

**No. 22410**

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**FRANCE  
and  
GABON**

**Agreement on social security (with protocol). Signed at  
Paris on 2 October 1980**

*Authentic text: French.*

*Registered by France on 26 October 1983.*

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**FRANCE  
et  
GABON**

**Accord sur la sécurité sociale (avec protocole). Signé à Paris  
le 2 octobre 1980**

*Texte authentique : français.*

*Enregistré par la France le 26 octobre 1983.*

## [TRANSLATION — TRADUCTION]

AGREEMENT<sup>1</sup> ON SOCIAL SECURITY BETWEEN THE GOVERNMENT OF THE FRENCH REPUBLIC AND THE GOVERNMENT OF THE GABONESE REPUBLIC

The Government of the French Republic and the Government of the Gabonese Republic,

Being resolved to co-operate in the social field,

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

Desiring to enable workers of either country engaged or formerly engaged in an activity in the other country, to preserve the rights acquired under the legislation applicable in that other country,

Have decided to conclude an Agreement to co-ordinate the application of French and Gabonese social security legislation to French and Gabonese nationals and, to that end, have agreed on the following provisions:

## PART I. GENERAL PROVISIONS

*Article 1. EQUAL TREATMENT*

1. Gabonese nationals engaged in France in permanent or seasonal wage earning employment or an activity treated as such shall be subject to the social security legislation specified in article 3 of this Agreement applicable in France, and they and their eligible dependants residing in France shall enjoy the benefits thereof on the same conditions as French nationals.

2. French nationals engaged, in Gabon, in permanent or seasonal wage earning employment or an activity treated as such shall be subject to the social security legislation specified in article 3 of this Agreement applicable in Gabon, and they and their eligible dependants residing in Gabon shall enjoy the benefits thereof on the same conditions as Gabonese nationals.

*Article 2. TERRITORIAL SCOPE*

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

—In the case of Gabon: the Gabonese Republic;

—In the case of France: the European and overseas departments of France.

*Article 3. MATERIAL SCOPE*

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

—In France:

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

<sup>1</sup> Came into force on 1 February 1983, i.e., the first day of the second month following the date of the last of the notifications by which the Contracting Parties informed each other (on 5 March 1981 and 17 December 1982) of the completion of the required constitutional procedures, in accordance with article 64.

- (b) The social insurance legislation applicable:
  - To non-agricultural wage-earners; and
  - To agricultural wage-earners and persons treated as such with the exception of provisions which extend the options of joining voluntary insurance schemes to French nationals, whether wage-earners or self-employed persons working outside French territory;
- (c) The legislation relating to the prevention of, and compensation for, industrial accidents and occupational diseases;
- (d) The legislation relating to family allowances;
- (e) The legislation relating to social security schemes, in so far as they deal with the risks or benefits covered by the legislation specified in the foregoing subparagraphs, in particular the social security scheme for the mining industry;
- (f) The legislation relating to the scheme for seamen, on the conditions specified, when appropriate, by the administrative agreement relating to the implementation of this Agreement.

—In Gabon:

- (a) The legislation relating to family allowances and maternity benefits;
- (b) The legislation relating to the prevention of, and compensation for, industrial accidents and occupational diseases;
- (c) The legislation relating to old-age, disability and survivors' benefits;
- (d) The legislation relating to health benefits (free medicines, medical evacuation abroad, coverage of hospital costs in university-type and first-class health establishments).

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

However, it shall apply:

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

3. The condition on which the provisions of Gabonese and French legislation concerning the scheme for students may be applied to Gabonese and French nationals shall be the subject of a separate protocol.

#### *Article 4. PERSONAL SCOPE*

1. This Agreement shall cover nationals of either Contracting Party engaged or formerly engaged as permanent or seasonal workers, in wage-earning employment or in an activity treated as such, and their dependants.

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

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

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

#### *Article 5. APPLICABLE LEGISLATION*

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

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

- (a) A wage-earner working for an enterprise which has, in the territory of either State, a place of business in which he is ordinarily employed and who is assigned by that enterprise to the territory of the other State in order to carry out specific work on behalf of that enterprise shall remain subject to the legislation of the former State as if he were still working in its territory, provided that the expected duration of the work to be carried out does not exceed one year.

If, as a result of unforeseen circumstances, the work is extended beyond the period initially planned and exceeds one year, the legislation of the first State shall remain applicable until the completion of that work, provided that the competent authority of the latter State has been duly informed of said extension prior to the completion of the first one-year period. Such extension shall not exceed one year;

- (b) Wage-earners, other than those referred to in article 4 (paragraph 3 (b)), in the service of an administrative department of one of the Contracting States who are assigned to the territory of the other State shall continue to be subject to the social security scheme of the State which assigned them;
- (c) Wage-earners who are members of the staff of diplomatic or consular posts, other than those referred to in article 4 (paragraph 3 (c)), or who are in the personal employ of agents of such posts, may opt to be subject to the legislation of either Contracting Party, provided that they are nationals of the State represented;
- (d) Personnel, other than civil servants, placed at the disposal of one of the Contracting Parties by the other Party on the basis of a service contract drawn up under agreements for assistance in the form of personnel concluded between France and Gabon shall be subject to the legislation of the last-mentioned Contracting Party.
- (e) Wage-earners of public or private transport enterprises of one of the Contracting States who are employed in the territory of the other State, either temporarily or as travelling personnel, shall be subject to the social security scheme in force in the territory of the State in which the enterprise has its head office.

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

*Article 6.* VOLUNTARY INSURANCE

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

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

PART II. SPECIAL PROVISIONS

Chapter 1. FAMILY ALLOWANCES

*Article 7.* AGGREGATION OF PERIODS OF EMPLOYMENT

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

*Article 8.* ENTITLEMENT TO FAMILY ALLOWANCES FROM THE COUNTRY  
OF RESIDENCE OF THE CHILDREN

1. Wage-earners working in France or in Gabon may claim, in respect of their children residing in the territory of the other country, the family allowances provided for under the legislation of the country of residence of the children, if they fulfil the occupational requirements to be laid down in the administrative agreement.

2. The family allowances referred to in paragraph 1 shall be payable on the basis of periods of employment or periods treated as such, as defined in the legislation of the country of employment relating to family allowances.

*Article 9.* ELIGIBLE CHILDREN

Children eligible for the family allowances referred to in article 8 shall be the worker's dependent children within the meaning of the legislation of their country of residence.

*Article 10.* PAYMENT OF FAMILY ALLOWANCES

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

*Article 11. PARTICIPATION OF THE COUNTRY OF EMPLOYMENT*

1. The competent institution of the country of employment of the worker shall pay directly to the central institution of the country of residence of the children a lump-sum contribution computed on the basis of one to three children.

2. The amount of the contribution for each child shall be indicated in a scale to be drawn up by agreement between the competent administrative authorities of the two countries and annexed to the administrative agreement.

3. The scale may be revised in the light of changes in the basis for computing the amount of family allowances occurring in both countries during the same year. Such revision may take place only once a year.

4. The manner of payment of the contribution provided for in this article shall be determined by administrative agreement.

*Article 12. WORKERS ON ASSIGNMENT*

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

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

Chapter 2. SICKNESS AND MATERNITY BENEFITS

*Article 13. ENTITLEMENT*

Wage-earners or persons treated as such who go from France to Gabon or from Gabon to France shall receive, together with their dependants living in the territory of the country of the new place of employment, sickness or maternity benefits from that country if:

- (a) These wage-earners have worked in that country in an occupation subject to such insurance;
- (b) They satisfy the requirement in that country for the receipt of such benefits.

*Article 14.* 1. If, for the purpose of entitlement to sickness benefits, the person concerned has not completed the insurance period required under the legislation of the new country of employment, insurance periods or equivalent periods previously completed in the other country shall be added to the insurance periods or equivalent periods completed in the new country of employment.

2. However, such periods may be aggregated only if not more than two months have elapsed between the end of the insurance period in the first country and the beginning of the insurance period in the new country of employment.

*Article 15. PAID LEAVE*

1. French wage-earners working in Gabon or Gabonese wage-earners working in France shall be eligible for sickness benefits in kind (medical care), if, during a temporary stay in their respective countries of origin while on paid leave, their condition necessitates emergency medical care, including hospitaliza-

tion, provided that the Gabonese or French institution with which they are insured has given its authorization. Such authorization shall be valid for up to three months.

2. However, this period may be extended for a further three months by decision of the insuring institution, on the recommendation of its medical advisers.

3. In cases of exceptionally serious illness, the insurance institution shall allow benefits to be continued beyond the six-month period referred to above, on the conditions specified in the administrative agreement.

*Article 16. TRANSFER OF RESIDENCE OF WORKERS*

1. A French wage-earner working in Gabon or a Gabonese wage-earner working in France, who is receiving sickness benefits in kind (medical care) from a Gabonese institution in the former case or a French institution in the latter case shall continue to receive such benefits if he transfers his residence to the territory of the other country, provided that prior to his departure he obtained the authorization of the Gabonese or French institution with which he is insured.

2. Such authorization shall be valid for up to three months.

3. However, this period may be extended on the conditions provided for in article 15 (paragraphs 2 and 3) of this Agreement.

*Article 17. TEMPORARY STAY*

1. French wage-earners working in France or Gabonese wage-earners working in Gabon shall be eligible for sickness benefits in kind (medical care) in the territory of the other country if, during a temporary stay (other than those referred to in articles 15 and 16), their condition necessitates emergency medical care, including hospitalization, provided that the French or Gabonese institution with which they are insured has given its authorization.

2. Such authorization shall be valid for up to three months.

3. However, this period may be extended on the conditions provided for in article 15 (paragraphs 2 and 3) of this Agreement.

*Article 18. TRANSFER OF RESIDENCE (MATERNITY)*

1. A French female wage-earner working in Gabon and receiving maternity benefits from a Gabonese institution shall be eligible for such benefits under the French scheme if she transfers her residence to the territory of France, provided that prior to her departure she obtained the authorization of the Gabonese institution with which she is insured.

A Gabonese female wage-earner working in France and receiving maternity benefits from a French institution shall be eligible for such benefits under the Gabonese scheme if she transfers her residence to the territory of Gabon, provided that prior to her departure she obtained the authorization of the French institution with which she is insured.

2. The authorization referred to in the two preceding paragraphs shall be valid until the end of the benefit period provided for by the legislation of the State in which she is employed. Authorization may be withheld only on medical grounds.

3. However, in the event of complications during pregnancy or following childbirth, the benefit period may be extended upon certification and on the recommendation of the medical advisers of the insuring institution.

*Article 19. PROVISION OF BENEFITS*

In the cases specified in articles 15, 16, 17 and 18, benefits in kind (medical care) shall be provided by the institution of the new country of residence or the country of temporary residence of the worker, in accordance with the provisions of the legislation applicable in that country with regard to the extent of such benefits and the manner of providing them.

In the case specified in article 18, cash benefits (daily allowances) shall be paid by the institution of the country in which the female wage-earner is insured.

*Article 20. COST OF BENEFITS*

In the cases specified in articles 15, 16, 17 and 18, the cost of benefits shall be borne by the institution with which the worker is insured. The administrative agreement shall determine the manner in which benefits in kind shall be reimbursed by the insuring institution to the institution of the new country of residence or the country of temporary residence of the worker.

*Article 21. FAMILY BENEFITS*

1. Family members of a French or Gabonese wage-earner who are resident, or again become resident, in France or in Gabon while the wage-earner engages in employment in the other country, shall be entitled to sickness or maternity benefits in kind (medical care).

Family members accompanying the worker during a temporary stay in his country of origin while on paid leave shall also be entitled to such benefits.

2. Who the family members are, the extent and duration of these benefits and the manner in which they are to be provided shall be determined in accordance with the legislative provisions of the country in which the family is resident or temporarily resident.

3. Benefits shall be provided by the institution of the country in which the family is resident or temporarily resident.

4. The cost of these benefits shall be borne by the social security scheme of the country in which the worker is insured, which shall reimburse to the social security scheme of the country in which the family resides seventy-five percent of the expenses involved in the manner determined in the administrative agreement.

*Article 22*

The competent French and Gabonese authorities may, for purposes of simplification, decide by agreement that all or some of the expenses referred to in articles 15, 16, 18 and 21 shall not be subject to any reimbursement between the institutions of the two countries.

*Article 23. BENEFITS FOR WORKERS ON ASSIGNMENT*

1. The French or Gabonese workers referred to in article 5 (paragraph 2(a)) of this Agreement, as well as members of their family accompanying them, shall



be entitled to sickness and maternity benefits throughout their stay in the country in which they are employed.

2. Benefits in kind shall be provided either by the institution of the country in which the worker is temporarily resident or directly by the institution with which he is insured.

3. Cash benefits shall be paid directly by the Institution with which the worker on assignment is insured.

*Article 24. MAJOR BENEFITS IN KIND*

The provision of prosthetic devices, large appliances and other major benefits in kind, a list of which will be annexed to the administrative agreement, shall be subject, except in emergencies, to authorization by the insuring institution. Such authorization shall not, however, be required in the case of costs to be reimbursed on a flat-rate basis.

Chapter 3. INDUSTRIAL ACCIDENTS AND OCCUPATIONAL DISEASES

*Article 25. WAIVER OF RESIDENCE CLAUSES*

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

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

*Article 26. TRANSFER OF RESIDENCE*

1. A French worker who has sustained an industrial accident or contracted an occupational disease in Gabon or a Gabonese worker who has sustained an industrial accident or contracted an occupational disease in France, and who has been receiving the benefits payable during the period of temporary disability shall continue to receive such benefits if he transfers his residence to the territory of the other Party.

2. The worker shall, before transferring his residence, obtain the authorization of the insuring institution. Such authorization shall be given up to the anticipated date of recovery or healing of the injury.

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

*Article 27. RELAPSE*

If, following an accident or occupational disease, a French or Gabonese wage-earner suffers a relapse after transferring his residence to the other country, he shall be entitled to industrial accident insurance benefits in kind and in cash, provided that he has obtained, except in emergencies, the authorization of the

Gabonese or French institution with which he was insured at the time of the accident or of the original diagnosis of the occupational disease.

*Article 28. PROVISION OF TEMPORARY DISABILITY BENEFITS*

1. Benefits in kind (medical care) under articles 26 and 27 shall be provided by the institution of the new country of residence of the person concerned, in accordance with the provisions of the legislation applied by that institution as regards the extent of such benefits and the manner of providing them.

2. Cash benefits under articles 26 and 27 shall be provided by the institution with which the person concerned is insured, in accordance with the legislation applied by the institution.

*Article 29. COST OF TEMPORARY DISABILITY*

1. The cost of benefits referred to under articles 26 and 27 shall be borne by the institution with which the person concerned is insured.

2. The administrative agreement shall specify the manner in which benefits in kind are to be reimbursed by the insuring institution to the institution of the new country of residence.

*Article 30. MAJOR BENEFITS IN KIND*

In the cases specified in articles 26 and 27, the provision of prosthetic devices, large appliances and other major benefits in kind, a list of which will be annexed to the administrative agreement, shall be subject, except in emergencies, to prior authorization by the insuring institution.

*Article 31. SUCCESSIVE ACCIDENTS*

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

*Article 32. PENSIONS FOR SURVIVING SPOUSES*

In the event of death following an industrial accident, if the deceased according to his civil status, had more than one wife, the pension payable to a surviving spouse shall be apportioned equally and finally among the wives.

*Article 33. OCCUPATIONAL DISEASES*

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

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

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

- (a) If the legislation of one of the Parties makes it a condition for the award of occupational disease benefits that an activity which could have caused that disease shall have been carried on for a certain length of time, the competent institution of that Party shall take into account, to the extent necessary, the periods during which such activity was carried on in the territory of the other Party;
- (b) The cost of pensions shall be apportioned between the competent institutions of the two Parties in the manner specified in the administrative agreement.

#### *Article 34.*    WORSENING OF AN OCCUPATIONAL DISEASE

If an occupational disease for which compensation is being paid under the legislation of one of the Parties worsens while the person concerned is resident in the territory of the other Party, the following rules shall apply:

- (a) If the worker has not engaged in the territory of his new country of residence in an occupation which could have caused that occupational disease, the institution of the first country shall bear the resultant costs under the terms of its own legislation;
- (b) If the worker has engaged in the territory of his new country of residence in an occupation which could have caused that occupational disease:
  - The institution of the first-mentioned Party shall continue to be liable for the benefit payable to the person concerned under its own legislation as if there had been no worsening of the disease;
  - The institution of the other Party shall bear the cost of additional benefits associated with the worsening of the disease. The amount of the additional benefits shall be determined in accordance with the legislation of that Party as if the disease had been contracted in its own territory; it shall be equal to the difference between the amount of the benefit payable before the worsening of the disease and the amount payable after it.

### Chapter 4.    DISABILITY BENEFITS

#### *Article 35.*    AGGREGATION OF INSURANCE PERIODS

1. In the case of French and Gabonese wage-earners who go from one country to the other, insurance periods or periods treated as such completed under the social security scheme of the first country shall, provided that they do not overlap, with insurance periods or equivalent periods completed under the scheme of the other country, be aggregated both for the purpose of determining entitlement to disability benefits in cash (pensions) or in kind (medical care) and for the purpose of maintaining or recovering that entitlement.

2. The disability pensions shall be paid in accordance with the legislation applicable to the person concerned at the time when he had to stop working as a result of the disease or accident and the subsequent disability.

The cost of the disability pension shall be borne by the competent institution under that legislation.

*Article 36. SUSPENSION OR DISCONTINUANCE*

1. If, after suspension of the disability pension, the insured person recovers his entitlement, payment of benefits shall be resumed by the institution liable for the pension originally awarded.

2. If, after the disability pension is discontinued, the condition of the insured person justifies the granting of a further disability pension, the latter shall be paid in accordance with the rules laid down in article 35.

*Article 37. CONVERSION OF DISABILITY PENSION INTO OLD-AGE PENSION*

1. The disability pension shall be converted, where appropriate, into an old age pension on the conditions laid down by the legislation applied by the institution liable for the pension once the conditions, for instance those relating to age required under the legislation of the country liable for awarding the old age pension have been met.

2. If the total benefits which an insured person can claim under each of the old age insurance schemes of the two Parties are less than the amount of the disability pension, a supplement equal to the difference shall be paid to him by the insurance scheme which was liable for that pension.

*Article 38. SPECIAL SCHEME FOR MINeworkERS*

However, the occupational disability pension provided for under special legislation relating to mineworkers in France shall be granted to insured persons who were subject to that legislation at the time when the accident or disease which caused the disability occurred and who have resided in France or in Gabon up to the time of payment of such pension. The pension shall cease to be paid to pensioners who resume work outside France.

Chapter 5. BENEFITS IN RESPECT OF OLD AGE AND DEATH  
(SURVIVORS' PENSIONS)

*Article 39. RIGHT OF OPTION*

1. French or Gabonese wage-earners who during their working lives have been insured successively or alternately in the territory of both Contracting States with one or more insurance schemes in each of these States may, when they become entitled to old age benefits, opt to have the legislation of each of the Contracting States applied jointly or separately.

2. If death, creating an entitlement to the award of a survivor's pension, occurs before the worker's entitlement in respect of old age benefits, has been determined, his dependants may exercise the option referred to in paragraph 1 of this article.

*Article 40. DETERMINATION OF BENEFITS BY AGGREGATION OF PERIODS*

If the worker opts to have the legislation of the two countries applied jointly, the benefits which he may claim under the legislation of both countries shall be determined in accordance with the following rules:

1. Aggregation of insurance periods

(a) Insurance periods completed under the legislation of each of the Contracting States and periods recognized as equivalent to insurance periods

shall, provided that they do not overlap, be aggregated both for the purpose of determining entitlement to benefits and for the purpose of the maintenance or recovery of such entitlement;

- (b) The rules to be followed in the event that insurance periods overlap shall be determined in the administrative agreement;
- (c) Periods recognized as equivalent to insurance periods shall, in each country, be those recognized as such under the legislation of that country;
- (d) If the legislation of one of the Contracting Parties makes it a condition for entitlement to an old age benefit that the insurance periods shall have been completed within a certain period of time, that condition shall be deemed to be satisfied if the insurance periods completed under the legislation of the other Contracting Party were completed within the same period of time.

## 2. Determination of benefits

- (a) Taking into account the aggregation of periods specified above, the competent institution of each country shall determine, in accordance with its own legislation, whether the person concerned meets the requirements for entitlement to an old age pension under that legislation;
- (b) Where such entitlement exists, the competent institution of each country shall determine *pro forma* the benefit to which the insured would be entitled if all the insurance periods or periods recognized as equivalent, aggregated according to the rules set forth in the preceding paragraph, had been completed exclusively under its own legislation;
- (c) The benefit actually payable to the person concerned by the competent institution of each country shall be determined by pro-rating the amount of the benefit referred to in the preceding paragraph to the proportion which the duration of the insurance periods or equivalent periods completed under its own legislation represents of all periods completed in the two countries;
- (d) If the entitlement to a pension exists by virtue of periods completed under the legislation of only one of the two States and the benefit thus determined is higher than that resulting from the procedure described in the preceding paragraphs, only the higher benefit under this legislation shall be taken into account.

### *Article 41. SPECIAL SCHEMES*

1. If the legislation of one of the Contracting States makes it a condition for the award of certain benefits that the insurance periods shall have been completed in an occupation which is subject to a special scheme or, as the case may be, in a given occupation or employment, periods completed under the legislation of the other Contracting State shall be taken into account for the purpose of the award of such benefits only if they were completed under a corresponding scheme or, failing that, in the same occupation or, where applicable, in the same employment.

2. If, taking into account the periods thus completed, the person concerned does not meet the conditions necessary for the enjoyment of such benefits, these periods shall be taken into account for the award of benefits under the general scheme, without taking into account their specificity.

*Article 42. SEPARATE DETERMINATION OF BENEFITS*

If the legislation of one Contracting Party provides that the amount of benefits or of certain elements thereof shall be calculated according to the proportion which the duration of the insurance periods completed bears to the maximum duration of insurance periods, the competent institution of that Party shall calculate these benefits or elements thereof directly on the basis of only the periods completed under the legislation which it applies, notwithstanding the provisions of article 40.

*Article 43. MINIMUM DURATION OF INSURANCE PERIODS*

1. If the insurance periods completed under French legislation amount to less than one year, the French Party shall be obliged to make a separate award of benefits payable in respect of such periods.

These periods may, however, be taken into account for the purpose of acquisition of entitlement to benefits by aggregation under Gabonese legislation within the terms of article 40 above, unless this would result in a reduction of the benefit payable under Gabonese legislation.

2. If the insurance periods completed under Gabonese legislation amount to less than one year, no benefit shall be payable under that legislation.

*Article 44. SUCCESSIVE APPLICATION OF LEGISLATION*

1. If the person concerned does not, at a given moment, meet the requirements imposed by the legislation of the two Contracting Parties, but those of only one Party, the following provisions shall apply:

(a) The amount of the benefits payable under the last-mentioned legislation shall be calculated in accordance with the provisions of article 40 or article 42 as the case may be;

(b) If the person concerned meets the requirements imposed by only one legislation without there being any need to resort to the provisions of article 40, the amount of the benefit payable shall be calculated in accordance with the provisions of only the legislation whose requirements are met, taking into account only the periods completed under that legislation.

2. If the requirements imposed by the legislation of the other Contracting Party are met, the benefits payable to the insured shall be revised under the terms of article 40, unless the provisions of article 42 have been applied.

*Article 45. SURVIVORS' BENEFITS*

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

2. If, according to his civil status, the insured had more than one wife at the time of his death, the benefit payable to the surviving spouse shall be determined as soon as one of the wives meets the conditions for entitlement to the benefit; the benefit shall be apportioned equally among the wives having entitlement.

A further apportionment shall be made whenever a wife meets the conditions for entitlement.

The death of one wife shall not lead to a further apportionment.

*Article 46.* WAIVER OF RESIDENCE CLAUSES

If the legislation of one of the Contracting States makes the award of certain benefits or the completion of certain formalities subject to conditions of residence in its territory, those conditions shall not apply to Gabonese or French nationals so long as they are resident in the territory of either Contracting State.

*Article 47.* EXPORT OF BENEFITS

If the nationals of either State are entitled to a benefit payable by the social security institutions of the other State and are resident in a third State, they shall receive their benefit on the same conditions as nationals of the other State.

*Article 48.* CALCULATION OF BENEFITS

If, under the legislation of one of the two States, the benefits are calculated on the basis of the average wage for all or part of the insurance period, the average wage to be taken into account for calculating the benefits payable by the institutions of that State shall be determined on the basis of the wages recorded during the insurance period completed under the legislation of that State.

PART III. MISCELLANEOUS PROVISIONS

Chapter 1. MEASURES FOR THE IMPLEMENTATION OF THE AGREEMENT

*Article 49.* DEFINITION OF THE COMPETENT ADMINISTRATIVE AUTHORITIES

In the territory of each Contracting Party, the ministers responsible in their respective fields for the implementation of the legislation specified in article 3 shall be deemed to be the competent administrative authorities for the purposes of this Agreement.

*Article 50.* GENERAL ADMINISTRATIVE AGREEMENT

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

2. In particular, the general administrative agreement shall:

- (a) Designate the liaison bodies of the two countries;
- (b) Regulate such arrangements for medical and administrative supervision and expert services as are required for the implementation both of this Agreement and of the social security legislation of the two countries;
- (c) Determine the financial arrangements for the implementation of this Agreement.

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

*Article 51.* INFORMATION AND MUTUAL ADMINISTRATIVE ASSISTANCE

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

- (a) Adopt, in addition to the general administrative agreement referred to in article 50, all administrative agreements supplementing or amending it;

- (b) Communicate directly to each other any information regarding measures taken in their respective countries to implement this Agreement and the agreements thereunder;
- (c) Report to each other any difficulties which may arise, at the technical level, from the implementation of the provisions of this Agreement or of the agreements thereunder;
- (d) Communicate directly to each other any information regarding amendments to the legislation and regulations referred to in article 3, in so far as they might affect the implementation of this Agreement or of the agreements adopted for its implementation.

2. The competent administrative authorities and social security institutions of the two Contracting Parties shall assist each other in the implementation both of this Agreement and of the social security legislation of the other Party as if they were implementing their own social security legislation.

## Chapter 2. PROVISIONS DEROGATING FROM DOMESTIC LEGISLATION

### *Article 52. EXEMPTIONS FROM FEES AND WAIVER OF LEGALIZATION*

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

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

### *Article 53. FORMALITIES*

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

### *Article 54. APPEALS*

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

2. If the authority or institution to which the appeal has been presented does not know which is the competent authority or institution, the appeal may be transmitted through the authorities specified in article 49 above.

### *Article 55. RECOVERY OF CONTRIBUTIONS*

Contributions and penalties due to an institution of one of the Contracting Parties may be recovered in the territory of the other Party, in accordance with



all procedures and subject to the guarantees and privileges applicable to the recovery of contributions and penalties due to the institution of the latter Party.

*Article 56. THIRD-PARTY LIABILITY*

If a person is receiving benefits under the legislation of one Contracting Party for an injury caused or sustained in the territory of the other Contracting Party, the rights of the institution liable for the payment of such benefits *vis-à-vis* the third party liable for compensation for the injury shall be regulated as follows:

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

*Article 57. PARTICIPATION IN THE OPERATION OF INSTITUTIONS*

There shall be no derogation from the rules laid down by the legislation specified in article 3 in respect of the participation of aliens in the establishment or replacement of the organs required for the operation of the social security institutions of either State.

Chapter 3. TRANSFERS

*Article 58. FREEDOM TO TRANSFER SOCIAL SECURITY FUNDS*

Notwithstanding any domestic provisions concerning exchange controls, the two Governments shall undertake not to obstruct in any way the free transfer of all monies representing payments made in connection with social security or social welfare transactions in implementation of either this Agreement or the domestic legislation of either country concerning wage-earners as well as self-employed persons, including payments under voluntary insurance and supplementary retirement schemes.

*Article 59. CURRENCY AND EXCHANGE RATES*

1. The institutions liable under this Agreement for the payment of benefits shall be deemed to discharge their liability validly by payment in the currency of their country.

2. Reimbursements provided for under this Agreement, calculated on the basis of actual expenditure or on a flat-rate basis, shall be expressed in the currency of the country of the institution which provided the benefit, at the rate of exchange prevailing on the day of settlement.

*Article 60. CENTRALIZATION OF BENEFITS*

The competent administrative authorities of the two countries may, by administrative agreement, delegate to the liaison bodies of the two countries the task of centralizing, with a view to their transfer to the other country, all or some of the benefits provided for under this Agreement. In such cases, the transfer of such benefits shall be effected through the banks of issue of the two Parties.

## Chapter 4. SETTLEMENT OF DISPUTES

### *Article 61*

1. Any difficulties relating to the implementation of this Agreement shall be settled by agreement between the competent administrative authorities of the Contracting Parties.

2. Should it prove impossible to reach a settlement by this means, the dispute shall be settled by agreement between the two Governments.

3. Should it prove impossible to settle the dispute by the latter procedure, the dispute shall be submitted to an arbitration procedure established by agreement between the two Governments.

### *Article 62*

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

2. Notwithstanding the provisions of paragraph 1, benefits which, prior to the entry into force of this Agreement, had not been awarded or had been awarded separately, or which had been suspended or reduced by reason of the nationality or residence of the recipients in implementation of the provisions in force in each of the contracting countries, may be awarded, restored or reviewed under the terms of this Agreement.

The award, restoration or review shall be carried out in accordance with the rules laid down in this Agreement subject to any insurance period completed under the legislation of one Contracting Party before the entry into force of this Agreement being taken into consideration in determining entitlements under the provisions of the said Agreement.

3. There shall, however, be no review if the entitlements previously awarded have been the subject of a lump-sum payment.

### *Article 63*

1. The benefits in question shall be awarded, restored or reviewed on the application of the persons concerned.

The application shall be submitted to the competent institutions of either Contracting Party.

It shall take effect from the first day of the month following that in which the application was submitted.

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

### *Article 64*

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

### *Article 65*

This Agreement shall remain in force for a period of two years from the date of its entry into force. It shall be renewed by tacit agreement for periods of one

year unless notice of denunciation is given six months prior to the expiry of any such period.

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

DONE at Paris on 2 October 1980 in duplicate, both texts being equally authentic.

For the Government  
of the French Republic:

[Signed]

JEAN FRANÇOIS PONCET

For the Government  
of the Gabonese Republic:

[Signed]

MARTIN BONGO

PROTOCOL CONCERNING THE GRANTING OF NON-CONTRIBUTORY OLD AGE BENEFITS UNDER FRENCH LEGISLATION TO NATIONALS OF THE GABONESE REPUBLIC RESIDENT IN FRANCE

The Government of the French Republic and the Government of the Gabonese Republic,

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

Considering that the Convention of establishment in force between France and Gabon stipulates that nationals of each Party shall be entitled in the territory of the other Party to social and social security legislation on the same conditions as nationals of that Party, and that the conditions for securing equal treatment in that field shall be determined by agreement;

Have agreed to apply the following provisions:

*Article 1.* Gabonese wage-earners resident in France shall be awarded the old age benefit for wage-earners on the same conditions as French wage-earners.

*Article 2.* Gabonese nationals resident in France who have engaged in France as self-employed persons in an occupation which is covered by the old age benefit scheme provided for in the Social Security Code, book VIII, part I, and who have not contributed to that scheme shall be entitled to the non-contributory old age benefit for self-employed persons on the same conditions as French nationals.

*Article 3.* Gabonese nationals in France shall be entitled to the special allowance provided for in the Social Security Code, book VIII, part II, on the same conditions, including conditions as to means, as French nationals.

*Article 4.* 1. Gabonese nationals resident in France, who are receiving an old age or disability benefit under the French scheme as provided for in the legislation referred to in article 3, paragraph 1, of the Agreement on Social Security, an old age benefit under a French contributory scheme for self-employed persons, the old age benefit for wage-earners, the non-contributory old age benefit for self-employed persons, or the special allowance, shall be entitled to the supplementary allowance on the same conditions, including conditions as to means, as French nationals.

2. For purposes of applying the means clauses provided for in French legislation, the competent Gabonese authorities shall assist the French bodies and authorities responsible for paying the supplementary allowance with a view to:

- (a) Finding any resources to which applicants may be entitled in Gabon, including benefits under the Gabonese social security scheme, and to that end making any necessary inquiries or investigations concerning the relevant provisions of Gabonese social security legislation;
- (b) Evaluating the assets owned by applicants in Gabon;
- (c) Recovering payments made from the estate of the recipient of the allowance.

Requests submitted for this purpose by the French bodies and authorities responsible for payment shall be addressed to a body designated by the Gabonese Government.

*Article 5.* With the exception of the benefit referred to in article 1, the other benefits referred to in articles 2, 3 and 4 shall be discontinued if the beneficiaries leave the territory of France.

*Article 6.* The Government of each Contracting Party shall notify the other of the completion of the constitutional procedures required, in so far as it is concerned, for the entry into force of this Protocol. The Protocol shall enter into force on the first day of the second month following the date of the later of such notifications.

*Article 7.* This protocol shall remain in force for a period of two years from the date of its entry into force. It shall be renewed by tacit agreement for periods of one year unless notice of denunciation is given six months prior to the expiry of any such period.

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

DONE at Paris on 2 October 1980 in duplicate, both texts being equally authentic.

For the Government  
of the French Republic:

[JEAN FRANÇOIS PONCET]

For the Government  
of the Gabonese Republic:

[Signed]

MARTIN BONGO