

No. 23043

**AUSTRIA
and
ITALY**

**Agreement on social security (with supplementary protocols
of 30 December 1950 and 29 May 1952). Signed at
Vienna on 30 December 1950**

Authentic texts: German and Italian.

Registered by Austria on 21 August 1984.

**AUTRICHE
et
ITALIE**

**Convention sur la sécurité sociale (avec protocoles addition-
nels en date des 30 décembre 1950 et 29 mai 1952).
Signée à Vienne le 30 décembre 1950**

Textes authentiques : allemand et italien.

Enregistrée par l'Autriche le 21 août 1984.

[TRANSLATION — TRADUCTION]

AGREEMENT¹ BETWEEN AUSTRIA AND ITALY ON SOCIAL SECURITY

The Federal President of the Republic of Austria and the President of the Italian Republic,

Desiring to regulate relations between the two States in the matter of social security, have decided to conclude an Agreement and have therefore appointed the following plenipotentiaries:

The Federal President of the Republic of Austria: Dr. h. c. Ing. Leopold Figl, Federal Chancellor, Dr. Viktor Gehrman, Head of Section in the Federal Ministry for Social Administration,

The President of the Italian Republic: Dr. Giuseppe Cosmelli, Envoy Extraordinary and Minister Plenipotentiary,

who, after exchanging their full powers, found in good and due form, have agreed on the following provisions:

TITLE I. GENERAL PROVISIONS

Article 1. (1) Austrian and Italian nationals and their dependants and survivors shall have the same rights and obligations under the legislation governing the social security branches (compulsory insurance) specified in article 2.

(2) Austrian nationals in Italy and Italian nationals in Austria may also participate in voluntary insurance (optional continuing insurance and insurance entitlement) schemes, under the legislation specified in article 2, on the same terms as nationals of the State in which they are residents.

Article 2. (1) This Agreement shall apply to legislation concerning:

1. In Austria

- (a) Sickness insurance;
- (b) Accident insurance;
- (c) Manual workers disability, old-age and survivors' insurance (disability insurance);
- (d) Salaried workers' disability, old-age and survivors' insurance (salaried workers' insurance);
- (e) Miners' pensions insurance;
- (f) Supplementary pensions insurance from the pension funds of private railways;
- (g) Unemployment insurance, except for the provisions on unemployment relief (*Notstandshilfe*).

¹ Came into force on 1 February 1955, i.e., the first day of the month following the exchange of the instruments of ratification, which took place at Rome on 22 January 1955, in accordance with article 46 (2).

2. In Italy

- (a) General disability, old-age and survivors' insurance;
- (b) Industrial accident and occupational disease insurance;
- (c) Sickness insurance;
- (d) Tuberculosis insurance;
- (e) Unemployment insurance, except for provisions on unemployment relief;
- (f) Marriage and childbirth insurance;
- (g) Special insurance schemes for specific occupations, provided that they concern risks and benefits covered by the foregoing legislation, i.e., for persons employed by licensed enterprises of the public transport system, for persons employed by licensed enterprises of the public telephone service, and for seamen.

(2) This Agreement shall apply also to any legislative or other provisions which amend or supplement or will amend or supplement the legislation specified in article 1. However, the Agreement shall not apply:

- (a) To legal or other provisions relating to new risks unless an agreement to that effect is concluded between the two States;
- (b) To legal or other provisions which extend existing regulations to new categories of beneficiaries, if the Government of the State affected raises an objection thereto with the Government of the other State within three months from the announcement of the aforesaid provisions.

Article 3. Articles 7 and 38, and 9 to 13, shall not apply to the provisions relating to Austrian special sickness insurance for self-employed persons, annuitants, recipients of unemployment insurance benefits, war invalids undergoing vocational training and survivors of war victims.

Article 4. The social security branches specified in article 2 shall, in principle, be governed by the provisions of the State in whose territory the gainful employment is engaged in.

Article 5. (1) The principle set out in article 4 shall be subject to the following exceptions:

- (a) Employed persons in the service of an enterprise which has its principal place of business in one of the two States who are sent for a limited period to the territory of the other State shall remain insured under the provisions of the State in which the enterprise has its principal place of business, provided that the sojourn in the other State lasts no longer than six months; the same shall apply to employed persons in the service of an enterprise which has its principal place of business in one of the two States, if as a result of the particular type of work they repeatedly sojourn in the territory of the other State, always provided that no period of sojourn shall last longer than six months;
- (b) Persons employed in enterprises extending over the frontier from the territory of one of the States into the territory of the other State shall be insured exclusively under the provisions of the State in which these enterprises have their principal place of business;

- (c) Employees of public transport enterprises of one of the States who are employed in the territory of the other State, whether temporarily or continuously on branch lines or at frontier railway stations, including employees on train-crew duty, shall be insured exclusively under the provisions of the State in which the enterprise has its principal place of business; the same shall apply to employees of airlines of one of the States, being nationals of that State, and continuously employed in aviation, as pilots or in another capacity, in the territory of the other State, and to other employees of the aforesaid enterprises who are temporarily sent to the territory of the other States;
- (d) Employees in public service (customs, post office, passport control, etc.) who are sent to the territory of the other State shall be insured under the provisions of the sending State;
- (e) Employees of Austrian or Italian diplomatic or consular posts who are Austrian or Italian nationals shall be insured under the provisions of the State of which they are nationals. The same shall apply to the domestic staff of the above-mentioned employees; however, such domestic staff may, within six weeks from the beginning of their employment, apply to be insured under the legislation of the State in which they are employed. Non-career consular officers and their employees shall be insured under the legislation of the State in which they are employed;
- (f) Nationals of one of the two States who are employed in scientific or cultural institutions or schools of that State in the territory of the other State, and persons of the same nationality employed in the domestic service of the above-mentioned employed persons, shall be insured under the legislation of the State to which the institute or school belongs, provided that, within six weeks from the beginning of such employment, they have not applied to be insured under the legislation of the State in which they are employed.

(2) The crew of a ship flying the flag of one of the two States shall be insured under the provisions of the State to which the ship belongs; however, persons who have been hired by such a ship for loading, unloading or repair work on board or for surveillance while the ship is in a port of the other State shall be insured under the provisions of the State to which the port belongs.

(3) The supreme administrative authorities of the two States may jointly determine further exceptions to the principle in article 4. They may also agree that the exceptions specified in paragraph 1 shall not apply in special cases.

Article 6. Where contributions have been paid to an insurance authority of one of the two States, although they should have been paid to an insurance authority of the other State, the first-mentioned authority shall be deemed to be competent until the question of competence has been settled by mutual agreement or by arbitration. The decision on the legal position shall apply only to the future.

Article 7. (1) Unless otherwise provided in the following articles, the liable insurance authorities shall pay to Austrian and Italian nationals resident in the territory of the other State the cash benefits from the social security branches specified in article 2, including supplements, revaluations and other related benefits, in the same way as if such persons were residents in the territory of the State to which the liable insurance authority belongs. Lump-sum payments of annuities to nationals of the two States exclusively on the basis of residence in the other State shall be prohibited.

(2) Nationals of one of the two States in receipt of a cash benefit from industrial accident and occupational disease insurance or from old-age, disability or survivors' insurance of the other State shall, in the event of transferring their residence to a third State, remain entitled to receive this benefit in the same amount and on the same conditions as nationals of the State to which the liable insurance authority belongs.

Article 8. Where, under the provisions of one of the two States the fact of being in receipt of an income from that State or of being gainfully employed or of participating in an insurance scheme in that State has a legal effect on the entitlement to a benefit, on compulsory participation in an insurance scheme or on entitlement to optional or voluntary insurance, similar income from the other State or similar employment or insurance in the other State shall have the same effect. However, where the income provided in one of the States results in the extinguishment, suspension or reduction of benefits provided under social security in both States, only that part of such income may be computed in each of the two States, for the purpose of extinguishment, suspension or reduction, which corresponds to the insurance periods used in the two States for computing the insurance benefits.

TITLE II. SICKNESS, TUBERCULOSIS, MARRIAGE AND CHILDBIRTH INSURANCE

Article 9. (1) Employed persons who transfer their residence from the territory of one of the States to the territory of the other State shall be entitled to the benefits provided under the sickness and tuberculosis insurance of such other State, provided that

1. In the State to which they have moved, they have engaged in employment subject by law to compulsory insurance or have joined in this State an optional continuing or voluntary insurance scheme provided for under the legislation on compulsory insurance;
2. They satisfy the conditions for benefits on the basis of the provisions in force for the insurance of the State to which they have moved; in such cases, the contribution and insurance periods completed in the two States shall be aggregated.

(2) Where the insurance authorities of both States are simultaneously liable, an employed person may claim benefits from only one of them, namely, from the insurance authority with which he was insured at the time of the insurance contingency or with which he was last insured before the occurrence of the insurance contingency.

Article 10. (1) An employed person who, after the occurrence of the insurance contingency, transfers his residence to the territory of the other State shall retain the right to benefits, but only provided that, before moving, he has obtained the consent of the insurance authority for the move. Consent may be refused only on the ground of the employed person's state of health. In special cases, the insurance authority may give consent at a later date, provided that the conditions therefor are satisfied and consent could not be obtained for his move in advance. In cases of pregnancy, consent may be granted before occurrence of the insurance contingency.

(2) Restrictions regarding place of residence, which are prescribed in domestic legislation concerning the social security branches specified in Title II and in the provisions of this Agreement, shall not apply to employed persons resident in the frontier area of one of the States and who are employed, or who were last employed in the frontier area of the other State. Frontier areas shall be determined in accordance with the agreement in force at the time on local frontier goods traffic.

(3) In the cases specified in paragraph 1, the liable insurance authority shall request the insurance authority of the other State to pay the benefits, for which purpose it must indicate the benefits to which the employed person is entitled. The benefits provided shall be from the same resources and of the same quality as those used by the requested insurance for its own insured persons.

(4) In the cases specified in paragraph 2, the liable insurance authority may also provide benefits due directly.

(5) The liable insurance authority shall reimburse the requested insurance authority for the costs incurred in paying the benefits; in such cases, the rates for benefits in kind shall be those which the requested insurance authority has to apply under its domestic legislation or the agreements which it has concluded.

(6) Such costs may be reimbursed on the basis of an arrangement pursuant to article 41, in individual, per capita or lump-sum payments.

Article 11. (1) An employed person shall retain his right to benefits from the insurance authority with which he is insured, although the insurance contingency occurs in the territory of the other State, even if the terms of employment and insurance have not yet been finalized.

(2) The provisions of article 12, paragraph 1, second and third sentences, shall apply *mutatis mutandis* to the granting of such benefits and to the reimbursement thereof payable to the insurance authority of the State in which the employed person is a temporary resident.

Article 12. (1) Dependants of an employed person who transfers his residence from the territory of one of the States to the territory of the other State shall be entitled to the benefits provided under sickness and tuberculosis insurance at the expenses of the insurance authority of the last-mentioned State, provided that the employed person satisfies the conditions specified in article 9, paragraph 1. However, where the dependants are resident in their State of origin, the insurance authority of that State shall, without requiring special authorization, grant the benefits within the limits, and subject to the conditions, of the legislation in force there. In that case, the liable insurance authority shall reimburse the insurance authority of the State of origin for expenses also in individual, per capita or lump-sum payments on the basis of an arrangement pursuant to article 41.

(2) Where dependants transfer their residence from one of the States to the other State, they shall have the right to sickness and tuberculosis insurance benefits in the new State for the period laid down in the legislation of that State; however, benefits already received by the same token in the State of origin shall be deducted.

Article 13. The provisions of articles 9 to 12 shall apply also to the benefits specified under marriage and childbirth insurance in article 2, paragraph (1), subparagraph 2, item (f).

TITLE III. UNEMPLOYMENT INSURANCE

Article 14. Employed persons who transfer their residence from Italy to Austria or from Austria to Italy shall receive unemployment insurance benefits, provided that:

1. They have, in the State to which they have transferred their residence engaged in an employment covered by compulsory unemployment insurance;
2. They satisfy the conditions for such benefits on the basis of the legislation of the State to which they have transferred their residence.

Article 15. (1) A national of one of the States who has worked in one or both States and is resident in his State of origin while unemployed shall acquire entitlement to unemployment insurance benefits in the State of origin under the legislation of that State, provided that he satisfies the legal conditions required therein. In such cases, the periods of employment in the other State which are subject to unemployment insurance shall also be taken into account.

(2) An insurance authority which has paid the unemployment insurance benefits in accordance with paragraph 1 shall be entitled to reimbursement from the insurance authority providing unemployment insurance in the State to which the employed person has transferred his residence and in which he has worked, provided that the periods spent in that State in a gainful employment subject to unemployment insurance total at least 26 weeks during the 18 months prior to the assertion of a claim to unemployment benefits.

(3) Reimbursement may be requested for a total period of not more than 60 benefit days, even if they are spread over several periods of unemployment and provided that the requirements specified in paragraphs 1 and 2 are fulfilled.

(4) Where the liable insurance authority during the same period of unemployment, has itself paid benefits for a certain number of days to the unemployed person before he has returned to his State of origin, the above-mentioned maximum of 60 days shall be reduced accordingly.

TITLE IV. INDUSTRIAL ACCIDENT AND OCCUPATIONAL DISEASE INSURANCE

Article 16. (1) The competent insurance authority of either State shall immediately inform the competent diplomatic or consular authority of the other State that it has completed the investigation of an accident concerning a national of the other State.

(2) The diplomatic or consular authority may inspect the records of the investigation and subsequent records in the same way as the persons concerned.

Article 17. Where an accident befalls a national of one of the two States who proceeds to the other State to begin work on the basis of a regular employment contract while he is travelling from the border station by the shortest route to his place of gainful employment without interrupting his journey, the insurance authority of the last-mentioned State shall pay compensation for such accident in accordance with the accident insurance provisions. The same shall apply in the case of an accident that befalls an employed person during the return to his State of origin immediately following termination of the employment contract on the basis of which he had proceeded to the other State.

Article 18. Where an insured person has been awarded an annuity by the insurance authority of the other State as a result of an industrial accident or occupational disease, and where another annuity is established for the insured person by an insurance authority of the other State as a result of a further accident or further occupational disease, the last-mentioned insurance authority shall take the earlier annuity into account as if it were liable also for payment thereof.

Article 19. So far as applicable, the provisions of articles 10 and 41 shall also encompass industrial accident and occupational disease insurance but shall be limited to benefits in kind and cash benefits payable during temporary unfitness for work under Italian legislation and until the end of therapeutic treatment under Austrian legislation. The provisions of articles 7 and 38 shall apply to the other benefits, especially annuities and survivors' allowances.

TITLE V. DISABILITY, OLD AGE AND SURVIVORS' INSURANCE

Article 20. (1) In the case of employed persons who have been insured successively or alternately under disability, old age and survivors' insurance schemes in each of the two States, and in the case of their dependants, the insurance periods and equivalent periods acquired in both States shall be aggregated, provided that the equivalent periods are applicable under the provisions of both States and within the meaning of paragraph 2. Equivalent periods that are applicable only under the provisions of one of the States shall be taken into account only in the insurance of that State. Employment periods which, under the Austrian insurance are equated with contribution periods shall be deemed to be insurance periods for purposes of aggregation.

(2) Aggregation shall be used for the purpose of calculating waiting periods for maintaining qualification and for entitlement to a voluntary continuation of insurance.

(3) Insurance periods and equivalent periods that overlap shall be computed only once.

Article 21. (1) Where the legislation of either State provides for a special insurance scheme for a particular occupational category, only the periods completed under the corresponding special insurance scheme of the other State shall be counted for the acquisition of benefits.

(2) Where no special insurance scheme exists for this particular occupational category in one of the two States, the periods of the special insurance scheme completed in one State and the periods of employment completed in the corresponding occupational sector of the other state under the insurance scheme applicable in that sector shall be aggregated.

(3) The following shall be regarded as special insurance schemes:

—In Austria:

—Miners' pensions insurance;

—Supplementary pensions insurance from the pension funds of private railways;

—In Italy:

—Insurance for seamen;

- Insurance for persons employed by licensed enterprises of the public transport system; and
- Insurance for persons employed by licensed enterprises of the public telephone service.

Article 22. (1) Where insurance periods and equivalent periods are aggregated within the meaning of articles 20 and 21, the insurance authorities shall calculate the benefits to be paid in accordance with the provisions of paragraph 2 of this article.

(2) Each insurance authority shall verify, in accordance with its own provisions, and taking into account the provisions of this Agreement, whether the insured person qualifies for entitlement to benefits. Where entitlement exists, the insurance authority shall calculate the benefit in accordance with its own provisions on the basis of the insurance periods and equivalent periods that are countable under these provisions. In this case, however, the following special provisions shall apply:

(a) Of the benefits in whole or in part, the scale of which does not depend upon the duration of the insurance periods or the amount of contributions paid, only that part shall be granted which bears the same relation to the insurance periods and equivalent periods countable under domestic legislation for calculating the benefit as such periods taken into account in calculating the benefits of both states bear to the total. Of the aforesaid categories of benefits in whole or in part, the following are of particular importance: basic contributions of the Austrian insurance schemes, fixed increments of the Italian insurance schemes (*assegni di contingenza*) and in the case of benefits for which a minimum has been set under domestic legislation, the part of the benefit up to that minimum;

(b) The other benefits in whole or in part shall be granted in full.

(3) Reduced benefits under paragraph 2, subparagraph (a), of not more than 20 schillings or 500 lire per month, may be paid in cash.

Article 23. (1) Where the insurance periods of an insured person, completed with the insurance authorities of both States, do not simultaneously meet the requirements for entitlement to benefits under the provisions of both States, this entitlement—account being taken of temporary provisions—shall be acknowledged under the provisions of each of the two States as soon as the requirements prescribed in the provisions have been met.

(2) As soon as entitlement has been acquired under the provisions of the two States, the insurance authority which was the first to pay the benefit shall verify the benefit.

Article 24. An insured person who cannot show proof of more than 13 insurance weeks in Austria, or 13 contribution weeks in Italy, shall have no entitlement to benefits under the insurance concerned. In such cases, entitlement from the insurance of the other State shall not be subject to reduction.

Article 25. (1) Where the amount of the benefits calculated in accordance with this Agreement is less than the benefit that would be payable to the person entitled solely under the provisions of one State on the basis of the insurance periods and equivalent periods completed in that State, the insurance authority

of that State shall increase its partial benefit at its own expenses to make up the difference.

(2) Where several insurance authorities are liable for payment of the difference, only the largest difference shall be paid to the person entitled. This difference shall be divided among the participating insurance authorities in proportion to the benefits that each must pay.

Article 26. (1) Where articles 20 and 21 apply, the insurance authorities of both States shall exchange the notes and documents needed for determining the insurance benefits that each of them has to pay.

(2) Pending such investigation, the insured person, provided that he qualifies for benefits under the provisions of one of the States, shall be granted a temporary benefit from the insurance authority of that State. Otherwise, a temporary benefit may be granted, if it transpires from the documents submitted that the insured person will probably fulfil the conditions for entitlement to a benefit.

Article 27. The provisions of this title shall not apply to the granting of the miners' long-service bonus (*Bergmannstreuegeld*) from the Austrian miners' pensions insurance.

TITLE VI. ADMINISTRATIVE ASSISTANCE AND ADMINISTRATIVE PROVISIONS

Article 28. The social security authorities, agencies and courts of both States shall assist one another in applying this Agreement as if the matter were one of implementing their own social security provisions. Notwithstanding the provisions of article 29, this assistance shall be free of charge, provided that the official functions to be performed for the insurance authority of the other State are within the normal scope of duties of the requested insurance authority and do not involve efforts against payment by persons or services unfamiliar with insurance affairs. Where evidence has to be taken in the other State, the above-mentioned authorities, agencies and courts may also avail themselves of the services of the competent diplomatic or consular authority of that State free of charge.

Article 29. Medical certificates, examinations and controls required in application of the social security of one of the States and which concern a beneficiary in the other State shall be undertaken at the request and at the expense of the liable insurance authority of the State in which the beneficiary is a resident.

Article 30. The social security authorities, agencies and courts of both States may, in application of this Agreement, communicate directly with each other, with the insured persons and with their legal representatives. They may draft their correspondence in their official language.

Article 31. The diplomatic and consular authorities of both States shall be authorized, without a special mandate, to represent the beneficiaries of their State before all social security authorities, agencies and courts of the other State. The same authorities shall be authorized to intervene directly with the social security insurance institutions, agencies and courts of the other State in order to obtain any documents useful for defending the interests of their compatriots.

Article 32. Petitions filed by insured persons, their dependants and their survivors in application of this Agreement with the social security institutions, agencies and courts of both States and other papers ancillary to the imple-

mentation of social security shall not be rejected because they are drafted in the official language of the other State.

Article 33. Petitions filed with the insurance authorities of one of the States shall also be regarded as filed with the insurance authorities of the other State.

Article 34. Appeals required to be accepted within a prescribed time-limit at a social security acceptance office shall also be regarded as having been accepted within the time-limit prescribed if they have been accepted within such time-limit at a corresponding office of the other State. That office shall forward the appeal to the competent office without delay.

Article 35. (1) The exemptions from costs, taxes and fees provided for under the legislation of one of the two States for the implementation of the social security legislation of that State shall apply also to insured persons of the other State, their dependants and their survivors, as well as to the insurance authorities of that State.

(2) All certificates, documents and other papers required to be produced in application of this Agreement need not be authenticated by the diplomatic or consular authorities.

Article 36. (1) The supreme administrative authorities of the two States shall, by mutual agreement, resolve all difficulties arising from application of this Agreement.

(2) If a dispute cannot be settled in this manner, an arbitral tribunal must decide.

(3) The arbitral tribunal shall be composed of one national of each of the two States and one national of another State as third arbitrator, who shall be jointly determined by the Governments of the two States.

(4) The decisions of the arbitral tribunal shall be by majority vote in accordance with the principles and in the spirit of this Agreement. The decisions shall be binding on both States.

(5) Each State shall defray its own expenses. The other expenses of the arbitral tribunal proceedings shall be shared equally between the two States.

Article 37. (1) Where a dispute arises as to which legislation should apply, the person concerned shall be granted temporary assistance until the dispute is settled as prescribed in the previous article.

(2) Provision of temporary assistance shall be the responsibility of the insurance authority with which the person concerned was last insured; in case of doubt, the insurance authority to which the claim was first submitted.

(3) The last-mentioned insurance authority shall grant the person concerned, as temporary assistance, the benefits which it would have had to grant under its own legislation.

(4) The ultimately liable insurance authority shall, in a lump-sum, reimburse the expenses incurred to the insurance authority which provided the temporary assistance.

(5) Where the amount granted to the person concerned as temporary assistance is greater than the benefits due to him for the period in question, the ultimately liable insurance authority shall deduct the difference from future benefit instalments but up to no more than one fifth of each instalment.

Article 38. (1) Liability for payments which, regardless of the reason, must be made under this Agreement, may be discharged in the currency of the State in which the eligibility originates.

(2) In the cases specified in article 7, the liable insurance authorities of one State may commission the competent insurance authority of the other State to pay the benefits owed.

(3) Benefits, contributions and reimbursements which must be paid, or are admitted for payment, in the territory of the other State under this Agreement, under the international Convention (No. 19) concerning Equality of Treatment for National and Foreign Workers as regards Workmen's Compensation for Accidents of 1925¹ or under domestic legislation shall be remitted in conformity with the payments agreement in force between the two States. Where a payments transfer between the two States does not exist, the two Governments shall take action, by mutual agreement and without delay, to enable such payments to be made.

Article 39. Where, in determining the amount of a claim or the scale of a benefit, the amount of a benefit or other insurance income, expressed in the currency of the other State, is to be taken into account, the last-mentioned amount shall be converted in conformity with the payments agreement in force between the two States, bearing in mind the exchange conditions prevailing in each State.

TITLE VII. TRANSITIONAL AND FINAL PROVISIONS

Article 40. (1) The provisions of this Agreement shall apply, with effect from the day of its entry into force, also to insurance contingencies which occurred prior to that date.

(2) Where implementing this Agreement, insurance and compensation periods completed before its entry into force shall also be taken into account.

(3) Social security benefits that have been suspended because the beneficiary is resident abroad, or owing to *force majeure* or to the provisions of one of the two States shall be paid as from the date of entry into force of this Agreement. Benefits that were not acknowledged for the same reason shall be determined and paid with effect from the same date.

(4) Benefits determined before the date of entry into force of this Agreement shall be recalculated with effect from the same date, provided that they have not been paid off beforehand in a lump-sum in order to conform to the provisions of this Agreement.

(5) Where the legislation of one of the two States has acknowledged its own citizens' contribution periods or equivalent periods completed in the period from 13 March 1938 until 9 April 1945 under compulsory or optional or voluntary insurance in respect of employment or domicile outside the State territory of that time, such acknowledgement shall not extend to the nationals of the other State. The same shall apply to benefits granted by one of the States to its own nationals for industrial accidents which occurred during the same period outside the State territory of that time.

(6) The time-limit prescribed in paragraph 58 of the Austrian Social Security Transition Act of 12 June 1947 shall be extended retroactively, for Italian citizens

¹ United Nations, *Treaty Series*, vol. 38, p. 257.

in respect of the insurance branches referred to in article 2, paragraph (1), subparagraph 1, items (b) to (e) for the six months following the date to be agreed upon by the supreme administrative authorities of the two States.

Article 41. The supreme administrative authorities of the two States shall jointly determine such provisions as may prove necessary for implementing this Agreement in respect of articles 9 to 13, for the calculation of assistance costs or for any other necessary purpose.

Article 42. (1) A Joint Advisory Committee shall be established to supervise the proper implementation of this Agreement. The Committee may consider any question relevant to implementation of the Agreement and, when necessary, submit proposals to the Governments of the two States.

(2) The Committee shall meet, in Austria or Italy, at the request of either of the two Governments. It shall be composed of an equal number of representatives of the supreme administrative authorities of both States. Each delegation may be accompanied by experts when needed.

(3) The Committee shall determine its own organization and rules of procedure. It may communicate directly with the participating Austrian and Italian administrations.

Article 43. (1) If either State introduces unilateral provisions for implementing this Agreement in its own territory, it shall inform the supreme administrative authority of the other State thereof.

(2) The supreme administrative authorities shall also regularly inform each other of all changes in the social security provisions to which this Agreement refers.

Article 44. For the purposes of this Agreement, the Federal Ministry for Social Administration in the Republic of Austria and the Ministry of Labour and Social Security in the Republic of Italy shall be the supreme administrative authorities.

Article 45. (1) This Agreement shall be concluded for a period of three years. It shall be automatically extended for periods of three years unless notification of denunciation is given to the other State three months before expiry of the period concerned.

(2) Denunciation by one of the States shall not affect rights deriving from insurance contingencies which have arisen before the expiry of this Agreement, irrespective of restrictive provisions in domestic law relating to a beneficiary's sojourn abroad.

(3) Qualifying periods completed under this Agreement shall not lapse on its termination. Retention thereof in respect of the period after termination of the Agreement shall be the subject of a supplementary protocol between the two States.

Article 46. (1) This Agreement shall be ratified. The instruments of ratification shall be exchanged at Rome as soon as possible.

(2) The Agreement shall enter into force on the first day of the month following the exchange of the instruments of ratification.

(3) This Agreement shall be drafted in four originals, two in German and two in Italian, the texts being equally authentic.

IN WITNESS WHEREOF the plenipotentiaries have signed this Agreement and affixed thereto their seals.

DONE at Vienna, on 30 December 1950.

For the Republic of Austria:

FIGL

Dr. GEHRMANN

For the Italian Republic:

G. COSMELLI

SUPPLEMENTARY PROTOCOL

At the time of signing the Agreement between Austria and Italy on Social Security, the Plenipotentiaries of the two States agreed as follows:

I. The two Governments have agreed on the need to initiate joint talks with the Government of the Federal Republic of Germany as soon as possible in order to settle, by mutual consent, questions connected with the Agreement between the German Reich and Italy of 26 February 1941 concerning the regulation of social security for persons who came under the Agreement between these States of 21 October 1939 on the economic implications of the resettlement of ethnic Germans and of nationals of the German Reich from Italy to the German Reich. Agreement of 20 June 1939 on social security and of the connected administrative agreements shall also be considered in these talks for the purpose of obtaining the requisite clarification.

In the meantime, the two Governments agree, for the purpose of implementing this Agreement, to grant equal status with the nationals of the State in which they are now residents to such persons from Südtirol (Alto Adige) and Kanaltal (Valcanale) as come under the Agreement of 21 October 1939 and are resident in Austria or Italy, provided that they are not nationals of a third State and have applied for, but not yet received, Austrian or Italian citizenship.

They also agree, pending the decision to be taken in the tripartite agreement on the aforesaid questions and subject thereto:

- (a) To begin payments of the Italian disability, old-age and survivors' pension to persons from Südtirol (Alto Adige) and Kanaltal (Valcanale) who are now resident in Austria or Italy and whose legal status could not yet be determined in the matter of transferring the present value of pensions to the German insurance authority pursuant to the Italian-German Agreements of 21 October 1939 and 26 February 1941;
- (b) The above-mentioned payments shall be deemed temporary in the sense that the Austrian Government, in the absence of consent from the competent German authorities, shall ensure prompt reimbursement of the amounts paid to the Italian Istituto Nazionale della Previdenza Sociale.

II. The Austrian Government reserves the right to ascertain whether the special unemployment assistance (*sussidi straordinari di disoccupazione*) provided under Italian legislation is equivalent to unemployment relief (*Notstandshilfe*) under Austrian legislation. In this case, the exceptions provided for

under article 2, paragraph (1), subparagraph 1, item (g) and subparagraph 2, item (e), of the Agreement shall be deemed to be abrogated as from the date agreed upon by the supreme administrative authorities of the two States.

III. The two Governments agree:

- (a) That the Austrian and Italian accident insurance authorities shall each reimburse the amounts which the other has paid for accidents in the territory of the other State, and that this shall be limited to cases of death and cases of permanent disability of at least 50 per cent;
- (b) That such reimbursement shall be made only for amounts paid from 1 June 1946 until the entry into force of the Agreement and provided that eligibility for benefits existed during this period.

IV. The two Governments have examined the legal situation with regard both to a number of notaries who exercised their profession in the two States and to their survivors. Having found that, having regard to their legal nature, the social security schemes are different in the two States in the case of this profession, in that the insurance of notaries in Austria is part of social security, whereas this is not the case in Italy, the Government have come to the conclusion that the Agreement cannot be applied to the above-mentioned notaries.

The two Governments therefore agree to recommend that the *Versicherungsanstalt des österreichischen Notariats* in Austria and the *Cassa Nazionale del Notariato* in Italy should regulate the above-mentioned legal situation in the spirit of the Agreement, by mutual consent and with the approval of their supreme supervisory authorities.

V. The Governments of the two States, in conjunction, if necessary, with a third State, shall ascertain what retroactive effect, if any, the implementation of the Treaty of Peace (State Treaty with Austria) would have on the application of this Agreement to their own citizens.

The foregoing provisions shall constitute an integral part of the Agreement and shall, to the extent that they amend the domestic law of the two States, take effect from the date of the entry into force of the Agreement. The other provisions shall, however, enter into force on the signing of this Protocol.

DONE at Vienna, on 30 December 1950.

For the Republic of Austria:

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Dr. GEHRMANN

For the Italian Republic:

G. COSMELLI

SECOND SUPPLEMENTARY PROTOCOL TO THE AGREEMENT BETWEEN AUSTRIA AND ITALY ON SOCIAL SECURITY OF 30 DECEMBER 1950

The Plenipotentiaries of the Austrian and Italian Governments have today agreed on the following amendments to the Agreement between Austria and Italy on Social Security, signed at Vienna on 30 December 1950:

I. Article 2, paragraph (1), subparagraph 2, item (f) shall read as follows:

“(f) Legislation concerning the physical and economic protection of working mothers, in so far as it concerns insurance benefits for working mothers during pregnancy or after childbirth;”.

II. The heading of Title II, “Sickness, tuberculosis, marriage and childbirth insurance”, shall read as follows: “Sickness, tuberculosis and maternity insurance”.

III. Article 13 shall read as follows:

“The provisions of articles 9 to 12 shall apply, where relevant, also to the benefits specified under the legislation concerning the physical and economic protection of working mothers in article 2, paragraph (1), subparagraph 2, item (f).”

IV. Article 19 shall read as follows:

“So far as applicable, the provisions of articles 10 to 12 and 41 shall encompass industrial accident and occupational disease insurance, but shall be limited to benefits in kind and cash benefits payable during temporary unfitness for work under Italian legislation and until the end of the therapeutic treatment under Austrian provisions. The provisions of articles 7 and 38 shall apply to other benefits, especially annuities and survivors’ allowances.”

The Plenipotentiaries have also agreed to make the following corrections to the two German originals of the above-mentioned Agreement and in the two Italian originals of the Supplementary Protocol to this Agreement of 30 December 1950:

1. In article 23 of the two German originals of the Agreement: “. . .—unter Bedachtnahme auf die vorhergehenden Bestimmungen— . . .”.
2. In section II of the two Italian originals of the Supplementary Agreement: “. . . all’articolo 2, paragrafo 1, punto 1, lettera e) e punto 2, lettera g) della Convenzione . . .”.

The above-mentioned provisions shall constitute an integral part of the Agreement between Austria and Italy on Social Security of 30 December 1950 and shall take effect on the date of entry into force of the Agreement.

This Protocol shall be drafted in four originals, two in German and two in Italian. Each State shall receive one copy each in German and Italian, both texts being equally authentic.

DONE at Vienna, on 29 May 1952.

For the Republic of Austria:
GRUBER

For the Italian Republic:
G. COSMELLI