

No. 27005

**FEDERAL REPUBLIC OF GERMANY
and
CANADA**

**Agreement on social security (with Final Protocol). Signed at
Bonn on 14 November 1985**

**Arrangement for the implementation of the above-mentioned
Agreement. Signed at Bonn on 14 November 1985**

Authentic texts: German, English and French.

Registered by the Federal Republic of Germany on 5 January 1990.

**RÉPUBLIQUE FÉDÉRALE D'ALLEMAGNE
et
CANADA**

**Accord sur la sécurité sociale (avec Protocole final). Signé à
Bonn le 14 novembre 1985**

**Arrangement pour l'application de l'Accord susmentionné.
Signé à Bonn le 14 novembre 1985**

Textes authentiques : allemand, anglais et français.

Enregistrés par la République fédérale d'Allemagne le 5 janvier 1990.

AGREEMENT¹ ON SOCIAL SECURITY BETWEEN CANADA AND THE FEDERAL REPUBLIC OF GERMANY

Canada
and
the Federal Republic of Germany,

Desiring to further relations between the two States in the field of social security and to take account of changes in their legislation,

Have agreed as follows:

Part I General Provisions

Article 1

(1) For the purposes of this Agreement,

- (a) "territory" means,
as regards the Federal Republic of Germany, the territory in which the legislation specified in Article 2(1)(a) applies; and,
as regards Canada, the territory of Canada;
- (b) "national" means,
as regards the Federal Republic of Germany, a German citizen within the meaning of the Basic Law (Grundgesetz) of the Federal Republic of Germany; and,
as regards Canada, a Canadian citizen;
- (c) "legislation" means,
as regards the Federal Republic of

Germany, the laws, regulations and other general legislative acts related to the branches of social security specified in Article 2(1)(a); and,

as regards Canada, the laws and regulations specified in Article 2(1)(b);

- (d) "competent authority" means,
as regards the Federal Republic of Germany, the Federal Minister of Labour and Social Affairs (Bundesminister für Arbeit und Sozialordnung); and,
as regards Canada, the Minister or Ministers responsible for the application of the legislation specified in Article 2(1)(b);
- (e) "institution" means,
as regards the Federal Republic of Germany, the institution or authority responsible for the application of the legislation specified in Article 2(1)(a); and,
as regards Canada, the competent authority;
- (f) "competent institution" means the institution which is responsible for applying the legislation in a specific case;
- (g) "period of coverage" means a period of contribution or a period of residence which is defined or recognized as a period of coverage by the legislation under which it has been completed, or any similar period insofar as it is considered equivalent to a period of coverage by that legislation;

¹ Came into force on 1 April 1988, i.e., the first day of the second month following the final day of the month of exchange of the instruments of ratification, which took place at Ottawa on 25 February 1988, in accordance with article 28 (2).

(h) "cash benefit" means a pension or any other cash benefit, including any increases.

(2) Any term not defined in paragraph (1) has the meaning assigned to it in the applicable legislation.

Article 2

(1) Unless otherwise provided in this Agreement, it shall apply:

- (a) as regards the Federal Republic of Germany, to the legislation concerning:
 - (i) Wage Earners' Pension Insurance (Rentenversicherung der Arbeiter),
 - (ii) Salaried Employees' Pension Insurance (Rentenversicherung der Angestellten),
 - (iii) Miners' Pension Insurance (Knappschaftliche Rentenversicherung),
 - (iv) Steelworkers' Supplementary Insurance (Hüttenknappschaftliche Zusatzversicherung),
 - (v) Farmers' Old Age Assistance (Altershilfe für Landwirte); and
- (b) as regards Canada, to the following legislation:
 - (i) the Old Age Security Act and the regulations made thereunder,
 - (ii) the Canada Pension Plan and the regulations made thereunder.

(2) The legislation specified in paragraph (1) of this Article shall not include laws resulting for either Contracting State from international treaties or supranational laws

or designed to implement such treaties or laws.

Article 3

Unless otherwise provided in this Agreement, it shall apply to:

- (a) nationals of either Contracting State;
- (b) refugees, within the meaning of Article 1 of the Convention Relating to the Status of Refugees of July 28, 1951¹ and of the Protocol of January 31, 1967² to that Convention;
- (c) stateless persons, within the meaning of Article 1 of the Convention Relating to the Status of Stateless Persons of September 28, 1954;³
- (d) other persons to the extent that they derive rights from a national of either Contracting State, from a refugee or from a stateless person within the meaning of this Article;
- (e) nationals of a state other than a Contracting State, unless they are included in the group of persons specified in subparagraph (d).

Article 4

(1) Unless otherwise provided in this Agreement, persons specified in subparagraphs (a), (b), (c) and (d) of Article 3 who reside in the territory of one Contracting State shall, in the application of the legislation of either Contracting State, receive equal treatment with the nationals of the latter Contracting State.

(2) Benefits under the legislation of one Contracting State shall be awarded to nationals of the other Contracting State, resident outside the territories of both Contracting States, under the same conditions as

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

² *Ibid.*, vol. 606, p. 267.

³ *Ibid.*, vol. 360, p. 117.

they are awarded to the nationals of the first Contracting State who reside outside the territories of the Contracting States.

Article 5

Unless otherwise provided in this Agreement, the legislation of one Contracting State which requires that entitlement to or the payment of cash benefits be dependent on residence in the territory of that Contracting State shall not be applicable to the persons specified in subparagraphs (a), (b), (c) and (d) of Article 3 who reside in the territory of the other Contracting State.

Article 6

(1) Except as otherwise provided in Articles 7 to 10, the coverage of an employee shall be determined only by the legislation of the Contracting State in whose territory he is employed.

(2) In paragraph (1) and in Articles 7 to 10, "legislation" means,

as regards the Federal Republic of Germany, the legislation described in Article 2(1)(a) insofar as it relates to mandatory pension coverage, and,

as regards Canada, the legislation described in Article 2(1)(b)(ii).

Article 7

When an employee who is employed in a Contracting State is sent by his employer to the other Contracting State within the context of that employment to perform services for that employer, only the legislation of the first Contracting State shall apply, in respect of those services, during the first sixty calendar months of the employment in the second Contracting State as though the employee were still employed in the territory of the first Contracting State.

Article 8

When, but for the application of this Article, a person employed as a member of the crew of a seagoing ship would be subject to the legislation of both Contracting States, only the German legislation shall apply in respect of that employment if the ship is entitled to fly the flag of the Federal Republic of Germany, and only the legislation of Canada shall apply in any other case.

Article 9

(1) When a person is employed by the government or other public employer of a Contracting State in the territory of the other Contracting State, the legislation of that other Contracting State shall apply to him in respect of that employment only if he is a national of that Contracting State or if he resided in its territory before the beginning of that employment and continues to reside there.

(2) In the case of the person described in paragraph (1) who resided in the territory of the second Contracting State before the beginning of the employment and who continues to reside there, the legislation of the latter Contracting State shall not apply to him in respect of that employment if he is a national of the first Contracting State and within six months from the beginning of the employment, he elects to have the legislation of that Contracting State apply to him. The election shall be made by giving notice to the employer. The legislation shall apply from the date of the notice.

Article 10

(1) At the request of the employee and his employer, the competent authorities of the Contracting States, or the agencies which they have designated for that purpose, may, by common agreement, permit exceptions in the application of Articles 6 to 9, provided

that the person affected will be subject to the legislation of one or the other of the Contracting States.

(2) Paragraph (1) shall also apply in respect of persons who are not employees but who are nevertheless subject to the legislation described in Article 6(2).

Article 11

For the purposes of the Old Age Security Act of Canada:

- (a) if a person, other than a member of the crew of a seagoing ship, is subject to the Canada Pension Plan or to the comprehensive pension plan of a province of Canada during any period of residence in the territory of the Federal Republic of Germany, that period shall be considered as a period of residence in Canada for that person as well as for his spouse and dependants who reside with him and who are not subject to the German legislation regarding mandatory pension coverage;
- (b) if a person, other than a member of the crew of a seagoing ship, is subject to the German legislation regarding mandatory pension coverage during any period of residence in the territory of Canada, that period shall not be considered as a period of residence in Canada for that person or for his spouse or dependants who reside with him and who are not subject to the Canada Pension Plan or to the comprehensive pension plan of a province of Canada by reason of employment or self-employment;
- (c) if the person referred to in the preceding subparagraph becomes subject to the Canada Pension Plan or to the comprehensive pension plan of a province of Canada, by virtue of occupying simultaneously more than one employment or self-employment, that period

shall not be considered as a period of residence in Canada.

Part II

Provisions Concerning Benefits

Article 12

When creditable periods of coverage have been completed under the legislation of both Contracting States, the competent institution of each Contracting State shall, in determining eligibility for benefits under the legislation which it applies, take into account, to the extent necessary, periods which are creditable under the legislation of the other Contracting State, provided that such periods do not overlap with periods creditable under its legislation.

Article 13

The following shall apply as regards the Federal Republic of Germany:

- (a) The periods of coverage to be taken into account under Article 12 shall be assigned to that branch of insurance whose institution is responsible for determining entitlement to a pension if only German legislation is applied. If, according to the foregoing, the Miners' Pension Insurance is the competent institution, periods of coverage completed under the legislation of Canada shall be taken into account for the Miners' Pension Insurance only if they were completed in a mining enterprise in underground operations.
- (b) For purposes of determining eligibility for a benefit payable under German legislation through the application of Article 12:
 - (i) a month ending on or before December 31, 1965, which is recognized as a month of residence under the Old Age Security Act of

- Canada shall be considered as a month of contributions under German legislation;
- (ii) a year commencing on or after January 1, 1966, in which a contribution has been made under the Canada Pension Plan shall be considered as twelve months of contributions under German legislation;
- (iii) a month commencing on or after January 1, 1966, which is recognized as a month of residence under the Old Age Security Act of Canada and in relation to which no contribution has been made under the Canada Pension Plan shall be considered as a month of contributions under the German legislation.
- (c) The pension computation base (Rentenbemessungsgrundlage) shall be determined solely on the basis of the periods of coverage to be considered under German legislation.
- (d) If the requirements for entitlement to a pension are met only by applying Article 12, half of the amount of the benefit which is attributable to a creditable additional period of coverage (Zurechnungszeit) shall be payable.
- (e) If the requirements for entitlement to an orphans' pension (Waisenrente) are met only by applying Article 12, half of the supplement (Erhöhungsbetrag) shall be payable.
- (f) With regard to the termination of a miner's compensation benefit (Knappschaftsausgleichsleistung) for a miner who has given up employment as a miner, a Canadian mining enterprise shall be considered equivalent to a German mining enterprise.
- (g) When the liability for mandatory coverage in respect of a self-employed craftsman is conditional upon payment of a minimum number of contributions, periods of coverage completed under the Canada Pension Plan shall be taken into account for this purpose.

Article 14

The following shall apply as regards benefits payable under the Old Age Security Act of Canada:

- (a) For purposes of determining eligibility for a pension or a spouse's allowance payable under the Old Age Security Act through the application of Article 12, a period of residence in the territory of the Federal Republic of Germany, after the age at which periods of residence in Canada are creditable for purposes of that Act, shall be considered as a period of residence in the territory of Canada.
- (b) (i) If a person is entitled to payment of a pension in Canada under the Old Age Security Act without recourse to the provisions of this Agreement, but has not accumulated sufficient periods of residence in Canada to qualify for payment of the pension abroad under that Act, a partial pension shall be payable to him outside the territory of Canada if the periods of residence in the territories of the two Contracting States, when totalized as provided in Article 12, are at least equal to the minimum period of residence in Canada required by

the Old Age Security Act for payment of a pension abroad.

- (ii) The amount of the pension payable shall, in this case, be calculated in conformity with the provisions of the Old Age Security Act governing the payment of a partial pension, exclusively on the basis of the periods creditable under that legislation.

- (c) (i) If a person is not entitled to an Old Age Security pension or a spouse's allowance solely on the basis of periods of residence in Canada, a partial pension or a spouse's allowance shall be payable to him if the periods of residence in the territories of the two Contracting States, when totalized as provided in Article 12, are at least equal to the minimum period of residence in Canada required by the Old Age Security Act for payment of a pension or a spouse's allowance.

- (ii) The amount of the pension or the spouse's allowance payable shall, in this case, be calculated in conformity with the provisions of the Old Age Security Act governing the payment of a partial pension or a spouse's allowance, exclusively on the basis of the periods creditable under that legislation.

- (d) (i) Notwithstanding any other provision of this Agreement, the competent institution of Canada shall pay an Old Age Security pension outside the territory of Canada only if the periods of residence in the territories of the two Contracting States, when totalized as provided in Article 12, are at least equal to the minimum period of residence in Canada required by

the Old Age Security Act for the payment of a pension abroad.

- (ii) The spouse's allowance and the guaranteed income supplement shall be payable outside the territory of Canada only to the extent permitted by the Old Age Security Act.

Article 15

The following shall apply as regards benefits payable under the Canada Pension Plan:

- (a) For purposes of determining eligibility for benefits payable under the Canada Pension Plan through the application of Article 12, a year including at least three months of coverage under German legislation shall be considered as a year for which contributions have been made under the Canada Pension Plan.
- (b) (i) If a person is not entitled to a disability pension, disabled contributor's child's benefit, survivor's pension, orphan's benefit, or death benefit solely on the basis of the periods creditable under the Canada Pension Plan, but is entitled to that benefit through totalizing periods of coverage as provided in Article 12, the competent institution of Canada shall calculate the amount of the earnings-related portion of such benefit in conformity with the provisions of the Canada Pension Plan, exclusively on the basis of the pensionable earnings credited under that legislation.
- (ii) The amount of the flat rate portion of the benefit payable under the provisions of this Agreement

shall, in this case, be determined by multiplying:

the amount of the flat rate portion of the benefit determined under the provisions of the Canada Pension Plan by

the ratio that the periods of contributions to the Canada Pension Plan represent in relation to the minimum, qualifying period for entitlement to that benefit under the Canada Pension Plan.

- (c) No benefit shall be paid under this Article unless the contributor has reached an age at which his contributory period, as defined in the Canada Pension Plan, is at least equal to the minimum qualifying period under the legislation of Canada for entitlement to the benefit in question.

Part III

Miscellaneous Provisions

Chapter 1

Administrative and Legal Assistance

Article 16

(1) The institutions, associations of German institutions, and authorities of the Contracting States shall provide mutual assistance to each other in the application of the legislation specified in Article 2 (1) and in the implementation of this Agreement, in the same manner in which they apply their own legislation. With the exception of any cash expenditures relating thereto, such assistance shall be provided free of charge.

(2) The institution of one Contracting State, when requested by the institution of the other Contracting State, shall, to the extent permitted by its legislation, provide to that institution free of charge any medical

data and documents in its possession relating to the general disability of an applicant or beneficiary.

(3) If the institution of one Contracting State requires an applicant or beneficiary to undergo a medical examination, such examination, on the request of that institution and at its expense, shall be arranged or carried out by the institution of the other Contracting State where the applicant or beneficiary resides.

Article 17

(1) Where, under the legislation of one Contracting State, documents submitted to an authority or institution of that Contracting State are partly or fully exempt from administrative charges, including consular fees, this exemption shall also apply to documents which are submitted to an authority or institution of the other Contracting State in accordance with its legislation.

(2) Documents which, in the application of the legislation specified in Article 2 (1), must be submitted to an authority or institution of one Contracting State, may be submitted to an authority or institution of the other Contracting State without authentication or any other similar formality.

Article 18

In applying the legislation specified in Article 2 (1), and in implementing this Agreement, the agencies referred to in Article 16 (1) may communicate in their respective official languages directly with each other as well as with persons concerned and with their representatives. Decisions of courts and notifications from an institution of one Contracting State may be communicated directly to persons residing in the territory of the other Contracting State and may be sent by registered mail with return receipt.

Article 19

(1) If a claim for a benefit payable under the legislation of one Contracting State has been submitted to an agency of the other Contracting State which, under the legislation of the latter State, is competent to receive an application for a corresponding benefit, that application shall be deemed to have been submitted to the competent institution of the first Contracting State. This provision shall apply, as appropriate, to other claims, notices or appeals.

(2) A claim, notice or appeal received by an agency of one Contracting State shall be forwarded by that agency without delay to the competent agency of the other Contracting State.

(3) A claim for a benefit payable under the legislation of one Contracting State shall be deemed to be an application for the corresponding benefit payable under the legislation of the other Contracting State. However, the foregoing shall not apply if the applicant explicitly requests that the determination of entitlement under the legislation of the latter State be deferred in cases where, under the legislation of the latter State, he may choose the date which is to be used in determining when the conditions for entitlement have been met.

Article 20

The transmission of any information about an individual or any business or industrial secret made in accordance with this Agreement, or in accordance with any arrangement for the implementation of this Agreement, shall be governed by the respective national laws concerning the protection of data. Unless disclosure is required under the laws of a Contracting State, such information shall be treated as confidential by the recipient and shall be used only for purposes of implementing this

Agreement and the legislation to which this Agreement applies.

Chapter 2

Implementation of the Agreement

Article 21

(1) The governments or competent authorities of the Contracting States may conclude Implementing Arrangements (Durchführungsvereinbarungen) which will establish the conditions and administrative procedures required to implement this Agreement. The competent authorities shall keep each other informed about any amendments or additions to their legislation.

(2) The liaison agencies of the Contracting States shall be designated in an Implementing Arrangement.

Article 22

Cash benefits may be validly paid by an institution of one Contracting State to a person staying in the territory of the other Contracting State in the currency of either Contracting State. If remittance is made in the currency of the other Contracting State, the conversion rate shall be the rate of exchange in effect on the day when the remittance is made.

Article 23

(1) Disputes between the two Contracting States regarding the interpretation or application of this Agreement shall, as far as possible, be resolved by the competent authorities.

(2) If a dispute cannot be resolved by the competent authorities, it shall be submitted to a joint ad hoc commission.

Part IV Transitional and Final Provisions

Article 24

(1) This Agreement shall not establish any entitlement to benefits for any period prior to its entry into force.

(2) In the implementation of this Agreement, consideration shall be given to the relevant facts obtaining under the terms of the legislation of the Contracting States before the entry into force of this Agreement.

(3) The provisions of this Agreement shall apply irrespective of the legal force of decisions made before the entry into force of this Agreement.

(4) Cash benefits awarded before the entry into force of this Agreement, where applicable by virtue of the Convention of March 30, 1971,¹ may be recalculated *ex officio* in accordance with the provisions of this Agreement. If such recalculation, whether on application or *ex officio*, results in no entitlement or in entitlement in a lesser amount than that last paid for any period prior to the entry into force of this Agreement, the same amount of cash benefits as previously paid shall continue to be paid, paragraph (3) notwithstanding.

Article 25

The attached Final Protocol is part of this Agreement.

Article 26

The Government of the Federal Republic of Germany and a province of Canada may conclude understandings concerning any

social security matter within provincial jurisdiction in Canada insofar as those understandings are not inconsistent with the provisions of this Agreement.

Article 27

This Agreement shall also apply to Land Berlin, provided that the Government of the Federal Republic of Germany does not make a contrary declaration to the Government of Canada within three months of the date of entry into force of this Agreement.

Article 28

(1) This Agreement shall be subject to ratification. The instruments of ratification shall be exchanged in Ottawa as soon as possible.

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

(3) With the entry into force of this Agreement, the following shall be terminated:

- (a) the Agreement between the Government of the Federal Republic of Germany and the Government of Canada Concerning the Pension Insurance of Persons of Non-German Nationality Locally Employed at Official Missions and Posts of the Federal Republic of Germany in Canada, signed on December 19, 1969;² and
- (b) the Convention on Social Security between the Federal Republic of Germany and Canada, signed on March 30, 1971.

¹ United Nations, *Treaty Series*, vol. 862, p. 143.

² *Ibid.*, vol. 862, p. 129.

Article 29

(1) This Agreement shall be concluded for an indefinite period. Either of the Contracting States may terminate this Agreement on the 31st day of December of any year by giving notice in writing to the other Contracting State not later than the 31st day of December of the preceding year.

(2) In the event of termination by denunciation, the provisions of this Agreement shall continue to apply in respect of claims to benefits acquired not later than the effective date of that termination; negotiations shall take place for the settlement of any rights in the course of acquisition by virtue of the provisions of this Agreement.

[For the testimonium and signatures, see p. 224 of this volume.]

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

At the time of the signing of the Agreement on Social Security concluded this day between Canada and the Federal Republic of Germany, the plenipotentiaries of both Contracting States stated that they were in agreement on the following points:

1. With reference to Article 1(1)(g) of the Agreement:

As regards Canada, a period of receipt of a disability pension under the Canada Pension Plan shall be considered equivalent to a period of coverage.
2. With reference to Article 2 of the Agreement:
 - (a) Part II of the Agreement shall not apply to the Steelworkers' Supplementary Insurance and to the Farmers' Old Age Assistance of the Federal Republic of Germany.
 - (b) Where under German legislation both the conditions for the application of the Agreement and the conditions for the application of any other convention or supranational arrangement are satisfied, the German institution shall disregard that other convention or supranational arrangement when applying the Agreement.
 - (c) Article 2(2) and the preceding subparagraph shall not apply if the social security legislation, which arises for the Federal Republic of Germany from international treaties or supranational laws or is designed to implement them, contains provisions relating to the apportionment of insurance burdens.
- (d) The Agreement shall apply to laws and regulations which extend the existing legislation of Canada to other categories of beneficiaries or other types of benefits only if no objection on the part of Canada has been communicated to the Federal Republic of Germany within three months of notification of such laws or regulations.
3. With reference to Article 4 of the Agreement:
 - (a) Provisions relating to the apportionment of insurance burdens that may be contained in international treaties shall not be affected.
 - (b) The German legislation which guarantees participation of the insured and of employers in the organs of self-government of the institutions and their associations, as well as in the adjudication of social security matters, shall remain unaffected.
 - (c) Canadian nationals who reside outside the territory of the Federal Republic of Germany shall be entitled to voluntary coverage under German Pension Insurance if they have made valid contributions to the latter for at least sixty calendar months, or if they were entitled to voluntary coverage under transitional legislation which was in force before October 19, 1972. This shall also apply to persons specified in subparagraphs (b) and (c) of Article 3 who reside in the territory of Canada. Canadian

nationals and refugees within the meaning of subparagraph (b) of Article 3 who reside in the territory of Canada shall also be entitled to voluntary coverage under German Pension Insurance if, under the provisions of the Convention on Social Security between the Federal Republic of Germany and Canada of March 30, 1971, they paid a voluntary contribution to German Pension Insurance at the latest on the day preceding the entry into force of the Agreement.

- (d) As regards the legislation of Canada, Article 4 shall also apply to the persons specified in subparagraph (e) of Article 3.
4. With reference to Article 5 of the Agreement:
- (a) Article 5 shall apply, as appropriate, to cash benefits payable under German Accident Insurance to beneficiaries who are Canadian nationals and who reside in the territory of a province of Canada, provided that the laws of that province regarding statutory accident insurance provide for payment of corresponding cash benefits to German nationals who reside in the territory of the Federal Republic of Germany. This shall apply, as appropriate, with regard to the persons specified in subparagraphs (b), (c) and (d) of Article 3 who reside in Canada in the territory of one of that country's provinces, provided that the laws of that province regarding statutory accident insurance provide for the payment of corresponding cash benefits to the persons specified in subparagraphs (b), (c) and (d) of Article 3, who reside in the territory of the Federal Republic of Germany.
- (b) German legislation regarding cash benefits based on periods of coverage completed under laws other than federal law shall not be affected.
- (c) German legislation regarding cash benefits in respect of occupational accidents (including occupational diseases) for which the injured party was not insured under federal law at the time the accident occurred shall not be affected.
- (d) German legislation regarding medical, occupational and supplementary rehabilitation benefits provided by a pension insurance institution shall not be affected.
- (e) Article 5 shall not apply to a person who resides in Canada with regard to a pension under the German legislation governing occupational disability, general disability or reduced capacity for gainful employment as a miner, if the occupational disability, the general disability or the reduced capacity for gainful employment as a miner is not due solely to the person's state of health.
- (f) As regards the legislation of Canada, Article 5 shall also apply to the persons specified in subparagraph (e) of Article 3.
5. With reference to Articles 6, 7 and 8 of the Agreement:
- Articles 6, 7 and 8 shall apply, as appropriate, to persons who are not employees but who are nevertheless subject to the legislation described in Article 2(1)(a).

6. With reference to Article 7 of the Agreement:

Article 7 shall also apply if the employee was sent to the other Contracting State before the entry into force of the Agreement. In that case, the period of sixty calendar months shall run from the date of the entry into force.

7. With reference to Article 9 of the Agreement:

(a) When a German national is employed in the territory of Canada by the government or other public employer of the Federal Republic of Germany, the German legislation shall apply for the duration of the employment as though it were employment in the territory of the Federal Republic of Germany, unless the legislation of Canada is applicable as described in Article 9.

(b) For persons already employed on the date of the entry into force of the Agreement, the time period mentioned in Article 9(2) shall begin on that date.

(c) Article 9 of the Agreement and subparagraphs (a) and (b) above shall apply correspondingly to a person who is employed as a private servant by a member or employee of an official German representation in Canada.

8. With reference to Article 10 of the Agreement:

(a) As regards the Federal Republic of Germany, a person who is not employed in its territory shall be deemed to be employed at the place where he had his last previous employment. If he was not previously employed in the territory of the Federal Republic of

Germany, he shall be deemed to be employed at the place where the competent German authority is domiciled.

(b) Application may be made under Article 10 for a continuation of the application of the provisions of Article 7 if the employment in the other Contracting State exceeds sixty calendar months.

9. With reference to Article 12 of the Agreement:

(a) Article 12 shall apply, as appropriate, to benefits which are granted under German legislation at the discretion of an institution.

(b) As regards the granting of supplementary benefits under the German legislation governing Miners' Pension Insurance, periods of coverage completed under the legislation of Canada shall not be taken into account.

(c) Periods of contributions to the Canada Pension Plan in respect of employment or self-employment shall be equivalent to periods of employment or self-employment subject to mandatory coverage that are required under German legislation for a claim to a retirement pension before the age of 65 or to an occupational or a general disability pension.

10. With reference to Article 13 of the Agreement:

(a) In applying German legislation governing the calculation of pensions, in particular the provisions concerning the higher assessment for periods of contribution in cases where a prescribed minimum number of years of

- coverage has been completed, or in cases where a person has been in employment subject to mandatory coverage for a prescribed period and has received remuneration in kind throughout that period, periods of coverage completed in Canada or similar employment in Canada shall not be taken into account.
- (b) Mining enterprises within the meaning of subparagraph (a) of Article 13 are enterprises which mine minerals or similar substances or, predominantly in underground operations, stones and earths.
- (c) Where under German legislation a provision on the payment of pro rata benefits enters into force, subparagraphs (d) and (e) of Article 13 shall no longer apply from the date of entry into force of such a provision.
11. With reference to Article 16 of the Agreement:
- The cash expenditures referred to in the second sentence of Article 16 (1) shall not include minor expenses such as postage or regular personnel and operating costs.
12. With reference to Article 24 (4) of the Agreement:
- If, in relation to German legislation, a subsidy for health insurance premiums has previously been paid but, because of the termination of the Convention of March 30, 1971, the requirements for payment of such a subsidy are no longer fulfilled, the subsidy shall continue to be paid in accordance with German transitional legislation governing cases where eligibility for the subsidy ceased to exist on January 1, 1983.
13. In the implementation of the Agreement, German legislation, to the extent that it contains more favourable provisions for persons who have suffered because of their political attitude, or for reasons of their race, religion, or ideology, shall not be affected.
14. For purposes of the Title, Preamble and Signatory Clause of the Agreement and this Final Protocol, "Canada" means Her Majesty the Queen in right of Canada, represented by the Minister of National Health and Welfare.

[For the testimonium and signatures, see p. 224 of this volume.]

ZU URKUND DESSEN haben die hierzu von ihren Regierungen gehörig befugten Unterzeichneten dieses Abkommen unterschrieben und mit ihren Siegeln versehen.

GESCHEHEN zu Bonn am 14. November 1985 in zwei Urschriften, jede in deutscher, englischer und französischer Sprache, wobei jeder Wortlaut gleichermaßen verbindlich ist.

IN WITNESS WHEREOF, the undersigned, being duly authorized thereto by their respective governments, have signed this Agreement and affixed thereto their seals.

DONE at Bonn on November 14, 1985, in two copies in the English, French and German languages, each text being equally authentic.

EN FOI DE QUOI les soussignés, dûment autorisés à cet effet par leurs gouvernements respectifs, ont signé le présent Accord et y ont apposé leurs sceaux.

FAIT à Bonn, le 14 novembre 1985, en deux exemplaires, en anglais, en français et en allemand, chaque texte faisant également foi.

Für die Bundesrepublik Deutschland:
For the Federal Republic of Germany:
Pour la République fédérale d'Allemagne :

JÜRGEN RUHFUS
NORBERT BLÜM

Für Kanada:
For Canada:
Pour le Canada :

JAKE EPP

ARRANGEMENT¹ FOR THE IMPLEMENTATION OF THE AGREEMENT ON SOCIAL SECURITY BETWEEN CANADA AND THE FEDERAL REPUBLIC OF GERMANY

The Government of Canada
and
the Government of the Federal Republic of
Germany,

Pursuant to Article 21 (1) of the Agreement on Social Security of November 14, 1985, between Canada and the Federal Republic of Germany, hereinafter referred to as "the Agreement",

Have agreed as follows:

Article 1

Where terms which appear in the Agreement are used in the following provisions, they will have the same meaning as they have in the Agreement.

Article 2

(1) The following are designated as liaison agencies pursuant to Article 21 (2) of the Agreement:

- (a) as regards the Federal Republic of Germany:
- (i) for the Wage Earners' Pension Insurance, the Landesversicherungsanstalt Freie und Hansestadt Hamburg, Hamburg;
 - (ii) for the Salaried Employees' Pension Insurance, the Bundesversicherungsanstalt für Angestellte, Berlin;

- (iii) for the Miners' Pension Insurance, the Bundesknappschaft, Bochum;
- (iv) for the Steelworkers' Supplementary Insurance, the Landesversicherungsanstalt für das Saarland, Saarbrücken;
- (v) to the extent that the German statutory sickness insurance agencies are involved in implementing the Agreement and this Arrangement, the Bundesverband der Ortskrankenkassen, Bonn;

- (b) as regards Canada:

International Operations Division,
Income Security Programs Branch,
Department of National Health and
Welfare.

- (2) Where German legislation does not already make provision to this effect, the liaison agency designated for the Wage Earners' Pension Insurance system will be responsible, within the scope of that system, for the determination and award of benefits, with the exception of medical, occupational, and supplementary rehabilitation benefits, provided that:
- (a) periods of coverage have been completed or are creditable under both German and Canadian legislation; or
 - (b) the person entitled to a benefit resides in Canada; or
 - (c) the person entitled to a benefit is a Canadian national and resides outside

¹ Came into force on 6 May 1988, the date on which the Parties notified each other of the completion of the required procedures, with retroactive effect from 1 April 1988, in accordance with article 10.

the territories of both Contracting States.

(3) The jurisdiction of the German special institutions (Sonderanstalten) will remain unaffected.

Article 3

The liaison agencies within the meaning of Article 2 (1) and the special institutions within the meaning of Article 2 (3) will, within their respective areas of jurisdiction, be responsible for generally informing the persons concerned about their rights and obligations under the Agreement.

Article 4

The liaison agencies within the meaning of Article 2 (1) and the special institutions within the meaning of Article 2 (3), with the participation of the competent authorities, will conclude an Operational Accord (Verwaltungsvereinbarung) setting out the administrative measures required and expedient for implementing the Agreement.

Article 5

The agencies referred to in Article 16 (1) of the Agreement will, within their respective areas of jurisdiction and to the extent possible, communicate to each other such information and transmit such documentation as may be required to maintain the rights and obligations of the persons concerned under the legislation specified in Article 2 (1) of the Agreement and under the Agreement. Such information or documentation regarding a person will also be transmitted to that person at his request.

Article 6

(1) In the circumstances described in Articles 7, 9 (2) and 10 of the Agreement, the competent institution of the Contracting State whose legislation is applicable will, on request, issue a certificate which may be of fixed duration, certifying, in respect of the employment in question, that the employee and his employer are subject to that legislation.

(2) When the German legislation is applicable, the certificate will be issued by the health insurance institution (Träger der Krankenversicherung) to which the pension contributions are paid, and by the Bundesversicherungsanstalt für Angestellte, Berlin, in any other case.

(3) When the legislation of Canada is applicable, the certificate will be issued by the Accounting and Collections Division, Department of National Revenue, Taxation.

Article 7

Cash benefits payable to beneficiaries in the other Contracting State will be paid without recourse to a liaison agency in that Contracting State.

Article 8

The liaison agencies within the meaning of Article 2 (1) and the special institutions within the meaning of Article 2 (3) will compile statistics on the payments made in the other Contracting State for each calendar year. Where possible, these statistics will show the number and total amount of pensions and lump-sum settlements, by type of pension. These statistics will be exchanged.

Article 9

This Arrangement shall also apply to Land Berlin, provided that the Government of the Federal Republic of Germany does not make a contrary declaration to the Government of Canada within three months of the date of entry into force of this Arrangement.

Article 10

This Arrangement will take effect as soon as both Governments have informed each other that the steps necessary under their national statutes to enable the Arrangement to take effect have been taken. It will be effective from the date of the entry into force of the Agreement and will have the same period of duration.

[For the testimonium and signatures, see p. 234 of this volume.]

GESCHEHEN zu Bonn am 14. November 1985 in zwei Urschriften, jede in deutscher, englischer und französischer Sprache, wobei jeder Wortlaut gleichermaßen verbindlich ist.

DONE at Bonn on November 14, 1985, in two copies in the English, French and German languages, each text being equally authentic.

FAIT à Bonn, le 14 novembre 1985, en deux exemplaires, en anglais, en français et en allemand, chaque texte faisant également foi.

Für die Regierung der Bundesrepublik Deutschland:
For the Government of the Federal Republic of Germany:
Pour le Gouvernement de la République fédérale d'Allemagne :

JÜRGEN RUHFUS
NORBERT BLÜM

Für die Regierung von Kanada:
For the Government of Canada:
Pour le Gouvernement du Canada :

JAKE EPP
