

**OFFICE CONSOLIDATION OF THE
AGREEMENT ON SOCIAL SECURITY
BETWEEN
CANADA AND
THE FEDERAL REPUBLIC OF GERMANY**

The Agreement on Social Security between Canada and the Federal Republic of Germany was signed on 14 November 1985 and entered into force on 1 April 1988.

The Agreement was amended by a supplementary agreement signed on 27 August 2002 and entered into force on 1 December 2003.

The text which follows shows the Agreement as amended by the Supplementary Agreement.

**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 of the Federal Republic of Germany; 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);

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 Ministry of Labour and Social Affairs (Bundesministerium 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;
 - (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) Pension Insurance (Rentenversicherung),
 - (ii) Steelworkers' Supplementary Insurance (Hüttenknappschaftliche Zusatzversicherung),
 - (iii) Farmers' Old Age Security (Alterssicherung der Landwirte);
 - (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.
3. Subject to point 2(d) of the Final Protocol to the Agreement, this Agreement shall also apply to the laws and regulations which amend, supplement, consolidate or supersede the legislation specified in subparagraphs (1)(a) and (b) of this Article.

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, 1951 and of the Protocol of January 31, 1967 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;
- (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 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 Article 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 presence or 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 or common-law partner 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 presence or 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 common-law partner 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) For the calculation of pensions, earnings points shall be determined solely on the basis of the periods of coverage completed under German legislation.
- (d) Where under German legislation entitlement to a benefit is conditional upon the fact that a given number of mandatory contributions has been paid within a specified period (reference period) and where that legislation provides that this period is extended by periods of receipt of benefits or periods of child raising, this reference period shall also be extended by periods of receipt of invalidity or old-age pensions under the legislation of Canada or benefits on account of sickness, unemployment or industrial injury (except pensions) under the laws of Canada or the laws of a province of Canada and by periods of child raising in Canada.
- (e) When the right of a self-employed craftsman to be exempted from the liability for mandatory coverage 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)
 - (i) For purposes of determining eligibility for an Old Age Security pension or an allowance under the *Old Age Security Act* through the application of Article 12, a period of coverage under the legislation of the Federal Republic of Germany, or 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.
 - (ii) In the application of subparagraph (a)(i), a period of residence prior to 3 October 1990 in the territory specified in Article 3 of the *Treaty on the establishment of German Unity* of 31 August 1990 shall be considered as a period of residence in the territory of Canada.
- (b) If a person is entitled to the payment of an Old Age Security pension or an allowance under the *Old Age Security Act* solely through the application of Article 12, the competent institution of Canada shall calculate the amount of the pension or allowance payable to that person in conformity with the provisions of the *Old Age Security Act* governing the payment of a partial pension or

allowance, exclusively on the basis of periods of residence in Canada which may be considered under that Act.

- (c) Subparagraph (b) shall also apply to a person who is entitled to the payment of a pension in Canada but who has not resided in Canada for the minimum period required by the *Old Age Security Act* for entitlement to the payment of a pension outside Canada.
- (d) Notwithstanding any other provision of this Agreement:
 - (i) an Old Age Security pension shall be paid to a person who is outside Canada only if that person's periods of coverage, when added together 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 entitlement to the payment of a pension outside Canada;
 - (ii) an allowance and a guaranteed income supplement shall be paid to a person who is outside 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 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, but in no case shall that ratio exceed the value of one.

PART III MISCELLANEOUS PROVISIONS

CHAPTER I 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. The second sentence shall also apply to decisions of courts and notifications issued in connection with the implementation of the German *Law Governing War Victims' Assistance (Gesetz über die Versorgung der Opfer des Krieges)* and those laws which declare the first-mentioned law to be applied accordingly.

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. An application 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, provided that the applicant at the time of application:
 - (a) requests that it be considered an application under the legislation of the other Contracting State, or
 - (b) provides information indicating that periods of coverage have been completed 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

1. The agencies of a Contracting State referred to in Article 16(1) shall, in accordance with:
 - (a) the legislation of that Contracting State, and
 - (b) this Agreement or any arrangement concluded pursuant to Article 21 for the implementation of this Agreement,

transmit to the competent agencies of the other Contracting State any information in their possession about an individual required for the application of this Agreement or of the legislation to which this Agreement applies.

2. Any information about an individual transmitted under paragraph (1) by an agency of one Contracting State to an agency of the other Contracting State shall be protected in each Contracting State in accordance with its legislation and the following provisions:
 - (a) The agency of a Contracting State to which the information is transmitted shall treat that information as confidential and shall effectively protect it against unauthorized access, unauthorized alterations and unauthorized disclosure in accordance with the legislation of that Contracting State.
 - (b) The agency of a Contracting State to which the information is transmitted may use that information, and may disclose it to other agencies in that Contracting State, for the purposes of implementing this Agreement or the legislation of that Contracting State. The information may be put to other uses and may be disclosed to other bodies only to the extent specifically permitted under the legislation of that Contracting State. The competent authorities of the Contracting States shall inform each other about all amendments to their legislation regarding the protection of personal information and, in particular, additional purposes for which such information may be used or disclosed to other bodies. The Contracting State whose legislation has been amended shall, at the request of the other Contracting State, enter into negotiations to amend or supplement this Agreement, as may be required.
 - (c) In individual cases, the agency to which the information is transmitted shall, at the request of the agency which has transmitted that information, inform the latter of the use to which that information has been put and the outcome thereof.

- (d) The individual concerned shall, on request to the agency of either Contracting State, have the right to be informed of the information which has been transmitted, and the purpose for which that information has been requested or transmitted, as the case may be.
 - (e) The agency which transmits the information shall take all necessary steps to ensure that the information is accurate and is strictly limited to that absolutely necessary for the purpose of the transmission.
 - (i) If it becomes evident that incorrect information was transmitted, the agency which has received the information must be immediately notified of this fact, and it shall immediately correct the incorrect information.
 - (ii) If it becomes evident that the transmission of the information is prohibited under the legislation of the transmitting Contracting State, the agency which has received the information must be immediately notified of this fact, and that agency shall delete that information unless the information is required
 - to combat abuse
 - or
 - to prosecute criminal offencesin the context of the legislation which that agency administers or any other laws or provisions concerning social benefits.
 - (f) The agency of a Contracting State to which the information is transmitted shall delete that information in accordance with the legislation of that Contracting State.
3. Paragraphs (1) and (2) shall apply to industrial and business secrets accordingly.

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, 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; and

- (b) the Convention on Social Security between the Federal Republic of Germany and Canada, signed on March 30, 1971.

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.

**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 Steel-workers' Supplementary Insurance and to the Farmers' Old Age Security 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.

4A. With reference to Articles 6 to 10 of the Agreement:

Where, under the provisions of the Agreement regarding mandatory coverage, a person is subject to German legislation, German provisions relating to mandatory coverage for unemployment insurance shall also apply in the same manner to that person and his or her employer.

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 and with reference to point 7(a) and (c) of this Final Protocol:

(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.

8A. With reference to Article 11 of the Agreement:

- (a) A person shall be considered to be subject to the *Canada Pension Plan* or to the comprehensive pension plan of a province of Canada during a period of presence or residence in the territory of the Federal Republic of Germany only if that person makes contributions pursuant to the plan concerned during that period by reason of employment or self-employment.
- (b) A person shall be considered to be subject to the legislation of the Federal Republic of Germany during a period of presence or residence in the territory of Canada only if that person makes mandatory contributions pursuant to that legislation during that period by reason of employment or self-employment.

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) Mandatory contributions to the *Canada Pension Plan* in respect of employment or self-employment shall be equivalent to mandatory contributions in respect of employment or self-employment required under German legislation for a claim to an old age pension before the age of 65 or to a pension on account of reduced earning capacity.

10. With reference to Article 13 of the Agreement:

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.

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.

12A. (a) Persons specified in subparagraphs (a) to (c) of Article 3 of the Agreement who, prior to the date on which the National Socialist sphere of influence extended to what was then their homeland,

- belonged to the German language and cultural group,
- had already attained age 16, and
- had not acknowledged themselves to be ethnically German because they were Jewish,

and who left the areas of expulsion within the meaning of Article 1, paragraph 2, number 3, of the German *Federal Law on Displaced Persons*, may, upon application, pay retroactive voluntary contributions to the German pensions insurance system, provided that periods of contributions or periods of employment under the *Foreign Pensions Law* become creditable for these persons for the first time as a result of Article 17A of the *Foreign Pensions Law*. The retroactive voluntary contributions may only be paid for periods after attainment of age 16 and before attainment of age 65 and starting with the time the National Socialist sphere of influence was extended to what was then their homeland. Contributions shall only be permitted for periods that have not already been credited as periods of contributions according to German laws. An event giving rise to eligibility for benefits which occurs prior to the expiration of the time limit for the payment of retroactive contributions shall not preclude the payment of these retroactive contributions.

(b) Retroactive voluntary contributions according to subparagraph (a) may not exceed the amount necessary to permit payment of benefits based on periods creditable under Article 17A of the *Foreign Pensions Law* in accordance with the statutory pension provisions on payment of benefits to eligible persons abroad that were applicable in the territory of the Federal Republic of Germany - without the Acceding Territory (Beitrittsgebiet) - on 1 July 1990.

(c) Notwithstanding the second sentence of subparagraph (a), persons who attained age 65 on or before 31 October 1991, and who, on 1 July 1990, do not meet the requirements for payment of benefits abroad through retroactive voluntary contributions pursuant to this Agreement, may pay

voluntary contributions for the period from 1 July 1990, to 30 November 1991, but in an amount no greater than that which is necessary for the payment of the benefit abroad; for this purpose, the date of eligibility may be deferred to a point in time after attainment of age 65.

- (d) Contributions shall be paid in an amount of 43.19 Euro (84.48 Deutsche Mark) for each calendar month; for this purpose, the amount of retroactive voluntary contributions to be paid may be set off against the amount of any resulting benefits that are payable retroactively. For the computation of the insured person's relevant German pension computation base, the values for the year 1994 shall be applied to the retroactively paid contributions.
- (e) For purposes of computing the benefit amount, the statutory pension provisions applicable within the territory of the Federal Republic of Germany - without the Acceding Territory – on 1 July 1990, including the provisions on benefit payments to eligible persons abroad, shall be applied, together with this Agreement. The provisions on revaluation of pensions based on Personal Remuneration Points (Article 307 of Volume VI of the *Social Law Code*) shall be applied accordingly. The monthly amount of the benefit that is to be paid abroad shall be derived from the Pension Category Factor, as well as
 - (i) the Personal Remuneration Points for contribution periods under Article 17A of the *Foreign Pensions Law* that are to be considered in accordance with the first sentence of this subparagraph (e); provided, however, that these shall be multiplied by the Present Pension Value (East) - but not more than 0.7 times the Present Pension Value - and a Pension Value of 8.16 Euro (15.96 Deutsche Mark) shall apply for the period from 1 July 1990, to 31 December 1990, a Pension Value of 9.39 Euro (18.36 Deutsche Mark) shall apply for the period from 1 January 1991, to 30 June 1991, and a Pension Value of 10.79 Euro (21.11 Deutsche Mark) shall apply for the period from 1 July 1991, to 31 December 1991;
 - (ii) the Personal Remuneration Points for contribution periods to be considered according to subparagraphs (b) and (c) multiplied by the Present Pension Value that is applicable in the year for which the pension is to be paid, with the amount of 23.52 Euro (46.00 Deutsche Mark) being used for periods prior to 1 July 1995; and
 - (iii) the remaining Personal Remuneration Points multiplied by the Present Pension Value that is applicable in the year for which the

pension is to be paid, with the amount of 20.24 Euro (39.58 Deutsche Mark) being used for periods prior to 1 July 1991.

- (f) Subparagraphs (a) through (e) shall only apply with respect to eligible persons who established ordinary residence in Canada before 1 July 1990.
- (g) For purposes of payment of survivors benefits, subparagraphs (a) through (f) shall apply accordingly to survivors of persons described in subparagraph (a), even if the insured person dies prior to the expiration of the time limit for retroactive voluntary contributions. This shall also apply in the case of benefits for former spouses with pension rights and in the case of reinstated survivors pensions.
- (h) An application to pay retroactive voluntary contributions according to this point must be filed within 24 calendar months following the entry into force of this point. The application must be filed with the social insurance institution to which the last German contribution was paid or deemed to have been paid, and which is competent for adjudicating the benefit claim. If the last German contribution was paid to an institution of the miners pensions insurance system, retroactive voluntary contributions may only be paid to the wage earners or salaried employees insurance system. The contributions shall be paid to the social insurance institution that is competent to accept and process the application.
- (i) Applications under subparagraph (h) shall be considered timely filed applications for benefits. Benefits resulting from this point shall be paid beginning 1 July 1990, if the event giving rise to eligibility occurs prior to this date and the benefit eligibility requirements applicable on 1 July 1990, are met. If the event giving rise to eligibility occurs after 30 June 1990, benefits resulting from this point shall be paid beginning with the calendar month following the month in which the event giving rise to eligibility occurs and the benefit eligibility requirements applicable on 1 July 1990, are met; a survivors benefit shall be paid from the date of death if a benefit was not payable to the insured person for the month of death.
- (j) Subparagraphs (h) and (i) shall also apply with respect to persons whose pensions were awarded prior to the entry into force of this point. In this case, the amount of Personal Remuneration Points shall at least equal the amount previously considered.

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.

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

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

FOR THE GOVERNMENT OF CANADA

Jake Epp

**FOR THE GOVERNMENT OF THE
FEDERAL REPUBLIC OF GERMANY**

Norbert Blüm

IN WITNESS WHEREOF the undersigned, being duly authorized, have signed this Supplementary Agreement.

DONE at Toronto on the 27th day of August 2002, in two copies, in the English, French and German languages, each text being equally authentic.

FOR CANADA

Jane Stewart

FOR THE FEDERAL REPUBLIC OF GERMANY

Christian Pauls