

No. 26265

**FRANCE
and
CONGO**

**General Convention on social security (with protocols).
Signed at Paris on 11 February 1987**

Authentic text: French.

Registered by France on 4 November 1988.

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et
CONGO**

**Convention générale sur la sécurité sociale (avec protocoles).
Signée à Paris le 11 février 1987**

Texte authentique : français.

Enregistrée par la France le 4 novembre 1988.

[TRANSLATION — TRADUCTION]

GENERAL CONVENTION¹ ON SOCIAL SECURITY BETWEEN THE
GOVERNMENT OF THE FRENCH REPUBLIC AND THE GOV-
ERNMENT OF THE PEOPLE'S REPUBLIC OF THE CONGO

The Government of the French Republic on the one hand and the Government of the People's Republic of the Congo, on the other hand,

Desiring to cooperate in the social field on the basis of reciprocity and mutual respect and interest,

Affirming their commitment to the principle that nationals of both States should receive equal treatment under the social security legislation of each of them,

Desiring to enable workers of either State engaged or formerly engaged in an activity in the other State to retain the rights acquired under the legislation applicable in that other State,

Have decided to conclude a General Convention on Social Security to coordinate the application to French and Congolese nationals of the French and Congolese legislation relating to social security and, to that end, have agreed on the following provisions:

PART I. GENERAL PROVISIONS

Article 1. EQUAL TREATMENT

1. French nationals engaged in the Congo in wage-earning employment or an activity treated as such shall be subject to the social security legislation specified in article 3 applicable in the Congo, and they and their eligible dependants residing in the Congo shall enjoy the benefits thereof in the same conditions as Congolese nationals.

2. Congolese nationals engaged in France in wage-earning employment or an activity treated as such shall be subject to the social security legislation specified in article 3 applicable in France, and they and their eligible dependants residing in France shall enjoy the benefits thereof on the same conditions as French nationals.

3. The provisions of paragraphs 1 and 2 shall be without prejudice to the rules laid down by the legislation specified in article 3 with respect to the participation of aliens in the constitution or reconstitution of the bodies required for the functioning of the social security institutions of each Contracting Party.

Article 2. TERRITORIAL SCOPE

The territories to which the provisions of this Convention shall apply are as follows:

In the case of France: the departments of the French Republic, including the territorial waters and the area beyond and adjacent to the territorial sea, over which

¹ Came into force on 1 June 1988, i.e., the first day of the second month following the date of the last of the notifications (effected on 29 December 1987 and 8 April 1988) by which the Contracting Parties had informed each other of the completion of the required constitutional procedures, in accordance with article 59.

France may exercise its sovereign rights for the purpose of exploring and exploiting, conserving and managing natural resources, whether living or non-living;

In the case of the Congo: the territory of the People's Republic of the Congo, including the territorial waters and the area beyond and adjacent to the territorial sea, over which the Congo may exercise its sovereign rights for the purpose of exploring and exploiting, conserving and managing natural resources, whether living or non-living.

Article 3. MATERIAL SCOPE

1. The legislation to which this Convention shall apply is:

A. *In France*

- (a) The legislation relating to the organization of social security;
- (b) The social insurance legislation applicable:
 - To non-agricultural wage-earners; and
 - To agricultural wage-earners,with the exception of provisions which extend the options of joining voluntary insurance schemes to French nationals, whether wage-earners or self-employed persons working or residing outside French territory;
- (c) The legislation relating to the prevention of, and compensation for, industrial accidents and occupational diseases;
- (d) The legislation relating to family allowances;
- (e) The legislation relating to special social security schemes, in so far as they concern the risks or benefits covered by the legislation specified in the foregoing subparagraphs, in particular the social security scheme for the mining industry;
- (f) The legislation relating to the scheme for seamen, on the conditions specified, when appropriate, by the administrative agreement relating to the implementation of this Convention.

B. *In the Congo*

Law No. 004/86 of 25 February 1986 establishing the Social Security Code provides for the following benefits:

- (a) A family allowances branch responsible for the payment of family allowances on maternity benefits;
- (b) An occupational hazards branch responsible for the payment of benefits in respect of industrial accidents or occupational diseases;
- (c) A pensions branch responsible for the payment of old-age, disability and survivors' benefits.

2. This Convention shall also apply to any laws or regulations by which the legislation specified in paragraph 1 of this article has been amended, or supplemented or may hereafter be amended, codified or supplemented. However, it shall apply:

- (a) To laws or regulations covering a new branch of social security only if the Contracting Parties have concluded an agreement to that effect;

(b) To laws or regulations extending existing schemes to new categories of beneficiaries only if the Government of the Party amending its legislation has not notified the Government of the other Party within a period of three months from the date of the official publication of the said laws or regulations that it objects to such application.

3. The conditions on which the benefits of the social security scheme for students provided for under the legislation of one of the Parties may be enjoyed by nationals of the other Party shall be the subject of a protocol to be annexed to this Convention.

Article 4. PERSONAL SCOPE

1. This Convention shall cover nationals of either Contracting Party engaged or formerly engaged, as permanent or seasonal workers, in wage-earning employment or in an activity treated as such, and their dependants.

2. This Convention shall also cover stateless persons and refugees resident in the territory of either Contracting Party and their dependants.

3. The following shall be excluded from the scope of this Convention:

- (a) Workers other than those engaged in wage-earning employment or an activity treated as such;
- (b) Civil servants, military personnel and persons treated as such;
- (c) Diplomatic and consular career officials and administrative and technical staff members of diplomatic missions and consular posts.

Article 5. APPLICABLE LEGISLATION

I. Notwithstanding the provisions of article 1:

(a) The following persons shall not be subject to the social security scheme of the country of their place of employment and shall remain subject to the social security scheme under which they are insured in the territory of the first State:

— Wage-earners working for an enterprise which has, in the territory of either State, a place of business in which they are ordinarily employed and who are assigned by that enterprise to the territory of the other State in order to carry out specific work, provided that the duration of the assignment does not exceed one year;

— Subject to the prior, joint consent of the competent administrative authorities of the two States, or the authorities they have delegated for that purpose, wage-earners assigned by their enterprise to the territory of the other State in order to carry out specific work whose duration, whether or not it was initially anticipated, is to exceed one year;

(b) Wage-earners, other than those referred to in article 4 (paragraph 3 (b)), in the service of an administrative department of one of the Contracting States who are assigned to the territory of the other State shall continue to be subject to the social security scheme of the State which assigned them;

(c) Wage-earners who are members of the staff of diplomatic or consular posts, other than those referred to in article 4 (paragraph 3 (c)), or who are in the personal employ of staff members of such posts, may opt to be subject to the legislation of the State represented, provided that they are not nationals of the other State;

(d) Personnel, other than civil servants, placed at the disposal of one of the Contracting Parties by the other Party on the basis of a service contract drawn up under agreements for assistance in the form of personnel concluded between France and the Congo shall be subject to the legislation of the last-mentioned Contracting Party;

(e) Wage-earners of public or private air transport enterprises of one of the Contracting States who are employed in the territory of the other State, either temporarily or as travelling personnel, shall be subject to the social security scheme in force in the territory of the State in which the enterprise has its head office.

2. The competent administrative authorities of the Contracting Parties may by mutual agreement, and in the interest of workers of either State, provide for other exceptions to the provisions of article 1. Conversely, they may agree that the exceptions provided for in paragraph 1 of this article shall not apply in certain specific cases.

Article 6. VOLUNTARY INSURANCE

1. Nationals of either State may opt to join the voluntary insurance scheme provided for under the legislation of the State in which they are resident, account being taken, where appropriate, of any insurance periods or equivalent periods completed under the scheme of the other State.

2. The provisions of article 1 (paragraphs 1 and 2) shall not prevent French workers who are subject to the Congolese social security scheme and Congolese workers who are subject to the French social security scheme from contributing or continuing to contribute to the voluntary insurance scheme provided for under the legislation of the State of which they are nationals.

PART II. SPECIAL PROVISIONS

CHAPTER 1. FAMILY ALLOWANCES

Article 7. ENTITLEMENT TO FAMILY ALLOWANCES FROM THE COUNTRY OF RESIDENCE OF THE CHILDREN

1. Wage-earners working in France or in the Congo may claim, in respect of their children residing in the territory of the other State, the family allowances provided for under the legislation of the State in whose territory their children are resident, if they fulfil the occupational requirements to be laid down in the administrative agreement.

2. The family allowances referred to in paragraph 1 shall be payable on the basis of periods of employment or periods treated as such, as defined in the legislation relating to family allowances in the State in whose territory the worker is employed.

Article 8. AGGREGATION OF PERIODS OF EMPLOYMENT

If a worker has not completed the entire period of employment required in the new State of employment in order to create an entitlement to family allowances, the period of employment or period treated as such completed in the other country shall be utilized to make up the said period.

Article 9. ELIGIBLE CHILDREN

Children eligible for the family allowances referred to in article 7 shall be the worker's dependent children within the meaning of the legislation of the State in whose territory they are resident.

Article 10. PAYMENT OF FAMILY ALLOWANCES

Family allowances shall be paid directly to the person in charge of the children in the territory of the other State by the competent institution of that State, in the manner and at the rates provided for under the legislation applied by that institution.

Article 11. CONTRIBUTION BY THE COUNTRY OF EMPLOYMENT

1. The competent institution of the State in whose territory the worker is employed shall pay directly to the central institution of the State of residence of the children a lump-sum contribution computed on the basis of one to four children.

2. The amount of the contribution for each child and the age-limit for payment thereof shall be indicated in a scale to be drawn up by mutual agreement between the competent administrative authorities of the two States and annexed to the administrative agreement.

3. The scale may be revised in the light of changes in the basis for computing the amount of family allowances granted in both States during the same year. Such revision may take place only once a year.

4. The manner of payment of the contribution provided for in this article shall be determined by administrative agreement.

Article 12. TEMPORARY STAY OF CHILDREN IN THE COUNTRY OF EMPLOYMENT

Children who stay temporarily in the country of employment shall continue to be eligible for family allowances acquired pursuant to article 7 if the length of their stay does not exceed three months.

Article 13. WORKERS ON ASSIGNMENT

1. The workers referred to in article 5 (paragraph 1 (a)) shall be entitled, in respect of their children accompanying them to the territory of the other State, to the family allowances provided for under the legislation of the State of origin, as specified in the administrative agreement.

2. The family allowances shall be paid directly by the competent family allowance institution of the State of origin of the persons concerned.

CHAPTER 2. MATERNITY BENEFITS

Article 14. EQUAL TREATMENT

A Congolese female wage-earner in France and a French female wage-earner in the Congo shall be eligible for maternity benefits provided for by the legislation of their new State of residence provided that:

- (a) They have worked in the territory of that State in an occupation subject to such insurance;
- (b) They satisfy the requirements in that country for the receipt of such benefits.

Article 15. AGGREGATION OF INSURANCE PERIODS

If, for the purpose of entitlement to maternity benefits, the person concerned has not completed the insurance period required under the legislation applicable in the territory of the State where she is engaged in her new occupation, insurance periods or equivalent periods completed in the other State shall be added to the insurance periods or equivalent periods completed in the new State.

However, such periods may be aggregated only if not more than three months have elapsed between the end of the insurance period in the territory of the first State and the beginning of the insurance period in the territory of the State where she is engaged in her new occupation.

Article 16. TRANSFER OF RESIDENCE

A Congolese female wage-earner working in France or a French female wage-earner working in the Congo, who is entitled to maternity benefits, in the former case, from a French institution and, in the latter case, from a Congolese institution, shall remain eligible for such benefits if she transfers her residence to the territory of the other State, provided that prior to her departure, she obtained the authorization of the French or Congolese institution with which she is insured.

Such authorization shall be valid until the end of the benefit period provided for by the legislation of the State of employment.

However, in the event of complications during pregnancy or following childbirth, the benefit period may be extended upon certification and on the recommendation of the medical advisers of the insuring institution.

Article 17. PAYMENT OF BENEFITS

In the cases specified in article 16:

Benefits in kind (medical care) shall be provided by the institution of the new State of residence of the person concerned, in accordance with the provisions of the legislation applicable in the territory of that State with regard to the extent of such benefits and the manner of providing them;

Cash benefits (daily allowances) shall be paid directly by the institution with which the female worker is insured.

Article 18. COST OF BENEFITS

In the case specified in article 16, the cost of benefits shall be borne by the institution with which the female wage-earner is insured.

The administrative agreement shall determine the manner in which benefits in kind shall be reimbursed by the insuring institution to the institution of the State in whose territory the person concerned has established her new residence.

CHAPTER 3. DISABILITY INSURANCE

Article 19. WAIVER OF RESIDENCE CLAUSES

Nationals of either Contracting Party who are entitled to a disability pension under the legislation of one Party, shall receive this pension in full if they stay or reside in the territory of the other Party.

Article 20. AGGREGATION OF INSURANCE PERIODS

1. For Congolese or French wage-earners who have been insured, consecutively or alternately, in the two Contracting States, under one or more disability insurance schemes, the insurance periods completed under these schemes or the periods treated as equivalent to insurance periods by virtue of these schemes shall, provided that they do not overlap, be aggregated both for the purpose of entitlement to disability insurance benefits in cash (pension) or in kind (medical care) and for the purpose of maintaining or recovering that entitlement.

2. The rules to be followed in the event that insurance periods completed in the two countries overlap shall be determined in the administrative agreement. However, such periods may be aggregated only if not more than six months have elapsed between the end of the insurance period in the first country and the beginning of the insurance period in the new country of employment.

Article 21. PAYMENT OF THE PENSION

1. The disability pension shall be paid in the manner prescribed in the legislation applicable to the worker at the time when, owing to illness or an accident, the interruption of work followed by disability occurred. If, under the legislation of one of the Contracting States, the disability benefit is paid on the basis of the average salary for all or part of the insurance period, the average salary considered for the purpose of calculating the benefit shall be determined on the basis of the salaries on record during the insurance period completed under the legislation of that State.

2. The costs of the disability pension shall be borne by the competent institution in accordance with that legislation.

Article 22. SUSPENSION AND DISCONTINUANCE

1. If, after the suspension of a disability pension, the insured person recovers his entitlement to a pension, the institution liable for the pension originally awarded shall resume payment thereof.

2. If, after the disability pension is discontinued, the condition of the insured person justifies the granting of a further disability pension, the latter pension shall be paid in accordance with the rules laid down in article 21.

Article 23. CONVERSION OF DISABILITY PENSION INTO OLD-AGE PENSION

Where appropriate, the disability pension shall be converted into an old-age pension on the conditions laid down in the legislation by virtue of which it was awarded once the conditions, particularly those relating to age, required for awarding the old-age pension under the legislation of the Party liable for the pension have been fulfilled.

Article 24. SCHEME FOR MINeworkERS

However, the occupational disability pension provided for under special legislation relating to mineworkers in France shall be awarded to insured persons who were subject to that legislation at the time when the accident or disease which caused the disability occurred and who have resided in France or in the Congo up to the time of payment of such pension.

The pension shall cease to be paid to pensioners who resume work outside France.

Article 24 bis. WIDOW'S DISABILITY PENSION

If more than one spouse can claim, either simultaneously or successively, the widow's disability pension provided for by French legislation, the benefit shall be divided equally among those spouses whose entitlement has been established. It shall be reapportioned whenever a spouse satisfies the conditions for entitlement. The death of a wife shall not give rise to a reapportionment.

CHAPTER 4. OLD-AGE AND DEATH (SURVIVORS' PENSIONS)

Article 25. WAIVER OF RESIDENCE CLAUSES

If, for the purpose of granting benefits based on contributions or the completion of certain formalities, the legislation of one of the Contracting States imposes conditions of residence in the territory of that State, those conditions shall not apply to Congolese or French nationals so long as they are resident in the territory of either State.

Article 26. METHODS OF PAYMENT OF OLD-AGE BENEFITS

French or Congolese workers who, during their working lives, have been subject successively or alternately in the territory of the two Contracting States to one or more old-age insurance schemes of each of those States shall be entitled to receive benefits on the following conditions:

I. If the person concerned has been insured for the length of time required by both French legislation and Congolese legislation for entitlement to a French old-age pension and a Congolese old-age pension without having to apply the insurance periods completed in the territory of the other Contracting Party, the competent institution of each Party shall determine the amount of the benefit in accordance with the provisions of the legislation which it applies, account being taken only of the insurance periods completed under that legislation.

II. If the person concerned has not been insured either in France or in the Congo for the length of time required by either national legislation in order to receive a French or a Congolese old-age pension, the benefits which he may claim from French and Congolese institutions shall be paid in accordance with the following rules:

A. *Aggregation of insurance periods*

1. The insurance periods completed under the legislation of each of the two Contracting States, and periods equivalent to insurance periods, shall, provided that they do not overlap, be aggregated both for the purpose of determining the right to benefits and for the purpose of maintaining or recovering that right.

2. The periods equivalent to insurance periods shall, in each country, be those which are recognized as such under the legislation of that country. The administrative agreement shall determine the rules to be followed in the event of overlapping of periods.

B. *Payment of benefits*

1. Taking into account the aggregation of periods as specified above, the competent institution of each country shall determine, in accordance with its own legislation, whether the person concerned satisfies the requirements for entitlement to an old-age pension under that legislation.

2. Where the entitlement to a pension exists, the competent institution of each country shall determine *pro forma* the benefit to which the insured person would be entitled if all the insurance periods or equivalent periods aggregated in accordance with the rules laid down in section II A of this article, had been completed exclusively under its own legislation.

3. The benefit actually payable to the person concerned by the competent institution of each country shall be determined by reducing the amount of the benefit referred to in the preceding paragraph according to the proportion which the duration of the insurance periods or equivalent periods completed under its own legislation bears to the duration of all the periods completed in the two countries.

III. Where the right exists under the legislation of one of the two States, account being taken only of the periods completed under that legislation, the competent institution of that State shall determine the amount of the benefits, as stated in paragraph I of this article.

The competent institution of the other Party shall proceed to pay the benefits for which it is liable under the conditions referred to in section II.

Article 27. MINIMUM DURATION OF INSURANCE PERIODS FOR THE APPLICATION OF THIS CHAPTER

1. If the total duration of the insurance periods completed under the legislation of one Contracting Party is less than one year, the institution of that Party is not required to award benefits for those periods, unless the legislation of that Party provides that entitlement to benefits exists by virtue of those periods alone. In that case, final payment of the benefit shall be made solely on the basis of those periods.

2. These periods may be taken into account for the purpose of the acquisition of entitlement to benefits by aggregation under the legislation of the other Contracting Party, within the terms of article 26 (paragraph II) of this Convention, unless this would result in a reduction of the benefit payable under the legislation of that country.

Article 28. SPECIAL SCHEMES

1. If the legislation of one of the Contracting States makes it a condition for the granting of certain benefits that the insurance periods shall have been completed in an occupation which is subject to a special scheme or, as the case may be, in a given occupation or employment, periods completed under the legislation of the other Contracting State shall be taken into account for the purpose of granting such benefits only if they were completed under a corresponding scheme or, failing that, in the same occupation or, where applicable, in the same employment.

2. If, taking into account the periods thus completed, the person concerned does not satisfy the conditions necessary to receive such benefits, these periods shall be taken into account for the granting of benefits under the general scheme, without taking into account their specificity.

3. Notwithstanding the prohibitions of article 25,
(a) The special allowance and cumulative grant provided for by the special French legislation applicable to mineworkers shall be payable only to persons who continue to work in the French mines when they acquired an entitlement to pensions under the mining scheme;

- (b) The allowances for dependent children provided for by the special French legislation applicable to mineworkers shall be paid in accordance with the conditions laid down in that legislation.

Article 29. SUCCESSIVE APPLICATION OF LEGISLATION

1. If the person concerned does not, at a given moment, satisfy the requirements imposed by the legislations of the two Contracting Parties, but does satisfy the requirements of only one Party or if he satisfies the requirements of both but has already made use of the opportunity provided by the legislation of one of the Contracting States to postpone payment of the benefits to which he is entitled, the amount of the benefits payable under the national legislation under which the benefits are paid shall be calculated in accordance with the provisions of article 26, section I or II, as the case may be.

2. Where the conditions, particularly those relating to age, required by the legislation of the other Contracting Party are satisfied, or where the insured person requests payment of the benefits which he had postponed under the legislation of one of the Contracting States, the benefits due under that legislation shall be paid in accordance with the provisions of article 26 (paragraphs I or II), as the case may be, without any revision of the benefits already paid under the legislation of the first Party.

Article 30. SURVIVORS' BENEFITS

1. The provisions of this chapter shall apply *mutatis mutandis* to the rights of surviving spouses and children.

2. Where the death creating entitlement to the award of the survivors' pension takes place before the worker has obtained payment of his benefits under old-age insurance, the benefits due the dependant shall be paid under the conditions specified in article 26.

3. If, in accordance with his civil status, the Congolese recipient of an old-age pension under the French scheme, had more than one wife at the time of his death, the benefit payable to his surviving spouse shall be paid as soon as one of the wives satisfies any conditions which may be required for entitlement to such benefit.

(a) If all the wives are resident in the Congo at the time of the payment of a reversion, the benefit shall be paid to the Congolese liaison office, which shall determine its apportionment in accordance with the legislation it applies.

The payment shall absolve the paying institution from liability.

(b) Where the requirement of residence set forth in paragraph (a) has not been satisfied, the benefit shall be equally apportioned among the wives whose entitlement has been established.

A new apportionment must be made each time a wife satisfies the requirements for entitlement to benefits.

The death of a wife shall not give rise to a reapportionment.

4. If the French recipient of an old-age pension under the Congolese scheme, having divorced and remarried, leaves, upon his death, a surviving spouse and one or more former spouses who are divorced but have not remarried, the reversion may be shared between the surviving spouse and the divorced spouse or spouses

who have not remarried on the conditions to be laid down in the administrative agreement.

Article 31. CALCULATION OF BENEFITS

If, under the legislation of one of the two States, the benefits are calculated on the basis of the average salary for all or part of the insurance period, the rule set forth in article 21 should be applied.

Article 32. EXPORT OF BENEFITS

If the nationals of either State are entitled to a benefit payable by the social security institutions of the other State and are resident in a third State, they shall receive their benefit on the same conditions as nationals of the other State.

*Article 33. CONTINUATION OR RESUMPTION OF EMPLOYMENT
IN THE OTHER COUNTRY*

The provisions of the social security legislation of one of the Parties stipulating that an old-age pension may not be collected if income is derived from employment, shall not apply to insured persons who no longer reside in the territory of that Party but receive an old-age pension to which they acquired entitlement under the legislation of that Party and are engaged in employment in the territory of the other Party.

CHAPTER 5. INDUSTRIAL ACCIDENTS AND OCCUPATIONAL DISEASES

Article 34. WAIVER OF RESIDENCE CLAUSES

1. No provisions in the legislation of one Contracting Party on industrial accidents and occupational diseases which limit the rights of aliens or disqualify them by reason of their place of residence shall apply to nationals of the other Party.

2. Increases or supplementary allowances awarded in addition to industrial accident pensions under the legislation of each Contracting Party shall continue to be paid to persons covered by the preceding paragraph who transfer their residence from one State to the territory of the other.

Article 35. TRANSFER OF RESIDENCE

1. A French worker who has sustained an industrial accident or contracted an occupational disease in the Congo, or a Congolese worker who has sustained an industrial accident or contracted an occupational disease in France, and who is entitled to the benefits payable during the period of temporary disability, shall remain eligible for such benefits if he transfers his residence to the territory of the other Party, provided that, prior to his departure, he obtained authorization from the insuring institution.

2. Such authorization shall be valid only for the term specified by the insuring institution.

3. If, on the expiry of the period so specified, the condition of the person concerned so requires, the period shall be extended up to the date of recovery or effective healing of the injury, by decision of the insuring institution if recommended on the basis of a medical examination.

Article 36. RELAPSE

1. If a French or Congolese wage-earner suffers a relapse of an accident sustained or occupational disease contracted in France or in the Congo after transferring his residence temporarily or permanently to the territory of the other State, he shall be entitled to industrial accident benefits in kind and in cash, provided that he has obtained the agreement of the Congolese or French institution with which he was insured at the time of the accident or when the occupational disease was first diagnosed.

2. Entitlement shall be determined by the institution with which the worker was insured at the time of the accident or when the occupational disease was first diagnosed, under the legislation applied by that institution.

Article 36 bis. LONG-TERM TREATMENT

1. Long-term treatment following an industrial accident or occupational disease shall be covered by the institution liable for the pension.

2. Entitlement to reimbursement for such treatment shall be determined on the conditions laid down in article 36 (2).

3. The provisions of article 37 (1) shall apply *mutatis mutandis* to the payment of benefits for long-term treatment.

4. The administrative agreement shall specify the manner of reimbursement of such benefits between the two Parties.

Article 37. PAYMENT OF TEMPORARY DISABILITY BENEFITS

1. In the cases specified in articles 35 and 36, benefits in kind (medical care) shall be paid by the institution of the new State of residence of the person concerned in accordance with the provisions of the legislation applied by that institution with regard to the extent of such benefits and the manner in which they are paid.

2. Cash benefits (daily compensation) shall be paid by the institution with which the person concerned is insured, on the conditions laid down in the legislation applied by that institution.

Article 38. COST OF TEMPORARY DISABILITY BENEFITS

1. The cost of the benefits referred to in articles 35 and 36 shall be borne by the institution with which the person concerned is insured.

2. The manner in which benefits in kind are to be reimbursed by the insuring institution to the institution of the new State of residence of the person concerned shall be determined by the administrative agreement.

Article 39. MAJOR BENEFITS IN KIND

In the cases specified in articles 35 and 36, the provision of prosthetic devices, large appliances and other major benefits in kind, a list of which will be annexed to the administrative agreement, shall be subject, except in emergencies, to prior authorization by the insuring institution.

Article 40. SUCCESSIVE ACCIDENTS

For the purpose of assessing the degree of permanent disability resulting from an industrial accident or an occupational disease from the standpoint of the legisla-

tion of one of the Parties, industrial accidents previously sustained or occupational diseases previously contracted under the legislation of the other Party shall be taken into account as if they had been sustained or contracted under the legislation of the first-mentioned Party.

Article 41. PENSIONS FOR SURVIVING SPOUSES

In the event of death following an industrial accident, if the deceased, in accordance with his civil status, had more than one wife, the pension payable to the surviving spouse shall be apportioned equally and finally among the wives.

Article 41 bis. BENEFITS FOR WORKERS ON ASSIGNMENT

1. The French or Congolese workers referred to in article 5 (1) shall have the option of receiving industrial accident insurance benefits in kind either through direct payment of such benefits by the institution with which they are insured or through payment by the institution of the State in which they are temporarily resident.

2. The administrative agreement shall specify the manner in which such benefits shall be reimbursed between the institutions of the two Parties.

3. Cash benefits shall be paid directly to the workers on assignment by the institution with which they are insured.

Article 42. OCCUPATIONAL DISEASES

1. If a person suffering from an occupational disease has been engaged in the territory of both Parties in an occupation which could have caused that disease, the benefits which he or his survivors may claim shall be granted exclusively under the legislation of the Party in whose territory he was last engaged in the occupation in question, provided that he satisfies the conditions laid down in that legislation.

2. If the legislation of one of the Parties makes it a condition for the award of occupational disease benefits that the disease in question shall have been diagnosed for the first time in its territory, that condition shall be deemed to be satisfied if the disease was first diagnosed in the territory of the other Party.

3. In cases of sclerogenous pneumoconiosis, the following provisions shall apply:

(a) If the legislation of one of the Parties makes it a condition for the award of occupational disease benefits that activity which could have caused the disease in question shall have been carried on for a certain length of time, the competent institution of that Party shall take into account, to the extent necessary, periods during which such an activity was carried on in the territory of the other Party;

(b) The cost of benefits shall be apportioned between the competent institutions of the two Parties in the manner specified by administrative agreement.

Article 43. WORSENING OF AN OCCUPATIONAL DISEASE

If an occupational disease for which compensation is being paid under the legislation of one of the Parties worsens while the person concerned is resident in the territory of the other Party, the following rules shall apply:

(a) If the worker has not engaged in the territory of his new State of residence in an occupation which could have caused that occupational disease, the institution of the first State shall bear the cost of the worsening of the disease under the terms of its own legislation;

(b) If the worker has engaged in the territory of his new State of residence in an occupation which could have caused that occupational disease:

- The institution of the first-mentioned Party shall continue to be liable for the benefit payable to the person concerned under its own legislation as if there had been no worsening of the disease;
- The institution of the other Party shall bear the cost of additional benefits associated with the worsening of the disease. The amount of the additional benefits shall be determined in accordance with the legislation of that Party as if the disease had been contracted in its own territory; it shall be equal to the difference between the amount of the benefit payable after the worsening of the disease and the amount of the benefit payable before the worsening occurred.

PART III. MISCELLANEOUS PROVISIONS

CHAPTER I. MEASURES FOR THE IMPLEMENTATION OF THE CONVENTION

Article 44. DEFINITION OF THE COMPETENT ADMINISTRATIVE AUTHORITIES

In the territory of each Contracting Party, the ministers responsible, in their respective fields, for the implementation of the legislation specified in article 3 shall be deemed to be the competent administrative authorities for the purposes of this Convention.

Article 45. GENERAL ADMINISTRATIVE AGREEMENT

1. A general administrative agreement, drawn by the competent administrative authorities of the two countries, shall determine, to the extent necessary, the manner of implementation of this Convention, and in particular of those articles which refer expressly to the said agreement.

2. In particular, the General administrative agreement shall:

- (a) Designate the liaison bodies of the two countries;
- (b) Regulate such arrangements for medical and administrative supervision and expert services as are required for the implementation both of this Convention and of the social security legislation of the two States;
- (c) Determine the financial arrangements for the implementation of this Convention.

3. Models of the forms required for setting in motion the procedures and formalities jointly agreed upon shall be annexed to the general administrative agreement or, where appropriate, to a supplementary administrative agreement.

Article 46. INFORMATION AND MUTUAL ADMINISTRATIVE ASSISTANCE

1. The competent administrative authorities of the two States shall:

- (a) Adopt, in addition to the general administrative agreement referred to in article 45, all administrative agreements supplementing or amending it;

- (b) Communicate directly to each other any information regarding measures taken in their respective countries to implement this Convention and the agreements thereunder;
- (c) Report to each other any difficulties which may arise, at the technical level, from the implementation of the provisions of this Convention or of the agreements thereunder;
- (d) Communicate directly to each other any information regarding amendments to the legislation and regulations referred to in article 3, in so far as they might affect the implementation of this Convention or of agreements adopted for its implementation.

2. The competent administrative authorities and social security institutions of the two Contracting Parties shall assist one another in the implementation both of this Convention and of the social security legislation of the other Party as if they were implementing their own social security legislation.

Article 46 bis. JOINT COMMISSION

A Joint Commission shall be established for the purpose of monitoring the implementation of the Convention and proposing any amendments to it.

The administrative agreement shall specify the tasks of the Commission and determine how it will operate.

CHAPTER 2. PROVISIONS DEROGATING FROM DOMESTIC LEGISLATION

Article 47. EXEMPTIONS FROM FEES AND WAIVER OF LEGALIZATION

1. Any exemptions from registration fees, court fees, stamp duties and consular fees provided for under the legislation of one of the Contracting Parties in respect of documents required to be produced to the social security authorities or institutions of that party shall be extended to similar documents required to be produced for the purposes of this Convention to the social security authorities or institutions of the other Party.

2. Legalization by consular authorities shall be waived in respect of all certificates, documents and papers required to be produced for the purposes of this Convention.

Article 48. FORMALITIES

Any formalities prescribed by the laws or regulations of one of the Contracting Parties for the provision of benefits payable to its nationals in the territory of the other Party shall also apply, on the same conditions, to nationals of the other Party entitled to such benefits under this Convention.

Article 49. APPEALS

1. Appeals in social security matters which would have been filed by a prescribed time with an authority, institution or court of one of the Contracting Parties competent to receive them shall be admissible if they are filed by the same time with a corresponding authority, institution or court of the other Party. In such cases, appeals shall be transmitted without delay to the competent authority, institution or court of the first-mentioned Party.

2. If the authority or institution with which the appeal has been filed does not know which is the competent authority or institution, the appeal may be transmitted through the authorities specified in article 44 above.

Article 50. RECOVERY OF CONTRIBUTIONS

Contributions and penalties payable to an institution of one of the Contracting Parties may be recovered in the territory of the other Party, in accordance with all procedures and subject to the guarantees and privileges applicable to the recovery of contributions and penalties payable to the institution of the first-mentioned Party.

Article 51. THIRD-PARTY LIABILITY

If a person is receiving benefits under the legislation of one Contracting Party for an injury caused or sustained in the territory of the other Contracting Party, the rights of the institution liable for the payment of such benefits *vis-à-vis* the third party liable for compensation for the injury shall be regulated as follows:

- (a) When, under the legislation applied by the institution liable for payment, all or some of the rights of the beneficiary *vis-à-vis* the third party are subrogated to it, the other Contracting Party shall recognize such subrogation;
- (b) When the institution liable for payment has a direct right *vis-à-vis* the third party, the other Contracting Party shall recognize such right.

Article 52. WORKERS ON ASSIGNMENT

1. The French or Congolese workers insured under the French scheme who are in the situation referred to in article 5 (a) of this Convention and members of their family accompanying them to the Congo, shall be entitled to sickness and maternity benefits under the French social security scheme throughout their stay in the Congo.

2. Benefits, both in cash and in kind, shall be paid directly by the French institution with which the workers in question are insured.

CHAPTER 3. TRANSFERS

Article 53. FREEDOM TO TRANSFER SOCIAL SECURITY FUNDS

Notwithstanding any domestic provisions concerning exchange controls, the two Governments shall undertake not to obstruct in any way the free transfer of all monies representing payments made in connection with social security or social welfare transactions in implementation of either this Convention or the domestic legislation of either Party concerning wage-earners and persons treated as such as well as self-employed persons, including payment under voluntary insurance, supplementary retirement and unemployment insurance schemes.

Article 54. CURRENCY AND EXCHANGE RATES

1. The institutions liable under both this Convention and their own legislation for the payment of benefits shall be deemed to discharge their liability validly by payment in the currency of their State.

2. Reimbursements provided for under this Convention, calculated on the basis of actual expenditure or on a flat-rate basis, shall be expressed in the currency

of the State of the institution which paid the benefit, at the rate of exchange prevailing on the day of settlement.

Article 55. CENTRALIZATION OF BENEFITS

The competent administrative authorities of the two States may, by administrative agreement, delegate to the liaison bodies of the two States the task of centralizing, with a view to their transfer to the other State, all or some of the benefits provided for under this Convention. In such cases, the transfer of such benefits shall be effected through the banks of issue of the two Parties.

CHAPTER 4. SETTLEMENT OF DISPUTES

Article 56

1. Any difficulties relating to the implementation of this Convention shall be settled by agreement between the competent administrative authorities of the Contracting Parties mentioned in article 44.

2. Should it prove impossible to reach a settlement by this means, the dispute shall be settled by agreement between the two Governments.

3. Should it prove impossible to settle the dispute by the latter procedure, the dispute shall be submitted to an arbitration procedure established by agreement between the two Governments.

CHAPTER 5. TRANSITIONAL AND FINAL PROVISIONS

Article 57. REVIEW OF ENTITLEMENTS

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

2. Annuities or pensions which, prior to the entry into force of this Convention, had not been awarded or which had been awarded separately, or which had been reduced or suspended by reason of the nationality or residence of the recipients in implementation of the provisions in force in either of the Contracting States, may be awarded, reviewed or restored under the terms of the Convention.

The award or review shall be made in accordance with the rules laid down in this Convention, it being understood that any insurance period completed under the legislation of a Contracting Party before the entry into force of this Convention shall be taken into consideration in determining entitlements under the provisions of this Convention.

3. There shall, however, be no review if a lump-sum settlement has been made for the entitlements previously awarded.

Article 58. DATE ON WHICH THE REVIEW SHALL TAKE EFFECT

1. The annuities or pensions in question shall be awarded or reviewed on the application of the persons concerned.

The application shall be submitted to the competent institutions of either Contracting Party.

It shall take effect from the first day following that on which the application was submitted.

2. If the application is submitted within one year from the date of entry into force of the Convention, it shall take effect retroactively from that date.

Article 59. ENTRY INTO FORCE OF THE CONVENTION

The Government of each Contracting Party shall notify the other of the completion of the constitutional procedures required for the entry into force of this Convention. The Convention shall enter into force on the first day of the second month following the date of the later such notification.

Article 60. PERIOD OF VALIDITY OF THE CONVENTION

This Convention is concluded for a period of two years from the date of its entry into force. After that time, it shall be renewed by tacit agreement from year to year unless it is denounced; denunciation must be notified three months before the expiry of the period.

In the event of denunciation, the provisions of this Convention shall continue to apply to existing rights, notwithstanding any restrictive provisions in the relevant legislation concerning an insured person who is residing abroad.

DONE at Paris on 11 February 1987, in duplicate.

For the Government
of the French Republic:

[*Signed*]

JEAN BERNARD RAIMOND
Minister for Foreign Affairs

For the Government
of the People's Republic
of the Congo:

[*Signed*]

ANTOINE NDIRINGA OBA
Minister for Foreign Affairs
and Cooperation

PROTOCOL No. 1 RELATING TO THE MAINTENANCE OF CERTAIN SICKNESS INSURANCE BENEFITS TO CONGOLESE OR FRENCH NATIONALS INSURED UNDER A SOCIAL SECURITY SCHEME WHO MOVE TO THE CONGO

The Government of the French Republic and
The Government of the People's Republic of the Congo

Have decided to adopt, until such time as a sickness insurance scheme is instituted by law in the Congo, the following provisions concerning French or Congolese nationals covered by the French sickness insurance scheme who move to the Congo in certain circumstances.

Article 1

A Congolese or French wage-earner working in France who is entitled to sickness insurance cash benefits or benefits in kind shall remain eligible for a period not exceeding six months if he transfers his residence to the territory of the People's Republic of the Congo, provided that, prior to the transfer, he has obtained the authorization of the institution with which he is insured, which shall take due account of the reason for the transfer.

Article 2

During the six-month period referred to in article 1, the French insuring institution shall, on the basis of a favourable recommendation by its medical staff, reimburse part of the cost of any treatment received in the Congo by a worker authorized to transfer his residence in the circumstances described in article 1.

In the case of an exceptionally grave disease which is included in a list established by administrative agreement, benefits in kind may be provided, on the basis of a favourable recommendation by the medical staff, for a period longer than the period specified above.

These provisions shall apply only to the worker himself and not to members of his family.

Article 3

The administrative agreement shall specify, *inter alia*:

- (a) The nature of the benefits for which reimbursement shall be made;
- (b) The list of the exceptionally grave diseases which are referred to in article 2 of this Protocol;
- (c) The list of prostheses, large appliances and other major benefits in kind, the award of which is subject to prior authorization;
- (d) The basis on which reimbursement shall be made by French institutions, where such reimbursement may be made either at a flat rate or on the basis of a scale of maximum charges drawn up in the Congo, subject to a deduction representing the proportion of the costs to be borne by the insured person, the amount of which shall be determined in accordance with the legislation applied by the reimbursing institution;
- (e) The arrangements for medical and administrative supervision of patients in the Congo on behalf of the insuring institution;

- (f) The institutions responsible for the payment of benefits in the Congo and, where necessary, the Congolese and French liaison bodies;
- (g) The procedures for inter-institutional payments.

Article 4

If sickness insurance legislation is enacted in the Congo, the provisions of this Protocol shall cease to have effect; a new agreement on sickness insurance shall be concluded between the two Parties.

Article 5

The Government of each Contracting Party shall notify the other of the completion of the constitutional procedures required, in so far as it is concerned for the entry into force of this Protocol. The Protocol shall enter into force on the first day of the second month following the date of the later such notification.

Article 6

This Protocol is concluded for a period of two years from the date of its entry into force. It shall be renewed by tacit agreement from year to year unless it is denounced; denunciation must be notified three months before the expiry of the period.

In the event of denunciation, the provisions of this Protocol shall continue to apply to existing rights, notwithstanding any restrictive provisions in the relevant legislation concerning an insured person who is residing abroad.

DONE at Paris, in duplicate.

For the Government
of the French Republic:

[*Signed*]

JEAN BERNARD RAIMOND
Minister for Foreign Affairs

For the Government
of the People's Republic
of the Congo:

[*Signed*]

ANTOINE N'DINGA OBA
Minister for Foreign Affairs
and Cooperation

PROTOCOL No. 2 CONCERNING THE SOCIAL SECURITY SCHEME
FOR STUDENTS

The Government of the French Republic and
The Government of the People's Republic of the Congo

Desiring to cooperate in the cultural field and to ensure in the social field protection of the nationals of each State pursuing their studies in the territory of the other, have decided to adopt the following measures:

Article 1

The French social security scheme for students instituted under the Social Security Code shall apply, on the same conditions as for French students, to Congolese students studying in France who are not covered by French social insurance and are not dependants of persons having such coverage.

Article 2

The two Governments undertake to ensure equal treatment with respect to social security for Congolese and French students in the territory of each of the two Parties.

Article 3

The Government of each Contracting Party shall notify the other of the completion of the constitutional procedures required, in so far as it is concerned, for the entry into force of this Protocol. The Protocol shall enter into force on the first day of the second month following the date of the later such notification.

Article 4

This Protocol is concluded for a period of two years from the date of its entry into force. It shall be renewed by tacit agreement from year to year unless it is denounced; denunciation must be notified three months before the expiry of any such period.

In the event of denunciation, the provisions of this Protocol shall continue to apply to existing rights, notwithstanding any restrictive provisions in the schemes concerned.

DONE at Paris, in duplicate.

For the Government
of the French Republic:

[*Signed*]

JEAN BERNARD RAIMOND
Minister for Foreign Affairs

For the Government
of the People's Republic
of the Congo:

[*Signed*]

ANTOINE NDIINGA OBA
Minister for Foreign Affairs
and Cooperation

PROTOCOL No. 3 CONCERNING THE GRANTING OF NON-CONTRIBUTORY OLD-AGE BENEFITS UNDER FRENCH LEGISLATION TO CONGOLESE NATIONALS RESIDENT IN FRANCE

The Government of the French Republic and

The Government of the People's Republic of the Congo,

Considering that French social security legislation provides for a number of old-age benefits which are, on account of their non-contributory character, reserved for French nationals;

Considering that the Convention of establishment in force between the Congo and France stipulates that nationals of each of the Contracting Parties shall be entitled in the territory of the other equal treatment with the latter's nationals in the field of social security, and the conditions for securing equal treatment in that field shall be determined by agreement,

Have agreed to adopt the following provisions:

Article 1

Congolese wage-earners resident in France shall be awarded the old-age benefit for wage-earners on the same conditions as French wage-earners.

Article 2

Congolese nationals resident in France who have engaged in France as self-employed persons in an occupation which is covered by the old-age benefit scheme provided for in the Social Security Code, and who have not contributed to that scheme shall be entitled to the non-contributory old-age benefit for self-employed persons on the same conditions as French nationals.

Article 3

Congolese nationals in France shall be entitled to the special allowance provided for in the Social Security Code, on the same conditions, including conditions as to means, as French nationals.

Article 4

1. Congolese nationals who are receiving an old-age or disability benefit under the French scheme as provided for in the legislation referred to in article 3, paragraph 1 A, of the General Convention on Social Security, an old-age benefit under a contributory scheme for self-employed persons, the old-age benefit for wage-earners, the non-contributory old-age benefit for self-employed persons, or the special allowance, shall be entitled to the supplementary allowance on the same conditions, including conditions as to means, as French nationals.

2. For purposes of applying the means clauses provided for in French legislation, the competent Congolese authorities shall assist the French bodies and authorities liable for paying the supplementary allowance with a view to:

(a) Finding any resources to which applicants may be entitled in the Congo, including benefits paid under the Congolese social security scheme, and, to that

end, making any necessary inquiries or investigations concerning the relevant provisions of Congolese social security legislation;

(b) Evaluating the assets owned by applicants in the Congo.

Requests submitted for this purpose by the French bodies and authorities liable for payment shall be addressed to a body designated by the Congolese Government.

Article 5

With the exception of the benefit referred to in article 1, the other benefits referred to in articles 2, 3 and 4 shall be discontinued if the beneficiaries leave the territory of France.

Article 6

The Government of each Contracting Party shall notify the other of the completion of the constitutional procedures required, in so far as it is concerned, for the entry into force of this Protocol. The Protocol shall enter into force on the first day of the second month following the date of the later of such notifications.

This Protocol shall remain in force for a period of two years from the date of its entry into force. It shall be renewed by tacit agreement for periods of one year unless notice of denunciation is given three months before the expiry of any such period.

In the event of denunciation, the provisions of this Protocol shall continue to apply to existing rights, notwithstanding any restrictive provisions in the relevant schemes concerning an insured person who is resident abroad.

DONE at Paris on 11 February 1987, in duplicate.

For the Government
of the French Republic:

[Signed]

JEAN BERNARD RAIMOND
Minister for Foreign Affairs

For the Government
of the People's Republic
of the Congo:

[Signed]

ANTOINE NDIRINGA OBA
Minister for Foreign Affairs
and Cooperation