

No. 25938

**NETHERLANDS
and
CAPE VERDE**

Convention on social security (with final protocol and administrative arrangement). Signed at The Hague on 18 November 1981

Authentic text: French.

Registered by the Netherlands on 18 May 1988.

**PAYS-BAS
et
CAP-VERT**

Convention de sécurité sociale (avec protocole final et arrangement administratif). Signée à La Haye le 18 novembre 1981

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Enregistrée par les Pays-Bas le 18 mai 1988.

[TRANSLATION — TRADUCTION]

CONVENTION¹ ON SOCIAL SECURITY BETWEEN THE KINGDOM OF THE NETHERLANDS AND THE REPUBLIC OF CAPE VERDE

The Government of the Kingdom of the Netherlands and
The Government of the Republic of Cape Verde

Desiring to regulate the relations existing between the two States in the matter of social security, have agreed as follows:

TITLE I. GENERAL PROVISIONS

Article 1

For the purposes of this Convention:

(a) The term “territory” means

- In the case of the Kingdom of the Netherlands: the territory of the Kingdom in Europe (hereinafter designated by the term “Netherlands”);
- In the case of the Republic of Cape Verde: the territory of the Republic of Cape Verde;

(b) The term “national” means:

- In the case of the Netherlands: a person of Netherlands nationality;
- In the case of Cape Verde: a person of Cape Verdean nationality;

(c) The term “employed person” means a person earning a wage or salary or a person treated as such under the legislation of the Contracting Party concerned;

(d) The term “legislation” means the laws, regulations and statutory provisions and all other implementing decisions relating to the schemes and branches of social security specified in article 2, paragraph 1;

(e) The term “competent authority” means the Minister, Ministers or corresponding authority in charge of social security schemes;

(f) The term “competent institution” means the institution with which the person concerned is insured at the time of application for benefits, or the institution from which he has an entitlement to benefits or would have an entitlement to benefits if he were resident in the territory of the Contracting Party where that institution is situated, or the institution designated by the competent authority of the Contracting Party in question;

(g) The term “competent country” means the Contracting Party in whose territory the competent institution is situated;

(h) The term “residence” means customary stay;

¹ Came into force on 1 March 1988, i.e., the first day of the second month following the date of the last of the notifications (effected on 29 November 1984 and 4 January 1988) by which the Contracting Parties had informed each other of the completion of the required constitutional procedures, in accordance with article 40.

(i) The term “stay” means temporary stay;

(j) The term “institution of the place of residence” means the institution authorized to provide the relevant benefits at the place where the person concerned is resident in accordance with the legislation of the Contracting Party which is applied by that institution, or, if there is no such institution, the institution designated by the competent authority of the Contracting Party concerned;

(k) The term “institution of the place of stay” means the institution authorized to provide the relevant benefits at the place where the person concerned is temporarily staying in accordance with the legislation of the Contracting Party which is applied by that institution, or, if there is no such institution, the institution designated by the Contracting Party concerned;

(l) The term “dependants” means persons defined or accepted as members of the family or designated as members of the household by the legislation of the Contracting Party in whose territory they are resident. However, if such legislation recognizes as members of the family or of the household only those persons who are living under the roof of the insured person, this requirement shall be deemed to have been fulfilled when the persons in question are mainly dependent on the employed person in question;

(m) The term “survivors” means persons defined or accepted as such by the legislation under which the benefits are awarded. However, if such legislation regards as survivors only such persons who were living under the roof of the deceased, this requirement shall be deemed to have been fulfilled when the person concerned was mainly dependent on the deceased;

(n) The term “insurance periods” means contribution periods and periods of employment or residence which are defined or accepted as insurance periods by the legislation under which they have been completed, or are deemed to have been completed, and any similar periods in so far as they are recognized by that legislation as equivalent to insurance periods;

(o) The terms “benefits”, “pensions” and “annuities” means any benefits, pensions or annuities, including any payments out of public funds, reassessment increases or supplementary allowances, and any lump-sum payments made in lieu of a pension.

Article 2

1. This Convention shall apply:

A. In the Netherlands, to the legislation concerning:

- (a) Sickness insurance (benefits in cash or in kind in case of sickness and maternity);
- (b) Insurance for the incapacity for work;
- (c) Old age insurance;
- (d) Insurance for widows and orphans;
- (e) Unemployment insurance;
- (f) Family benefits;

B. In Cape Verde, to the legislation concerning:

- (a) Industrial accidents and occupational diseases;
- (b) Sickness benefits;
- (c) Invalidity, old-age and death benefits;
- (d) Family allowances.

2. This Convention shall also apply to any laws or regulations which have amended or supplemented, or may in future amend or supplement, the legislative provisions referred to in paragraph 1 of this article.

It shall apply to:

- (a) Laws or regulations governing a new branch of social insurance only if an arrangement to that effect is agreed upon between the Contracting Parties;
- (b) Laws or regulations extending existing schemes to new classes of beneficiaries only if the Government of the Contracting Party concerned does not lodge an objection within a period of three months after the official publication of the said laws or regulations.

3. This Convention shall not apply to social insurance or to special schemes for civil servants or similar personnel.

Article 3

1. The provisions of this Convention shall apply to Netherlands and Cape Verdean employed persons who are or have been subject to the legislation of one of the Contracting Parties, and to their dependants and survivors.

2. The provisions of this Convention shall not apply to career diplomats or consular personnel, including chancellery officials.

Article 4

1. Subject to the provisions of this Convention, nationals of one of the Contracting Parties to whom the provisions of this Convention apply shall be subject to the requirements and entitled to the benefits of the legislation of the other Party on the same conditions as nationals of the latter Party.

2. The principle of equal treatment set forth in paragraph 1 shall not, however, apply to the provisions of Netherlands legislation concerning the payment of reduced contributions for optional old-age, invalidity and survivors' insurance.

Article 5

1. Unless otherwise provided in this Convention, invalidity, old-age or survivors' benefits in cash, industrial-accident or occupational-disease annuities and death grants acquired under the legislation of one Contracting Party shall be furnished to the beneficiaries, even if they establish their residence in the territory of the other Party.

2. Cash benefits under the social security system of one of the Contracting Parties shall be furnished to the nationals of the other Party who are resident in a third country on the same conditions and to the same extent as to its own nationals resident in that third country.

TITLE II. PROVISIONS TO DETERMINE WHICH LEGISLATION IS APPLICABLE

Article 6

Subject to the provisions of articles 7 to 9, persons employed in the territory of one Contracting Party shall be subject solely to the legislation of that Party even if they are resident in the territory of the other Party or if the principal place of business of the enterprise which employs them or their employer's domicile is in the territory of the other Party.

Article 7

The principle laid down in article 6 shall be subject to the following exceptions:

(a) (i) Persons employed in the territory of one Contracting Party by an enterprise for which they normally work and who are assigned to the territory of the other Contracting Party by that enterprise in order to work there on its behalf shall remain subject to the legislation of the first-mentioned Party provided that the foreseeable duration of the work does not exceed 12 months;

(ii) If the duration of the work to be carried out is extended for unforeseeable reasons beyond the originally foreseeable duration and comes to exceed 12 months, the legislation of the first-mentioned Party shall remain applicable for a further period of not more than 12 months, subject to the consent of the competent authority;

(b) Employed persons in the service of an enterprise which is engaged on behalf of others or on its own account, in the transport of passengers or goods by rail, road, air or water or in marine fishing and which has its principal place of business in the territory of one of the Contracting Parties and who are employed as travelling personnel shall be subject to the legislation of the Contracting Party in whose territory the enterprise has its principal place of business, irrespective of the Contracting Party in whose territory they are resident; however, employed persons who are employed by a branch or a permanent representation which the said enterprise has in the territory of the Contracting Party other than the one in whose territory it has its principal place of business, shall be subject to the legislation of the Contracting Party in whose territory the said branch or permanent representation is situated;

(c) Employed persons belonging to a public administrative service of one of the Contracting Parties who are assigned to the territory of the other Party shall remain subject to the legislation of the first-mentioned Party.

Article 8

1. Without prejudice to the provisions of article 3, paragraph 2, the provisions of article 6 shall apply to persons employed at the diplomatic missions or consular posts of the Contracting Parties and to those in the personal service of officials of those missions or posts.

2. However, employed persons, as specified in paragraph 1, who are nationals of the Contracting Party represented by the diplomatic missions or consular post in question may elect to be subject to the legislation of that Party. The elective right may be exercised only once, within the three months following the

entry into force of this Convention or the date on which the person is recruited by the diplomatic missions or consular post or enters the private service of officials of the mission or post, as the case may be.

Article 9

The competent authorities of the Contracting Parties may, by agreement, make exceptions to the provisions of articles 6 to 8 on behalf of the employed persons concerned.

TITLE III. SPECIAL PROVISIONS FOR VARIOUS CATEGORIES OF BENEFITS

CHAPTER 1. SICKNESS AND MATERNITY

Article 10

For the purposes of the acquisition, maintenance or recovery of entitlement to benefits, where an employed person has been subject successively or alternately, to the legislations of both Contracting Parties, the insurance periods completed under the legislation of each of the Contracting Parties shall be aggregated, provided that they do not overlap.

Article 11

1. An employed person who is resident in the territory of the Contracting Party other than the competent country and who satisfies the conditions required by the legislation of the competent country in order to be entitled to benefits, with due regard, where necessary, to the provisions of article 10, shall be entitled in his country of residence:

- (a) To benefits in kind furnished on behalf of the competent institution by the institution of the place of residence, in accordance with the provisions of the legislation which that latter institution applies, as if he were insured by it;
- (b) To cash benefits furnished by the competent institution, in accordance with the provisions of the legislation which it applies.

2. The provisions of the above paragraph shall apply *mutatis mutandis* to dependants resident in the territory of the Contracting Party other than the competent country. However, when the dependants are engaged in an occupation in their country of residence or are in receipt of cash social security benefits which entitle them to benefits in kind, the provisions of this article shall not apply to them.

Article 12

The employed person and his dependants referred to in the preceding article who stay in or transfer their residence to the competent country shall be entitled to benefits in accordance with the provisions of that country's legislation, even if they have already received benefits in respect of the same case of sickness or maternity before their stay or transfer of their residence.

Article 13

1. An employed person who satisfies the requirements of one of the Contracting Parties for entitlement to benefits shall be entitled to benefits during a

stay in the territory of the other Contracting Party if his state of health necessitates immediate medical treatment.

2. An employed person who, after acquiring entitlement to benefits from an institution of one of the two Contracting Parties, is authorized by that institution to transfer his residence to the territory of the other Contracting Party, shall retain that entitlement. Authorization may be withheld only if it is established that the transfer is liable to jeopardize his state of health or the provision of medical treatment.

3. Where an employed person is entitled to benefits under the provisions of the preceding paragraphs, benefits in kind shall be provided, at the expense of the competent institution, by the institution of his place of permanent or temporary residence in accordance with the provisions of the legislation applied by that institution, particularly as regards the scale of such benefits and the manner of providing them; the duration of such benefits shall, however, be that prescribed by the legislation of the competent country.

4. In the cases specified in paragraphs 1 and 2 of this article, the provision of prostheses, of large prosthetic appliances and of other major benefits in kind shall be subject, except in cases of unmistakable urgency, to prior authorization by the competent institution.

5. In the cases specified in paragraphs 1 and 2 of this article, cash benefits shall be paid by the competent institution in accordance with the provisions of the legislation which it applies. Such benefits may be paid by the institution of the temporary or permanent place of residence as agent for the competent institution according to rules to be laid down in an administrative agreement to be established by the competent authorities.

6. The provisions of the preceding paragraphs shall apply *mutatis mutandis* to dependants in cases where they are staying temporarily in the territory of the other Contracting Party or where they transfer their residence to the territory of the other Contracting Party after falling sick or becoming pregnant.

Article 14

1. Where a person in receipt of pensions payable under the legislation of both Contracting Parties is entitled to benefits in kind under the legislation of the Contracting Party in whose territory he is resident, such benefits shall be furnished to him and to his dependants by the institution of his place of residence at the expense of that institution as if he were in receipt of a pension payable solely under the legislation of the latter Party.

2. Where a person in receipt of a pension payable under the legislation of one of the Contracting Parties is resident in the territory of the other Contracting Party any benefits in kind to which he is entitled under the legislation of the first-mentioned Party or would be entitled if he were resident in the territory of that Party, shall be furnished to him and to his dependants by the institution of the place of residence, in accordance with the provisions of the legislation which it applies.

3. A person in receipt of a pension payable under the legislation of one of the Contracting Parties who is entitled to benefits in kind under the legislation of that Party shall be entitled to those benefits, as shall his dependants, during a stay

in the territory of the Contracting Party other than the one in whose territory they are resident, if their state of health necessitates immediate benefits.

Such benefits shall be furnished by the institution of the place of stay in accordance with the provisions of the legislation which it applies, but the cost thereof shall be payable by the competent institution or by that of the place of residence of the entitled person, as the case may be; the duration of the furnishing of such benefits shall be that provided for by the legislation of the competent country. The provisions of article 13, paragraph 4 shall apply *mutatis mutandis*.

4. If the legislation of one of the Contracting Parties provides for contributory deductions from the amounts payable to a pensioner, in order to cover the cost of benefits in kind, the institution which is liable for the pension shall be authorized to make such deductions when payment for the benefits in kind devolves upon an institution of the said Party by virtue of this article.

Article 15

1. The cost of benefits in kind furnished under the provisions of articles 11 and 12, article 13, paragraphs 1, 2 and 6 and article 14, paragraphs 2 and 3, shall be reimbursed by the competent institutions to those institutions which furnished the said benefits.

2. The amount due shall be determined and reimbursed according to rules to be laid down under an administrative arrangement, subject to proof of actual expenditures or on the basis of lump sums.

CHAPTER 2. INVALIDITY, OLD AGE AND SURVIVAL

Section 1. COMMON PROVISIONS

Article 16

1. Where the legislation of one Contracting Party makes the acquisition, maintenance or recovery of entitlements to benefits conditional on the completion of insurance periods, the institution which applies that legislation shall, for purposes of aggregation, take into account the insurance periods completed under the legislation of the other Contracting Party as if they were insurance periods completed under the legislation of the first-mentioned Party.

2. Where the legislation of one Contracting Party, while not requiring any period of insurance coverage for the acquisition of or entitlement to benefits, makes it a condition for the awarding of such benefits that the employed person must have been insured under that legislation at the time when the contingency occurred, such a condition shall be deemed to have been fulfilled if the employed person was subject at that time to the legislation of the other Party.

Article 17

1. The institution of each Contracting Party shall determine, in accordance with the provisions of the legislation which it applies, whether the beneficiary fulfils the requirements for entitlement to benefits, account being taken, as appropriate, of the provisions of the preceding article.

2. Where the beneficiary fulfils these requirements, the said institution shall calculate the theoretical amount of the benefit which he might claim if all the

insurance periods, taken into account in accordance with the provisions of the preceding article for determining entitlement, had been completed exclusively under the legislation which it applies.

3. However, where the amount of benefits is independent of the duration of insurance periods completed, it shall be deemed to be the theoretical amount referred to in the preceding paragraph.

4. The said institution shall then determine the actual amount of the benefit which it owes to the beneficiary, on the basis of the theoretical amount calculated in accordance with the provisions of paragraph 2 of this article, according to the proportion which the duration of the insurance periods completed before the occurrence of the contingency under the legislation which it applies bears to the total duration of the insurance periods completed before the occurrence of the contingency under the legislation of both Contracting Parties.

5. Where the theoretical amount is determined under the provisions of paragraph 3 of this article, the institution concerned shall determine the actual amount of the benefit which it owes to the beneficiary, according to the proportion which the duration of the insurance periods completed before the occurrence of the contingency under the legislation which it applies bears to the time which has elapsed between the date on which the beneficiary reached the age of 15 years and the date of occurrence of the contingency.

6. For the purpose of applying the method of calculation referred to in the preceding paragraphs, the procedure for taking overlapping periods into account shall be laid down in an administrative arrangement.

Article 18

1. Notwithstanding the provisions of article 17, where the total duration of insurance periods completed under the legislation of one Contracting Party is less than one year and where, account being taken only of those periods, no entitlement to benefits arises under that legislation, the institution of that Party shall not be obliged to grant benefits for these periods.

2. The periods indicated in the preceding paragraph shall be taken into account by the other Contracting Party for the implementation of the provisions of article 17, with the exception of those of its paragraph 4.

Article 19

Where the person concerned does not, at a given moment, fulfil the requirements of the legislations of both Contracting Parties, account being taken of the provisions of article 16 of this Convention, but satisfies only the requirements of one of them, his entitlement to benefits shall be established in respect of the legislation whose requirements have been met. The benefits shall be recalculated, in accordance with the provisions of article 17 of this Convention, when the requirements of the legislation of the other Party have been met, account being taken of the provisions of article 16.

Article 20

Where the amount of benefits to which the person concerned might be entitled, under the legislation of one of the Contracting Parties, without application of the provisions of articles 16 and 17, is greater than the total amount of benefits

due under these provisions, the competent institution of that Party shall be required to provide him with a supplement equal to the difference between those two amounts. The cost of the supplement shall be fully borne by that institution.

Article 21

1. Where, as a result of an increase in the cost of living or of a change in the level of remuneration, benefits are altered by a percentage or by a fixed amount, this percentage or amount must be applied directly to the benefits established in accordance with the provisions of articles 17 and 20, without any further calculations having to be made in line with those articles.

2. Where, however, the benefit of either Contracting Party is revised to take account of a change in the personal circumstances of the person concerned, a new calculation shall be made in accordance with the provisions of articles 17 and 20.

Section 2. SPECIAL PROVISIONS CONCERNING THE APPLICATION OF NETHERLANDS LEGISLATION

Article 22

1. For the determination of the theoretical amount referred to in article 17, paragraph 3, the Netherlands institution shall calculate the amount of the benefit which would have been obtained through the application of the legislation on disability insurance for wage earners (WAO) and also by the application of the legislation on general disability insurance (AAW). Only the higher amount shall be the one chosen.

2. For the application of article 17, paragraph 5, only the insurance periods completed under Netherlands legislation on disability insurance for wage earners (WAO) shall be taken into account.

3. The periods of paid employment and assimilated periods completed in the territory of the Netherlands before 1 July 1967 shall be considered as insurance periods completed under the Netherlands legislation on disability insurance for wage earners.

4. Employment on board a vessel in the service of an enterprise having its head office in the Netherlands shall be assimilated to employment in the territory of the Netherlands.

Article 23

Notwithstanding the provisions of article 17, Netherlands institutions shall calculate old-age pensions directly on the basis of only those periods of insurance completed under Netherlands legislation.

Article 24

1. For the purpose of calculating the old-age pension to which a married man is entitled under Netherlands legislation, periods prior to the date on which his wife reaches the age of 65 years and during which she, while married to him, resided in the territory of Cape Verde shall, to the extent that such periods coincide with insurance periods completed by the husband under that legislation, also be taken into account.

2. For the purpose of calculating the old-age pension under Netherlands legislation, to which the widow of a person who has completed insurance periods

under the legislation is entitled, periods prior to the date on which she reached the age of 65 years and during which she, while married to the said person, resided in the territory of Cape Verde shall, to the extent that such periods coincide with the insurance periods referred to above, also be taken into account.

3. Periods to be taken into consideration under the preceding paragraphs shall not be taken into account when they coincide with insurance periods completed by the wife or the widow under the legislation on old-age pensions of a State other than the Netherlands or with periods during which she received an old-age pension under such legislation.

Article 25

1. For entitlement to benefits under Netherlands legislation concerning the insurance of widows and orphans, the condition set out in article 16, paragraph 2, shall also be deemed to have been fulfilled if the employed person at the time of his death was receiving sickness, invalidity or old-age benefits under Cape Verdean legislation.

2. For the application of article 17, paragraph 5, the periods prior to 1 October 1959, during which the deceased person was resident in the Netherlands after the age of 15 years or during which he was engaged in paid employment for an employer established in that country shall be considered as insurance periods completed under Netherlands legislation concerning widows and orphans' insurance. Employment on board a vessel in the service of an enterprise having its head office in the Netherlands shall be assimilated to employment in the territory of the Netherlands.

3. In the case of the death of a person over 65 years subject to the legislations of both Contracting Parties, the following provisions shall be applied for the acquisition and determination of entitlement to survivors' benefits in conformity with the provisions of section 1 of this chapter:

- (a) Insurance periods subsequent to the date on which the insured person reached the age of 65 years shall not be taken into account for the application of the provisions of article 16, paragraph 1, article 17, paragraphs 4 and 5, and article 18;
- (b) For the application of article 17, paragraph 5, the date on which the deceased person reached the age of 65 shall be considered as the date of the occurrence of the contingency.

CHAPTER 3. UNEMPLOYMENT

Article 26

For the purposes of the acquisition of entitlement to unemployment benefits provided for by the legislation referred to in article 2, A (e), the periods of employment completed under the legislation of each Contracting Party shall be aggregated.

Article 27

An employed person of Cape Verde who travels to the territory of the Netherlands shall be entitled during his stay in that territory to the unemployment benefits provided for by the legislation of the Netherlands provided that:

- (a) He satisfies the requirements for entitlement to those benefits under that legislation, account being taken of the aggregation of the periods referred to in the preceding article;
- (b) He was taken on for employment in that territory in accordance with the provisions of the legislation concerning the employment of aliens.

CHAPTER 4. FAMILY ALLOWANCES

Article 28

Where the legislation of one of the Contracting Parties makes the acquisition of entitlement to family allowances conditional on the completion of insurance periods, the institution which applies that legislation shall for that purpose, in so far as necessary, take into account insurance periods completed under the legislation of the other Party as if they were periods completed under the legislation of the first-mentioned Party.

Article 29

1. An employed person insured under Cape Verdean legislation who has children resident or being raised in the territory of the Netherlands shall be entitled, in respect of those children, to family allowances in accordance with Cape Verdean legislation, taking into account where appropriate, the aggregation of periods referred to in the preceding article.

2. An employed person insured under Netherlands legislation who has children resident or being raised in the territory of Cape Verde shall be entitled, in respect of those children, to family allowances, in accordance with the provisions of Netherlands legislation.

3. If the legislation of the Contracting Party provides for family allowances to pensioners or beneficiaries, pensioners or beneficiaries resident in the territory of the other Party shall also be entitled to such benefits.

4. If family allowances are not awarded for the maintenance of such children by the person entitled to such benefits, the competent institution shall furnish those benefits, with the effect of discharging the obligation to the individual or body corporate having actual custody of the children, at the request and through the intermediary of the institution of the children's place of residence.

Article 30

Entitlement to family allowances due under the legislation of the Contracting Party in whose territory the child is not resident shall be suspended when, during the same period and in respect of the same child, benefits are also due under the legislation of the Contracting Party in whose territory the child is resident.

TITLE IV. MISCELLANEOUS PROVISIONS

Article 31

1. The competent authorities

- (a) Shall make all administrative arrangements as may be necessary for implementing this Convention;

- (b) Shall communicate to each other full information concerning the measures taken for its implementation;
- (c) Shall communicate to each other full information regarding changes in their legislation which may affect its implementation.

2. The competent authorities shall regulate, by agreement and as necessary, the status of the individual categories of employed persons.

Article 32

The authorities and institutions responsible for implementing this Convention shall assist one another in so doing and shall act as if they were applying their own legislation. The mutual administrative assistance provided by such authorities and institutions shall in principle be free of charge. However, the competent authorities of the Contracting Parties may agree on the reimbursement of certain expenses.

Article 33

1. Any exemption from or reduction of charges, stamp duties, court fees or registration fees provided for by the legislation of one of the Contracting Parties in respect of papers or documents required to be produced for the purposes of the legislation of that Party shall be extended to similar papers and documents required to be produced for the purposes of the legislation of the other Contracting Party or of this Convention.

2. Legalization and any other similar formality shall be waived in respect of all instruments, documents and papers of any kind of an official nature required to be produced for the purposes of this Convention.

Article 34

1. For the purposes of this Convention, the institutions of the Contracting Parties shall communicate with each other directly in French.

2. The authorities, institutions or judicial authorities of either of the Contracting Parties shall not reject claims or other documents addressed to them on the ground that they are drawn up in the official language of the other Contracting Party.

Article 35

Claims, declarations or appeals which, under the legislation of one of the Contracting Parties should have been submitted within a prescribed time-limit to an authority, institution or judicial authority of that Party shall be admissible if they are submitted within the same time-limit to an authority, institution or judicial authority of the other Contracting Party. In such case the authority, institution or judicial authority involved shall transmit without delay the said claims, documents or appeals to the competent authority, institution or judicial authority of the first-mentioned Party.

Article 36

Transfers of funds resulting from the implementation of this convention shall be transacted in accordance with the relevant agreements in force between the two Contracting Parties at the time of the transfer.

Article 37

1. Where, during the payment or review of invalidity, old-age or survivors' benefits (pensions) under the provisions of title III, chapter 2, the institution of one of the Contracting Parties has paid to a recipient a sum larger than that to which he is entitled, that institution may request the institution of the other Contracting Party responsible for providing corresponding benefits to that recipient to withhold the overpayment from the arrears which it remits to that recipient. The last-mentioned institution shall make the deductions and transfer the amount thus withheld to the creditor institution. Where the amount cannot be recovered from the arrears, the provisions of the following paragraph shall apply.

2. When the institution of one of the Parties had paid a recipient of benefits a sum in excess of the amount to which he is entitled, that institution may, in the manner and subject to the limitations prescribed by the legislation which it applies, request the other Contracting Party's institution liable for paying benefits to that recipient to withhold the overpayment from the sums which it remits to the recipient. The last-mentioned institution shall make the deductions in the manner and subject to the limitations prescribed for such compensation by the legislation which it applies, as if it had itself made overpayments, and shall transfer the amount thus withheld to the creditor institution.

3. Where the institution of one of the Contracting Parties has paid an advance on benefits for a period during which the recipient was entitled to receive corresponding benefits under the legislation of the other Contracting Party, it may request the institution of the other Party to withhold the amount of the advance from the sums which it is obliged to pay to that recipient for the same period. The last-mentioned institution shall make the deduction in the manner and subject to the limitations prescribed by the legislation which it applies and shall transfer the amount thus withheld to the creditor institution.

4. Where a person has received social assistance in the territory of one of the Contracting Parties during a period when he was entitled to receive benefits under the legislation of the other Contracting Party, the agency which provided the social assistance may, if it has a legal right of recovery in respect of benefits due to recipients of social assistance, request the other Contracting Party's institution liable for paying benefits to that person to withhold the amount of the social assistance disbursements over the said period from the sums that it remits to that person. The last-mentioned institution shall make the deduction in the manner and subject to the limitations prescribed by the legislation which it applies and shall transfer the amount thus withheld to the creditor institution.

Article 38

1. Any dispute which arises between the Contracting Parties concerning the interpretation or implementation of this Convention shall be the subject of direct negotiations between the competent authorities of the Contracting Parties.

2. If the dispute has not been resolved within a period of six months from the first request to open the negotiations prescribed in paragraph 1 of this article, it shall be submitted to an arbitral commission, whose composition and procedure shall be determined by agreement between the Contracting Parties. The arbitral commission shall resolve the dispute in accordance with the fundamental principles and the spirit of this Convention. Its decisions shall be binding and final.

TITLE V. TRANSITIONAL AND FINAL PROVISIONS

Article 39

1. This Convention shall in no case confer any entitlement to the payment of benefits for a period prior to the date of its entry into force.

2. Any insurance period completed under the legislation of one of the Contracting Parties before the entry into force of this Convention shall be taken into account for the purpose of determining any entitlements deriving from the provisions of this Convention.

3. Subject to the provisions of paragraph 1 of this article, an entitlement shall be acquired under this Convention even in respect of an event which occurred before the entry into force of the Convention.

4. Any benefit which has not been paid or which has been suspended because of the nationality of the person concerned or because of his residence abroad shall, at the request of the person concerned, be paid or restored as from the entry into force of this Convention.

5. The entitlements of persons who are receiving pension payments before the entry into force of this Convention shall be reviewed at their request, with due regard for the provisions of this Convention. Such entitlements may also be reviewed without a request being made. Such a review shall in no case have the effect of reducing previous entitlements of the persons concerned.

6. If the request referred to in paragraphs 4 or 5 of this article is submitted within two years after the date of entry into force of this Convention, any entitlements conferred under the provisions of this Convention shall be acquired as from that date, and any legislative provisions of the Contracting Party concerning the lapse or prescription of entitlement shall not apply to the persons concerned.

7. If the request referred to in paragraphs 4 or 5 of this article is submitted after the expiry of the two years following the entry into force of this Convention, entitlements which have not been lost through lapse or prescription shall be acquired only with due regard for the date of submission of the request, subject to more favourable provisions of the legislation of the Contracting Party in question.

Article 40

The Governments of the Contracting Parties shall notify each other of the completion in their respective countries of the constitutional procedures required for the entry into force of this Convention. It shall enter into force on the first day of the second month following the date of the later such notification.

Article 41

After the entry into force of this Convention, the provisions of the exchange of notes of 2 October 1975 and 11 December 1975 (maintenance of the application of the Convention between Portugal and the Netherlands on social security¹ in relations between the two Contracting Parties) shall cease to be applicable.

¹ United Nations, *Treaty Series*, vol. 648, p. 79.

Article 42

This Convention is concluded for an indefinite period. It may be denounced by either of the Contracting Parties. Notice of denunciation must be given not less than six months before the end of any calendar year. The Convention shall then cease to have effect at the end of that year.

Article 43

1. In the event of a denunciation of this Convention, any entitlement acquired in accordance with its provisions shall be maintained.

2. Entitlements which are in the course of acquisition in respect of periods completed before the date on which denunciation takes effect shall not be cancelled as a result of the denunciation; subsequent preservation of such entitlements shall be determined by agreement or, in the absence of such agreement, by the legislation applied by the institution concerned.

IN WITNESS WHEREOF, the undersigned, being duly authorized thereto, have signed this Convention.

DONE at The Hague on 18 November 1981, in duplicate in the French language.

For the Government of the Kingdom of the Netherlands:

M. VAN DER STOEL

For the Government of the Republic of Cape Verde:

SILVINO MANUEL DA LUZ

FINAL PROTOCOL

On the signature today of the Convention on Social Security between the Kingdom of the Netherlands and the Republic of Cape Verde¹ (hereinafter referred to as “the Convention”), the undersigned have confirmed the agreement of the Contracting Parties on the following points:

1. For the application of the provisions of Title III, chapter 1 of the Convention “employed persons” and “persons in receipt of pensions” shall be considered, in so far as the Netherlands legislation on benefits in kind is concerned, to include all persons insured under the Act on Sickness Fund Insurance (Ziekenfondswet).

2. The provisions of article 13 and article 14, paragraph 3, shall also apply to employed persons and persons in receipt of pensions, payable under the legislation of one of the Contracting Parties, who are nationals of third countries.

3. Any person in receipt of a pension under Netherlands legislation who is resident in the territory of Cape Verde and who is not entitled to benefits in kind under Cape Verdean legislation or under Netherlands compulsory sickness insurance must be admitted to the Netherlands voluntary sickness insurance scheme. For such insurance a contribution is chargeable.

The amount of this contribution and, where necessary, the special conditions for this insurance shall be fixed by the Ministry of Public Health and Environmental Protection of the Netherlands. Any person who is thus admitted to voluntary insurance shall be deemed, in so far as the application of article 14, paragraph 2, is concerned, to be entitled to benefits in kind under Netherlands legislation.

This Final Protocol which constitutes an integral part of the Convention shall operate in the same manner and for the same period as the Convention itself.

IN WITNESS WHEREOF, the undersigned, being duly authorized thereto have signed this Protocol.

DONE at the Hague on 18 November 1981 in duplicate in the French language.

For the Government of Kingdom of the Netherlands:

M. VAN DER STOEL

For the Government of the Republic of Cape Verde:

SILVINO MANUEL DA LUZ

¹ See p. 254 of this volume.

ADMINISTRATIVE ARRANGEMENT ON PROCEDURES FOR IMPLEMENTING THE CONVENTION ON SOCIAL SECURITY BETWEEN THE KINGDOM OF THE NETHERLANDS AND THE REPUBLIC OF CAPE VERDE SIGNED AT THE HAGUE ON 18 NOVEMBER 1981¹

Pursuant to article 15, paragraph 2, article 17, paragraph 6, article 31, paragraph 1 and article 32 of the Convention on Social Security between the Kingdom of the Netherlands and the Republic of Cape Verde, signed at The Hague on 18 November 1981 (hereinafter referred to as "the Convention") the competent Netherlands and Cape Verdean authorities have by agreement drawn up the following provisions:

TITLE I. GENERAL PROVISIONS

Article 1

For the purposes of this Arrangement the terms defined in article 1 of the Convention shall have the meaning assigned to them in that article.

Article 2

For the purposes of this Arrangement the following shall be designated as "liaison agencies".

1. In the case of the Netherlands:

- (a) For benefits in kind in the event of sickness or maternity: the Ziekenfondsraad (Board of Sickness Insurance Funds) at Amstelveen;
- (b) For old age and survivors' pensions and for family allowances: the Sociale Verzekeringsbank (Social Insurance Bank) at Amsterdam;
- (c) In all other cases the Gemeenschappelijk Administratiekantoor (Joint Administrative Office) at Amsterdam.

2. In the case of Cape Verde: the Caixa Sindical de Previdência dos Empregados do Comércio e Ofícios Correlativos (Trade Union Social Welfare Fund for Commercial and Similar Workers) at Praia.

Article 3

1. In the case referred to in article 7 (a), (i) of the Convention the agency designated below of the country whose legislation remains applicable, shall issue to the employed person upon request a certificate of assignment, stating that he remains subject to the legislation of that country.

2. The certificate shall be issued:

— In the Netherlands by the Sociale Verzekeringsraad (Social Insurance Board) at the Hague.

— In Cape Verde by the Direcção do Trabalho (Labour Department) at Praia.

3. In the case referred to in article 7 (a), (ii) of the Convention the employer shall, before the expiry of the first period of 12 months if possible, address a request for the extension of the assignment to the agency which issued the initial certificate; the latter shall request the consent of the competent authority of the

¹ See p. 254 of this volume.

country of the place of temporary employment and shall upon receipt of such consent issue a second certificate.

Article 4

1. An employed person who exercises his option under article 8, paragraph 2 of the Convention shall so inform the agency designated by the country for whose legislation he has opted, informing his employer at the same time. The said agency shall issue to the employed person a certificate attesting that he is subject to the said legislation and shall so inform the agency of the other country.

2. For the purposes of the application of the preceding paragraph the following institutions are designated:

- In the Netherlands: the Sociale Verzekeringsraad (Social Insurance Board);
- In Cape Verde: Direcção do Trabalho (Labour Department).

3. The option shall take effect on the date of entry into force of the Convention or the date on which the employed person is taken on by the diplomatic mission or the consular post, or by an official of such mission or post, as the case may be.

TITLE II. SPECIAL PROVISIONS

CHAPTER 1. SICKNESS AND MATERNITY

Article 5

For the purposes of this chapter the terms “institution of the place of residence” and “institution of the place of stay” mean:

(a) In the Netherlands:

- For benefits in kind: the Ziekenfonds (Sickness Insurance Fund) competent for the place of residence and the Algemeen Nederlands Onderling Ziekenfonds (ANOZ) (General Netherlands Mutual Sickness Insurance Fund) at Utrecht in the case of a temporary stay;
- For cash benefits: the Nieuwe Algemene Bedrijfsvereniging (New General Occupational Association) at Amsterdam;

(b) In Cape Verde: the Caixa Sindical de Previdência dos Empregados do Comércio e Ofícios Correlativos (Trade Union Social Welfare Fund for Commercial and Similar Workers) at Praia.

Article 6

1. In order to benefit from the provisions of article 10 of the Convention an employed person must submit to the competent institution a certificate of the insurance periods completed under the legislation to which he was last subject before the date of submission.

2. The certificate shall be issued at the request of the employed person,

- (a) In so far as the periods completed in the Netherlands are concerned, by the occupational association with which his last employer in the Netherlands is affiliated. However, if the employed person was insured for benefits in kind

only, the certificate shall be issued by the sickness insurance fund with which he was last insured;

(b) In so far as the periods completed in Cape Verde are concerned, by the Direcção do Trabalho (Labour Department).

3. If the employed person does not submit the certificate, the competent institution shall communicate with the aforementioned institution of the other country in order to obtain it.

BENEFITS IN KIND

Article 7

1. In order to receive benefits in kind under article 11, paragraph 1, of the Convention, an employed person shall register with the institution of his place of residence, submitting a certificate confirming that he is entitled to such benefits. The certificate shall be issued by the competent institution at the request of the employed person. If the employed person does not submit the said certificate, the institution of the place of residence shall communicate with the competent institution in order to obtain it. The certificate shall remain valid until such time as the institution of the place of residence receives notice of its annulment.

2. In order to receive benefits in kind under article 11, paragraph 2, of the Convention, dependants shall register with the institution of the place of residence, submitting the following documents:

(i) A certificate confirming that the employed person is entitled to such benefits. This certificate shall be issued by the competent institution. If the dependants do not submit the said certificate, the institution of the place of residence shall communicate with the competent institution in order to obtain it. The certificate shall remain valid until such time as the institution of the place of residence receives notice of its annulment;

(ii) The supporting documents normally required by the legislation of the country of residence for the award of benefits in kind.

3. The institution of the place of residence shall inform the competent institution of any registration it has made in accordance with the provisions of the preceding paragraphs.

4. The award of benefits in kind shall be conditional on the validity of the certificate referred to in paragraph 1 and paragraph 2 (i).

5. The employed person or his dependants shall be required to inform the institution of the place of residence of any change in their situation that may modify their entitlement to benefits in kind, including in particular any termination or change of employment on the part of the employed person or any change in the place of residence or stay of the employed person or any of his dependants.

6. As soon as the institution of the place of residence learns of any change which might cancel the entitlement of the employed person or his dependants to benefits in kind, it shall inform the competent institution accordingly.

7. The institution of the place of residence shall assist the competent institution in instituting recovery proceedings against a beneficiary who has wrongfully obtained benefits.

Article 8

1. In order to receive benefits in kind, while staying in a country other than the competent country, an unemployed person as specified in article 13, paragraph 1, of the Convention shall submit to the institution of the place of stay a certificate issued by the competent institution, if possible before he leaves the competent country, proving that he is entitled to the aforementioned benefits in kind. The certificate shall indicate in particular the length of time for which the benefits may be furnished. If the employed person does not submit the certificate, the institution of the place of stay shall communicate with the competent institution in order to obtain it.

2. The provisions of the preceding paragraph shall apply *mutatis mutandis* to dependants in the event of a stay in a country other than the competent country.

3. The provisions of the first paragraph shall also apply in the cases referred to in article 7 (a) and (b), first sentence, of the Convention.

Article 9

1. In the event of admission to hospital, in the cases referred to in article 13, paragraphs 1 and 6, of the Convention, the institution of the place of stay or of the new residence shall notify the competent institution, within three days following the date on which it learns thereof, of the date of admission to and probable duration of stay in a hospital or other medical establishment; upon discharge from the hospital or other medical establishment, the institution of the place of stay or of the new residence shall, within the same time-limit, inform the competent institution of the date of discharge.

2. For the purpose of obtaining the authorization to which the award of the benefits referred to in article 13, paragraph 4, of the Convention is subject, the institution of the place of stay or of the new residence shall apply to the competent institution. The latter shall have a period of 15 days, counted from the sending of the application, to register an objection where necessary, giving a statement of reasons; the institution of the place of stay or of the new residence shall award the benefits if no objection has been received by the expiry of that time-limit.

3. When the benefits referred to in article 13, paragraph 4, of the Convention are to be furnished, in cases of absolute urgency, without the authorization of the competent institution, the institution of the place of stay or of the new residence shall immediately notify the competent institution accordingly.

4. Cases of absolute urgency within the meaning of article 13, paragraph 4, of the Convention are those in which the furnishing of the benefit cannot be delayed without gravely endangering the life or health of the person concerned. In cases in which a prosthesis or appliance is accidentally broken or spoiled, demonstration of the need to repair or replace the device in question shall suffice to establish absolute urgency.

5. The competent liaison agencies shall establish the list of benefits to which the provisions of article 13, paragraph 4, of the Convention shall apply.

Article 10

1. In order to retain entitlement to benefits in kind in his new country of residence, an employed person in the cases referred to in article 13, paragraph 2,

of the Convention shall submit to the institution of his new place of residence a certificate in which the competent institution authorizes him to retain entitlement to benefits after his change of residence. The said institution shall, where necessary, indicate in the certificate the maximum duration of the furnishing of benefits in kind, as provided for by the legislation which it applies. The competent institution may issue the certificate after the change of residence of the employed person, at his request, or at the request of the institution of the new place of residence, if it was not possible for the last-mentioned institution to do so in advance for justifiable persons.

2. The provisions of article 9 shall apply *mutatis mutandis* to the furnishing of benefits in kind by the institution of the new place of residence.

Article 11

1. In order to receive benefits in kind in his country of residence, a pensioner in the cases referred to in article 14, paragraph 2, of the Convention and his dependants shall register with the institution of his place of residence, submitting the following documents:

(i) A certificate confirming that the employed person is entitled to such benefits for himself and his dependants. The certificate shall be issued by the competent institution, which shall transmit a duplicate of the certificate to the other country's liaison agency.

If the pensioner does not submit the certificate, the institution of the place of residence shall communicate with the competent institution in order to obtain it.

The certificate shall remain valid until such time as the other country's liaison agency receives notice of its annulment from the institution which issued the certificate.

(ii) The documentary evidence normally required under the legislation of the country of residence for the award of benefits in kind.

2. The institution of the place of residence shall inform the competent institution of any registration it has made in accordance with the provisions of paragraph 1.

3. The award of benefits in kind shall be conditional on the validity of the certificate referred to in paragraph 1, (i).

4. A pensioner must inform the institution of his place of residence of any change in his circumstances which may affect his entitlement to benefits in kind, including in particular any suspension or discontinuance of his pension and any transfer of his residence or that of his dependants.

5. If the institution of the place of residence learns of any change which might cancel the entitlement to benefits in kind of a pensioner or his dependants, it shall immediately notify the fact to the competent institution.

6. The institution of the place of residence shall assist the competent institution in instituting recovery procedures against a beneficiary who has wrongly obtained benefits.

Article 12

The provisions of articles 8 and 9 shall apply *mutatis mutandis* to the furnishing of benefits in kind to pensioners and their dependants during a stay as specified in article 14, paragraph 3, of the Convention.

Article 13

1. Where the formalities referred to in article 8 could not be completed during the stay, the costs incurred shall be reimbursed, at the request of the employed person or the pensioner, by the competent institution at the rates applied by the institution of the place of stay.
2. The institution of the place of stay must furnish the necessary information concerning the said rates to the competent institution requesting it.

CASH BENEFITS

Article 14

1. An employed person who claims entitlement to cash benefits from Netherlands sickness insurance for an industrial disablement which arose while he was in the territory of Cape Verde shall immediately submit his application to the institution of his place of residence or stay, as the case may be, together with a medical certificate from the physician treating him. The certificate shall indicate the date of commencement of the disablement and the diagnosis and prognosis.
2. An employed person who claims entitlement to cash benefits from Cape Verdean sickness insurance for an industrial disablement which arose while he was in the territory of the Netherlands shall immediately submit his application to the Nieuwe Algemene Bedrijfsvereniging (New General Professional Association) in Amsterdam through the regional office of the Gemeenschappelijk Administratiekantoor (Joint Administration Office) competent for his place of residence or stay, as the case may be.

Article 15

1. The institution of the place of residence or stay, as the case may be, shall exercise medical and administrative supervision in accordance with the procedures applicable to its own policyholders.
2. In the case referred to in article 14, paragraph 1, the institution of the place of residence or stay, as the case may be, shall without delay inform the competent institution of the submission of the application for benefits, stating the date of submission and the name and address of the employer, and transmitting the medical certificate which had been attached to the application.
3. In the case referred to in article 14, paragraph 2, the institution of the place of residence or stay, as the case may be, shall without delay have the person concerned examined by its examining physician. The report, prepared for that purpose within three days following the examination, shall be transmitted without delay to the competent institution together with the information relating to the submission of the application for benefits. Such information shall, in particular, include the date of submission of the application and the name and address of the employer.
4. The institution of the place of residence or stay, as the case may be, shall regularly transmit to the competent institution the medical and administrative reports resulting from the supervision exercised in accordance with paragraph 1.
5. Where the examining physician finds that the employed person is or will be capable of resuming work, the institution of the place of residence or stay, as the case may be, shall immediately inform him of the termination of his period of

disablement and shall without delay transmit a copy of the notice to the competent institution, annexing the report of the examining physician.

6. Where the competent institution decides to deny or discontinue cash benefits, it shall notify its decision direct to the employed person and shall at the same time transmit a copy of the notice to the institution of the place of residence or stay. In such case the latter institution shall decide upon the supervisory measures.

Article 16

1. An employed person resident or staying in a country other than the competent country shall be subject to the supervisory regulations of the institution of the place of residence or stay, as the case may be.

2. Where the institution of the place of residence or stay finds that the employed person has infringed the supervisory regulations, it shall notify the competent institution immediately, describing the nature of the infringement and indicating what action is normally taken in the case of such infringement committed by one of its own policyholders.

3. Where an employed person under medical treatment wishes to travel to the competent country, he shall immediately inform the institution of the place of residence or stay, as the case may be. The said institution shall instruct an examining physician to determine whether or not the transfer is liable to jeopardize the state of health or the application of the medical treatment of the employed person.

The institution of the place of residence or stay shall, as soon as possible, communicate the finding of its examining physician to the competent institution and to the employed person.

Article 17

The competent institution shall pay cash benefits by any appropriate means, in particular by international postal money order. However, if the institution of the place of residence or stay, as the case may be, agrees, such benefits may be paid by the last-mentioned institution as agent for the competent institution. In such case the competent institution shall indicate to the institution of the place of residence or stay the amount of the benefits, the dates on which they are to be paid and the maximum length of time for which they are to be awarded.

FINANCIAL PROVISIONS

Article 18

1. The actual amounts of the costs relating to the benefits in kind furnished under article 11, paragraph 1, article 13, paragraphs 1, 2 and 6 and article 14, paragraph 3 of the Convention, shall be reimbursed by the competent institutions to the institutions which furnished the said benefits, as indicated by the accounts of the last-mentioned institutions.

2. No rates higher than those applicable to benefits in kind furnished to employed persons who are subject to the legislation applied by the institution which furnished the benefits referred to in paragraph 1 of this article may be taken into account for the purpose of reimbursing costs.

Article 19

1. Costs relating to benefits in kind furnished under article 11, paragraph 2, of the Convention shall be estimated as a lump sum for each calendar year.

2. The amount of the lump sum to be paid by the Netherlands institutions shall be arrived at by multiplying the average annual cost per family by the average annual number of families to be taken into account. The average annual cost per family shall be equal to the average per family of the costs relating to all the benefits in kind furnished by Cape Verdean institutions to all families of insured persons who are subject to Cape Verdean legislation.

3. The amount of the lump sum to be paid by the Cape Verdean institutions shall be arrived at by multiplying the average annual cost per dependant by the average annual number of dependants to be taken into account. The average annual cost per dependant shall be equal to the average of the costs relating to all benefits in kind furnished by Netherlands institutions to all insured persons who are subject to Netherlands legislation.

Article 20

1. Costs relating to benefits in kind furnished under article 14, paragraph 2, of the Convention shall be estimated as a lump sum for each calendar year.

2. The amount of the lump sum to be paid by the Netherlands institutions shall be arrived at by multiplying the average annual cost per pensioner and per pensioner's dependant by the average annual number of pensioners and pensioners' dependants to be taken into account. The average annual cost per pensioner and per pensioner's dependant shall be equal to the average per pensioner and per pensioner's dependant of the costs relating to all benefits in kind furnished by Cape Verdean institutions to all pensioners, including their dependants, subject to Cape Verdean legislation.

3. The amount of the lump sum to be paid by the Cape Verdean institutions shall be arrived at by multiplying the average annual cost per pensioner and per pensioner's dependant by the average annual number of pensioners and pensioners' dependants to be taken into account. The average cost per pensioner and per pensioner's dependant shall be equal to the average per pensioner and per pensioner's dependant of the costs relating to all benefits in kind furnished by Netherlands institutions to all insured persons who are subject to Netherlands legislation.

Article 21

The liaison agencies may agree, with the consent of the competent authorities, on other methods of reimbursement of all benefits in kind or of part thereof than those provided for in articles 18, 19 and 20.

Article 22

1. The reimbursements provided for in article 15 of the Convention shall be made through the competent liaison agencies.

2. The agencies referred to in the preceding paragraph may agree that the amounts referred to in articles 19 and 20 shall be increased by a percentage for administrative expenses.

3. For the purposes of the provisions of articles 19 and 20 the competent liaison agencies may make arrangements for the possible payment of advances.

CHAPTER 2. INVALIDITY, OLD AGE AND DEATH (PENSIONS)
SUBMISSION AND HANDLING OF APPLICATIONS

Article 23

1. An employed person, or a survivor of an employed person, resident in Cape Verde or in the Netherlands who applies for a benefit under the legislation of the other country or of the two countries, shall submit his application to the competent institution of his country of residence.

2. Where the person concerned is resident in the territory of a third State, he shall submit his application to the competent institution of the country under whose legislation the employed person was last insured.

3. The Nieuwe Algemene Bedrijfsvereniging (New General Professional Association) in Amsterdam is designated as the competent Netherlands institution for disablement benefits in the case in which the entitlement to benefits is established in pursuance of article 16, paragraph 2 of the Convention.

4. Applications shall be made on forms specified by the legislation of the country where the application is to be submitted in accordance with the preceding paragraphs of this article.

5. The applicant must indicate, in so far as possible, the institution or institutions of the two countries with which the employed person was affiliated. He shall, in addition, furnish all other information which the competent institution requests on special forms prepared for this purpose.

6. An institution other than the one referred to in paragraphs 1 or 2 of this article which has received an application must immediately transmit it to the institution referred to in paragraphs 1 or 2 of this article, informing it of the date of receipt of the application. That date shall be considered to be the date of submission to the last-mentioned institution.

Article 24

1. In their handling of applications for benefits, the competent institutions of the two countries shall use a liaison form. The said form shall include *inter alia* a statement of account and a summary of insurance periods completed by the insured person under the legislations to which he has been subject.

2. Transmittal of the aforementioned form to the competent institution of the other country shall take the place of documentary evidence.

Article 25

1. The competent institution of the country of residence shall enter on the form referred to in the preceding article, the insurance periods completed under the legislation which it applies and shall send two copies of the form to the competent institution of the other country.

2. The last-mentioned institution shall complete the form by indicating:

(a) The insurance periods completed under the legislation which it applies;

- (b) The amount of the entitlements acquired under the legislation which it applies, account being taken of title III, chapter 2, of the Convention;
- (c) The amount of the benefit to which, but for the application of articles 16 and 17, the applicant might be entitled under the legislation which it applies.

3. The institution indicated in the preceding paragraph shall return a copy of the form thus completed to the institution of the country of residence, together with two copies of the final decision and an indication of the procedures and time-limits for the submission of appeals.

Article 26

In cases in which a delay may occur, the competent institution of the country of residence shall make a recoverable advance payment to the beneficiary, the amount of which shall be as close as possible to the amount that will probably be disbursed, account being taken of the provisions of the Convention.

Article 27

1. Where the competent institution of the country of residence finds that the applicant qualifies for entitlement under article 20 of the Convention, it shall determine the additional amount to which the applicant is entitled thereunder.

2. For the purpose of applying the provisions of article 20 of the Convention, amounts expressed in different national currencies shall be converted at the official exchange rate prevailing on the day on which these provisions are to be applied.

Article 28

1. The competent institution of the country of residence shall communicate the decisions taken to the applicant, by means of a summary note, in the language of the applicant, to which are annexed the decisions taken by the institutions concerned.

The note shall also include an indication of the procedures and time-limits for appeal provided for by the legislations of the two countries. The time-limits for appeal shall not begin to run until after the date of receipt of the summary note by the applicant.

2. Thereafter it shall inform the competent institutions of the other country of the date on which it notified the two decisions to the applicant, annexing thereto a copy of its own decision and of the summary note.

PAYMENT OF BENEFITS

Article 29

1. Where the competent institution finds that the applicant is entitled to benefits under the legislation which it applies, without any need to resort to the provisions of article 16 of the Convention, it shall accord him those benefits provisionally without delay. When the final decision has been taken on the application, the institutions involved shall balance their accounts in accordance with the provisions of article 37 of the Convention.

2. In cases where the institutions of the two countries can apply the preceding paragraph, provisional benefits shall be paid only by the institution of the

place of residence. That institution shall inform the institution of the other country as soon as possible.

3. In cases where provisional benefits are paid in accordance with the provisions of the preceding paragraphs, article 26 shall not apply.

Article 30

Benefits payable by an institution in one of the countries to beneficiaries residing in the other country shall be paid directly and within the time-limits prescribed by the legislation which it applies. On the other hand, payment of arrears shall be made to the competent institution which has accorded the benefits provisionally.

CHAPTER 3. UNEMPLOYMENT

Article 31

1. In order to avail himself of the provisions of article 26 of the Convention, the unemployed person shall submit to the competent Netherlands institution a certificate of the work periods in Cape Verde.

2. This certificate shall be issued at the request of the person concerned by the Direcção do Trabalho (Labour Department); if the person concerned does not submit the certificate, the competent institution shall apply to the Direcção do Trabalho (Labour Department).

CHAPTER 4. FAMILY ALLOWANCES

Article 32

1. In order to avail himself of the provisions of article 28 of the Convention, the person concerned shall submit to the competent institution a certificate of the insurance periods completed under the legislation to which he was last subject prior to his present situation.

2. The certificate shall be issued, at the request of the person concerned, by the institution of the other country which was competent on the last prior occasion. If the person concerned does not submit the said certificate, the competent authority shall communicate with the institution in question in order to obtain it.

Article 33

A person who applies for family allowances in respect of children who are resident or are being brought up in a country other than the competent country shall produce a family status certificate issued by the competent civil registry authorities of that country.

Article 34

Family allowances shall be paid in accordance with the provisions of the applicable legislation and within the time-limits laid down therein.

TITLE III. MISCELLANEOUS PROVISIONS

Article 35

1. For the purpose of aggregating the insurance periods completed under the legislation of the two countries, as provided for in the Convention, the competent institutions shall apply the following rules:

(a) Where an insurance period completed in a compulsory insurance scheme under the legislation of one country coincides with an insurance period completed in a voluntary or optionally continued insurance scheme under the legislation of the other country, only the first-mentioned period shall be taken into account;

(b) Where an insurance period, other than an equivalent period, completed under the legislation of one country coincides with an equivalent period under the legislation of the other country, only the first-mentioned period shall be taken into account;

(c) Any period which is an equivalent period under the legislations of both countries shall be taken into account only by the institution of the country to whose legislation the person concerned was last compulsorily subject prior to the said period; where the person concerned was not compulsorily subject to the legislation of either country prior to the said period, that period shall be taken into account by the competent institution of the country to whose legislation he was first compulsorily subject after the period in question;

(d) Where it is not possible to determine precisely when particular insurance periods were completed under the legislation of one country, it shall be assumed that those periods do not overlap with periods completed under the legislation of the other country, and they shall be taken into account to the extent that they can be usefully considered.

2. If, under paragraph 1, (a) of this article insurance periods completed in a voluntary or optionally continued insurance scheme under the legislation of one country concerning old-age and/or survivors' insurance are not to be taken into account for the purposes of aggregation, the contributions in respect of such periods shall be deemed to be intended for the purpose of increasing the benefits payable under the said legislation.

Article 36

1. The administrative and medical supervision of persons in receipt of cash benefits under Cape Verdean legislation who are resident in the Netherlands shall be conducted, at the request of the competent institution, through:

(a) The Nieuwe Algemene Bedrijfsvereniging (New General Professional Association) in the case of benefits in respect of sickness, invalidity and industrial accidents;

(b) The Sociale Verzekeringsbank (Social Insurance Bank), in the case of other benefits.

2. The administrative and medical supervision of persons in receipt of cash benefits under Netherlands legislation who are resident in Cape Verde shall be conducted at the request of the competent institution through the Caixa Sindical de Previdência dos Empregados do Comércio e Ofícios Correlativos (Trade Union Social Welfare Fund for Commercial and Similar Workers) at Praia.

3. Information transmitted to the competent institutions, including medical reports, shall be accompanied by a translation thereof into French or English.

4. Each competent institution shall, however, retain the right to have the person in receipt of benefits examined by a physician of its choice.

Article 37

The competent institutions of the two countries may request each other at any time to verify or monitor any facts and actions which may, under their own legislation, cause the modification, suspension or cancellation of the entitlement to benefits which is recognized by them.

Article 38

The costs of administrative supervision, as well as of medical examinations, medical observations, travel and verification procedures of all kinds, required for the granting or reviewing of cash benefits shall be reimbursed to the institution responsible for the supervision or verification, on the basis of the rates applied by the last mentioned institution.

Article 39

Where, after the suspension of the benefits to which he was entitled, the person concerned recovers his entitlement to benefits while resident in the territory of the other country, the institutions concerned shall exchange all necessary information with the view to resuming the furnishing of the said benefits.

Article 40

All benefits shall be furnished to recipients without deductions of postal or bank charges.

Article 41

The competent institutions of the two countries may request, either direct from the beneficiary or through the competent institution of the place of residence, the certificate of continuing entitlement, civil status certificate and any other documents required for establishing the entitlement to or the maintenance of benefits.

Article 42

For the purposes of article 35 of the Convention, the authority, institution or judicial authority which has received a claim, declaration or appeal which should have been submitted to an authority, institution or judicial authority of the other country shall indicate the date on which it received the claim, declaration or appeal.

Article 43

Any difficulties concerning the implementation of this Arrangement shall be resolved by a commission composed of representatives of the competent authorities who are competent in social security matters and who may be accompanied by experts. The commission shall meet alternately in the two countries.

Article 44

1. The liaison agencies may agree on standard forms for the certificates, applications and other documents required for implementing the Convention and this Arrangement.

2. In addition, they may, by agreement, and with the consent of the competent authorities, take supplementary steps of an administrative nature for implementing this Arrangement.

Article 45

This Arrangement shall enter into force on the same date as the Convention. It shall remain in force for the same period as the Convention.

DONE at the Hague, on 18 November 1981, in duplicate in the French language.

For the competent Netherlands authorities:

M. H. M. F. GARDENIERS-BERENDSEN

C. I. DALES

For the competent Cape Verdean authority:

SILVINO MANUEL DA LUZ
