

No. 32503

**BRAZIL
and
PORTUGAL**

**Agreement on social security or social insurance (with
administrative arrangement). Signed at Brasília on
7 May 1991**

Authentic text: Portuguese.

Registered by Brazil on 1 February 1996.

**BRÉSIL
et
PORTUGAL**

**Accord de sécurité sociale ou d'assurance sociale (avec arran-
gement administratif). Signé à Brasília le 7 mai 1991**

Texte authentique : portugais.

Enregistré par le Brésil le 1^{er} février 1996.

[TRANSLATION — TRADUCTION]

AGREEMENT¹ ON SOCIAL SECURITY OR SOCIAL INSURANCE
BETWEEN THE GOVERNMENT OF THE FEDERATIVE RE-
PUBLIC OF BRAZIL AND THE GOVERNMENT OF THE POR-
TUGUESE REPUBLIC

The Government of the Federative Republic of Brazil and the Government of the Portuguese Republic

Desiring to improve the situation of nationals of the two countries in the social field and, consequently, to further refine the existing Agreement on Social Insurance of 17 October 1969 between Brazil and Portugal,² specifically by bringing the existing Agreement into line with the provisions that have been newly introduced into the social security and social insurance legislation of the respective countries,

Have agreed as follows:

TITLE I

GENERAL PROVISIONS AND APPLICABLE LEGISLATION

Article 1

For purposes of the application of this Agreement:

(a) The term “legislation” means the laws, regulations and statutory provisions specified in article 2;

(b) The term “worker” means an active worker, pensioner, retired person, insured person enjoying a benefit or any person in such a situation;

(c) The term “beneficiary” means a worker, a person who contributes voluntarily or the dependants of such a person;

(d) The term “dependant” means a person declared to be such under the social security legislation of Brazil or a family member or person recognized as such under the social security legislation of Portugal;

(e) The term “competent authority” means the Minister or other appropriate authority responsible for the social security or social insurance schemes;

(f) The term “administering authority” means the competent institution responsible for the application of the legislation referred to in article 2, or the institution responsible for the benefits specified in the said legislation;

(g) The term “insurance period” means periods of contribution or equivalent periods defined or recognized as such by the legislation under which they were or are considered to have been completed;

¹ Came into force on 25 March 1995, i.e., 30 days after the date of receipt of the last of the notifications by which the Parties had informed each other of the completion of their respective internal legal procedures, in accordance with article 25.

² United Nations, *Treaty Series*, vol. 832, p. 111.

(h) The terms “benefits”, “pensions” or “income” mean the benefits, pensions or income specified in the applicable legislation, including any increases, adjustments or supplements or any compensation in the form of cash that may replace them.

2. The meaning of the other terms used in this Agreement shall be that assigned to them in the legislation of the Contracting State concerned.

Article 2

1. This Agreement shall apply:

I. In Brazil, to legislation on the general social security scheme governing:

- (a) Medical assistance;
- (b) Old age;
- (c) Temporary incapacity to work;
- (d) Invalidity;
- (e) Length of service;
- (f) Death;
- (g) Childbirth;
- (h) Family allowance;
- (i) Industrial accidents and occupational diseases.

II. In Portugal, to legislation governing:

(a) The general social insurance scheme covering sickness, maternity, invalidity, old age and death benefits and family benefits;

(b) The special social insurance schemes established for certain categories of workers insofar as they relate to the benefits referred to in the preceding subparagraph;

(c) The benefits awarded by the official health services, in accordance with Act No. 56/79 under which the National Health Service was established;

(d) The industrial accident and occupational diseases scheme.

2. The Agreement shall also apply to the coverage provided in legislation that supplements or amends the legislation referred to in the preceding paragraph.

3. It shall also apply to legislation that extends existing schemes to new occupational categories or establishes new social security or social insurance schemes, provided that the Contracting State concerned lodges no objection to its application within three months of the date of the official publication of the legislation.

Article 3

1. This Agreement shall apply to the nationals of each of the Contracting States and to any other person who is or who has been subject to the legislation referred to in article 2, as well as to the family members and survivors of such persons.

2. The persons referred to in the preceding paragraph shall have the same entitlements and obligations as the nationals of the Contracting State in which

they are, with respect to the application of the respective legislation referred to in article 2.

Article 4

1. Except where otherwise provided in this Agreement, workers employed in the territory of a Contracting State shall be subject only to the legislation of that State, even if they reside in the territory of the other State or if the entity that employs them has its registered office in the territory of the other State.

2. The principle laid down in the preceding paragraph shall be subject to the following exceptions:

(a) A worker employed by a public or private enterprise situated in one of the Contracting States who is sent to the territory of the other State for a limited period shall remain subject to the legislation of the first-mentioned State, provided that the period of his employment in the territory of the other State does not exceed 60 (sixty) months. If the period during which he is so employed should, for unforeseeable reasons, be extended beyond that period, the legislation of the first-mentioned Contracting State may, as an exceptional measure, continue to apply for a further period of not more than 12 (twelve) months, subject to the express prior consent of the competent authority of the other State;

(b) The flight crews of airlines shall continue to be subject exclusively to the legislation in force in the State in whose territory the airline is located;

(c) Members of the crews of ships under the flag of one of the Contracting States shall be subject to the legislation in force in that State. Any other person employed by the ship for loading and unloading, repairs and custodial duties shall, when in port, be subject to the legislation of the State within whose jurisdiction the ship is.

3. The competent authorities of the Contracting States may, by agreement, extend or amend, in individual cases or for specific occupational categories, the exceptions listed in paragraph 2.

Article 5

1. Diplomatic, administrative and technical officials of diplomatic missions and consulates of the Contracting States shall be subject to the legislation of the State to which they belong, with the exception of honorary consuls, who shall be subject to the legislation of the State of residence.

2. Other officials, employees and workers in the service of diplomatic missions and consulates or on the personal staff of one of their members shall be subject to the legislation of the State in whose territory they are employed, unless they elect within 12 (twelve) months of being engaged and with the consent in each case of the competent authority of the said State to be subject to the legislation of the Contracting State in whose service they are.

Article 6

1. A person who has qualified in one Contracting State for entitlement to the benefits provided for in the legislation referred to in article 2 shall retain such entitlement without any restriction vis-à-vis the administering authority of that State when he moves to the territory of the other Contracting State. In the case of moving to a third State, the retention of the said entitlement shall be subject to the conditions

determined by the State which grants the benefit to its nationals residing in that third State.

2. A person who, on account of having moved from the territory of one Contracting State to or from the other, has had the benefits provided for in the legislation referred to in article 2 suspended may, on application, recover them by virtue of this Agreement. The rules in force in the Contracting States on the expiration and statutory limitation of rights relating to social security or social insurance shall be respected.

TITLE II

BENEFIT PROVISIONS

Article 7

1. A person belonging to the social insurance or social security scheme of one Contracting State, including the beneficiary of a pension or income that is payable only under the legislation of one Contracting State shall retain the entitlement to medical assistance during a temporary stay in the territory of the other State. Dependants of the said person shall have the same entitlements.

2. Dependants of the person referred to in the preceding paragraph shall have an entitlement to medical assistance in the other State in which they reside, for as long as the said person continues to belong to the social security or social insurance scheme of a Contracting State.

3. The beneficiary of a pension or income that is payable only under the legislation of one Contracting State, and his dependants, shall retain the entitlement to medical assistance when he transfers his residence to the territory of the other State.

4. The scale of and procedures for the medical assistance provided by the administering authority of the State that grants the benefits, under the terms of the preceding paragraphs, shall be determined in accordance with the legislation of the said State. Nevertheless, the duration of the medical assistance shall be that prescribed by the legislation of the State to whose social security or social insurance scheme the person belongs.

5. The expenses relating to the medical assistance referred to in this article shall be borne by the administering authority to whose insurance scheme the worker belongs. The method of reimbursing those expenses and determining their amount shall be fixed by agreement between the competent authorities, in accordance with the provisions of a supplementary arrangement to this Agreement. The competent authorities may also refuse to reimburse all or part of the above-mentioned costs.

Article 8

1. For purposes of satisfying the qualifying period needed to acquire the right to cash benefits for illness or maternity, under the legislation of a Contracting State, insurance periods completed in the other State shall, to the extent necessary, be taken into account.

2. A person who has completed in a Contracting State the period needed to qualify for the illness or maternity cash benefits shall retain in the other State the right to those benefits, except where the person is entitled to the same benefits under the legislation of the latter State.