

No. 26266

**FRANCE
and
UNITED STATES OF AMERICA**

**Agreement on social security. Signed at Paris on 2 March
1987**

Authentic texts: French and English.

Registered by France on 4 November 1988.

**FRANCE
et
ÉTATS-UNIS D'AMÉRIQUE**

Accord de sécurité sociale. Signé à Paris le 2 mars 1987

Textes authentiques : français et anglais.

Enregistré par la France le 4 novembre 1988.

AGREEMENT¹ ON SOCIAL SECURITY BETWEEN THE FRENCH REPUBLIC AND THE UNITED STATES OF AMERICA

The Government of the French Republic and
The Government of the United States of America,

Being desirous of regulating the relationship between their two countries in the field of Social Security, have agreed as follows:

PART I. GENERAL PROVISIONS

Article 1

For purposes of this Agreement:

1. “Territory of a Contracting State” means,

As regards the United States, the States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam and American Samoa; and

As regards France, the European and Overseas Departments of the French Republic;

2. “National” means,

As regards the United States, a national of the United States as defined in section 101, Immigration and Nationality Act of 1952, as amended; and

As regards France, a person of French nationality;

3. “Laws” means the laws and regulations specified in Article 2;

4. “Competent Authority” means,

As regards the United States, the Secretary of Health and Human Services; and

As regards France, the Ministers responsible for implementation of the laws specified in Article 2, paragraph 1.b, each to the extent of his responsibility;

5. “Agency” means,

As regards the United States, the Social Security Administration; and

As regards France, the institution or agency responsible for applying in whole or in part the laws specified in Article 2, paragraph 1.b;

6. “Period of coverage” means a period of payment of contributions or a period of earnings from employment or self-employment (“activité non salariée”), as defined or recognized as a period of coverage by the laws under which such period has been completed, or any similar period insofar as it is recognized by such laws as equivalent to a period of coverage;

7. “Benefit” means any contributory benefit in cash or in kind provided for in the laws of either Contracting State;

¹ Came into force on 1 July 1988, i.e., the first day of the third month following the date of the last of the notifications (effected on 17 November 1987 and 20 April 1988) by which the Contracting States had informed each other of the completion of their respective statutory and constitutional procedures, in accordance with article 28 (2).

8. "Stateless person" means a person defined as a stateless person in Article 1 of the Convention relating to the Status of Stateless Persons dated September 28, 1954;¹

9. "Refugee" means a person defined as a refugee in Article 1 of the Convention relating to the Status of Refugees dated July 28, 1951,² and the Protocol to that Convention dated January 31, 1967;³

10. Any term not defined in this Article shall have the meaning assigned to it in the laws which are being applied.

Article 2

1. For the purpose of this Agreement, the applicable laws are:

a. As regards the United States, the laws governing the Federal old-age, survivors, and disability insurance program:

- (i) Title II of the Social Security Act and regulations pertaining thereto, except sections 226, 226A and 228 of that title and regulations pertaining to those sections; and
- (ii) Chapter 2 and Chapter 21 of the Internal Revenue Code of 1986 and regulations pertaining to those chapters;

b. As regards France:

- (i) Laws establishing the administrative organization of social security programs;
- (ii) Laws establishing the social insurance system for nonagricultural employees and laws establishing the social insurance system for agricultural employees;
- (iii) Laws on prevention and compensation of occupational accidents and illnesses; laws on nonoccupational accident insurance and insurance against occupational accidents and illnesses for self-employed persons in agricultural occupations;
- (iv) Laws on family benefits;
- (v) Laws concerning special social security systems to the extent they relate to the risks or benefits covered by the laws enumerated in the preceding clauses, but excluding the special system for civil servants;
- (vi) The law on the system for seamen;
- (vii) Laws concerning sickness and maternity insurance for nonagricultural self-employed workers and laws concerning sickness and maternity insurance for agricultural self-employed workers;
- (viii) Laws concerning old-age allowances and old-age insurance for nonagricultural self-employed workers, laws concerning old-age and invalidity insurance for clergymen and members of religious orders, laws concerning old-age and invalidity insurance for attorneys, and laws concerning old-age insurance for agricultural self-employed workers.

2. Notwithstanding paragraph 1.*b*(ii) and (vii) of this Article, this Agreement shall not apply to provisions of French laws which extend to French nationals

¹ United Nations, *Treaty Series*, vol. 360, p. 117.

² *Ibid.*, vol. 189, p. 137.

³ *Ibid.*, vol. 606, p. 267.

who work or have worked outside French territory the right to enroll in voluntary insurance.

3. This Agreement shall also apply to legislation which amends or supplements the laws specified in paragraph 1; however, it shall apply to future legislation of a Contracting State which creates new categories of beneficiaries only if the Competent Authority of that Contracting State does not notify the Competent Authority of the other Contracting State in writing within three months of the date of the official publication of the new legislation that no such extension of the Agreement is intended.

4. Unless otherwise provided in this Agreement, laws within the meaning of paragraph 1 shall not include Regulations on Social Security implementing the Treaties establishing the European Communities or treaties or other international agreements which may be in force between either Contracting State and a third State, or laws or regulations promulgated for their specific implementation.

Article 3

Unless otherwise provided, this Agreement shall apply to

(a) Persons who are or have been subject to the laws of either Contracting State and who are nationals of either Contracting State, refugees or stateless persons and

(b) Other persons with respect to the rights they derive from the persons mentioned in paragraph (a).

Article 4

A national of a Contracting State who resides within the territory of the other Contracting State and to whom the provisions of this Agreement apply shall, together with his dependents, receive equal treatment with the nationals of the other Contracting State in the application of the laws of the other State regarding entitlement to and payment of benefits.

PART II. PROVISIONS ON COVERAGE

Article 5

1. Unless otherwise provided in this Agreement, a person employed within the territory of one of the Contracting States shall, with respect to that employment, be subject to the laws of only that Contracting State, even if the person resides in the territory of the other Contracting State or the place of business of the person's employer is in the territory of the other Contracting State.

2. Unless otherwise provided in this Agreement, a person employed on a vessel which flies the flag of a Contracting State who would otherwise be covered under the laws of both Contracting States shall be subject to the laws of only the State whose flag the vessel flies. For the purpose of this paragraph, a vessel which flies the flag of the United States is an "American vessel" within the meaning of United States laws.

Article 6

1. Where an employed person who is covered under the laws of one Contracting State with respect to work performed for an employer in the territory of that Contracting State is sent by that employer to work in the territory of the other

Contracting State, the person shall be subject to the laws of only the first Contracting State as if he were employed in its territory, provided that the period of work in the territory of the other Contracting State is not expected to exceed 5 years.

2. Article 5, paragraph 2, shall not apply in the case of a person who is employed in the territorial waters or in a port of a Contracting State on a vessel flying the flag of the other Contracting State, if the person is not ordinarily employed at sea and is not a crew member. In such cases, Article 5, paragraph 1, or Article 6, paragraph 1, shall apply as appropriate.

3. Paragraph 1 shall apply in the case of an employed person who has been sent by his employer from the territory of a Contracting State to the territory of a third state and subsequently sent by that employer from the territory of the third state to the territory of the other Contracting State, only if the employed person is a national of a Contracting State.

4. A person who is employed in a public or private international air transport enterprise of one of the Contracting States as a member of the travelling personnel and who would otherwise be covered under the laws of both Contracting States shall be subject to the laws of only the Contracting State where the enterprise is headquartered.

Article 7

1. A person who is self-employed in the territory of one Contracting State shall be subject to the laws of only that Contracting State even if he resides in the territory of the other Contracting State.

2. A person who is normally self-employed in the territory of one Contracting State and who performs self-employment for a temporary period in the territory of the other Contracting State shall be subject to the laws of only the first Contracting State, provided that the period of self-employment in the territory of the other Contracting State is not expected to exceed 24 months.

3. Except as provided in paragraph 4, a person normally self-employed in the territory of both Contracting States shall be subject to the laws of only the Contracting State in whose territory the person performs his principal activity.

4. A person who is engaged in agricultural self-employment in the territory of one of the Contracting States and who is also employed or self-employed in the territory of the other Contracting State shall be subject, with respect to the agricultural self-employment, only to the laws of the Contracting State in whose territory it is performed.

Article 8

1. This Agreement shall not affect the provisions of the Vienna Convention on Diplomatic Relations of April 18, 1961,¹ or of the Vienna Convention on Consular Relations of April 24, 1963.²

2. Nationals of one of the Contracting States who are employed by the Government of that Contracting State in the territory of the other Contracting State but who are not exempt from the laws of the other Contracting State by virtue of the Conventions mentioned in paragraph 1 shall be subject to the laws of only the first

¹ United Nations, *Treaty Series*, vol. 500, p. 95.

² *Ibid.*, vol. 596, p. 261.

Contracting State. For the purposes of this paragraph, employment by the United States Government includes employment by an instrumentality thereof and employment by the French Government means employment in the service of the French Government or an instrumentality (“organisme dépendant”) of the French Government performed in the territory of the United States by employees or civil servants or military personnel or persons treated as such.

Article 9

The Competent Authorities of the two Contracting States may agree to grant exceptions to the provisions of this Part in the interest of any person or category of persons, provided that the affected person shall be subject to the laws of one of the Contracting States.

Article 10

Except as provided in Article 6, paragraph 3, the provisions of Articles 5, 6, 7 and 9 shall apply to persons regardless of their nationality who would otherwise be covered under the laws of both Contracting States.

PART III. PROVISIONS ON OLD-AGE, SURVIVORS AND INVALIDITY BENEFITS

CHAPTER 1. GENERAL PROVISIONS

Article 11

1. Except as otherwise provided in this Agreement, any provision of United States laws which restricts, suspends or terminates entitlement to or payment of cash benefits solely because the person resides outside or is absent from the territory of the United States shall not be applicable to persons who reside in the territory of France.

2. Except as otherwise provided in this Agreement, benefits provided under French laws shall not be subject to any restriction on entitlement or any reduction, modification, suspension, termination, or forfeiture solely because the person described in Article 3 resides in the territory of the United States.

CHAPTER 2. PROVISIONS APPLICABLE TO THE UNITED STATES

Article 12

1. Where a person has completed as least six quarters of coverage under United States laws, but does not have sufficient quarters of coverage to satisfy the requirements for entitlement to benefits under United States laws, the agency of the United States shall take into account, for the purpose of establishing entitlement to benefits under this Article, periods of coverage which are credited under French laws and which do not coincide with periods of coverage already credited under United States laws.

2. In determining eligibility for benefits under paragraph 1 of this Article, the agency of the United States shall credit one quarter of coverage for every calendar quarter credited under French laws, except that no quarter of coverage shall be credited for any calendar quarter already credited as a quarter of coverage under United States laws. The total number of quarters of coverage to be credited for a year shall not exceed four.

3. When entitlement to a benefit under United States laws is established according to the provisions of paragraph 1, the agency of the United States shall first compute a theoretical primary insurance amount in accordance with United States laws (including, as appropriate, the provisions of those laws on indexing of earnings) as if the worker had completed a coverage lifetime as determined in accordance with United States laws at the same earnings level as is credited to the worker during the periods of coverage actually completed under those laws. The agency of the United States shall then compute a *pro rata* primary insurance amount by applying to the theoretical primary insurance amount the ratio of the duration of the worker's periods of coverage credited under United States laws to the duration of a coverage lifetime. Benefits payable under United States laws on the basis of an earnings record where a *pro rata* primary insurance amount has been computed shall be paid on the basis of that *pro rata* primary insurance amount.

4. Entitlement to a benefit from the United States which results from paragraph 1 shall terminate with the acquisition of sufficient periods of coverage under United States laws to establish entitlement to an equal or higher benefit without the need to invoke the provisions of paragraph 1.

5. The provisions of this Article and Article 11, paragraph 1, shall apply to persons without regard to their nationality.

CHAPTER 3. PROVISIONS APPLICABLE TO FRANCE

Article 13

1. Nationals of either of the Contracting States, refugees and stateless persons who have been subject successively or alternately to one or several social insurance systems in each of the Contracting States shall receive benefits under French laws as provided in this Article.

2. Except as provided in paragraph 3, when the individual has sufficient coverage to satisfy the requirements of French laws for entitlement to an old-age, survivor, or invalidity pension without the necessity of referring to the periods of coverage completed under United States laws, the French agency shall determine the amount of the pension according to the provisions of French laws, taking into account only the periods of coverage completed under French laws.

3. (a) Notwithstanding paragraph 2, when an individual who qualifies for an invalidity pension under French laws is also entitled to a disability benefit under United States laws, the French agency shall determine the amount of the invalidity pension it pays according to the provisions of paragraph 4.b(ii) and (iii).

(b) If the amount of the invalidity pension computed exclusively according to French laws without recourse to this Agreement would be greater than the total amount of the benefits payable by the agencies of both Contracting States in accordance with the provisions of this Agreement, the French agency shall pay the benefit amount computed in accordance with the provisions of paragraph 4.b(ii) and (iii) increased by the difference between the amount of the invalidity pension computed exclusively according to French laws and such total amount.

4. When the individual does not have sufficient coverage to satisfy the requirements for a French old-age, survivor or invalidity pension, the benefit which the individual may claim from the French agency shall be awarded according to the following rules:

a. *Totalization of periods of coverage*

The agency of France shall take account of periods of coverage credited under the laws of the United States to the extent that they do not coincide with periods of coverage credited under French laws, both for purposes of determining the right to benefits as well as the maintenance or recovery of this right.

b. *Award of the benefit*

(i) Taking account of the totalization of periods as provided in subparagraph *a.*, the French agency shall determine, according to its own laws, if the applicant meets the requirements for entitlement to an old-age, survivor or invalidity pension under its laws.

(ii) If the applicant is eligible for a pension, the French agency shall determine the benefit to which the insured would have been entitled if all the periods of coverage and equivalent periods had been completed exclusively under its own laws. When the amount of the pension is based on the average salary during all or part of the period of coverage, the average salary shall be determined on the basis of the period of coverage completed under French laws.

(iii) The benefit payable to the beneficiary shall be determined by reducing the amount of the benefit referred to in (ii) above to a *pro rata* amount based on the ratio of (A) the duration of periods of coverage and equivalent periods acquired under French laws to (B) the total periods completed under the laws of the two Contracting States. The total referred to in (B) shall be limited to the number of quarters of coverage required to qualify for a full old-age pension under French laws.

5. If a person no longer has a right to a French invalidity pension because he is not covered under French laws, the French agency shall award an invalidity pension in accordance with the provisions of paragraph 4 (*a*) and (*b*) above, provided that the person has completed at least 6 quarters of coverage under United States laws or is eligible for Social Security benefits under United States laws.

Article 14

If the sum of the periods of coverage completed under French laws is less than one year, the French agency shall not be required to award benefits on the basis of the said periods unless a right to benefits is acquired under French laws solely on the basis of these periods. In this case, the benefit shall be awarded only on the basis of these periods.

Article 15

Nationals of either Contracting State shall be entitled to enroll in voluntary insurance provided by French Social Security laws when they reside in French territory, taking into account as appropriate periods of coverage or equivalent periods completed under United States laws.

Article 16

Benefits based on periods of coverage completed under French laws shall be paid to nationals of a third state with which France has a Social Security convention if they reside in the territory of the United States.

Article 17

1. Where French laws award certain benefits only on the condition that the periods of coverage were completed in a profession covered by a special system or in a specified profession or employment, the periods acquired under United States laws shall be taken into account in determining eligibility for these benefits only if they were acquired in the same profession or employment.

2. If, taking account of the periods thus acquired, the individual does not meet the requirements for entitlement to the said benefits, these periods shall be taken into account for the award of benefits under the general system, without taking into account their special nature.

3. Notwithstanding the provisions of Article 11, paragraph 2:

(a) The special allowance and cumulative indemnity provided by the special French laws for mine workers shall be payable only to individuals who work in French mines.

(b) The allowances for dependent children provided by the special French laws for mine workers shall be paid according to the conditions specified therein.

(c) The occupational invalidity pension provided by the special laws applicable to mine workers in France shall be paid to insured individuals who are subject to these special laws at the moment the accident or sickness which led to the invalidity occurred if the individuals resided in France until the date of award of the said pension. The pension shall be discontinued for pensioners who resume work outside of France.

Article 18

The provisions of the present chapter are applicable, by analogy, to the rights of surviving spouses and children.

PART IV. MISCELLANEOUS PROVISIONS

Article 19

1. The Competent Authorities and the agencies of the Contracting States, within the scope of their respective authorities, shall assist each other in implementing this Agreement.

2. The Competent Authorities of the two Contracting States shall:

(a) Conclude an Administrative Arrangement and make such other arrangements as may be necessary for the application of this Agreement;

(b) Communicate to each other information concerning the measures taken for the application of this Agreement; and

(c) Communicate to each other, as soon as possible, information concerning all changes in their respective laws which may affect the application of this Agreement.

3. Liaison agencies for the implementation of this Agreement shall be designated in the Administrative Arrangement.

Article 20

1. The Competent Authorities and agencies of the Contracting States may correspond directly with each other and with any person wherever the person may

reside whenever it is necessary for the administration of this Agreement. The correspondence may be in the writer's official language.

2. An application or document may not be rejected because it is in an official language of the other Contracting State.

3. Exemptions from or reductions in taxes or stamp, registration, or enrollment fees provided by the laws of one of the Contracting States for evidence or documents which must be presented in application of the laws of that State shall be extended to the corresponding evidence or documents to be presented to the social security authorities or agencies of the other State in application of this Agreement.

4. Documents and certificates which are presented for purposes of this Agreement shall be exempted from requirements for authentication or legalization by diplomatic or consular authorities.

5. Copies of documents which are certified as true and exact copies by an agency of one Contracting State shall be accepted as true and exact copies by an agency of the other Contracting State, without further certification. The agency of each Contracting State shall be the final judge of the probative value of the evidence submitted to it from whatever source.

Article 21

1. The provisions of this Agreement shall apply only to an application for benefits which is filed on or after the date this Agreement enters into force.

2. A written application for benefits filed with an agency of one Contracting State shall protect the rights of the claimants under the laws of the other Contracting State if the applicant requests that it be considered an application under the laws of the other Contracting State.

3. If an applicant has filed a written application for benefits with the agency of one Contracting State and has not specifically restricted the application to benefits under the laws of that State, the application shall also protect the rights of the claimants under the [laws of the]¹ other Contracting State if the applicant [provides, at the time of his application, information indicating that the person entitled to the benefit has completed periods of coverage in accordance with the laws of the other Contracting State].¹

Article 22

An application, appeal, or other document which according to the laws of a Contracting State must be submitted to an agency of that Contracting State within a specified period shall be considered to have been submitted on time if it is submitted within the same period to an agency of the other Contracting State. In such case, the agency to which the application, appeal, or document has been submitted shall indicate the date of receipt on the document and transmit it without delay to the liaison agency of the other Contracting State.

¹ The Government of France has informed the Secretariat of the United Nations that article 21 of the authentic English text is incomplete. The text in brackets is a translation prepared by the Secretariat on the basis of the French authentic text — Le Gouvernement français a informé le Secrétariat de l'Organisation des Nations Unies que l'article 21 du texte authentique anglais est incomplet. Le texte entre crochets est une traduction établie par le Secrétariat à partir du texte authentique français.

Article 23

1. Payments under this Agreement may be made in the currency of the Contracting State making the payment.

2. In case provisions designed to restrict the exchange or exportation of currencies are introduced by either Contracting State, the Governments of both Contracting States shall immediately decide on the measures necessary to insure the transfer of sums owed by either Contracting State under this Agreement.

Article 24

1. Disagreements arising in connection with the application of this Agreement shall, as far as possible, be resolved by the Competent Authorities of the Contracting States.

2. If any such disagreement has not been resolved within a period of six months, either Contracting State may submit the matter to binding arbitration by an arbitral body whose composition and procedure shall be agreed upon by the Contracting States.

Article 25

This Agreement may be amended in the future by supplementary agreements which, from their entry into force, shall be considered an integral part of this Agreement. Such supplementary agreements may be given retroactive effect if they so specify.

Article 26

This Agreement shall not affect provisions of French laws concerning the participation of non-nationals in the organizations necessary for the operation of the Social Security systems.

PART V. TRANSITIONAL AND FINAL PROVISIONS

Article 27

1. This Agreement shall not establish any claim to benefits for any period before its entry into force or to a lump-sum death benefit under United States laws if the person died before its entry into force.

2. Periods of coverage completed before the entry into force of this Agreement shall be taken into account in order to determine the right to benefits under this Agreement, except that neither Contracting State shall be required to take into account periods of coverage occurring prior to the earliest date for which periods of coverage may be credited under its laws.

3. This Agreement shall apply to events which occurred prior to its entry into force insofar as those events are relevant to rights under the laws specified in Article 2.

4. This Agreement shall not result in the reduction of any cash benefit to which entitlement existed prior to its entry into force.

5. (a) Determinations made before the entry into force of this Agreement shall not affect rights arising under it.

(b) Any benefit which was denied or suspended under the domestic law of either Contracting State but which is payable by virtue of this Agreement shall, upon application of the person concerned, be awarded or reinstated upon entry into force of the Agreement, provided that the right to such benefit has not been settled by a lump-sum payment.

(c) Benefit rights which a person acquired prior to the entry into force of this Agreement may be reviewed upon application of the person concerned taking into account the provisions of this Agreement.

6. In applying Article 6, paragraph 1, or Article 7, paragraph 2, in the case of persons who began a period of work in the territory of a Contracting State prior to the effective date of this Agreement, the period of work or self-employment referred to in those two paragraphs shall be considered to begin on that effective date.

Article 28

1. The Governments of both Contracting States shall notify each other in writing of the completion of their respective statutory and constitutional procedures required for the entry into force of this Agreement.

2. This Agreement shall enter into force on the first day of the third month following the date of the last notification.

Article 29

1. This Agreement shall remain in force and effect until the expiration of one calendar year following the year in which written notice of its termination is given by one of the Contracting States to the other Contracting State.

2. If this Agreement is terminated, rights regarding entitlement to or payment of benefits acquired under it shall be retained; the Contracting States shall make arrangements dealing with rights in the process of being acquired.

IN WITNESS WHEREOF, the undersigned, being duly authorized thereto by their respective Governments, have signed this Agreement.

DONE at Paris on March 2, 1987, in duplicate in the French and English languages, both texts being equally authentic.

For the Government
of the French Republic:

[Signed]

PHILIPPE SÉGUIN
Minister

of Social Affairs and Employment

For the Government
of the United States of America:

[Signed]

JOE M. RODGERS
Ambassador

Extraordinary and Plenipotentiary