

No. 23718

**FRANCE
and
LUXEMBOURG**

General Convention on social security (with special protocols). Signed at Luxembourg on 12 November 1949

Supplementary Agreement to the above-mentioned Convention concerning the system of social security applicable to persons employed in mines and establishments treated as mines (with interpretative note dated 19 February 1953). Signed at Luxembourg on 12 November 1949

Supplementary Agreement No. 2 to the above-mentioned Convention of 12 November 1949 concerning the social security system applicable to frontier workers. Signed at Paris on 19 February 1953

Exchange of letters constituting a supplementary agreement to the above-mentioned Convention of 12 November 1949 concerning the social security scheme for students. Paris, 12 July 1955

Authentic texts: French.

Registered by France on 28 January 1986.

[TRANSLATION — TRADUCTION]

GENERAL CONVENTION¹ ON SOCIAL SECURITY BETWEEN FRANCE AND THE GRAND DUCHY OF LUXEMBOURG

The President of the French Republic and
Her Royal Highness the Grand Duchess of Luxembourg,

Desirous of guaranteeing the benefits of the legislative provisions respecting social security in force in the two contracting States to the persons to whom these legislative provisions apply or have been applied, have resolved to conclude a convention and for this purpose have appointed as their plenipotentiaries:

The President of the French Republic:

His Excellency Mr. Pierre Segelle, Minister of Labour and Social Security, and
His Excellency Mr. Pierre Saffroy, Envoy Extraordinary and Minister Plenipotentiary of France to Luxembourg;

Her Royal Highness the Grand Duchess of Luxembourg:

His Excellency Mr. Pierre Dupong, Minister of State, President of the Government, Minister of Labour and Social Welfare, and

His Excellency Mr. Eugène Schaus, Minister of Justice and the Interior Minister of Foreign Affairs a.i.;

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

TITLE I. GENERAL PRINCIPLES

Article 1

Paragraph 1. French or Luxembourg employed persons and persons treated as employed persons under the legislative provisions relating to social security set out in article 2 of the present Convention shall be subject respectively to the said legislative provisions in force in the Grand Duchy of Luxembourg or in France and shall enjoy the benefits thereof under the same conditions as nationals of each country.

Paragraph 2. French or Luxembourg nationals other than those referred to in paragraph 1 of the present article shall be eligible for family benefits in accordance with the legislative provisions set out in article 2, in force in the Grand Duchy of Luxembourg or in France under the same conditions as nationals of each country.

Article 2

Paragraph 1. The social security laws to which this Convention applies are:

(1) In France:

(a) The legislation organising social security;

(b) The general legislation governing the system of social insurance for insured persons employed in non-agricultural occupations, and concerning

¹ Came into force on 1 July 1950, i.e., the first day of the month following the exchange of the instruments of ratification, which took place at Paris on 30 June 1950, in accordance with article 35 (2).

- insurance against sickness, invalidity, old age, death and the covering of maternity expenses;
- (c) The social insurance legislation applying to employed persons and persons treated as employed persons in agricultural occupations and concerning the covering of the same risks and expenses;
 - (d) The legislation respecting family benefits;
 - (e) The legislation for the prevention of, and compensation for, industrial accidents and occupational diseases;
 - (f) The special social security schemes insofar as they relate to the risks or benefits covered by the laws listed in the preceding paragraphs (in particular, the social security scheme in the mining industry);
- (2) In the Grand Duchy of Luxembourg:
- (a) The legislation relating to compulsory sickness insurance;
 - (b) The general legislation relating to old-age, invalidity and premature-death insurance;
 - (c) The legislation relating to employees' old-age, invalidity and premature-death insurance;
 - (d) The legislative provisions relating to family allowances for wage-earning and non-wage-earning employees, birth allowances provided by the State to non-employed persons being temporarily reserved;
 - (e) The legislation relating to industrial accidents and occupational diseases;
 - (f) The legislation relating to the supplementary insurance of miners and metallurgical workers and of mine technicians employed underground.

Paragraph 2. The present Convention shall also apply to any laws or regulations which have amended or supplemented, or which may in the future amend or supplement, the laws referred to in the first paragraph of the present article.

Nevertheless, the present Convention shall not apply to:

- (a) Laws or regulations covering a new branch of social security, unless an arrangement to that effect is agreed upon between the contracting Governments;
- (b) Laws or regulations extending existing schemes to new classes of beneficiaries, if the other contracting Government lodges an objection with the Government concerned within three months following the official publication of the said laws or regulations.

Article 3

Paragraph 1. Employed persons or persons treated as employed persons under the laws applicable in both countries, who are employed in either country, shall be subject to the laws in force at their place of employment.

Paragraph 2. The following exceptions shall be made to the principle laid down in paragraph 1 of the article:

- (a) Employed persons and persons treated as employed persons who are employed in a country other than that of their normal residence by an undertaking having in the latter country an establishment to which the persons concerned normally belong, shall remain subject to the legislation in force in the country in which they are normally employed, provided that the duration of their employment within the territory of the second country does not exceed six months; where, for unforeseeable reasons, this employment is extended beyond the period originally laid down and

exceeds six months, the application of the legislation in force in the country in which they are normally employed may, as an exceptional measure, be continued with the agreement of the Government of the country in which the temporary place of employment is situated;

(b) In the case of undertakings or workplaces through which the common frontier of the two countries passes, the legislation applicable to persons employed in these undertakings or workplaces shall, without exception, be the legislation in force in the country in which the undertaking has its head office;

(c) Employed persons or persons treated as employed persons belonging to public transport undertakings in either country who are employed in the other country, either temporarily or, on a permanent basis on lines of inter-communication or at frontier stations, shall be subject to the provisions in force in the country in which the undertaking has its head office;

(d) With respect to transport undertakings other than those referred to in (c) above which extend from one contracting country into the other, persons employed in the mobile sections (travelling personnel) of these undertakings shall be subject exclusively to the provisions in force in the country in which the undertaking has its head office;

(e) Employed persons or persons treated as employed persons belonging to official administrative departments (customs, post office, passport control, etc.) who are posted by one of the contracting countries for employment in the other country shall be subject to the provisions in force in the country by which they are so posted.

Paragraph 3. French or Luxembourg nationals other than employed persons or persons treated as employed persons shall be subject to the legislation concerning family benefits in force at the place of their principal occupation. If they practise no occupation, they shall be subject to the legislation concerning family benefits in force at the place of their normal residence.

Paragraph 4. The competent authorities of the Contracting States may provide, by mutual agreement, for exceptions to the rules laid down in paragraphs 1 and 3 of this article. They may also agree that the exceptions provided for in paragraph 2 shall not be applied in certain particular cases.

Article 4

The provisions of paragraph 1 of article 3 shall be applicable to employed persons or persons treated as employed persons, whatever their nationality, who are employed in the diplomatic or consular offices of France or Luxembourg or who are in the personal employ of officers of the diplomatic or consular service of those countries.

Nevertheless:

(1) This article shall not apply to diplomatic and consular officers *de carrière*, including officials on the staff of chancelleries;

(2) Employed persons and persons treated as employed persons who are nationals of the country represented by the diplomatic or consular office and who are posted temporarily to the country where they are employed may opt between the application of the legislation of the country in which they are employed and the application of the legislation of their country of origin.

TITLE II. SPECIAL PROVISIONS

CHAPTER I. INSURANCE AGAINST SICKNESS, MATERNITY AND DEATH

Article 5

Employed persons and persons treated as such who move from France to the Grand Duchy of Luxembourg and vice versa and any dependants living with them shall receive, in the country of their new place of employment, benefits from the sickness insurance scheme of that country if:

- (1) They have been working in that country as employed persons or persons treated as such;
- (2) The illness began following their arrival in that country unless the legislation applying in their new place of employment provides more favourable conditions for entitlement to benefit;
- (3) They fulfil the conditions for receipt of such benefit under the legislation of the country of their new place of employment, account being taken of insurance periods accomplished in both countries, or show that they have satisfied the conditions imposed by the legislation of the country which they have left.

Article 6

Employed persons and persons treated as employed persons who move from France to the Grand Duchy of Luxembourg or vice versa shall, together with any dependants living with them in the country of the new place of employment, receive benefits from the maternity scheme of that country, provided that:

- (1) They have been in employment for wages or in other employment treated as such in that country;
- (2) They fulfil the conditions required for eligibility for benefit under the legislation of the country of their new place of employment, or prove that they have satisfied the requirements of the legislation of the country they have left, account being taken of the period of registration in the latter country and the period subsequent to their registration in the country of their new place of employment.

Nevertheless, maternity benefits shall be paid by the social insurance agency of the scheme under which the person was insured at the presumed date of conception. The latter shall refund to the social insurance agency of the country of the new place of employment the total expenses involved.

If the date of conception cannot be established accurately, it shall be presumed to be the 270th day prior to birth.

Article 7

Employed persons and persons treated as employed persons who move from one country to the other shall establish the right to the funeral allowances provided for by French legislation or to the death benefits provided for by Luxembourg legislation, in accordance with the legislation of the country of the new place of employment, provided that:

- (1) They have been in employment for wages or in other employment treated as such in that country;
- (2) They fulfil the conditions required for eligibility for benefit under the legislation of the country of their new place of employment or prove that they have satis-

fied the requirements of the legislation of the country they have left, account being taken of the period of registration in the latter country and the period subsequent to their registration in the country of their new place of employment.

Article 8

Paragraph 1. Sickness insurance benefits in kind payable to persons in receipt of invalidity or old age pensions under the legislation of one country and who transfer their residence to the other country, and benefits in kind payable to the legally entitled members of the households of such persons in their country of residence, shall be paid, in accordance with the legislation of the latter country:

- In France, by the social security agency of the place of residence;
- In the Grand Duchy of Luxembourg, by the competent sickness fund.

Paragraph 2. Persons who have obtained the payment of an old age pension in accordance with the present Convention, on the basis of the aggregation of the insurance periods, shall be entitled to the sickness insurance benefits in kind, provided that, for the whole of the said periods, they satisfy the conditions laid down by either of the two national legislations; the social security agencies of the country in which the insured persons have completed the majority of the said insurance periods shall be responsible for payment of these benefits.

Article 9

The competent authorities of the two contracting countries shall establish, by mutual agreement, the procedure for the application of the provisions of article 8 and shall, where necessary, compute the amount of the lump-sum reimbursements payable by the French and Luxembourg authorities, respectively, by way of counterpart of the benefits in kind paid to the nationals of either country.

CHAPTER 2. INVALIDITY INSURANCE

Article 10

Paragraph 1. For French or Luxembourg employed persons or persons treated as employed persons who, in the two countries, have been insured, consecutively or alternately, under one or more invalidity insurance schemes, the insurance periods completed under these schemes or the periods recognized as equivalent to insurance periods by virtue of the said schemes, shall, provided that they do not overlap, be aggregated for the purposes both of the determination of the right to benefit in cash or in kind, and of the maintenance or recovery of this right.

Paragraph 2. Cash benefits under the invalidity insurance system shall be paid in accordance with the law applicable to the person concerned at the time of the first medical declaration of sickness or accident, and the costs shall be borne by the social security agency competent under the terms of that law.

Paragraph 3. Nevertheless, if, at the beginning of the calendar quarter in the course of which the sickness began, the disabled person, previously insured under an invalidity insurance scheme of the other country, has not been subject for a period of not less than one year to the legislation of the country in which the sickness was declared, he shall receive from the competent social insurance agency of the other country the cash benefits provided for by the legislation of that country. This provision shall not apply if invalidity is the result of an accident.

Article 11

If, after suspension or discontinuance of the invalidity pension or compensation, the insured person again becomes entitled to benefit, the payment of benefit shall be resumed by the authority responsible for the pension or compensation originally granted, if the state of invalidity is attributable to the disease or disablement in respect of which such pension or compensation was previously granted.

Article 12

An invalidity pension or compensation shall be converted where necessary into an old age pension under the conditions laid down by the legislation by virtue of which the pension or compensation was granted. Effect shall be given where necessary to the provisions of Chapter 3 below.

Article 13

The competent authorities of the Contracting States shall regulate by mutual agreement the details of medical and administrative supervision of disabled persons.

CHAPTER 3. INSURANCE AGAINST OLD AGE AND DEATH (PENSIONS)

Article 14

Paragraph 1. For French or Luxembourg employed person or persons treated as employed persons who in the two countries have been insured, consecutively or alternately, under one or more old age or death (pensions) insurance schemes, the insurance periods completed under these schemes or the periods recognized as equivalent to insurance periods by virtue of the said schemes, shall, provided that they do not overlap, be aggregated for the purposes both of determining the right to benefit and of maintaining or recovering this right.

Paragraph 2. Where the legislation of one of the contracting countries makes the grant of certain benefits conditional upon the periods being completed in an occupation subject to a special insurance scheme, only the periods completed under the corresponding special scheme or schemes of the other country shall be aggregated for admission to the grant of these benefits. If there is no special scheme in either country in respect of the given occupation, the insurance periods completed in the said occupation under one of the schemes referred to in paragraph 1 above shall be aggregated. This shall apply, in particular, in the Grand Duchy of Luxembourg to persons subject to supplementary insurance for miners and metallurgical workers and for mine technicians employed underground who are not covered by the supplementary agreement concerning underground miners and quarry workers.

Paragraph 3. The amount of benefit which an insured person may claim from the competent authorities of either country shall, as a rule, be determined by reducing the amount of the benefit to which he would have been so entitled if the total number of periods referred to in paragraph 1 above had been completed under the appropriate scheme, the reduction being effected on a *pro rata* basis having regard to the periods actually completed under that scheme.

The social insurance agencies of each country shall determine, in accordance with the legislation applicable to them and taking into account the total number of insurance periods, irrespective of the contracting country in which they were completed, whether the person concerned satisfies the conditions required in order to be entitled to the benefits provided by that legislation.

The said agencies shall determine, as a matter of form, the amount of the cash benefit to which the person concerned would be entitled if the total number of insurance periods had been completed exclusively under their own legislation and shall reduce this amount in proportion to the periods actually completed under that legislation.

Article 15

If, under the legislation of either country, account is taken in the payment of benefits of the average wage during the whole or part of the insurance period, the average wage to be taken into account in computing the benefits to be borne by that country shall be determined on the basis of the wages paid during the insurance period completed in that country.

Article 16

An authority shall not be responsible for a benefit where the periods completed under the relative legislation do not total one year, comprising the minimum annual number of days actually worked, or days considered as such, provided for by such legislation.

Article 17

When an insured person, account being taken of the total number of periods referred to in paragraph 1 of article 14, does not simultaneously satisfy the conditions required by the laws of the two countries, his right to a pension in respect of either scheme shall be established as soon as he has satisfied those conditions.

Article 18

Paragraph 1. Every insured person may, at the time when his right to a pension becomes established, renounce the benefit of the provisions of article 14 of this Convention. The benefits to which he may be entitled by virtue of the laws of each country shall then be paid separately by the competent authorities, independently of the insurance periods or their recognized equivalents, completed in the other country.

Paragraph 2. The insured person shall be entitled to make a fresh choice between the provisions of article 14 and those of the present article when it becomes in his interest to do so as the result either of an amendment to one of the national legislations or of the transfer of his place of residence from one country to the other, or, in the case referred to in article 17, at the time when he establishes a new pension right under one of the legislations applicable to him.

Article 19

Paragraph 1. Where the legislation of one of the contracting countries makes the grant of certain benefits conditional upon residence, this shall not apply to Luxembourg or French nationals as long as they are resident in either of the two contracting countries.

Paragraph 2. The non-payment of contributions during a certain period shall not result in any loss of rights, if, during the period in question, the insured person was subject to the insurance system of the other contracting country.

CHAPTER 4. FAMILY BENEFITS

Article 20

Where the national legislation makes establishment of the right to family benefits conditional upon the completion of periods of employment or occupation or other activity treated as employment or occupation, account shall be taken of the periods completed in each country.

CHAPTER 5. INDUSTRIAL ACCIDENTS AND OCCUPATIONAL DISEASES

Article 21

Nationals of either country shall not be subject to the provisions incorporated in the other country's legislation concerning industrial accidents and occupational diseases which restrict the rights of foreigners or which impose loss of right by reason of their place of residence.

Article 22

Increased rates or supplementary allowances granted in addition to industrial accident pensions under the legislation in force in each of the two contracting countries shall be paid to the persons to whom article 21 above applies who change their place of residence from one country to the other.

Article 23

If an insured person who has received compensation in respect of an occupational disease in one of the contracting countries proves entitlement to compensation in respect of a similar disease under the legislation of the country of his new place of employment, he shall be bound to declare to the appropriate institution of the latter country all benefits previously received in respect of the same disease.

The institution responsible for paying the new benefits shall take into account all previous benefits as if it had been responsible for paying them.

TITLE III. GENERAL AND MISCELLANEOUS PROVISIONS

CHAPTER 1. ADMINISTRATIVE CO-OPERATION

Article 24

The authorities and the social security agencies of the two contracting countries will furnish one another mutual assistance to the same extent as if the matter affected the application of their own social security schemes.

Article 25

Paragraph 1. The privilege of exemption from payment of dues in respect of registration, stamp duties and consular fees provided by the laws of either country in respect of documents to be produced to the administrative authorities or social security agencies of the one country shall be extended to the corresponding documents to be produced, for the purposes of the application of the present convention, to the administrative authorities or social security agencies of the other country.

Paragraph 2. The requirement of legalization by the diplomatic and consular authorities shall be waived in respect of all certificates, documents and papers to be produced for the purpose of implementing the present convention.

Article 26

Communications relating to the application of the present convention sent by beneficiaries under the convention to the social security agencies and other administrative or judicial authorities of a contracting country dealing with social security matters will be drawn up in an official language of one or the other country.

Article 27

Appeals which have to be lodged within a prescribed period with an authority or agency of either contracting country competent to accept appeals relating to social security shall be deemed admissible if they are lodged within the same period with a corresponding authority or agency in the other country. In such cases the latter authority or agency shall be bound to transmit the appeals without delay to the competent authority.

Article 28

Paragraph 1. The administrative authorities of the contracting States will decide directly on the detailed measures for the implementation of the present convention or of the supplementary Agreements provided for in the convention, insofar as these measures call for joint action by those authorities.

The same administrative authorities will notify one another in due course of the changes that have taken place in the laws or regulations of their respective countries concerning the schemes enumerated in article 2.

Paragraph 2. The competent authorities or departments in each country will notify one another of the other arrangements made within their respective countries for the implementation of the present convention.

Article 29

The Ministers respectively responsible for the schemes enumerated in article 2 shall be deemed in each of the contracting countries to be the competent authorities, within the meaning of the present convention.

CHAPTER 2. MISCELLANEOUS PROVISIONS

Article 30

The agencies responsible under the present convention for the administration of social security benefits will be held to discharge their responsibility validly by payments in the currency of their country.

Should regulations be issued in one or other of the two countries imposing restrictions on currency transactions, steps will be taken forthwith, by agreement between the two Governments, to ensure, in accordance with the provisions of the present convention, the reciprocal transfer of sums due.

Article 31

Nothing in this convention shall be held to invalidate the rules laid down in the schemes referred to in article 2 respecting the conditions under which insured persons may take part in the elections entailed by the functioning of the social security system.

Article 32

The formalities that may be laid down by the legal provisions or regulations of one or other of the contracting States in respect of the payment, outside the limits of their territory, of the benefits distributed by social security agencies will also apply, on the same terms as to nationals, to persons entitled to receive such benefits by virtue of the present convention.

Article 33

The provisions necessary for the application of the present convention as regards the several branches of social security included in the schemes referred to in article 2 will form the subject matter of one or more supplementary agreements.¹ Such agreements may be made applicable to the whole territory of the contracting States or to a part thereof only.

A supplementary agreement based on the principles of the present convention will regulate, in particular, the situation of persons employed in the mining industry.²

Article 34

Paragraph 1. All difficulties relating to the carrying out of the present convention will be resolved by agreement between the competent authorities of the contracting States.

Paragraph 2. Should it prove impossible to arrive at a solution by this means, the disagreement shall be settled by arbitration, in accordance with a procedure to be arranged between the two Governments. The arbitral body shall settle the dispute according to the fundamental principles and in the spirit of the present convention.

Article 35

Paragraph 1. The present convention will be ratified and the instruments of ratification exchanged in Paris as soon as possible.

Paragraph 2. It will come into force on the first day of the month following the exchange of the instruments of ratification.

Paragraph 3. The date for the coming into force of the supplementary agreements¹ referred to in article 33 will be provided for in the said agreements.

Paragraph 4. Benefits, the payment of which was suspended under the provisions in force in one of the contracting countries by reason of the residence abroad of the persons concerned, will be paid as from the first day of the month following the entry into force of the present convention. Benefits which could not be granted to the beneficiaries for the same reason will be paid and services reckoned as from the same date.

The provisions of this paragraph will not apply unless the claims are made within a period of one year from the date of the entry into force of the present convention.

¹ See pp. 233 and 240 of this volume.

² See p. 233 of this volume.

Paragraph 5. The rights of Luxembourg nationals whose old-age insurance pensions were assessed for payment under the provisions of the amended legislative Decrees of 28 and 30 October 1935, prior to the coming into operation of the General Convention, may be reassessed at the request of the persons concerned.

Such reassessment shall have the effect of granting to the recipients the same rights as if the Convention had been in force at the time of assessment of the pension for payment.

Paragraph 6. In the case of employed persons or persons considered as such who left Luxembourg before 1 July 1938, periods of insurance in Luxembourg prior to that date may be taken into account for the purposes of article 14 of this Convention only if:

- (a) They provide evidence of six months' insurance subsequent to that date under the Luxembourg scheme, if they returned to the Grand Duchy before 1 July 1949;
- (b) They have maintained or recovered the rights pertaining to such periods in accordance with Luxembourg legislation.

In the case of employed persons or persons considered as such who left French territory before 1 July 1938, periods of insurance in France prior to that date may be taken into account for the purposes of article 14 of this Convention only if:

- (a) They provide evidence of six months' insurance subsequent to that date under the French scheme, if they returned to France before 1 July 1949;
- (b) They can provide evidence of 4 years' insurance under the French scheme.

Paragraph 7. The supplementary agreements referred to in article 33 will determine the conditions and methods in accordance with which rights previously awarded and rights revived or awarded in pursuance of this article will be reviewed so as to bring their award into conformity with the provisions of the present Convention or the said agreements. Where the rights previously awarded have been settled by means of a lump-sum payment, there shall be no ground for review.

Article 36

Paragraph 1. The present Convention is concluded for the duration of one year. It shall continue in force from year to year unless notice of termination is given three months before the expiration of the period.

Paragraph 2. In the event of such notice being given, the provisions of the present Convention and of the supplementary agreements referred to in article 33 shall remain applicable to acquired rights, notwithstanding any restrictive provisions that the schemes concerned may have laid down for cases where an insured person resides in a foreign country.

Paragraph 3. In the case of any rights that are in process of acquisition in respect of insurance periods completed prior to the date on which the present Convention ceases to have effect, the provisions of this Convention shall continue to apply in conformity with conditions to be laid down by supplementary agreements.

Article 37

The following shall cease to have effect as from the date of the entry into force of the present Convention: the Convention of 27 June 1906 between France and the

Grand Duchy of Luxembourg regarding compensation in case of injuries resulting from accidents in the course of employment.¹

IN WITNESS WHEREOF the respective Plenipotentiaries have signed the present Convention and affixed their seals thereto.

DONE at Luxembourg on 12 November 1949, in duplicate.

[PIERRE SEGELLE]

[PIERRE SAFFROY]

[PIERRE DUPONG]

[EUGÈNE SCHAUS]

SPECIAL PROTOCOL

In order to enable Luxembourg nationals to benefit from the provisions of article 127 *bis* of the ordinance of 19 October 1945, as amended, on the repurchase of contributions of employed professional persons, the French Government will authorize interested persons born before 1 April 1886 to submit their applications for repurchase within six months of the publication of the Convention dated this day. However, arrears of any pensions payable will be paid only as from 1 October 1949.

DONE in duplicate, at Luxembourg, on 12 November 1949.

[PIERRE SEGELLE]

[PIERRE SAFFROY]

[PIERRE DUPONG]

[EUGÈNE SCHAUS]

SPECIAL PROTOCOL ON THE OLD-AGE ALLOWANCE FOR EMPLOYEES PROVIDED FOR UNDER FRENCH LAW

The High Contracting Parties, desirous of taking into account the services to the economy of each of the two countries rendered by aged employees who are nationals of the other Party, and considering the benefits enjoyed by French nationals under Luxembourg law, agree that the old-age allowance for employees shall be granted under the conditions laid down for French employees by the legislation respecting the old-age allowance for employees to all aged Luxembourg employees without adequate means who have completed not less than fifteen years of uninterrupted residence in France at the date of the applications.

¹ *British and Foreign State Papers*, vol. C, p. 917 (French text only).

The old-age allowance for employees granted under the conditions set out above shall cease to be paid to beneficiaries of Luxembourg nationality who leave French territory.

DONE in duplicate, at Luxembourg, on 12 November 1949.

[PIERRE SEGELLE]

[PIERRE SAFFROY]

[PIERRE DUPONG]

[EUGÈNE SCHAUS]

[TRANSLATION — TRADUCTION]

SUPPLEMENTARY AGREEMENT¹ TO THE GENERAL CONVENTION OF 12 NOVEMBER 1949² BETWEEN FRANCE AND THE GRAND-DUCHY OF LUXEMBOURG ON SOCIAL SECURITY, SYSTEM OF SOCIAL SECURITY APPLICABLE TO PERSONS EMPLOYED IN MINES AND ESTABLISHMENTS TREATED AS MINES**TITLE I. GENERAL PROVISIONS***Article 1*

The present Agreement defines the system applicable to French or Luxembourg nationals who are or have been employed in mines or establishments treated as mines in either country, as well as to their dependants.

Article 2

1. The provisions of the General Convention of 12 November 1949,² with the exception of Chapters 2 and 3 of Title II concerning insurance against old age, invalidity and death (pensions), shall be applicable to the employed persons referred to in article 1, and to their dependants.

TITLE II. INSURANCE AGAINST OLD AGE, INVALIDITY AND DEATH (PENSIONS)**CHAPTER I. COMMON PROVISIONS***Article 3*

Paragraph 1. For employed persons who, in the two countries, have been subject consecutively or alternately to the special legislation for persons employed in mines, the insurance periods computed under either legislation or the periods recognized as equivalent to insurance periods by virtue of the said legislations shall be aggregated for the purposes both of determining the right to old age, invalidity and death insurance benefit (pensions) and of maintaining or recovering this right.

Paragraph 2. The periods of employment supposedly completed underground under the special legislation for persons employed in the mines of one of the contracting countries shall be deemed to be periods of employment underground for the purposes of the legislation of the other country.

Article 4

Any period recognized as equivalent to an insurance period under the legislations of both countries shall be taken into account only by the authorities of the country in which the person concerned was last employed in a mine before the period in question.

¹ Came into force on 1 July 1950, the date of entry into force of the above-mentioned Convention, in accordance with article 24.

² See p. 220 of this volume.

Where the person concerned has not been employed in a mine before the said period, such period shall be taken into account by the authorities of the country in which he was employed in a mine for the first time.

Article 5

The social insurance authorities of each country shall determine, in accordance with the legislation applicable to them, and taking into account the total number of insurance periods irrespective of the contracting country in which they have been completed, whether the person concerned satisfies the conditions required in order to be entitled to the benefits provided for by that legislation.

The authorities shall determine, as a matter of form, the amount of the cash benefit to which the person concerned would be entitled if the total number of insurance periods had been completed exclusively under their own legislation and shall reduce this amount in proportion to the periods actually completed under that legislation.

An authority shall not be responsible for a benefit where the periods completed under the relative legislation do not total one year comprising the annual minimum number of days of actual employment or of days treated as actual employment provided for by that legislation.

Article 6

If, under the legislation of either country, account is taken, in the payment of benefits, of the average wage during all or part of the insurance period, the average wage to be taken into account in computing the benefits to be borne by that country shall be determined on the basis of the wages paid during the insurance period completed in that country.

Article 7

When an insured person, account being taken of the total number of insurance periods, does not simultaneously satisfy the conditions required by the laws of the two countries, his right to benefit in respect of either scheme shall be established as soon as he has satisfied those conditions.

Article 8

When a category of employment is subject to the special legislation for persons employed in mines in one only of the contracting countries, the social insurance authority to which the person concerned has been affiliated in each of the countries shall take into consideration the total number of periods completed in that category in France and the Grand Duchy of Luxembourg.

Each authority shall apply articles 3 to 7 when calculating the benefits for which it is responsible.

CHAPTER II. OLD AGE INSURANCE

Article 9

Every insured person may, at the time when his right to a pension becomes established, renounce the benefit of the provisions of articles 3 to 7 of the present Agreement.

The benefits to which he may then be entitled by virtue of the laws of each country shall be paid separately by the competent authorities, independently of the insurance periods, or their recognized equivalents, completed in the other country.

The insured person shall be entitled to make a fresh choice between the provisions of the above-mentioned articles and those of the present article when it becomes in his interest to do so in the following circumstances:

- (1) In the event of an amendment to one of the national legislations;
- (2) In the event of the transfer of his place of residence from one country to the other;
- (3) In the case referred to in article 7 of the present Agreement at the time when he establishes a new pension right under one of the legislations applicable to him.

Article 10

The special allowance and the compensation payable concurrently by France shall be computed on the basis of the provisions of Chapter I, articles 3 to 5, of this Title taking into account services performed in both countries both underground and aboveground, and in proportion to the number of years of service completed in French mines.

The special allowance and the concurrent compensation shall be payable only to persons working in French mines.

CHAPTER III. INVALIDITY INSURANCE

Article 11

For the establishment of the right to invalidity pensions the period throughout which the person concerned is required to have been in receipt of the cash compensation paid under sickness insurance prior to the award of his pension shall, in all cases, be that provided for by the legislation of the country in which he was working at the time of the occurrence of the accident or sickness which caused the invalidity.

Article 12

The occupational invalidity pension provided for by the special legislation for persons employed in the mining industry in France shall be payable only to insured persons who were subject to that legislation at the time of the occurrence of the accident or sickness which caused the invalidity, and who have been resident in France until the award of the said pension.

The pension shall cease to be paid to a pensioner who resumes employment outside France.

Article 13

Where an insured person does not satisfy the conditions laid down for the grant of an invalidity pension by each of the special legislations for persons employed in the mining industries of the two countries, the benefits to which he is entitled shall be determined in accordance with the law applicable to him at the time of the first medical declaration of the sickness or accident from which his invalidity resulted, taking into account, where necessary, the provisions of this Agreement respecting the aggregation of the insurance periods.

The invalidity pensions shall be borne exclusively by the social security authority competent under the terms of the latter law.

Nevertheless, if, at the beginning of the calendar quarter in the course of which the sickness occurred, the disabled person, previously subject to an invalidity insurance system of the other country, has not been subject for a period of not less than one year to the legislation of the country in which the sickness was declared or if, although he satisfies the conditions required for the grant of an invalidity pension by each of the special legislations for persons employed in the mining industries of the two countries, the insurance periods completed in the country in which the sickness was declared do not amount to the minimum total of one year as laid down in article 5 of this Agreement, he shall receive from the competent social security authority of the other country the invalidity pension provided for by the legislation of that country. This provision shall not apply if the invalidity is the result of an accident.

Article 14

Where at the time when the accident or sickness which caused invalidity occurred the person concerned was employed in the country other than that of the debtor authority, account shall be taken, in determining the amount of the invalidity pension of the wage granted in the country of the debtor authority to employed persons of the occupational category to which the person concerned belonged at the time.

Article 15

For the purpose of determining the degree of invalidity the social insurance authorities of each country shall take into account the medical declarations and the information collected by the social insurance authorities of the other country.

Nevertheless, they shall retain the right to have the person concerned examined by a medical practitioner of their own choice.

Article 16

If, after suspension or discontinuance of the invalidity pension, the insured person again becomes entitled to benefit, the payment of benefit shall be resumed by the authority responsible for the pension or compensation originally granted, if the state of invalidity is attributable to the disease or disablement in respect of which such pension or compensation was previously granted.

The provisions of the present article shall not apply to the occupational invalidity pensions provided for by French legislation.

Article 17

Invalidity pensions shall be converted where necessary into old age pensions under the conditions laid down by the law by virtue of which they were granted.

CHAPTER IV. DEATH INSURANCE (PENSIONS)

Article 18

The provisions of articles 9 and 10 shall apply to the various categories of widows' pensions.

Article 19

Notwithstanding the provisions of article 5 of this Agreement, orphans' allowances shall be borne exclusively by the social insurance authority of the country in which the insured person was last employed in the mining industry.

CHAPTER V. CHILDREN'S ALLOWANCES

Article 20

Notwithstanding the provisions of article 5, the children's allowances provided for by the special French legislation for persons employed in the mining industry shall be paid under the conditions determined by that legislation for old age pensioners or their widows.

CHAPTER VI. COAL AND RENT ALLOWANCES

Article 21

The grant to pensioners of coal and rent allowances, or of grants in lieu thereof, will form the subject matter of an arrangement between the competent authorities of the two States.

CHAPTER VII. MISCELLANEOUS PROVISIONS

Article 22

Paragraph 1. Applications for cash benefits due under the provisions of the recent Agreement shall be submitted to the social insurance authority with which the person concerned has been insured.

Paragraph 2. The date of applications shall be deemed by all the authorities referred to in paragraph 1 to be the date of their receipt by one of the said authorities.

Paragraph 3. The applications shall be accompanied by the papers and documentary evidence required under the legislation of the various insurance schemes under which the person concerned has been insured.

Paragraph 4. The social insurance authorities referred to in paragraphs 1 and 2 shall be deemed to include any authorities which, in accordance with the statutory provisions regulating such social insurance authorities, are competent to accept the said applications.

Article 23

The National Independent Fund for Social Security in the Mining Industry, the Old-Age and Invalidity Insurance Authority and the Private Employees' Pension Fund shall assist one another in the application of the present Agreement and shall correspond directly with one another for this purpose.

Article 24

The present Agreement will be ratified and the instruments of ratification exchanged as soon as possible.

It will come into force on the same date as the General Convention on Social Security.

The provision contained in article 35, paragraph 6, of the General Convention shall not apply to this Agreement.

Article 25

The present Agreement is concluded for the duration of one year and will continue in force automatically from year to year unless notice of termination is given three months before the expiration of the period.

DONE in duplicate at Luxembourg on 12 November 1949.

[PIERRE SEGELLE]

[PIERRE SAFFROY]

[PIERRE DUPONG]

[EUGÈNE SCHAUS]

INTERPRETATIVE NOTE

The undersigned representatives of the French and Luxembourg Governments have agreed to adopt the following provisions and interpretations regarding the implementation of the Supplementary Agreement to the General Convention on Social Security between France and the Grand Duchy of Luxembourg concerning the System of Social Security Applicable to Persons Employed in Mines and Establishments Treated as Mines.

Article 1

The Supplementary Agreement to the General Convention between France and the Grand Duchy of Luxembourg concerning French and Luxembourg nationals employed, or having been employed, in mines or establishments treated as mines shall apply to invalidity pensions for persons entitled to a pension under the special system applicable to mines in either country, taking into account, where applicable, the total length of insurance periods, or their recognized equivalents, completed under the special system or systems applicable to persons employed in mines.

In other cases, the provisions of the General Convention only shall be applied.

Article 2

Where appropriate, article 23 of Arrangement No. 2 shall be applied in the cases referred to in this interpretative note.

Article 3

In establishing entitlement to an invalidity pension, the Luxembourg authorities shall take account of the periods completed under the general French or Luxembourg

systems, to the extent that they are necessary in order to fulfil the conditions for the acquisition, maintenance or recovery of entitlements.

In computing the proportion of a pension payable by each agency, only the periods completed in the mines of the two countries shall be taken into account, without prejudice to increases awarded under the Luxembourg systems as general career remuneration.

DONE in duplicate at Paris, on 19 February 1953.

JACQUES DOUBLET

NICOLAS BIEVER

[TRANSLATION — TRADUCTION]

SUPPLEMENTARY AGREEMENT¹ NO. 2 TO THE GENERAL CONVENTION OF 12 NOVEMBER 1949 BETWEEN FRANCE AND THE GRAND DUCHY OF LUXEMBOURG ON SOCIAL SECURITY,² SOCIAL SECURITY SYSTEM APPLICABLE TO FRONTIER WORKERS

The Government of the French Republic and the Government of the Grand Duchy of Luxembourg,

Desiring to regulate the social security system applicable to frontier workers of both countries, in accordance with Article 33 of the General Convention on social security of November 12, 1949,¹ between France and the Grand Duchy of Luxembourg, have agreed as follows:

Article 1

Subject to the provisions of the present Supplementary Agreement, French and Luxembourg frontier workers shall be covered by the General Convention on social security between France and the Grand Duchy of Luxembourg.

Article 2

French and Luxembourg frontier workers shall be affiliated to the social security agencies of the country where they are employed.

CHAPTER 1. SICKNESS, MATERNITY AND DEATH INSURANCE

Article 3

The cash benefits provided under sickness maternity and death insurance legislation shall be paid to frontier workers in the country where they are employed, through the social security agency to which the workers are affiliated.

Benefits in kind provided under the said legislation may be awarded to frontier workers and their dependants either in the country where they work or in the country where they have their real and permanent residence.

Article 4

Where benefits in kind are awarded at the place of residence, the award shall be made:

- In the case of a frontier worker resident in the Grand Duchy of Luxembourg, by the Luxembourg social security agency of his place of residence with which the frontier worker is registered and which pays out such benefits in accordance with the provisions of Luxembourg legislation;

¹ Came into force on 24 February 1955, the date mutually agreed upon, following the exchange of the instruments of ratification, which took place at Luxembourg, in accordance with article 16.

² See p. 220 of this volume.

- In the case of a frontier worker resident in France, by the social security agency of his place of residence which pays out such benefits in accordance with the provisions of French legislation.

CHAPTER 2. INDUSTRIAL ACCIDENTS AND OCCUPATIONAL DISEASES

Article 5

The cash benefits provided under social insurance legislation concerning compensation for industrial accidents and occupational diseases shall be paid to frontier workers in the country where they are employed through the social security agency to which the workers are affiliated, unless national legislation lays this obligation on the employer.

Benefits in kind provided under the said legislation may be awarded to frontier workers either in the country where they work or in the country where they have their real and permanent residence.

Article 6

Where the benefits in kind due under the French legislation concerning compensation for industrial accidents and occupational diseases are awarded to frontier workers at the place of their real and permanent residence in the Grand Duchy of Luxembourg, the award shall be made through the competent Luxembourg agencies and in accordance with the provisions of Luxembourg legislation relating to compensation for injury resulting from industrial accidents and occupational diseases.

Nevertheless, the right of the injured person to receive prosthetic or orthopaedic appliances and benefits for the purpose of vocational rehabilitation may be exercised only in France and under the conditions laid down by French law.

Article 7

The expenses incurred by the competent Luxembourg agencies under the conditions laid down in article 6 above shall be refunded by the French social security agencies. However, the amount of such repayments shall not exceed the expenses that would result from the application of the rates prevailing in France.

Article 8

Where the benefits in kind due under the Luxembourg legislation concerning compensation for injuries resulting from industrial accidents and occupational diseases are awarded to frontier workers at the place of their real and permanent residence in France, they shall be awarded by the social security agency of the place of residence and in accordance with the provisions of French legislation on industrial accidents and occupational diseases.

Nevertheless, the right of the injured person to receive prosthetic or orthopaedic appliances may be exercised only in Luxembourg and under the conditions laid down by Luxembourg law.

Article 9

The expenses incurred by the competent French agencies under the conditions laid down in article 8 above shall be refunded by the Luxembourg social security agencies. However, the amount of such repayments shall not exceed the expenses that would result from the application of the rates prevailing in the Grand Duchy.

CHAPTER 3. FAMILY ALLOWANCES

Article 10

Frontier workers resident in the Grand Duchy of Luxembourg shall be entitled to the family allowances properly so-called and to the single-wage allowances which are provided for and granted, account being taken of their place of residence, in accordance with French legislation.

They shall also be entitled to paternity leave in accordance with the conditions of French legislation.

These allowances and payment for paternity leave shall be paid by the French agencies to which such workers are affiliated.

Article 11

The competent authorities will jointly agree upon a classification of Luxembourg communes drawn up in accordance with the principles laid down by French legislation for the establishment of wage zones.

Article 12

Frontier workers resident in France shall be entitled to family allowances properly so-called in accordance with Luxembourg legislation.

These allowances shall be paid by the Luxembourg agencies to which such workers are affiliated.

CHAPTER 4. GENERAL PROVISIONS

Article 13

The technical medical examination and supervision of sick persons shall be exercised, in the case of frontier workers and their dependants who are in receipt of benefits in kind in the country of their residence, by the social security agencies of the country in which such benefits are paid. Such examination and supervision shall be effected in accordance with the legislation governing the said agencies, but for the account of the authorities of the place of employment. The latter shall at all times have the right to ask the authorities paying the benefits for information on the progress and probable consequences of the sickness or accident, with a view, in particular, to the joint consideration of any preventive measures which may appear necessary.

The medical supervision of frontier workers resident in the Grand Duchy of Luxembourg who are in receipt of rest benefits under social insurance legislation or who have sustained industrial accidents, shall be effected under the conditions laid down by French legislation, by the medical supervisory authorities provided under that legislation and with the co-operation of the Luxembourg authorities which shall furnish assistance, in particular for the organization in Luxembourg of arrangements for the medical examination of sick persons.

Article 14

The competent authorities of the two contracting countries shall establish, by mutual agreement, the amount of the lump sum reimbursements payable by the French and Luxembourg authorities, respectively, by way of counterpart of the sickness-maternity insurance benefits in kind paid to the frontier workers of either country and of the examination and supervision costs referred to in article 13 above.

However, the competent authorities of the two contracting countries may, by mutual agreement, discontinue the reimbursements referred to in the preceding paragraph.

They shall, where necessary, establish the necessary compensation measures among the agencies concerned in their respective territories.

Article 15

The procedures for implementation of the present Agreement shall be determined by administrative arrangement.

Article 16

The present Agreement will be ratified and the instruments of ratification exchanged in Luxembourg as soon as possible.

It will come into force on a date to be determined, by mutual agreement, by the French and Luxembourg Governments.

It is concluded for the duration of one year and will continue in force automatically from year to year unless notice of termination is given three months before the expiration of the period.

DONE in duplicate at Paris, on 19 February 1953.

[P. BACON]

[R. JOBEZ]

[NICOLAS BIEVER]

[TRANSLATION — TRADUCTION]

EXCHANGE OF LETTERS CONSTITUTING A SUPPLEMENTARY AGREEMENT¹ TO THE GENERAL CONVENTION OF 12 NOVEMBER 1949 BETWEEN FRANCE AND THE GRAND DUCHY OF LUXEMBOURG ON SOCIAL SECURITY,² CONCERNING THE SOCIAL SECURITY SCHEME FOR STUDENTS

I

FRENCH REPUBLIC
MINISTRY OF FOREIGN AFFAIRS

Department for Administrative and Social Affairs

Paris, 12 July 1955

Conventions
No. C.A.3
File 4-13B

Sir,

On a number of occasions, the French Government has been faced with the question of the enrolment of Luxembourg students in the Social Security scheme for students.

Under the General Convention on social security between France and the Grand Duchy of Luxembourg, signed at Luxembourg on 12 November 1949,² providing for equal treatment of nationals of the two countries, the Government of Luxembourg applies to French students the special provisions laid down in general Luxembourg legislation relating to students.

The French Government also takes note of the undertaking by the Luxembourg Government to extend, in any event, in the area of social security reciprocal treatment to French students studying in Luxembourg.

I have the honour to inform you that, in order to assist, as far as possible, Luxembourg nationals studying in France, the French Government is prepared to extend to Luxembourg students not gainfully employed in France or outside French territory the benefits of the student insurance scheme established under the Act of 23 September 1948, on the same conditions as for French students who are neither themselves entitled to social security benefits nor the dependants of any person so entitled.

Student social security benefits may be withdrawn from Luxembourg students whose level of attendance is not consistent with the pursuit of studies or who have not obtained, by the end of the normal period of study, the diplomas for which they enrolled or registered.

The provisions laid down in this letter will apply from 1 November 1955.

¹ Came into force on 1 November 1955, in accordance with the provisions of the said letters.

² See p. 220 of this volume.

I should be grateful if you would inform me whether these proposals meet with the approval of the Government of the Grand Duchy of Luxembourg.

Accept, Sir, etc.

J. SERRES

His Excellency the Ambassador of Luxembourg
in Paris

II

LEGATION OF LUXEMBOURG IN FRANCE

Paris, 12 July 1955

Sir,

I have the honour to acknowledge receipt of your letter of today's date, as follows:

[*See letter I*]

I have the honour to inform you of the agreement of the Government of Luxembourg to the foregoing.

I have the honour to confirm that the Government of Luxembourg will extend its co-operation to the French authorities in ascertaining whether Luxembourg students enrolled in the French student insurance scheme fulfil the conditions stipulated above.

Accept, Sir, etc.

[*Signed*]

ROBERT ALS
Ambassador of Luxembourg in France

Mr. Jean Serres
Minister Plenipotentiary
Director of Administrative and Social Affairs
Ministry of Foreign Affairs
Paris