

No. 24647

**FINLAND
and
SWITZERLAND**

**Agreement on social security (with final protocol). Signed at
Berne on 28 June 1985**

Authentic texts: Finnish and German.

Registered by Finland on 13 March 1987.

**FINLANDE
et
SUISSE**

**Accord de sécurité sociale (avec protocole final). Signé à
Berne le 28 juin 1985**

Textes authentiques : finnois et allemand.

Enregistré par la Finlande le 13 mars 1987.

[TRANSLATION — TRADUCTION]

AGREEMENT¹ ON SOCIAL SECURITY BETWEEN THE REPUBLIC
OF FINLAND AND THE SWISS CONFEDERATION

The Government of the Republic of Finland and the Swiss Federal Council,
Desiring, in the interests of their nationals, to regulate relations between the two
States in the matter of social security,

Have agreed to conclude the following Agreement:

PART I. GENERAL PROVISIONS

Article 1

For the purposes of this Agreement:

(a) "Territory" means, in the case of Switzerland, the territory of the Swiss Confederation and, in the case of Finland, the territory of the Republic of Finland.

(b) "National" means, in the case of Switzerland, a person of Swiss nationality and, in the case of Finland, a person of Finnish nationality.

(c) "Legislation" means the laws and ordinances of the Contracting States specified in article 2.

(d) "Pensions insurance" means, in the case of Switzerland, the Swiss old-age and survivors' insurance scheme and the Swiss invalidity insurance scheme and, in the case of Finland, the pension schemes for employees of the public and private sectors, the national pensions insurance and the general family pensions insurance.

(e) "Competent authority" means, in the case of Switzerland, the Federal Office of Social Insurance and, in the case of Finland, the Ministry of Social Affairs and Health.

(f) "Insurance authority" means the institute or authority responsible for the application of the legislation specified in article 2.

(g) "Insurance periods" means contribution periods, periods of gainful activity or periods of normal residence and comparable periods defined or recognized as insurance periods by the legislation under which they were completed.

(h) "Cash benefit" or "pension" means a cash benefit or pension including any increase therein and any supplement or additional allowance payable therewith.

(i) "To reside" means to be ordinarily resident.

(j) "Residence", as defined in the Swiss Civil Code, means in principle, the place where a person resides and intends to remain permanently.

(k) "Employed person" means, in principle, all persons employed in the private sector and civil service officials as defined in Finnish legislation.

¹ Came into force on 1 October 1986, i.e., the first day of the second month following the exchange of the instruments of ratification, which took place at Helsinki on 19 August 1986, in accordance with article 35 (2).

Article 2

(1) This Agreement shall apply:

A. In Switzerland:

- (i) To the federal legislation concerning old-age and survivors' insurance;
- (ii) To the federal legislation concerning invalidity insurance;
- (iii) To the federal legislation concerning insurance against industrial and non-industrial accidents and occupational diseases;
- (iv) To the federal legislation concerning family allowances in agriculture;
- (v) To the federal legislation concerning sickness insurance.

B. In Finland:

- (i) To the legislation concerning pensions insurance, including the pension schemes for employees of the public and private sectors, the national pensions insurance and the general family pensions insurance;
- (ii) To the legislation concerning accident insurance and insurance against occupational diseases;
- (iii) To the legislation concerning children's allowances;
- (iv) To the legislation concerning sickness insurance and maternity assistance and benefits in kind provided by the national health system and by hospitals;
- (v) To the legislation concerning social welfare benefits in case of invalidity and invalidity allowances.

(2) This Agreement shall also apply to all laws and ordinances codifying, amending or supplementing the legislation referred to in paragraph 1 of this article.

(3) This Agreement shall, however, apply:

- (a) To the laws and ordinances concerning a new branch of social security only if the Contracting States have agreed thereto;
- (b) To the laws and ordinances extending the existing system to new groups of beneficiaries only if the State amending its legislation does not notify the other State to the contrary within six months of the official promulgation of the law or ordinance.

Article 3

This Agreement shall apply, unless otherwise provided, to nationals of the two Contracting States and to their family members and survivors in so far as the latter derive their rights from such nationals.

Article 4

The nationals of one Contracting State and their family members and survivors in so far as the latter derive their rights from such nationals shall, except as otherwise provided in this Agreement, be assimilated to nationals of the other State and to their family members and survivors in matters relating to rights and obligations under the legislation of that Contracting State.

Article 5

(1) Except as otherwise provided in this Agreement, the persons specified in article 3, who are entitled to claim cash benefits under the legislation mentioned in article 2, shall receive such benefits as long as they are normally resident in the territory of one of the Contracting States.

(2) Subject to the same conditions, cash benefits shall be paid in accordance with the legislation of one Contracting State, as specified in article 2, to nationals of the other Contracting State who are normally resident in a third State and to their family members and survivors, in so far as the latter derive their rights from such nationals, subject to the same conditions and to the same extent as that State's own nationals or their family members and survivors who are normally resident in the third State in question.

PART II. APPLICABLE LEGISLATION

Article 6

Except as otherwise provided in articles 7 to 9, the obligation of the persons mentioned in article 3 to participate in an insurance scheme shall be governed by the legislation of the Contracting State in whose territory the person concerned is normally resident or gainfully employed.

Article 7

(1) A person employed by an enterprise having its principal place of business in the territory of one Contracting State, who is sent to work temporarily in the territory of the other Contracting State, shall continue for the first 24 months to be subject to the legislation of the State in whose territory the enterprise has its principal place of business.

(2) A person employed by a transport enterprise having its principal place of business in the territory of one Contracting State, who works in the territory of both Contracting States, shall be subject to the legislation of the State in whose territory the enterprise has its principal place of business, as if he worked there. However, if such a person has his residence in the territory of the other Contracting State, or if he is employed in that State on a long-term basis by a branch or permanent office of the said enterprise, he shall be subject to the legislation of the latter Contracting State.

(3) Paragraph 2 shall apply, *mutatis mutandis*, to the flight personnel of air transport enterprises of the two Contracting States.

(4) A person employed in public service who is sent by one Contracting State to the territory of the other Contracting State shall be subject to the legislation of the sending Contracting State.

(5) A Swiss or Finnish national belonging to the crew of a vessel flying the flag of a Contracting State shall be subject to the legislation of that Contracting State.

(6) Paragraphs 1 to 4 of this article shall apply to all employed persons who are insured in either Contracting State, irrespective of their nationality.

Article 8

(1) A national of one Contracting State who is sent as a member of a diplomatic mission or a consular mission of that Contracting State to the territory of the

other Contracting State shall be subject to the legislation of the first-mentioned Contracting State.

(2) A national of one Contracting State who is employed in the territory of the other State in the service of a diplomatic mission or a consular mission of the first-mentioned Contracting State shall be insured under the legislation of the second Contracting State. He may, within a period of three months following the commencement of his employment or the date of entry into force of this Agreement, elect to be subject to the legislation of the first-mentioned Contracting State.

(3) If a diplomatic or consular mission of one Contracting State employs persons who, in pursuance of paragraph 2 of this article, are insured under the legislation of the other Contracting State, it must comply with the general obligations imposed upon employers under the legislation of the second Contracting State.

(4) Paragraphs 2 and 3 shall apply, *mutatis mutandis*, to a national of one Contracting State who is employed in the personal service of one of the persons referred to in paragraphs 1 and 2, if he is of the same nationality as the latter.

(5) Paragraphs 1 to 4 shall not apply to honorary consuls and persons in their service.

Article 9

The competent authorities of the two Contracting States may, by mutual agreement, provide for exceptions to the provisions of articles 6 to 8.

PART III. SPECIAL PROVISIONS

Chapter 1. SICKNESS

Article 10

Participation in the Swiss sickness insurance scheme shall be facilitated by the following means:

(a) A person who moves from Finland to Switzerland and withdraws from the Finnish general sickness insurance scheme shall, regardless of age, join a recognized sickness fund designated by the competent Swiss authorities and be insured for medical care and benefits in the event of sickness provided that he

- Fulfils the other statutory requirements for participation;
- Applies to join within three months from the date of withdrawal from the Finnish insurance scheme; and
- Does not move exclusively for the purpose of undergoing balneological or other treatment.

(b) The wife and children under 20 years of age of the above-mentioned person shall likewise be entitled to join a recognized sickness fund for medical care and benefits, subject to the conditions set forth above.

(c) For the purpose of entitlement to benefits under the regulations of the sickness funds, insurance periods completed under the Finnish national sickness insurance scheme shall be taken into account; in the case of maternity benefits, however, they shall be taken into account only if the insured person has participated in a Swiss sickness fund for three months.

Article 11

For the purpose of entitlement to the maternity allowance under Finnish legislation on sickness insurance, sickness insurance periods completed under the regulations of the recognized Swiss sickness funds shall be taken into account.

Chapter 2. INVALIDITY, OLD-AGE AND DEATH

(A) Application of Swiss legislation

Article 12

(1) A Finnish national who is normally resident in Switzerland shall be entitled to rehabilitation benefits under the Swiss invalidity insurance scheme if, immediately before the onset of invalidity, he has contributed to the Swiss pensions insurance scheme for at least a full year.

(2) Wives and widows who are not gainfully employed and minor children with Finnish nationality shall be entitled, if immediately before the onset of invalidity they were normally resident in Switzerland continuously for at least one year, to rehabilitation benefits under the Swiss invalidity insurance scheme as long as they are normally resident in Switzerland. Furthermore, minor children shall be entitled to such benefits if they are normally resident in Switzerland and were either born there as invalids or have been normally resident there continuously since their birth.

Article 13

(1) Finnish nationals shall be entitled, except as otherwise provided in paragraphs 2 and 3 and subject to the same conditions as Swiss nationals, to regular pensions and disability compensation under the Swiss invalidity insurance scheme.

(2) Where Swiss legislation requires that pension coverage should exist as a pre-condition for entitlement to a regular pension, a Finnish national shall also be regarded as an insured person within the meaning of such legislation if, at the time when the pension becomes due under Swiss legislation, he is normally resident in Finland or covered by the Finnish pensions insurance scheme.

(3) Regular pensions for insured persons whose working capacity has been diminished by less than 50 per cent shall be granted to Finnish nationals so long as they are normally resident in Switzerland.

Article 14

(1) Finnish nationals and their survivors shall be entitled, except as otherwise provided in paragraphs 2 to 4 and subject to the same conditions as Swiss nationals and their survivors, to regular pensions and disability compensation under the Swiss old-age and survivors' insurance scheme.

(2) Where a Finnish national or his survivor who is not normally resident in Switzerland is entitled to a regular partial pension under the Swiss old-age and survivors' insurance scheme amounting to not more than a tenth of the full regular pension, he shall be granted, in lieu of the partial pension, a lump sum corresponding to the cash value of the pension that would be paid under Swiss law when the pension became due. If a Finnish national or his survivor drawing such a partial pension leaves Switzerland for good, he shall likewise be paid such a lump sum corresponding to the cash value of the pension at the time of departure.

(3) Where the regular partial pension amounts to more than a tenth but does not exceed a fifth of the full regular pension, a Finnish national who is not normally resident in Switzerland or who has left Switzerland for good may choose either to draw the pension or to receive a lump sum. The Finnish national shall make this choice at the time when the pension is determined, if he is temporarily outside Switzerland when the pension becomes due, or at the time of his departure, if he has already drawn a pension in Switzerland.

(4) After the lump sum has been paid by the Swiss insurance scheme, neither the person entitled to such sum nor his survivors may make any further claims against such insurance scheme on the basis of contributions paid previously.

Article 15

(1) A Finnish national shall be entitled, under the same conditions as a Swiss national, to a special pension under the Swiss pensions insurance scheme provided that immediately before the time the pension is considered payable he has been normally resident in Switzerland continuously for at least ten years in the case of an old-age pension, and continuously for at least five years in the case of a survivor's or invalidity pension or of an old-age pension superseding such benefits.

(2) The reimbursement of contributions paid into the Swiss old-age and survivors' insurance scheme before the entry into force of this Agreement, and the lump sums paid in accordance with article 14, paragraphs 2 and 3 thereof, shall not impede the granting of special pensions in pursuance of paragraph 1 above; however, in such cases, the amount of the reimbursed contributions or of the lump-sum payment shall be deducted from the amount of the pensions to be paid.

Article 16

Special pensions, disability compensation and additional assistance provided under the Swiss pensions insurance scheme shall be granted only when the person concerned is normally resident in Switzerland.

(B) Application of Finnish legislation

Article 17

Swiss nationals shall be entitled, subject to the same conditions as Finnish nationals to Finnish welfare benefits in case of invalidity and invalidity allowances.

Article 18

If, at the onset of invalidity, a person does not fulfil the residential requirements established by the Finnish employee pensions scheme, the periods during which he was subject to the Swiss pensions insurance scheme by reason of his employment shall be assimilated to periods of residence in Finland, provided that they do not overlap.

Article 19

(1) A Swiss national who has been granted an old-age or invalidity pension in Finland under the Finnish legislation relating to the national pensions scheme, or a family pension under the Finnish legislation relating to family pensions, and who moves to Switzerland, shall retain his pension entitlement, subject to the same conditions as a Finnish national who moves to Switzerland.

(2) A Swiss national residing in Switzerland who is considered to be unfit for work within the meaning of the Finnish legislation relating to the national pensions scheme, and who receives a full invalidity pension under the Swiss invalidity insurance scheme shall be entitled to the base amount of the invalidity pension under the Finnish legislation relating to the national pensions scheme if he has resided continuously in Finland for at least five years after the age of 16.

(3) A Swiss national residing in Switzerland or Finland who does not fulfil, in respect of old-age pensions, the residential requirements under the Finnish legislation relating to the national pensions scheme shall, if all other requirements have been fulfilled, be entitled to the base amount of the old-age pension if he has resided continuously in Finland for at least five years after the age of 16.

(4) A Swiss national residing in Switzerland or Finland who does not fulfil, in respect of widows' pensions, the residential requirements under the Finnish legislation relating to family pensions shall, if all other requirements have been fulfilled, be entitled to the base amount of the widow's pension if she has resided continuously in Finland for at least five years after the age of 16, if the deceased resided continuously in Finland for at least five years after the age of 16, and if, on the day of his death, he resided as a Swiss national in Switzerland or Finland.

(5) A Swiss national residing in Switzerland or Finland does not fulfil, in respect of orphans' pensions, the residential requirements under the Finnish legislation relating to family pensions shall, if all other requirements have been fulfilled, be entitled to the orphan's pension if the deceased resided continuously in Finland for at least five years after the age of 16 and if, on the day of his death, he resided as a Swiss national in Switzerland or Finland.

Chapter 3. INDUSTRIAL ACCIDENTS AND OCCUPATIONAL DISEASES

Article 20

(1) A person who is insured in accordance with the legislation of one Contracting State and who sustains an industrial accident or contracts an occupational disease in the territory of the other Contracting State may apply to the insurance authority of the place of residence for the necessary benefits in kind.

(2) A person who is entitled, under the legislation of one other Contracting State, to benefits in kind as a result of industrial accident or occupational disease, shall be granted such benefits even if he moves, during treatment, to a place in the territory of the other Contracting State. However, the insurance authority liable for benefits shall consent to the move in advance; such consent shall be given unless there are any medical reasons for not doing so.

(3) The benefits in kind to which the persons referred to in paragraphs 1 and 2 are entitled shall be granted under the legislation applicable to the insurance authority for the place of residence.

(4) Where an insurance authority has granted benefits in pursuance of paragraphs 1 to 3 above, the insurance authority liable for benefits shall reimburse the first-mentioned insurance authority for the expenses involved, except for administrative costs. The competent authorities may agree on another procedure.

Article 21

(1) If an occupational disease is compensable under the legislation of both Contracting States, benefits shall be granted only under the legislation of the Con-

tracting State in whose territory an occupation liable to cause such an occupational disease was last engaged in.

(2) The following provisions shall apply in case of the aggravation of an occupational disease for which benefits have been granted under paragraph 1:

(a) Where a person has ceased to engage in an occupation liable to cause or to aggravate the disease, or where a person has engaged in such an occupation only in the territory of the Contracting State responsible for payment, the benefits to which such person is entitled as a result of the aggravation of the said disease shall be granted only under the legislation of the State responsible for payment.

(b) Where a person is entitled to benefits under the legislation of one Contracting State as a result of the aggravation of an occupational disease resulting from the occupation in which he engages in the territory of that State, and where the legislation of that State recognizes such occupation as being liable to aggravate the disease, the competent insurance authority of that State shall be required to grant benefits only on the basis of the aggravation of the occupational disease under the applicable legislation.

Article 22

(1) In establishing the right to compensation and the degree of disability resulting from an industrial accident under the legislation of one Contracting State, previous industrial accidents covered by the legislation of the other Contracting State shall also be taken into account.

(2) If several industrial accidents have been sustained in succession and have given rise to compensation under the insurance schemes of both Contracting States, the following provisions shall apply with respect to cash benefits calculated on the basis of the degree of disability:

(a) Cash benefits for a previous accident shall continue to be paid. If entitlement to benefits arises only in connection with paragraph 1, the competent insurance authority shall pay cash benefits for the disability resulting from such an accident.

(b) In the case of the most recent accident the competent insurance authority shall calculate the benefits on the basis of the degree of disability caused by such accident under the applicable domestic legislation.

(3) Paragraphs 1 and 2 shall apply, *mutatis mutandis*, to occupational diseases.

PART IV. MISCELLANEOUS PROVISIONS

Article 23

The competent authorities:

- (a) Shall reach agreement on the necessary provisions for the implementation of this Convention;
- (b) Shall inform each other of any changes in their legislation;
- (c) Shall designate liaison offices to facilitate communication between the insurance authorities of the two Contracting States.

Article 24

(1) The insurance authorities and public authorities of the Contracting States shall assist each other in the implementation of this Agreement as if they were applying their own legislation. Such assistance shall, in principle, be free of charge; the competent authorities may, however, agree on the reimbursement of some costs.

(2) For the purpose of assessing a degree of disability, the insurance authorities of either Contracting State shall, where appropriate, take into consideration the information provided by the insurance authority of the other Contracting State and the medical certificates issued by such insurance authority. Their right to arrange for the insured person to be examined by a physician of their choice shall, however, not be affected.

Article 25

(1) The provisions of the legislation of one Contracting State concerning exemption from or reduction of stamp duties and charges for documents and records required to be submitted under such legislation shall also apply to such documents and records required to be submitted under the legislation of the other Contracting State.

(2) The competent public authorities or insurance authorities of the two Contracting States shall not require authentication, through a diplomatic or consular mission, of documents and records to be submitted in implementation of this Agreement.

Article 26

Claims, declarations or appeals which, in application of the legislation of one Contracting State, are required to be submitted within a certain time-limit to an administrative authority, court or social insurance authority of that State shall be deemed to have been received in time if within the prescribed time-limit they have been presented to the corresponding public authority, court or insurance authority of the other Contracting State. In such cases the recipient shall enter the date of receipt on the document and subsequently forward it directly or through a liaison office to the addressee in the first-mentioned Contracting State.

Article 27

(1) The insurance authorities liable for benefits under this Agreement may discharge their liability by making payment in the currency of their State.

(2) If an insurance authority of one Contracting State is required to make disbursements to an insurance authority in the other Contracting State, the disbursements shall be made in the currency of the latter State.

(3) If one Contracting State should introduce currency restrictions, the Contracting States shall take prompt measures by mutual agreement to ensure the transfer of amounts payable by each side under the provisions of this Agreement.

Article 28

(1) Where an insurance authority of one Contracting State awards cash benefits erroneously, the corresponding amount shall be deducted from a corresponding benefit payable under the legislation of the other Contracting State for the account

of the insurance concerned, in so far as this is permitted under the legislation of that State.

(2) Paragraph 1 shall apply, *mutatis mutandis*, where a sickness benefit payable under the legislation of one Contracting State overlaps with a pension payable under the legislation of the other Contracting State.

(3) Where an insurance authority of one Contracting State has made an advance payment relating to a benefit under the legislation of the other Contracting State, the amount paid shall be deducted for the account of the insurance authority when the benefit is paid.

(4) Where a person is entitled, under the legislation of one Contracting State, to a cash benefit for a period for which he or his family members received benefits from a public assistance agency in the other Contracting State, such cash benefit shall, at the request of the public assistance agency entitled to reimbursement, be withheld for the account of such agency as if the agency had its principal place of business in the territory of the first-mentioned State.

Article 29

(1) Where a person who is to receive benefits under the legislation of one Contracting State in respect of an injury sustained in the territory of the other State is entitled to claim compensation for such injury from a third party under the legislation of the last-mentioned State, the claim for compensation shall be transferred under the applicable legislation from the third party to the insurance authority liable for benefits of the first-mentioned Contracting State; the other Contracting State shall recognize such transfer on condition that the provisions of its national legislation applicable to the same insurance class also provide for a transfer of the claim for compensation.

(2) Where, in pursuance of paragraph 1, insurance authorities of the two Contracting States are entitled to claim compensation in respect of an injury as a result of benefits allocated for the same contingency, they shall be deemed to be joint creditors. The insurance authorities shall make the necessary internal arrangements to divide the payment between them in proportion to the benefits payable by each of them.

Article 30

(1) Disputes arising in connection with the application of this Agreement shall be settled by the competent authorities of the Contracting States by mutual agreement.

(2) Where a dispute cannot be settled in this manner, it shall, at the request of one of the Contracting States, be submitted to an arbitral tribunal.

(3) The arbitral tribunal shall be constituted *ad hoc*; to that end, each Contracting State shall appoint one member, and the two members shall agree on the national of a third State who is to be Chairman and 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 mentioned in paragraph 3 are not adhered to, and in the absence of another arrangement, either of the Contracting States may 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 if he is unable to act for another reason, the Vice-President shall make the appointments. If the Vice-President is also a national of a Contracting State or 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 decisions of the arbitral tribunal shall be by majority vote, subject to the existing treaties between the parties and the general law of nations. Its decisions shall be binding. Each Contracting State shall defray the expenses of its members and the costs of its representation in the arbitral proceedings. The expenses of the Chairman and other expenses shall be shared equally by the Contracting States. The arbitral tribunal may make some other ruling concerning costs. In all other respects it shall establish its own rules of procedure.

PART V. TRANSITIONAL AND FINAL PROVISIONS

Article 31

(1) This Agreement shall also apply to contingencies which occurred before its entry into force. However, in case of non-industrial accidents, Swiss accident insurance pensions shall be granted only to insured persons themselves or to their widows and orphans.

(2) This Agreement shall not confer any entitlement to benefits for periods prior to the date of its entry into force.

(3) For the purpose of determining entitlement to benefits under this Agreement, insurance periods completed under the legislation of one of the Contracting States before its entry into force shall also be taken into account.

(4) Contributions paid into the pensions insurance scheme of one Contracting State which are subsequently reimbursed to nationals of the other Contracting State and their survivors may not subsequently be retransferred to the said insurance scheme. No further rights under such insurance scheme may be invoked.

(5) This Agreement shall not apply to liabilities which have been discharged by means of a lump sum or by reimbursement of contributions.

Article 32

(1) Earlier decisions shall not affect the application of this Agreement.

(2) Pensions which were determined prior to the entry into force of this Agreement shall, upon application, be reviewed. A review may also be made *ex officio*. Under no circumstances, however, shall the review result in a reduction of the prior pensions.

Article 33

The time-limits within which claims may be made in respect of prior contingencies, under the provisions of article 32, paragraph 2, and the limitation and expiry periods according to the legislation of the two Contracting States, shall begin on the date of entry into force of this Agreement.

Article 34

The accompanying Final Protocol constitutes an integral part of this Agreement.

Article 35

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

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

Article 36

(1) This Agreement is concluded for a period of one year from the date of its entry into force. It shall be renewed automatically each year, unless it is denounced by either Contracting State at least three months before the expiry of the current period.

(2) If, as the result of denunciation, the Agreement is terminated, 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.

IN WITNESS WHEREOF, the plenipotentiaries of the Contracting States have signed this Agreement and have thereto affixed their seals.

DONE at Berne on 28 June 1985, in duplicate in the Finnish and German languages, both texts being equally authentic.

For the Government of the Republic
of Finland:

RICHARD TÖTTERMAN

For the Swiss Federal Council:

JEAN-DANIEL BAECHTOLD

FINAL PROTOCOL TO THE AGREEMENT ON SOCIAL SECURITY BETWEEN THE SWISS CONFEDERATION AND THE REPUBLIC OF FINLAND

On the occasion of the signing today of the Agreement on social security between the Republic of Finland and the Swiss Confederation (hereinafter referred to as “the Agreement”), the plenipotentiaries of the Contracting States have declared that they agree upon the following:

1. This Agreement shall not apply to unemployment compensation under the Finnish legislation relating to pensions insurance.

2. The provisions relating to the obligation to pay contributions into the insurance schemes mentioned in article 2 of the Agreement shall also be subject to the legislation referred to in paragraph 1.B of that article.

3. The Agreement shall also apply to refugees within the meaning of the International Convention relating to the Status of Refugees of 28 July 1951,¹ and the Protocol relating to the Status of Refugees of 31 January 1967,² and to stateless persons within the meaning of the Convention relating to the Status of Stateless Persons of 28 September 1954³ where they reside in the territory of one of the Contracting States. It shall apply, subject to the same conditions, to their family members and survivors, in so far as they derive their rights from those of the above-mentioned refugees or stateless persons. More favourable provisions of national legislation shall not be affected.

4. Article 4 shall not apply to the Swiss legislation concerning

- a. Optional insurance for Swiss nationals resident abroad;
- b. Old-age, survivors' and invalidity insurance for Swiss nationals who work abroad for an employer in Switzerland and are remunerated by that employer; article 7, paragraph 5, of the Agreement shall not be affected;
- c. Welfare benefits for Swiss nationals resident abroad.

5. Where, pursuant to articles 6 to 9 of the Agreement, a person is, by reason of his engaging in an occupation, compulsorily insured under Swiss legislation, the Finnish legislation concerning compulsory insurance and compulsory payment of contributions by virtue of the remuneration derived from such occupation shall not apply even if the person concerned resides in Finland.

6. In the cases mentioned in article 7, paragraph 2, of the Agreement, the air transport enterprises of one of the Contracting States shall inform the competent insurance authority of the other State as to the persons who are on temporary assignment.

7. Swiss nationals employed in Finland by the Swiss National Tourist Office and Finnish nationals employed in Switzerland by the Finnish Tourist Board shall be assimilated to persons employed by a public service, within the meaning of article 7, paragraph 4, of the Agreement.

8. Where a Finnish national employed in Switzerland — with the exception of those having a business licence — is not already covered by medical insurance as

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

² *Ibid.*, vol. 606, p. 267.

³ *Ibid.*, vol. 360, p. 117.

defined in the Federal Act of 13 June 1911 concerning sickness insurance, his employer shall ensure that he takes out such an insurance policy and shall obtain one for him if he fails to do so. The employer may deduct from his remuneration the contributions required for such insurance; the parties concerned may, however, make other arrangements by agreement between them.

9. Where a Finnish national normally resident in Switzerland leaves Switzerland for a period not exceeding two months, such departure shall not be construed as an interruption of his period of residence in Switzerland under article 12, paragraph 2, of the Agreement.

10. A Finnish national who is compelled by an accident or illness to give up his occupation or activity in Switzerland shall, as long as he receives rehabilitation benefits under the Swiss invalidity insurance scheme or as long as he remains in Switzerland, be treated as insured under the pensions insurance scheme in respect of entitlement to benefits, and shall be subject to compulsory payment of contributions as a person not gainfully employed.

11. Where a Finnish national normally resident in Switzerland leaves Switzerland for a period not exceeding three calendar months, such departure shall not be construed as an interruption of his period of residence in Switzerland under article 15, paragraph 1, of the Agreement. Periods of exemption from insurance under the Swiss pensions insurance scheme shall not be deducted from the period of residence.

12. For the purpose of calculating an increase in the declining amounts of pensions and benefits under Finnish legislation, the application shall be deemed to be filed if it is received by the competent Finnish insurance authority with the necessary documents attached.

13. Chapter 3 of the Agreement shall also apply to the Swiss legislation concerning non-industrial accident insurance.

14. Article 20 of the Agreement shall not apply to the occupational rehabilitation benefits awarded under the Finnish accident insurance and insurance against occupational diseases.

15. It is hereby determined that all Swiss cantons have established a family allowance scheme for employees and that, under the legislation currently in force, persons employed in Switzerland irrespective of their nationality, are also entitled to family allowances for their children who live outside Switzerland.

DONE at Berne on 28 June 1985, in duplicate in the Finnish and German languages, both text being equally authentic.

For the Government of the Republic
of Finland:

RICHARD TÖTTERMAN

For the Swiss Federal Council:

JEAN-DANIEL BAECHTOLD