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Information and Notices

Notice No	Contents	Page
	<i>I Information</i>	
	Commission	
1999/C 38/01	Euro exchange rates	1
1999/C 38/02	Notice of initiation of an anti-dumping proceeding concerning imports of certain parts of television camera systems originating in Japan.....	2
1999/C 38/03	Case No IV/37.179 — BBC & Flextech ⁽¹⁾	3
1999/C 38/04	Prior notification of a concentration (Case No IV/M.1447 — Deutsche Post/trans-o-flex) ⁽¹⁾	6
1999/C 38/05	Prior notification of a concentration (Case No IV/M.1341 — Westdeutsche Landesbank/Carlson/Thomas Cook) ⁽¹⁾	7
1999/C 38/06	Prior notification of a concentration (Case No IV/M.1349 — CVC Capital Partners/Dynoplast) ⁽¹⁾	8
1999/C 38/07	Commission Communication in the framework of the implementation of Council Directive 90/396/EEC of 29 June 1990 on the approximation of the laws of the Member States relating to appliances burning gaseous fuels ⁽¹⁾	9
	<i>II Preparatory Acts</i>	
	Commission	
1999/C 38/08	Proposal for a Council Regulation (EC) on coordination of social security systems ⁽¹⁾	10
	Corrigenda	
1999/C 38/09	Corrigendum to Common Position (EC) No 60/98 of 5 October 1998 adopted by the Council with a view to adopting a Council Regulation establishing a special framework of assistance for traditional ACP suppliers of bananas (OJ C 364, 25.11.1998)	32

EN

I

(Information)

COMMISSION

Euro exchange rates ⁽¹⁾**11 February 1999**

(1999/C 38/01)

1 euro	=	7,4347	Danish krone
	=	322,1	Greek drachma
	=	8,919	Swedish krona
	=	0,6975	Pound sterling
	=	1,1312	United States dollar
	=	1,685	Canadian dollar
	=	129,35	Japanese yen
	=	1,5966	Swiss franc
	=	8,6435	Norwegian krone
	=	79,69505	Icelandic króna ⁽¹⁾
	=	1,7427	Australian dollar
	=	2,0481	New Zealand dollar
	=	6,85750	South African rand ⁽¹⁾

⁽¹⁾ *Source:* reference exchange rate published by the ECB.

⁽¹⁾ *Source:* Commission.

Notice of initiation of an anti-dumping proceeding concerning imports of certain parts of television camera systems originating in Japan

(1999/C 38/02)

The Commission has decided to initiate a proceeding and open an investigation pursuant to Article 5 of Council Regulation (EC) No 384/96 ⁽¹⁾, as last amended by Council Regulation (EC) No 905/98 ⁽²⁾ (hereinafter referred to as the 'Basic Regulation'), concerning imports of certain parts of television camera systems (TCS), originating in Japan.

1. Product

The products under consideration are certain parts used in television camera systems as defined in Council Regulation (EC) No 1015/94 ⁽³⁾ and amended by Council Regulation (EC) No 2474/95 ⁽⁴⁾.

The parts under consideration are:

- colour splitters with three or more charge-coupled device pick-up devices attached including electronic (sub) assemblies, whether or not including a filter wheel (CCD block), imported either together or separately,
- Application Specific Integrated Circuits (ASICs) of a kind only used for television camera heads, operational control panels, master control panels and television camera base stations,
- printed circuit boards with the above ASICs,

These parts are currently classifiable within CN codes ex 8529 90 72, ex 8538 90 91, ex 8529 90 81, ex 8529 90 88 and ex 8542 13 80. These CN codes are only given for information.

2. Grounds for the initiation of the proceeding

In June 1998, the Commission opened an investigation into the circumvention of definitive anti-dumping duties imposed by Council Regulation (EC) No 1015/94 (as subsequently amended ⁽⁵⁾) on imports of TCS modules, kits, sub-assemblies and parts originating in Japan allegedly used in assembly operations of TCS in the

Community which was terminated without the imposition of measures on the grounds of the withdrawal of the complaint. However, information made available to the Commission in that investigation indicates that there is sufficient evidence of dumping concerning the imports of the above mentioned parts, as described in Article 5(6) of the Basic Regulation. One Community producer, representing a major proportion of the production, supports the initiation of this proceeding and provided sufficient evidence on injury and causality. In these special circumstances the Commission decided to initiate a new anti-dumping proceeding on the basis of Article 5 of the Basic Regulation.

3. Procedure for the determination of dumping and injury

Having determined, after consulting the Advisory Committee, that sufficient evidence exists to justify the initiation of a proceeding, the Commission hereby initiates an investigation pursuant to Article 5 of the Basic Regulation.

(a) Questionnaires

In order to obtain the information it deems necessary for its investigation, the Commission will send questionnaires to the Community producers of TCS and to the Japanese companies known to be concerned by the present proceeding. The authorities of the exporting country will be notified and provided with a copy of the questionnaire.

(b) Collection of information and holding of hearings

All interested parties are hereby invited to make their views known in writing and to provide supporting evidence.

Furthermore, the Commission may hear interested parties, provided that they make a request in writing and show that there are particular reasons why they should be heard.

4. Community interest

In accordance with Article 21 of the Basic Regulation, and in order that a decision may be reached as to whether, in the event that the sufficient evidence of dumping and injury is substantiated, the adoption of anti-dumping measures would be in the Community interest, the Community producers of TCS, importers, their representative associations and the representative

⁽¹⁾ OJ L 56, 6.3.1996, p. 1.

⁽²⁾ OJ L 128, 30.4.1998, p. 18.

⁽³⁾ OJ L 111, 30.4.1994, p. 106.

⁽⁴⁾ OJ L 255, 25.10.1995, p. 11.

⁽⁵⁾ OJ L 276, 9.10.1997, p. 20.

users may, within the general time limit set in paragraph 5(a) of this notice, make themselves known and provide the Commission with information. It should be noted that any information submitted pursuant to this Article would only be taken into account if supported by factual evidence at the time of submission.

5. Time limits

(a) General time limit

Interested parties, if their representations are to be taken into account during the investigation, must make themselves known, present their views in writing and submit information, unless otherwise specified, within 40 days from the date of the publication of this notice in the *Official Journal of the European Communities*. Interested parties may also apply to be heard by the Commission within the same time limit. This time limit applies to all interested parties and it is consequently in the interest of these parties to contact the Commission without delay.

(b) Commission address for correspondence:

European Commission,
Directorate-General I,
External Relations: Commercial Policy and Relations
with North America, The Far East, Australia and New
Zealand,
Directorates C and E,
DM 24 — 8/37,
Rue de la Loi/Wetstraat 200,
B-1049 Brussels;
Fax (32-2) 295 65 05
Telex COMEU B 21877.

6. Non-cooperation

In cases in which any interested party refuses access to or does not provide the necessary information within the time limits, or significantly impedes the investigation, provisional or final findings, affirmative or negative, may be made in accordance with Article 18 of the Basic Regulation, on the basis of the facts available.

Case No IV/37.179 — BBC & Flextech

(1999/C 38/03)

(Text with EEA relevance)

The notification

- On 5 August 1998, pursuant to Article 4 of Council Regulation No 17⁽¹⁾, Flextech plc (Flextech) and BBC Worldwide Limited (BBCW) submitted to the Commission a number of agreements for the establishment and operation of two joint ventures, UK Channel Management (JV1) and UK Gold Holdings Limited (JV2). The joint ventures operate pay-TV channels, which are sold on to distributors in the United Kingdom and Ireland

The parties

- BBCW is a subsidiary of the British Broadcasting Corporation (BBC), the UK's public service TV and radio broadcaster. BBCW was established to operate the majority of the BBC's commercial services⁽²⁾,

including international television channels, programme sales, publishing and interactive services. Its subsidiary, UK Programme Distribution Limited (Progco), in which Flextech has a minority shareholding, was established to handle programme licensing to the joint ventures.

Flextech is a company which, through its subsidiaries, operates several pay-TV channels distributed by satellite and cable. Flextech is also a shareholder in Scottish Media Group plc, a regional UK free to air channel, and provides marketing and management services to pay TV channels, including through its subsidiary Flextech Television Limited (FTL). Other Flextech subsidiaries Flextech Digital Broadcasting Limited (Flextech Digital) and United Artists Investments (UAI), own a 50 % shareholding in JV1 and JV2 respectively.

Tele-Communications International, Inc (TINTA), a subsidiary of US cable television system and satellite entertainment operator Tele-Communications Inc

⁽¹⁾ OJ 13, 21.2.1962, p. 204/62 (Special Edition 1959-62, p. 87).

⁽²⁾ As required by the charter under which the BBC receives its licence fee funding.

(TCI), holds a 35,9 % share of Flextech. It also has an interest in Telewest, the UK cable operator.

UK Gold Television Limited is an earlier joint venture involving Flextech, the BBC and other parties to create UK Gold Broadcasting Limited, producers of the UK Gold pay TV channel which exploits the BBC and Thames Television archives. It was granted an individual exemption by comfort letter in 1993. Prior to the creation of JV1 and JV2, Flextech bought out the other shareholders.

The agreements

3. The main agreements notified include:

- Shareholders Agreements dated 16 March 1997 between Flextech Digital, BBCW and JV1, and between UAI, BBCW and JV2;
- Head Programme Licence Agreement dated 25 April 1997 between BBCW and Progco (Head PLA);
- Programme Licence Agreements dated 25 April 1997 between Progco and JV1 and Progco and JV2 (PLA);
- Marketing Agreements dated 25 April 1997 between the BBC and FTL;
- BBC Brands Agreements dated 25 April 1997 between the BBC and JV1 and JV2;
- Cross-Collateralisation Agreement dated 25 April 1997 between Progco, JV1, JV2 and UK Gold Broadcasting Limited; and
- Non-competition Covenant dated 24 April 1997 between TCI and Flextech.

The joint ventures

4. JV1 is owned as to 50 % each by Flextech Digital and BBCW and has launched several new pay-TV channels⁽¹⁾. JV2 is a 50/50 joint venture between BBCW and United Artists Investment, which controls the established UK Gold channel. It owns

65 % of UK Gold Television Limited, with the rest controlled by Flextech. All the joint ventures channels license certain archive and contemporary material from BBCW on an exclusive basis for pay TV through Progco. The channels also have exclusive rights to use, as channel names, certain specific BBC owned brands and logos to promote themselves. BBCW is responsible for the scheduling, programming and presentation of the channels and Flextech for distribution, airtime sales, off-air marketing and management services.

The markets

5. The parties state that the markets affected by the arrangements are the whole sale provision of pay-TV channels in the United Kingdom and Republic of Ireland and the supply of English language television programming for pay-TV channels in a worldwide market.

Provisions of the Agreements

6. Under the Shareholders Agreement between Flextech Digital and BBCW, Flextech Digital and BBCW may not have an interest in a competing commercial channel carried on a broadcasting distribution system⁽²⁾. BBCW must also negotiate first with Flextech if it wishes to launch a commercial channel for the broadcast of BBC programming carried on a broadcasting distribution system in the UK. It will not launch the channel with a third party until some time after negotiations with Flextech fail. A similar negotiating period covers any plans to launch a PPV and Near Video on Demand channel.

Similar restrictions exist for JV2 in relation to UK Gold.

In addition if TCI takes an interest in a competing channel the BBC would be free to do likewise.

7. Under the Head PLA BBCW grants Progco exclusive programme licences, which are then sublicensed to JV1 and JV2 through the PLA. The licences cover programmes already broadcast on the BBC that fall within the genre of one of the thematic channels. This excludes various genres of

⁽¹⁾ UK Horizons, UK Arena, UK Style and UK Play.

⁽²⁾ This is defined as any form of point-to-multipoint broadcast system but not Pay-Per-View (PPV), Near Video on Demand, Video-on-Demand (VoD) or analogue terrestrial services.

programming, including current affairs and sports programmes. The exclusivity is also limited to broadcasting distribution systems in the UK and excludes children's programmes. The agreements last 15 years and may be extended by a further 15 years.

The licence restrictions cover three periods — an initial programme selection period; a broadcast period; and a post broadcast period between the end of the broadcast licence and when the licensor can license the programme to a third party.

Restrictions in the initial period include a right of first refusal which applies to recently broadcast programmes for a year from first broadcast. In the third period recently broadcast programmes not selected in the initial programme period may not be licensed to third parties for a specified period after their first broadcast.

Restrictions on BBCW licensing the genres of programming covered by the PLA also apply where third parties wish to carry out specific licensing of certain categories of rights not granted to Procco.

8. Exclusivity does not restrict broadcast on the BBC World subscription channel; the licence funded BBC channels; channels operated by Flextech subsidiaries; broadcasts for reception in Ireland; or where either joint venture refuses to distribute a particular channel by a particular broadcast distribution system.

9. The Marketing Agreements and the BBC Brands Agreements govern the use of certain BBC owned brands and logos by the joint ventures. Neither the BBC or BBCW will license the licensed brand or logo or any confusingly similar design, in the specific context of its use by the joint venture as a channel name, to a broadcasting distribution system, PPV, VoD or Near VoD channel intended for reception and viewing in the UK and Ireland.

10. Upon preliminary examination, the Commission considers that the agreements could fall within the scope of Regulation No 17.

11. The Commission invites interested third parties to submit their observations on the joint venture and agreements. In accordance with Article 20 of Regulation 17, such observations will be protected by professional secrecy.

Observations must reach the Commission no later than 30 days following the date of this publication. They may be sent to the Commission by fax (No (32-2) 296 98 04) or by mail, stating the reference number IV/37.179 — BBC/Flextech to the following address:

European Commission,
Directorate-General for Competition (DG IV),
Directorate C,
Office 3/114,
Avenue de Cortenberg/Kortenberglaan 150,
B-1040 Brussels.

Prior notification of a concentration
(Case No IV/M.1447 — Deutsche Post/trans-o-flex)

(1999/C 38/04)

(Text with EEA relevance)

1. On 4 February 1999, the Commission received notification of a proposed concentration pursuant to Article 4 of Council Regulation (EEC) No 4064/89 ⁽¹⁾, as last amended by Regulation (EC) No 1310/97 ⁽²⁾, by which the undertaking Deutsche Post AG (Deutsche Post) acquires, within the meaning of Article 3(1)(b) of the Regulation, control of the whole of trans-o-flex, Schnell-Lieferdienst GmbH (trans-o-flex) from Industrial Information GmbH by way of purchase of shares.

2. The business activities of the undertakings concerned are:

- Deutsche Post: national and international letter and parcel delivery services, national and international express delivery services, logistic services,
- Industrial Information GmbH: activities as a holding company,
- trans-o-flex: logistics and transport services.

3. On preliminary examination, the Commission finds that the notified concentration could fall within the scope of Regulation (EEC) No 4064/89. However, the final decision on this point is reserved.

4. The Commission invites interested third parties to submit their possible observations on the proposed operation.

Observations must reach the Commission not later than 10 days following the date of this publication. Observations can be sent by fax (No (32-2) 296 43 01 or 296 72 44) or by post, under reference IV/M.1447 — Deutsche Post/trans-o-flex, to the following address:

European Commission,
Directorate-General for Competition (DG IV),
Directorate B — Merger Task Force,
Avenue de Cortenberg/Kortenberglaan 150,
B-1040 Brussels.

⁽¹⁾ OJ L 395, 30.12.1989, p. 1; corrigendum: OJ L 257, 21.9.1990, p. 13.

⁽²⁾ OJ L 180, 9.7.1997, p. 1; corrigendum: OJ L 40, 13.2.1998, p. 17.

Prior notification of a concentration**(Case No IV/M.1341 — Westdeutsche Landesbank/Carlson/Thomas Cook)**

(1999/C 38/05)

(Text with EEA relevance)

1. On 5 February 1999, the Commission received notification of a proposed concentration pursuant to Article 4 of Council Regulation (EEC) No 4064/89 ⁽¹⁾, as last amended by Regulation (EC) No 1310/97 ⁽²⁾, by which Westdeutsche Landesbank, Carlson Companies Inc., and Preussag Aktiengesellschaft acquire, within the meaning of Article 3(1)(b) of the Regulation, joint control of the Thomas Cook Group Ltd by way of purchase of shares.

2. The business activities of the undertakings concerned are:

- Westdeutsche Landesbank: a German bank and credit institution,
- Carlson Companies Inc.: a privately-owned US company active in the travel, marketing services and hotel sector,
- Preussag Aktiengesellschaft: a German conglomerate active in the energy, technology, logistics and tourism sectors,
- Thomas Cook Group Ltd: a United Kingdom company active in the tour operating, travel agencies and charter airline sectors.

3. On preliminary examination, the Commission finds that the notified concentration could fall within the scope of Regulation (EEC) No 4064/89. However, the final decision on this point is reserved.

4. The Commission invites interested third parties to submit their possible observations on the proposed operation.

Observations must reach the Commission not later than 10 days following the date of this publication. Observations can be sent by fax (No (32-2) 296 43 01 or 296 72 44) or by post, under reference IV/M.1341 — Westdeutsche Landesbank/Carlson/Thomas Cook, to the following address:

European Commission,
Directorate-General for Competition (DG IV),
Directorate B — Merger Task Force,
Avenue de Cortenberg/Kortenberglaan 150,
B-1040 Brussels.

⁽¹⁾ OJ L 395, 30.12.1989, p. 1; corrigendum: OJ L 257, 21.9.1990, p. 13.

⁽²⁾ OJ L 180, 9.7.1997, p. 1; corrigendum: OJ L 40, 13.2.1998, p. 17.

Prior notification of a concentration**(Case No IV/M.1349 — CVC Capital Partners/Dynoplast)**

(1999/C 38/06)

(Text with EEA relevance)

1. On 5 February 1999, the Commission received notification of a proposed concentration pursuant to Article 4 of Council Regulation (EEC) No 4064/89 ⁽¹⁾, as last amended by Regulation (EC) No 1310/97 ⁽²⁾, by which CVC Capital Partners Europe Limited and Dyno Industrier acquire, within the meaning of Article 3(1)(b) of the Regulation, control joint of the Dynoplast Group (Dynoplast AS).

2. The business activities of the undertakings concerned are:

- CVC Capital Partners Europe Limited: management, advice and consultancy services to investment funds,
- Dyno Industrier ASA: production and distribution of explosives, chemicals and microparticles,
- Dynoplast Group: production and distribution of plastic products within the following areas: automotive and electrical components, packaging of industrial and consumer products, food packaging, storage and fuel tanks, and marine products.

3. On preliminary examination, the Commission finds that the notified concentration could fall within the scope of Regulation (EEC) No 4064/89. However, the final decision on this point is reserved.

4. The Commission invites interested third parties to submit their possible observations on the proposed operation.

Observations must reach the Commission not later than 10 days following the date of this publication. Observations can be sent by fax (No (32-2) 296 43 01 or 296 72 44) or by post, under reference IV/M.1349 — CVC Capital Partners/Dynoplast, to the following address:

European Commission,
Directorate-General for Competition (DG IV),
Directorate B — Merger Task Force,
Avenue de Cortenberg/Kortenberglaan 150,
B-1040 Brussels.

⁽¹⁾ OJ L 395, 30.12.1989, p. 1; corrigendum: OJ L 257, 21.9.1990, p. 13.

⁽²⁾ OJ L 180, 9.7.1997, p. 1; corrigendum: OJ L 40, 13.2.1998, p. 17.

Commission Communication in the framework of the implementation of Council Directive 90/396/EEC of 29 June 1990 on the approximation of the laws of the Member States relating to appliances burning gaseous fuels ⁽¹⁾

(1999/C 38/07)

(Text with EEA relevance)

(Publication of titles and references of European harmonised standards under the Directive)

OEN ⁽¹⁾	Reference No	Title of the Harmonised Standards	Year of ratification
CEN	EN 12067-1	Gas/air ratio controls for gas burners and gas burning appliances — Part 1: Pneumatic type	1998

⁽¹⁾ ESO (European standardisation organisation):

- CEN: Rue de Stassart 36, B-1050 Bruxelles, tel. (32-2) 550 08 11, fax (32-2) 550 08 19.
- Cenelec: Rue de Stassart 35, B-1050 Bruxelles, tel. (32-2) 519 68 71, fax (32-2) 519 69 19.
- ETSI: BP 152, F-06561 Valbonne Cedex, tel. (33-4) 92 94 42 12, fax (33-4) 93 65 47 16.

NOTE:

- Any information concerning the availability of the standards can be obtained either from the European standardisation organisations or from the national standardisation bodies of which the list is annexed to the Directive of the European Parliament and of the Council 98/34/EC ⁽²⁾.
- Publication of the references in the *Official Journal of the European Communities* does not imply that the standards are available in all the Community languages.
- The Commission ensures the updating of this list.

⁽¹⁾ OJ L 196, 26.7.1990, p. 15.

⁽²⁾ OJ L 204, 21.7.1998, p. 15.

II

(Preparatory Acts)

COMMISSION

Proposal for a Council Regulation (EC) on coordination of social security systems

(1999/C 38/08)

(Text with EEA relevance)

*COM(1998) 779 final — 98/0360(CNS)**(Submitted by the Commission on 21 December 1998)*

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Articles 8a, 51 and 235 thereof,

Having regard to the Commission proposal presented after consultation with the social partners and the Administrative Commission on Social Security for Migrant Workers,

Having regard to the assent of the European Parliament,

Having regard to the opinion of the Economic and Social Committee,

Whereas the rules for coordination of national social security legislations fall within the framework of free movement for persons and should contribute towards improving their standard of living and conditions of employment;

Whereas, due to the large differences existing between national legislations in terms of the persons covered, it is preferable to lay down the principle that the Regulation applies to all persons who are or have been subject to the social security legislation of a Member State;

Whereas it is necessary to respect the special characteristics of national social security legislations and to draw up only a system of coordination;

Whereas it is necessary, within the framework of such coordination, to guarantee within the Community

equality of treatment under the various national legislations to the persons involved;

Whereas the coordination rules must guarantee that persons moving within the Community and their dependants and their survivors retain the rights and the advantages acquired and in the course of being acquired;

Whereas these objectives must be attained in particular by aggregation of all the periods taken into account under the various national legislations for the purpose of acquiring and retaining the right to benefits and of calculating the amount of benefits, and by the provision of benefits for the various categories of persons covered by the Regulation;

Whereas, within the Community, it is not in principle justified to make social security rights dependent on the place of residence of the person involved, nevertheless, in specific cases, in particular as regards special benefits linked to the economic and social context of the person involved, the place of residence could be taken into account;

Whereas it is necessary to subject persons moving within the Community to the social security scheme of only one single Member State in order to avoid overlapping of national legislations applicable and the complications which could result therefrom;

Whereas, with a view to guaranteeing the equality of treatment of all persons occupied in the territory of a Member State as effectively as possible, it is appropriate to determine as the legislation applicable, as a general rule, that of the Member State in which the person involved pursues his activity as an employed or self-employed person;

Whereas, in specific situations which justify other criteria of applicability, it is necessary to derogate from this general rule;

Whereas, in the field of sickness and maternity benefits, persons living or staying in a Member State other than the competent Member State should be afforded protection;

Whereas the specific position of pension claimants and pensioners and the members of their families makes it necessary to have provisions governing sickness insurance adapted to this situation;

Whereas for invalidity benefits a system of coordination should be drawn up which respects the specific characteristics of national legislations, in particular as regards recognition of invalidity and aggravation thereof;

Whereas it is necessary to devise a system for the award of old-age benefits and survivors' benefits where the person involved has been subject to the legislation of one or more Member States;

Whereas there is a need to determine the amount of a pension calculated in accordance with the method used for aggregation and *pro rata* calculation and guaranteed by Community law where the application of national legislation, including rules concerning reduction, suspension or withdrawal, is less favourable than the aforementioned method;

Whereas, to protect migrant workers and their survivors against excessively stringent application of the national rules concerning reduction, suspension or withdrawal, it is necessary to include provisions strictly governing the application of such rules;

Whereas, in respect of benefits for accidents at work and occupational diseases, rules should be laid down, for the purpose of affording protection, covering the situation of persons residing or staying in a Member State other than the competent Member State;

Whereas it is necessary to include death grants in sickness benefits in kind;

Whereas, in order to permit mobility of persons under improved conditions, it is necessary to ensure closer coordination between the unemployment insurance schemes and the unemployment assistance schemes of all the Member States;

Whereas it is therefore particularly appropriate, in order to facilitate search for employment in the various Member States, to grant to an unemployed worker, within precise limits, the unemployment benefits provided for by the legislation of the Member State to which he was last subject;

Whereas, in order to avoid unwanted loss of benefits, there is a need to lay down specific coordination rules for pre-retirement benefits;

Whereas, in order to avoid unwarranted overlapping of benefits, there is a need to lay down rules of priority in the case of overlapping of rights to family benefits pursuant to the legislation of the competent State and pursuant to the legislation of the country of residence of the members of the family;

Whereas it is necessary to establish an Administrative Commission consisting of a government representative from each of the Member States, charged in particular with dealing with all administrative questions or questions of interpretation arising from the provisions of this Regulation, and with promoting further cooperation between the Member States,

Whereas the development and use of telematic services for the exchange of information has been found to require the creation of a Technical Commission, under the aegis of the Administrative Commission on Social Security for Migrant Workers, with specific responsibilities in the field of data-processing;

Whereas the use of telematic services for exchanging data between institutions requires provisions guaranteeing that the documents exchanged by electronic means are accepted as equivalent to paper documents;

Whereas such exchanges are to be carried out in accordance with the Community provisions on the protection of natural persons with regard to the processing of personal data;

Whereas it is necessary to lay down special provisions which correspond to the special characteristics of the national legislations in order to facilitate the application of the rules of coordination;

Whereas, in accordance with the call for simplification made at the Edinburgh Council of December 1992 and in the interests of transparency and readability, it is appropriate to simplify the coordination rules;

Whereas it is necessary to repeal Council Regulation (EEC) No 1408/71 of 14 June 1971 on the application of social security schemes to employed persons, to self-employed persons and to members of their families moving within the Community ⁽¹⁾, by introducing a new Regulation;

Whereas this is in accordance with the provisions of the third paragraph of Article 3b of the Treaty;

⁽¹⁾ OJ L 149, 5.7.1971, p. 2.

HAS ADOPTED THIS REGULATION:

TITLE I

GENERAL PROVISIONS

Article 1

Persons covered

This Regulation shall apply to persons who are or have been subject to the social security legislation of one or more Member States, as well as to the members of their family and to their survivors.

Article 2

Matters covered

1. This Regulation shall apply to all social security legislations concerning the following in particular:

- (a) sickness;
 - (b) maternity;
 - (c) invalidity;
 - (d) old age;
 - (e) accidents at work and occupational diseases;
 - (f) survival;
 - (g) death;
 - (h) unemployment;
 - (i) pre-retirement;
 - (j) the family.
2. This Regulation shall apply to general and special social security schemes, whether contributory or non-contributory, and to schemes relating to the obligations of an employer or shipowner.
3. The provisions of Title III of this Regulation shall not, however, affect the legislative provisions of any Member State concerning a shipowner's obligations.
4. This Regulation shall not apply to social assistance.

Article 3

Equality of treatment

1. Subject to the special provisions contained in this Regulation, persons residing in the territory of one of the Member States and to whom this Regulation applies shall be subject to the same obligations and enjoy the same benefits under the legislation of any Member State as the nationals thereof.

2. Any Member State whose laws, regulations or administrative provisions attribute legal effects to the

occurrence of certain facts or events shall, to the extent necessary, take account of the same facts or events occurring in any other Member State as though they had taken place in national territory.

3. A benefit accorded under the legislation of a Member State shall, for application of the legislation of another Member State, be considered to be a benefit accorded under the legislation of that latter Member State.

Article 4

Aggregation of periods

The competent institution of a Member State whose legislation makes the acquisition, retention or recovery of the right to benefits conditional upon the completion of periods of insurance, employment or residence shall, to the extent necessary, take account of periods of insurance, employment or residence completed under the legislation of any other Member State as though they were periods completed under the legislation which it administers.

Article 5

Waiving of residence rules

Subject to the special provisions contained in this Regulation, a benefit due under the legislation of one or more Member States or under this Regulation may not be refused or subjected to any reduction, amendment, suspension, withdrawal or confiscation on account of the fact that the beneficiary resides in the territory of a Member State other than that in which the institution responsible for providing benefits is located.

Article 6

Relations between this Regulation and other coordination instruments

This Regulation shall replace any social security convention falling under its scope.

Article 7

Definitions

For the purposes of applying of this Regulation:

- (a) 'activity as an employed person' means any activity considered to be such for application of the social security legislation of the Member State in whose territory such activity is pursued,

- (b) 'activity as a self-employed person' means any activity considered to be such for application of the social security legislation of the Member State in whose territory such activity is pursued;
- (c) 'seasonal worker' means any person who goes to the territory of a Member State other than the one in which he resides to do work there of a seasonal nature on behalf of an undertaking or an employer of that State for a period which may on no account exceed eight months if he stays in the territory of the said State for the duration of his work; work of a seasonal nature shall be taken to mean work which is dependent on the succession of the seasons and automatically recurs each year;
- (d) 'insured person' means any person satisfying the conditions required under the legislation of the competent State to have the right to benefits, taking account of the provisions of this Regulation;
- (e) 'member of the family' means:
- (i) for application of this Regulation, except Chapter 1 of Title III:
- any person with derived rights and defined or recognised as a member of the family or designated as a member of the household by the legislation under which the benefits are provided;
- (ii) for application of Chapter 1, Title III (sickness and maternity):
- 'member of the family' means any person with derived rights and defined or recognised as a member of the family or designated as a member of the household by the legislation of the Member State in which such persons reside. If any such person is not recognised as such pursuant to the legislation of their residence, this term also covers any person who is defined or recognised as a member of the family or designated as a member of the household by the legislation of the State competent for the person entitled to benefits. Where, however, the said legislations regard as a member of the family or a member of the household only a person living under the same roof as the insured person, this condition shall be considered satisfied if the person in question is mainly dependent on that person.
- (f) 'residence' means the place where a person habitually resides and where the habitual centre of his interests is also located;
- (g) 'stay' means temporary residence;
- (h) 'legislation' means, in respect of each Member State, laws, regulations and other statutory provisions and all other implementing measures relating to the social security branches covered by Article 2(1).
- This term includes contractual provisions which have been the subject of a decision by the public authorities rendering them compulsory or extending their scope.
- This term also includes the social security conventions concluded between two or more Member States or between one or more Member States and one or more States not belonging to the European Union.
- (i) 'competent authority' means, in respect of each Member State, the Minister, Ministers or other equivalent authority responsible for social security schemes throughout or in any part of the territory of the State in question;
- (j) 'Administrative Commission' means the commission referred to in Article 56;
- (k) 'institution' means, in respect of each Member State, the body or authority responsible for administering all or part of the legislation;
- (l) 'competent institution' means:
- (i) the institution with which the person involved is insured at the time of the application for benefit;
- or
- (ii) the institution from which the person involved is entitled or would be entitled to benefits if he or a member or members of his family resided in the territory of the Member State in which the institution is situated;
- or
- (iii) the institution designated by the competent authority of the Member State concerned;
- or
- (iv) in the case of a scheme relating to an employer's obligations in respect of the benefits set out in Article 2(1), either the employer or the insurer involved or, in default thereof, the body or authority designated by the competent authority of the Member State concerned;

- (m) 'institutions of the place of residence' and 'institutions of the place of stay' mean respectively the institution which is competent to provide benefits in the place where the person involved resides and the institution which is competent to provide benefits in the place where the person involved is staying, in accordance with the legislation administered by that institution or, where no such institution exists, the institution designated by the competent authority of the Member State concerned;
- (n) 'competent State' means the Member State in whose territory the competent institution is situated;
- (o) 'period of insurance' means periods of contribution, employment or activity as a self-employed person as defined or recognised as periods of insurance by the legislation under which they were completed or considered as completed, and all periods treated as such, where they are regarded by the said legislation as equivalent to periods of insurance;
- (p) 'period of employment' or 'period of activity as a self-employed person' mean periods so defined or recognised by the legislation under which they were completed, and all periods treated as such, where they are regarded by the said legislation as equivalent to periods of employment or to periods of activity as a self-employed person;
- (q) 'periods of residence' means periods so defined or recognised by the legislation under which they were completed or considered as completed;
- (r) 'pension' covers not only pensions but also lump-sum benefits which can be substituted for them and payments in the form of reimbursement of contributions and, subject to the provisions of Title III, revaluation increases or supplementary allowances;
- (s) 'pre-retirement benefits' mean: all cash benefits, other than an early old-age benefit, provided to wholly unemployed workers from a specified age until the age at which they qualify for an old-age pension or a non-reduced early retirement pension, the receipt of which is not conditional upon the person involved being available to the employment services of the competent State; early old-age benefit means a benefit provided before normal pension age is reached and which either continues to be provided once the said age is reached or is replaced by another old-age benefit;
- (t) 'death grants' mean any one-off payment in the event of death exclusive of the lump-sum benefits referred to in subparagraph (r).

TITLE II

DETERMINATION OF THE LEGISLATION TO WHICH A PERSON IS SUBJECT

Article 8

General rules

1. Persons to whom this Regulation applies shall be subject to the legislation of a single Member State only. Such legislation shall be determined in accordance with the provisions of this Title.
2. For application of this Title, persons entitled to a benefit, other than an invalidity or old-age benefit, by virtue of pursuing an activity as an employed or self-employed person, shall be deemed to be pursuing the said activity.
3. For application of this Title, work done on board a vessel flying the flag of a Member State shall be deemed to be work done in the territory of the said Member State.
4. Subject to Articles 9 to 13:
 - (a) a person pursuing an activity as an employed or self-employed person in the territory of a Member State shall be subject to the legislation of that State;
 - (b) civil servants and personnel treated as such shall be subject to the legislation of the Member State to which the administration employing them is subject;
 - (c) a person called up or recalled for service in the armed forces or for civilian service of a Member State shall be subject to the legislation of that State;
 - (d) any person other than those mentioned in sub-paragraphs (a) to (c) shall be subject to the legislation of the Member State in whose territory they reside, without prejudice to other provisions of this Regulation guaranteeing them benefits pursuant to the legislation of one or more other Member States.

Article 9

Special rules in the event of posting

1. A person pursuing an activity as an employed person in the territory of a Member State and who goes to the territory of another Member State to perform work on behalf of his employer who habitually employs personnel in the territory of the first Member State shall continue to be subject to the legislation of that Member State, provided that the anticipated duration of that work does not exceed twelve months and that he is not

sent to replace another person who has completed his term of posting.

2. A person normally pursuing an activity as a self-employed person in the territory of a Member State and who goes to perform the same activity in the territory of another Member State shall continue to be subject to the legislation of the first Member State, provided that the anticipated duration of such work does not exceed twelve months.

Article 10

Pursuit of activities in the territory of two or more Member States

1. A person normally pursuing an activity as an employed person in the territory of two or more Member States shall be subject:

- (a) to the legislation of the Member State in whose territory he resides if he pursues a substantial activity in that territory;
- (b) to the legislation of the Member State in whose territory the registered office or place of business of the undertaking or employer employing him is situated, if he does not pursue substantial activities in the territory of the Member State where he resides.

2. A person normally pursuing an activity as a self-employed person in the territory of two or more Member States shall be subject:

- (a) to the legislation of the Member State in whose territory he resides if he pursues a substantial activity in that territory;
- (b) to the legislation of the Member State in the territory where the centre of interest of his activities is located, if he does not pursue a substantial activity in the territory of the Member State where he resides.

3. A person who normally pursues an activity as an employed person and an activity as a self-employed person in the territory of different Member States shall be subject to the legislation of the Member State in whose territory he pursues an activity as an employed person or, if he pursues such an activity in the territory of two or more Member States, to the legislation determined in accordance with paragraph 1.

4. A person who is employed as a civil servant or personnel treated as such and insured in a special scheme for civil servants in one Member State and who simultaneously pursues an activity as an employed person and/or as a self-employed person in the territory of one or more other Member States shall be subject to the legislation of the Member State in which he is insured as a civil servant or personnel treated as such.

5. A person referred to in the preceding paragraphs shall be treated, for the purposes of applying the legislations determined in accordance with these provisions, as though he were pursuing all his activities as an employed or self-employed person in the territory of the Member State concerned.

Article 11

Rules concerning voluntary insurance or optional continued insurance

1. Articles 8 to 10 shall not apply to voluntary insurance or to optional continued insurance unless, in respect of one of the branches referred to in Article 2(1), only a voluntary scheme of insurance exists in a Member State.

2. However, in respect of invalidity, old age and death (pensions), the person involved may join the voluntary or optional continued insurance scheme of a Member State, even if he is compulsorily subject to the legislation of another Member State, insofar as such overlapping is explicitly or implicitly allowed pursuant to the legislation of the first Member State.

Article 12

Special rules regarding personnel employed by diplomatic missions and consular posts, and auxiliary staff of the European Communities

1. The provisions of Article 8(4)(a) shall apply to personnel employed by diplomatic missions and consular posts and to the private domestic staff of agents of such missions or posts.

2. However, the persons covered by paragraph 1 who are nationals of the Member State which is the accrediting or sending State may opt to be subject to the legislation of that State. Such right of option may be exercised afresh at the end of each calendar year and shall not have retrospective effect.

3. Auxiliary staff of the European Communities may opt to be subject to the legislation of the Member State in whose territory they are employed, to the legislation of the Member State to which they were last subject or to the legislation of the Member State whose nationals they are, in respect of provisions other than those relating to family allowances, the granting of which is governed by the scheme applicable to such staff. This right of option, which may be exercised once only, shall take effect from the date of entry into service.

*Article 13***Exceptions to the provisions of Articles 8 to 12**

1. Two or more Member States, the competent authorities of these States or the bodies designated by these authorities may by common agreement provide for exceptions to the provisions of Articles 8 to 12 in the interest of certain categories of persons or of certain persons.

2. The recipient of a pension due under the legislation of a Member State or of pensions due under the legislation of several Member States who resides in the territory of another Member State may at his request be exempted from application of the legislation of the latter State provided that he is not subject to that legislation on account of pursuing an activity as an employed or self-employed person.

TITLE III

SPECIAL PROVISIONS RELATING TO THE VARIOUS CATEGORIES OF BENEFIT

CHAPTER 1

SICKNESS AND MATERNITY*Article 14***Residence in a Member State other than the competent State**

A person insured against the risk of sickness or maternity, or the members of his family who reside in the territory of a Member State other than the competent State, shall receive in the State of residence benefits in kind, including death grants, provided, on behalf of the competent institution, by the institution of the place of residence, in accordance with the provisions of the legislation administered by that institution as though they were insured pursuant to the said legislation. They shall also receive in the State of residence the cash benefits provided by the competent institution in accordance with the provisions of the legislation which it administers.

*Article 15***Stay in the competent State although residence is situated in a Member State other than the competent State**

The persons referred to in Article 14 may also obtain benefits in the territory of the competent State. Such benefits shall be provided by the competent institution and at its own expense, in accordance with the provisions of the legislation of that State, as though the person involved resided in it.

*Article 16***Stay outside the competent State — General rules**

Without prejudice to the more favourable provisions contained in Article 17, a person insured against the risk of sickness or maternity, and the members of his family staying in a Member State other than the competent State, shall receive immediately necessary benefits in kind, including death grants, provided, on behalf of the competent institution, by the institution of the place of stay, in accordance with the provisions of the legislation which it administers, as though they were insured pursuant to the said legislation. Such persons shall also receive the cash benefits provided by the competent institution in accordance with the provisions of the legislation which it administers.

*Article 17***Stay outside the competent State — Special rules**

1. A person pursuing an activity as an employed or self-employed person in a Member State other than the competent State, as well as his spouse and his dependent children accompanying him, shall be covered by the provisions of Article 14 as though they resided in the territory of the State where the activity as an employed or self-employed person is pursued or whose flag is flown by the vessel on board which the worker pursues his activity as an employed or self-employed person.

2. A person who stays in a Member State other than the competent State to study there or receive vocational training leading to a qualification officially recognised by the authorities of a Member State, and his spouse and dependent children accompanying him during his stay, shall be covered by the provisions of Article 14 during the stay in the territory of the Member State where such person is studying or in training as though they resided in the territory of that latter Member State.

3. A person to whom the provisions of Article 50 apply, and his spouse and dependent children accompanying him, shall be covered by the provisions of Article 14 as though they resided in the territory of the Member State in which the said person is seeking a job.

4. A person who, before becoming the recipient of a pension, made use of the possibilities provided for under Articles 14 and 15, and the members of his family, shall retain such rights after retirement.

*Article 18***Authorisation to receive appropriate treatment outside the competent State**

A person who is authorised by the competent institution to go to the territory of another Member State to receive

there the treatment appropriate to his condition shall receive the benefits in kind provided, on behalf of the competent institution, by the institution of the place of stay, in accordance with the provisions of the legislation it administers, as though he were insured pursuant to the said legislation. The authorisation must be accorded where the treatment in question is among the benefits provided for by the legislation of the competent State or in whose territory the person involved resides and if he cannot, taking account of his current state of health and the probable course of the illness, be given such treatment within the necessary time.

Article 19

Calculation of cash benefits

1. The competent institution of a Member State, whose legislation stipulates that the calculation of cash benefits shall be founded on average income or on an average contribution basis, shall determine such average income or average contribution basis exclusively by reference to the incomes confirmed as having been paid or contribution bases applied during the periods completed under the said legislation.

2. The competent institution of a Member State, whose legislation provides that the calculation of cash benefits shall be based on standard income, shall take account exclusively of the standard income, or where appropriate, of the average of standard incomes for the periods completed under the said legislation.

Article 20

Pension recipients — benefits in kind

1. A recipient of one or more pensions and the members of his family shall receive in the State of residence benefits in kind, including death grants, provided, on behalf of all the States paying a pension, by the institution of the place of residence, in accordance with the provisions of the legislation it administers as though he were the recipient of one or more pensions due under the said legislation alone.

2. The cost of the benefits shall be divided among the Member States paying a pension proportional to the periods completed in each Member State, to the extent that the person involved would have been entitled to benefits pursuant to the legislation of each Member State concerned if he resided in their territory.

3. Where the other pensioners insured in the State of residence are subject to contributions, the pension recipient in question shall likewise be subject thereto. The yield from such contributions shall be divided among the State paying a pension proportional to the periods completed in each Member State.

4. Two or more Member States, or the competent authorities of those States, may provide for other methods of reimbursement or waive all reimbursement between the institutions coming under their jurisdiction.

Article 21

Pension recipients and members of their families — cash benefits

A pension recipient or claimant and the members of his family shall receive cash benefits in accordance with the provisions contained in the Chapter on invalidity.

Article 22

Pension claimants and members of their families

Articles 20 and 21 shall apply *mutatis mutandis* to a person who, during the investigation of a claim for a pension, ceases to be entitled to sickness benefits, including death grants, under the legislation of the Member State which was last competent.

Article 23

Right to benefits existing in the country of residence

Where the members of the family reside in the territory of a Member State under whose legislation the right to benefits in kind, including death grants, is not subject to conditions of insurance or employment, the benefits in kind provided to them shall be considered as being on behalf of the institution which administers the legislation pursuant to which the person is insured, unless the spouse or the person looking after the children pursues an activity as an employed or self-employed person in the territory of the said Member State.

Article 24

Substantial benefits in kind

1. A person or a member of his family who has had a right to a prosthesis, a major appliance or other substantial benefits in kind recognised by the institution of a Member State before he becomes insured pursuant to the legislation administered by the institution of another Member State, shall receive such benefits at the expense of the first institution, even if they are accorded after the said person has already become insured pursuant to the legislation administered by the second institution.

2. The Administrative Commission shall draw up the list of benefits to which the provisions of paragraph 1 apply.

*Article 25***Aggregation of periods for seasonal workers**

Article 4 shall apply to seasonal workers, even in respect of periods prior to any break in insurance exceeding the period allowed by the legislation of the competent State, provided, however, that the person involved has not ceased to be insured for a period exceeding four months.

*Article 26***Reimbursements between institutions**

1. The benefits in kind, including death grants, provided by the institution of a Member State on behalf of the institution of another Member State pursuant to the provisions of this Chapter shall give rise to full reimbursement, as determined and effected in accordance with the arrangements set out in the Implementing Regulation referred to in Article 71, on production of proof of actual expenditure.

2. Two or more Member States, or the competent authorities of such States, may provide for other methods of reimbursement or waive all reimbursement between the institutions coming under their jurisdiction.

CHAPTER 2

INVALIDITY

*Article 27***General provision**

Persons who have been subject to the legislations of two or more Member States shall receive benefits in accordance with the provisions of Chapter 3 which shall apply *mutatis mutandis*.

*Article 28***Consideration by a Member State of periods of compensation for incapacity to work provided by another Member State**

The competent institution of a Member State whose legislation makes the granting of invalidity benefits conditional on the fact that, for a specified period, the person involved received cash benefits for sickness or was incapable of working, shall take into account any period during which he received, under the legislation of another Member State, in respect of incapacity to work

cash benefits for sickness or maintenance of his income or invalidity benefits, as though it were a period during which he had been provided with cash benefits for sickness pursuant to the legislation it administers or during which he had been incapable of working within the meaning of the said legislation.

*Article 29***Aggravation of invalidity**

In the case of aggravation of an invalidity for which a person is receiving benefits under the legislation of two or more Member States, the benefits shall be accorded to him, taking the aggravation into account, in accordance with this Chapter.

*Article 30***Determination of the institution responsible for providing benefits when provision of invalidity benefits is resumed**

1. If provision of benefits is to be resumed after suspension, such provision shall, without prejudice to Article 31, be the responsibility of the institution or institutions which were responsible for provision of the benefits at the time of their suspension.

2. If, after withdrawal of benefits, the condition of the person involved warrants the granting of further benefits, they shall be accorded in keeping with this Chapter.

*Article 31***Conversion of invalidity benefits into old-age benefits**

1. Invalidity benefits shall be converted into old-age benefits, where appropriate, under the conditions laid down by the legislation or legislations under which they were accorded and in keeping with the provisions of Chapter 3.

2. Where a person receiving invalidity benefits can establish a claim to old-age benefits under the legislation of one or more Member States, in accordance with Article 32, any institution which is responsible for providing invalidity benefits under the legislation of a Member State shall continue to provide such a person with the invalidity benefits to which he is entitled under the legislation which it administers until the provisions of paragraph 1 become applicable in respect of that institution or, if not, as long as the person involved fulfils the conditions for such benefits.

CHAPTER 3 OLD-AGE AND SURVIVORS' PENSIONS

Article 32

General provisions for the award of benefits where a person has been subject to the legislation of two or more Member States

1. All the competent institutions must proceed to award benefits, in respect of all the legislations concerned, as soon as a request for award has been submitted, unless the person involved expressly requests deferment of the award of the old-age benefits of one or more Member States or if he does not simultaneously fulfil the conditions required under all the legislations of the Member States to which he has been subject, taking into account aggregation of periods of insurance or of residence.

2. If the person involved does not fulfil, at a given moment, the conditions required under all the legislations of the Member States, the institutions administering a legislation whose conditions have been fulfilled must take into consideration, when performing the calculation in accordance with Article 34(1)(a) or (2), the periods completed under the legislations whose conditions have not been fulfilled only if this gives rise to a higher amount of benefit.

3. The provisions of this paragraph shall apply *mutatis mutandis* when the person involved has expressly requested deferment of the award of the old-age benefit.

4. A new calculation shall be performed automatically as and when the conditions required under the other legislations are fulfilled or when a person requests the award of an old-age benefit deferred in accordance with paragraph 1.

5. The increases in or supplements to pensions in respect of children or orphans shall be accorded in keeping with the provisions of this Chapter.

Article 33

Consideration of periods of insurance or residence for the acquisition, retention or recovery of the right to benefits

1. The competent institution of a Member State shall take into account all periods of insurance and/or residence completed under the legislation of any other Member State, whether under a general scheme or a special scheme.

2. For granting benefits under a special scheme, if the applicable legislation so requires, the periods completed in the other Member States shall be taken into account only if they have been completed under a corresponding

scheme or, in default thereof, in the same occupation or, where appropriate, in the same employment.

3. If the insured person does not fulfil the conditions required to receive the benefits of a special scheme, the periods shall be taken into account, in the State concerned, for granting the benefits of the general scheme or, in default thereof, of the scheme applicable to manual or clerical workers, as the case may be.

4. The periods which have given rise to benefits under a special scheme of a Member State shall likewise be taken into account for granting the benefits of the general scheme or, in default thereof, of the scheme applicable to manual or clerical workers, as the case may be.

Article 34

Award of benefits

1. If the conditions required under the legislation of a Member State for entitlement to benefits are satisfied without recourse to aggregation of periods, the competent institution shall calculate the amount of benefit which will be due:

- (a) on the one hand, only pursuant to the provisions of the legislation which it administers (national pension);
- (b) on the other, in accordance with the provisions of paragraph 2 (pro-rata pension).

2. If the conditions required under the legislation of a Member State for entitlement to benefits are satisfied only through aggregation of periods:

- (a) The competent institution shall calculate the theoretical amount of the benefit to which the person involved could lay claim if all the periods of insurance and/or of residence which he has completed under the legislations of the other Member States had been completed under the legislation which it administers, on the date of the award of the benefit. If, under this legislation, the amount does not depend on the duration of the periods completed, the amount shall be regarded as being the theoretical amount.
- (b) The competent institution shall then establish the actual amount of the benefit (*pro rata*) by applying to the theoretical amount the ratio between (i) the duration of only the periods completed prior to materialisation of the risk under the legislation which the institution administers and (ii) the total duration of the periods completed prior to materialisation of the risk under the legislation of all the Member States concerned.

3. Where appropriate, the competent institution shall apply to the amount calculated in accordance with paragraphs 1 and 2 above all the rules relating to reduction, suspension or withdrawal under the legislation

pursuant to which the benefit is due, within the limits provided for by the provisions of Articles 35 to 37 of this Chapter.

4. The insured person shall be entitled to receive from the competent institution of each country whichever of the amounts — that due through application of national law or that which would be due through application of Community law — is higher.

Article 35

Rules relating to reduction, suspension or withdrawal applicable to benefits in respect of invalidity, old age or survivors pursuant to the legislations of the Member States (Rules to prevent overlapping) — General provisions

1. Save as otherwise provided for in this Chapter, the rules relating to reduction, suspension or withdrawal under the legislation of a Member State in cases of a benefit overlapping with other social security benefits pertaining to the same period of compulsory insurance or with any other forms of income may be invoked against the beneficiary even where such benefits were acquired under the legislation of another Member State or where such incomes were acquired in the territory of another Member State.

2. The rules to prevent overlapping contained in the legislation of a Member State in the case of a person in receipt of invalidity benefits or early old-age benefits pursuing an activity as an employed or self-employed person may be invoked against such a person even though he is pursuing his activity in the territory of another Member State.

3. Any overlapping of invalidity, old-age and survivors' benefits calculated or provided on the basis of insurance and/or residence periods completed by the same person shall be considered to be overlapping of benefits of the same kind.

4. Overlapping of benefits which cannot be considered to be of the same kind within the meaning of paragraph 3 shall be considered to be overlapping of benefits of a different kind.

5. The competent institution must take into consideration the benefits or incomes acquired abroad only if the legislation which it administers makes explicit provision therefore.

6. The competent institution must take into account the amount of benefits to be paid by another Member State before deduction of tax, social security contributions and other individual deductions.

7. The competent institution must not take account of the amount of benefits acquired under the legislation of another Member State on the basis of voluntary insurance or continued optional insurance.

8. If a single Member State applies rules to prevent overlapping because the person involved receives benefits of the same kind or of a different kind pursuant to the legislation of other Member States or incomes acquired in the territory of other Member States, the benefit due may be reduced solely by the total amount of benefits due pursuant to the legislation of the other Member States or by the incomes acquired in their territory.

Article 36

Overlapping of benefits of the same kind due under the legislation of two or more Member States — Special provisions

1. The rules to prevent overlapping provided for under the legislation of a Member State shall not apply to a benefit calculated in accordance with Article 34(2) — *pro rata*.

2. A benefit calculated in accordance with Article 34(1)(a) — national benefit — may be reduced, suspended or withdrawn by application of the rules to prevent overlapping provided for under the legislation of a Member State only if it is:

(a) a benefit, the amount of which does not depend on the duration of insurance or residence periods,

or

(b) a benefit, the amount of which is determined on the basis of a credited period between the materialisation of the risk and a later date, overlapping with either:

(i) a benefit of the same kind, except where an agreement has been concluded between two or more Member States to avoid the same credited period being taken into account two or more times;

or

(ii) a benefit, the amount of which does not depend on the duration of insurance or residence periods.

Article 37

Overlapping of one or more national benefits with one or more benefits of a different kind or with other incomes where two or more Member States are concerned — Special provisions

1. If the receipt of benefits of a different kind or other incomes engenders application of the rules to prevent overlapping as regards:

- (a) two or more benefits calculated in accordance with national legislation, the competent institutions must divide the amounts, which would not be paid in the event of strict application of the rules to prevent overlapping, by the number of benefits subject to the said rules;
- (b) two or more benefits calculated in accordance with the *pro rata* method, the competent institutions shall take into account the benefit or benefits of the other Member States or the other incomes and all the elements stipulated for applying the rules to prevent overlapping as a function of the ratio between the periods of insurance and/or residence established for the calculation referred to in Article 34(2)(b) (*pro rata*) of such benefits;
- (c) one or more benefits calculated in accordance with national legislation and one or more *pro rata* benefits, the competent institutions shall apply the rules to prevent overlapping:
 - (i) in accordance with subparagraph (a) as regards national benefits;
 - (ii) in accordance with subparagraph (b) as regards *pro rata* benefits.

2. The competent institution shall not apply the stipulated division in respect of national benefits if the legislation which it administers provides for account to be taken of benefits of a different kind and/or of other incomes and all the elements for calculating part of their amount determined as a function of the ratio between the periods of insurance referred to in Article 34(2)(b).

3. All the abovementioned provisions shall apply *mutatis mutandis* where the legislation of one or more Member States provides that a benefit cannot be granted in the case where a person receives a benefit of a different kind pursuant to the legislation of another Member State or other incomes.

Article 38

Additional provisions for the calculation of benefits

1. For the calculation of the theoretical and *pro rata* amounts referred to in Article 34(2), the following rules shall apply:

- (a) the competent institution shall take into consideration the maximum duration required under the legislation which it administers if the total duration of the periods of insurance and/or residence completed prior to materialisation of the risk under the legislations of all the Member States

concerned exceeds the said maximum duration. This provision shall not apply to benefits whose amount does not depend on the duration of the periods of insurance;

- (b) the competent institution shall take into account overlapping periods in accordance with the procedure laid down in the Implementing Regulation referred to in Article 71;
- c) if the legislation of a Member State provides that the benefits shall be calculated on the basis of incomes, contributions, increases or amounts (average, proportional, fixed or credited), the competent institution shall:
 - (i) determine the basis, average or proportional, for calculation of the benefits in accordance with only periods of insurance completed pursuant to the legislation which it administers;
 - (ii) utilise, in order to determine the amount to be calculated in accordance with the periods of insurance and/or residence completed under the legislation of the other Member States, the same average, proportional, fixed or credited elements determined or recorded for the periods of insurance completed under the legislation which it administers.

2. The theoretical amount of a benefit calculated on the basis of the elements referred to in the preceding paragraph must be duly revalued and increased as though the person involved had continued to pursue his activity under the same conditions in the Member State concerned.

Article 39

Award of a supplement where the total of benefits due under the legislations of the various Member States does not amount to the minimum laid down by the legislation of the recipient's State of residence

A recipient of benefits to whom this Chapter has been applied may not be awarded a benefit which is less than the minimum benefit fixed, for a period of insurance or residence equal to all the periods taken into account for the award in accordance with the provisions of this Chapter, by the legislation of the State where he resides and under which a benefit is due to him.

The competent institution of that State shall pay him throughout the period of his residence in its territory a supplement equal to the difference between the total of the benefits due pursuant to this Chapter and the amount of the minimum benefit.

*Article 40***Revaluation and recalculation of benefits**

1. If, by reason of an increase in the cost of living or changes in the level of incomes or other reasons for adjustment, the benefits of the States concerned are altered by a certain percentage or amount, such percentage or amount must be applied directly to the benefits determined in accordance with Article 34, without the need for a recalculation in accordance with that Article.
2. On the other hand, if the method of determining benefits or the rules for calculating benefits should be altered, a recalculation shall be carried out in accordance with Article 34.

CHAPTER 4

ACCIDENTS AT WORK AND OCCUPATIONAL DISEASES*Article 41***Right to benefits in kind and in cash**

1. Without prejudice to the more favourable provisions of paragraph 2, Articles 14, 15, 16, 18, 19, and 26 shall apply *mutatis mutandis* to the benefits relating to accidents at work and occupational diseases.
2. The victim of an accident at work or occupational disease staying in a Member State other than the competent State shall receive the special benefits in kind of the scheme covering accidents at work and occupational diseases provided, on behalf of the competent institution, by the institution of the place of stay in accordance with the provisions of the legislation which it administers as though he were insured pursuant to the said legislation.

*Article 42***Benefits for an occupational disease where the person involved has been exposed to the same risk in several Member States**

1. When the victim of an occupational disease has, under the legislation of two or more Member States, pursued an activity which by its nature is likely to cause the said disease, the benefits that he or his survivors may claim shall be awarded exclusively under the legislation of the last of those States whose conditions are satisfied, taking into account, where appropriate, paragraphs 2 to 4.
2. If, under the legislation of a Member State, the granting of benefits in respect of an occupational disease is subject to the condition that the disease in question

was first medically diagnosed in its territory, such condition shall be deemed to be satisfied if the disease was first diagnosed in the territory of another Member State.

3. If, under the legislation of a Member State, the granting of benefits in respect of an occupational disease is subject to the condition that the disease in question was diagnosed within a specific time limit following cessation of the last activity which was likely to cause such a disease, the competent institution of that State, when checking the time at which such last activity was pursued, shall take into account, to the extent necessary, similar activities pursued under the legislation of any other Member State as though they had been pursued under the legislation of the first State.

4. If, under the legislation of a Member State, the granting of benefits in respect of an occupational disease is subject to the condition that an activity likely to cause the disease in question was pursued for a certain length of time, the competent institution of that State shall take into account, to the extent necessary, periods during which such activity was pursued under the legislation of any other Member State as though it had been pursued under the legislation of the first State.

*Article 43***Calculation of cash benefits**

1. The competent institution of a Member State, whose legislation provides that the calculation of cash benefits shall be based on average income, shall determine such average income exclusively by reference to the incomes confirmed as having been paid during the periods completed under the said legislation.
2. The competent institution of a Member State, whose legislation provides that the calculation of cash benefits shall be based on standard income, shall take account exclusively of the standard income, or where appropriate, of the average of standard incomes for the periods completed under the said legislation.

*Article 44***Costs of transporting a victim**

1. The competent institution of a Member State whose legislation provides for meeting the costs of transporting a victim, either to his place of residence or to a hospital, shall meet such costs to the corresponding place in the territory of another Member State where the victim resides.

2. The competent institution of a Member State whose legislation provides for the costs of transporting the body of a victim to the place of burial shall, in accordance with the provisions of the legislation which it administers, meet such costs to the corresponding place in the territory of another Member State where the victim was residing at the time of the accident.

Article 45

Aggravation of an occupational disease for which compensation has been awarded

In the event of aggravation of an occupational disease for which a victim has received or is receiving compensation under the legislation of a Member State, the following rules shall apply:

- (a) if the person involved has not, while in receipt of benefits, pursued an activity as an employed or self-employed person under the legislation of another Member State likely to cause or aggravate the disease in question, the competent institution of the first Member State shall be bound to meet the cost of the benefits under the provisions of the legislation which it administers, taking into account the aggravation;
- (b) if the person involved, while in receipt of benefits, has pursued such an activity under the legislation of another Member State, the competent institution of the first Member State shall be bound to meet the cost of the benefits under the legislation which it administers without taking the aggravation into account. The competent institution of the second Member State shall grant a supplement to the person involved, the amount of which shall be equal to the difference between the amount of benefits due after the aggravation and the amount which would have been due prior to the aggravation under the legislation which it administers if the disease in question had occurred under the legislation of that Member State;
- (c) the rules concerning reduction, suspension or withdrawal laid down by the legislation of a Member State shall not be invoked against persons receiving benefits awarded by institutions of two Member States in accordance with subparagraph (b).

Article 46

Rules for taking into account the special features of certain legislations

1. If there is no insurance against accidents at work or occupational diseases in the territory of the Member

State in which the person involved finds himself, or if such insurance exists but there is no institution responsible for providing benefits in kind, those benefits shall be provided by the institution of the place of stay or residence responsible for providing benefit in kind in the event of sickness.

2. Where the legislation of the competent State makes wholly cost-free benefits in kind conditional upon use of the medical service organised by the employer, benefits in kind provided in another Member State shall be deemed to have been provided by such a medical service.

3. Where the legislation of the competent State includes a scheme relating to the obligations of the employer, the benefits in kind provided in another Member State shall be deemed to have been provided at the request of the competent institution.

4. Where the nature of the scheme of the competent State relating to compensation for accidents at work is not that of compulsory insurance, the provision of benefits in kind shall be made directly by the employer or by the insurer involved.

5. Where the legislation of a Member State provides explicitly or implicitly that accidents at work or occupational diseases which have occurred or have been confirmed previously shall be taken into consideration in order to assess the degree of incapacity so as to acquire a right to benefits, or to determine the amount thereof, the competent institution of that Member State shall also take into consideration accidents at work or occupational diseases which have occurred or have been confirmed previously under the legislation of another Member State as though they had occurred or had been confirmed under the legislation which it administers.

6. Where the legislation of a Member State provides explicitly or implicitly that accidents at work or occupational diseases which have occurred or have been confirmed subsequently shall be taken into consideration in order to assess the degree of incapacity so as to acquire the right to benefits, or to determine the amount thereof, the competent institution of that Member State shall also take into consideration accidents at work or occupational diseases which have occurred or have been confirmed subsequently under the legislation of another Member State, as though they had occurred or had been confirmed under the legislation which it administers, but only where:

(a) no compensation is due in respect of the accident at work or the occupational disease which had occurred or had been confirmed previously under the legislation which it administers;

and

(b) no compensation is due under the legislation of the other Member State in respect of the accident at

work or the occupational disease which had occurred or had been confirmed subsequently, notwithstanding the provisions of paragraph 5.

Article 47

Scheme applicable where there are several schemes in the country of stay or residence — Maximum duration of benefits

1. If the legislation of the country of stay or residence has several insurance schemes, the provisions applicable to victims of an accident at work staying or residing in a Member State other than the competent State shall be those of the scheme for manual workers in the steel industry. However, if that legislation includes a special scheme for workers in mines and undertakings treated as such, the provisions of that scheme shall apply to the said category of workers where the institution of the place of stay or residence to which they submit their claim is competent to administer that scheme.

2. If the legislation of a Member State fixes a maximum period during which benefits may be granted, the institution which administers that legislation may take into account any period during which the benefits have already been provided by the institution of another Member State.

CHAPTER 5 UNEMPLOYMENT

Article 48

Special rule on aggregation of periods of insurance, employment or activity as a self-employed person

1. The competent institution of a Member State whose legislation makes the acquisition, retention or recovery of the right to benefits conditional upon the completion of either periods of insurance, of employment or of activity as a self-employed person shall, to the extent necessary, take account of periods of insurance, employment or activity as a self-employed person completed under the legislation of any other Member State as though they were periods of insurance, employment or activity as a self-employed person completed under the legislation which it administers.

However, when the legislation applicable makes the right to benefits conditional on completion of periods of insurance, the periods of employment or of activity as a self-employed person completed under the legislation of another Member State shall not be taken into account unless such periods would have been considered to be periods of insurance if they had been completed under the said legislation.

2. Application of the provisions of the preceding paragraph shall be conditional on the person involved having completed ultimately:

- either periods of insurance;
- or periods of employment;
- or periods of activity as a self-employed person;

in accordance with the provisions of the legislation under which the benefits are claimed.

3. Where the length of the period during which benefits may be granted depends on the duration of periods of insurance, employment or activity as a self-employed person, the provisions of paragraph 1 shall apply.

Article 49

Calculation of benefits

The competent institution of a Member State whose legislation provides that the calculation of benefits shall be based on the amount of the previous income shall take into account exclusively the income received by the person involved in respect of his last employment under the said legislation. However, if the person involved had been in his last employment under the said legislation for less than four weeks, the benefits shall be calculated on the basis of the normal income corresponding, in the place where the competent institution is located, to an equivalent or similar employment to his last employment under the legislation of another Member State.

Article 50

Unemployed persons going to a Member State other than the competent State

1. A person insured against unemployment going to another Member State in order to seek work there shall retain his entitlement to unemployment benefits in cash under the following conditions and within the following limits:

- (a) before his departure he must have been registered as a person seeking work and have remained available to the employment services of the competent State for at least four weeks after becoming unemployed. However, the competent services or institutions may authorise his departure before such time has expired.
- (b) within seven days of the date on which the person involved ceased to be available to the employment services of the State which he left, he must register as a person seeking work with the employment services of the Member State to which he has gone, be

subject to the control procedure organised there and adhere to the conditions laid down under the legislation of the said State. In exceptional cases, this period may be extended by the competent services or institutions.

(c) the person involved shall adhere to the conditions governing receipt of unemployment benefits other than the benefits in kind referred to in paragraph 2 as laid down by the legislation of the State to which he has gone in order to seek work.

(d) entitlement to benefits shall be retained for a maximum period of six months from the date when the unemployed person ceased to be available to the employment services of the State which he left, provided that the total duration for which the benefits are granted does not exceed the duration of the period of benefits he was entitled to pursuant to the legislation of that State. The benefits shall be provided by the competent institution in accordance with the legislation which it administers and at its own expense.

2. A person referred to in paragraph 1 shall, in the territory of the State to which he had gone in order to seek work, receive unemployment benefits, other than cash benefits, whose aim is to facilitate access to work under the same conditions as its own nationals receiving an unemployment benefit within the meaning of this Regulation. Receipt of benefits shall be conditional on adherence to the conditions laid down by the legislation of the State in which the unemployed person is seeking work and the benefits shall be provided by the said State and as its own expense.

3. If the person involved returns to the competent State before the expiry of the period during which he is entitled to benefits pursuant to the provisions of paragraph 1(d), he shall continue to be entitled to benefits under the legislation of that State; he shall lose all entitlement to benefits pursuant to the legislation of the competent State if he does not return there before the expiry of the said period. In exceptional cases, this period may be extended by the competent services or institutions.

4. The arrangements for cooperation and mutual assistance between the institutions and services of the competent State and the State to which the person goes in order to seek work shall be laid down in the Implementing Regulation referred to in Article 71.

Article 51

Unemployed persons who, during their last employment, resided in a Member State other than the competent State

A person insured against unemployment who, during his last activity as an employed or self-employed person, resided in the territory of a Member State other than the competent State and who makes himself available to the

employment services in the territory of the State in which he resides, shall receive the benefits provided by the competent institution in accordance with the provisions of the legislation of the competent State as though he were available to the employment services of the said State.

CHAPTER 6

PRE-RETIREMENT

Article 52

Specific rule on aggregation of periods of insurance or employment

1. The competent institution of a Member State whose legislation makes the acquisition, retention or recovery of the right to benefits conditional upon the completion of either periods of insurance or employment shall, to the extent necessary, take account of periods of insurance or employment completed under the legislation of any other Member State as though they were periods of insurance or employment completed under the legislation which it administers.

However, when the legislation applicable makes the right to benefits conditional on completion of periods of insurance, the periods of employment completed under the legislation of another Member State shall not be taken into account unless such periods would have been considered to be periods of insurance if they had been completed under the said legislation.

2. Application of the provisions of the preceding paragraph shall be conditional on the person involved having completed ultimately:

- either periods of insurance;
- or periods of employment;

in accordance with the provisions of the legislation under which the benefits are claimed.

CHAPTER 7

FAMILY BENEFITS, BENEFITS FOR DEPENDENT CHILDREN OF PENSIONERS AND FOR ORPHANS

Article 53

Priority rules in the event of overlapping of benefit entitlements

Where, during the same period and for the same family member, family benefits, benefits for orphans or for dependent children of pensioners are due from several Member States pursuant to their legislation or this Regulation, the competent institution of the Member State whose legislation lays down the highest amount of

benefits shall grant all of the said amount. The cost shall be divided equally among the Member States concerned, by reimbursement among competent institutions to the limit of the amount laid down by the legislations which they administer.

Article 54

Provision of benefits — person actually maintaining the members of the family

If the family benefits, benefits for orphans or for dependent children of pensioners are not used for the maintenance of the members of the family by the person to whom they should be provided, the competent institution shall discharge its legal obligations by providing the said benefits to the natural or legal person actually maintaining the members of the family.

CHAPTER 8 SPECIAL BENEFITS

Article 55

1. This chapter concerns non-contributory cash benefits whose granting procedures are closely linked to a particular economic and social context and which:

(a) are granted after means-testing

or

(b) are intended solely to afford specific protection for the disabled

insofar as such benefits are mentioned in Annex I.

2. Notwithstanding the other provisions of this Regulation, the persons to which this Regulation applies shall receive the special benefits referred to in paragraph 1 exclusively in the territory of the Member State in which they reside and under the legislation of the said State. The benefits shall be provided by the institution of the place of residence and at its own expense.

3. The competent institution of a Member State whose legislation makes entitlement to the benefits covered by paragraph 1 conditional on completion of periods of residence shall, to the extent necessary, take account of periods of residence completed in the territory of any other Member State as though they were completed in the territory of the first Member State.

4. Where the legislation of a Member State makes the granting of the benefits intended for invalid and disabled

persons and covered by paragraph 1 conditional on the invalidity or disability having been diagnosed for the first time in the territory of that Member State, this condition shall be deemed to be fulfilled where such diagnosis was made for the first time in the territory of another Member State.

TITLE IV

ADMINISTRATIVE COMMISSION FOR THE COORDINATION OF SOCIAL SECURITY SYSTEMS

Article 56

Composition and working methods

1. The Administrative Commission for the Coordination of Social Security Systems (hereinafter called 'the Administrative Commission') attached to the Commission shall be made up of a representative of each of the Member States, assisted, where necessary, by expert advisers. A representative of the Commission shall attend the meetings of the Administrative Commission in an advisory capacity.

2. The rules of the Administrative Commission shall be drawn up by mutual agreement among its members.

3. The secretarial services of the Administrative Commission shall be provided by the Commission.

Article 57

Tasks of the Administrative Commission

The Administrative Commission shall have the following duties:

- (a) to deal with all administrative questions and questions of interpretation arising from the provisions of this Regulation and subsequent Regulations, or from any agreement or arrangement concluded thereunder, without prejudice to the right of the authorities, institutions and persons involved to have recourse to the procedures and tribunals provided for by the legislations of Member States, by this Regulation or by the Treaty;
- (b) to foster and develop cooperation between Member States in social security matters;
- (c) to modernise procedures for exchanging information, in particular by adapting the information flow between institutions for the purposes of telematic exchange, taking account of the development of data-processing in each Member State; the Administrative Commission shall adopt the

common architecture rules for the telematic services, in particular on security and the use of standards; it shall lay down provisions for the operation of the common part of the telematic services;

- (d) to undertake any other function coming within its competence under the provisions of this Regulation and the Implementing Regulation or any agreement or arrangement made thereunder;
- (e) to make any proposals of use to the Commission for working out subsequent Regulations and for the revision of this and subsequent Regulations.

Article 58

Technical Commission for Data-Processing

1. A Technical Commission for Data-Processing (hereinafter called the 'Technical Commission') shall be attached to the Administrative Commission. The Technical Commission shall deliver reports and a reasoned opinion before decisions are taken by the Administrative Commission pursuant to Article 57(c). The working methods and the composition of the Technical Commission shall be determined by the Administrative Commission.

2. The Technical Commission shall:

- (a) gather together the relevant technical documents and undertake the studies and work required to accomplish its tasks;
- (b) submit to the Administrative Commission the reports and reasoned opinions referred to in paragraph 1;
- (c) carry out all other tasks and studies on matters referred to it by the Administrative Commission.

TITLE V

MISCELLANEOUS PROVISIONS

Article 59

Cooperation between competent authorities

1. The competent authorities of Member States shall communicate to each other all information regarding:
- (a) measures taken to implement this Regulation;
 - (b) changes in their legislation which are likely to affect the implementation of this Regulation.

2. For application of this Regulation, the authorities and institutions of Member States shall lend their good offices and act as though implementing their own legislation. The administrative assistance furnished by the said authorities and institutions shall, as a rule, be free of charge. However, the competent authorities of the Member States may agree to certain expenses being reimbursed.

3. The authorities and institutions of Member States may, for application of this Regulation, communicate directly with one another and with the persons involved or their representatives.

4. The authorities, institutions and tribunals of one Member State may not reject applications or other documents submitted to them on the grounds that they are written in an official language of another Member State.

Article 60

Protection of personal data

1. Where, under this Regulation or under the Implementing Regulation referred to in Article 71, the authorities or institutions of a Member State communicate personal data to the authorities or institutions of another Member State, such communication shall be subject to the legal provisions governing protection of data laid down by the Member State transmitting the data. Any subsequent communication as well as the storage, alteration and destruction of the data shall be subject to the provisions of the legislation on data protection of the receiving Member State.

2. Transmission of data required to apply this Regulation and its Implementing Regulation by one Member State to another Member State must be effected in conformity with Community provisions governing protection of natural persons with regard to the processing of personal data.

Article 61

Data-processing

1. The Member States shall progressively use telematic services for the electronic exchange between institutions of the data required to apply the Regulation and its Implementing Regulation. The purpose in utilising telematic services is to allow effective application of the Regulation and its Implementing Regulation, and to expedite the granting and payment of benefits. The Commission shall lend its support to activities of common interest as soon as the Member States have established such telematic services.

2. Each Member State shall be responsible for managing its own part of the telematic services in

accordance with the Community provisions on the protection of natural persons with regard to the processing of personal data.

3. An electronic message sent by an institution in conformity with the provisions of this Regulation and the Implementing Regulation may not be rejected by any authority or institution of another Member State on the grounds that it was received by electronic means, once the receiving institution has declared its ability to receive electronic messages. Reproduction and recording of such messages shall be presumed to be a correct and accurate reproduction of the original document or representation of the information it relates to, unless there is proof to the contrary.

An electronic message shall be considered valid if the computer system on which the message is recorded contains the safeguards necessary in order to avoid any alteration, disclosure or access to the recording. It shall at any time be possible to reproduce the recorded information in an immediately readable form. When an electronic message is transferred from one social security institution to another, appropriate security measures shall be taken in accordance with the Community provisions governing protection of natural persons with regard to the processing of personal data.

Article 62

Funding of activities in the social security field

In connection with this Regulation, the Commission may fund:

- activities aimed at improving exchanges of information between the social security authorities and institutions of the Member States, including the electronic exchange of data;
- any other activity such as studies and meetings of experts as well as activities aimed at informing the citizens and professional groups concerned about the rights deriving from this Regulation, in particular by means of publications and organising conferences and seminars.

Article 63

Exemptions from or reductions of taxes — Exemption from authentication

1. Any exemption from or reduction of taxes, stamp duty, notarial or registration fees provided for in the legislation of one Member State in respect of certificates or documents required to be produced in application of

the legislation of that State shall be extended to similar certificates or documents required to be produced in application of the legislation of another Member State or of this Regulation.

2. All statements, documents and certificates of any kind whatsoever required to be produced in application of this Regulation shall be exempt from authentication by diplomatic or consular authorities.

Article 64

Claims, declarations or appeals submitted to an authority, institution or tribunal of a Member State other than the competent State

Any claim, declaration or appeal which should have been submitted, in application of the legislation of one Member State, within a specified period to an authority, institution or tribunal of that State shall be admissible if it is submitted within the same period to a corresponding authority, institution or tribunal of another Member State. In such a case the authority, institution, or tribunal receiving the claim, declaration or appeal shall forward it without delay to the competent authority, institution or tribunal of the former State either directly or through the competent authorities of the Member State concerned. The date on which such claims, declarations or appeals were submitted to the authority, institution or tribunal of the second State shall be considered as the date of their submission to the competent authority, institution or tribunal.

Article 65

Medical examinations

1. Medical examinations provided for by the legislation of one Member State may be carried out at the request of the competent institution, in the territory of another Member State, by the institution of the place of stay or residence of the person entitled to benefits, under the conditions laid down in the Implementing Regulation referred to in Article 71 or, in default thereof, under the conditions agreed between the competent authorities of the Member States concerned.

2. Medical examinations carried out under the conditions laid down in paragraph 1 shall be considered to have been carried out in the territory of the competent State.

Article 66

Transfers from one Member State to another of sums of money due pursuant to this Regulation

Where appropriate, money transfers effected in application of this Regulation shall be made in

accordance with the relevant agreements in force between the Member States concerned at the time of transfer. Where no such agreements are in force between two Member States, the competent authorities of the said States or the authorities responsible for international payments shall, by mutual agreement, determine the measures necessary for effecting such transfers.

Article 67

Special provisions for implementing the legislations of certain Member States

Special provisions for implementing the legislations of certain Member States necessary to guarantee the rights deriving from this Regulation or which lay down more favourable rules for those concerned are referred to in Annex II.

Article 68

Collection of contributions and recovery of benefits provided but not due

1. Collection of contributions due to an institution of one Member State and recovery of benefits provided by the institution of one Member State but not due may be effected in the territory of another Member State in accordance with the administrative procedure and with the guarantees and privileges applicable to the collection of contributions due to the corresponding institution of the latter State and the recovery of benefits provided by it but not due.

2. Enforceable decisions of the judicial and administrative authorities relating to the collection of contributions, interest and fixed charges or to the recovery of benefits provided but not due pursuant to the legislation of a Member State against which there is no further appeal shall be enforced at the request of the competent institution in the territory of another Member State in accordance with the procedures laid down by the legislation of that latter State. Such decisions shall be declared enforceable in the territory of the Member State in which the institution addressed by the competent institution is situated insofar as the legislation of that Member State so requires.

3. Claims of an institution of a Member State shall in enforcement, bankruptcy or settlement proceedings in the territory of another Member State enjoy the same privileges as the legislation of that latter Member State accords to claims of the same kind.

4. The procedure for implementing the provisions of this Article shall be governed, where necessary, by the Implementing Regulation referred to in Article 71 or by means of agreements between Member States.

Article 69

Rights of institutions responsible for providing benefits against liable third parties

1. If a person receives benefits pursuant to the legislation of one Member State in respect of an injury resulting from events occurring in the territory of another State, any rights of the institution responsible for providing benefits against a third party liable to provide compensation for the injury shall be governed by the following rules:

- (a) where the institution responsible for providing benefits is, pursuant to the legislation which it administers, subrogated to the rights which the beneficiary has against the third party, such subrogation shall be recognised by each Member State;
- (b) where the institution responsible for providing benefits has a direct right against the third party, each Member State shall recognise such rights.

2. If a person receives benefits pursuant to the legislation of one Member State in respect of an injury resulting from events occurring in the territory of another Member State, the provisions of the said legislation which determine in which cases the civil liability of employers or of the persons employed by them is to be excluded shall apply with regard to the said person or to the competent institution.

The provisions of paragraph 1 shall also apply to any rights of the institution responsible for providing benefit against an employer or the persons employed by him in cases where their liability is not excluded.

3. Where, in accordance with the provisions of Article 26(2), two or more Member States or the competent authorities of those States have concluded an agreement to waive reimbursement between institutions under their jurisdiction, any rights arising against a liable third party shall be governed by the following rules:

- (a) where the institution of the Member State of stay or residence accords benefits to a person in respect of an injury sustained in its territory, that institution, in accordance with the provisions of the legislation which it administers, shall exercise the right to subrogation or direct action against the third party liable to provide compensation for the injury.
- (b) for application of (a):
 - (i) the person receiving benefits shall be deemed to be insured with the institution of the place of stay or residence, and
 - (ii) that institution shall be deemed to be the institution responsible for providing benefits.
- (c) the provisions of paragraphs 1 and 2 shall remain applicable in respect of any benefits not covered by the waiver agreement referred to in this paragraph.

TITLE VI

TRANSITIONAL AND FINAL PROVISIONS

*Article 70***Transitional provisions**

1. No rights shall be acquired under this Regulation for any period prior to its date of application in the territory of the Member State concerned.

2. Any period of insurance and, where appropriate, any period of employment or residence completed under the legislation of a Member State prior to the date of application of this Regulation in the territory of that Member State shall be taken into consideration for determination of rights acquired under the provisions of this Regulation.

3. Subject to the provisions of paragraph 1, a right shall be acquired, under this Regulation, even if it relates to a contingency arising prior to its date of application in the territory of the Member State concerned.

4. Any benefit which has not been awarded or which has been suspended by reason of the nationality or place of residence of the person involved shall, at the request of the person involved, be awarded or resumed with effect from the date of application of this Regulation in the territory of the Member State concerned, provided that the rights for which benefits were previously awarded have not given rise to a lump-sum payment.

5. The rights of a person to whom a pension was awarded prior to the date of application of this Regulation in the territory of the Member State concerned may, at the request of the person involved, be reviewed, account being taken of the provisions of this Regulation.

6. If a request referred to in paragraph 4 or 5 is submitted within two years from the date of application of this Regulation in the territory of the Member State concerned, the rights acquired pursuant to this Regulation shall have effect from that date, and the provisions of the legislation of any Member State concerning the forfeiture or lapse of rights may not be invoked against the persons involved.

7. If a request referred to in paragraph 4 or 5 is submitted after the expiry of the two-year period following the date of application of this Regulation in the territory of the Member State concerned, rights not forfeited or not lapsed shall have effect from the date on

which the request was submitted, subject to any more favourable provisions under the legislation of any Member State.

8. If, through application of this Regulation, a person was subject to the legislation of a Member State other than the one to whose legislation he is subject pursuant to the provisions of Regulation (EEC) No 1408/71, such person shall not be subject to the legislation of that other Member State unless he so requests. Such request must be submitted to the competent institution of the Member State whose legislation is applicable pursuant to Regulation (EEC) No 1408/71 within two years from the date of application of this Regulation.

*Article 71***Implementing Regulation**

A subsequent Regulation shall lay down the procedure for implementing this Regulation. The said Implementing Regulation must be adopted no later than one year after adoption of this Regulation.

*Article 72***Entry into force**

This Regulation shall enter into force on the twentieth day after its publication in the *Official Journal of the European Communities*. It shall apply from the date of entry into force of the Implementing Regulation mentioned in Article 71.

*Article 73***Repeal**

Council Regulation (EEC) No 1408/71 of 14 June 1971 on the application of social security schemes to employed persons, to self-employed persons, and to members of their families moving within the Community⁽¹⁾, and Council Regulation (EEC) No 574/72 of 21 March 1972 fixing the procedure for implementing Regulation (EEC) No 1408/71 on the application of social security schemes to employed persons, to self-employed persons and to members of their families moving within the Community⁽²⁾ are herewith repealed.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

⁽¹⁾ OJ L 149, 5.7.1971, p. 2.

⁽²⁾ OJ L 74, 27.3.1972, p. 1.

*ANNEX I***(Article 55)**

Special benefits

A. Belgium	I. Luxembourg
.....
B. Denmark	J. Netherlands
.....
C. Germany	K. Austria
.....
D. Spain	L. Portugal
.....
E. France	M. Finland
.....
F. Greece	N. Sweden
.....
G. Ireland	O. United Kingdom
.....
H. Italy	
.....	

*ANNEX II***(Article 67)**

Special provisions for implementing the legislations of certain Member States

A. Belgium	I. Luxembourg
.....
B. Denmark	J. Netherlands
.....
C. Germany	K. Austria
.....
D. Spain	L. Portugal
.....
E. France	M. Finland
.....
F. Greece	N. Sweden
.....
G. Ireland	O. United Kingdom
.....
H. Italy	
.....	

CORRIGENDA

Corrigendum to Common Position (EC) No 60/98 of 5 October 1998 adopted by the Council with a view to adopting a Council Regulation establishing a special framework of assistance for traditional ACP suppliers of bananas

(Official Journal of the European Communities C 364, 25 November 1998)

(1999/C 38/09)

On page 14, citations and footnotes:

The citation 'Having regard to the opinion of the Economic and Social Committee (?)', together with the footnote '(?) Not yet published in the Official Journal.', shall be deleted.
