

TRACTATENBLAD

VAN HET

KONINKRIJK DER NEDERLANDEN

JAARGANG 2002 Nr. 219

A. TITEL

Verdrag tussen het Koninkrijk der Nederlanden en het Koninkrijk Thailand inzake de export van sociale verzekeringsuitkeringen; Nonthaburi, 11 november 2002

B. TEKST

Agreement between the Government of the Kingdom of the Netherlands and the Government of the Kingdom of Thailand on the export of social insurance benefits

The Government of the Kingdom of the Netherlands

and

the Government of the Kingdom of Thailand,

their States hereinafter referred to as the Contracting Parties,

Wishing to establish relations in the field of social security;

Desirous of regulating co-operation between the two States to ensure the enforcement of one country's legislation in the other;

Have agreed as follows:

Article 1

Definitions

1. For the purposes of this Agreement:
 - a. "territory" means in relation to the Kingdom of the Netherlands the territory of the Kingdom in Europe;
 - b. "competent authority" means in relation to the Kingdom of the Netherlands the Minister of Social Affairs and Employment of the Netherlands; in relation to the Kingdom of Thailand the Ministry of Labour and Social Welfare;

c. “competent institution” means in relation to the Kingdom of the Netherlands regarding the branches of social insurance mentioned under Article 2, paragraph 1, under a, b and c: the “Uitvoeringsinstituut Werknemersverzekeringen” (Institute for Employee Benefit Schemes); regarding the branches of social insurance mentioned under Article 2, paragraph 1, under d, e and f it means the “Sociale Verzekeringsbank” (Social Insurance Bank); in relation to the Kingdom of Thailand it means the Social Security Office;

or any organisation authorised to perform any function at present exercised by the said institutions;

d. “agency” means any organisation that is involved in the implementation of this Agreement, and includes *inter alia* the population registers, registers of birth, death and marriages, tax authorities, employment agencies, schools and other educational institutions, trade authorities, police, prison services and immigration offices;

e. “legislation” means the legislation relating to the branches of social insurance mentioned under Article 2;

f. “benefit” means any cash benefit or pension under the legislation;

g. “beneficiary” means a person who applies for or who is entitled to a benefit;

h. “member of the family” means a person defined, or recognised as such by the legislation;

i. “reside” means ordinarily reside;

j. “stay” means temporarily reside.

2. Other terms used in this Agreement have the meaning given to them under the legislation being applied.

Article 2

Material scope

This Agreement shall apply:

1. With respect to the Kingdom of the Netherlands, to the Netherlands’ legislation concerning the following branches of social insurance:

- a. sickness and maternity benefits;
- b. disablement benefits for employed persons;
- c. disablement benefits for self-employed persons;
- d. old age pensions;
- e. survivors’ benefits;
- f. child benefits.

2. With respect to the Kingdom of Thailand, to the following legislation on social insurance:

- a. the Social Security Act, B.E. 2533 (1990), B.E. 2537 (1994) and B.E. 2542 (1999);
- b. the Workmen’s Compensation Act. B.E. 2537 (1994); or
- c. any legislation which supersedes, replaces, amends, supplements or consolidates the legislation mentioned under a and b.

Article 3

Personal scope

Unless otherwise provided in this Agreement, this Agreement shall apply to a beneficiary as well as to a member of his family insofar as he resides or stays in the territory of one of the Contracting Parties.

Article 4

Export of benefits

1. Unless otherwise provided for in this Agreement, any provision of the legislation of a Contracting Party which restricts payment of a benefit solely because a beneficiary or a member of his family resides or stays outside the territory of that Contracting Party shall not be applicable with respect to a beneficiary or to a member of his family who resides or stays in the territory of the other Contracting Party.

2. Paragraph 1 is without prejudice to Netherlands' legislation introducing restrictions to the payment of child benefits with respect to children residing or staying outside the territory of the Kingdom of the Netherlands or precluding such payment.

Article 5

Identification

1. In order to determine entitlement to a benefit or to the payment of a benefit under the Thai or Netherlands' legislation, a beneficiary or a member of his family shall identify himself to the competent institution in whose territory the person concerned resides or stays by submitting an official proof of identity. Official proof of identity includes a passport or any other valid proof of identity issued in the territory where the person concerned resides or stays.

2. The competent institution concerned identifies the beneficiary or the member of his family on the basis of official proof of identity. The competent institution shall inform the competent institution of the other Contracting Party that the identity of the beneficiary or the member of his family has been verified by sending a certified copy of the official proof of identity.

Article 6

Verification of applications and payments

1. For the purpose of this article "information" means data regarding identity, address, household, work, education, income, state of health, death and detention, or any other data relevant for the implementation of this Agreement.

2. With regard to the processing of an application for a benefit or the payment of a benefit, the competent institution of a Contracting Party shall, at the request of the competent institution of the other Contracting Party, verify the information regarding a beneficiary or a member of his family. If necessary, this verification shall be carried out together with the agencies. The competent institution shall forward a statement of verification along with authenticated copies of the relevant documents to the competent institution of the other Contracting Party.

3. Notwithstanding paragraph 2, the competent institution of a Contracting Party shall, without prior request and to the extent possible, inform the competent institution of the other Contracting Party of any changes in the information regarding a beneficiary or a member of his family.

4. The competent institutions of the Contracting Parties may contact each other, as well as a beneficiary, a member of his family, or a representative of the person concerned, directly.

5. Notwithstanding paragraph 2, the diplomatic or consular representatives and the competent institutions of a Contracting Party shall be allowed to contact the agencies of the other Contracting Party directly in order to verify the entitlement to a benefit or the payment of a benefit.

6. For the purposes of implementing this Agreement, the agencies shall lend their good offices and act as though implementing their own legislation. The administrative assistance furnished by the agencies shall be free of charge. However, the competent authorities of the Contracting Parties may agree to certain expenses being reimbursed.

Article 7

Medical examinations

1. At the request of the competent institution of a Contracting Party, the medical examination regarding a beneficiary or a member of his family residing or staying in the territory of the other Contracting Party shall be carried out by the competent institution of the latter Contracting Party.

2. In order to determine the capacity to work of a beneficiary or a member of his family, the competent institution of a Contracting Party shall use the medical reports and the administrative data provided by the competent institution of the other Contracting Party. However, the competent institution of the first Contracting Party may request a beneficiary or a member of his family to undergo a medical examination by a doctor of its own choice or in the territory where the competent institution is situated.

3. The beneficiary or the member of his family shall comply with any request to present himself for medical examination. If the person con-

cerned, for medical reasons, is unfit to travel to the territory of the other Contracting Party, he shall inform the competent institution of that Contracting Party immediately. He shall, in that case, submit a medical certificate issued by a doctor designated for this purpose by the competent institution in whose territory he resides or stays. This certificate shall prove the medical reasons for his unfitness to travel as well as its expected duration.

4. The costs of the examination and, as the case may be, the expenses for travel and accommodation shall be paid for by the competent institution at whose request the examination is carried out.

Article 8

Refusal to pay, suspension, withdrawal

1. The competent institution of a Contracting Party may refuse to grant a benefit, or may suspend or withdraw the payment of a benefit, if:

a. the beneficiary or a member of his family has failed to undergo an examination or to provide information as required under Article 5 and Article 7, paragraphs 2 and 3 of this Agreement within a period of three months; or

b. the competent institution of the other Contracting Party has failed to provide information or to carry out an examination as required under Article 5, Article 6, paragraph 2 and Article 7, paragraph 1 of this Agreement within a period of three months. However, should this time limit prove to be unreasonable, an extension of that time limit will be agreed upon by the competent institutions of both Contracting Parties.

2. Any decision taken by the competent institution of a Contracting Party shall be in accordance with the national legislation of that Contracting Party. The competent institution of that Contracting Party shall exclusively be liable for any decision taken under this Article.

Article 9

Data protection

1. Where, under this Agreement, the competent authorities, competent institutions or agencies of a Contracting Party communicate personal data to the competent authorities or competent institutions of the other Contracting Party, that communication shall be subject to the legal provisions governing protection of data laid down by the Contracting Party providing the data. Any subsequent transmission as well as storage, alteration and destruction of the data shall be subject to the provisions of the legislation on data protection of the receiving Contracting Party.

2. The use of personal data for purposes other than those of social security shall be subject to the approval of the person concerned or in accordance with other guarantees provided for by national legislation.

Article 10

Implementation of the Agreement

The competent institutions of both Contracting Parties may, by means of supplementary arrangements, establish measures for the application of this Agreement.

Article 11

Language

1. For the purpose of applying this Agreement, the competent authorities, competent institutions and agencies of the Contracting Parties may communicate directly with one another in the English language.

2. No document shall be rejected on the sole ground that it is written in an official language of a Contracting Party.

Article 12

Settlement of disputes

The competent authorities of both Contracting Parties shall make all reasonable efforts to resolve through mutual agreement any dispute arising from the interpretation or application of this Agreement.

Article 13

Amendment

This Agreement may be amended at any time by written agreement of the Contracting Parties.

Article 14

Entry into force

1. The Contracting Parties shall notify each other in writing of the completion of their respective legal or constitutional procedures required for the entry into force of this Agreement.

2. This Agreement shall enter into force on the first day of the second month following the date of the last notification, on the understanding that the Netherlands shall apply Article 4 provisionally from the first day of the second month following the date of signature.

Article 15

Territorial application

In relation to the Kingdom of the Netherlands, this Agreement shall apply only to the territory of the Kingdom in Europe; and in relation to the Kingdom of Thailand this shall apply only to the territory of the Kingdom of Thailand.

Article 16

Termination

This Agreement may be terminated at any time by notice in writing to the other Contracting Party. In the event of termination, this Agreement shall remain in force until the end of the calendar year following the year in which the notice of termination has been received by the other Contracting Party.

IN WITNESS WHEREOF, the undersigned, being duly authorised thereto by their respective Governments, have signed this Agreement.

DONE in duplicate at Nonthaburi, on this 11th day of November 2002, in the English language.

For the Government of the Kingdom of the Netherlands

(sd.) G. J. H. C. KRAMER

For the Government of the Kingdom of Thailand

(sd.) SUWAT LIPTAPANLOP

D. PARLEMENT

Het Verdrag behoeft ingevolge artikel 91 van de Grondwet de goedkeuring der Staten-Generaal, alvorens het Koninkrijk aan het Verdrag kan worden gebonden.

G. INWERKINGTREDING

De bepalingen van het Verdrag zullen ingevolge artikel 14 in werking treden op de eerste dag van de tweede maand na de datum van de laatste schriftelijke kennisgeving door de Verdragsluitende Partijen dat aan hun respectieve wettelijke of grondwettelijke vereisten voor inwerking-treding van het Verdrag is voldaan.

Ingevolge artikel 14, tweede lid, zal artikel 4 van het Verdrag vanaf 1 januari 2003 voorlopig worden toegepast.

Wat het Koninkrijk der Nederlanden betreft, zal het Verdrag ingevolge artikel 15 alleen voor Nederland gelden.

In overeenstemming met artikel 19, tweede lid, van de Rijkswet goedkeuring en bekendmaking verdragen heeft de Minister van Buitenlandse Zaken bepaald dat het Verdrag zal zijn bekendgemaakt in Nederland op de dag na de datum van uitgifte van dit Tractatenblad.

Uitgegeven de *dertiende* december 2002.

De Minister van Buitenlandse Zaken,

J. G. DE HOOP SCHEFFER