

No. 22717

**SPAIN
and
ITALY**

Convention on social security (with Administrative Agreement for the application of the Convention). Signed at Madrid on 30 October 1979

Authentic texts: Spanish and Italian.

Registered by Spain on 21 February 1984.

**ESPAGNE
et
ITALIE**

Convention de sécurité sociale (avec Accord administratif pour l'application de la Convention). Signée à Madrid le 30 octobre 1979

Textes authentiques : espagnol et italien.

Enregistrée par l'Espagne le 21 février 1984.

[TRANSLATION — TRADUCTION]

CONVENTION¹ ON SOCIAL SECURITY BETWEEN SPAIN AND ITALY

His Majesty the King of Spain and His Excellency the President of the Italian Republic, guided by the desire to improve the relations between the two States in the field of social security, have agreed to conclude a new Convention on Social Security and to that end have appointed as their plenipotentiaries:

His Majesty the King of Spain: His Excellency Mr. Carlos Robles Piquer, Minister for Foreign Affairs;

His Excellency the President of the Italian Republic: His Excellency Mr. Giorgio Santuz, Under-Secretary of State for Foreign Affairs,

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

PART I. GENERAL PROVISIONS

Article 1. 1. For the purposes of this Convention, the terms listed below shall have the following meaning:

- a) “Contracting Parties” means the Spanish State and the Italian Republic;
- b) “Legislation” means the laws, regulations and other legal provisions concerning the social security schemes and sectors operated in each of the Contracting Parties and listed in article 2 of this Convention;
- c) “Competent authority” means the ministers or higher authorities responsible for the regulation of the social security schemes;
- d) “Institution” means the organ or authority responsible for application of all or part of the legislation in force in each of the Contracting Parties;
- e) “Competent institution” means the institution with which the person in question is insured at the time of the claim to benefit or the institution with which he has title to benefit or would have title if he or his family members resided in the territory of the Contracting Party in which the said institution is situated;
- f) “Workers” means persons who can acquire insurance periods under the legislation listed in article 2 of this Convention;
- g) “Residence” means usual residence;
- h) “Stay” means temporary residence;
- i) “Insurance periods” means periods during which contributions have actually been paid under the legislation of one of the Contracting Parties, or periods during which contributions should have been paid or are treated as having been paid, and all periods regarded as equivalent to insurance periods under the said legislation;
- j) “Payments, pensions, income, subsidies, compensation” mean the payments designated as such by the applicable legislation, including payments made

¹ Came into force on 1 December 1983, i.e., the first day of the month following the exchange of the instruments of ratification, which took place at Rome on 16 November 1983, in accordance with article 53 (2) of the Agreement and article 41 of the Administrative Agreement for the application of the Convention.

from public funds and all supplements and increments specified in that legislation, as well as capital benefits in the form of assets in lieu of pensions or income;

k) “Family allowances” means all the benefits in kind or in cash intended to offset the cost of supporting family members.

2. Any other expressions or terms used in this Convention have the meanings assigned to them in the applicable legislation.

Article 2. 1. This Convention shall apply:

A. In the Spanish State:

1. To the legislation governing the general social security scheme with regard to the following contingencies and benefits:

- a)* Maternity, ordinary sickness or occupational diseases, temporary incapacity for work and industrial or other accidents;
- b)* Temporary or permanent invalidity;
- c)* Old-age;
- d)* Death and survivors’ insurance;
- e)* Unemployment;
- f)* Family allowances;
- g)* Social services and social assistance.

2. To the legislation concerning the contingencies and benefits indicated in paragraph 1A above relating to the following special social security schemes:

- a)* Agricultural workers;
- b)* Seamen;
- c)* Coal miners;
- d)* Railway workers;
- e)* Domestic servants;
- f)* Independent or self-employed workers;
- g)* Commercial travellers;
- h)* Artists;
- i)* Authors of books;
- j)* Bullfighters.

B. In the Italian Republic, to the legislation concerning:

- a)* Compulsory invalidity, old-age and survivors’ insurance for wage-earners and the corresponding special schemes for independent workers;
- b)* Compulsory insurance against industrial accidents and occupational diseases;
- c)* Sickness and maternity insurance;
- d)* Tuberculosis insurance;
- e)* Insurance against involuntary unemployment;
- f)* Family allowances;
- g)* Special insurance schemes or special schedules for specific categories of workers in so far as they relate to risks or benefits covered by the legislation specified in the preceding subparagraphs.

2. This Convention shall also apply to any legislation which supplements or modifies the legislation referred to in the preceding paragraph.

3. This Convention shall also apply to any legislation of one of the Contracting Parties which extends the existing schemes to new categories of workers or which establishes new social security schemes, unless the Government of the other Contracting Party notifies the Government of the first Contracting Party of its objection within three months from the date on which the promulgation of the said legislation is officially communicated to it.

Article 3. This Convention shall apply to persons who are or have been covered by the legislation of one or of both Contracting Parties, and to their family members and survivors.

Article 4. Persons to whom the provisions of this Convention apply shall enjoy equal treatment with regard to the rights and obligations provided by the legislation listed in article 2 above.

Article 5. Unless this Convention provides otherwise, persons entitled to benefits under the social security legislation listed in article 2 shall receive them in their entirety and without restrictions, irrespective of their place of residence.

Article 6. 1. For the purposes of admission to the voluntary scheme established by the legislation in force in one of the Contracting Parties, the insurance periods completed under the legislation of that Party shall be added, to the extent necessary, to the insurance periods completed under the legislation of the other Contracting Party.

2. The provisions of paragraph 1 shall not permit concurrent insurance under the compulsory scheme established by the legislation of one Contracting Party and of the voluntary scheme established by the legislation of the other Contracting Party, unless such concurrent insurance is permitted by the legislation of the latter Party.

PART II. PROVISIONS RELATING TO THE APPLICABLE LEGISLATION

Article 7. 1. Workers to whom this Convention applies shall be governed by the legislation of only one of the two Contracting Parties. The said legislation shall be determined in accordance with the provisions of this part.

2. Subject to the provisions of articles 8, 9 and 10 of this Convention:

- a) Workers employed in the territory of one of the Contracting Parties shall be subject to the legislation of that Party, even when they reside in the territory of the other Contracting Party or when the enterprise or the employer which employs them has its principal place of business or its domicile in the territory of the other Contracting Party;
- b) Workers normally employed as wage-earners in the territory of one of the Contracting Parties who carry on an independent activity in the territory of the other Contracting Party shall be subject to the legislation of the first Party;
- c) Workers employed on board a ship registered in one of the Contracting Parties shall be subject to the legislation of that Party;
- d) Civil servants and employed persons assimilated thereto shall be subject to the legislation of the Contracting Party to which the service employing them belongs;
- e) Workers called or recalled to perform military service in one of the Contracting Parties shall retain the status of worker and shall remain subject to the legislation of that Party; if the said legislation makes the granting of benefits dependent on

the requirement of having completed a specific number of insurance periods before the first call to military service or after release therefrom, the insurance periods completed under the legislation of the other Party shall be counted, to the extent necessary, as if they were insurance periods completed under the legislation of the first Party.

Article 8. The application of the provisions of article 7, paragraph 2 a), shall be subject to the following exceptions:

a) Workers employed by an enterprise which has its principal place of business in one of the two Contracting Parties who are sent to the territory of the other Party for a limited period of time shall remain subject to the legislation of the Party in which the enterprise has its principal place of business, provided that their stay in the other Party does not exceed a period of 24 months. If such employment should for unforeseen reasons last longer than originally anticipated and exceed 24 months, the legislation in force in the Party in which they are normally employed may as an exception continue to apply, with the consent of the competent authority of the Party in which they are temporarily working.

The same rules shall apply to persons who are normally self-employed in the territory of one of the two Contracting Parties and who move to the territory of the other Party to perform the same work for a limited period of time.

b) Travelling staff employed by air, road or railway transport enterprises shall be subject only to the legislation of the Party in whose territory the enterprise has its principal place of business.

c) Workers employed by enterprises of national interest which provide telecommunication services or by enterprises which transport passengers or goods by rail, road, air or sea, or by any other enterprise which may subsequently be specified by exchange of notes, shall remain subject to the legislation in force in the Party in which the said enterprises have their principal place of business.

However, such workers may opt, within a period of three months from the start of their work or from the date of the entry into force of this Convention, to be subject to the legislation of the Party in which they are employed.

Article 9. 1. Article 7, paragraph 2 a), shall also apply to workers who are employed in Italian or Spanish diplomatic or consular missions or are in the personal employ of the heads, members or officers of such missions.

2. The workers referred to in paragraph 1 who are nationals of the country to which the diplomatic or consular mission belongs may opt, on one occasion only and within the time-limit specified in the Administrative Agreement referred to in article 46 of this Convention, to be subject to the legislation of the Contracting Party of which they are nationals or to the legislation of the Contracting Party in which they are employed.

3. Paragraphs 1 and 2 shall not apply to career diplomatic and consular officers or to the administrative and technical staff of diplomatic and consular missions.

Article 10. The competent authorities of the two Contracting Parties may provide by mutual agreement, with respect to some workers or some categories of workers, for exceptions to the provisions of articles 7, 8 and 9 of this Convention.

PART III. SPECIAL PROVISIONS APPLICABLE TO DIFFERENT CATEGORIES OF BENEFITS

Chapter I. SICKNESS AND MATERNITY BENEFITS

Article 11. If the legislation of one of the Contracting Parties makes the acquisition, maintenance or recovery of entitlement to benefits dependent on the completion of insurance periods, the competent institution shall take into account for this purpose, to the extent necessary, the insurance periods completed under the legislation of the other Contracting Party as if they were periods completed under the legislation of the first Party.

Article 12. 1. Workers who satisfy the requirements of the legislation applied by the competent institution with respect to entitlement to benefits, subject, where necessary, to the provisions of article 11, and

- a) Whose state of health requires the immediate payment of benefits during their stay in the territory of the other Contracting Party, or
- b) Who are authorized by the competent institution to travel to the territory of the other Contracting Party to receive treatment consistent with their state of health, shall enjoy:

- i) Benefits in kind provided, on behalf of the competent institution, by the institution of their place of stay in accordance with the legislation applied by the latter institution as if they were insured by it for the relevant period specified in the legislation applied by the competent institution;
- ii) Payments granted by the competent institution in accordance with the legislation which it applies, as if it were situated in the territory of the other Party.

2. The provisions of paragraph 1 of this article shall also apply to the family members of such workers with respect to benefits in kind.

Article 13. 1. The workers referred to in articles 7 to 10 of this Convention who satisfy the requirements of the legislation applied by the competent institution, subject, where necessary, to the provisions of article 11, shall receive in the territory of the Party in which they are usually or temporarily resident:

- a) Benefits in kind provided, on behalf of the competent institution, by the institution of the place of residence or stay in accordance with the legislation which it applies, as if they were insured by the latter institution;
- b) Payments granted by the competent institution in accordance with the legislation which it applies, as if they were resident in the territory in which the competent institution has its head office.

2. The provisions of paragraphs 1 a) and b) shall apply *mutatis mutandis* to family members who reside in the Contracting Party in which the competent institution does not have its head office, provided that they are not entitled to the said benefits under the legislation of the Party in whose territory they reside.

Article 14. The unemployed persons referred to in article 23 of this Convention and their family members shall receive in the Party to which they have moved benefits in kind paid, on behalf of the institution of the Party liable for their unemployment benefit, by the institution of the Party to which they have moved in accordance with the legislation which it applies, as if they were insured by it, and for the whole period of entitlement to such unemployment benefit.

Article 15. 1. Recipients of a pension or other income under the legislation of both Contracting Parties shall be entitled to receive from the institution of their place of residence, at its expense, the benefits in kind due to them and their family members.

2. Recipients of a pension or other income under the legislation of one of the Contracting Parties, and their family members, who reside in the territory of the other Contracting Party shall be entitled to receive from the institution of the latter Party the benefits in kind provided by the legislation which it applies.

3. The benefits granted to recipients of a pension or other income and to their family members in accordance with the provisions of paragraph 2 shall be reimbursed to the institution which provides them.

4. The provisions of article 12, paragraph 1, of this Convention shall also apply to recipients of a pension or other income and to their family members with respect to payment of benefits in kind.

Article 16. The provision by the institution of the place of residence or stay of prostheses, large appliances and other major benefits in kind listed in the Administrative Agreement referred to in article 46 of this Convention shall be subject, except in emergencies, to the authorization of the competent institution. However, such authorization shall not be necessary when the annual cost of the benefits is determined on a lump-sum basis.

Article 17. Benefits in kind provided by the institution of one of the Contracting Parties on behalf of the institution of the other Party in accordance with the provisions of this Convention shall be subject to reimbursement, which shall be effected according to the procedures and in the amounts specified in the Administrative Agreement referred to in article 46.

Chapter II. INVALIDITY, OLD-AGE AND SURVIVORS' BENEFITS

Article 18. 1. *a)* For the purposes of the acquisition, maintenance or recovery of entitlement to benefits, when a worker has been subject successively or alternately to the legislation of both Contracting Parties, the insurance periods completed under the legislation of each of the Contracting Parties shall be aggregated, provided that they do not overlap.

b) If the legislation of one of the Contracting Parties makes the granting of certain benefits dependent on the completion of insurance periods in an occupation which is subject to a special scheme, only periods completed under an equivalent scheme or, if no such scheme exists, in the same occupation even when the other Party does not have a special insurance scheme for such occupation, shall be aggregated for the purpose of granting such benefits, provided that they do not overlap. If, despite the aggregation of such periods, the insured person does not satisfy the requirements for receipt of the said benefits, the periods in question shall then be aggregated for the purpose of granting benefits under the general scheme.

c) When a worker cannot acquire entitlement to benefits in accordance with subparagraph *a)* above, insurance periods completed in third States linked to both Contracting Parties by other social security agreements providing for the aggregation of insurance periods shall also be taken into consideration.

2. When a worker satisfies the requirements of the legislation of one of the Contracting Parties with respect to acquisition of entitlement to benefits without the

necessity of aggregation of insurance periods provided for in paragraph 1 *a*), the competent institution of that Party shall be obliged to pay the amount of benefit calculated solely on the basis of the insurance periods completed under the legislation which it applies. This rule shall also apply in cases where the insured person is entitled in the other Contracting Party to a benefit calculated in accordance with paragraph 3 below.

3. When a worker cannot exercise his entitlement to benefit from one of the Contracting Parties solely on the basis of the insurance periods completed in that Party, the competent institution of the said Party shall ascertain whether entitlement to benefits can be acquired by aggregating the insurance periods completed under the legislation of each of the Contracting Parties and shall determine the amount of such entitlement according to the following rules:

- a*) It shall determine the theoretical amount of the benefit to which the person concerned would be entitled if all the aggregated insurance periods had been completed under the legislation which it applies;
- b*) It shall then fix the actual amount of the benefit due to the person concerned, reducing the theoretical amount referred to in subparagraph *a*) on the basis of the ratio between the insurance periods completed under the legislation which it applies and the total of the insurance periods completed in both Parties.

4. *a*) The competent Italian institution shall determine the benefit which it should pay, for the purposes of paragraph 3 above, taking into account the wages or the contributions relating to the insurance periods completed under Spanish legislation or under the legislation of the third States referred to in paragraph 1 *c*) above, and the average of the wages or the contributions paid relating to the insurance periods completed by the worker in question under Italian legislation.

b) When the whole or part of the contribution period chosen by the applicant for the determination of the base for computation of his entitlement has been completed in Italy or in a third State to which subparagraph 1 *c*) of this article applies, the competent Spanish institution shall determine such base in the light of the minimum contribution bases in force in Spain, during the said period or part thereof, for workers in the same occupation as the one exercised by the person in question in Spain, or in accordance with the bases which the worker has chosen for his contributions in the case in question.

The base for computation of the benefit shall in no case be lower than the average of the minimum interprofessional wage in force in the chosen period.

5. *a*) Notwithstanding the provisions of paragraph 1 *a*), if the total duration of the insurance periods completed under the legislation of one of the Contracting Parties is less than one year and if, on the basis of such periods alone, no entitlement to benefits is acquired under the said legislation, the institution of that Party shall not be obliged to pay benefits with respect to such periods.

b) The provisions of paragraph 5 *a*) above shall nevertheless not apply when, as a result of the aggregation of insurance periods of less than one year, entitlement to survivors' benefits under Spanish legislation or to a higher invalidity or survivors' pension under Italian legislation can be acquired.

However, the competent institution of the other Contracting Party shall take such periods into account both for the purpose of acquisition of entitlement to benefits and for the purpose of computation of such benefits.

6. When paragraph 1 *c*) of this article has to be applied, both the theoretical amount and the ratio between the insurance periods referred to in paragraphs 3 *a*) and *b*) of this article shall be determined in the light of the periods completed in third States as well.

This rule shall not be held to mean that, for a similar insurance period, one of the two Contracting Parties shall be obliged to pay more than a separate or pro-rated benefit of the same kind.

Article 19. When a worker, even with aggregation of the insurance periods referred to in article 18, paragraph 1, cannot satisfy simultaneously the requirements of the legislation of the two Contracting Parties, his pension entitlement shall be determined under each legislation to the extent that he can satisfy the said requirement.

Article 20. When the total amount of the pension benefit due from the competent institutions of the Contracting Parties in accordance with the provisions of article 18 above is less than the minimum amount prescribed by the legislation of the Contracting Party in which the beneficiary resides, the competent institution of that Party shall make up the said benefit to the minimum amount.

Article 21. If variations in benefit amounts occur in one Contracting Party as a result of increases in the cost of living, changes in taxation levels, or other adjustments, the other Party shall adjust the amount which it has to make up in accordance with article 20 of this Convention.

Chapter III. UNEMPLOYMENT BENEFITS

Article 22. 1. If the legislation of one of the Contracting Parties makes the acquisition, maintenance or recovery of entitlement to benefits dependent on the completion of insurance periods, the institution which applies such legislation shall take into account for this purpose, to the extent necessary, the insurance periods completed under the legislation of the other Contracting Party.

2. The application of the provisions of the preceding paragraph shall be subject to the condition that the person concerned was last subject to the legislation under which the benefits are claimed.

Article 23. A worker who satisfies the requirements of the legislation of one of the Contracting Parties with respect to entitlement to unemployment benefits, including benefits paid in respect of his dependent family members, and who moves to the other Contracting Party shall maintain his entitlement to such benefits on the terms specified in the Administrative Agreement referred to in article 46.

Benefits paid by the institution of the Contracting Party to which the unemployed person moves shall be reimbursed by the institution of the other Party in accordance with the procedures specified in the Administrative Agreement.

Chapter IV. FAMILY ALLOWANCES

Article 24. When the legislation of one of the two Contracting Parties makes the acquisition of entitlement to family allowances dependent on the completion of insurance periods or other equivalent periods, the insurance periods or other equivalent periods completed in the other Party shall be taken into account where necessary.

Article 25. A worker who is subject to the legislation of one of the two Contracting Parties shall be entitled, with respect to his family members who are staying or who reside in the territory of the other Party, to the family allowances provided by the legislation of the first Party, as if such family members resided in the territory of that Party.

Article 26. An unemployed person who receives unemployment benefits under the legislation of one of the Contracting Parties shall be entitled, with respect to his family members who are staying or who reside in the territory of the other Party, to the family allowances provided by the legislation of the Party paying the unemployment benefits, as if such family members resided in the territory of that Party.

Article 27. 1. The recipient of a pension or other income due under the legislation of only one of the Contracting Parties shall be entitled, with respect to his family members who are staying or who reside in the territory of the other Contracting Party, to the family allowances provided by the legislation of the Party from which the pension or income is due, as if such family members resided in the territory of that Party. The cost of the allowances shall be borne by the Party from which the pension or income is due.

2. The recipient of a pension or other income due under the legislation of both Contracting Parties shall be entitled to the family allowances provided by the legislation of the Contracting Party in which he resides, even when his family members reside or are staying in the territory of the other Contracting Party. The cost of the allowances shall be borne by the Party in which the recipient of the pension or income resides.

Article 28. Entitlement to the family allowances due under articles 25, 26 and 27 above shall be suspended if, owing to the exercise of an occupation, the said benefits are also due under the legislation of the Contracting Party in whose territory the family members reside or are staying.

Chapter V. INDUSTRIAL ACCIDENTS AND OCCUPATIONAL DISEASES

Article 29. 1. Workers who have sustained an industrial accident or contracted an industrial disease *a)* who are staying or reside in the territory of the Contracting Party in which the competent institution does not have its head office, or *b)* who, after having qualified for benefits from the competent institution, are authorized by that institution to return to the territory of the other Contracting Party in which they reside, or to move their residence to the territory of the other Party, or *c)* who are authorized by the competent institution to move to the territory of the other Contracting Party in order to receive therein treatment consistent with their state of health, shall receive the following benefits:

- i) Benefits in kind in respect of the industrial accident or occupational disease provided, on behalf of the competent institution, by the institution of the place of stay or residence, in accordance with the legislation which the latter institution applies, as if they were subject to that legislation, within the relevant time-limits prescribed by the legislation applied by the competent institution;
- ii) Cash benefits paid by the competent institution in accordance with the legislation which it applies, as if they were in the territory in which the competent institution has its head office.

2. The authorization referred to in paragraph 1 *b*) shall not be refused except when it is certain that the removal of the person concerned may jeopardize his state of health or the provision of medical treatment.

The authorization referred to in paragraph 1 *c*) shall not be refused when the treatment in question cannot be provided for the person concerned in the territory of the Contracting Party in which he resides.

Article 30. An accident sustained by a worker in one of the Contracting Parties while he is travelling to the other Party to take up a job, for which he has first obtained a contract, shall be treated as equivalent to an industrial accident sustained in the latter Contracting Party. The same rule shall apply with respect to an accident sustained by a worker while he is returning to the Party in which he resides or is staying immediately after the expiry of the job contract by reason of which he had moved to the other Party.

Article 31. The granting by the institution of the place of stay or residence of the prostheses or other major benefits in kind specified in the Administrative Agreement referred to in article 46 of this Convention shall be subject, except in absolute emergencies, to the authorization of the competent institution.

Article 32. The competent institution shall reimburse the amount of the benefits in kind provided on its behalf pursuant to articles 29 and 31.

The procedures for reimbursement shall be specified in the Administrative Agreement referred to in article 46.

Article 33. When an insured person contracts an occupational disease after having been engaged exclusively in the territory of one of the Contracting Parties in an occupation which, under the legislation of that Party, is liable to give rise to the disease in question, the legislation of that Party shall apply to the insured person even though the disease manifests itself in the other Party.

The same rule shall apply in the event of aggravation of the disease, provided that in the intervening period the insured person has not been subsequently exposed to the specific risk in the territory of the other Party.

Article 34. 1. Where an insured person contracts an occupational disease after having been engaged in the territory of both Contracting Parties in occupations which, under the legislation of both Parties, are liable to give rise to the disease in question, the legislation of the Party in whose territory the insured person last engaged in the dangerous occupation shall apply.

2. In the case of sclerotic pneumoconiosis, the cost of the cash benefits paid pursuant to this article shall be divided between the competent institutions of the Contracting Parties in proportion to the duration of the periods of old-age insurance completed under the legislation of each Party.

Article 35. Where it is ascertained that the insured person has suffered an aggravation of an occupational disease covered by the provisions of article 34, the following rules shall apply:

- If the insured person has not last engaged in work liable to aggravate the disease, or has engaged in such work in the territory of the Party under whose legislation he is insured, that legislation shall also apply with respect to the increase of the compensation;

— If the insured person has engaged in the territory of the other Party in work liable to aggravate the disease, he shall be entitled to compensation under the legislation of that Party with a supplement, the amount of which shall be equal to the difference between the amount of the benefit due in respect of the aggravation of the disease and the amount of the benefit which had been due before the aggravation occurred, if the disease was caused in that Party.

Article 36. In the event of aggravation of a case of sclerotic pneumoconiosis which results in the division provided for in article 34, paragraph 2, the following rules shall apply:

- a) The competent institution which grants the benefits in accordance with article 34 shall provide the benefits, taking into account the aggravation, in accordance with the legislation which it applies;
- b) The cost of the cash benefits shall be divided between the institutions which shared the cost of the earlier benefits, in the proportion prescribed in article 34, paragraph 2.

However, if the person concerned has subsequently engaged in an occupation which might aggravate the occupational disease in question while subject to the legislation of one of the Contracting Parties in which he has already engaged in an occupation of the same kind, the institution of that Party shall bear the whole cost of the cash benefits paid in respect of the aggravation.

Article 37. Where an industrial accident is sustained or an occupational disease is contracted in one of the Contracting Parties by an insured person suffering from the effects of an earlier industrial accident or earlier occupational disease sustained or contracted in the other Contracting Party, the competent institution with respect to the new condition shall, for the purposes of assessing the degree of incapacity for work, regard the earlier ill effects as having been produced under its own legislation.

Article 38. The costs of medical checks and related costs borne as a result of the granting of benefits for industrial accidents or occupational diseases shall be reimbursed by the requesting institution to the institution which carries out the checks, on the basis of the actual amount produced by the latter institution's accounts.

Article 39. Any industrial accident sustained by a national of one of the two Parties employed in the territory of the other Party which has caused or might cause either death or permanent incapacity, whether total or partial, shall be notified without delay by the competent institution to the diplomatic or consular mission of the Party of which the victim is a national.

PART IV. MISCELLANEOUS, TRANSITIONAL AND FINAL PROVISIONS

Article 40. The competent authorities and institutions of the two Contracting Parties shall assist each other and collaborate with each other in applying this Convention as if their own legislation was being applied. Such assistance shall be free of charge. They may also, when it is necessary to make investigations in the other Party, proceed through the diplomatic and consular authorities of that Party.

Article 41. The diplomatic and consular authorities of one of the Contracting Parties may communicate directly with the competent authorities or institutions of

the other Party to obtain information relevant to the protection of beneficiaries who are nationals of the first Party, and they may represent such nationals without a special mandate.

Article 42. 1. Any exemption from taxes, charges and fees provided for in the legislation of one of the Parties shall also apply for the purposes of this Convention, regardless of the nationality of the persons concerned.

2. Certificates, documents and other papers which have to be submitted for the purposes of application of this Convention shall not require a stamp of approval or legalization.

3. Certification of the authenticity of a certificate or document, or of a copy, issued by the competent authorities or institutions of one of the Parties shall be accepted by the competent authorities or institutions of the other Party.

Article 43. The competent authorities and institutions of the two Contracting Parties may correspond directly with each other and with any other person, regardless of his place of residence, whenever such correspondence is necessary for the application of this Convention.

The said authorities and institutions may draft their correspondence in their own official language.

Article 44. Claims addressed by the persons concerned to the competent authorities or institutions of either of the Contracting Parties for the purpose of applying this Convention may not be rejected on the ground that they are drawn up in the official language of the other Party.

Article 45. 1. Claims and other documents submitted to the competent authorities or to the institutions of one of the Contracting Parties shall have the same effect as if they had been submitted to the corresponding authorities or institutions of the other Party.

2. Applications for benefit submitted to the institution of one of the Contracting Parties shall have the effect of applications for benefit submitted to the institution of the other Party, provided that the person concerned specifically claims the benefits to which he is entitled on the basis of the legislation of the other Party as well.

3. Appeals which must be submitted within a prescribed time-limit to a competent authority or institution of one of the two Parties shall be deemed so submitted if they are submitted within that time-limit to a corresponding authority or institution of the other Party.

In such cases, the authority or institution to which the appeal is submitted shall acknowledge its receipt to the person concerned and forward it without delay to the competent authority or institution of the other Party.

Article 46. The competent authorities of the two Contracting Parties shall establish in an Administrative Agreement the necessary provisions for the application of this Convention.¹

Article 47. The competent authorities of the two Parties shall inform each other of any provisions which alter or supplement the legislation listed in article 2 and of any provisions enacted unilaterally for the application of this Convention.

¹ See p. 185 of this volume.

Article 48. 1. The competent institution of one of the Contracting Parties shall be obliged, if the institution of the other Party so requests, to carry out medical and legal checks with respect to beneficiaries in its territory.

2. The cost of medical checks and related costs resulting from the granting of benefits claimed by insured persons from both Contracting Parties shall be borne by the Party which carries out the checks.

3. The cost of medical checks and related costs arising in connection with benefits provided by the institution of one of the Contracting Parties at the request of the institution of the other Party shall be borne by the institution of the Party which requests the checks. Reimbursement shall be effected in accordance with the rules prescribed in the Administrative Agreement referred to in article 46 of this Convention.

Article 48 bis. 1. The persons referred to in article 3 of this Convention may not, during the same period, receive several benefits of the same kind relating to the same period of compulsory insurance. In such cases, the person concerned shall be entitled only to the benefits provided by the legislation of the Party in which he resides. However, this provision shall not apply to benefits in respect of invalidity, old-age, death or occupational disease provided in accordance with this Convention.

2. The provisions concerning reduction, suspension or termination of benefit established in the legislation of one of the Contracting Parties with respect to the accumulation of a social security benefit with another social security benefit or with another income shall be applicable to the beneficiary even in the case of benefits acquired under the legislation of the other Contracting Party or of income received in the territory of the other Contracting Party.

3. The competent institutions of the Contracting Parties shall exchange the necessary information for the application of this article.

Article 49. 1. Where the institution of one of the Contracting Parties pays a pension in an amount which exceeds the amount to which the beneficiary is entitled, the said institution may require the institution of the other Party to recover the excess payment from the arrears of the parts of the pension due to the recipient from the institution of the other Party. The amount recovered in this way shall be transferred to the creditor institution. If the excess payment cannot be recovered from such arrears, the rules specified in the following paragraph shall apply.

2. Where the institution of one of the Contracting Parties pays a benefit which exceeds the benefit to which the recipient is entitled, the said institution may, subject to the conditions and limits established by the legislation which it applies, require the institution of the other Contracting Party to recover the amount of the excess payment from the payments which it makes to the said recipient. The institution of the other Contracting Party shall effect this recovery in accordance with the conditions and limits established by the legislation which it applies and it shall transfer the amount recovered to the creditor institution.

Article 50. 1. The competent institution may make an advance payment to the person concerned while his claim is being processed.

2. The payment of this advance shall depend on the existence of a pension entitlement, which shall be substantiated by documents certifying the occupation exercised in the territory of the other Party.

3. Where the competent institution of one of the Contracting Parties has made advance payments to a beneficiary, the said competent institution or, at its request, the competent institution of the other Party may deduct such advance payments from the amounts due to the said beneficiary.

Article 51. 1. The institution of one of the Contracting Parties which is liable under this Convention for payment of benefits in the other Party shall discharge its liability validly by payment in its own currency.

2. If exchange-control measures are introduced in either Party, both Governments shall immediately adopt the necessary measures to ensure, in accordance with the provisions of this Convention, the transfer of the amounts due from each Party.

Article 52. 1. This Convention shall not confer entitlement to benefits in respect of periods prior to its entry into force. The provisions of the Convention concluded between Italy and Spain on 20 July 1967¹ shall apply with respect to entitlements acquired before the entry into force of this Convention.

2. This Convention shall also apply to claims being processed on the date of its entry into force with respect to benefits due from that date whenever this results in more favourable treatment for the person concerned.

3. Entitlement to benefits shall be acquired under this Convention even with respect to a contingency which occurred before the date of its entry into force.

4. For the purposes of this Convention, insurance periods completed before its entry into force shall be taken into account.

5. Where claims for benefit submitted before the entry into force of this Convention have resulted, owing to insufficiency of insurance periods, in the payment of a lump sum, the beneficiary may request a review of his case, provided that he satisfies all the requirements prescribed by this Convention for the granting of a pension.

Article 53. 1. This Convention shall be ratified, and the instruments of ratification shall be exchanged as soon as possible.

2. This Convention shall enter into force on the first day of the month following the month in which the instruments of ratification are exchanged and it shall supersede in all respects the Convention on Social Security concluded between Italy and Spain at Madrid on 20 July 1967.

3. This Convention shall remain in force for one year from the date of its entry into force and it shall be automatically renewed from year to year, unless it is denounced with at least six months' notice before expiry.

4. In the event of denunciation, the provisions of this Convention shall remain applicable to acquired rights, notwithstanding any restrictive provisions in the legislation of the two Contracting Parties with respect to the foreign nationality of the persons concerned or their residence or stay abroad.

5. Any rights in course of acquisition in respect of insurance periods completed before the date on which this Convention ceases to have effect shall be maintained in accordance with the provisions of additional agreements concluded for this purpose.

¹ United Nations, *Treaty Series*, vol. 1196, p. 332.

DONE at Madrid on 30 October 1979 in duplicate in the Spanish and Italian languages, both texts being equally authentic.

For the Spanish State:

[Signed]

CARLOS ROBLES PIQUER
Minister for Foreign Affairs

For the Italian Republic:

[Signed]

GIORGIO SANTUZ
Secretary for Foreign Affairs

ADMINISTRATIVE AGREEMENT FOR THE APPLICATION OF THE CONVENTION ON SOCIAL SECURITY BETWEEN SPAIN AND ITALY

Pursuant to article 46 of the Convention on Social Security between the Spanish State and the Italian Republic signed on today's date, hereinafter referred to as the Convention, the two Parties have agreed to conclude an Administrative Agreement for the application of the Convention and for this purpose have appointed as their plenipotentiaries:

His Majesty the King of Spain: Mr. Carlos Robles Piquer, Minister for Foreign Affairs,

His Excellency the President of the Italian Republic: His Excellency Mr. Giorgio Santuz, Under-Secretary of State for Foreign Affairs,

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

ADMINISTRATIVE AGREEMENT FOR THE APPLICATION OF THE CONVENTION ON SOCIAL SECURITY BETWEEN THE SPANISH STATE AND THE ITALIAN REPUBLIC

PART I. GENERAL PROVISIONS

Article 1. For the purposes of the application of this Administrative Agreement,

1. "Convention" means the Convention between the Spanish State and the Italian Republic;

2. "Agreement" means this Administrative Agreement;

3. "Liaison body" means the body responsible for determining the competent institutions, facilitating the relations between them, arranging the exchange of information between them and communicating to the persons concerned any useful information concerning entitlements and obligations under the Convention. The competent authorities of the Contracting Parties shall designate their respective liaison bodies;

4. The terms defined in article 1 of the Convention shall have the meaning assigned to them in that article.

Article 2. The competent institutions for the application of this Agreement shall be:

a) In the Spanish State:

1. The Mutualidades Laborales, in the case of industrial accidents and occupational diseases, permanent invalidity, death and survival and old-age;
2. The Instituto Nacional de Previsión (INPS), in the case of medical treatment and payments in respect of temporary incapacity for work and temporary invalidity resulting from ordinary sickness or non-industrial accidents, family allowances and unemployment benefits, and special situations and contingencies covered by special schemes for agricultural workers and domestic servants;
3. The Instituto Social de la Marina, in the case of protection of seamen.

b) In the Italian Republic, in addition to other social security bodies dealing with special categories of workers:

1. The Istituto Nazionale della Previdenza Sociale (INPS), in the case of compulsory invalidity, old-age and survivors' insurance for wage-earners and the corresponding special schemes for self-employed workers, tuberculosis insurance, insurance against involuntary unemployment, and family allowances;
2. The Istituto Nazionale per l'Assicurazione contro le Malattie, in the case of sickness and maternity insurance;
3. The Istituto Nazionale per l'Assicurazione contro gli Infortuni sul Lavoro, in the case of insurance against industrial accidents and occupational diseases.

Article 3. For the purposes of membership in voluntary insurance schemes in accordance with article 6, paragraph 1, of the Convention, the person concerned shall be required to submit to the competent institution of the Party in which he wishes the payments to be made a certificate attesting to the periods of compulsory insurance or equivalent periods completed under the legislation of the other Contracting Party. The said certificate shall be issued, at the request of the person concerned, by the competent institution of the Party which applies the legislation under which the person concerned has completed the said periods.

If the person concerned does not submit such a certificate, the competent institution shall request it from the competent institution of the other Party.

Article 4. Where the legislation of one of the Contracting Parties provides that the amount of the cash benefits shall depend on the number of dependent family members, family members resident in the territory of the other Contracting Party shall also be taken into account, subject to the conditions and within the limits prescribed by the said legislation.

PART II. PROVISIONS RELATING TO THE APPLICABLE LEGISLATION

Article 5. 1. Where a worker is sent to the territory of the other Contracting Party in accordance with article 8 a) of the Convention, a certificate shall be issued indicating the date until which he will remain subject to the legislation of the Contracting Party in which the enterprise has its principal place of business or in which an independent activity is usually exercised.

2. The certificate referred to in paragraph 1 shall be issued, at the request of the employer or of the worker, in Italy by the competent provincial office of the Istituto Nazionale per l'Assicurazione contro le Malattie (National Sickness Insurance

Institute), and in Spain by the competent provincial office of the Instituto Nacional de Previsión.

3. In the cases referred to in the second sentence of article 8 *a*) of the Convention, the employer or, in the case of an independent activity, the person concerned shall submit an application to the competent authority of the Party to which the worker has been sent or, as the case may be, exercises an independent activity: in Spain, to the Ministry of Health and Social Security; and in Italy, to the Ministry of Labour and Social Insurance (Department of Social Insurance and Assistance).

Article 6. 1. In order to exercise the right of option provided for in article 9, paragraph 2, of the Convention, the person concerned shall submit an application, at the same time informing his employer thereof:

- In Spain, to the competent provincial office of the Instituto Nacional de Previsión;
- In Italy, to the competent local office of INAM (National Sickness Insurance Institute).

2. The right of option must be exercised within the six months following the date on which the worker takes up his employment in the diplomatic or consular post or enters the private employ of officers of such posts. The option shall take effect from the date on which such employment begins.

3. In the case of persons already employed in a diplomatic or consular post or already in the personal employ of officers of such posts on the date of entry into force of the Convention, the option shall be exercised within six months from the said date and shall take effect from that date.

PART III. SPECIAL PROVISIONS FOR DIFFERENT CATEGORIES OF BENEFITS

Chapter I. SICKNESS AND MATERNITY BENEFITS

Article 7. 1. In order to benefit under the provisions of article 11 of the Convention, a worker shall submit to the competent institution a certificate indicating the insurance periods completed under the legislation of the other Contracting Party.

If the worker is unable to submit such a certificate, the institution having competence for the granting of the benefits shall request the certificate from the insurance body of the other Party.

2. The certificate referred to in paragraph 1 of this article shall be issued, at the request of the person concerned:

- In Spain, by the competent provincial office of the Instituto Nacional de Previsión;
- In Italy, by the competent provincial office of the Istituto Nazionale per l'Assicurazione contro le Malattie (National Sickness Insurance Institute).

Article 8. 1. In order to obtain benefits in kind in accordance with article 12, paragraph 1 *a*), of the Convention, a worker shall be required to submit to the institution of his place of stay a certificate attesting his entitlement to the benefits.

The said certificate — issued by the competent institution, at the request of the person concerned, before he leaves his place of residence — shall indicate the maximum duration of the benefits as prescribed by the legislation of the competent Party.

2. The certificate shall be issued at the request of the insured person:
 - In Spain, by the competent provincial office of the Instituto Nacional de Previsión;
 - In Italy, by the competent provincial office of the Istituto Nazionale per l'Assicurazione contro le Malattie (National Sickness Insurance Institute).
3. If the worker does not submit the certificate, the institution of his place of stay shall apply for it to the institutions referred to in subparagraphs 2 a) and b).
4. Where hospitalization is necessary, the institution of the place of stay shall inform the competent institution, within three days of the date on which it learns of such necessity, of the date of admission to hospital, the probable duration of the stay in hospital, and the date of release.

Article 9. 1. In order to obtain benefits in kind in accordance with article 12, paragraph 1 b), of the Convention, a worker who moves to the territory of the other Contracting Party shall be required to submit to the institution of the other Contracting Party a certificate attesting his entitlement to such benefits. The said certificate, issued by the competent institution, shall indicate *inter alia*, where necessary, the maximum period during which the benefits continue to be paid under the legislation of the competent Party. The certificate may be issued after the worker's departure, at his request, when for reasons beyond his control he is unable to secure its issue earlier.

2. The provisions of the preceding paragraph shall apply to the worker's family members and to recipients of a pension or other income and their family members.
3. The provisions of article 8, paragraph 4, and of article 14 of this Agreement shall apply *mutatis mutandis*.

Article 10. 1. In order to obtain payments in accordance with article 12, paragraph 1 ii), of the Convention, a worker must apply, within three days from the onset of the incapacity for work, to the institution of his place of stay or residence, submitting a certificate of incapacity for work issued by the doctor who is treating him.

2. The institution of the place of stay or residence shall carry out as soon as possible a medical check of the worker, as if it was dealing with one of its own insured persons. The medical report, which shall indicate *inter alia* the probable duration of the incapacity for work, shall be forwarded immediately to the competent institution; the competent institution shall without delay inform the institution of the place of stay or residence of the amount and maximum duration of the payments.
3. As soon as the institution of the place of stay or work ascertains that the worker is able to return to work, it shall so inform the worker and the competent institution immediately, indicating the date from which the incapacity for work is terminated. If the incapacity for work has to be extended for any reason beyond the period previously established, the institution of the place of stay or residence shall without delay communicate to the competent institution the probable new duration of the incapacity.
4. In any event, the competent institution shall retain the option of having a doctor of its choice examine the worker.
5. The payments shall be made directly to the worker by the competent institution in accordance with the legislation which it applies. However, by agreement between the competent institution and the institution of the place of stay or residence,

the payments may also be made by the latter institution, on behalf of the former, in accordance with the legislation of the competent Party.

Article 11. 1. In order to obtain the benefits referred to in article 13, paragraph 1, of the Convention a worker must register himself and his family members with the institution of his place of residence, submitting a certificate attesting entitlement to the said benefits for himself and for his dependent family members. Such certificate shall be issued by the competent institution. If the worker or his dependent family members do not submit such a certificate, the institution of the place of residence shall apply for it to the competent institution.

2. The certificate shall be valid until the institution of the place of residence receives a notification that it has been cancelled.

3. The institution of the place of residence shall inform the competent institution of all registrations pursuant to paragraph 1.

4. The worker and his dependent family members shall be required to inform the institution of his place of residence of any change in his or their situation which might alter the entitlement to benefits, in particular any cessation or change of employment by the worker or any change of residence or domicile by him or by his family members. The competent institution shall inform the institution of the place of residence of the cancellation of the worker's registration or the extinguishment of his entitlement to benefits.

5. The provisions of article 10 above shall apply to the granting of the payments referred to in article 13, paragraph 1 *b*), of the Convention.

6. The provisions of this article shall apply *mutatis mutandis* to the granting of benefits in kind to family members pursuant to article 13, paragraph 2, of the Convention.

Article 12. 1. In order to obtain benefits in kind in accordance with article 14 of the Convention, for himself or for his family members, an unemployed person shall submit to the sickness insurance institution of the Party to which he has moved a certificate which he must obtain, before the move, from the competent sickness insurance institution. If the unemployed person does not submit such a certificate, the institution of the Party to which he has moved shall apply for it to the competent institution. The certificate shall attest the existence of entitlement to the said benefits in accordance with article 23 of the Convention and indicate the duration of entitlement to the said benefits.

2. Benefits in kind shall be paid to the unemployed person and to his family members by the institution of the place of residence in accordance with the procedures prescribed by the legislation which it applies.

3. The provisions of article 8, paragraph 4, and of article 14 of this Agreement shall apply *mutatis mutandis*.

Article 13. 1. In order to obtain benefits in kind in accordance with article 15, paragraph 2, of the Convention in the Party in which he resides, a recipient of a pension or other income must register himself and his family members with the institution of the Party in which he resides, submitting a certificate attesting the entitlement to the said benefits for himself and for his family members, in accordance with the legislation of the Party from which the pension or income is due.

2. The said certificate shall be issued, at the request of the person concerned, by the institution from which the pension or income is due or, where appropriate, by the institution responsible for ruling on the entitlement to benefits. If the person concerned does not submit the said certificate, the institution of his place of residence shall apply for it to the competent institution of the Party from which the pension or income is due.

3. The certificate referred to in paragraph 1 of this article shall be valid until the institution of the place of residence receives a notification of its cancellation.

4. The institution of the place of residence shall inform the institution which issues the certificate referred to in paragraph 1 of any registration which it has made pursuant to that paragraph.

5. The recipient of the pension or income shall also be required to inform the institution of his place of residence of any change in his situation which might alter his entitlement to health benefits, in particular of any suspension or termination of the pension or income, and of any change of residence by him or by his family members. The said institution shall communicate this information to the competent institution.

6. The provisions of article 8, paragraphs 1 and 4, and of article 14 of this Agreement shall apply *mutatis mutandis*.

Article 14. 1. With respect to the granting of benefits referred to in article 16 of the Convention and listed in annex 1 of this Agreement, the institution of the place of stay or residence shall first communicate to the competent institution any decision concerning the granting of such benefits.

The institution of the place of residence shall provide the benefits in kind if it has not received an objection within 15 days from the date of the communication of its decision.

2. When the said benefits must be provided as a matter of absolute urgency, the institution of the place of residence or stay shall supply them and shall so inform the competent institution without delay.

Article 15. 1. The competent institution shall reimburse costs arising from the granting of benefits in kind pursuant to article 12, article 13, paragraph 1, article 14, article 15, paragraph 4, article 16, and the second sentence of article 48, paragraph 3, of the Convention to the institution which has provided the benefits, in the actual amounts produced by the accounts of the latter institution.

In this connection, it shall not be possible to request rates higher than those applicable to the benefits granted by the institution which has provided the benefits to recipients subject to the legislation which it applies.

Payment shall be made within six months from the receipt of the request for reimbursement; a special form shall be used for such requests.

2. The competent authorities may agree on other reimbursement procedures in specific cases or for certain categories of health benefits, in particular benefits of a pharmaceutical nature.

Article 16. 1. The competent institutions shall reimburse the cost of the benefits granted in accordance with article 13, paragraph 2, of the Convention to family members not resident in the territory of the competent Party to the institu-

tions of the family's place of residence in a lump sum which shall be as close as possible to the actual costs established for each financial year.

2. The lump sum shall be determined by multiplying the average annual cost by the number of families to be taken into account.

3. The figures needed for the calculation of the said lump sum shall be determined according to the following rules:

- a) The average annual cost per family in the country of residence shall be obtained by dividing the annual cost of all the benefits in kind granted to all the families subject to the legislation of the country in question by the average annual number of insured persons with family members;
- b) The average annual number of families to be taken into account shall be established by means of a register compiled by the institutions of the place of residence on the basis of the certificates of entitlement issued by the competent institutions.

Article 17. 1. The competent institutions shall reimburse the costs arising from the granting of benefits in accordance with article 15, paragraph 2, of the Convention to recipients of pensions or other income and members of their family to the institutions which have provided the benefits, in a lump sum which shall be as close as possible to the actual costs established for each calendar year.

2. The lump sum shall be determined by multiplying the average annual cost per recipient of a pension or other income by the average annual number of such recipients to be taken into account.

3. The figures needed for the calculation of the said lump sum shall be determined according to the following rules:

- a) The average annual cost per recipient of a pension or other income shall be obtained, for each country, by dividing the annual cost of all the benefits provided by the institutions of the place of residence to all recipients of a pension or income due under the legislation of the country of residence by the average annual number of recipients of a pension or income;
- b) The average annual number of recipients of a pension or income to be taken into account shall be determined by means of a register compiled by the institutions of the place of residence on the basis of the certificates of entitlement issued by the competent institutions.

Chapter II. INVALIDITY, OLD-AGE AND SURVIVORS' BENEFITS

Article 18. 1. In the cases referred to in article 18, paragraph 1 a), of the Convention, the aggregation of the insurance periods shall be based on the following rules:

- a) To the insurance periods completed under the legislation of one of the Contracting Parties shall be added the insurance periods completed under the legislation of the other Party, even when such periods have already provided entitlement to the payment of a separate pension;
- b) Where an insurance period completed under the legislation of one of the Contracting Parties coincides with an insurance period completed under the legislation of the other Party, the institution of each Party shall take into consideration only the periods of insurance completed under the legislation which it applies;

- c) When a period of compulsory insurance completed under the legislation of one of the Contracting Parties coincides with a period of voluntary insurance completed under the legislation of the other Party, only the compulsory period shall be taken into consideration;
- d) Any period treated as equivalent under the legislation of both Contracting Parties shall be taken into consideration only by the competent institution of the Party to whose legislation the person concerned was last subject on a compulsory basis before the period in question; where such a situation does not occur, the equivalent period shall be taken into consideration by the competent institution of the Party to whose legislation the person concerned was first subject on a compulsory basis after the period in question;
- e) Where it is impossible to determine accurately the time at which certain insurance periods were completed under the legislation of one of the Contracting Parties or of a third State, such periods shall be deemed not to overlap with insurance periods completed under the legislation of the other Contracting Party.

2. The provisions of the preceding paragraph shall apply *mutatis mutandis* to the categories referred to in article 18, paragraph 1 c), of the Convention.

Article 19. 1. Insured persons and their survivors claiming benefits under article 17 of the Convention must submit an application to the competent institution of one of the Contracting Parties in the manner prescribed by the legislation applied by the competent institution to which the application is made.

2. The date on which the application is submitted to the competent institution of one of the Contracting Parties in accordance with paragraph 1 shall in all cases be regarded as the date of submission to the competent institutions of both Contracting Parties.

Article 20. 1. For the processing of old-age, invalidity and survivors' benefits covered by the Convention, the competent institutions of the two Contracting Parties shall use a form designed in conformity with a special model to be established.

2. The said form shall include *inter alia* the particulars of the applicant and, where appropriate, of his principal, together with any other information which might be useful for the purposes of determining the applicant's entitlement to benefits under the legislation applied by the competent institution to which the form is submitted.

3. In the case of applications for invalidity benefits, the form shall be accompanied by a health report on the causes and degree of the incapacity of the person concerned and the likelihood of his recovery.

Article 21. 1. The competent institution which receives the application shall complete the form referred to in the preceding article and shall forward two copies of it to the liaison office or, where appropriate, to the competent institution of the other Contracting Party.

2. The forwarding of forms to the competent Spanish institution shall be effected in all cases through the liaison body.

Article 22. 1. Once the competent institution of the other Contracting Party has received the forms referred to in the preceding articles, it shall determine the applicant's entitlement, if any, exclusively on the basis of the insurance periods completed under the legislation which it applies or, where appropriate, any entitlements

which may derive from the aggregation of the insurance periods completed under the legislation of the two Contracting Parties. The competent institution shall then send to the competent institution of the other Contracting Party a copy of the completed form, indicating the details of the insurance periods completed under its own legislation and the entitlement to benefits granted to the applicant.

2. Once the competent institution to which the application is submitted has received the form and determined the applicant's entitlements, on the basis of its own legislation, in respect of the insurance periods completed under the legislation of both Contracting Parties, it shall rule on the application and communicate its decision to the other competent institution.

3. The personal details given in the form shall be duly verified by the competent institution, which shall forward the form to the institution of the other Party with a confirmation that the details given in the form correspond to the details in the original documents.

The forwarding of the forms shall be a sufficient substitute for the transmittal of the original documents by the persons concerned.

Article 23. The institutions of the two Contracting Parties shall transmit to each other copies of decisions taken and notified to the persons concerned.

Article 24. 1. The competent institution of the place of residence of the person concerned shall carry out the administrative and health checks requested by the competent institution of the other Contracting Party with respect to its pensioners.

It shall also formally transmit the results of its own health checks.

2. The liaison bodies and the competent institutions of the two Contracting Parties shall officially inform each other of any circumstance known to them which might affect an entitlement or the amount or payment of benefits or pensions.

3. For this purpose they may directly request the beneficiaries, under the conditions prescribed by their legislation, to submit certificates of cohabitation, dependence, existence and civil status, or any other document needed for verification of continuing entitlement to benefits.

Article 25. 1. The payment of advances on a pension, provided for in article 50 of the Convention, shall be governed by the following rules:

- a) Where the person concerned is entitled to an advance payment of a pension under the legislation of the institution of his place of residence, the advance shall be paid by that institution;
- b) Where the person concerned is not entitled to an advance payment of a pension by the institution of his place of residence, the advance shall be paid by the institution of the other Contracting Party.

2. For the purposes of application of article 50, paragraph 3, of the Convention, concerning the recovery of advances, the competent institutions of the Contracting Parties shall inform each other of the payment of such advances.

Article 26. 1. The benefits due from either of the competent institutions shall be paid directly to the persons concerned in accordance with the legislation applied by the institution in question.

The payment of pension arrears shall be subject to the provisions of paragraph 2 of this article.

2. Pension payments withheld pursuant to article 25 of this Agreement shall be transferred in their entirety to the institution of the other Party, which shall pay to the recipient any balance in his favour once the amounts advanced have been deducted.

Chapter III. UNEMPLOYMENT BENEFITS

Article 27. 1. In order to take advantage of the provisions of article 22 of the Convention, the person concerned must submit to the competent institution a certificate indicating the insurance periods completed under the legislation of the other Contracting Party.

2. The said certificate shall be issued, at the request of the person concerned, by the competent institution of the other Contracting Party.

When the person concerned does not submit the said certificate, the competent institution shall request it from the institution of the other Contracting Party.

Article 28. The certificate referred to in article 27 of this Agreement shall be issued:

- a) In Spain, by the competent provincial office of the Instituto Nacional de Previsión;
- b) In Italy, by the offices of the National Social Insurance Institute.

Article 29. 1. In the cases provided for in article 23 of the Convention, an unemployed person shall submit to the competent institution of the Contracting Party to which he is moving a certificate issued, at his request, by the competent institution of the other Contracting Party, attesting that the unemployed person is entitled to the benefits. The said certificate shall indicate *inter alia* the time-limit within which the unemployed person must register with the employment office of the Contracting Party to which he is moving, the maximum period during which the unemployed person is entitled to benefits, the amount of the benefits in the currency of the Contracting Party from which he is moving, and any facts which might alter the entitlement to benefits. Where the unemployed person does not submit the said certificate, the competent institution of the Contracting Party to which he is moving shall apply for it to the competent institution of the other Contracting Party.

2. The time-limit within which the unemployed person must register with the employment office shall be 15 days from the date of issue of the certificate referred to in the preceding paragraph. If the unemployed person registers after the said time-limit, he shall lose his entitlement to benefits in respect of the days prior to his registration.

3. The institution of the place of residence or stay shall conduct a check of the recipients of benefits as if it was dealing with its own insured persons.

4. The institution of the place of residence or stay shall pay benefits to beneficiaries on behalf of the competent institution, on the basis of the certificate referred to in paragraph 1 of this article, at the exchange rate applicable on the day on which payment is made.

5. Benefits shall be paid by the institution of the place of residence in accordance with the procedures provided for in the legislation which it applies.

Article 30. 1. Unemployment benefits paid by the institution of the place of stay or residence shall be reimbursed by the competent institution in accordance with the provisions of this article.

2. The institution of one of the Contracting Parties which pays benefits under article 23 of the Convention on behalf of the competent institution of the other Contracting Party shall transmit to the said competent institution, within the first quarter of each calendar year, a report of the benefits paid during the previous year, including *inter alia* the following information:

- a) The unemployed person's full name and date of birth;
- b) The name and address of the competent institution which issued the certificate referred to in article 27, paragraph 1, of this Agreement;
- c) The period during which benefits have been awarded;
- d) The number of days for which benefits must be reimbursed;
- e) The total amount of the benefits which must be taken into account for the purposes of reimbursement.

The competent institutions may agree among themselves to vary the periodicity of the reimbursements.

3. On receipt of the reports of payments made referred to in the previous paragraph, the competent institution, after having made any necessary inquiries, shall transfer to the competent institution of the other Contracting Party, within six months of the receipt of the report, the total amount of the benefits paid.

Chapter IV. FAMILY ALLOWANCES

Article 31. 1. A worker who claims entitlement to family allowances under article 25 of the Convention in one of the two Contracting Parties for dependants usually or temporarily resident in the other Contracting Party shall submit to the competent institution of his place of employment, through his employer if need be, a claim indicating the name, the date and place of birth and place of residence of the dependants for whom the family allowances are being claimed. The claim must be accompanied by a certificate of family status or a similar document issued by the authorities of the dependants' place of residence competent in the matter and, where necessary, any other document certifying the entitlement to family allowances under the legislation to which the worker is subject.

2. The worker shall inform the competent institutions, where necessary, through his employer of any change in his family status and of any exercise of an occupation which might cause the suspension of the family allowances in accordance with article 28 of the Convention.

3. Where the worker's family status remains unchanged, the certificate shall be valid for one year. It must be renewed within the month following the end of each year of the worker's stay in the other Contracting Party.

4. The competent institution shall pay the family allowances referred to in this article directly to the beneficiaries.

Article 32. For the purpose of the payment of family allowances to unemployed workers and to recipients of pensions or other income in the cases referred to in articles 26 and 27 of the Convention respectively, the provisions of article 31 of this Agreement shall apply *mutatis mutandis*.

Chapter V. INDUSTRIAL ACCIDENTS AND OCCUPATIONAL DISEASES

Article 33. 1. In order to obtain benefits in kind in the event of usual residence or stay in the territory of the Contracting Party which is not competent, a worker who sustains an industrial accident or contracts an occupational disease shall submit to the institution of his place of usual residence or stay a certificate attesting his entitlement to the said benefits. The certificate shall be issued on a special form by the competent institution, which shall indicate, where necessary, the maximum duration of the benefits.

2. Where the worker does not submit the certificate referred to in paragraph 1, the institution of his place of usual residence or stay shall apply for it to the competent institution and it shall meanwhile pay the sickness insurance benefits to the person concerned, provided that he satisfies the requirements for entitlement thereto.

3. In the event of hospitalization, the institution of the place of usual residence or temporary residence shall notify the competent institution of the other Party, within three days from the date on which it learns of the hospitalization, of the date of the beneficiary's admission to hospital, the probable duration of his stay, and the date of his release.

4. The competent institutions shall pay directly to beneficiaries resident in the territory of the other Contracting Party the income and other payments due to them.

Article 34. 1. The institution of the place of usual residence or stay which receives an application for supply or replacement of a prosthetic appliance or of any other major benefits in kind shall not supply it until the competent institution, to which the first institution shall forward the documents supporting the application, has indicated its agreement and, in any case, not until 15 days have elapsed from the date of the communication without notification of refusal.

2. Only the prostheses and other major benefits in kind mentioned in the list annexed to this Agreement (annex 2) shall be supplied.

3. When the said benefits must be supplied as a matter of urgency, the institution of the place of usual residence or temporary residence shall supply them and shall so inform the competent institution without delay.

Article 35. 1. In the cases referred to in article 33 and article 34, paragraph 1, of the Convention, the application for benefits may be submitted to the competent institution or to the institution of the place of residence in the other Contracting Party.

2. Once the institution which receives the application has verified that the worker last exercised in the territory of the other Party an activity capable of causing or aggravating the occupational disease in question, it shall immediately forward the application, together with any accompanying documents, to the competent institution of the other Party and shall so inform the person concerned.

3. In the cases referred to in article 34, paragraph 1, of the Convention, the institution of the competent Party, if it ascertains that the victim or his survivors do not satisfy the requirements of the legislation which it applies,

a) Shall forward without delay to the institution of the other Contracting Party the application and all the accompanying documents (including the medical and other reports which have been made), together with a copy of the decision referred to in subparagraph b);

b) Shall notify the person concerned of its decision, stating the reasons for refusal of benefits, the means and time-limits of recourse, and the date of remittal of the application to the institution of the other Contracting Party.

Article 36. 1. "Activity capable of causing or aggravating sclerotic pneumoconiosis" shall mean the dangerous activity in question regardless of its duration.

2. For the purpose of division of the costs referred to in article 34, paragraph 2, of the Convention, the institution of the competent Party shall use a form giving the details and a summary of the periods of old-age insurance completed by the insured person under the legislation of both Contracting Parties.

3. The institution of the competent Party shall divide the costs between itself and the institution of the other Party and it shall communicate its figures, with relevant supporting documents, for approval.

4. At the end of each financial year the competent institution shall transmit to the institution of the other Party the accounts of the payments made during the year in question, indicating the amount to be reimbursed. The debtor institution shall reimburse the amount as quickly as possible and, in any event, within three months from the receipt of the request.

5. In the cases referred to in the first sentence of article 36 b) of the Convention, the competent institution shall inform the institution of the other Party, for the purpose of division of the costs, of the decisions taken concerning benefits in respect of aggravation, together with appropriate supporting documents.

In the cases referred to in the second sentence of article 36 b) of the Convention, the competent institution shall communicate to the institution of the other Party, for its approval, the amount of the costs resulting from the aggravation to be borne by the latter institution, together with appropriate supporting documents.

Article 37. 1. An insured person shall be required to submit to the institution from which he claims entitlement to benefits in respect of aggravation of an occupational disease, or in respect of a new industrial accident or a new occupational disease, all necessary information concerning the previously verified risks.

2. The competent institution for the previous risks shall transmit to the institution of the other Party, at its request, any information in its possession.

Article 38. The costs of provision of benefits in kind and of medical checks and related costs, referred to in articles 29, 31 and 38 of the Convention respectively, shall be reimbursed by the competent institution to the institution which bore them, on the basis of the actual amounts produced by the accounts of the latter institution.

In this connection, it shall not be possible to request higher rates than those applicable to the benefits granted by the institution which has provided the benefits to recipients subject to the legislation which it applies.

Payment shall be made within six months from the receipt of the request for reimbursement; a special form shall be used for such requests.

PART IV. MISCELLANEOUS, TRANSITIONAL AND FINAL PROVISIONS

Article 39. The liaison bodies shall establish by common agreement the forms and any other documents needed for the application of the Convention and of this Agreement; such forms and documents shall be approved by the competent authorities.

Article 40. Under Spanish legislation a worker shall be treated as if he were an insured person who had joined a social security scheme for purposes of granting of benefits on the basis of the aggregation and pro-rating provided for in article 18 of the Convention, when he is subject to the legislation of the other Contracting Party or is entitled to receive benefits from it.

Article 41. This Agreement shall enter into force on the date of the entry into force of the Convention and it shall expire on the date on which the Convention expires in accordance with article 53 of the Convention.

DONE at Madrid on 30 October 1979 in duplicate in the Spanish and Italian languages, both texts being equally authentic.

For the Spanish State:

[Signed]

CARLOS ROBLES PIQUER
Minister for Foreign Affairs

For the Italian Republic:

[Signed]

GIORGIO SANTUZ
Secretary for Foreign Affairs

ANNEX 1

LIST OF PROSTHESES AND OTHER MAJOR BENEFITS IN KIND

1. Prosthetic, orthopaedic and supportive appliances, including reinforced fabric orthopaedic corsets;
2. Orthopaedic footwear;
3. Spectacles and contact lenses;
4. Hearing aids, in particular electro-acoustic and electro-phonetic aids;
5. Dental prostheses (fixed or removable) and occlusion prostheses for the oral cavity.

ANNEX 2

LIST OF PROSTHESES AND OTHER MAJOR BENEFITS IN KIND

1. Prosthetic, orthopaedic and supportive appliances, including reinforced fabric orthopaedic corsets, as well as extra parts and the necessary accessories and tools;
2. Orthopaedic footwear and special footwear (non-orthopaedic);
3. Prostheses of the jaw and face, and wigs;
4. Artificial eyes, contact lenses, and near-vision and far-vision spectacles for persons who have been operated on for cataracts;
5. Hearing aids, in particular electro-acoustic and electro-phonetic aids;
6. Dental prostheses (fixed or removable) and occlusion prostheses for the oral cavity;
7. Invalid carriages (hand-propelled or motorized), wheelchairs and other mechanical means of travel;
8. Spare parts for the appliances mentioned in the preceding paragraphs;
9. Maintenance and medical treatment in a convalescent home or hydrotherapy or heliotherapy centre;
10. Courses of treatment for functional rehabilitation or vocational retraining.