

CONVENTION ON SOCIAL SECURITY
BETWEEN
THE REPUBLIC OF THE PHILIPPINES AND
THE KINGDOM OF SPAIN

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The Republic of the Philippines and the Kingdom of Spain,
Motivated by the desire to regulate the relations between the two countries
in the field of Social Security, have agreed to the following provisions:

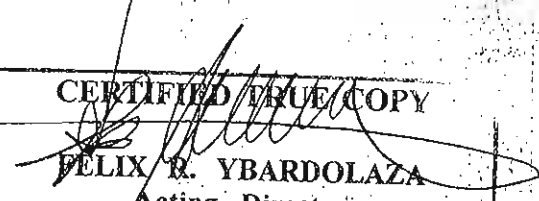
TITLE 1
GENERAL PROVISIONS

Article 1

1. For the purpose of the present Convention, the expressions and terms
cited as follows will have the following meaning:

- 1st. "Contracting Party" means the Philippines or Spain.
- 2nd. "Territory" means in relation to the Philippines, its territory as
defined in the 1987 Philippine Constitution and in relation to
Spain, the Spanish national territory.
- 3rd. "Legislation" means the laws, regulations and statutory
instruments related to the branches of Social Security
specified in Article 2, Paragraph 1.
- 4th. "Nationals" means with respect to the Philippines, its citizens
as defined in the 1987 Philippine Constitution and in relation
to Spain, Spanish citizens in accordance with Title I, Book I
of the Civil Code.

1

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NOV 13 2002

5th. "Competent Authority" means, in relation to the Philippines, the President and Chief Executive Officer of the Social Security System and the President and General Manager of the Government Service Insurance System, and in relation to Spain, the Ministry of Labour and Social Affairs.

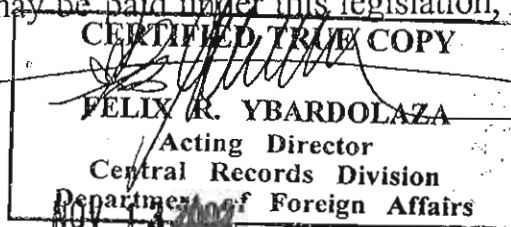
6th. "Institution" means the Institution or Authority responsible for implementing, completely or partially, the legislations specified in Article 2.

7th. "Competent Institution" means the Institution which should take cognisance of each case, in conformity with applicable legislation.

8th. "Economic benefit or pension" means any economic benefit or pension provided for by the legislations mentioned in Article 2 including any subsequent updating.

9th. "Worker" means any person who, as a consequence of having undertaken an activity as a worker, either employed by another or self-employed, is or has been subject to the legislations enumerated in Article 2.

10th. "Insurance period" means, for the Philippines, the creditable periods of contribution or service completed under the legislation of the Philippines, including the periods during which an incapacity benefit may be paid under this legislation,



but excluding the creditable periods of contribution or services in respect of which the contributions may have been refunded. For Spain, the periods of contribution or equivalent periods considered as such by Spanish legislation.

2. Other expressions and terms used in the Convention shall take the meaning which the respective legislation gives them.

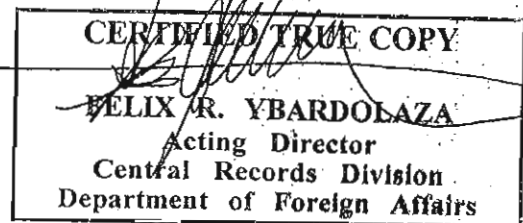
Article 2

1. The present Convention will be applied:

A) In the Philippines:

To the Government Service Insurance System and Social Security System laws for public and private workers, respectively, relative to economic benefits for:

- a) Maternity and sickness
- b) Retirement
- c) Disability
- d) Death or survivorship
- e) Work-related injury and occupational illness.



B) In Spain:

To the legislation relative to the economic benefits of the Social Security System, whether in their contributory or non-contributory form, with respect to:

- a) Temporary incapacity arising from common illness and non-work-related accident.
 - b) Maternity and risk during pregnancy.
 - c) Retirement.
 - d) Permanent incapacity arising from common illness and non-work-related accident.
 - e) Death and survivorship.
 - f) Work-related injury and occupational illness.
2. The present Convention shall be applied in equal manner to the legal provisions that may in the future complete or modify those enumerated in the preceding paragraph.
3. The present Convention shall be applied to the legislations that may establish a new Special Regime of Social Security when agreed upon by the Contracting Parties.
4. The Convention shall be applied to the legislations that may amplify the coverage of the existing legislation in effect to include new groups of persons, provided the Competent Authority of the other Party does

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not oppose the same within three months following receipt of notification of said provisions.

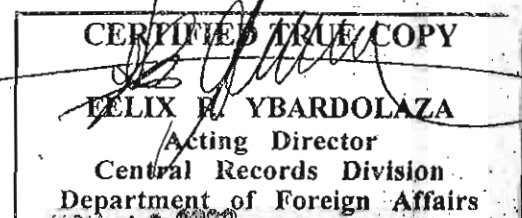
Article 3

The present Convention shall be applied to the workers who are nationals of either Contracting Party, as well as the members of their family and beneficiaries who are entitled to benefits.

It shall also be applied to workers who are refugees in conformity with the 28 July 1951 Geneva Convention and the 31 January 1967 Protocol and stateless persons, in accordance with the 28 September 1954 Convention, who reside ordinarily in the territory of one of the Contracting Parties, as well as the members of their family and beneficiaries entitled to benefits.

Article 4

The persons referred to in the preceding Article shall be subject to the legislation established under Article 2 of the present Convention, under equal conditions for the nationals of either Contracting Party.



TITLE II
PROVISIONS ON APPLICABLE LEGISLATION

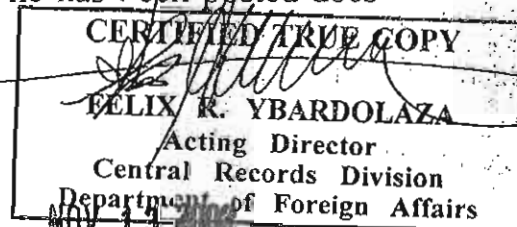
Article 5

1. The persons to whom the present Convention may be applicable shall be exclusively subject to the legislation of the Contracting Party in which territory they undertake their labour activity.

2. In the case of self-employed workers who by reason of their work may be subject to the legislation of both Contracting Parties, the legislation of the Contracting Party in whose territory they established their residence shall be applied. If they reside in both Contracting Parties, they shall be subject to the legislation of the Contracting Party where they ordinarily reside.

Article 6

1. With regard to what is provided under Article 5, the following particular rules and exceptions are established:
 - a) The worker employed in the service of a company whose central office is located in the territory of one of the Contracting Parties and is sent by the said company to the territory of the other Contracting Party to engage in work of temporary nature, shall remain subject to the legislation of the first Contracting Party, provided that the scheduled duration of the work for which he has been posted does



not exceed five years, or he has not been sent as a replacement for another person whose period of assignment has ended, provided further that the Competent Authority or Institution (assigned by that one), whose legislation continues to apply, has given its consent.

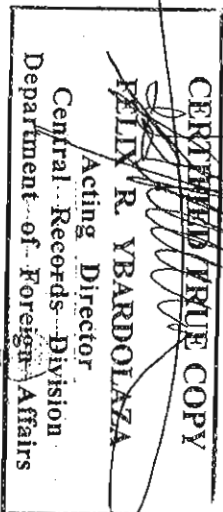
- b) The self-employed worker who performs his activity normally in the territory of a Party in which he is insured and goes on to perform an activity of the same nature in the territory of the other Party, shall continue to be totally subject to the legislation of the first Contracting Party, on condition that the scheduled duration of the activity does not exceed two years and provided that the Competent Authority or Institution (assigned by that one), whose legislation continues to apply, has given its consent.
- c) Travelling personnel in the service of air and land transport companies who perform their activity in the territory of both Contracting Parties, shall be subject to the legislation of the Contracting Party in whose territory the company has its central office.
- d) The salaried worker who performs his activity on board a ship shall be subject to the legislation of the Contracting Party whose flag the ship flies.

Notwithstanding the foregoing, when the worker is paid for the above activity by a company or a person whose domicile is in the territory of the other Contracting Party, he shall remain subject to

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the legislation of this Contracting Party, if he resides in its territory. The company or person that pays the compensation shall be considered as employer for the application of the said legislation.

- e) Workers who are nationals of a Contracting Party and with residence therein who render services in a conglomerate fishing company set up in the other Contracting Party and in a ship registered in that Contracting Party, shall be considered workers of the participating company of the country of which they are nationals and in which they reside and, therefore, shall remain subject to the legislation of this Contracting Party, the said company being duty-bound to assume its obligations as employer.
- f) Workers employed in jobs of loading, unloading, repair of ships, and security services at the port, shall be subject to the legislation of the Contracting Party to whose territory the port belongs.
- g) Members of the diplomatic personnel of Diplomatic Missions and of Consular Offices shall be governed by the provisions of the Vienna Convention on Diplomatic Relations of 18 April 1961 and of the Vienna Convention on Consular Relations of 24 April 1963.
- h) Administrative and technical personnel and members of the maintenance staff of Diplomatic Missions and Consular Offices of each one of the Contracting Parties, may opt between the application of the legislation of any of the Contracting Parties, provided that they do not have the character of civil servants of the



State to which the Diplomatic Mission or Consular Office belongs and are nationals of such State.

The options shall be exercised within the first three months starting from the entry into force of this Convention or, as the case may be, within the three months following the date of the start of work in the territory of the Contracting Party in which they carry out their activity.

- i) Personnel in the private service of members of Diplomatic Missions and of Consular Offices may opt between the application of the legislation of any of the Contracting Parties, provided they are nationals of the Contracting Party to which the Diplomatic Mission or the Consular Office belongs.

The options shall be exercised within the first three months starting from the entry into force of this Convention or, as the case may be, within the three months following the date of the start of work in the territory of the Contracting Party in which they carry out their activity.

- j) Civil servants of a Contracting Party as distinct from those referred to in sub-paragraph g), who are assigned in the territory of the other Contracting Party, shall remain subject to the legislation of the Contracting Party to which belongs the Administration they come under.

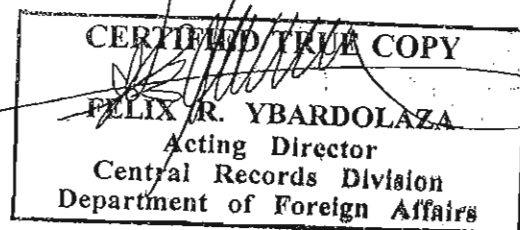
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NOV 13 2002

- k) Persons sent by one of the Contracting Parties on missions of co-operation to the territory of the other Contracting Party shall remain subject to the legislation of the country that sends them, except as otherwise provided under the agreements of co-operation.
2. The Competent Authorities of both Contracting Parties or the Institutions designated by them may, by mutual agreement, establish other exceptions or amend those provided under Paragraph 1.

Article 7

1. The pensions, subsidies, income and indemnities to which one may be entitled by virtue of the legislation of a Contracting Party shall not be subject to reduction, modification or retention by reason of the fact that the beneficiary resides in the territory of the other Party.
2. The provisions of Paragraph 1 shall apply neither to temporary incapacity benefits, nor to non-contributory benefits, the grant of which depends on periods of residence.
3. The Social Security benefits to which one is entitled under the legislation of one of the Contracting Parties shall be paid to the nationals of the other Party who reside in a third country under the same conditions and to the same extent to those given to the nationals of the first Party who reside in said third country.



NOV 13 2002

TITLE III
PROVISIONS ON BENEFITS

CHAPTER 1
TOTALIZATION OF INSURANCE PERIODS

Article 8

1. When a worker has been subject to the legislation of the two Contracting Parties, the insurance periods complied with in each Party shall be totalized provided they do not overlap.

2. When there is an overlap of insurance periods, the following rules shall be taken into account:
 - a) When an obligatory insurance period coincides with a voluntary insurance period or an equivalent period, the obligatory insurance period shall be taken into account.

 - b) When a voluntary insurance period and an equivalent period coincide, the voluntary insurance period shall be taken into account.

 - c) When two voluntary insurance periods, or two equivalent insurance periods coincide, the voluntary insurance period or the equivalent period corresponding to the Party in which the person may have

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NOV 13 2002

been mandatorily insured in the last instance shall be taken into account.

- d) When it is not possible to determine in one Party the period in which determinate insurance periods may have been completed, it shall be presumed that said periods do not overlap with the insurance periods complied with in the other Party.

Article 9

In cases where the legislation of one of the Contracting Parties determines the right or the amount of benefits upon completion of the insurance and the equivalent periods derived from the exercise of a profession for which a special Social Security regime may exist, what will be totalized by the Competent Institution of said Party shall only be the insurance and equivalent periods complied with in the Special Regime corresponding to the Social Security of the Party or, in its absence, those derived from the exercise of the same profession.

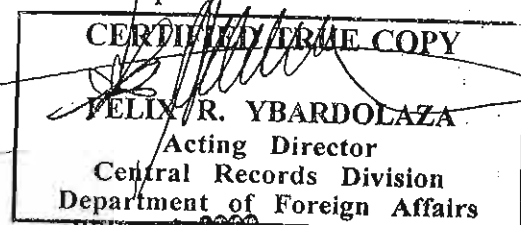
CHAPTER 2

ECONOMIC BENEFITS FOR SICKNESS, TEMPORARY INCAPACITY, MATERNITY AND RISK DURING PREGNANCY

Article 10

Economic benefits for sickness, temporary incapacity, maternity and risk during pregnancy, shall be charged to the Competent Institution of the

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Party whose legislation is applicable to the worker in accordance with Articles 5 and 6.

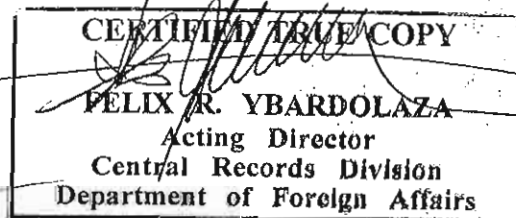
For the award of such benefits, totalization of insurance periods in the manner prescribed under Article 8 shall be taken into account, if necessary.

CHAPTER 3 RETIREMENT BENEFITS

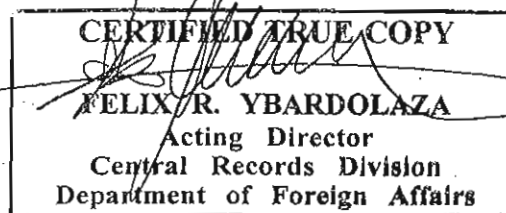
Article 11

The worker, who may have been subject successively or alternatively to the legislation of both Contracting Parties, shall be entitled to the benefits regulated under this Chapter, applying the following norms:

1. The Competent Institution of each Contracting Party shall determine the entitlement and shall calculate the benefit, taking into account only its own insurance periods (country pension).
2. The Competent Institution of each Contracting Party, in like manner shall determine the entitlements to the benefits by totalizing with its own insurance periods those completed under the legislation of the other Contracting Party. If after totalization, the right to the benefit is established, the following rule shall be applied for the calculation of the amount to be paid:



- a) The Competent Institution of each Contracting Party shall determine the amount of the benefit to which the interested person shall have been entitled, as if all the totalized insurance periods had been completed under its legislation (theoretical pension).
- b) The amount of the benefit shall be established by applying to the theoretical pension, cited in sub-paragraph a), the same proportion existing between the insurance period completed in the Contracting Party to which the Institution calculating the benefits belongs and all the insurance periods completed in both Contracting Parties (pro rata temporis).
- c) If the legislation of any of the Contracting Parties requires a maximum duration of insurance periods for the recognition of full pension, the Competent Institution of that Contracting Party shall take into account, for purposes of totalization, only the contribution periods under the other Contracting Party necessary to establish the entitlement to the said pension.
3. The entitlements and amount having been determined consistent with what is provided under Paragraphs 1 and 2, the Competent Institution of each Contracting Party shall recognise and pay the benefit that is more beneficial to the interested person, independent of the decision adopted by the Competent Institution of the other Contracting Party.



NOV 13 2002

Article 12

Where a pension is established by only one of the Parties because the requirements in the other Party are not completed, the benefit shall be adjusted, if necessary, in accordance with Article 11 once the requirements in both Parties shall have been complied with.

Article 13

1. Where a worker does not complete, in accordance with the legislation of one of the Contracting Parties, insurance periods of twelve months and, under the legislation of such Party is not entitled to benefits, the Institution of that Party shall not recognise any benefit for said period. In this case, the Institution of the other Party shall take into account, if necessary, the insurance periods completed in the first Party, but Article 11, Paragraph 2 will not apply.
2. Notwithstanding the preceding paragraph, when the periods completed in both Parties are less than one year and with the totalization of said periods an entitlement to benefit can be acquired in one or both Parties, Article 11, Paragraph 2 shall apply.

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15

NOV 13 2000

CHAPTER 4
DISABILITY BENEFITS

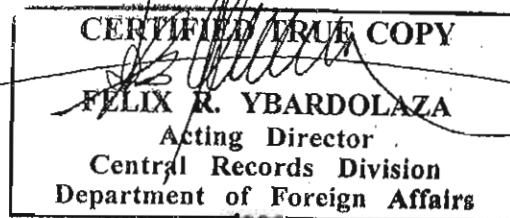
Article 14

1. The provisions of Chapter 3 of this Title shall apply by analogy to the disability benefits to be established under the provisions of this Convention.
2. In order to determine the degree of disability of the worker, the Competent Institutions of either Contracting Party shall take into account such medical reports and administrative information as provided by the Competent Institution of the other Party. Nevertheless, each Competent Institution shall have the right to subject the worker to a check-up by a doctor of its choice.

CHAPTER 5
DEATH AND SURVIVORS' BENEFITS

Article 15

Chapter 3 of this Title shall apply by analogy to the survivors' benefits established under the provisions of this Convention.



NOV 13 2011

CHAPTER 6
DEATH EXPENSES BENEFITS

Article 16

1. The death expenses benefit shall be awarded by the Competent Institution of the Contracting Party whose legislation is applicable to the worker at the time of death.
2. If it pertains to pensioner of the two Parties, the death expenses shall be governed by the Competent Institution of the Party in whose territory the death occurred.
3. If the death occurs in the territory of a third country, the death expenses shall be governed by the Competent Institution of the Party whose legislation the person had been last subject of.

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TITLE IV

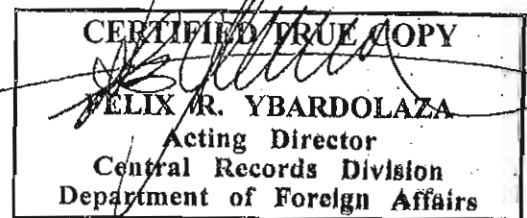
PROVISIONS ON WORK-RELATED INJURY AND OCCUPATIONAL ILLNESS BENEFIT

Article 17

Entitlement to a benefit arising from a work-related injury or occupational illness shall be determined in accordance with the legislation of the Contracting Party to which the worker was subject at the time the injury occurred or the occupational illness was contracted.

Article 18

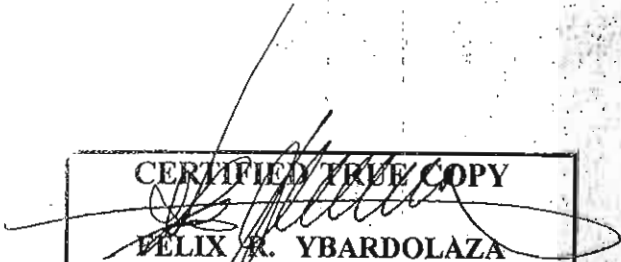
1. When required under the legislation of either Contracting Party, in order to determine the reduction of ability due to a work-related injury or occupational illness, it shall take into account the sequel of earlier work-related injury or occupational illness suffered by the worker while subject to the legislation of the other Party.
2. Where the worker is entitled to benefits due to a new work-related injury, the amount of the benefits shall be determined by taking into account the reduction of ability for work as a result of the injury according to the legislation then applicable to the worker.



NOV 13 2003

Article 19

1. Occupational illness benefits shall be established in accordance with the legislation of the Contracting Party applicable to the worker while carrying out an activity exposed to the risk of occupational illness even though the illness has been diagnosed for the first time while the worker was subject to the legislation of the other Contracting Party.
2. When a worker has successively or alternatively carried out the said activity while subject to the legislations of both Parties, his entitlement will be determined in accordance with the legislation of the party to which he was last subject for that activity.
3. When an occupational illness benefit has to be paid by one of the Contracting Parties, this Contracting Party will be liable for any aggravation of the illness that could happen while the worker is subject to the legislation of the other Contracting Party. However, when the worker has carried out an activity exposed to the same risk while subject to the legislation of the other Party, the Competent Institution of the latter shall determine and pay the benefit in accordance with its own legislation. If, as a consequence thereof, the new benefit is lower than what was payable or what is already being paid by the first Party, this Party shall grant a supplement to the person concerned equal to the difference.

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TITLE V
MISCELLANEOUS PROVISIONS

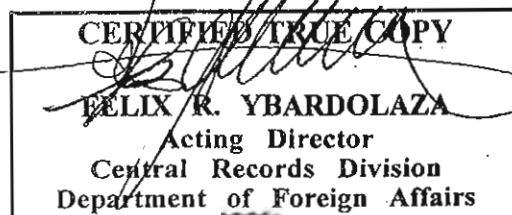
Article 20

1. In order to establish the regulatory base of the benefits, the Competent Institution of each Contracting Party shall take into account only its own insurance periods.

2. In the case of Spain, in order to determine the regulatory base of the benefits, when the provision of Article 11, paragraph 2, is applicable, the following norms shall be applied:
 - a) The computation of the Spanish theoretical pension shall be done on the basis of the actual contributions of the insured person in Spain during the years immediately preceding the payment of the last contribution to Spanish Social Security.

 - b) The amount of the benefits shall be increased in accordance with the appreciation and revaluation calculated for each succeeding year for pensions of the same nature.

3. In the case of the Philippines, in order to determine the regulatory base of the benefits (average monthly salary credit), when the provision of Article 11, paragraph 2, is applicable, the Competent Philippine Institution shall consider as base (salary credit) for the said period the



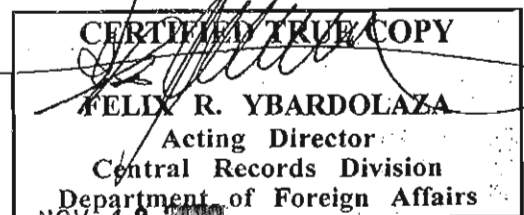
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complete monthly base in the Philippines preceding or succeeding such period whichever is more beneficial to the worker.

Article 21

The Competent Authorities:

1. Shall establish the Administrative and Technical Agreement needed for the implementation of this Convention.
2. Shall designate the liaison agencies of each of the two Parties that shall facilitate direct communication between them.
3. Shall communicate to each other all information relative to measures taken in order to implement this Convention.
4. Shall as soon as possible communicate to each other all information relative to the modifications that arise in the legislation or regulation of one Party that can affect the implementation of the present Convention.
5. Shall regulate by common agreement the modalities for medical and administrative control as well as the procedures for the implementation of the present Convention and the social security legislation of the two Contracting Parties.

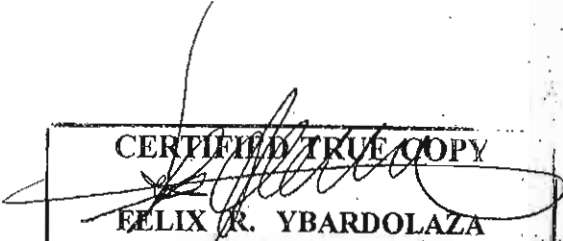


Article 22

For the implementation of the present Convention, the Competent Authorities and Institutions of both Parties shall extend to each other their good offices and reciprocal technical and administrative collaboration needed for action for such purposes, as if the implementation of one's own legislation were involved. This assistance shall be extended at no cost, except when the Administrative Agreement expressly provides for the contrary.

Article 23

1. The exemptions from payment of fees for registration, notarisation, seals and consular fees provided under the legislation of one of the Contracting Parties for documents to be presented to the Competent Administrations or agencies of their Party shall be extended to the corresponding documents to be presented, in the implementation of the present Convention, to the Competent Administrative Organs or Institutions of the other Party.
2. All instruments, documents and receipts to be presented in the execution of the present Convention shall be exempt from any requirement for legalisation.

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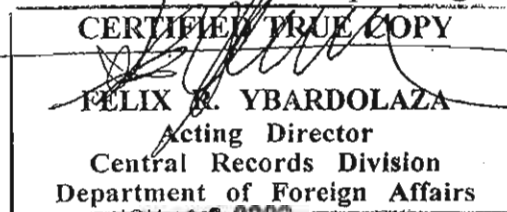
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Article 24

1. The Competent Authorities and Institutions of the two Contracting Parties can carry out direct relations among themselves and with the persons concerned. They can also avail of their respective Diplomatic Authorities.
2. Any instrument, document or receipt to be used in the implementation of this Convention by the beneficiaries of the same and submitted to the Competent Authorities, Institutions and Jurisdictions in Social Security matters of any of the two Parties shall be validly done in English or Spanish.

Article 25

1. Application, declarations, appeals or other documents which, for purposes of the implementation of the legislation of one Party, should be presented to the Competent Authority or Institution of said Party within a specified period, shall be considered as having been presented before said entities as if they had been submitted, within the same period, before the corresponding Competent Authority or Institution of the other Party. In such case, the latter Authority or Institution must transmit without delay the applications and appeals to the corresponding Competent Authority or Institution.
2. Any application for benefit submitted according to the legislation of a Party shall be considered as an application for the corresponding



benefit according to the legislation of the other Party, provided that the interested person expressly manifests or declares that he has engaged in work activity in the territory of the said Party.

Article 26

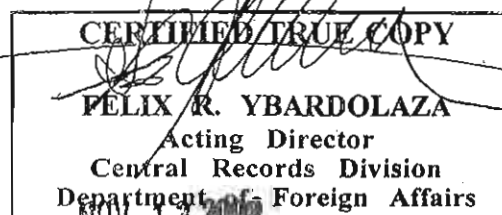
The Competent Authorities should resolve through negotiation differences in interpretation of the present Convention and its Administrative Agreements that may arise between the Institutions of both Parties.

Should the difference not be resolved through negotiations, it shall be submitted to an Arbitration Committee whose composition and procedure shall be decided upon by common agreement between the Contracting Parties.

The decision of the Arbitral Committee shall be considered as obligatory and final.

Article 27

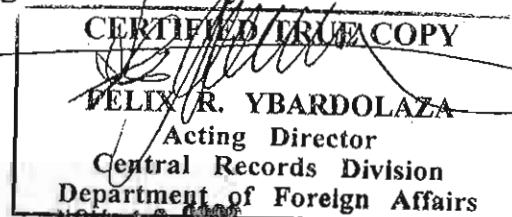
1. Every insurance or assimilated period complied with under the legislation of one of the Parties before the date of effectivity of this Convention shall be taken into consideration in determining the rights to benefits that may arise in conformity with the provisions of this Convention. The foregoing and the provision of Article 8, Paragraph 2 a) notwithstanding, when the overlapping insurance periods in both



Contracting Parties existed prior to the entry into force of the 20th May 1988 Convention, each Party shall take into consideration those completed under its own legislation.

2. A benefit shall be due by virtue of this Convention, even when what is involved is a fact that arises prior to its effectivity. For this purpose, every benefit that is not paid or has been suspended due to the nationality of the worker or his residence in the territory of one of the two Parties shall, upon the request of the interested persons, be paid or reinstated from the effectivity of this Convention, provided that the rights previously recognised shall not have resulted in a full settlement.
3. Application of this Convention shall confer right to benefits for contingencies that occurred prior to the date of its entry into force. However, the payment of such benefits shall not be made, not in whatever case, for periods prior to its effectivity.
4. Pensions which may have been settled by one or both of the Parties or the entitlements to pensions which may have been denied or suspended before the entry into force of this Convention, may be reviewed or restored, at the request of the interested persons, taking into account the provisions of the same.

Except for the more beneficial provisions established by the applicable legislation of the Contracting Parties, the application for review or for restoration of entitlements, in these cases, must be submitted within the maximum period of two years starting from the entry into force of this



Convention and the entitlements shall be acquired starting from the submission of the application.

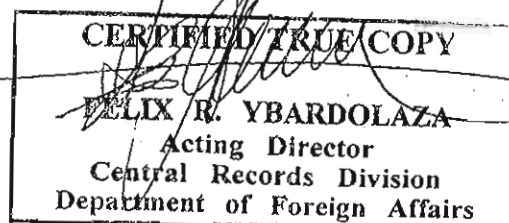
Paid benefits which may have consisted of lump sum payment shall not be reviewed.

Article 28

1. Payments made in the implementation of this Convention can be validly realised in the currency of the country to which the Institution obliged to pay belongs.
2. In the event that any regulation which restrict the remittance of foreign exchange are promulgated in any of the Contracting Parties, the two Parties shall immediately adopt the measures necessary to guarantee the enjoyment of the rights derived from this Convention.

Article 29

1. To obtain a benefit in the cases set forth in Article 11, Paragraph 2, and Article 14, the requirement by the legislation of any of the Parties that a person should be in a situation deemed equivalent to "registered" (situación asimilada de alta) shall be considered to have been met if the person concerned had been covered by the social security system or received a benefit provided under the legislation of the other Party, based upon its own insurance periods.



NOV 13 2000

2. For the establishment of survivorship pensions, it shall be taken into consideration, if necessary, whether the deceased subject person causing the benefit was registered or was a pensioner in accordance with the legislation of the other Contracting Party.
3. If the legislation of one Contracting party requires, in order to establish the benefit, that contribution periods have been completed in a definite term immediately prior to the contingency causing the benefit, this condition shall be considered fulfilled if they are credited to the interested person in the period immediately prior to the establishment of the benefit in accordance with the legislation of the other Contracting Party.

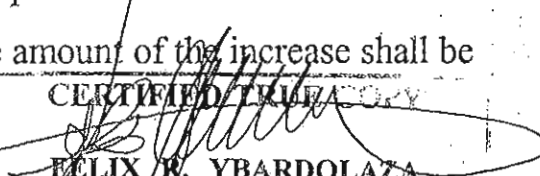
Article 30

The provisions of one of the Contracting Parties that establish the reduction, suspension or cancellation of benefits in case of pensioners who might engage in work activity shall be applicable even though these persons may engage in said activity in the territory of the other Contracting Party.

Article 31

Acknowledged benefits under Title III of this Convention will be updated in the same frequency and in the same amount as with internal legislation. Whenever the amount of a pension has been determined according to paragraph 2 of Article 11, the amount of the increase shall be

27

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FELIX R. YBARDOLAZA
Acting Director
Central Records Division
Department of Foreign Affairs

NOV 13 2003

reduced through the application of the same proportionality rule referred to in the aforementioned paragraph and Article.

TITLE VI
FINAL PROVISIONS

Article 32

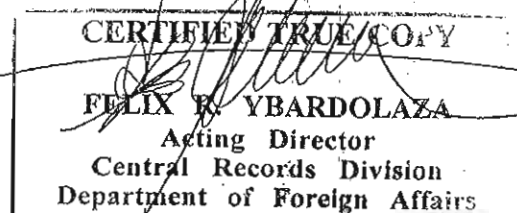
1. This Convention shall remain in force without any limitation on its duration. It may be denounced at any time by either Party giving twelve months' notice in writing to the other Party.

2. In the event of the termination of this Convention, any right acquired by a person in accordance with its provision shall be maintained and negotiations shall take place for the settlement of any rights then in course of acquisition by virtue of those provisions.

Article 33

The entry into force of this Convention supersedes the Convention on Social Security between the Philippines and Spain of 20 May 1988.

This Convention guarantees the rights acquired under the Convention of 20 May 1988.



NOV 13 2002

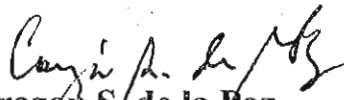
Article 34

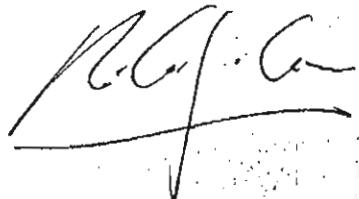
This Convention shall enter into force on the first day of the second month following the month in which each Party shall have received from the other Party written notification that it has complied with all statutory and constitutional requirements for the entry into force of this Convention.


BY VIRTUE OF WHICH the authorised representatives of the two Contracting Parties sign this Convention. Done in Manila on the 12th of November 2002 in two copies in the English and Spanish languages, with both texts being equally authentic.

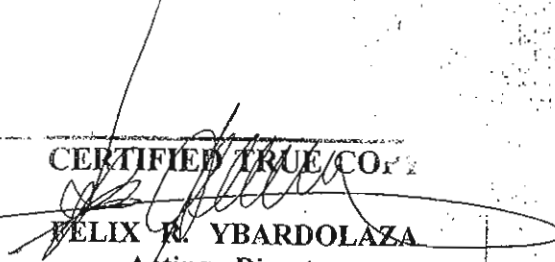
**FOR THE REPUBLIC OF
THE PHILIPPINES**

**FOR THE KINGDOM OF
OF SPAIN**


Corazon S. de la Paz
President of the
Social Security System


Ramón Gil-Casares Satrustegui
Secretary of State for
Foreign Affairs


Winston F. Garcia
President of the
Government Service Insurance System


FELIX R. YBARDOLAZA
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Department of Foreign Affairs

NOV 13 2002

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