance institution of the Contracting Party in whose territory the insured person ordinarily resides considers that the person has an occupational disease for which compensation is payable and an annuity is to be awarded, it must then, even before determining the amount of the annuity, grant advances to the insured person or his survivors and inform the competent insurance authority of the other Contracting Party. The latter shall be required to effect reimbursement for the share of benefits, if any, for which it is liable.

Article 5. 1. This Supplementary Agreement shall enter into force on the same date as the Convention between the Swiss Confederation and the Italian Republic on Social Security signed at Rome on 14 december 1962.

It shall have the same period of validity as the Convention.

2. No provision of this Agreement shall confer any right to the payment of benefits for a period prior to its entry into force.

3. Any period of exposure to risk covered by insurance prior to the date of entry into force of this Agreement shall be taken into account for the purpose of determining entitlement to benefits arising under this Agreement and the amount of those benefits.

4. Subject to the provisions of paragraph 2 above, a benefit shall be payable under this Agreement even if it relates to an event which antedates the entry into force of the Agreement.

5. The provision of this Agreement shall not apply in the case of occupational diseases for which a declaration was filed before the entry into force of

this Agreement and which conferred the right to benefits under the legislation of a Contracting Party.

6. In the case of declarations filed after the date of entry into force of this Agreement for an occupational disease ascertained medically to have been contracted before that date, the provisions of the legislation of the Contracting Parties relating to the lapse and extinction of rights shall be inapplicable to the persons concerned, provided that such declarations are submitted within two years from the said date.

DONE at Berne, on 18 December 1963, in two copies, one in French and one in Italian, both texts being equally authentic.

For the Federal Office
of Social Insurance:

MOTTA

For the Ministry of Labour
and Social Security:

CAPORASO

[TRANSLATION — TRADUCTION]

ADDITIONAL AGREEMENT¹ TO THE CONVENTION BETWEEN
THE SWISS CONFEDERATION AND THE ITALIAN REPUBLIC
ON SOCIAL SECURITY OF 14 DECEMBER 1962²

The Swiss Federal Council and the President of the Italian Republic,

Desiring to supplement the Convention between the Swiss Confederation and the Italian Republic on Social Security of 14 December 1962² (hereinafter referred to as "the Convention"), have decided to conclude an additional agreement to that Convention and for that purpose have appointed as their plenipotentiaries:

The Swiss Federal Council: Mr. Cristoforo Motta, Delegate for international conventions on social security,

The President of the Italian Republic: Mr. Enrico Martino, Ambassador extraordinary and plenipotentiary of the Italian Republic to Switzerland,

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

Article 1. 1. Italian nationals shall have the right, notwithstanding the provisions of article 7 of the Convention, to apply, upon the occurrence of the old-age insurance contingency in accordance with Italian legislation, for the transfer to Italian social insurance of the contributions paid by them and by their employers to Swiss old-age and survivors' insurance if they have not yet received any Swiss old-age, survivors' and invalidity insurance benefit, provided that they have quitted Switzerland to take up residence definitively in Italy or in a third country during the year following the date on which the said contingency occurred at the latest. Where spouses have both paid contributions to Swiss old-age and survivors' insurance, they may apply individually for the transfer of their own contributions. However, where only the wife's contributions have been transferred, the husband shall be entitled only to a single annuity under old-age, survivors' and invalidity insurance, to the exclusion of the supplementary annuity for the wife.

2. Italian nationals whose contributions have been transferred to Italian social insurance pursuant to paragraph 1 above and survivors of such nationals shall no longer have any entitlement whatsoever in respect of Swiss old-age, survivors' and invalidity insurance. Nor shall any contributions that may be paid to that insurance subsequent to the said transfer confer any entitlement to benefits; however, the contributions paid to old-age and survivors' insurance may, on application, be transferred to Italian insurance on the occurrence of an insurance contingency in accordance with Swiss legislation.

3. Italian social insurance shall employ the transferred contributions for the benefit of the insured person or his survivors in order to enable them to enjoy

¹ Came into force on 1 July 1973, i.e., the first day of the month following the exchange of the instruments of ratification, which took place at Rome on 30 June 1973, with the exception of article 1, which took effect on 1 September 1969, in accordance with article 6 (2).

² See p. 116 of this volume.

the advantages arising under the Italian legislation referred to in article 1 of the Convention in accordance with special provisions laid down by the Italian authorities. If, under Italian legislation, no pension advantage accrues to the insured person or his survivors from the contributions transferred, Italian social insurance shall repay to them the contributions that have been transferred.

Article 2. Italian nationals whose personal share of contributions to Swiss old-age and survivors' insurance had been transferred to Italian insurance under the Convention of 4 April 1949 shall have the right to request the transfer of the employer's contributions, after deduction of interest paid, if there results any entitlement to benefits under Italian pension insurance or any increase in the benefit to be granted or already awarded or if such contributions can be reimbursed to the person concerned. Survivors of the said nationals shall be given the same right if they are eligible for benefits.

Article 3. 1. Swiss and Italian frontier workers who engage or have engaged in a gainful occupation in Switzerland shall be eligible for the measures of Swiss invalidity insurance necessary for their reinstatement in Swiss economic life if they have paid contributions in accordance with Swiss legislation for at least two years during the three years immediately preceding the time when such measures are to be considered.

2. Swiss and Italian frontier workers who engage or have engaged in a gainful occupation in Italy shall be eligible for the benefits relative to the prevention and treatment of invalidity provided for by Italian legislation under the same conditions as Italian insured persons.

3. Swiss and Italian frontier workers who engage or have engaged in a gainful occupation in Switzerland and have paid contributions to Swiss old-age, survivors' and invalidity insurance for at least two years during the three years immediately preceding the occurrence of the insurance contingency shall be treated, in respect of ordinary invalidity annuities, the same as insured persons within the meaning of Swiss legislation.

Article 4. 1. For the purposes of article 8, sub-paragraph (a), of the Convention, children born handicapped in Italy whose mother has not resided in Italy more than a total of two months before the birth of the child shall be treated the same as children born handicapped in Switzerland. Swiss invalidity insurance shall assume responsibility for congenital child disability benefits for a period of three months after birth in so far as it would have been required to grant such benefits in Switzerland.

2. For the purpose of determining, in accordance with the same provisions, the length of uninterrupted residence in Switzerland since the birth of the child, a stay of three months at most by the child in Italy immediately after birth shall be assimilated to a period of residence in Switzerland with regard to the granting of Swiss invalidity insurance benefits.

Article 5. The conditions of eligibility for Italian voluntary continued invalidity, old-age and survivors' insurance can also be satisfied by Italian nationals on the basis of the contribution periods completed under Swiss old-age and survivors' insurance alone. In the determination of the category and contribution class in which the person concerned is to be placed according to the Italian legislation on voluntary payments, account shall be taken of remuneration subject to payment of contributions under Swiss old-age and survivors' insurance.

Article 6. 1. This Additional Agreement shall be ratified and the instruments of ratification shall be exchanged at Rome as soon as possible.

2. This Additional Agreement shall enter into force on the first day of the month following the month in which the instruments of ratification are exchanged; article 1, however, shall take effect from 1 September 1969.

Article 7. This Additional Agreement shall remain in force for the same period and subject to the same conditions as the Convention.

IN WITNESS WHEREOF the plenipotentiaries of the two Contracting Parties have signed this Additional Agreement.

DONE at Berne, on 4 July 1969, in two copies, one in French and one in Italian, both texts being equally authentic.

For the Swiss Federal Council:

CRISTOFORO MOTTA

For the Government
of the Italian Republic:

ENRICO MARTINO

FINAL PROTOCOL

At the time of signing, this day, the Additional Agreement to the Convention between the Swiss Confederation and the Italian Republic on Social Security of 14 December 1962, the plenipotentiaries of the two Contracting Parties have agreed on the following:

1. Where a frontier worker does not satisfy the conditions for the award of an ordinary Swiss invalidity annuity pursuant to article 3, paragraph 3, of the Additional Agreement, the regulations in article 8, sub-paragraph (b), of the Convention taken in relation to article 5 of the Additional Agreement shall apply as appropriate.

2. Italian nationals shall be considered insured under the Italian insurance schemes within the meaning of article 8, sub-paragraph (b), of the Convention:

- (a) If contributions are paid to Italian compulsory insurance, voluntary continued insurance or optional insurance;
- (b) During the following assimilated periods in accordance with Italian statutory provisions in so far as they immediately follow a compulsory contribution period under Italian or Swiss insurance or a voluntary continued insurance period in accordance with Italian legislation, a period of 10 weeks maximum between the end of the compulsory insurance and the beginning of an assimilated period being ignored:
 - (i) Periods of sickness certified in due time, up to a total duration of 12 months;
 - (ii) Periods of stay in therapeutic establishments in the case of tuberculosis, where such stay takes place under the insurance of the person himself;
 - (iii) Periods of receipt of post-sanatorium compensation awarded under the insurance of the person himself, up to a duration of one year after discharge from the therapeutic establishment;
 - (iv) Periods of compulsory interruption of work during pregnancy and confinement, for a maximum duration of three months before and eight weeks after childbirth;
 - (v) Periods of unemployment during which ordinary employment compensation is granted, for a maximum duration of 180 consecutive days.

3. The competent authorities designated in article 18 of the Convention shall examine and determine by agreement in which cases and to what extent periods during which an Italian national is in receipt of an Italian invalidity pension can be taken into account for the purposes of article 8, sub-paragraph (b), of the Convention.

The present Final Protocol, which is an integral part of the Additional Agreement concluded this day between Switzerland and Italy, shall be ratified and shall remain in force subject to the same conditions and for the same period as the Additional Agreement.

DONE at Berne, on 4 July 1969, in two copies, one in French and one in Italian, both texts being equally authentic.

For the Swiss Federal Council:

CRISTOFORO MOTTA

For the Government
of the Italian Republic:

ENRICO MARTINO

[TRANSLATION — TRADUCTION]

ADDITIONAL PROTOCOL¹ TO THE ITALIAN-SWISS ADDITIONAL AGREEMENT OF 4 JULY 1969²

In pursuance of section 3 of the Final Protocol to the Italian-Swiss Additional Agreement of 4 July 1969,² the Swiss Federal Office of Social Insurance and the Italian Ministry of Labour and Social Security have agreed as follows:

Article 1. Italian nationals shall be considered insured under the Italian insurance scheme within the meaning of article 8, sub-paragraph (b), of the Convention of 14 December 1962³ also in periods during which they are entitled to an invalidity pension under Italian social insurance.

Article 2. Article 1 shall apply to cases in which the invalidity as defined by Swiss law occurred after 30 June 1969.

Article 3. Invalidity annuities to which entitlement is acquired under the provisions of this Protocol shall be granted from the date of entry into force of the Additional Agreement at the earliest.

Article 4. In cases where the insurance contingency, according to Swiss law, occurred after 30 June 1969 and where a claim for a Swiss invalidity annuity has been rejected by an administrative decision, whether or not confirmed by the judicial authorities, the persons concerned may file an annuity claim afresh; in cases in which such claim is filed before 1 July 1975, benefits shall be paid, subject to article 3, with retroactive effect from the date of occurrence of the insurance contingency; if the claim is filed after 30 June 1975, the annuity shall be granted from the date of filing of the claim.

DONE at Berne and Rome, on 25 February 1974, in duplicate in the French and Italian languages, both texts being equally authentic.

For the Federal Office
of Social Insurance:

C. MOTTA

For the Ministry of Labour
and Social Security:

BERTOLDI

¹ Came into force on 25 February 1974 by signature.

² See p. 145 of this volume.

³ See p. 116 of this volume.