International Problems of Social Security: II[1]

by

Pierre LAROQUE

THE MAINTENANCE OF MIGRANTS' RIGHTS

The problem of determining a migrant's position under the social security laws of the emigration country and immigration country is a familiar one that has already been solved to a large extent. It is clear that this problem is closely related to the problem of determining the limits of each national legislation—the solutions to the second problem must make it possible to decide when a migrant leaves the field of operation of one law and enters that of the other. The migrant, however, may already be entitled to certain forms of benefit in the country which he is leaving. Is he to lose such acquired rights and, if not, on what conditions and to what extent will they continue ? Moreover, even if he has no acquired rights, he may have partly completed the period of residence, employment or contribution required for entitlement to benefit. Is he to lose these rights in process of acquisition or will the periods count towards any benefit to which he may be entitled under the law of the immigration country ?

Faced with these questions it seems only a matter of justice that the migrant's rights of both kinds should be secured to him. Any other solution would not only appear socially wrong, but would also lead to a paradoxical situation where the development of social security legislation would create new psychological obstacles to labour mobility and individuals would hesitate to leave their home country for fear of losing the guarantees of security which many value highly.

However, even if the principle is hardly open to dispute, it is a difficult matter to ensure that migrants' rights will automatically

[1] For the first part of this article, see *International Labour Review*, Vol. LXVI, No. 1, July 1952, p. 1.

be maintained. The national laws often differ greatly, so that their adjustment raises serious technical problems ; and from the financial point of view there is unwillingness to accept any arrangement allowing one country to benefit from the migrant's work while another country pays for his social security benefits without receiving anything in return. The formula adopted must take account of such technical and economic factors as well as of social considerations. In spite of the difficulties, however, there has been considerable progress in recent years towards a solution of this problem.

Maintenance of Acquired Rights

When a person has acquired certain rights to social security benefit, will he keep them if he leaves the country ? While the answer depends primarily on the law of the emigration country, it also depends to some extent on the law of the immigration country. If the two laws by themselves lead to a negative result, the situation may be and often is remedied by international agreements.

Solutions Deriving from National Laws

The maintenance of acquired rights is governed by the principles underlying the social security legislation of the different countries.

Under the laws which are founded on the idea of a *personal right* to benefit and on the ordinary techniques of insurance, acquired rights should normally continue in the event of migration ; an insured person who meets the contribution requirements for sickness benefits should logically be entitled to claim benefit in any country where he falls ill or in any country to which he may move after the illness has begun. Similarly, an insured person who qualifies for an old-age pension should be entitled to receive it wherever he is living.

But even under legislation of this type other factors limiting or precluding the maintenance of rights may intervene. Firstly, entitlement only continues for as long as the person continues to be insured. A temporary stay abroad will certainly not lead to a loss of rights. But the position is usually quite different in case of actual migration, and the emigrant loses all his rights by ceasing to be insured. This is the attitude adopted in regard to sickness insurance even by countries that are very attached to the notion of a personal right to benefit, such as Belgium and the Netherlands. Secondly, certain countries, while maintaining the principle of a personal right to benefit, make an express proviso that payment

of certain benefits shall be subject to residence in the country (as in the case of old-age pensions under the German law).

On the other hand, the laws based on *territoriality* should logically award the prescribed benefits to all persons living in the country, and to no one else. In principle, they therefore deny the emigrant any rights from the moment he leaves the country, but cover the immigrant from the moment of his arrival. Here again, however, the principle is often accompanied by additional conditions as to the place where the contingency occurs (the French sickness insurance laws refuse benefit where the immigrant was first certified ill when outside French territory) or as to nationality (the Scandinavian laws restrict old-age pensions to nationals), etc.

In short, the laws founded on the personal nature of the rights favour the emigrant, who in principle retains the rights he has acquired in the country from which he comes ; while the laws founded on territoriality favour the immigrant, who is in principle entitled immediately to social security benefits under the legislation of the country in which he settles. The difficulties arise partly as a result of the intervention of other factors that always operate against the migrant, and partly out of the fact that the countries of emigration and immigration may apply laws founded on different principles.

Solutions Provided by International Agreements

Attempts have been made by international Conventions and agreements to resolve these difficulties and remove the obstacles to the maintenance of acquired rights.

Obstacles in Legislation Based on Personal Nature of Entitlement

In the first place the Conventions or agreements are intended to overcome the obstacles in legislation founded on the personal nature of benefit rights which prevent the emigrant from retaining his rights. In practice, this means the abolition of any residential requirements which such laws impose for receipt of benefits.

The case of *employment injuries* may be taken as a first example. In this field most of the national laws agree that the rules applying are those for the place where the injury occurs. The right to benefit under such laws is therefore acquired at the moment when the injury takes place. The problem is how to ensure that an injured worker shall retain his right if he leaves one country for another. An attempt to find a general solution was made in the Equality of Treatment (Accident Compensation) Convention, 1925, of the International Labour Organisation, under which ratifying States undertake to treat aliens in the same way as nationals without

any condition as to residence. The effect of this provision is to require each country to provide benefits for aliens residing outside the country liable for benefit unless the legislation of that country makes benefit subject to residence in the country for its own nationals. The national laws are free to prescribe or maintain residence conditions if these apply equally to nationals and to aliens.

Recent bilateral agreements go further and abolish all residence conditions both for nationals and aliens, thus providing an effective guarantee for the total maintenance of acquired rights. This occurs in the agreements modelled on the general social security Convention of 17 January 1948 between Belgium and France, which all contain a clause to the effect that no provisions in the legislation of one party relating to industrial accidents and occupational diseases which restrict the rights of aliens or disqualify them on account of their place of residence shall be enforceable against nationals of the other contracting party.

In regard to *old-age pensions*, the Maintenance of Migrants' Pension Rights Convention, 1935, of the I.L.O. represents an attempt to set up an international system for the maintenance of pension rights. In actual fact, the very provisions of the Convention make the system applicable only to pensions which constitute a personal right : " Persons who have been affiliated to an insurance institution of a Member and their dependants shall be entitled to the entirety of the benefits the right to which has been acquired in virtue of their insurance *(a)* if they are resident in the territory of a Member, irrespective of their nationality ; *(b)* if they are nationals of a Member, irrespective of their place of residence " (article 10). This Convention has been ratified by very few countries, but the principle laid down has been adopted in all the recent bilateral social security agreements. Thus, the agreements modelled on the Convention of 17 January 1948 between Belgium and France contain a clause providing that, if the legislation of one of the contracting countries subordinates the award of certain benefits to conditions of residence, these shall not be enforceable against Belgian or French nationals so long as they reside in one of the contracting countries.

The effect of these various Conventions and agreements is therefore that the emigration country continues to bear the cost of benefits for which it was formerly liable in respect of the migrant and arranges for payment to be made in the immigration country.

Obstacles in Legislation Based on Territoriality

In the second place, the Conventions or agreements are intended to overcome the obstacles in legislation founded on the territorial nature of benefit rights which prevent the immigrant from enjoy-

ing these rights. These obstacles, it will be recalled, are mainly the result of conditions regarding the place of occurrence of the contingency or the nationality of the beneficiary.

Even today, very few agreements have eliminated the condition regarding the occurrence of the contingency on national territory which laws based on territoriality impose for entitlement to benefit. The clearest example is in the Social Security Agreement of 15 April 1949 between the Australian and New Zealand Governments, which is entirely based on the equivalence of residence in Australia and in New Zealand as regards entitlement to benefit. One might be tempted to see an application of the same principle in the Convention of 23 December 1947 between Denmark and Sweden regarding the transfer of Danish sick fund members to Swedish sick funds and vice versa, since it provides (at least implicitly) that in case of migration from one country to another the new fund will even assume responsibility for illnesses contracted when the insured person belonged to a fund in the emigration country. But in actual fact the sickness insurance laws of Denmark and Sweden are based on the principle of personal rights and not on territoriality.

If few international agreements have provisions of this sort, the reason is, first, that there are laws based on territoriality which do not make the award of benefit dependent on the occurrence of the contingency in the particular country, and for them an agreement would be superfluous ; this is true, for example, of the British law on the National Health Service, which covers all persons living in Great Britain, even as regards disease contracted or certified elsewhere. Moreover, many governments are unwilling to waive such a condition by agreement when their legislation imposes one ; it is understandable, for example, that entitlement to unemployment benefit should always be subject to the condition that the event leading to unemployment arises in the country itself.

On the other hand, various agreements set aside the requirement as to nationality imposed by the laws based on territoriality. We have already mentioned the general tendency in social security agreements to eliminate all discrimination founded on nationality. As regards the countries with laws based on territoriality which involve such discrimination, there is the Convention of 27 August 1949 on old-age pensions between Denmark, Finland, Iceland, Norway and Sweden, which makes benefit under the old-age pensions law of each of the five countries available to the nationals of the four others after five years' residence. Similarly, the general social security Convention of 30 June 1951 between Denmark and France gives French nationals with five years' residence in Denmark the right to benefit under the Danish old-age pension legislation.

These examples show that, between countries with legislation based on the same principles, it is comparatively easy to solve the problem of maintaining acquired rights by international agreement. It is merely a question of giving free play to the principles underlying the laws, and of fully applying either the rules of personal legislation or the rules of territorial legislation in relations between the two countries concerned.

Relations Between Countries With Legislation Based on Different Principles

It is much less easy to deal with the problem between countries with legislation based on different principles, one on the personal nature of entitlement and the other on territoriality. If a migrant goes from a country where the personal principle applies to one where the law is based on territoriality he may be entitled to claim double benefit, for he should logically retain the personal right acquired in the emigration country and immediately acquire a further right by establishing residence in the immigration country. Conversely, when a migrant goes from a country with territorial legislation to a country where the law is based on the personal nature of entitlement, there is every likelihood that he will have no rights at all. By losing his residence in the emigration country, he loses the rights which he could claim in that country, and will only acquire a personal right in the immigration country after completing the period of contributions or employment imposed by the law of the second country. This is far from being a hypothetical case ; it occurs frequently, and international agreements endeavour to palliate the very unfortunate consequences.

Though it would seem natural, at first sight, to take steps for the *prevention of duplication of benefits*, few existing international agreements have clauses for this purpose. This is because the persons responsible for negotiating agreements are always reluctant to reduce or abolish rights which result simply from the operation of their own legislation, as this would place nationals of the contracting countries in a less favourable position than those of countries with which there is no agreement. What is more, some agreements expressly allow the individual to choose whether the rules of the agreement shall be applied to him or not, in which case the national legislation will apply as before. This consideration, however, cannot be allowed to lead to the continuance of absurd and shocking situations, such as entitlement to family allowances under two laws for the same children or to double pensions for the same disability. It is for this reason that article 9, section 4, of the general social security Convention of 7 January

1950 between France and the Netherlands lays down that any invalidity pension paid under French legislation shall be deducted from any benefit provided by the Netherlands invalidity insurance scheme for the same disability under Netherlands legislation. Similarly, a draft model Convention drawn up by the experts of the five Brussels Treaty States has a clause stipulating that no national of the Parties shall be able to receive benefits of the same type in respect of the same contingency under the legislation of two Parties ; this rule does not, however, apply as regards old-age and survivors' pensions and death grants.

The prevention of duplication is, however, a matter of only secondary importance in comparison with the *maintenance of acquired rights* and the obvious need to prevent total loss of rights by a migrant who leaves a country with territorial legislation and goes to a country with legislation based on the personal nature of entitlement. The difficulty is that the emigration country can hardly agree to go on providing benefit (which is dependent on residence in the country) to an emigrant who has gone to live abroad ; nor is it any easier for the immigration country to consider providing benefits under its legislation for an immigrant who fulfils none of the prescribed conditions and has no period of insurance in the country to his credit.

A most striking example is the situation in regard to old-age pensions which arises between any of the Scandinavian countries —which pay pensions to all persons living in their territory, subject only to a nationality requirement—and a country where the law only awards a pension after a (usually considerable) number of years of insurance. In the absence of any international agreement, an aged person who leaves a Scandinavian country for a country in the second group after becoming entitled to a pension loses all his rights.

A solution to this difficult problem has been provided by the general social security Convention of 30 June 1951 between Denmark and France, which should serve as a basis for other bilateral agreements on the same subject. If an aged person leaves Denmark for France he loses his right to a Danish pension but becomes entitled under French legislation to a pension which is calculated by counting periods of residence in Denmark since the age of 18 as periods of insurance in France ; and the amount of the pension is refunded by the Danish Government.[1] Conversely, if an aged person leaves France for Denmark he becomes entitled to the pension under Danish legislation either immediately (where he is

[1] The French pension is, however, only payable to a Danish national if he has completed five years' uninterrupted residence in France or has five years' insurance in France to his credit.

a Danish national) or after five years' uninterrupted residence (where he is a French national). But he does not forfeit any rights that he had already acquired to a pension under French legislation ; this is paid to the Danish Government which passes on to the pensioner any amount by which it exceeds the Danish pension (or the whole amount until the person has completed the period of five years' residence). This rule prevents duplication of benefit.

The above arrangement may seem complicated, and others are no doubt possible. The matter is still undecided, but the Convention between Denmark and France at least has the merit of providing a solution for a particularly difficult and hitherto unresolved problem.

Rights in Process of Acquisition

We have seen that the problem of maintaining acquired rights is largely identical with the problem of determining the scope of the different national laws. The problem of maintaining rights in process of acquisition brings the same principles into play, but involves certain new factors. It arises from a situation where the relevant national law makes benefit subject to a prescribed period of employment, residence or contributions, and the migrant does not fulfil the conditions under the law of either country when the contingency (sickness, retirement age) which normally confers entitlement to benefit occurs. In such a case, he is unable to profit either from the maintenance of an acquired right in the country which he has just left or from a newly created right in the country in which he settles. The problem is therefore one of giving legal and practical validity in the immigration country to any qualifying periods completed towards entitlement in the emigration country.[1]

It follows that this problem does not arise when, under the law of the immigration country, the right to benefit is acquired by the mere fact of residence, as in Great Britain for entitlement to use the National Health Service and in the Scandinavian countries for entitlement to an old-age pension (subject to the condition regarding nationality). It is limited to cases where the legislation of the immigration country makes the right to benefit subject to a prescribed period of employment, residence or contributions.

In such cases the natural solution to the problem is to aggregate the qualifying periods in both countries for purposes of benefit.

[1] It is also possible to imagine a case where qualifying periods in the immigration country are counted towards entitlement under the law of the emigration country when the contingency occurs shortly after migration. Recent agreements have made provision for this, especially as regards invalidity (see article 13 of the Convention of 17 January 1948 between Belgium and France, and the other Conventions modelled upon it).

Though this solution is based on a simple principle it often raises serious difficulties in practice.

There may, for example, be considerable differences of technique in the laws of the two countries. Qualifying periods may be calculated according to completely contrary rules. In one case entitlement may depend on a prescribed length of insurance or on a prescribed period or amount of contributions, other periods (of sickness, unemployment or military service) being treated as equivalent to varying extents. In another case entitlement may depend on the periods of work or employment. Elsewhere, residence may be the only factor taken into account. These periods may be reckoned by weeks, months, quarters or years, and elements that are not strictly comparable may have to be added together. It will be necessary to accept rough compromises (for example, by counting periods of residence in one country as periods of insurance in another) and to make complicated rules to prevent the same period from being counted twice or another not being counted at all.

Moreover, where periods in one country are counted under the law of another, the latter country incurs a liability without any corresponding contribution to its economic life. Such a situation raises no great difficulties if the movement of population between two countries more or less evens out. But this rarely happens, and the countries usually fall into two distinct groups—emigration countries and immigration countries. The latter have a natural reluctance to accept a liability that would normally be shouldered partly by the former. Some arrangement for sharing the cost of benefits awarded as a result of aggregating periods in the emigration country and immigration country is therefore required, and national interests come into conflict with the individual interests of the migrant.

In view of these considerations, the existing international agreements deal with the question of maintaining rights in process of acquisition in ways that vary in detail for the different branches of social security, though they are all based on the aggregation of qualifying periods.

Short-term Benefits

A first category consists of the branches dealing with contingencies of a temporary character for which coverage is generally dependent on relatively short periods of insurance or employment: sickness, maternity, unemployment and death (as regards lump-sum benefits). In these branches the periods in both countries are aggregated for determining entitlement and the amount of

benefit, and the scheme in the immigration country assumes entire liability for the benefits provided, these being determined exclusively by its own legislation.

Rules of this kind for sickness and maternity are to be found in the general social security Convention of 17 January 1948 between Belgium and France and in the Conventions modelled upon it. The same formula underlies the Convention of 23 December 1947 between Denmark and Sweden regarding the transfer of members of Danish sick funds to Swedish sick funds and vice versa, and the Convention of 18 December 1948 between Norway and Sweden in regard to reciprocal crediting of unemployment insurance contributions.

Many of the agreements, however, considerably restrict the scope of such provisions by stipulating that the contingency must have occurred in the immigration country.

A special formula in this matter occurs as regards maternity in article 6 of the Convention of 17 January 1948 between Belgium and France, and most of the Conventions modelled upon it. The right to maternity insurance benefits is calculated by aggregating the periods spent in the emigration country and in the immigration country, and it accrues as soon as (with this procedure of aggregation) the person concerned fulfils the conditions in either country. The benefits provided are always those of the immigration country, but the cost is borne by the scheme to which the person belonged at the estimated date of conception and this scheme refunds the actual expenses incurred by the scheme in the immigration country.

Old-age and Survivors' Pensions

It is in the field of old-age and survivors' pensions that the problem of maintaining rights in process of acquisition has most practical relevance. In contrast to the benefits just mentioned, these pensions represent a heavy and continuing charge on the insurance scheme concerned. Moreover, they are often regarded as a counterpart to the contributions paid by the worker during his working life or to the contribution made by him during his lifetime to the economy of the country he has worked in. It may therefore appear unfair to ask the country in which he happens to retire to bear the whole cost of the pension. Nevertheless, this is the solution adopted in the Social Security Agreement of 15 April 1949 between Australia and New Zealand and the Convention of 27 August 1949 on the payment of old-age pensions between Denmark, Finland, Iceland, Norway and Sweden ; in both cases the territorial nature of the pension right, dependent only on residence, is accepted without reservation, and this com-

pletely eliminates the problem of maintaining rights in process of acquisition.

But in most cases the legislation on old-age and survivors' pensions is based on the personal nature of the pension right, and hence excludes assumption of liability for payment by the country of residence and also the assumption of exclusive liability by the country where the person was last gainfully occupied. In the case of legislation of this kind, the principles for solving the problem are laid down in the Maintenance of Migrants' Pension Rights Convention, 1935, of the I.L.O. This provides as follows : *(a)* all insurance periods in the different countries bound by the Convention are to be aggregated for entitlement to a pension ; *(b)* each insurance institution from which the claimant is entitled to benefit must calculate the amount of the pension according to the law covering the institution, all periods of insurance being counted both when determining entitlement and when assessing the amount of benefit ; *(c)* each institution then pays a proportion of the assessed pension corresponding to the ratio between the insurance periods completed under its legislation and the total of the periods taken into account.

The result of this formula is to give the migrant two or more proportional pensions calculated on the basis of the periods in the different countries and the legislation of each country. Apart from the difficulty of comparing periods calculated according to different rules, it is relatively simple.[1] It is also fair both to the

[1] A solution for the main difficulties in determining the periods to be aggregated was proposed by the experts of the Brussels Treaty Powers in an interpretation report dated 21 February 1951. The following are the main rules given in the report :

Insurance periods and periods recognised as equivalent under the legislation of one of the countries are added to the periods completed or recognised as equivalent under the legislation of the other country in so far as this procedure is needed to complete (without overlapping) the insurance periods or periods recognised as equivalent in the first country.

The periods to be regarded as equivalent to insurance periods in each country are those regarded as such by that country's legislation.

Every period recognised as equivalent to an insurance period under the legislation of each of the two contracting countries is counted when benefit is assessed by the agencies in the country where the person was last employed before the period in question.

Where the person was not employed before the said period, it is counted by the agencies in the country in which he was employed for the first time.

Where an insurance period under the legislation of one country coincides with a period recognised as equivalent to an insurance period under the legislation of the other country, only the former is counted.

The above rules, however, only refer to periods which are situated between precise dates. Nor do they indicate what effect periods excluded by the rules on overlapping are to have on the calculation of pension by aggregation. Similarly, they make no reference to periods that are not entirely equivalent. It therefore seems advisable to interpret these rules as follows:

Where certain insurance periods in a country cannot be situated between precise dates, it will be assumed that they do not overlap insurance periods in the other country and, for the purpose of aggregating the periods, they will be counted in so far as they can usefully be taken into account.

Periods excluded under the rules on overlapping can in no circumstances be taken into account, either as regards entitlement to a pension or for assessing the pension under the provisions of bilateral agreements. It is the duty of each of the contracting countries, after calculating the fraction of the pension for which it is liable under the bilateral agreement, to add to this fraction a sum corresponding to the periods recognised under its own legislation but disregarded when aggregating the periods.

As regards periods which are not entirely equivalent to insurance periods, these should only be taken into account when aggregating if, under the legislation of the country in which they occurred, they are regarded as insurance periods or equivalent periods for entitlement to a pension and for the assessment of the pension.

migrant, who receives a pension on the basis of all his periods of employment, and to the countries liable for benefit, whose respective liability is proportionate to the migrant's contribution to their economy.

Although this I.L.O. Convention has been ratified by a small number of countries only, its principles have been widely applied in practice. They are embodied in the general social security Convention of 17 January 1948 between Belgium and France, all the Conventions modelled upon it, and the multilateral Convention of 7 November 1949 to extend and co-ordinate the application of the social security laws to the nationals of the Parties to the Brussels Treaty. The only recent agreements (apart from those already referred to between Australia and New Zealand and between the Scandinavian countries) which have not adopted the formula laid down in the I.L.O. Convention seem to be those which Switzerland has concluded with France and with Italy.[1] These make no provision for aggregating periods and merely lay down detailed rules for the rights of nationals of the signatory countries to benefits provided by the insurance scheme of the other country. They are thus less complete than the other existing agreements and the safeguards for migrants are more restricted. It appears that the Swiss Government is reluctant, in view of the character of its recent old-age insurance legislation, to accept the idea of aggregating periods for benefit under this legislation.

In any case, the I.L.O. Convention and the other Conventions which apply its principles appear to contemplate only relations between countries with legislation based upon the personal character of the pension right (the I.L.O. Convention speaks only of aggregating " insurance periods "). They entirely ignore the question of maintaining rights in process of acquisition when a migrant leaves a country with territorial legislation for one where the legislation makes the pension right a personal one. An attempt was made to deal with this question in the general social security Convention of 30 June 1951 between Denmark and France which has already been mentioned. This adapts the principles of the I.L.O. Convention to the legislation of the respective countries—the Danish, which has a territorial basis, and the French, which is based on the personal nature of pension rights. The solutions reached are as follows :

(1) Insurance periods in France and residence periods in Denmark after the eighteenth birthday are aggregated (on condition

[1] The Convention of 4 April 1949 on social insurance between Italy and Switzerland, and the Convention of 9 July 1949 on old-age and survivors' insurance between France and Switzerland.

that the residence periods in Denmark amount to at least five years), but this process is only effective as regards the application of the French legislation. The French social security institutions bear the cost of a proportional pension calculated according to French law and corresponding to the ratio between the insurance periods in France and the total of the aggregated periods. This is once more an application of the I.L.O. Convention, but it is unilateral and operates only as regards the French legislation, which is based on the personal nature of the right to a pension.

(2) In other respects, the solutions provided are the same as for the maintenance of acquired rights. If the pensioner lives in Denmark, he receives the full Danish pension (on condition that he has resided for five years in Denmark if he is a French national) plus any amount by which the French proportional pension exceeds the Danish pension (the remainder of the proportional pension being retained by the Danish Government). If the pensioner lives in France, he receives the full French pension for all the aggregated periods, but the Danish Government refunds to the French social security scheme that part of the pension which relates to the period of residence in Denmark counted in the assessment.

In this field, as in relation to the maintenance of acquired rights, the solutions sanctioned by the Convention between Denmark and France are capable of being extensively developed.

Invalidity

The coverage of invalidity raises a special problem as regards the maintenance of rights in process of acquisition, for the national laws rest on completely opposite conceptions. In some, invalidity is regarded as a permanent state and all the rules relating to old age are applied ; the invalidity pension is a premature old-age pension, usually dependent on a fairly long period of contributions and proportional to the contribution periods completed. In others, invalidity is regarded as a prolongation of illness ; if a certain minimum period of registration or contributions is required, it is comparatively short—usually one year—and the amount of benefit is independent of the period of contributions.

In relations between countries where both sides have laws based on the first concept, it is natural to apply the above-mentioned rules for old-age pensions—aggregation of insurance periods, with pensions proportional to the periods in each of the countries. This is the solution sanctioned by the Maintenance of Migrants' Pension Rights Convention, 1935, of the I.L.O., by the general

social security Convention between Austria and the Federal Republic of Germany, and by the Convention, which is not yet in force, between the Federal Republic of Germany and the Netherlands.

In relations between countries where both sides have laws based on the second concept, the solution adopted is the same as for sickness—the periods in both countries are aggregated but only one country pays the cost of benefits. This formula is found in the general social security Convention of 17 January 1948 between Belgium and France and in the Conventions modelled on it ; if the migrant has been insured for at least a year in the new country of residence, the scheme in that country is responsible for providing all the prescribed benefits ; otherwise, the scheme in the emigration country continues to be responsible for benefit. As the latter rule, however, is based on the presumption that any invalid state certified before the migrant has resided one year in the new country must be due to a disease contracted in the emigration country, it does not apply when invalidity is the result of an accident ; in this case, the scheme in the immigration country is always responsible for benefit.

The problem of which formula to use where one country applies the first concept (invalidity as premature old age) and the other applies the second concept (invalidity as prolonged illness) has arisen. Experience has shown that in such cases the agreement must in practice be based on the principles deriving from the second concept. A country which in the absence of any agreement awards a full invalidity pension after one year's insurance can hardly give an immigrant a reduced pension merely because he was previously employed in another signatory country—for that would be the effect of the rules of the I.L.O. Convention for aggregating periods and calculating proportional pensions. Consequently, the existing international agreements have provided in the present case that one or other of the two countries shall pay the whole of the invalidity benefit assessed according to its legislation after aggregation of the periods in the two countries.[1]

We have seen that there are now known and well established solutions to the problems of maintaining acquired rights and rights in process of acquisition. Indeed the most important results for social security in the international field have been achieved in this particular direction. It is true that these solutions are not yet generally applied, but this is because the machinery for carrying them out must be built up gradually.

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[1] Cf. the general social security Convention of 7 January 1950 between France and the Netherlands, the general social security Convention of 10 July 1950 between France and the Federal Republic of Germany, etc.

Machinery for the Maintenance of Rights

In all cases where the mere operation of national laws does not automatically lead to maintenance of rights, this can only be effected by international agreements. Many different types of agreement are possible and in fact exist : bilateral and multilateral agreements, and "open" Conventions such as those adopted by the I.L.O. The merits of the various types can already be judged from practical experience.

Bilateral Agreements

Up to now, the bilateral agreement has been the usual type. Based on a comparison of the laws of the two contracting countries, it attempts to find solutions which are appropriate to the technique of each. Even when the underlying principles are similar there are always differences in the laws and, therefore, though the bilateral agreements may resemble each other closely, they must provide special rules. The agreements are in any case limited, in subject matter, to relations between the social security schemes of the two contracting countries and, in the range of persons covered, to nationals of the two countries.

Multilateral Agreements

Bilateral agreements are incapable of dealing with the case of a person who resides or is employed successively in more than two countries. A solution for such problems may therefore be sought by making multilateral agreements.

The first type is the self-contained multilateral Convention which deals directly and fully with the problems arising in relations between the social security schemes of all the signatory countries. The Convention of 27 August 1949 between Denmark, Finland, Iceland, Norway and Sweden on the payment of old-age pensions and the Convention of 7 November 1949 between the Brussels Treaty Powers on medical and social assistance may be placed in this category. But neither of these really deals with a problem of maintaining acquired rights or rights in process of acquisition, because the old-age insurance laws of the Nordic countries and the assistance laws of the Brussels Treaty Powers are based on the principle of the territoriality of benefit rights. The question therefore was not one of ensuring the maintenance of rights acquired by the migrant in the emigration country but only of making benefits under the law of the immigration country available to the

immigrant from abroad. When it is really necessary to devise machinery for the maintenance of rights, the disparity of laws makes it difficult to lay down precise and practical solutions which would be valid without adaptation for more than two countries.

The Brussels Treaty Powers accordingly preferred to adopt a second type of multilateral Convention which is superimposed on bilateral agreements in order to co-ordinate their application. This was done in the Convention of 7 November 1949 to extend and co-ordinate the application of the social security laws to nationals of the Parties to the Brussels Treaty.

However, such multilateral Conventions cannot come about quickly since they suppose the prior existence of bilateral agreements between the various countries that may become parties to the Convention. The Committee of Social Security Experts of the Council of Europe have therefore recommended the member countries to make a multilateral agreement of more limited scope, merely laying down the principle of extending bilateral agreements between the countries to cover nationals of other countries. The sole object of such an agreement would be to abolish the limitation of bilateral agreements to nationals of the signatory countries, and to extend them to cover nationals of other countries who have resided or been employed in either of the two signatory countries, without thereby giving rise to any obligation for the countries of which the persons are nationals. The agreement is intended in any case to be merely subsidiary and provisional, and to be replaced in the fairly near future by bilateral agreements co-ordinated by a full multilateral Convention. However, though such an agreement would represent an advance, there are obvious technical difficulties in the way of any attempt to combine the application of two or more existing bilateral agreements without having an over-all Convention to co-ordinate them.

"Open" International Conventions

The International Labour Organisation has tried to find a general solution for the problems of maintaining acquired rights and rights in process of acquisition. Two of the existing I.L.O. Conventions—the Equality of Treatment (Accident Compensation) Convention, 1925, and the Maintenance of Migrants' Pension Rights Convention, 1935—state this object explicitly. The former has been ratified by many countries but the latter by extremely few, and this contrast enables one to judge the value of such Conventions as a practical means of maintaining rights.

Nearly all the employment injury laws are based on similar principles for deciding which country's law is applicable; the

recognised procedure is to apply the rules governing the worker at the date of the injury without any conditions as to the period of residence, employment or contributions. Hence, in this branch, there are no rights in process of acquisition, and the problem of maintaining acquired rights is merely one of paying benefit outside the frontiers of the country liable for benefit. No serious difficulty therefore arises (at least none that affects the principles) and the similarity of the national laws makes it possible to achieve the desired result by simple formulae on which general agreement can easily be reached.

The position is very different as regards the second I.L.O. Convention, which is mainly concerned with old-age and survivors' pensions. From the technical aspect, the rules laid down in the Convention cannot be put into effect without modifying the actual content of the national laws concerned. In the field of principles, the Convention is limited by its express provisions to relations between countries with legislation based on the personal nature of entitlement ; the countries with legislation that rejects this principle in favour of territoriality are therefore unable to ratify it. Moreover, most countries are reluctant to contract obligations by ratification which are, in fact, indeterminate ; even if it approves the principles laid down in the Convention, a country will find it difficult or impossible to undertake in advance to apply these principles in relations with countries whose pension legislation is unknown or involves a quite different system of old-age and survivors' pensions. Experience has left little doubt that the maintenance of rights to such pensions (whether already acquired or in process of acquisition) requires direct contact between the competent national institutions and detailed knowledge of each other's regulations and organisation ; and that the circumstances demand bilateral or, if need be, multilateral agreements laying down precise and reciprocal obligations.

Apart from special cases, therefore, the system of "open" international Conventions cannot be relied on as a means of maintaining rights to social security benefits. The value of such Conventions, which is by no means negligible, lies less in the field of practical arrangements than in the laying down of principles and models for bilateral or multilateral agreements.

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Despite the complexity of the problems, excellent results have been achieved in this field as an outcome of the efforts made in recent years. It would be wrong, of course, to underestimate

the clashes of principles, the contrast between different concepts of social security (or even between different economic and social policies) and the conflicting economic and financial interests that lie behind the purely administrative or accounting problems ; similar difficulties are encountered in every aspect of international relations. But it seems safe to say that nowhere up to the present has international co-operation advanced so far in so short a time, while still leaving room for new developments.

ADMINISTRATIVE PROBLEMS ARISING OUT OF INTERNATIONAL SOCIAL SECURITY AGREEMENTS

The application of international social security agreements involves the creation of a whole system of new relations between the social security services and institutions of the signatory countries. These services and institutions, designed in relation to the national legislation and hitherto functioning in a closed space, are brought into close collaboration and relations between them give rise to a complex of new administrative and technical problems.

These relations cannot be regulated through ordinary diplomatic channels ; an understanding must be reached directly between the actual administrators and technicians. Hence the importance of the administrative agreements that have been made to supplement the main social security agreements. In addition to specifying and setting in motion the delicate machinery required, these must provide a basis for relations of mutual confidence between the services and institutions of the countries concerned. The services and institutions of each signatory country must have absolute confidence in the certificates or information provided by the others if the main agreement is to operate effectively.

The provisions laid down in the administrative agreements and the machinery created naturally depend on the content of the main agreement, and the great variety of formulae adopted involves a corresponding variety of solutions for the technical problems. But it is extremely difficult for any country having relations in social security matters with many others to use widely different rules and many different types of machinery without so complicating the work of the services and institutions that the whole purpose of the agreement is defeated. Uniformity in the social security agreements themselves is therefore encouraged by the need for simplicity of administration.

National Centralisation of Administration

The practical application of social security agreements often gives rise to a considerable exchange of information and documents, voluminous correspondence and a mass of financial operations; and experience has shown how necessary it is to centralise these multifarious tasks.

It is true that some of the existing administrative agreements do not provide for such over-all centralisation. This is because such centralisation is automatic in some countries, since social security is managed by a single department or institution, and also because the need for centralisation varies according to the type of transactions involved.

It is not essential for the purely material side of financial operations ; it is often simpler to send the instalments of a pension direct to the pensioner and avoid using a centralising agency in the other country, which would merely make payment take longer. Many existing administrative agreements therefore provide for direct payment of pension instalments.

As a result of currency restrictions, however, such operations often involve complicated formalities which it is preferable to hand over to a single centralising agency, both as regards the despatch of money from the country liable for benefit and its receipt in the country where the pensioner lives.

And a centralising agency is still more necessary for dealing with claims and disputes before and during the assessment and payment of benefit. The receipt, forwarding and processing of applications, as well as filing and correspondence, can always be better done by a specialised agency with a staff used to the work and in permanent contact with the corresponding staffs in the other signatory countries.

There is one particular difficulty which leads inevitably to centralisation—the differences of language. The important work of translation (and sometimes interpretation) that arises out of the correspondence can only be properly done by specialists in a central service.

The decision as to which language shall be used for correspondence presents particular difficulty. As a rule the international agreements provide that all communications addressed by persons covered by the agreement to agencies, authorities or tribunals responsible for social security matters in a signatory country may be written in one of the official languages of either country. This rule is necessary as regards individuals, but it would be impossible in practice to expect the services or institutions of a given country (or even a centralising agency) to translate docu-

ments from a large number of languages, some of them written in uncertain terms by more or less uneducated workers. It may therefore be necessary for letters from individuals to go to a centralising agency in the country of residence for transmission to the centralising agency in the other country, accompanied by a translation or summary in the language of the addressee country or in some widely known international language. The existing administrative agreements do not contain specific rules to this effect, since national susceptibilities hinder official recognition of the need for an accompanying translation. Nevertheless, this method has had to be used in practice in order to ensure proper implementation of the social security agreements.

Scope of the Problems

All the problems involved in applying social security agreements are bound up with the need to ensure ease and facility in the discharge of obligations arising out of the agreements and to provide benefits to entitled persons with a minimum of formalities and a maximum of social efficiency. The problems are many and not all of equal importance.

Where, for example, a person liable for contributions resides outside the country of the creditor agency, the collection of contributions may give rise to difficulties. The competent departments are required by the principle laid down in all agreements to assist each other in this as in other matters in the same degree as if the matter were one affecting the application of their own social security schemes. Such administrative co-operation, however, does not involve the creation of any special legal machinery. The Brussels Treaty Powers have been considering an agreement authorising the creditor country to invoke the special procedures for recovering contributions in the debtor's country of residence, and a draft is now being studied. But whatever the final decision, it is clear that the question is one of limited practical importance.

In actual fact, the problems that have arisen and have been dealt with relate almost exclusively to benefits. In the following review of these problems, we shall consider them as concretely as possible, mainly on the basis of French experience in the various matters.

Determination of Claims to Benefit

The principle governing the administrative machinery for applying the recent social security agreements is that the agencies of each signatory country may represent the agencies of the other.

We have already mentioned the rule in all the agreements whereby the authorities and social security agencies of the contracting countries furnish mutual assistance in the same degree as if the matter in question were one affecting the application of their own social security schemes. This principle gives rise to a series of consequences as regards the commencement of entitlement and the assessment of benefit under the legislation of one country when the beneficiary is resident in another.

A person resident in one of the signatory countries who is entitled to benefit under the social security scheme of the other country can validly lodge his claim with the institutions in his country of residence. This rule applies not only to ordinary claims or applications but also to appeals. Explicit provision to this effect is made in recent Conventions : " Appeals that are required to be lodged within a prescribed period with an authority competent to receive appeals relating to social security in one of the contracting countries shall be deemed admissible if they are lodged within the same period with a corresponding authority in the other country. In such cases, the latter authority shall transmit the appeal without delay to the competent authority."

The duties of the authority or agency in the country of residence which receives an application intended for an authority or agency in the other country are not always limited to mere transmission. In many cases bilingual forms for applications are jointly prepared by the competent authorities of the two countries, and the authority or agency receiving applications is required to see that they are correctly filled in. It is often responsible also for checking the supporting documents issued by the authorities of the country since it can do so much more easily than the corresponding agency in the country providing benefit ; and the resultant collaboration between the authorities and agencies in the two countries greatly facilitates the processing of claims. Some countries have gone still further and no longer require the transmission of certain papers or documents that must normally accompany applications ; once these have been produced to the authority or agency in the country of residence and it has certified that the references given in the form are correct, its endorsement is accepted as sufficient evidence, without production of the documents themselves.

As a logical consequence of these rules, the agreements further provide that the privilege of exemption from registration or court fees, stamp charges and consular fees under the legislation of one of the contracting countries in respect of documents to be produced to its social security authorities or agencies shall be extended to the corresponding documents to be produced, for the purposes of the agreement, to the social security authorities

or agencies of the other. Similarly, all certificates, documents and papers to be produced for the purposes of the agreement are exempted from legalisation by the diplomatic and consular authorities.

Thus, under the terms of each agreement and the administrative agreements for implementing it, the services and agencies of the signatory countries are linked by a system of direct, close and continuing relations quite separate from normal international relations. The growing number of agreements is gradually creating a veritable international community in administrative and technical matters among the social security services and agencies of more and more countries.

Special Case of Benefit Rights Resulting From Aggregation of Periods

The machinery just described applies uniformly to all benefits to be provided by the social security scheme of one country when the beneficiary resides in another. But collaboration between the authorities and agencies of the two countries is inevitably still closer when periods of residence, employment or contributions in both countries must be taken into account for entitlement to benefit or the assessment of benefit.

More than in any other case the use of jointly prepared bilingual forms is required here, so as to permit rapid transmission from the services and agencies of one country to those of the other, and easy comparison of the particulars required for judging entitlement and assessing benefit. The most common—and also the most complicated—case is that of old-age pensions based on aggregation of the periods spent in the two countries and awarded in the form of two proportional pensions, each calculated under the law of one of the countries. In these circumstances the competent service or agency in each country must have full details of the applicant's career in both countries.

Under the existing administrative agreements the initial pension application is made to the competent agency in either of the two countries, which examines the application from its own point of view, assesses the part of the pension for which it is responsible, and then forwards the application, supporting documents and award form to the competent agency in the other country. The latter does the same thing under the legislation of the second country, and the result is communicated to the first agency.

Thus, apart from the fundamental problems examined above, everything depends on carefully planned machinery, forms designed to present all the necessary information clearly, a full list of the supporting documents required, and a fixed order for each operation.

There are, nevertheless, certain special problems in relation to the exercise of administrative and medical supervision in one country on behalf of the services or agencies of the other. We shall come back later to this question.

Payment of Benefit to Non-residents

When a person entitled to benefit (for example, the recipient of an old-age, invalidity, survivors' or employment injury pension) payable under the social security scheme of one country is resident in another country, it is necessary to decide how the benefit shall be paid.

It is generally accepted that any social security service or agency discharges its obligations by paying benefits in the national currency within its territory ; it is not called upon to assume exchange risks or supplementary expenses arising from the fact that the beneficiary lives outside the country to which the service or agency belongs.

There may, however, be two different methods of payment : either direct to the beneficiary, or through a social security agency in the country of residence. The first arrangement is the only one possible when there is no agreement between the two countries concerned ; the second requires such an agreement, both in order to adopt the principle and in order to prescribe the details of application. Even so, many existing agreements have not adopted the second system. Two questions may therefore be asked : (1) what considerations may lead to one solution being preferred to the other ; and (2) if it is decided to make payment through the agencies of the country of residence, by what method is this to be done ?

Direct or Indirect Payment

Direct payment of benefit to a person living in a country other than that of the agency liable for benefit is only possible in practice if it is not subject to any conditions or controls and is a purely material transaction. More precisely, the only condition for payment is that the beneficiary must give a proper receipt. In such cases payment may be—and often is—made in one of two ways : through the consular service of the country to which the agency liable for benefit belongs, or through the Post Office (since the postal authorities of most countries undertake to collect receipts for payments made through them). In both cases, this method has the advantage of simplicity ; the formalities and delays involved

in calling upon the social security agencies of the country of residence are avoided, and the agencies are spared additional work. There is, however, the disadvantage that the payment becomes a purely material transaction, without any social significance; the agency liable for benefit has no contact with the beneficiary, no acquaintance with his living conditions, no control over him, and must be content with the mere knowledge, guaranteed by the receipt for benefits received, that he exists.

But the law often imposes conditions for payment of benefit which must be checked. For some pensions it is a condition that the means of the pensioner do not exceed a certain amount or that he is not gainfully occupied, and this can only be checked in practice by the agencies or services of the country in which he is living. There must accordingly be close co-operation between these agencies and the agencies liable for payment. An example, relating to payment of old-age pensions in France by the British national insurance authorities, occurs in the administrative agreement of 14 December 1949 for applying the General Agreement on social security of 11 June 1948 between France and the United Kingdom. The French Funds are responsible for paying pensions on behalf of British insurance and must, in conformity with the British law, require the beneficiaries to prove that they have ceased regular work and to make a periodical declaration of earnings; if in any quarter these exceed the equivalent in French currency of £13, the French Fund reduces the pension instalments by an amount equal to the excess. The result of this arrangement is therefore to make the agencies in the beneficiary's country of residence responsible for applying the law under which the benefits are paid.

It should be noted that supervision of this sort by the social security agencies of the country of residence does not necessarily involve payment of benefit through their intermediary. Their function may be merely to carry out any checks asked for and to pass on the results to the agency liable for benefit so that it may take the necessary action. Under the administrative agreement of 1 October 1950 for applying the general social security Convention between Belgium and France, the French social security agencies are responsible for seeing that recipients of certain Belgian benefits who are resident in France abide by their undertaking to cease all gainful employment except casual work, and detailed rules for supervision are laid down. The French agencies merely exercise such supervision, and communicate the results to the Belgian agencies, from whom the beneficiaries receive the benefits directly.

Most often, however, the close connection between payment and supervision makes such separation of functions difficult, and

supervision will only be effective if the social security agency of the country of residence also makes payment.

What we have said regarding the checking of resources and gainful employment is also true for medical supervision wherever payment of benefit depends on illness or invalidity. This involves special problems, however, to which we shall return later.

Methods of Collaboration Between Agencies

Various methods are possible when payment of benefits is made by the agencies of the beneficiary's country of residence on behalf of the agencies liable for benefit.

Under an arrangement frequently found in existing agreements, the agency in the country of residence is merely the executive agent of the other agency and is not in principle responsible for initiating action. An example is the administrative agreement of 12 April 1950 between France and Italy regarding the payment in Italy of employment injury pensions from the French Social Security Funds. Payment is made through the National Industrial Accident Insurance Institute in Rome (I.N.A.I.L.). Fifteen days before each quarterly instalment becomes due, the French Funds send to I.N.A.I.L. through the *Caisse Nationale de Sécurité Sociale* (the French centralising agency) a list of names with the payments to be made, and deposit the corresponding amounts in the Italian Exchange Office account at the Bank of France in Paris. After converting the amounts into lire, I.N.A.I.L. makes payment in the same way as for Italian pensions, unless the beneficiary has died or (in the case of a widow or widower) has remarried. After each instalment date I.N.A.I.L. sends to the *Caisse Nationale de Sécurité Sociale* a statement of the amounts paid (and, where appropriate, a list of the amounts not paid giving the reasons for non-payment), certifying that the payments have been properly made and that the recipient was alive at the instalment date. Its responsibility is thus limited to verifying the validity of the receipts given. For the French Funds, the statement represents a collective receipt discharging them from their liability.

It is possible to extend the collaboration between the agencies of the two countries still further by making one agency the substitute for the other as regards payment of benefits. Though this arrangement is less widely applicable than the previous one, a particularly good example occurs in the administrative agreement of 14 December 1949 for applying the General Agreement on social security of 11 June 1948 between France and the United Kingdom. This agreement covers all benefits payable in Great Britain by the French agencies and in France by the British National Insurance.

The *Caisse National de Sécurité Sociale* sends lists to the British Ministry of National Insurance giving the names of the persons residing in Great Britain who are entitled to pensions under French legislation. Similarly, the British Ministry sends lists of British pensioners resident in France. Each notifies the other of any changes in the lists. On this basis, the British Ministry undertakes payment of benefits in Great Britain and the French agencies undertake payment of benefits in France. As far as possible the British Ministry makes payment on the same conditions as apply to pensions paid in France ; but the French agencies pay British pensions not weekly (as in Great Britain) but at the same intervals and on the same conditions as for French pensions except that the provisions of British legislation regarding earnings and stoppages of work are applied where appropriate.

Under this system the British Ministry and the French Funds each advance the sums required for the payments and quarterly settlement is made later. Each communicates to the other a statement of the payments made, with supporting documents. The *Caisse Nationale de Sécurité Sociale* refunds the amounts paid to recipients of French pensions and the Ministry similarly refunds the amount paid on its behalf. To avoid the effects of exchange fluctuations, the *Caisse Nationale de Sécurité Sociale* has opened an account in London and the Ministry one in Paris, in which they regularly deposit in advance an amount corresponding to the total benefits payable at each instalment date. This arrangement is necessary, but it deprives the system of part of its advantages.

Another variation sometimes occurs where an agreement provides that the agencies in the beneficiary's country of residence shall, subject to reimbursement, furnish benefits under the scheme of the country of residence instead of those under the legislation of the country liable for benefit. This is the formula adopted for maternity insurance in many bilateral agreements : the beneficiary becomes entitled to the benefits prescribed in the legislation of the country of residence immediately after becoming insured there, but the cost is refunded by the agencies of the country to which the person belonged at the estimated date of conception. In reality, this rule is less concerned with the method of payment than with the decision as to which country's law is applicable ; the reimbursement raises no special difficulty, since the scheme liable for benefit merely remits the exact amount disbursed by the paying agency.

Much more complicated arrangements have had to be made for payments relating to frontier workers. It is hardly necessary to treat these in detail, as they follow closely the fundamental principles adopted for defining the position of frontier workers and

their dependants under the social security schemes of the country of employment and the country of residence.[1]

Medical Supervision

Entitlement to certain benefits and sometimes the rate of benefit (notably in the case of sickness, invalidity and employment injury) may be related to the beneficiary's physical condition—on incapacity for work, for example, or on a given degree of disablement. The payment of benefit may also depend on an assessment of his physical condition, which will determine whether benefit is to continue, be suspended or be terminated. In this matter collaboration between the services and agencies of the country of residence and of the country liable for benefit is particularly important, and provision is made for it in all social security agreements and supplementary administrative agreements.

Under the rules usually followed, the necessary investigations are carried out by the services and agencies of the country of residence on behalf of the country liable for benefit, either when requested by the agency liable for benefit or automatically under local legislation. The agencies in the country of residence thus have some initiative in the matter.

The system of supervision may include the administrative procedures used in the country for deciding (say) whether the beneficiary is gainfully occupied and also arrangements for medical supervision of a purely technical character, providing precise and detailed findings that will enable the agency liable for benefit to make a correct decision under the legislation which applies to it. As a rule, the agencies in the country of residence are not empowered to take such decisions on behalf of the agencies of the other country, but many administrative agreements authorise them to postpone payment of benefits pending a decision by the agency liable for benefit.

The expenses of supervision are refunded by the agencies liable for benefit, either according to the actual cost of the operations or at a fixed rate.

Difficulties Arising Out of the Application of Agreements

Most existing agreements provide that any difficulties arising out of their application shall be settled by mutual consent between the highest administrative authorities of the contracting countries.

[1] See, for example, the administrative agreement of 27 July 1949 for applying the supplementary agreement on the social security scheme applicable to frontier and seasonal workers, made under the general social security Convention of 17 January 1948 between Belgium and France.

If these cannot agree on a solution, the matter is submitted to an arbitration procedure arranged between the two governments. No such arrangement has yet been made, so that arbitration procedure only exists as yet in theory.

Certain agreements, however, provide for the setting up of joint committees. For example, under the administrative agreement of 1 October 1950 for applying the general social security Convention between France and Belgium, a joint advisory committee of two members for each country is responsible for supervising the operation of the Convention, suggesting any arrangements which should be made, and advising on any questions submitted by the authorities and agencies of the two countries. In fact, this committee has never been set up. On the other hand, the various problems arising in relations between Belgium and France in connection with the many frontier workers made it necessary to establish a special committee of technicians, which meets frequently and is very active.

Experience shows that the settlement of difficulties relating to the carrying out of agreements does not depend on the use of carefully prepared procedures but rather on frequent direct contacts between the competent persons in the services and agencies of the countries concerned, enabling them to perform the technical duties that arise out of the agreements in an atmosphere of mutual confidence. International social security agreements are inevitably limited to laying down certain basic principles, which are not enough by themselves. Apart from their diplomatic aspect, the international problems of social security are essentially administrative and technical, and therefore call for close co-operation between the administrators and technicians of the signatory countries in addition to the usual machinery for international relations.

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Parallel with the elaboration of national systems of social security, the last four or five years have thus seen the beginnings of organised international relations in social security matters. The different aspects of the problems involved in this process have been gradually disentangled and we now know their causes and effects. If final solutions have not been found for all of them, at least methods have been evolved and tried out, so that the general lines of a body of accepted practice are gradually taking shape.

At the same time there has been a much more practical result. Daily the relations between the men in charge of social security services or agencies throughout the world are becoming closer. In

the process of negotiating agreements and making practical arrangements for giving effect to them, through membership of the expert committees set up by the International Labour Office, the Council of Europe and the Permanent Commission of the Brussels Treaty Organisation, and by collaborating in bodies spontaneously created by the social security services and agencies (such as the International Social Security Association and the Inter-American Social Security Conference), the administrators, specialists and technicians have learned to understand each other, to compare ideas and methods, and to work together not as representatives of countries with conflicting interests but as craftsmen engaged on a common task. In this way, without show and often unknown to the public, the solving of international social security problems represents a practical contribution towards the construction of a community of nations.