

No. 25116

FEDERAL REPUBLIC OF GERMANY
and
MOROCCO

**Agreement on social security (with final protocol). Signed at
Rabat on 25 March 1981**

**Arrangement relating to the implementation of the above-
mentioned Agreement. Signed at Rabat on 19 April
1984**

Authentic texts: German, Arabic and French.

Registered by the Federal Republic of Germany on 24 July 1987.

RÉPUBLIQUE FÉDÉRALE D'ALLEMAGNE
et
MAROC

**Convention relative à la sécurité sociale (avec protocole
final). Signée à Rabat le 25 mars 1981**

**Arrangement relatif aux modalités d'application de la
Convention susmentionnée. Signé à Rabat le 19 avril
1984**

Textes authentiques : allemand, arabe et français.

Enregistrés par la République fédérale d'Allemagne le 24 juillet 1987.

[TRANSLATION — TRADUCTION]

AGREEMENT¹ BETWEEN THE FEDERAL REPUBLIC OF GERMANY AND THE KINGDOM OF MOROCCO ON SOCIAL SECURITY

The Federal Republic of Germany and

The Kingdom of Morocco,

Desiring to regulate relations between their respective countries in the matter of social security,

Have agreed as follows:

PART I. GENERAL PROVISIONS

Article 1. For the purposes of this Agreement:

1. “Territory” means:

- In the case of the Federal Republic of Germany, the area governed by the legislation referred to in article 2, paragraph (1), item 1;
- In the case of the Kingdom of Morocco, the national territory as defined under Moroccan law;

2. “National” means:

- In the case of the Federal Republic of Germany, a German within the meaning of the Basic Law for the Federal Republic of Germany;
- In the case of the Kingdom of Morocco, a Moroccan within the meaning of the Nationality Code;

3. “Legislation” means the laws, regulations, statutory provisions and other legislative acts relating to the branches of social security listed in article 2, paragraph (1);

4. “Competent public authority” means:

- In the case of the Federal Republic of Germany, the Federal Minister for Labour and Social Affairs;
- In the case of the Kingdom of Morocco, the Minister for Labour and Vocational Training;

5. “Insurance authority” means the institute or authority responsible for the application of the legislation specified in article 2, paragraph (1);

6. “Competent insurance authority” means the insurance authority which is competent under the applicable legislation;

7. “Employment” means an employment or occupation within the meaning of the applicable legislation;

¹ Came into force on 1 August 1986, i.e., the first day of the second month following the exchange of the instruments of ratification, which took place at Bonn, on 11 June 1986, in accordance with article 42 (2).

8. "Contribution period" means a period in respect of which contributions have been paid or are treated as having been paid under the legislation of one of the Contracting States;

9. "Equivalent period" means a period which is recognized as equivalent to a contribution period under the legislation of the Contracting State, under which it was completed or is deemed to have been completed;

10. "Insurance period" means a contribution period or an equivalent period;

11. "Cash benefit" means a pension (annuity) or other cash benefit, including any increase therein and any supplement or additional allowance payable therewith;

12. "Benefit in kind" means a benefit which is not a cash benefit.

Article 2. (1) Except as otherwise provided in this Agreement, it shall apply to:

1. The German legislation concerning:

- (a) Sickness insurance and protection of working mothers, in so far as it relates to the granting of cash benefits and benefits in kind by the sickness insurance authorities;
- (b) Accident insurance;
- (c) Disability/old-age insurance and the supplementary insurance scheme for iron and steel workers (*hüttenknappschaftliche Zusatzversicherung*);
- (d) Farmers' old-age benefits;

2. The Moroccan legislation concerning:

- (a) The social security scheme;
- (b) Industrial accidents and occupational diseases;
- (c) Special social security schemes, in so far as they cover employed persons or persons treated as such and deal with risks and benefits normally covered under social security scheme legislation.

(2) Provisions of other international agreements or of supranational legislation binding on one of the Contracting States, or provisions made in implementation thereof, shall not apply in the implementation of this Agreement. However, there shall be no derogation from conflicting provisions contained in the Agreement on co-operation between the European Economic Community and the Kingdom of Morocco of 27 April 1976.

Article 3. Except as otherwise provided, this Agreement shall apply to:

- (a) Nationals of either Contracting State;
- (b) Refugees within the meaning of article 1 of the Convention relating to the Status of Refugees of 28 July 1951¹ and the Protocol of 31 January 1967² to that Convention;
- (c) Stateless persons within the meaning of article 1 of the Convention of 28 September 1954 relating to the Status of Stateless Persons;³

¹ United Nations, *Treaty Series*, vol. 189, p. 137.

² *Ibid.*, vol. 606, p. 267.

³ *Ibid.*, vol. 360, p. 117.

(d) Other persons in respect of rights which they derive from a national of a Contracting State or from a refugee or a stateless person within the meaning of this article.

Article 4. (1) Except as otherwise provided in this Agreement, persons specified in article 3 who are resident in the territory of a Contracting State shall be assimilated to its nationals in respect of the application of the legislation of that Contracting State.

(2) Except as otherwise provided in this Agreement, benefits under the legislation of one Contracting State shall be paid to a national of the other Contracting State who is resident outside the territories of the Contracting States on the same conditions as to a national of the first-mentioned Contracting State who is resident outside those territories.

Article 5. Except as otherwise provided in this Agreement, legislation of one Contracting State making residence in the territory of that State a condition for entitlement to cash benefits and benefits in kind, or for the granting of cash benefits and benefits in kind or the payment of cash benefits shall not apply to persons specified in article 3 who are temporarily or normally resident in the territory of the other Contracting State.

Article 6. Except as otherwise provided in articles 7 to 11, the obligation of an employed person to participate in an insurance scheme shall be governed by the legislation of the Contracting State in the territory of which he is employed; this provision shall also apply when the employer is located in the territory of the other Contracting State.

Article 7. Where a person employed in the territory of either of the Contracting States is assigned by his regular employer to perform work on behalf of the said employer in the territory of the other Contracting State, the legislation of the first-mentioned State shall continue to apply with respect to the obligations to participate in an insurance scheme for a period of 36 months counting from the date on which he is assigned, as if he were still employed in the territory of the first-mentioned State; if the period of such employment exceeds 36 months, the legislation of the first-mentioned Contracting State shall continue to apply for an additional period not exceeding 36 months, provided that the competent authorities of the two Contracting States have given their approval prior to the expiry of the first 36-month period.

Article 8. (1) In so far as the obligation to participate in an insurance scheme is concerned, the crew of a vessel shall be subject to the legislation of the Contracting State whose flag the vessel is flying.

(2) An employed person resident in the territory of one Contracting State who is temporarily employed on board a vessel flying the flag of the other Contracting State by an employer having his principal place of business in the territory of the first-mentioned State who is not the owner of the vessel shall be subject, with respect to the obligations to participate in an insurance scheme, to the legislation of the first-mentioned State as if he were employed in its territory.

Article 9. The provisions of articles 6 to 8 shall apply *mutatis mutandis* to persons who are not employed persons in so far as the legislation referred to in article 2, paragraph (1) is applicable to them.

Article 10. (1) When a national of one of the Contracting States is employed by the said State or by a member or official of its official mission in the

territory of the other Contracting State, the legislation of the first-mentioned State with respect to the obligation to participate in an insurance scheme shall apply to such employment.

(2) Where an employed person referred to in paragraph (1) above has resided in the country of employment before the start of his employment, he may, within three months from the start of his employment, opt to be subject to the legislation of the country of employment in respect of the obligation to participate in an employment scheme. The employer shall be notified of the choice. The chosen legislation shall be applicable from the date of notification.

(3) Paragraphs (1) and (2) shall apply *mutatis mutandis* to employed persons referred to in paragraph (1) who are in the service of another public employer.

Article 11. At the joint request of the employed person and the employer, or at the request of a person assimilated to an employed person within the meaning of article 9, the competent public authority of the Contracting State whose legislation should apply under articles 6 to 10 may grant exemption from that legislation when the person in question becomes subject to the legislation of the other Contracting State. The nature and circumstances of the employment shall be taken into account in the decision. The competent public authority of the other Contracting State shall be given an opportunity to express its views before the decision is taken. If the employed person is not employed in the territory of the last-mentioned Contracting State, he shall be deemed to be employed at the place where he was last previously employed. If he was not previously employed in the territory of that State, he shall be deemed to be employed at the place where the competent public authority of that State has its seat.

Article 12. (1) Where, under the legislation of one Contracting State, entitlement to a benefit does not exist or where entitlement to a benefit or a benefit is to be reduced because it coincides with other entitlements or with other benefits, such provisions shall also apply with respect to a similar situation under the legislation of the other Contracting State. If, as a result of the foregoing, there should be a reduction in both benefits, each benefit shall be reduced by half of the amount of the reduction that would be applied under the legislation on which entitlement to the benefit is based.

(2) The provisions of the preceding paragraph shall not apply in the case of coincident benefits of the same nature in connection with an industrial accident (occupational diseases) or under the legal disability/old-age insurance paid in accordance with part II, chapters 2 and 3.

(3) Where, under the provisions of one Contracting State, entitlement to a benefit does not exist or a benefit is reduced as long as a person is employed or engages in a specific employment, or as long as he is covered by compulsory disability/old-age insurance, such provisions shall also apply with respect to a similar situation under the legislation of the other Contracting State or within its territory.

PART II. SPECIAL PROVISIONS

CHAPTER I. SICKNESS INSURANCE

Article 13. In so far as the obligation to participate in an insurance scheme, entitlement to voluntary insurance, entitlement to benefits and the duration of such entitlement are concerned, insurance periods and periods of receipt of ben-

efits completed under the legislations of both Contracting States shall be aggregated, provided that they do not overlap.

Article 14. (1) Entitlement to voluntary insurance under the legislation of one Contracting State shall be maintained in the event of a transfer of residence to the territory of the other Contracting State.

(2) Where a person who is insured under the legislation of one Contracting State transfers his residence to the territory of the other Contracting State, he may continue to be insured voluntarily under the legislation of the last-mentioned State. For such purposes, the discontinuance of voluntary insurance shall be assimilated to the discontinuance of compulsory insurance. The person shall continue to be insured as follows:

- In the Federal Republic of Germany, by the General Local Sickness Fund (Allgemeine Ortskrankenkasse) competent for the place of residence;
- In the Kingdom of Morocco, by the National Social Security Fund (Caisse nationale de sécurité sociale).

(3) Paragraph (2) shall apply *mutatis mutandis* to persons who derive their entitlement to continued insurance from the insurance of another person.

Article 15. (1) The provisions of article 5 shall apply to a person:

- (a) Who has transferred his residence (domicile) to the territory of the other Contracting State after the insurance contingency has arisen only if the competent insurance authority has consented to the change of residence in advance;
- (b) Who was temporarily resident in the territory of the other Contracting State at the time when the insurance contingency arose only if his condition necessitates immediate benefits;
- (c) Who was no longer insured at the time when the insurance contingency arose only if the person went to the territory of the other Contracting State for the purpose of engaging in employment offered.

(2) The consent referred to in paragraph (1) (a) above may be refused only on the ground of the state of health of the person concerned, except in the event of courses of medical treatment, in which case it shall be left to the judgement of the competent insurance authority, which shall take due account of the reasons for the transfer of residence. It may be granted subsequently if the person concerned has not obtained it in advance for reasonable cause.

(3) Article 5 shall not apply to a person who is eligible for benefits under the legislation of the Contracting State in whose territory he is resident.

(4) The provisions of paragraph (1)(a) and (b) and paragraph 2 shall not apply to maternity benefits.

Article 16. (1) Benefits in kind under article 5 shall be provided:

- In the Federal Republic of Germany: By the General Local Sickness Fund (Allgemeine Ortskrankenkasse) competent for the place of residence;
- In the Kingdom of Morocco: By the National Social Security Fund (Caisse nationale de sécurité sociale).

(2) Benefits in kind shall be provided in accordance with the legislation applied by the insurance authority of the place of residence. However, the leg-

isolation applied by the competent insurance authority shall be applied to the duration of benefits, the family members to be considered and relevant legislative provisions governing the procedure for disputes concerning benefits.

(3) Except in dire emergencies, prostheses and other very expensive benefits shall be provided only with the authorization of the competent insurance authority. A dire emergency shall be deemed to exist in cases where provision of the benefits cannot be delayed without seriously endangering the life or health of the person concerned.

(4) Persons and institutions that have concluded agreements with the insurance authorities referred to in paragraph (1) concerning the provision of benefits in kind to persons insured with the said insurance authorities and their family members shall also be required to provide benefits in kind to the persons referred to in article 5, in the same way as if the last-mentioned persons were insured with the insurance authorities referred to in paragraph (1) or were the family members of such insured persons and as if the agreements also applied to the persons referred to in article 5.

(5) Cash benefits under article 5 shall be paid directly to the beneficiaries by the competent insurance authority.

(6) The competent insurance authority shall refund the amounts disbursed in accordance with paragraph 1, less administrative costs, to the insurance authority of the place of residence.

(7) The competent public authorities may agree, at the suggestion of the insurance authorities concerned, that in the interests of simplifying administrative procedures, the amounts disbursed shall in all cases or in certain categories of cases be repaid in lump sums.

Article 17. (1) Persons who draw, or have applied to draw, concurrent pensions under the disability/old-age schemes of the two Contracting States shall, without prejudice to paragraphs (2) and (3), be subject to the legislation concerning the sickness insurance of pensioners of the Contracting State in whose territory they are resident.

(2) Where a pensioner referred to in paragraph (1) transfers his residence to the territory of the other Contracting State, the legislation of the first-mentioned Contracting State concerning the sickness insurance of pensioners shall be applicable until the end of the month following the one in which the transfer of residence took place.

(3) Where an applicant referred to in paragraph (1) transfers his residence from the territory of one Contracting State to the territory of the other, the legislation of the first-mentioned Contracting State concerning the sickness insurance of pensioners shall apply until the end of the month following the one in which the transfer of residence took place.

(4) Where a person draws a pension under the disability/old-age insurance scheme of a single Contracting State or has applied only for a single pension, the provisions of article 5 shall apply *mutatis mutandis* with respect to the obligations to participate in an insurance scheme under legislation concerning the sickness insurance of pensioners. The provisions of article 15, paragraph (3), shall apply *mutatis mutandis*.

Article 18. Application of the provisions of this Agreement regarding benefits in kind payable under sickness insurance shall be the subject of a separate agreement taking into account existing differences in that area in the two Contracting States.

CHAPTER 2. ACCIDENT INSURANCE

Article 19. (1) Legislation of one Contracting State under which other industrial accidents (occupational diseases) shall be taken into account in assessing the degree of disability or in establishing entitlement to compensation in the case of an industrial accident (occupational disease), within the meaning of such legislation, shall also apply to industrial accidents (occupational diseases) covered by the legislation of the other Contracting State as if they had been covered by the legislation of the first-mentioned Contracting State. Casualties which are recognized as accidents or as other occurrences giving entitlement to compensation under other provisions of public law shall be assimilated to the accidents in question.

(2) The competent insurance authority for payment of compensation shall determine its benefit according to the degree of disability resulting from the industrial accident (occupational disease) which it is required to take into account under the legislation which it is applying.

Article 20. (1) As regards entitlement to benefits by reason of an occupational disease, the insurance authority of one Contracting State shall also take into account any employment exercised in the territory of the other Contracting State to which, in view of the nature of that employment, the disease may be attributed. If, as a result, there is an entitlement to benefits under the legislation of both Contracting States, benefits in kind and cash benefits, with the exception of the pension, shall be granted only under the legislation of the Contracting State in whose territory the beneficiary is resident. Each insurance authority shall grant that part of the pension which corresponds to the ratio of the duration of the employment exercised in the territory of its own State to the duration of all employment to be taken into account under the first sentence of this paragraph.

(2) The provisions of paragraph (1) shall also apply to the granting of survivors' benefits.

Article 21. (1) The provisions of Article 5 shall apply in respect of benefits in kind to persons who have transferred their residence to the territory of the other Contracting State during medical treatment only if the competent insurance authority has consented to the transfer of residence in advance.

(2) The consent referred to in paragraph (1) may be refused only on the ground of the state of health of the person concerned. It may be granted subsequently if the person concerned has not obtained it in advance for reasonable cause.

Article 22. (1) Benefits in kind to be granted by an insurance authority of one Contracting State to a person in the territory of the other Contracting State shall, without prejudice to paragraph (3), be provided:

- In the Federal Republic of Germany: By the General Local Sickness Fund (Allgemeine Ortskrankenkasse) competent for the place of residence;
- In the Kingdom of Morocco: By the National Social Security Fund (Caisse nationale de sécurité sociale).

(2) Benefits in kind shall be provided in accordance with the legislation applicable to the insurance authority of the place of residence.

(3) The insurance authority of a Contracting State shall take measures for the vocational rehabilitation of a person in the territory of the other Contracting State to the extent that vocational rehabilitation benefits are covered by the legislation of the State of the place of residence; the vocational rehabilitation measures shall be taken by the competent insurance authority of the place of residence. Should it be necessary to take a decision in respect of entitlement to benefits under German legislation, the German insurance authority shall be the competent accident insurance authority. The competent Moroccan insurance authority shall be the National Social Security Fund.

(4) Except in dire emergencies, prostheses and other very expensive benefits shall be provided only with the authorization of the competent insurance authority. A dire emergency shall be deemed to exist in cases where provision of the benefits cannot be delayed without seriously endangering the life or health of the person concerned.

(5) Persons and institutions that have concluded agreements with the insurance authorities referred to in paragraph (1) concerning the provision of benefits in kind to persons insured with the said insurance authorities and to their family members shall also be required to provide benefits in kind to the persons referred to in article 5, in the same way as if the last-mentioned persons were insured with the insurance authorities referred to in paragraph (1) or were the family members of such insured persons and as if the agreements also applied to the persons referred to in article 5.

(6) Cash benefits, with the exception of pensions, lump-sum payments, nursing grants and death allowances, shall be paid directly to the beneficiary by the competent insurance authority.

Article 23. (1) The competent insurance authority shall refund the amounts disbursed in accordance with article 22, less administrative costs, to the insurance authority of the place of residence.

(2) The competent public authorities may agree, at the suggestion of the insurance authorities concerned, that in the interests of simplifying administrative procedures, the amounts disbursed shall in all cases or in certain categories of cases be repaid in lump sums.

CHAPTER 3. DISABILITY, OLD-AGE AND DEATH INSURANCE

Article 24. Where there are reckonable insurance periods under the legislation of both Contracting States, insurance periods which are reckonable under the legislation of the other Contracting State shall also be taken into account to the extent necessary, for the purpose of the acquisition, maintenance or recovery of entitlement to benefits under the applicable legislation in so far as they do not overlap. The insurance periods taken into account shall be those resulting from the legislation of the last-mentioned Contracting State.

Article 25. The following provisions shall apply to the German insurance authority:

1. The Moroccan insurance periods which are to be taken into account under the provisions of article 24 shall come under the branch of the insurance system whose insurance authority would be competent if consideration were

given solely to reckonable insurance periods under German legislation. Where, in accordance with the foregoing, the miners' disability/old-age insurance scheme is competent, insurance periods which are to be taken into account under Moroccan legislation shall be taken into account in the miners' disability/old-age insurance scheme if they were completed in underground mining enterprises; otherwise, contribution periods completed in accordance with Moroccan legislation shall be evaluated for the purposes of workers' and office employees' disability/old-age insurance only in the light of German legislation.

2. The insurance periods which are to be taken into account for purposes of calculating pensions under German legislation shall constitute the bases for computation.

3. If the conditions for entitlement to a pension are fulfilled only when the provisions of article 24 are taken into account, only half of that portion of the benefit which pertains to the supplementary period (Zurechnungszeit) shall be paid.

4. The dependent children's supplement or the amount by which the orphan's pension is increased shall be paid in accordance with national legislation if, irrespective of the provisions of article 24, there is entitlement to a pension and if no family allowance or orphan's pension is payable under Moroccan legislation. In other cases, half the amount of the dependent children's supplement or the amount by which the orphan's pension is to be increased under national legislation shall be paid.

5. As regards cessation of the compensation benefit under miners' disability/old-age insurance, Moroccan mining enterprises shall be treated in the same way as German mining enterprises.

6. Should the case arise, the widow's pension shall be equally and definitively distributed among beneficiaries who were concurrent spouses. German legislation regarding the distribution of the widow's pension among beneficiaries who were successive spouses shall not be affected.

Article 26. The following provisions shall apply to the Moroccan insurance authority:

1. In determining entitlement to an old-age pension under Moroccan legislation, only insurance periods completed under that legislation shall be taken into account.

2. If, under Moroccan legislation, an applicant is not entitled to an old-age pension exclusively on the basis of the insurance periods completed under such legislation, those periods and any periods reckonable under German legislation shall be aggregated, provided that they do not overlap.

3. If, following the aggregation stipulated in the preceding paragraph, the applicant is entitled to an old-age pension under Moroccan legislation, the competent Moroccan insurance authority shall determine the amount of the pension as if the aggregate insurance periods had been completed under the legislation which it is applying and were to be taken into account in computing the pension. The competent insurance authority shall then compute the amount payable by prorating the pension so determined on the basis of the ratio of the duration of the insurance periods completed under the legislation which it is applying to the

duration of the insurance periods completed under the legislation of both Contracting States.

4. Paragraphs (1) and (3) shall apply *mutatis mutandis* to disability and survivors' pensions.

5. Should the case arise, the widow's pension shall be equally and definitively distributed among the beneficiaries.

PART III. MISCELLANEOUS PROVISIONS

CHAPTER 1. OFFICIAL AND JUDICIAL ASSISTANCE

Article 27. (1) For the purposes of applying the legislation specified in article 2, paragraph (1), and the provisions of this Agreement, the insurance authorities, associations of insurance authorities, public authorities and courts of the Contracting States shall lend their good offices as if they were applying the legislation applicable to themselves. With the exception of out-of-pocket expenses, such assistance shall be free of charge.

(2) The first sentence of paragraph (1) shall also apply to medical examinations. The costs of such examinations, travel expenses, loss of earnings, the costs of hospitalization for observation and other out-of-pocket expenses, with the exception of postage, shall be refunded by the requesting agency. The costs shall not be refunded if the medical examination is in the interest of the competent insurance authorities of both Contracting States.

Article 28. Where personal data or industrial or business secrets are transmitted by one Contracting State to the other in accordance with this Agreement or with an arrangement for its implementation, the respective national law governing the protection of personal data and industrial or business secrets shall apply to both the transmittal and the use thereof.

Article 29. (1) Enforceable court orders and enforceable instruments issued by the insurance authorities or public authorities of a Contracting State in matters concerning contributions and other social insurance requirements shall be recognized in the other Contracting State.

(2) Recognition may be refused only where it would be contrary to the public policy of the Contracting State in which recognition of the order or instrument is sought.

(3) Enforceable orders and instruments which are recognized in accordance with paragraph (1) shall be enforced in the other Contracting State. The enforcement procedure shall be governed by the legislation which would apply in the Contracting State in whose territory enforcement is sought to the enforcement of the corresponding orders and instruments issued in that State. The copy of the order or instrument shall be accompanied by a statement to the effect that it is enforceable (enforceability clause).

(4) Demands for payment made by insurance authorities in the territory of one Contracting State on the ground of arrears in contributions shall, in the event of distraint and in bankruptcy or composition proceedings in the territory of the other Contracting State, enjoy the same privileges as are given to corresponding demands for payment in the territory of the last-mentioned State.

Article 30. (1) Exemptions from or reduction of taxes and stamp duties, including consular and administrative fees, provided for by the legislation of one Contracting State in respect of certificates or other documents required to be submitted to the insurance authorities of that Contracting State referred to in article 27, paragraph (1), shall also apply to certificates and other documents required to be submitted to a corresponding agency of the other Contracting State in implementation of the legislation referred to in article 2, paragraph (1).

(2) Certificates and other documents which are required to be submitted to one of the agencies of a Contracting State mentioned in article 27, paragraph (1), in implementation of the legislation specified in article 2, paragraph (1), shall not require legalization or any other similar formality for use in dealing with agencies of the other Contracting State.

Article 31. (1) The agencies referred to in article 27, paragraph (1), may, in implementation of the legislation specified in article 2, paragraph (1), and of this Agreement, communicate directly in their official languages with one another and with the persons concerned and their representatives. Provisions concerning the use of interpreters shall not be affected. Judgements, decisions or other papers may be served on a person resident in the territory of the other Contracting State directly by registered letter with return receipt.

(2) The agencies of a Contracting State referred to in article 27, paragraph (1), may not refuse petitions and certificates solely because they were drawn up in the official language of the other Contracting State.

Article 32. (1) Where a claim for benefits under the legislation of one of the Contracting States has been submitted to an agency in the other Contracting State which is authorized to receive the claim for a corresponding benefit under the legislation applicable to it, the claim shall be deemed to have been submitted to the competent insurance authority. The above shall apply *mutatis mutandis* to other claims as well as to declarations and appeals.

(2) Claims, declarations and appeals shall be forwarded, without delay, by the agency of the Contracting State to which they were submitted to the competent agency of the other Contracting State.

(3) A claim to benefits under the legislation of one of the Contracting States shall be deemed to be a claim to a corresponding benefit under the legislation of the other Contracting State. The foregoing shall not apply if the claimant expressly requests that the settlement of an entitlement acquired under the legislation of the other Contracting State should be deferred in cases where, under that Contracting State's legislation, he can determine the date by reference to which the conditions for the award of the benefit are deemed to be fulfilled.

CHAPTER 2. IMPLEMENTATION AND INTERPRETATION OF THE AGREEMENT

Article 33. (1) The Governments may agree on the administrative measures necessary for implementing this Agreement. The competent authorities shall inform each other of any changes in, and additions to, the legislation applicable to them specified in article 2.

(2) For the purpose of implementing this Agreement, the following liaison offices are hereby established:

In the Federal Republic of Germany:

- For sickness insurance, the Federal Association of Local Sickness Funds (Bundesverband der Ortskrankenkassen), Bonn;
- For accident insurance, the Federation of Trade Associations (Hauptverband der gewerblichen Berufsgenossenschaften e.V.), Bonn;
- For manual workers' disability/old-age insurance, the Swabia *Land* Insurance Institute (Landesversicherungsanstalt Schwaben), Augsburg;
- For salaried workers' disability/old-age insurance, the Federal Insurance Institute for Salaried Workers (Bundesversicherungsanstalt für Angestellte), Berlin;
- For miners' disability/old-age insurance, the Federal Miners' Insurance Association (Bundeknappschaft), Bochum;
- For the supplementary insurance scheme for iron and steel workers, the *Land* Insurance Institute for the Saar (Landesversicherungsanstalt für das Saarland), Saarbrücken;

In the Kingdom of Morocco: The National Social Security Fund (Caisse nationale de sécurité sociale.)

Article 34. (1) Where a person who is to receive benefits under the legislation of one of the Contracting States in respect of an injury sustained in the territory of the other Contracting State is entitled, in accordance with the regulations of that State, to claim damages for such injury from a third party, the insurance authority of the first-mentioned Contracting State shall be subrogated in respect of the claim for damages in accordance with the legislation applicable to that insurance authority.

(2) Where the insurance authority of one of the Contracting States is entitled under the legislation of that State to claim damages directly from a third party, the other Contracting State shall recognize that claim.

(3) Where both an insurance authority of one of the Contracting States and an insurance authority of the other Contracting State are entitled to claim damages in respect of similar benefits as a result of the same contingency, the insurance authority of one of the Contracting States shall, at the request of the insurance authority of the other State, also submit the latter's claim for damages. The third party may discharge the claims of both insurance authorities by making payment to the one or to the other. The insurance authorities shall divide the payment between themselves in proportion to the benefits payable by each of them.

Article 35. (1) Cash benefits payable by the insurance authority of one Contracting State to a person located in the territory of the other Contracting State shall be paid in the currency of the first-mentioned State. Cash benefits payable by a German insurance authority shall be paid to the person located in the territory of the Kingdom of Morocco, thereby discharging the authority's obligations. For such purposes, the amount shall be transferred in German currency to a Moroccan bank, which shall transmit the Moroccan currency equivalent to the beneficiary. Cash benefits payable by a Moroccan insurance authority shall be paid to the person located in the territory of the Federal Republic of Germany, thereby discharging the authority's obligations. For such purposes, the dirham amount shall be converted to deutsche mark by a Moroccan bank, and a German bank shall be ordered to credit the deutsche mark equivalent to the bene-

ficiary. The valid exchange rate shall be the official Moroccan quotation for deutsche mark on the day of the transfer.

(2) Amounts payable by the insurance authority of one Contracting State to the insurance authority of the other Contracting State shall be expressed in the currency of the last-mentioned State. However, paragraph (1) shall apply *mutatis mutandis* to amounts payable by an insurance authority in the situations referred to in articles 29 and 34 to an insurance authority of the other Contracting State.

Article 36. (1) Where the insurance authority of one Contracting State has erroneously paid cash benefits, the amount paid in error may be withheld, for account of that insurance authority, from the retroactive payment of a corresponding benefit under the legislation of the other Contracting State.

(2) Paragraph (1) shall apply in the event of the simultaneous payment of a sickness benefit under the legislation of one of the Contracting States and a disability/old-age pension under the legislation of the other Contracting State.

(3) Where the insurance authority of one Contracting State has made an advance payment in consideration of an entitlement to a benefit under the legislation of the other Contracting State, the amount paid shall be withheld from the benefits for account of that insurance authority.

(4) Where, under the legislation of one Contracting State, a person is entitled to a cash benefit in respect of a period for which he or his dependents have been granted benefits by a public assistance authority of the other Contracting State, the cash benefit shall, upon request by the public assistance authority entitled to compensation, be withheld for its account as if it were a public assistance authority having its head office in the territory of the first-mentioned Contracting State.

(5) Withholding of payments under paragraphs (1) to (4) shall be authorized only provided the matter cannot be settled in some other way.

(6) Withholding of payments under paragraphs (1) to (4) shall be effected in accordance with the legislation of the Contracting State applicable to the insurance authority withholding the amounts.

Article 37. (1) Any disputes between the two Contracting States concerning the interpretation or application of this Agreement shall, as far as possible, be settled by the competent public authorities.

(2) Where a dispute cannot be settled in this manner, it shall, upon request by a Contracting State, be submitted to an arbitral tribunal.

(3) The arbitral tribunal shall be constituted *ad hoc*; each Contracting State shall appoint a member, and the two members shall agree on a national of a third State as chairman, who shall be appointed by the Governments of both Contracting States. The members shall be appointed within two months, and the chairman within three months, after one of the Contracting States has informed the other that it wishes to submit the dispute to an arbitral tribunal.

(4) If the time-limits referred to in paragraph (3) are not adhered to, either Contracting State may, in the absence of any other agreement, request the President of the International Court of Justice to make the necessary appointments. If the President is a national of a Contracting State or is unable to act for any other reason, the Vice-President shall make the appointments. If the Vice-President is also a national of a Contracting State or is also unable to act, the next

most senior member of the Court who is not a national of a Contracting State shall make the appointments.

(5) The arbitral tribunal shall take its decisions by majority vote, on the basis of the treaties existing between the States and of general international law. Its decisions shall be binding. Each Contracting State shall defray the expenses of its member and the cost of its representation in the arbitral proceedings; the expenses of the chairman and other costs shall be shared equally by the two Contracting States. The arbitral tribunal may make some other ruling concerning costs. In all other respects, the arbitral tribunal shall establish its own rules of procedure.

TITLE IV. TRANSITIONAL AND FINAL PROVISIONS

Article 38. (1) Except as otherwise provided in this Agreement, it shall not create any entitlement to benefits in respect of periods prior to the date of its entry into force.

(2) For the purpose of the application of this Agreement, relevant facts arising under the legislation of the Contracting States prior to the date of its entry into force shall also be taken into account.

(3) Precedents set by earlier decisions shall not preclude the application of this Agreement.

(4) Pensions (annuities) settled before the date of entry into force of this Agreement may, in consideration thereof, be revised *ex officio*. In such cases, without prejudice to the provisions of article 32, paragraph (3), the date on which the insurance authority initiates the procedure shall be deemed to be the date of submission of the claim under the legislation of the other Contracting State.

(5) If, as a result of the revision referred to in paragraph (4), the person concerned would not be entitled to a pension (annuity) or would only be entitled to a smaller pension (annuity) than was last paid in respect of periods prior to the date of entry into force of this Agreement, the pension shall continue to be granted at the rate previously paid.

Article 39. The Final Protocol annexed hereto shall form an integral part of this Agreement.

Article 40. This Agreement shall also apply to *Land Berlin* provided that the Government of the Federal Republic of Germany has not made a contrary declaration to the Government of the Kingdom of Morocco within three months from the date of entry into force of this Agreement.

Article 41. (1) This Agreement is concluded for an indefinite period. Either Contracting State may denounce it at the end of any calendar year with three months' notice.

(2) If, as a result of denunciation, this Agreement ceases to have effect, its provisions shall continue to apply to entitlements to benefits acquired up to that time. Restrictive legislation relating to the preclusion of an entitlement or the suspension or withdrawal of benefits owing to residence abroad shall not be taken into account in respect of such entitlements.

Article 42. (1) This Agreement shall be ratified. The instruments of ratification shall be exchanged as soon as possible at Bonn.

(2) This Agreement shall enter into force on the first day of the second month following the month in which the instruments of ratification are exchanged.

IN WITNESS WHEREOF the plenipotentiaries, duly authorized by their respective Governments, have signed this Agreement and have thereto affixed their seals.

DONE at Rabat on 25 March 1981, in duplicate, in the German, Arabic and French languages, the three texts being equally authentic. In the event of disagreement as to the interpretation of the German text and the Arabic text, the French text shall prevail.

For the Federal Republic of Germany:

JESSER

H. BUSCHFORT

For the Kingdom of Morocco:

BADDOU

FINAL PROTOCOL TO THE AGREEMENT BETWEEN THE FEDERAL REPUBLIC OF GERMANY AND THE KINGDOM OF MOROCCO ON SOCIAL SECURITY

At the time of signing the Agreement on social security concluded this day between the Federal Republic of Germany and the Kingdom of Morocco, the plenipotentiaries of the two Contracting States declare that agreement has been reached on the following:

1. *Ad article 2 of the Agreement:*

(a) Part II, chapter 3, of the Agreement shall not apply to the supplementary insurance scheme for iron and steel workers in force in the Federal Republic of Germany and farmers' old-age benefits.

(b) If under the legislation of one Contracting State, the requirements are met for the application of both the provisions of this Agreement and another agreement or supranational provision, the insurance authority of that Contracting State shall, in applying the provisions of this Agreement, disregard the other Agreement or supranational provision. However, there shall be no derogation from conflicting provisions contained in the Agreement on co-operation between the European Economic Community and the Kingdom of Morocco of 27 April 1976.

(c) The provisions of article 2, paragraph (2), of the Agreement and those of sub-item (b) above shall not apply in so far as social security legislation which, in the case of the Federal Republic of Germany, derives from international agreements or from supranational legislation or legislation designed for the implementation thereof contains provisions governing insurance liability.

2. *Ad article 4 of the Agreement:*

(a) The provisions of paragraph (1) shall also apply to German provisions relating to contributions, assessments and benefits under the unemployment insurance regulations. Benefits under the regulations governing the promotion of employment shall be granted on the conditions provided for in such regulations.

(b) The provisions of intergovernmental treaties governing the apportionment of insurance liability shall not be affected.

(c) The legislation of a Contracting State which guarantees the participation of insured persons and employers in self-management bodies of insurance authorities and associations, as well as in jurisdiction on social security, shall not be affected.

(d) Persons assimilated to nationals of a Contracting State under the provisions of paragraph (1) shall not be entitled to participate voluntarily in the disability/old-age insurance of that Contracting State as long as they reside outside its territory.

(e) The preceding provision shall not affect the German transitional provisions or the German legislation in favour of assimilated persons, to whom item 19 of this Final Protocol shall apply.

3. *Ad article 5 of the Agreement:*

(a) The German legislation concerning benefits in respect of:

— Accidents sustained (occupational diseases contracted) at a time when the person concerned was not insured under federal law;

— Insurance periods not completed under federal law shall not be affected;

(b) The German legislation concerning medical, vocational and supplementary measures relating to rehabilitation adopted by disability/old-age insurance authorities shall not be affected.

4. *Ad articles 7 to 11 of the Agreement:*

Where under the provisions of articles 7, 10 or 11 of the Agreement an employed person is not subject to the legislation of the Contracting State in the territory of which he is employed but to the legislation of the other Contracting State, the legislation of the first-mentioned State concerning contributions, assessments and payments under regulations governing the promotion of employment and unemployment insurance shall not apply to that employed person or to his employer. The same shall apply in the case of an employed person who, under the provisions of Article 8, paragraph (2), is not subject to the legislation of the Contracting State whose flag the vessel on board which he is employed is flying.

5. *Ad article 10 of the Agreement:*

For persons who are employed on the date of the entry into force of the Agreement, the period referred to in paragraph (2) shall start with that date.

6. *Ad article 12 of the Agreement:*

(a) For the purposes of the application of German legislation, the provisions of paragraph (1) shall not apply to cases where a disability/old-age pension under the German legislation governing disability/old-age insurance coincides with an annuity under the Moroccan legislation governing insurance against industrial accidents and occupational diseases.

(b) Assimilation shall not apply to the reimbursement of contributions in connection with legal disability/old-age insurance.

7. *Ad article 13 of the Agreement:*

(a) The provisions of article 13 shall apply *mutatis mutandis* to benefits which are payable under German legislation at the discretion of an insurance authority.

(b) Where the obligation to participate in an insurance scheme under the German legislation on sickness insurance derives from marriage to a person belonging to the German sickness insurance scheme, marriage to a person belonging to the Moroccan sickness insurance scheme shall be assimilated to such marriage.

8. *Ad part II, chapter 1, of the Agreement:*

(1) The lump-sum payment for costs connected with childbirth granted under German legislation shall be a benefit in kind.

(2) The medical examinations required by German legislation for the granting of the benefits referred to in the preceding paragraph shall be assimilated to corresponding examinations required under Moroccan legislation within the meaning of item 9 of this Final Protocol.

9. *Ad article 16 of the Agreement and ad item 8 of this Final Protocol:*

In the case of the Kingdom of Morocco the terms "legislation applied" (paragraph (2)) mean the rules according to which the persons referred to shall benefit, at the expense of the German insurance authorities and on conditions specified by the separate agreement (article 18 of the Agreement), from the health

care scheme to be organized for them by the National Social Security Fund on the basis of the regulations governing the matter.

10. *Ad article 17 of the Agreement:*

(a) Where there are grounds for applying, under paragraph (1) of this article, Moroccan legislation, the contribution supplement for the sickness insurance of pensioners shall not be granted.

(b) Where there are grounds for applying, under paragraph (4) of this article, the German legislation concerning sickness insurance for pensioners, the competent insurance authority shall be that which it would be if the person resided in the territory of the Federal Republic of Germany. Where it has not been possible to establish the competence of any other sickness insurance fund or the person concerned was insured with a General Local Fund, the General Local Sickness Fund, Bonn, shall be competent.

(c) Where the beneficiary of a disability/old-age pension under the German disability/old-age insurance scheme resides in the territory of the Kingdom of Morocco, the contributions payable by such beneficiaries by reason of coverage under the German sickness insurance scheme shall be withheld from the pension by the competent German disability/old-age insurance authority for account of the competent German sickness insurance authority.

(d) The legislation of a Contracting State providing that the applicant for a pension must first himself pay, up to the time of the granting of the pension, contributions to the compulsory insurance scheme under which he comes by reason of submission of the application for a pension shall not apply to the persons referred to in paragraph (4). During the period between the submission of the application and the time when the pension decision is given, only benefits in kind shall be granted. The death allowance and maternity allowance shall be granted after the pension application has been processed. If the application is refused, the costs incurred for benefits in kind shall not be reimbursable by the competent insurance authority.

11. *Ad article 19 of the Convention:*

Where under German legislation the drawing of a pension under disability/old-age insurance affects the amount of entitlement to benefits under accident insurance, the same effect shall arise with regard to the drawing of a pension of the same kind under Moroccan legislation.

12. *Ad part II, chapter 2, of the Agreement:*

The provisions of item 6 of article 25 shall apply *mutatis mutandis*.

13. *Ad article 22 of the Agreement:*

The German accident insurance authority, which shall be competent where it is necessary to take a decision with regard to entitlement to benefits under German legislation, may grant the benefit in the place of the German insurance authority referred to in paragraph (1).

14. *Ad part II of the Convention:*

German nationals residing in the territory of the Kingdom of Morocco may, within the framework of the Moroccan exchange régime, transfer contributions to a German insurance authority.

15. *Ad article 24 of the Convention:*

The provisions of article 24 shall not apply to the granting of benefits payable at the discretion of German insurance authorities to the persons referred to in article 3.

16. *Ad article 25 of the Agreement:*

(a) In the application of the provisions of article 25, item 2, of the Agreement, insurance periods completed under Moroccan legislation shall not be taken into consideration in the minimum number of insurance years required for the calculation of a pension on the basis of a minimum income.

(b) For the purpose of the granting of the supplementary benefit under German legislation concerning miners' disability/old-age insurance to the persons referred to in article 3, the provisions of article 24 shall not apply.

17. *Ad article 25 of the Agreement:*

Mining operations within the meaning of paragraph (1) of this article shall be enterprises in which minerals or similar materials or stones and earths are extracted by predominantly underground methods.

18. *Ad article 29 of the Agreement:*

Entitlements to claim damages for injury from a third party, referred to in article 34, paragraph (1), shall also be considered as additional requirements within the meaning of paragraph (1) of this article.

19. As regards the application of the Agreement, German legislation, in so far as it contains more favourable provisions relating to persons who have suffered injury because of their political opinion, race, religion or ideology, shall not be affected.

DONE at Rabat on 25 March 1981, in duplicate in the German, Arabic and French languages, the three texts being equally authentic. In the event of disagreement as to the interpretation of the German text and the Arabic text, the French text shall prevail.

For the Federal Republic of Germany:

JESSER

H. BUSCHFORT

For the Kingdom of Morocco:

ABDERRAHMAN BADDOU

Secretary of State for Foreign Affairs and Co-operation

[TRANSLATION — TRADUCTION]

ARRANGEMENT¹ RELATING TO THE IMPLEMENTATION OF
THE AGREEMENT OF 25 MARCH 1981 BETWEEN THE FED-
ERAL REPUBLIC OF GERMANY AND THE KINGDOM OF
MOROCCO ON SOCIAL SECURITY²

The Government of the Federal Republic of Germany and the Government of the Kingdom of Morocco,

Pursuant to article 33, paragraph (1), of the Agreement of 25 March 1981 between the Federal Republic of Germany and the Kingdom of Morocco on social security,² hereinafter called "the Agreement",

Have agreed as follows:

PART I. GENERAL PROVISIONS

Article 1. The terms defined in the Agreement shall be used in the following provisions with the same meaning as that attributed to them in the Agreement.

Article 2. The liaison offices established under article 33, paragraph (2), of the Agreement and the German special insurance authorities for disability/old-age insurance shall be responsible, within the scope of their competence, for providing general information to the persons concerned with regard to their rights and obligations deriving from the Agreement.

Article 3. 1. The liaison offices established under article 33, paragraph (2), of the Agreement and the German special insurance authorities for disability/old-age insurance shall agree, within the scope of their competence and after consultation with the competent authorities, on the measures required for implementing the Convention. Article 33, paragraph (1), of the Agreement shall not be affected.

2. The liaison offices established under article 33, paragraph (2), of the Agreement and the German special insurance authorities for disability/old-age insurance shall agree on the languages in which the forms used in the implementation of the Agreement and of this Arrangement shall be drawn up and filled in.

Article 4. 1. The agencies referred to in article 27, paragraph (1), of the Agreement shall communicate to one another, within the scope of their competence, and to the persons concerned, at their request, the facts and supporting documents necessary for the safeguarding of their rights and obligations deriving from the legislation referred to in article 2, paragraph (1), of the Agreement, from the Agreement and from this Arrangement.

2. Where, under the legislation referred to in article 2, paragraph (1), of the Agreement, under the Agreement or under this Arrangement, a person has the

¹ Came into force on 1 September 1986, the date on which the Parties notified each other of the completion of their respective necessary legal requirements, with retroactive effect from 1 August 1986, the date of the entry into force of the aforementioned Agreement, in accordance with article 13.

² See p. 186 of this volume.

obligation to inform the insurance authority or another agency of certain situations, that obligation to inform shall apply also to similar situations arising in the territory of the other Contracting State or resulting from the implementation of its legal provisions. This shall apply also where a person has to present certain supporting documents.

Article 5. 1. The provisions of article 7 of the Agreement shall apply also to a worker who is already on assignment on the date of the entry into force of the Agreement. In this case, the period of 36 calendar months referred to in article 7 of the Agreement shall begin to run only from the date of the entry into force of the Agreement.

2. In the cases referred to in articles 7 and 11 of the Agreement, the competent insurance authority of the Contracting State whose legislation is applicable, shall issue to the person concerned, on his request, a certificate confirming that such person is subject to that legislation.

3. In the Federal Republic of Germany, the sickness insurance authority shall issue the certificate referred to in paragraph 2 for the other branches of insurance also. Where a person is covered only by accident insurance, the certificate shall be issued by the competent accident insurance authority.

4. In the Kingdom of Morocco, this certificate shall be issued by the National Social Security Fund (Caisse nationale de sécurité sociale).

Article 6. 1. Cash benefits payable by the insurance authority of one Contracting State to a beneficiary in the other Contracting State shall be paid directly by the liaison office of the last-mentioned Contracting State by postal payments or through a bank.

2. The provisions of article 35, paragraph (1), of the Agreement shall apply *mutatis mutandis* to postal payments.

PART II. SPECIAL PROVISIONS

CHAPTER 1. SICKNESS INSURANCE

Article 7. 1. Any person wishing to receive cash benefits while staying or residing in the territory of the Contracting State in which the competent insurance authority does not have its head office shall, within the seven working days of the commencement of such loss of working capacity, submit to the insurance authority of the place of stay or residence, a medical certificate relating to the loss of working capacity. The insurance authority of the place of stay or residence shall verify the loss of working capacity of the said person as soon as possible and shall communicate its findings to the competent insurance authority not later than two weeks following the submission of the certificate.

2. If the loss of working capacity extends beyond the anticipated duration, the provisions of paragraph 1 shall apply *mutatis mutandis*.

CHAPTER 2. ACCIDENT INSURANCE

Article 8. 1. The legislation of the Contracting State in which the insurance arises shall apply to notice of an industrial accident (occupational disease).

2. The notice shall be addressed to the competent insurance authority, which shall, without delay, inform the insurance authority of the place of stay or

residence thereof. The notice may also be addressed to the last-mentioned, which shall, without delay, transmit it to the competent insurance authority.

3. The provisions of article 7 shall apply *mutatis mutandis*.

CHAPTER 3. DISABILITY/OLD-AGE INSURANCE

Article 9. 1. In so far as it is not yet regulated by German legislation, the settlement and award of benefits, with the exception of medical, vocational and supplementary rehabilitation measures shall, within the framework of disability/old-age insurance of workers, be the responsibility of the liaison office established for this purpose,

- (a) If insurance periods under German and Moroccan legislations have been completed or are to be taken into consideration, or
- (b) If the beneficiary is resident in the territory of the Kingdom of Morocco, or
- (c) If the beneficiary resides as a Moroccan national outside the Contracting Parties.

2. The competence of the German special insurance authorities shall not be affected.

Article 10. For the purposes of article 24 of the Agreement, an insurance period of one calendar month under the German legislation shall be equivalent to 26 insurance days under the Moroccan legislation.

Article 11. The insurance authorities referred to in article 33, paragraph (2), of the Agreement and article 9 of this Arrangement shall exchange statistics, as they stand on 31 December of each year, relating to payments made to the other Contracting State. The data shall, to the extent possible, relate to the number and global amount of pensions and lump-sum payments broken down according to the different categories of pensions.

PART III. FINAL PROVISIONS

Article 12. This Arrangement shall also apply to *Land Berlin*, provided that the Government of the Federal Republic of Germany has not made a contrary declaration to the Government of the Kingdom of Morocco within three months from the date of entry into force of this Arrangement.

Article 13. This Arrangement shall enter into force as soon as the two Governments have notified one another that the requirements for entry into force in accordance with their national legal provisions have been fulfilled. It shall be implemented from the date of the entry into force of the Agreement.

DONE at Rabat on 19 April 1984, in duplicate in the German, Arabic and French languages, the three texts being equally authentic. In the event of disagreement as to the interpretation of the German text and the Arabic text, the French text shall prevail.

For the Government of the Federal Republic of Germany:

JESSER

NORBERT BLÜM

For the Government of the Kingdom of Morocco:

ABDELOUAHED RADI