Crossing National Frontiers

An Examination of the Arrangements for Exporting Social Security Benefits in Twelve OECD Countries

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with the assistance of Anita Horwich

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1.1 Problems of social security coverage for migrants

1. This study investigates the policies which govern the exporting of social security benefits paid for old age, disability and widowhood in 12 countries of the Organisation for Economic Co-operation and Development (OECD). There is increased interest in this area of social policy as a consequence of growing international migration and the establishment, in many regions of the world, of free trade areas or common markets.

2. In most OECD countries, an overall upward trend in migratory movements was quite marked by the mid-1980s and became even stronger in 1990-4. The acceleration of inflows of immigrants was attributed both to the continuing demographic and economic imbalances between North and South and to the relatively recent political changes in Central and Eastern Europe. Migration has now taken on a global dimension encompassing all continents and bringing into most member nations increasing proportions of new nationality groups of immigrants (SOPEMI, 1992, pp. 13-29).

3. Developments such as these give urgency to the need for migrants to be covered by social security, yet coverage may prove difficult. For example, when people leave their country of birth or residence, either permanently or for a period, they may wish to take with them benefits which they are already receiving. However, if this is not permitted by the country they are leaving, and there are no equivalent entitlements in the country of their destination or if there has not been time to build these up, they will lose social security cover. In other cases, people leaving a country in which they have accrued entitlements to a future benefit may wish to claim that benefit subsequently from abroad. If they cannot do this they may have to rely on part-coverage achieved in the country to which they have moved, or lose coverage altogether if they have not been able to build up entitlements there.

4. For those going abroad the issue therefore is one of benefit portability. From the point of view of the governments concerned benefits paid abroad have in effect to be ‘exported’: political ties to the recipients or potential recipients of benefits may have to be loosened, and money transferred to be used in another country with attendant fiscal and consumption losses. These factors may not matter if there is reciprocity between the countries concerned. But reciprocity may be difficult to achieve - unless the domestic social security systems of the countries are broadly similar and the flow of emigrants/immigrants between them is not too disparate.

5. The process of taking benefits abroad may thus be described in terms of either ‘portability’ or ‘exportability’, depending from whose perspective it is being considered - that of the recipients or potential recipients of social security moving across frontiers, or that of the governments of the countries they are leaving. Consequently, in this study the terms are used interchangeably.

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1. In this report ‘social security’ benefits refer to statutory cash benefits determined by and provided through the medium of the State and its associated institutions. The term ‘benefits’ when used generally refers to pensions and other benefits which are terms used variously by different countries to describe specific provisions. ‘Widowhood’ covers both the condition of being a widow and that of being a widower.
1.2 Focus of the study

6. The report describes the arrangements which exist to facilitate or hinder this process in the countries surveyed and the arrangements which they may make with other countries jointly to secure full social security coverage for those who may have part-entitlements in each. It is important to emphasise that the particular arrangements examined are those which are made by the initial providing country including any reciprocal social security agreements it may have negotiated with another country or countries. Thus, the provisions made by countries for folding new immigrants, or those returning from abroad, into, or back into, their social security systems do not form part of the study.

7. An attempt to understand whether and how migrants are covered for social security is partly technical, involving a grasp of the minutiae of the benefit arrangements made. But underlying these arrangements are theoretical questions. What are the limits of the nation-state's responsibility for the welfare of its actual current or potential future social security recipients living outside its boundaries? Is the nature of welfare such that it is exclusive to the 'community' of the nation-state? Whilst describing in detail the various arrangements made in the selected countries, this study also raises these questions in so far as they are relevant to social security provision.

1.3 Purpose of the study

8. The purpose of the study stems from an earlier inquiry into the arrangements under the United Kingdom's (UK) social security system for taking disability benefits abroad (Bolderson and Horwich, 1992; Bolderson, 1991). This system embodies an overall prohibition on taking benefits abroad which has been in the primary British legislation since before World War II but has been tempered over the past 50 years both by enabling regulations and by the negotiation of reciprocal social security agreements.

9. Consideration of the British arrangements led the researchers to reflect whether issues of benefit exportability are similarly or differently treated in other countries. What kind of restrictions do other industrialised, developed countries place on taking benefits abroad? In particular, do they pay pensions abroad and, if so, are they paid in full and are they uprated? How do they treat disability and widows' and dependents' benefits? Comparable information was not available in the literature and the present survey which covers the situation up to April 1993, was, therefore, commissioned by the Department of Social Security (DSS) in order to gain an international perspective within which to place UK policies.

2. Although see recent work by Eriksen, 1992.
Part I
Framework
Chapter 2 Scope of the Study and Methods of Inquiry

2.1 Selection of countries

1. Since the objective of the research was to examine the arrangements for taking benefits abroad in countries which are broadly comparable to the UK as regards level of economic and social development, it was decided to use the membership of the OECD group as the starting point for the selection process. A choice of 12 of the 24 other member countries was then made.

2. The selection was on the basis that the countries should: i) be amongst those where the issue of people wishing to take benefits abroad is especially important; and/or ii) have social security systems with particular features which might have a bearing on policies towards the exporting of benefits.

3. Examples of (a) were seen to be those which, like the UK, had had overseas colonies (e.g. France, Netherlands, Portugal), or which themselves had been overseas dependent territories (e.g. the UK’s former dominions, the Republic of Ireland), or which, as a result of extensive ongoing immigration, have a high degree of population mix (e.g. the United States of America (USA)). Countries with mixed populations are likely to experience a modern feature of migration, namely the emigration of second and third generation immigrants back to their parents’ and grandparents’ countries of origin (see Appleyard, 1991, p. 53). Countries which had themselves been dependencies are likely to be receiving or sending populations from or to their ex-colonial powers.

4. Examples of (b) were seen to be countries which have either particularly long-standing or, conversely, more modern social security systems (e.g. respectively, Germany and Sweden), or which have distinctive social security arrangements (e.g. Australia, where entitlement to benefits is conditional on residence rather than on insurance contributions, and where benefits are also means-tested).

5. On these criteria the countries selected were Australia, Canada, France, Germany, Ireland, Italy, Japan, the Netherlands, New Zealand, Portugal, Sweden, the USA. Some of the characteristics of each of these countries which signalled that they should be included are outlined below.

6. Australia, Canada, and New Zealand are former dominions which have each had substantial population exchanges with the UK throughout the post World War II era and also have quite distinctive social security systems. France, Germany, Ireland, Italy, the Netherlands and Portugal are countries of the European Community (EC). Except for Ireland they have all ruled over former colonial territories and are therefore likely to have received a fairly steady stream of immigrants from those territories over the years, many of whom may well have sought to return to their home countries at a later stage in their lives, as has been the case with certain immigrant groups in the UK.

7. Each of the six EC member states has special characteristics which are of relevance to the study. Both Germany and France have a large foreign population and are the major continental members of the Community, whereas the Netherlands and Portugal are examples of smaller member states. Italy has traditionally been a major source of emigrants living overseas (especially in the
USA), while Ireland too has long been a major provider of emigrants and furthermore has particularly close social security links with Britain.

8. Sweden was included as a representative of the Nordic group and European Free Trade Agreement bloc and also as an example of a country with a fully developed social security system, although not all its elements have been established for quite as long as the systems of some of the EC countries.

9. Japan was chosen both because it is the only Asian OECD member country and because since World War II Japanese people have established important trade links all over the world. It was also thought that its unique social and cultural traditions might have a particular bearing on the formulation of its social security policy.

10. Finally, the USA was an essential choice, in view of the long-standing sizeable migration flows both in and out of the country.

2.2 Contingencies and benefits examined

11. The specific contingencies covered are old age, disability and widowhood. The focus is on long-term income maintenance benefits - e.g. age pension, widows’ and widowers’ benefits and disability benefits - with a view to finding out the degree of exportability permitted under national legislation and international agreements.

12. Although there are obvious specific equivalents in most countries of the British old age/retirement pensions, invalidity pensions, widows’ and widowers’ pensions etc. - it was necessary, for each country, to look at the whole range of benefits to which persons who have experienced one of the three contingencies, or might do so in the future, could be entitled depending on their particular circumstances. From the point of view of the individuals going or living abroad, what matters is the comparison between the total income they may receive in benefits whilst remaining in the initial providing country, and the total benefits they may receive from that country whilst living abroad. In some countries pensions may be ‘topped up’ by specific additional benefits, or there may be specific alternative benefits for people who do not qualify for the main benefit. It clearly makes a difference to the person concerned whether the arrangements which exist for taking benefits abroad include any of these additions and alternatives, and the less comprehensive and adequate the main benefit is the more this may matter.

13. The study is therefore concerned with all benefits specifically intended for old age, disability or widowhood, whether they form the main pension or benefit, or whether they serve as supplementary or alternative benefits. Excluded are general social assistance schemes, unless they also act as the nationally available supplement, and those provided locally and subject to discretionary decision-making.

14. Also excluded from the study, but important to bear in mind, are occupational and private pension plans. These are noted in the introductory passages preceding the findings for the individual countries in order to give some impression of the relative importance of statutory social security schemes vis-à-vis non-statutory, even in some instances mandatory, schemes. In several countries the latter provide substantial additions to the incomes of different groups of pensioners. There are no legislative barriers to retaining or preserving these pensions when going abroad, but long waiting periods, and the unfavourable transfer values for those leaving a scheme, mean that mobile workers, amongst whom there will be migrants, can lose out.

2.3 The particular circumstances of migrants addressed

15. Two main types of situation are covered, and the standard related terminology adopted in this report is underlined:
• where people who are already in receipt of a benefit in the country in which they have been living (called the first country or the initial providing country, as it may not be their country of origin) travel or move to another (the second country or the country of destination or host country) - the issue here is whether the initial providing country permits people already in receipt of benefit to retain this benefit abroad and pays the money to them while they are abroad

• where people who, although not actually in receipt of a benefit at the time of departure, have accrued some rights in the initial providing country to a future benefit or part of a future benefit - the issue then is whether they can preserve such rights and also subsequently claim them from abroad (i.e. the paper does not cover the situation where accrued entitlements may be preserved for a later claim to be made by persons returning to the initial providing country).

16. The benefits involved are: the benefits provided for the main beneficiary: any adult dependency additions paid with this benefit; and any benefits provided for a surviving spouse who has derived them from that of his/her deceased wife/husband.

### Eligibility and entitlement conditions

17. A predominant feature of all social security systems is that eligibility and entitlement to benefits and pensions rest on the fulfilment of specified conditions. However, since benefits have been introduced at different times in different countries over the past 100 years, the kind and level of benefits provided, the contingencies covered and the eligibility and entitlement conditions - in short, who gets what, when and how much and for how long - vary greatly.

18. Eligibility may be determined by a person's circumstances or attributes (whether disabled, aged, etc.) but some of the circumstances may be difficult to establish when a person is outside the country (e.g. incapacity for work). Entitlement may be determined by the number of contributions paid, length of period attached to the work force, length of time resident in the country, residence when making or for a period prior to making a claim, or continued residence to remain entitled and/or whether claimants are nationals. By definition some of these entitlement conditions may constitute barriers to taking benefits abroad (e.g. a requirement that a beneficiary should continue to be resident in the country) or to subsequently claiming them from abroad (e.g. a requirement that a beneficiary should have been resident in the country for a specified period prior to claiming).

19. Contribution conditions are not in themselves a barrier to retaining an already acquired benefit when a person goes abroad. But they may present a hinderance to claiming subsequently from abroad unless partially accrued entitlements from the first country have been preserved and are sufficient either to qualify that person for benefit, or to cover him or her for a part of the benefit, with the remainder being made up by the second country. Contribution conditions can, however, make it impossible for a person to become qualified in the second country. In extreme cases the migrant may not qualify for either country's benefit, having contributed to both but for an insufficient period in each case (ILO, 1989, p 157).

### Specific domestic policies on benefit exportability

20. Apart from the eligibility and entitlement conditions to which the individual benefits are subject, countries may have legislation which deals specifically with permitting or prohibiting the export of benefits. Thus, for example, the primary legislation which governs social security benefits may have written into it an overall prohibition which then may or may not be lifted in relation to particular benefits in other legislative instruments. Or, to give another example, there may be contained within the law a general principle which stipulates that benefit should be paid to all those living in a country regardless of nationality but that non-nationals should not be permitted to take benefits abroad. Alternatively, or additionally, there may be particular rules which either prohibit or permit
exporting of individual benefits or groups of benefits, thus overriding the normal entitlement criteria.

21. The domestic arrangements already mentioned are variously employed by different countries. International bilateral or multilateral agreements have frequently developed alongside them. They were first devised, during the early years of this century, to extend cover to a country’s nationals who were temporarily working beyond its border, at sea or in a neighbouring country. Initially they related to Workmen’s Compensation and pensions but as domestic social security systems became more extensive they came to include arrangements for other benefits also (ILO, 1989).

22. It was not until after World War II that protection of migrants, as distinct from temporarily mobile workers, became a concern in the design of the agreements. The International Labour Organisation (ILO) detects five principles at work in these later agreements: (i) ‘equality of treatment’ requires that the immigrant worker should have the same rights and obligations as a regular resident; (ii) ‘determination of applicable legislation’ requires that it should be clear ‘which specific law governs the social security protection of the migrant worker’; (iii) ‘maintenance of acquired rights’ requires that any right, or ‘paid up prospective right’, ‘should be guaranteed to the migrant in either territory, even if it has been acquired in the other’; (iv) ‘maintenance of rights in the course of acquisition’ requires that ‘account should be taken of period served by the migrant worker in each country’; and, (v) ‘payment of benefits abroad’ requires that there should be ‘no restriction on the payment of benefits [abroad] for which the migrant has already qualified’, including ‘the payment of family benefits in one country while the migrant is working in another’ (ILO, 1989, pp. 152-3).

23. The different principles identified by the ILO are given greater emphasis in different types of agreements. ‘Equality of treatment’ can be ensured through the type of agreement which is sometimes referred to as a ‘host’ agreement, where the receiving or host country is required to provide its benefits to migrants - with the possible exception of certain benefits that can be taken abroad under domestic legislation. ‘Totalisation’ agreements, such as the USA’s which became operative in the last decade, are concerned with the maintenance of acquired rights (preservation’ in the terminology of this report) or rights in the process of being acquired. Where arrangements are made through reciprocal agreements for preserving and acquiring rights, credits gained in one system may be converted into equivalent credits in the other and added together with each country undertaking financial responsibility for its share of the benefit. These agreements also eliminate dual coverage and contributions.

24. Most agreements go wider than the concerns of this study in that they may deal not only with the payment of benefits abroad to those who have migrated more or less indefinitely, but also with the situation of temporary migrant workers and with the treatment of the migrants in the ‘host’ country. Amongst the factors which may have influenced their formation have been: the immediate needs which arise when countries share borders which are frequently crossed by their workers; gaps in domestic policies which are then dealt with selectively through agreements; the perceived need to limit the cost of migration of either nationals or previous immigrants who return to their countries of origin; the perceived need to limit costs when large scale immigration occurs; the wish to limit unfair competitive advantage to trading partners when the latters’ domestic social security policies differ in their generosity and the extent to which they allow exporting of benefits.

25. Agreements appear to have been seen by governments as instruments of adjustment for economic or fiscal purposes, and sometimes possibly even for diplomatic purposes as a means of enhancing bilateral relations. However, the ILO has encouraged agreements that follow good practice shaped by the need to protect migrants rather than a country’s particular self-interest (ILO, 1989, referring to Conventions and Recommendations, 1962, 1982 and 1983). It has also encouraged
the establishment of multilateral agreements of which the 1982 Nordic Social Security Convention and the European Community's Social Security Regulations are examples, which have been prompted by economic concerns, such as the opening of markets and the need for labour mobility across the region.

26. Some countries' reciprocal agreements may override prohibiting entitlement criteria or domestic policies, or they may be the only policy instrument specifically concerned with the exporting of benefits. Except for Japan, all the countries in this study have entered into some reciprocal bilateral agreements. The agreements are therefore included in the study as one of the three policy instruments which affect a migrant's ability to take benefits abroad. Their importance, in terms of the effects they have on migrants, varies from country to country depending on the scope and nature of the agreements and the proportion of the total number of those going abroad whose destination is an agreement country. Comparable figures are not available and the effects cannot be quantified.

2.5 Methods of inquiry

27. An initial step in the research was to summarise relevant British policies and practice. This summary was checked by the UK DSS for accuracy and the experience of drawing it up helped in the formulation of the questions which were addressed to the 12 other countries in the survey.

28. Following this a Data Request List (see Appendix A) was drawn up to elicit information from the selected countries on the eligibility and entitlement conditions governing the relevant benefits as well as on the rules determining whether they could be taken abroad. Questions were also asked about the length of time these rules had been in force and about the nature of the legislation within which they are contained. In addition information was sought about the country's participation in bilateral and multilateral agreements. Finally countries were asked to provide statistics on the number of beneficiaries receiving payments abroad and the estimated cost. A summary of the British arrangements was also attached in order to convey the issues on which comparative material was being sought.

29. The Data Request List was sent to officials in the international relations departments of the social security administrations in the selected countries at the end of 1991. Written replies were received from respondents in 11 countries. Subsequently many of these contacts were further approached by telephone, fax, or through their embassies for missing details relating to particular benefits or areas of policy. In some cases further explanations were sought from academics and experts in the relevant countries. When the draft was complete, the respondents in each country were asked to comment on the accuracy of the details presented for their country, and this enabled a process of intensive checking to take place.

30. Secondary sources in the publications of international organisations and governments, as well as in the cross-national academic literature on social security, were consulted to provide background information to the more general aspects of each country's social security system.

31. The references to the prevalence or otherwise of occupational and private pensions which are to be found in the introductory sections of each country's presentation in Part II are drawn from the Commission of the European Communities (1991), Harrison (1992), Noble Lowndes (1992), the UK Department of Social Security (1992) Watsons (1992), Wyatt (1992). These sources do not use the same definitions or measurements and information taken from them is not comparable: the purpose of including this material has been to give a very brief indication of the relative importance in each country of statutory social security vis-à-vis other arrangements.

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1. Ireland was unable to provide the information within the time-frame of this study.
32. The value of the benefit to be taken abroad is of great importance to the individual beneficiaries and is also a measure of a government’s commitment to making payments abroad. However, suitable data on the comparative and relative value of each of the benefits under discussion in each of the countries are not available. The calculation of such values is complex and presents substantial methodological problems (see, e.g. Bolderson and Mabbett, 1991) and was not attempted as part of this project.

33. The principal source on migratory data is the Continuous Reporting System on Migration (SOPEMI, 1992) and some research was undertaken using this source in order to investigate any influence which the volume of emigration may have on exporting policies, or the likely impact of those policies on particular groups of emigrants. However, although SOPEMI gives detailed statistical breakdowns of the numbers and major sources of immigrants living in most of the countries included in this survey, it does not show equivalent data for their outflows of emigrants. Moreover, there are no internationally standardised procedures or intervals for collecting migration data or agreed definitions. Consequently the variables which had to be taken into account in interpreting these data proved to be so many that to make an appropriate migratory analysis in this report would have distracted from its main purpose.

Data presentation and analysis

34. The country by country presentations in Part II of the study are all organised in an identical format which is explained in some detail in the prefatory covering note which forms Chapter 4.

35. The analysis in Part III compares the exporting arrangements for benefits which cover the same or similar contingencies; reviews the policy instruments used; and identifies similarities and differences in the countries' arrangements.
3.1 Relevance of views on the moral basis of welfare provision

1. As signalled in paragraph 7 of the Introduction, the issues about taking benefits abroad touch on a central question about the nature of welfare itself. Does welfare necessarily emanate from, and remain exclusive to, the community in which people live, normally the modern nation-state?

2. Competing claims are found in the literature about the importance of territory and polity as constituting a boundary of welfare, depending on whether welfare is seen primarily as: (i) resting on communitarian interactions; (ii) arising from universal human rights; or (iii) based on reciprocal relations of mutual benefit (Parry, 1991).

3. The communitarian interaction argument strongly implies the confinement of welfare within national borders. The rights and duties conferred and imposed by welfare arrangements stem from the interconnections built up through the community developed from its members’ ‘natural bonds, allegiances and commitments’ (Parry, 1991, p.180). The members will therefore only be willing to contribute to welfare if the community can remain exclusive, that is, if others are prevented from moving in and out of it. Thus they will not consent to make redistributive payments which may then leak to outsiders or those living beyond the frontiers of the relevant locality or polity. When there are ‘locational alternatives’ (Petersen, 1991, p. 509), as for example between individual states in a federal system, the power of government to levy money for redistributive purposes must reside at the federal level; for it is only at that level that obstacles to mobility will ensure the necessary exclusivity.

4. Following this argument, free movement of benefit across countries is incompatible with the maintenance of communitarian-based redistributive policies. One consequence of this line of thought is that the free movement of workers across the EC requires a European federal social security system; only at this level, it is argued, are the required obstacles to mobility once again present.

5. A similar view is expressed by Freeman (1986), although his conclusion does not suggest a widening of the territorial boundary of the community as Petersen does but stresses the negative consequences of the incompatibility between (desirable) open markets and closed welfare systems. He describes the bounded notion of welfare thus:

‘the welfare state is a closed system because a community with shared social goods requires for its moral base some aspect of kinship or fellow feeling. The individuals who agree to share according to need have to experience a sense of solidarity that comes from common membership in some human community. But the concept of membership implies the existence of persons who are not members and who are, therefore, excluded from the process of sharing.’ (p. 52)

6. The exclusiveness consequent on solidarity is expressed by Coughlan (1992):

‘the solidarities implicit in a common tax and public service system are underpinned by the democratic solidarities of the national community and
serve to bind the Nation State together. But the solidarities that exist within Nation States do not, or rarely, exist cross-nationally or between States. It is this fact above all that ties the redistributive "Welfare State" irrevocably to the national level.' (p. 122)

He acknowledges that 'the motives underpinning solidarity [might be] self-interest, altruism or political Machiavellianism' (ibid., p. 111).

7. This nation-bounded view of the communitarian basis of welfare has been challenged by Weale (1991) who argues that the concept of citizenship can operate across nation-states which are, by observation, interdependent. But a more generally held view is that there are limitations on internationalism imposed by communitarian welfare although these may not be as harsh as Freeman supposes them to be. The principle of 'territoriality' explicitly adopted in some countries reflects communitarianism. But, although it means that benefits are reserved for those who reside in the country, the other side of the 'territorial' coin is that the country's benefits can be extended to those from outside who establish residency. Potentially, an extension of this communitarian view could embrace a vision of welfare of migrants based on the more positive aspects of territoriality. Migrants would then become full members of the host country entitled to receive the available benefits and thus their claims would be on that country instead of on the initial providing country.

8. A major opposing view of the transactions between individuals and society may lend itself more to internationalism. This is the idea that rights to welfare stem from universal human rights, which intrinsically belong to autonomous individuals regardless of territory or polity. Such a concept, if it were activated, would open up the possibility of world-wide welfare benefits. But, given that at present welfare rights are perfored mediated though national governments, and are likely to continue to be so, the individualism inherent in this view can be seen as having the effect of emphasising cross-national personal and welfare mobility at the expense, possibly, of the more integrative and egalitarian objectives attributed to communitarian-based transactions.

9. The third view of the moral basis of welfare referred to above sees it as resting on a reciprocal and contractual (if not strictly bilateral) transaction between individuals, entered into in order to `cope with adversity' (Parry, 1991, p. 186). These arrangements are referred to by Parry as constituting 'mutual aid' where:

`if the community empowers the individual - contributes to effective agency - there is an expectation that the agent will make some return which will sustain the empowerment of others. The pure communitarian may not expect any future return, but a believer in mutual aid would look for a contribution once the recipient had been enabled to make it and, perhaps, a contribution to the process of enablement itself.' (pp. 186-187)

and he adds that 'the organisation of social insurance schemes reflected something of this mutuality'. In those circumstances the degree of benefit portability permissible between states might then be influenced by the specific nature of the social insurance contract.

3.2 Transactions underlying social security benefits

10. In reality some social security benefits lean towards reflecting communitarian values whilst others appear to rest on transactions stressing various degrees of reciprocity between individuals.

11. Benefits which are means-tested and tax-funded appear to reflect most closely the communitarian transaction involving, at least in form, vertical redistribution on no grounds other than need and solidarity with fellow members of the community, and requiring no formal pre- or re-payment. An expansion of Petersen's and
Freeman's argument - that the power of governments to compel those that pay for redistributive policies decreases when the payments leak outside the defined community, in this case the nation-state - leads to an emergent proposition that the more redistributive the benefits are in their structure, the more likely it will be that there will be restrictions on their payment abroad.

12. A further kind of benefit may be funded through taxes or through contributions but is paid regardless of actual financial need since need is implied by membership of a category. The need is ‘deemed’ (Bolderson and Mabbett, 1991) to exist on account of a person being, for example, aged, or a child, or disabled, and thought to be deserving (Barry, 1990). People are willing to pay for benefits to members of these recognised categories, partly because they have come or may one day fall within one or some of these categories themselves. But they also know that the payments are limited to the category and controlled by more or less strict testing which scrutinises whether the circumstances which merit membership of the category pertain. Thus the community, territory or polity may be less crucial to placing a boundary around payments than continued evidence of the conditions giving rise to a person's claim. Relating the argument to this study, it might follow that this type of benefit can be paid abroad only subject to mechanisms operating which ensure the continued presence of the condition meritng membership of the category.

13. Benefits whose entitlement depends on contributions paid or other records of labour force attachment are of major importance in most of the countries surveyed. In their 'pure' insurance form, they come closest to reflecting concepts of individual autonomy since the relationship between contributions and benefits is actuarial and a person is therefore seen to have paid directly for his/her benefits. In their more extensive 'social' form, autonomy is more limited: the premiums are not risk-rated and the equivalence between contributions and benefits is muted to a greater or lesser extent depending on how that relationship is structured. 'Contributory' systems vary greatly. Some lean towards actuarial principles: for example, those that are entirely earnings-related, have no minimum built-in pension, provide no benefits for dependents and are conditional on a long period of earnings. Others are less actuarial in structure: they may pay flat-rate benefits and/or minimum pensions, provide dependents' allowances, and rest on entitlement conditions which are less strictly dependent on contributions paid or on duration of labour force attachment. In some cases a mix of these characteristics is present so that a social insurance scheme may straddle the requirements of both actuarialism and equity.

14. The less the stress is on actuarialism the greater will be the affinity which these schemes have with non-contributory, tax-based communitarian social security arrangements. The more inclusive the risk-sharing groups become, and the more extensive the number of risks covered, the greater will be the schemes' potential for redistribution amongst the citizens of that country and the less likely it may be that the benefits are exportable.

15. This proposition gains support from the accounts given by the ILO. In tracing the history of arrangements for migrant workers the ILO (1989) identified three trends. First, the principle of equality of treatment (that the immigrant worker should have the same rights and obligations as regular residents) was initially applied to those benefits based on 'the original concept of social insurance, which still bore the mark of private insurance techniques' (ibid., p. 154). Second, the early bilateral reciprocal agreements made between countries prior to World War II were in relation to Workmen's Compensation (generally based on private insurance) and pensions (generally having markedly actuarial characteristics). And third, in the post World War II years the transfer of benefits across nations has become more problematic as social security schemes became less reliant on a strict relationship between contributions and entitlement to benefit.

16. The moves from semi-actuarially based schemes to benefits based on looser connections with contributions, or to benefits which are solely category-based and
related to deemed needs, can been seen as an instrument for improving social welfare provision since they favour adequacy through redistribution over actuarial equity. In some cases, however, these developments in social security have meant a greater reliance on evidence of residence or other signs of ‘citizenship’ as determinants of eligibility. Such limits echo the very old traditions of the parish but they have been generally widened to apply to the nation-state.

17. Thus far, some possible connections between exportability and benefit structure have been deduced from both the general academic literature on social policy and the historical and trans-national account given by the ILO. A connection of a different order is made by Ogus and Barendt (1988) who came to it from observation of the British system. They distinguish between beneficiaries who are still considered to be in the labour force and those who are no longer required to have any contact with the labour market for whom, in Britain, the provisions are more generous:

'[In Britain] there is no relief for absent persons claiming unemployment benefit, it being felt desirable to maintain unequivocally the claimants attachment to the labour market in this country (or the EEC). Those entitled by reason of their incapacity or confinement are given some concession, notably for temporary absences. The most generous provision is for those whose entitlement in no way rests on their inability to work, because, for example, they have reached pensionable age or are caring for dependent children. Here the disqualification is often removed altogether.' (p. 358)

18. Thus it is distance from the labour market which is stressed as a major factor: those whose entitlement rests in no way on ability to, or availability for, work, such as pensioners, receive the most generous concessions. Even where non-contributory category-based benefits are being paid for this group ‘control’ measures may not be perceived to be necessary.

3.3 Connections between benefit structure and exportability and their application in this study

19. The foregoing discussion indicates that there may be the following three connections between benefit structure and exportability: (i) exportability is more likely to be allowed where the beneficiaries are perceived to have clearly and legitimately left the labour market; (ii) the closer the relationship between benefits and contributions and the narrower the community of interests (for example, by being restricted to employees) the more readily they will be paid outside the country; and (iii) conversely, the looser the relationship between benefits and contributions and the more progressive the funding is perceived to be and the wider the community of interests (so that, for example, all citizens are potentially covered), the more restricted will be the arrangements for taking benefits abroad.

20. The need to bear in mind these possible connections has structured the tabulated data summaries presented in the findings for each of the countries. The connections are returned to in the analysis where they are shown to hold for some but not all exporting arrangements and thus serve to highlight both common and exceptional features among the countries.
Part II
Country by Country Presentation of Data
Chapter 4  Explanatory Notes

1. The chapters are organised in alphabetical order according to the same format. They begin with a short summary introduction outlining the main components of that country's current social security system. This introductory section also briefly mentions the existence of major non-statutory occupational or private pension plans. The purpose of including some information on additional benefit sources is to try to convey an idea of the relative importance, both to the country and to individual beneficiaries, of the statutory system in relation to other arrangements available - which, by extension, indirectly impacts on the importance of the exportability/portability of the state benefits. Where provided in response to questions 15-17 of the Data Request List, information is also given here on the number of the country's beneficiaries living abroad, the cost of payments made abroad, and the proportion of total social security spending these payments represent. However, countries collect this type of data in different ways. Some gave statistics for the previous financial year, others cited the number of beneficiaries living abroad at that time together with the estimated overall cost for 1992. Two countries did not have the required data but sent details on the number of beneficiaries receiving payments made abroad through the provisions of bilateral agreements.

2. The main substance of the material presented for each country is divided into two sections: i) data on eligibility and entitlement conditions applying to the benefits surveyed; ii) the findings concerning each benefit's exportability. A table is also provided at the end of every chapter which abstracts the key characteristics described in sections i) and ii) for all the benefits described.

4.1 Arrangement of data on benefit eligibility and entitlement

3. The material is organised under heads describing the contingencies which this report set out to cover, namely: old age, disability and widowhood. (For convenience a separate heading is given for work injury benefits where these are provided as part of a statutory social security scheme.) It is important to note that the particular benefits named under the heads are any of those which relate to that contingency so that, for example, in the case of disability they include both incapacity benefits and benefits relating to other needs associated with disability. Similarly, some benefits presented under the heading of widowhood also cover other survivors, and in many cases are called survivor’s benefits. Survivors such as orphans and other relatives were not, however, included in the brief for this study and benefits for survivors do not, therefore, form a separate main heading.

4. The names given to the particular benefits are, for English-speaking countries, those used by the country, and elsewhere they represent the closest English translation. Abbreviations are inserted in the text and referred to in the tables when they are commonly used by the country concerned.

5. Under the heads, the respective benefits are consistently presented and their eligibility/entitlement conditions explained. Contributory benefits are always presented first, followed by non-contributory benefits and/or any means-tested benefits which may be provided as a specific top-up to or replacement for contributory benefits in the same contingency category.
4.2 Arrangement of findings on benefit portability

6. The findings on benefit exportability are usually divided into three subsections.

7. The first subsection describes the current relevant domestic legislation, indicating whether there is a specific overall policy on benefit exportability and/or different policies relating to particular benefits. If there are different policies for different benefits, information on contributory benefits is given first, followed by details on non-contributory benefits and on means-tested benefits. An assessment of the effects of these policies is then given with respect to: first, the ability of beneficiaries to retain their benefits when moving abroad; and second, the possibility of people living abroad being able to preserve benefit entitlements previously acquired and subsequently to claim that benefit from outside the provider country. Information on the position of adult dependents as well as on medical controls required for payment of disability benefits abroad is also given. The effects which international agreements have on their domestic legislation are not referred to in this subsection.

8. A second subsection provides material to show major changes that have been introduced in the country’s policies on benefit exportability since the state social security system was initially established. This information derives principally from responses to questions 3, 9, 10, and 12 on the Data Request List. Where no information was provided and additional research did not reveal significant changes of policy, as was the case for four of the countries, the subhead has simply been omitted and no reference is made to the subject.

9. The last subsection seeks to assess the impact of international reciprocal agreements on a country’s legislation affecting benefit exportability. All the bilateral agreements which the country has entered into over the years are listed at the outset. Where these are quite numerous, they have been presented in groups in whatever manner seemed appropriate in that case, although in most instances agreements with other OECD member states are separately grouped. The general date range when the various agreements came into force is also indicated. The ways in which the agreements override provisions on benefit exportability in the domestic legislation of the country under survey are then briefly explained.

10. Also included in this subsection is information on the country’s participation in certain multilateral agreements. One obvious example is the fact that membership of the EC has automatically required governments to implement the Community’s Social Security Regulations aimed at facilitating freedom of movement for workers between member states. Since this requirement has necessarily had a significant impact on domestic policies relating to benefit exportability and it affects six of the countries covered in this study, a summary of the key provisions in the EC Regulations has been separately provided in Appendix B. In the relevant country chapters an indication is merely given of the ways in which some governments have responded to an important amendment to the Regulations that was introduced in 1992. Where European countries additionally drew attention to their participation in a 1953 European Interim Social Security Agreement and, in one instance, in the 1972 follow-up agreement, this has been noted and an indication given of the most significant provisions. Details of the Nordic Convention, affecting only Sweden, are given in that country’s chapter.

4.3 Tabular summaries of the data presented

11. The principal purpose of drawing up these tables was to facilitate an assessment of the extent to which the policies adopted by different countries on payment abroad associated with a particular type of benefit and/or with the particular contingency covered are found to be cross-national. It was thought it would be helpful to insert them at the end of each country chapter so as to enable readers to see at a glance the key characteristics of the various benefits described in the preceding text.
12. The vertical axis of each country table lists the benefits concerned by name, using the English equivalent or where appropriate the recognised acronym, while the horizontal axis shows their respective characteristics. The only benefits included in the text but not in the tables are those which form components of other benefits, for example, some allowances for dependents or for attendance needs.

13. The first column headed `Contingency Covered', shows whether the particular benefit listed is provided for old age, disability or widowhood. The second column, headed `Type of Benefit', shows whether the benefit is contributory, non-contributory, or means-tested (either through income-testing or income- and/or assets-testing); however, the subsidiary column for contributory benefits covers all such benefits, including those that are subject to an earnings limit or other income/assets tests. The third column, headed `Persons Covered', indicates whether the benefit is available for employees, nationals, or residents.

14. The column headed `Insurance Basis' identifies the following alternatives which apply to contributory benefits: whether the amount of benefit paid is determined by the beneficiaries` length of insurance; whether the amount of benefit paid is not determined by, or is only tenuously related to, the length of insurance; or whether it is paid to non-contributors. Due to lack of space on the table, the first two alternative characteristics are conveyed solely by the wordings `Related to Length of Insurance/Not Related to Length of Insurance'. (It is important to note that the term `length of insurance' has been used - not only in the tables but also in the written text - in a broad sense to cover the various mechanisms applied in different countries for calculating the amounts of benefit payable per beneficiary. The term therefore applies both to those instances where entitlement is related to the number of contributions paid and to cases where entitlement is related to the number of years of attachment to the labour force.)

15. The next column is headed `Work Controls' and indicates whether recipients of the benefit listed are or are not required to continue to be available for work. This set of characteristics was included to assist in testing the suggestion made by Ogus and Barendt (1988) that benefit exportability is more likely to be permitted if there is no expectation of continued participation in the labour force. The subsidiary column designated `No' signifies that continued work availability is not an issue of control, while the column designated `Yes' shows that an element of control is included as part of the benefit's eligibility conditions. Some controls are applied on an individual basis through medical verification but others are established through the creation of certain categories of eligible persons (for example, where widows' benefits are paid only if there are dependent children).

16. The last column covering the characteristics relating to the conditions of benefit payment domestically is headed `Source of Funding', showing whether a benefit is financed through contributions or taxation or through a mix of the two sources.

17. The remaining four columns between them identify the key characteristics which determine the degree of exportability permitted for each benefit listed.

18. Under the column headed `Retain Abroad?' it is indicated whether a benefit can be retained by beneficiaries when they leave the country - i.e. as may be determined both by overall policies on benefit exportability and by specific entitlement conditions. The first two subsidiary columns indicate respectively whether the benefit can be retained without any restrictions or only with certain restrictions imposed, while the third indicates that the benefit is not payable abroad. A benefit is coded as being without restrictions if the benefit is received abroad in the same way as it would be received if the person remained in the initial provider country.

1. Countries variously make references to `nationals' or `citizens' and the terms are used interchangeably in this report.
19. The nature of any restrictions imposed is codified in the next column, headed 'Restrictions'. It encompasses the types of restriction that have been introduced in one or more of the countries surveyed. These are set out in the subsidiary columns that are designated, respectively, by the following terms: 'Additional Residence Requirement', signifying that this requirement has been introduced as a further entitlement condition applied only when beneficiaries move abroad; 'Nationality', signifying the instances when non-national beneficiaries are either not permitted to take the benefit abroad at all or are subject to special restrictions not applied to nationals; 'Temporary Payment Period', signifying that payment is not permitted on a permanent basis; 'Reduced Payment', signifying that only a percentage of the benefit paid domestically is made available; and 'Not Uprated', signifying that subsequent increases awarded to the benefit domestically are not paid to beneficiaries living outside the country. It should also be noted that more than one restriction may be imposed for some benefits.

20. Under the column headed 'Claim from Abroad?', it is indicated whether a person's entitlement to a benefit acquired before a move abroad can be preserved and subsequently claimed from outside the initial provider country (assuming eligibility and entitlement conditions would still be met). The first two subsidiary columns here show whether that particular benefit can be claimed without any restriction or only with some restrictions imposed, while the third indicates whether it cannot be claimed from abroad. (Where benefits can be claimed only after a relatively short stay abroad and because the claimant is working for an employer from the provider country, they are classified as not claimable. This situation often applies in the case of work injury benefits. In some instances where derived survivor's benefits are also based on work injury schemes, the information received from the countries did not clarify whether the residence of the survivor affected the possibility of claiming from abroad, and therefore in those cases all the subsidiary columns under the 'Claim from Abroad?' head are left uncoded.

21. The nature of any restrictions imposed on whether a benefit can be claimed from abroad are coded in the last column of the table, headed 'Restrictions', which encompasses the same types of restrictions shown in respect of benefit retention. As with the retention of benefit, more than one restriction may be imposed for some benefits.
Chapter 5  Australia

5.1 Introduction

1. The Australian age and disability benefits date from 1908 and the current Commonwealth Government’s system is enshrined in the Social Security Act 1991 which replaced and updated a 1947 Act and subsequent amendments. Australian benefits are flat-rate, means-tested and needs-related in that they provide for dependents. They are funded from taxation. Entitlement is based on residence. The benefits relevant to this study are described as `pensions’, as they are long-term. The Employment Injuries and Occupational Diseases legislation comes under the jurisdiction of individual states and is separate from the Australian (Commonwealth) Social Security System. As the legislation varies in the different states, these benefits have not been included in the survey.

2. In 1988, 51 per cent of the currently employed workforce was also covered by occupational pensions (Australian Bureau of Statistics, 1989). A `significant’ number of Australians also make their own pension arrangements (US Department of Labor, 1992, Appendix IV).

3. There were currently 33,000 Australian pensioners living overseas in June 1992. The annual cost of payments made abroad was estimated to be $A196 million representing 0.8 per cent of total social security spending (Australian Department of Social Security, letter 19 June 1992). Figures received subsequently show that Australia pays $A205 million on pensions overseas while other countries pay $A650 million into Australia (letter Australian Department of Social Security, 18 November 1992).

5.2 Eligibility and entitlement for benefits

Benefits for old age

4. An `Age Pension’ is paid to Australian residents aged over 65 for men or 60 for women. Claimants must be Australian residents and present in Australia when claiming. A claimant must also have been an Australian resident for 10 years, five years of which must be continuous.

5. `Wife Pension’ is paid to the wife of an Age or Disability Pensioner if she herself is not eligible for an Age or Disability Pension. The rate is the same as for a pensioner spouse (both are paid at the married rate, but the Wife Pension is paid direct to her). The claimant must be an Australian resident and be present when the claim is lodged, and she must also be living with her husband.

Benefits for disability

6. A `Disability Support Pension’ provides long-term income replacement for those with a significant and long-term incapacity. The benefit is paid if there is an inability to work. However, the benefit rules allow for some recognition of differences in the severity of the impairment: the `inactive group’ are considered to be too severely impaired to participate in the labour market, while the `active group’ are considered likely to benefit from rehabilitation and training. The claimant must be resident in Australia and present at the time of claiming. If the claimant became unable to work or blind in Australia, there is no minimum residence requirement. If not, the claimant needs at least 10 years’ residence, at least five years of which must have been continuous.
7. ‘Widow B Pension’ provides income for widows and certain other women who have lost the support of a male breadwinner and who have no dependent children. This pension is now being phased out and is only paid to women who were over a certain age at the date the phasing out process was initiated (1987) if they become widowed. The claimant must be resident and present in Australia when claiming. If she was widowed whilst she and her husband were residents there is no minimum residence period. If not, five years’ continuous residence immediately before the date of the claim, or 10 years’ continuous residence at any time, is required.

8. ‘Sole Parent Pension’ provides income for sole parents with dependent children, including widows and widowers (only 4 per cent of claimants are widows or widowers). (Stanton and Heyworth, 1991). Claimants must be resident and in Australia on the day of claiming. No specific period of residence is required if the person becomes a sole parent while in Australia, otherwise five years continuous residence immediately before the claim or 10 years at any time is required. The person must be single and have one or more children under 16.

5.3 Benefit exportability

Domestic legislation

Current arrangements

9. Legislation governing the payment of benefits abroad is contained in Chapter 4 of the Social Security Act 1991. Beneficiaries (pensioners) wishing to leave Australia are required to notify the Department of Social Security which issues a departure certificate if the pension is payable outside Australia. If a pensioner without a departure certificate remains outside Australia for longer than six months the pension will be cancelled. Otherwise it is possible to retain all the benefits described in this survey when moving abroad.

10. Continued payment abroad depends upon the rules and exemptions laid down for each type of benefit. The rules have changed extensively over recent years. Exemptions and transitional arrangements contained in Chapter 4 of the Social Security Act make the rules for portability complex. Details are described below. A summary is given in the table at the end of this chapter which gives the position for Age Pensions granted after 1 July 1986 and for Disability Support Pensions granted after 12 November 1991 but which does not capture the exemptions and transitional arrangements.

11. Age Pensions granted before 1 July 1986 can be paid overseas indefinitely at the full means-tested rate.

12. Age Pensions granted on or after 1 July 1986 can also be paid overseas indefinitely but the rate after the first 12 months of absence is based on ‘Working Life Residence’, that is, residence in Australia between age 16 and Age Pension age. A full means-tested pension is paid overseas for 25 years’ Working Life Residence. For a lesser period a proportional rate is paid. As a transitional arrangement, an age pensioner who was an Australian resident on 8 May 1985, and who is granted a pension and leaves Australia before 1 July 1996, is exempt from the ‘Working Life Residence’ rules and can be paid overseas indefinitely at the full means-tested rate.

13. Disability Support Pensions granted before 1 July 1986 can be paid overseas indefinitely at the full means-tested rate.

14. Disability Support Pensions granted on or after 1 July 1986 and before 12 November 1991 can be paid overseas indefinitely but after the first 12 months overseas, the rate may be affected by the ‘Working Life Residence’ rules (see paragraph 12). There is an exemption from this rule where a person is granted pension because he or she became unable to work or permanently blind while an Australian resident. The person can continue to be paid overseas at the full means-tested rate as long as he or she remains qualified. There is also a transitional
arrangement for a Disability Support Pensioner who was an Australian resident on 8 May 1985 and who is granted a pension and leaves Australia before 1 July 1996. The person is exempt from the `Working Life Residence' rules and can continue to be paid overseas at the full means-tested rate as long as he or she remains qualified.

15. Disability Support Pensions granted on or after 12 November 1991 can be paid overseas indefinitely only if the pensioner is severely disabled. If the pensioner is not severely disabled, payment can be made for the first 12 months of an absence.

16. Wife and Widow B Pensions can be retained for one year only unless the beneficiary has 10 years' residence or is a special exemption. If these benefits are retained indefinitely, payment is related to `Working Life Residence', unless a Widow B beneficiary and her husband were both Australian residents when he died.

17. Sole Parent Pension can be retained only for one year unless the beneficiary is a widow and both she and her husband were residents at the time of his death, in which case it is paid indefinitely and at the full means-tested rate until the last child leaves her care.

18. All benefits paid abroad, whether temporarily or permanently, and whether at the full means-tested rate or a proportional means-tested rate, are uprated. The means test is administered by an annual review conducted by mail which is timed to coincide with pension increases in the country of residence. In countries where there are significant populations of Australian pensioners, staff are engaged locally to assist with the review.

19. With two exceptions, it is not possible to claim Australian pensions from abroad due to the residence conditions of entitlement. A woman who is living abroad with her husband and is already receiving an Australian Wife Pension when her husband dies can claim Sole Parent or Widow B Pension without returning to Australia. Special Needs Pensions (see Paragraph 18) can also still be claimed from abroad.

Policy background

20. Before 1973 benefits (pensions) were not paid abroad. Legislation to permit payment abroad was introduced by the Whitlam Government under the Social Services Act, 1973 (No. 2) in response to community lobbying. At this time provision was made for previous residents who had already left Australia and were in financial need to have access to a `Special Needs Pension' which could be paid without the person taking up Australian residence. This is a transitional arrangement only available to people who left Australia before 1973.

21. Subsequently restrictions were introduced both on the rate of payment abroad and the length of time for which different benefits can be paid abroad.

22. Restrictions on the rate of payment were introduced under the Social Security (Proportional Portability of Pensions) Amendment Act 1986, which provided for proportional payments based on `Working Life Residence', (see above, paragraph 12) and is due to come into full effect in 1996. Information received from the Australian Department of Social Security indicates that the rationale for introducing the `Working Life Residence' rules was:

   'In order for Australia to participate in international social security agreements it was necessary to introduce some mechanism to give its system "contributions" which were compatible with those of insurance-based systems... Periods of Australian working life residence were chosen to equate with periods of contributions.'
23. The Australian Department of Social Security stressed that the network of reciprocal agreements flowing from the proportional portability legislation will assist people who would otherwise not qualify for a pension because they have not fulfilled either residence or contribution requirements in Australia or elsewhere (Letter 19 November 1992).

24. The restrictions upon the length of time particular benefits can be paid abroad were introduced between 1986-91 and these provisions are included in the new Act. The rationale for their introduction was to target benefits better to those in need.

25. An exemption is extended to wives and widows affected by the so called 'Greek Social Security conspiracy'. This refers to an attempt in 1978 to charge a number of doctors and disability pension beneficiaries with conspiracy to defraud the Commonwealth. These charges were subsequently dropped and those involved have been compensated for damage and suffering caused to them. Thus when the portability restrictions were introduced on Widow B and Wife Pensions an exemption was made to honour a commitment that the pension rights of the people involved would not be affected by the allegations made.

26. Australia has entered into bilateral agreements with the following 11 countries (the dates shown refer to the year each agreement came into force): New Zealand (first agreement 1943, revised agreement 1989), UK (first agreement 1953, revised agreement 1992), Italy (1988), Canada (1989), Spain (1991), Malta (1991), Ireland (1992), the Netherlands (1992), Portugal (1992), Austria (1992) and Cyprus (1993). An agreement with Denmark is expected to be signed during 1993.

27. The effect of each of these agreements, except the ones with the UK and New Zealand, is to override the residence restrictions in the 1991 Act. Thus Australian benefits can be granted to the residents of an agreement country, while portability limitations may be lifted for Australian pensioners who are living in an agreement country. By contrast, the agreements with New Zealand and the UK are 'host country' agreements. These provide that the country where a person lives should take responsibility for that person's social security.

28. The agreement with the UK does not affect the UK's policy of not uprating pensions which it pays abroad (see Chapter 15). It enables periods of National Insurance contributions or credits in the UK to be counted as periods of residence in Australia for Australian Age Pension purposes. Australian Age Pension is payable subject to an income and assets test. Where a UK pensioner is awarded an Australian Age Pension under the terms of the agreement, the amount of any UK pension in payment is deducted from the rate of Australian Age Pension payable. Pensioners are entitled to an Australian Age Pension in their own right after 10 years' residence in Australia. In that case, 50 per cent of the UK pension may be taken into account under the Australian income test. Currently, the UK pays approximately 145,000 British pensioners, residing in Australia, frozen pensions at a cost of £145 million a year (information from Department of Social Security, UK, April 1993). Australia pays in excess of $A100 million in 'topping-up' these frozen pensions (information from Department of Social Security, Australia, April 1993) and argues that the UK should pay fully uprated pensions as it does in the countries with which it has negotiated 'totalisation' agreements (Australian Department of Social Security, 1989, page 108).

29. As regards the agreement with New Zealand, the 'host country' arrangement originally derived its validity from the fact that neither country permitted benefits to be paid abroad and, as a consequence, under the agreement each country's residents could simply apply for the benefits available. The situation changed, however, when Australia started to pay benefits abroad from 1973, which meant that New Zealand for its part then only had to meet costs for those residents from Australia who did not have an entitlement to Australian benefits. Hence under the revised 1989 agreement New Zealand consented to compensate by reimbursing the Australian government for the cost of long-term benefits that are paid to former...
New Zealand residents currently living in Australia (see also Chapter 12). Substantial immigration from New Zealand to Australia has occurred since the original 1943 agreement and this has led Australia to seek a complete revision of the agreement. This revision is still under way.
### Table 1  Main Characteristics of Benefits Provided and Nature of any Restrictions on Payments Abroad

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<th>Type of Benefit Covered</th>
<th>Persons Covered</th>
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#  Position after 1 July 1986

##  Position after 12 November 1991
Chapter 6   Canada

6.1 Introduction

1. Canada has three tiers of social security: a contributory scheme provided federally through the Canada Pension Plan (CPP) provides earnings-related benefits for old age, disability and widowhood (in Quebec Province the scheme is separately administered though the Quebec Pension Plan); a universal, non-contributory Old Age Security scheme, which also provides non-contributory income-tested top-ups for specific circumstances; and means-tested assistance under the Canada Assistance Plan (CAP). As social assistance benefits provided under CAP are based on the legislation of the provincial and territorial legislatures they are not included in the survey. A Workers' Compensation Program is also excluded as it is administered by Provincial Boards and Commissions across Canada.

2. In 1989, 44.6 per cent of all employed workers, in both private and public sectors, participated in an occupational pension plan (US Department of Labour, 1992, Appendix IV).

3. In February 1992 Canada had 92,430 benefit recipients living abroad, and it was stated that the estimated cost for the whole year 1992 would amount to $C217,993 156, representing 0.62 per cent of the social security budget (letter, Canadian Department of Health and Welfare, 1 May 1992).

6.2 Eligibility and entitlement for benefits

Benefits for old age

4. A contributory `Retirement Pension' is provided through the CPP. This can be claimed from age 60, but only if the person has ceased pensionable employment. Payments usually start at age 65. The payment is earnings-related: 25 per cent of a contributor's average monthly pensionable earnings with a 0.5 per cent reduction for each month prior to age 65 at which benefits begin to be paid. The contributory period starts the month after a person's 18th birthday (or on 1 January 1966 when the scheme was established) and ends at retirement age, a 70th birthday, or the month of death (whichever is first).

5. The `Old Age Security Pension' (OAS) is a non-contributory, flat-rate benefit funded from taxation. It is described as `universal' -- since it is available to all citizens or legal residents who apply in Canada, as well as all those people who were citizens or legal residents when they last lived in Canada if they are claiming from abroad. It is payable in addition to contributory benefits. Entitlement is via Canadian residence: a minimum requirement of 10 years after age 18 if the applicant lives in Canada, of 20 years after age 18 if the applicant lives abroad. Eligibility arises at age 65. A full pension is payable only after 40 years' residence in Canada from the age of 18. However, a partial pension can be claimed if the full 40 years' residence is not met, and this is paid at 1/40th of the full rate for each year of residence.

6. `Guaranteed Income Supplement' (GIS) is a means-tested top-up for OAS pensioners with no income or limited income. Entitlement arises from residence in Canada at the time of claiming, and eligibility arises from age and income.

7. `Spouse's Allowance' (SPA) is a means-tested top-up aimed at married couples living on one OAS/GIS payment where one spouse has not reached retirement age
but is over 60. ‘Widowed Spouse's Allowance’ (WSPA) is aimed at low-income widowed persons aged 60-4. Entitlement for both these benefits arises from residence: applicants must have resided in Canada for at least 10 years after reaching the age of 18.

**Benefits for disability**

8. A contributory earnings-related 'Disability Pension' is provided through the CPP. Entitlement arises if the insured person has contributed in five of the preceding 10 calendar years or, if the person has not contributed for five years, for two of the preceding three calendar years in his or her contributory period. Eligibility arises through 'severe disability' which is defined as the inability to pursue any substantially gainful employment, and 'prolonged disability' which is defined as being of indefinite duration or likely to result in death.

9. The benefit comprises a flat-rate component and an earnings-related component. The latter is equal to 75 per cent of a Retirement Pension calculated as if the contributor had reached 65 (i.e. 75 per cent of 25 per cent of monthly pensionable earnings) and this is payable from the fourth month of disability until age 65.

**Benefits for widowhood**

10. A 'Surviving Spouse's Pension' is provided through the CPP. Entitlement arises if the deceased spouse made contributions for the lesser of 10 years, or one-third of the number of years in which contributions could have been made but not less than three years. It is paid to a surviving spouse and the amount payable depends upon the age of the survivor, if he or she is disabled and whether he or she has dependent children.

11. Surviving spouses over 65 are paid 60 per cent of actual or imputed retirement pension of the deceased contributor. Surviving spouses under 65 receive a benefit which is partly flat-rate and partly earnings-related (37.5 per cent of actual or imputed retirement pension). If the survivor is either over 45, disabled or has dependent children the full amount is paid. The benefit is suspended if disability ceases or children are no longer dependent and the survivor is under 35. A reduced pension is paid to childless, non-disabled survivors aged between 35-45.

6.3 **Benefit exportability**

**Domestic legislation**

12. The CPP was introduced in 1966. There is no specific reference in the Act which prohibits payment outside Canada and therefore CPP benefits can be both paid abroad and claimed from abroad if eligibility and entitlement conditions are met.

13. Medical controls required to monitor continued eligibility for the Disability Pension are maintained through the beneficiary sending medical certificates from a doctor. Or in some cases the Canadian Embassy may assist. If the beneficiary is residing in a country with which Canada has a bilateral agreement, the relevant social security institution may either carry out or arrange the necessary examination and the Canadian government reimburses the costs of the examination.

14. The Old Age Security Act 1952 contains the rules for the payment abroad of the OAS Pension and associated benefits in primary legislation. Section 9 (1)-(4) states that OAS can be paid abroad indefinitely if the claimant has resided in Canada for a minimum of 20 years after the age of 18. If the claimant has over 10 years' residence but less than 20, OAS can be paid for the month of departure and the following six months only. Entitlement to OAS, if a claimant fulfils the 20 years' residence condition, can also be preserved and subsequently claimed from abroad.
15. Section 11 of the OAS Act states that the GIS income allowance is not payable if a pensioner is absent from Canada and has been absent for six months or has ceased to reside there during the preceding six months. Section 19 makes the same provision in respect of SPA. Section 21, and in respect of WSPA. Therefore these benefits can be retained for six months if a beneficiary moves abroad, but they cannot be claimed from abroad because the residence conditions would not be fulfilled.

16. All benefits paid abroad are uprated.

Policy background

17. A number of changes have been made to Canada's policy on the payment abroad of OAS benefits which have had the effect of liberalising the rules for payment abroad.

18. OAS was introduced in 1952, and at this time payment was suspended if the pensioner left the country. Three months' payments could be permitted if the pensioner returned within six months, and this period of permitted retention was increased to six months in 1957. In 1960, payment of the pension for six months was permitted without the necessity for return and payment was permitted indefinitely if the pensioner had 25 years' previous residence.

19. When the GIS was established in 1967, the relevant amendment to the OAS Act permitted payment abroad for six months, and a similar provision was made for the payment of SPA in 1975 if a spouse is living with a pensioner. Finally, when WSPA was established in 1985, payment abroad was permitted for six months.

Impact of international agreements

20. Canada listed 24 bilateral agreements. Eighteen of them are with other OECD countries: Australia, Austria, Belgium, Denmark, Finland, France, Germany, Greece, Iceland, Ireland, Italy, Luxembourg, the Netherlands, Norway, Portugal, Spain, Sweden and the USA. The remaining six countries are Barbados, Cyprus, Dominica, Jamaica, Malta and St Lucia. The first agreement to be negotiated was with Italy, which came into force in 1979. All the others came into force between 1984-92. Very recently three more agreements have been signed, with Antigua - Barbuda, St Christopher - Nevis, and Jersey and Guernsey. The list did not include an agreement with the UK, even though such an agreement was shown on the UK's own list (see the UK presentation). The Canadian Department of Health and Welfare wrote as follows:

> In our usage, the term "bilateral agreement on Social Security" refers to an instrument which provides for equality of treatment, elimination of double coverage and totalising periods under the applicable legislation of the two parties. While the arrangement on social security between Canada and the United Kingdom arising from the exchange of letter of 1959 (amended on several occasions) is a treaty, it does not, in our view, have the characteristics of a bilateral agreement on social security' (letter, Canadian Department of Health and Welfare, 16 July 1992).

21. A public information booklet published by the Canadian Department of Health and Welfare Canada in 1990 sets out the rationale for agreements as being to "make social security benefits portable between countries and allow for co-ordination of two countries' social security programs" (Canada, Department of Health and Welfare, 1990, p. 18). One objective of Canada's agreements, as described in the booklet, is to provide cover for the 5.5 million people who have emigrated to Canada since World War II; these people may have contributed to schemes in their country of origin but may not qualify for or be able to receive that country's benefits in Canada. A complementary objective is to provide cover for Canadians who live abroad but may not be able to receive the host country's benefits due to residence or citizenship requirements. A third objective, applicable
both to immigrants and Canadian emigrants, is to ensure that people do not have
to contribute to two social security systems.

22. Therefore Canada has mainly made agreements with countries which have
been the source of significant immigration. Two conditions must be met: first, the
country must have a public pension system which can be co-ordinated with
Canada's; and, second, it must be prepared to offer reciprocity on such matters as
the payment of benefits to persons living in Canada.

23. The agreements permit periods of contributions/insurance to the host
countries' systems to be totalised with Canadian periods in establishing entitlement
to CPP disability and survivor's benefits; payment is based on actual contributions.
However, the CPP Retirement Pension is not included in the agreements because it
is payable to anyone who has made at least one contribution, is fully portable, and
no mechanism for totalisation is required to claim any partially accrued entitlement
to retirement pension from another country. Canadian employees who go to work
on a temporary basis in an agreement country are exempted from payment to that
country's social security system in order to avoid the problem of dual coverage.

24. The Old Age Security Act explicitly permits the inclusion of OAS into
reciprocal agreements to allow persons who live or who have lived in a contracting
country to add or totalise those periods of residence abroad to periods of residence
in Canada so as to satisfy minimum eligibility requirements for OAS and SPA.
Therefore if residence of a minimum of 10 years for a claim in Canada, or a
minimum of 20 years for a claim from abroad, can be established then the benefit
is paid proportionally, based on actual number of years' residence.

25. Where there are nationality restrictions in the contracting parties' benefit
system, the agreements make arrangements so Canadians can qualify for foreign
benefits and can receive them in Canada.
Table 2  Main Characteristics of Benefits Provided and Nature of any Restrictions on Payments Abroad

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<th>Contingency Covered</th>
<th>Type of Benefit</th>
<th>Persons Covered</th>
<th>Insurance Basis</th>
<th>Work Controls</th>
<th>Source of Funding</th>
<th>Retain Abroad?</th>
<th>Restrictions Abroad?</th>
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7.1 Introduction

1. The French social security system comprises several different schemes. A general earnings-related contributory scheme, Regime General, which is provided for nationals and resident foreigners, covers 70 per cent of the population - that is, all wage-earners and salaried employees except those in agriculture, mining, railroads, public utilities, the public sector and the self-employed for whom special schemes exist (Wyatt, 1992, p. 85). These benefits are supervised by the Ministere des Affaires Sociales et de la Solidarite. Contributions are paid by employers and employees with the former paying more.

2. The contributory schemes for employees and their dependents are supplemented by an assistance system of non-contributory benefits. Various non-contributory means-tested benefits for old age and disability are provided for French nationals, or for nationals of a country with which France has a bilateral agreement who are resident in France and have been resident for specified periods of time.

3. Social assistance is also provided through schemes managed by local authorities offering non-contributory means-tested benefits related to individual need, but these benefits are not included in this study.

4. There are two occupational pension scheme organisations, AGIRC for executives and ARRCO for other employees. Although membership of these is compulsory, covering virtually all employees in France, and although they resemble state schemes in that they are not 'funded', they are not statutory social security schemes and therefore are not included in the study.

5. Figures forwarded by the French respondent and taken from the Statistical Report 1088 of the Centre de Securite Sociale des Travailleurs Migrants indicates that in 1988 there were 567,514 benefit claimants living in other EC member states and the countries with which France has an agreement and the cost of these benefits amounted to 5,797,016,472 Fr. Information about the cost of benefit payments made to all recipients living abroad and the proportion of the total social security budget this amount represents was not provided.

7.2 Eligibility and entitlement for benefit

Benefits provided o old age

6. A contributory 'Old Age Pension' is provided to persons aged over 60. The entitlement conditions are that contributions have been made for at least one 'quarter' and 150 quarters are required for a full pension.

7. The rate payable is dependent upon the person's average annual salary during the 10 years of highest earnings, the contribution rate, and the duration of the insurance. A full pension represents 50 per cent of the previous average annual salary and this is reduced proportionately if 150 quarters of contributions have not been made. The pension can be supplemented by additions for child dependents (if the pensioner has raised three children) and for a spouse dependent if the spouse is 65 or over 60 if incapable of work. An increase can be paid if the assistance of a third person is required.
8. An ‘Anticipated Pension’ can be granted to people from the age of 60 if they are unfit for work, former prisoners of the resistance, war veterans or female workers who have raised at least three children.

9. Four non-contributory means-tested old age benefits are also provided. Applicants must be French nationals (or nationals of a country which has signed a reciprocal agreement with France). These benefits are:
   - the ‘Allowance for Elderly Employed Persons’ (AVTS) payable to men and women aged 65 (or 60 if they are incapable of work) and who were in receipt of a salary in France for at least 15 years (Non-nationals need additional residence qualifications to be entitled to this benefit but there are numerous exemptions from this through agreements which may either lift or reduce residence requirements.)
   - the ‘Allowance for Elderly Self-employed Persons’ (AVTNS) payable, at the same ages, to people who have carried out a non-salaried activity in France for at least 25 years
   - the ‘Special Old Age Allowance’ (ASPS) payable at age 65 (or 60 if disabled) if the claimant does not receive or have the right to claim other old age or reversion benefits
   - the ‘Supplementary Allowance of the National Fund of Solidarity’ (FNS) payable at age 65 (or 60 if a person is incapable of working) as a means-tested top-up to other old age benefits or to disability benefits.

Benefits for disability

10. A contributory earnings-related ‘Invalidity Pension’ is provided for loss of earnings’ capacity to people under the age of 60. Entitlement arises at the date of cessation of work or at certification of disability if the applicant has completed at least 800 hours' work in the preceding 12 months, of which 200 must have been accomplished in the course of the first three months. There is a requirement to undergo medical treatment.

11. The amount of benefit paid is not related to the length of contributions but is determined by the degree of incapacity as follows: 30 per cent of average annual salary is paid for partial disability and 50 per cent for total disability with an additional payment of 40 per cent for third person help (Constant Attendance Allowance (CAA)).

Benefits for work injury

12. A non-contributory benefit, ‘Allowance for Handicapped Adults’, is payable to persons aged 20 and whose permanent level of incapacity is at least 80 per cent. The benefit is means-tested and is financed by employer contributions. It is payable only to French nationals and is part of the family benefit scheme provided through the Caisses d'Allocations Familiales.

Benefits for widowhood

13. A ‘Permanent Incapacity Pension’ financed through employer contributions is paid to those who suffer an accident occurring at work or on the way to work or from occupational diseases. The amount payable depends upon whether the incapacity is partial or total and the level of salary prior to incapacity. An allowance of 40 per cent for attendance needs can be paid.

14. A ‘Reversion Pension’ is granted to a widow or widower based on the deceased's contributory insurance record. The surviving spouse must not have private resources over a specific limit, and the degree of dependency is also means-tested. The claimant must be aged at least 55 and must not have remarried. In addition a child must have been born of the marriage, or the marriage must have lasted at least two years. The benefit is paid at 52 per cent of the level of pension the deceased was receiving or would have received had he/she continued to live.

15. A specific reversionary benefit, ‘Invalid Widower's or Widow’s Pension’, can be paid to widows/widowers under 55 if they are permanently disabled and their earnings capacity is reduced by two-thirds. The beneficiary must not have a
contributory pension and must not have remarried. This benefit too is paid at 52 per cent of the level of pension which the deceased was receiving or would have received.

16. A temporary ‘Surviving Spouse Allowance’ is payable to widows and widowers based on the deceased's insurance. It is paid for three years at a declining rate to allow a widow/widower to take up or resume a career. The claimant must be under 55 years (or can be paid for five years if age 50) and must not have resources above a specified limit.

17. A ‘Survivor’s Annuity’ can be awarded to a widow/widower whose spouse died as a result of a work injury. The rate payable is 30 per cent of the deceased's salary if the beneficiary is under 55, or 50 per cent if he/she is over 55.

18. The non-contributory means-tested elderly employed allowances, AVTS and AVTNS, can also be paid to widows and widowers as ‘Income Support Jr Spouses of Salaried or Non-salaried Workers’. Applicants must be French nationals or nationals of a country with which France has a reciprocal agreement, and over age 55.

19. A means-tested ‘Allowance for Family Mothers’ (AMF) is payable to widows of salaried or non-salaried workers, who have raised at least five children of French or EC nationality for at least nine years before their 16th birthday. This benefit is also available to divorced, separated or deserted lone female parents. It is payable only to French nationals or nationals of a country with which France has a reciprocal agreement.

7.3 Benefit exportability

Domestic legislation

Current arrangements

20. French social security legislation is found in the Code de la Securite Sociale, which is primary legislation, and in Government decrees. A basic principle of the French social security system is the ‘Principle of Territoriality’, meaning benefits are paid to persons who reside in France. This is stated in Article L111.1 of the Code.

21. Article L311.8 of the Code states that foreign workers and their dependents who cease to reside in France before they become entitled to pensions in France cannot preserve them or claim them from abroad. (Any benefit arising out of contributions made before 1 January 1941 can be preserved, but this now applies to a minute number of people.) The Article also states that foreign workers can receive the advantages gained from international agreements.

22. It is the principles that are embodied in Articles L311.7 and L311.8 which provide the rationale for determining whether a benefit can be paid abroad. In effect their practical application means that exportation under domestic legislation depends upon a combination of: (i) whether the benefit is contributory; (ii) whether the benefit is claimed while the person was resident in France; and (iii) if the benefit is claimed by a national or by a non-national, which is the key determining factor.

23. Both French nationals and foreign nationals can retain contributory benefits if they move to another country when in receipt of a contributory benefit. French nationals who live abroad can claim preserved entitlements to old age and widowhood benefits; the entitlement conditions for Invalidity Pension preclude this possibility, however, as the person must have worked in France during the 12 months preceding the onset of disability. Non-nationals who are not living in France cannot claim old age or widowhood benefits from abroad.
24. The benefit for work injury can be retained by French nationals if moving abroad. Foreign nationals are subject to certain restrictions: Article L434-20 of the Code states that only a lump sum representing three annual payments of the benefit is payable to the worker or dependents who do not live in France.

25. Dependents' allowances and the increase for third person assistance are exported under the same conditions as the related main benefit. Thus, for example, benefits for widows which are derived from the insurance of the deceased are paid abroad under the same conditions that apply for old age benefits. Therefore it is the type of benefit, the country where the benefit is claimed, and the nationality of the insured which determines whether the dependents’ allowances or derived benefits can be paid abroad. The one exception is in the case of benefit for work injury, since it is stipulated that if the dependents of a non-national beneficiary were not resident in France at the time of the work accident, they are not eligible for compensation.

26. Medical controls over continued eligibility for disability benefits are arranged through the French Embassy in countries with which France does not have an agreement, or are determined through an agreement.

27. To claim any non-contributory ‘assistance’ benefits the general principle is that a claimant must be a French national or a national of a country with which France has an agreement and must be a resident in France, although these benefits can be taken abroad in some circumstances.

28. AVTS and Income Support for Spouses of Salaried Workers can both be retained if moving abroad but cannot be claimed from abroad. But AVTNS and Income Support for Spouses of Non-Salaried Workers can be retained abroad only if the person has paid contributions for at least one year to the French social security scheme for non-salaried workers.

29. The Allowance for Family Mothers can be retained by beneficiaries moving abroad, but when it is paid to the wives of non-salaried workers, the private resources of the applicant must be verified. This benefit cannot be claimed from abroad.

30. The Special Old Age Allowance, the Supplementary Allowance of the National Fund of Solidarity and the Allowance for Handicapped Adults cannot be received abroad.

31. All benefits paid abroad are uprated.

Impact of international agreements

32. France has 33 bilateral agreements. The most recently entered into are the agreements with the Congo (1988), the USA (1988) and the Cameroons (1993).

33. The countries listed include seven OECD members: Austria, Canada, Norway, Sweden, Switzerland, Turkey and the USA. (However, although no EC member states appear on the list, France is shown on the lists sent respectively by Germany, the Netherlands, Portugal and the UK.) Eleven of the countries are former French dependencies or protectorates: Algeria, Benin, Gabon, Ivory Coast, Madagascar, Mali, Mauritania, Morocco, Nigeria, Senegal, Tunisia: and Andorra is a French principality. Two of the countries are not independent states: Jersey is a UK Crown Colony and Quebec is a Province of Canada. The remaining 10 countries on the list are Cape Verde, Congo, Czechoslovakia, Israel, Monaco, Poland, Romania, San Marino, Togo and the former Yugoslavia. The first agreement to be concluded was in 1949 with Poland; four agreements were entered into during the early fifties (Monaco, Norway, San Marino and the former Yugoslavia) and with the exception of the agreement with the Cameroons, the rest were entered into between 1966-88.
34. The practical effects of the agreements upon domestic policy towards exporting benefits are: first, to permit eligible non-nationals to retain some non-contributory benefits if they are moving to an agreement country; second, to permit totalisation of insurance periods so as to allow non-nationals to claim preserved entitlements to contributory benefits; and, third, to permit the retention of work injury benefit by non-nationals leaving France.

35. France is also a signatory of the ILO Convention which guarantees equal treatment of nationals in respect of benefits for work injury and lifts restrictions on the exporting permitted for non-nationals (Equality of Treatment (Accident Coopouaudou) Convention, 1925 (No. 19)).

36. France, as a member of the EC, is subject to the Community's Social Security Regulations that were adopted in 1971 (see Appendix B). Under the 1992 Amendment to Article 10 of Regulation 1408/71 (which makes it possible for each member country to name specific non-contributory benefits that cannot be claimed or paid in other member countries), France has nominated the Supplementary Allowance of the National Fund for Solidarity, and the Allowance for Handicapped Adults as the non-contributory benefits which are payable only in the 'state of residence', i.e. only in France. These benefits are not therefore exportable for EC nationals moving to other member countries.
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Table 3: Main Characteristics of Benefits Provided and Nature of any Restrictions on Payments Abroad.
8.1 Introduction

1. The main benefits for old age, disability and widowhood are provided through a national statutory and fully earnings-related Pension Insurance Scheme for all salaried wage-earners, although the pensions are administered by separate institutions for different categories of workers and occupations. Self-employed workers are not normally covered.

2. Entitlement to pension arises through contributions paid on earned income and the scheme is financed largely through equal contributions paid by employers and employees. There is no minimum pension but there is some adjustment in the pension formula which assists long-term low-wage earners. There are no benefits for dependents.

3. Benefits for work injury are provided through a statutory Accident Insurance Scheme. They are included in this survey but Social Assistance is not, as it is the responsibility of various organisations in the States and of local authorities.

4. Although the German social security system provides a comprehensive statutory coverage, supplementary occupational and private pension schemes have developed, especially for well-paid workers; however, their vesting arrangements operate in favour of workers who do not change jobs (Commission of the European Communities, 1992; Wyatt, 1992; UK DSS verbal communication).

5. In 1991, 2.14 per cent of total social security payments were paid abroad to 816,161 claimants, costing DM408.1 million (letter, Verband Deutscher Rentenversicherungsträger, 24 August 1992).

8.2 Eligibility and entitlement for benefits

**Benefits for old age**

6. The *Old Age Pension* may be normally claimed at the pension age of 65, subject to a person having completed a qualifying period of five years of insurance. There are, however, a number of circumstances which can enable people to claim at an earlier age. Severely handicapped persons and those suffering occupational disability or incapacity for work can claim pension from the age of 60 if they have completed 35 years of insurance and do not earn over specified amounts; insured women over the age of 60 who were compulsorily insured for 10 out of the last 20 years and have paid 180 months of contributions overall can claim pension if earnings do not exceed a specified amount; unemployed people aged 60 who have paid contributions for at least eight years of the preceding 10 years, and have completed a qualifying period of 180 months of insurance can claim if earnings do not exceed a specified amount; and insured people age 63 with 35 years of insurance can claim if earnings do not exceed a specific amount.

**Benefits for disability**

7. Two disability benefits related to work incapacity are paid as part of the German pension scheme. The first is the *Occupational Invalidity Pension*. Eligibility depends on applicants being sick or disabled to the extent that, compared with similar healthy persons they are deemed to have lost more than half their earnings capacity in their normal or other suitable occupation. Entitlement depends on a person having completed 60 months insurance contributions and the amount paid is two-thirds of a full pension.
8. The other benefit is a `Pension for Incapacity to Work'. Eligibility depends on a person being sick or disabled to the extent that he or she is incapable of earning more than a seventh of the relevant average wage or salary of all insured workers, and is not likely within the foreseeable future to be able to pursue work of any kind with any degree of regularity. Entitlement conditions are that the insured must have paid contributions for three of the preceding five years. The amount of pension is calculated on the same basis as the Old Age Pension.

9. The length of time for which these benefits can be paid depends both upon whether it is believed that the work incapacity is likely to cease and whether the work incapacity is seen as being determined not only by disability but also by the state of the labour market. Benefits can be paid for a maximum of three years if the incapacity is assessed as partly dependent upon the availability of suitable work. If the incapacity is assessed as solely related to disability, the benefits can in principle be awarded until retirement age.

10. The decision as to whether suitable work is available is made on the assumption that a person who is assessed as being more than 50 per cent capable of work, even if less than 50 per cent capable in his or her own occupation, will be able to find employment, and there is no further concern as to whether in fact this turns out to be the case. Conversely, if persons are assessed as having less than 50 per cent capability for work (whether for general work or in their own occupations), it is assumed - following case law and practice and depending on interpretation - that they will not be able to find any employment (see Bundesministerium fur Arbeit and Sozialordnung, 1991).

Benefits for work injury

11. Under the Accident Insurance scheme both an `Injury Benefit' and an `Invalidity Pension' are payable. Accident Insurance covers everyone in employment and is funded by employer contributions.

12. `Injury Benefit' is an earnings replacement benefit paid while medical treatment lasts and represents 80 per cent of covered earnings subject to a maximum `Invalidity Pension' is paid when incapacity for work ends but earnings capacity is reduced by 20 per cent or more. The amount depends upon the degree of incapacity and upon income earned in the previous year; a related Severe Disablement Allowance, consisting of 10 per cent of the pension, is paid in addition to the Invalidity Pension if earnings capacity is reduced by at least 50 per cent.

Benefits for widowhood

13. Both a `Widow's Pension' and a `Widower's Pension', are made available through the pension insurance scheme. The conditions for entitlement depend upon at least 60 months' contributions by the deceased. The widow/er must not have re-married. The amount payable is calculated as a percentage of the insured person's pension - 60 per cent for those who have the care of their own or the deceased's child under 18, or who are over 45, or are incapacitated, and 25 per cent for others. In the case of widowers, income is also taken into account after an earnings disregard.

14. A `Survivor's Pension' is available through the Accident Insurance scheme. The benefit represents 40 per cent of the last gross income of the deceased if the survivor is 45 years or older, is incapable of work, or is bringing up a child. If the survivor is under 45 and has no children then 30 per cent of the last gross income is payable. This benefit is reduced by 60 per cent if there is other income in excess of this amount.

8.3 Benefit exportability

Domestic legislation

15. The current legislative arrangements for the payment of Pension Insurance Scheme benefits abroad are contained in the Sozialgesetzbuch Code (SGB) which
was updated in 1991, replacing previous legislation for social security provision. The Code contains the general principles of the German social security system, and gives some details of entitlement and eligibility conditions. Legislation covering Accident Insurance is contained in a separate Code, Rentenversicherungsordnung (RVO).

16. Book I of the SGB deals with general provisions. Article 30 states the general principle of territoriality which underlies the German social security system and this currently means that contributions can only be made in Germany. In Book IV, SS 110-14, dealing with Social Insurance, it is also stated that the same contributory benefits paid in Germany must be paid abroad. Some restriction is nevertheless placed on the extent of payment abroad. If beneficiaries are abroad only temporarily the benefits always remain the same as if the beneficiary had stayed in Germany - ‘temporarily’ is usually understood to mean one year (Bundesministerium Mr Arbeit and Sozialordnung, 1991, p. 191). After this time-period a number of specific restrictions are applied.

17. First, any non-nationals who are not treated as German nationals (see Para. 23) do not receive the Federal subsidy to the pension, which has the practical effect of ensuring that the calculation of the rate of pension payable is less for recipients abroad who are not nationals (SS 114 SGB VI).

18. Second, if a benefit is payable due to reduced earning capacity (as is the case for widowhood pensions, old age pensions for the severely handicapped, the pension for incapacity for work and the occupational invalidity pension), the conditions of eligibility can be seen to have implications which additionally determine whether, and the extent to which, these benefits can be paid abroad.

19. If the claimants’ general capacity for work is more than 50 per cent, no benefits will be paid abroad as it will be assumed that, in theory, they can find a job. The Occupational Invalidity Pension can only be paid abroad if the claim is made while the person is still living in Germany. Moreover, if the beneficiaries work two hours or more a day the benefit cannot be paid abroad unless they are considered medically disabled (SS 112 SGB VI). The Pension for Incapacity for Work can be paid abroad only if the insured can work less than two hours a day (S 44 SGB VI).

20. Subject to the preferential treatment given to nationals when calculating entitlement rates abroad, old age and widowhood benefits, when not payable due to reduced earning capacity, can be retained outside Germany, and can also be preserved and subsequently claimed from abroad. The benefits payable due to reduced earning capacity can be retained where the beneficiary can be deemed no longer to be in the labour market, subject to the rules determining incapacity for work as described above. While it is theoretically possible to preserve and claim the Pension for Incapacity for Work from abroad, the rules for determining whether the claimant is able to work mean this is a very difficult process, and it is one in which the courts have become involved.

21. Accident Insurance is not payable abroad if the claimants are not nationals and either voluntarily live outside Germany or are not allowed back into the country. But, this restriction is lifted if their country of origin has ratified the relevant ILO convention (Equality of Treatment (Accident Compensation) Convention, 1925 (No. 19)), which means in practice in nearly all cases Accident Insurance is exportable (Para. 621 RVO).

Policy background

22. Territoriality’ formerly included the idea that benefits could be paid only within the country, and was a basic principle in the German social security legislation. But at the same time it has always been subject to exceptions. Prior to 1979, these exceptions permitted payments abroad to German and former German
23. These arrangements were challenged in the Federal Constitutional Court in 1979 as not subscribing to the basic constitutional principle that like cases should be treated alike. The court ruled that contributory pension rights should be seen as the 'property' of the contributors and therefore the state must justify occasions when pension rights are withdrawn if a person leaves the country. This case law became incorporated into subsequent revisions of the RVO, and altered the policy towards the payment of benefit abroad.

24. Since 1979, contributory benefits have been paid abroad (Para. 1321, Para. 1 RVO: 100 Para. 1 AVG), although non-nationals who are not treated as Germans receive only 70 per cent of the benefit entitlement due to the withdrawal from their benefit of the estimated federal subsidy to the pension (Para. 1323 RVO. Para. 102 AVG). (Nationals of countries which have ratified the 1953 European Interim Agreement on Social Security Schemes for Old Age, Disability and Widowhood are treated as Germans; the other ratifying countries are all the EC member states, Cyprus, Iceland, Norway, Sweden and Turkey).

25. In 1991, the exemption to the principle of territoriality which acknowledged that contributory benefits could be paid abroad and which had been recognised since 1979 was written into the revised SGB, which also incorporates the restrictions on the extent of payment abroad that have been placed on specific benefits, as already outlined.

26. Germany lists bilateral agreements with 28 countries. Twenty of these were concluded by the former Federal Republic of Germany and five by the former German Democratic Republic (GDR). The first group include all the EC members, except Ireland and Luxembourg, and seven other OECD countries - Austria, Canada (including a special agreement with the Province of Quebec), Finland, Sweden, Switzerland, Turkey and the USA. Countries outside the OECD included in the first group are Israel, Liechtenstein, Morocco, Poland, Romania, Tunisia and the former Yugoslavia. The agreements concluded by the former GDR with Bulgaria, Hungary, Romania, the CSFR and the CIS (former USSR) were valid until 31 December 1992 but limited to the geographical areas of the part of the unified German state. No information was provided on the dates when any of the agreements listed came into force. A further agreement with Chile came into force in 1993.

27. The benefits included in the agreements are those for old age, widowhood, disability and work injury, except for accident insurance benefits in the agreements with Canada, Liechtenstein and the USA.

28. The persons covered are nationals, refugees and stateless people as well as their relatives and dependents. Eight of the agreements (those with Austria, Canada, Finland, Israel, Poland, Sweden, US and the former Yugoslavia) do not refer to the contracting parties 'nationals but to 'persons insured' in each country. These agreements do not therefore affect German domestic law which involves calculating the amount of benefit payable partly based on nationality. But they also permit totalisation arrangements for third country nationals living in the two contracting countries. Otherwise equal treatment is granted to nationals, refugees, stateless persons and their dependents living in either country.

29. The rules for totalisation contained in all the agreements specifically mention that persons are entitled to pension benefits in the case of reduced earning capacity or disability only if work incapacity is assessed as being irrespective of the situation of the labour market, as laid down in Germany's own legislation. The agreements
with Poland. Liechtenstein, Sweden, Switzerland, Turkey, the USA and Canada moreover, contain an explicit restriction upon the totalisation of pension benefits in the case of reduced earning capacity.

30. The agreements concluded by the former GDR embodied a variety of approaches. The agreement with Bulgaria involved totalisation, with each country paying a proportional amount based on contributions paid in each country. The agreements with Romania, the CSFR and the CIS were ‘host country’ agreements based on a principle described as ‘integration’ (Eingliederungsprinzip). Although the agreement with Hungary was also a host country agreement, in this instance the cost of benefits was shared on a pro rata basis.

31. As a member of the EC, Germany is also subject to the Community’s Social Security Regulations that were adopted in 1971 (see Appendix B).

32. Information provided in response to Question 14 of the Data Request List noted that Germany has ratified the 1953 European Interim Agreement on Social Security Schemes for Old Age, Disability, and Survivors (also referred to in Para. 24 above). This had the aim of introducing the principle of equal treatment to the nationals of all the participating countries as regards the application of each country’s domestic legislation on payment of benefits. The agreement nevertheless placed restrictive conditions on the rules for payment of long-term non-contributory benefits and equal treatment in fact, only applies where a non-national claimant has resided in another participating country for a minimum of 15 years. Germany has not so far ratified the 1972 European Convention on Social Security which was intended to replace the Interim Agreement and to apply the principle of equal treatment more extensively. (It has indeed been ratified by only eight countries to date.)
### Table 4  Main Characteristics of Benefits Provided and Nature of any Restrictions on Payments Abroad

<table>
<thead>
<tr>
<th>Name of Benefit</th>
<th>Contingency Covered</th>
<th>Type of Benefit</th>
<th>Persons Covered</th>
<th>Insurance Basis</th>
<th>Work Controls</th>
<th>Source of Funding</th>
<th>Retain Abroad ?</th>
<th>Restrictions</th>
<th>Claim from Abroad ?</th>
<th>Restrictions</th>
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<td>Old Age Pension</td>
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<td>Yes</td>
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<tr>
<td>Pen. Incapacity to Work</td>
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<td>Yes</td>
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<td>Yes</td>
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<tr>
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<tr>
<td>Invalidity Benefit</td>
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<td>Widow/er’s Pension</td>
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<tr>
<td>Survivor’s Pension</td>
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<td>Yes</td>
<td>Yes</td>
</tr>
</tbody>
</table>

Note: The table continues with more entries for different benefits and their respective characteristics.
Chapter 9 Italy

9.1 Introduction

1. Most of the Italian benefits for old age, disability and widowhood are earnings-related contributory benefits provided for virtually all salaried employees and wage earners via social insurance institutions under the jurisdiction of the Ministry of Labour and Social Security. The largest social insurance institution is the Instituto Nazionale della Previdenza Sociale (INPS) which covers 76 per cent of the employed population, and special schemes operate for particular employment sectors. Benefits for employment injuries and occupational diseases are administered by the Instituto Nazionale per l'Assicurazione contro gli Infortuni sul Lavoro (INAIL). Non-contributory and means-tested disability benefits are provided both nationally and locally under the jurisdiction of the Ministry of the Interior. Some of these benefits are relevant to the study.

2. Executives in industry and commerce are not covered by INPS but by a separate compulsory scheme (INPDAI) based on collective agreements and therefore classified as a non-statutory occupational pension scheme, although in fact INPDAI provides the basic scheme for managers and executives in industry. Since the statutory INPS scheme is weighted in favour of lower earners and is not limited by an earnings ceiling, there has been little incentive for development of other occupational schemes (Commission of the European Communities, 1992, Wyatt, 1992).

3. Statistics given by INPS indicate that in 1991, 335,099 pensions were paid abroad costing 2.4 per cent of the total payments made by INPS (letter, INPS 24 July 1992).

9.2 Eligibility and entitlement for benefits

Benefits for old age

4. `Old Age Pension' is a contributory earnings-related benefit paid at 60 for men and 55 for women. Contributions must have been paid for at least 15 years, and the amount of pension payable represents a percentage of average earnings during the last five years of employment multiplied by the number of years of contributions which are progressively weighted. There is also a means-tested supplement to the contributory Pension.

5. The `Pension of Seniority' is paid to employees of any age who have at least 35 years of contributions. They are not permitted to work while in receipt of this pension but, at the age of 65, the Old Age Pension rules apply which do permit work to be undertaken. The amount payable is calculated in the same way as for the Old Age Pension, but if the recipient is in employment the benefit is taxed. When the recipient reaches 65 this pension is replaced by the Old Age Pension. (The tabular summary of the main characteristics of Italy’s social security benefits does not show the Pension of Seniority as it is in the process of being phased out.)

6. A means-tested `Social Pension' is provided to resident nationals over 65 who are not covered by the contributory Old Age Pension. This can be supplemented if family income falls below defined limits according to family size.
7. The INPS scheme offers two benefits for invalidity, one for partial incapacity for work and one for permanent incapacity for work. A contributory earnings-related 'Invalidity Allowance' is provided for employees whose working capacity is reduced to two-thirds of their normal level. Entitlement conditions require that a person must have paid at least five years of contributions, three of which have to be included in the five-year period preceding the onset of disability. The amount of benefit is related to the total number of contribution years, but it can be supplemented to the level of the Social Pension according to a means-test. The benefit is awarded only on a temporary basis, usually for three years; after this period, a fresh claim needs to be submitted.

8. A contributory, earnings-related 'Incapacity Pension' is paid under the same entitlement conditions as above, to employees who become permanently incapable of work. The amount payable is not related to the number of contributions paid as assumed contributions up to retirement age are included in the calculation.

9. Non-contributory means-tested 'Allowances for the Handicapped' are payable to resident nationals under the age of 65 who are blind, partially sighted, deaf and dumb, totally disabled or partially disabled, but who are not covered by the contributory INPS scheme. The allowance for partial disability is payable only to those who are not employed.

10. A flat-rate 'Attendance Allowance' is payable to resident nationals who need continuous personal assistance.

11. 'Permanent Incapacity Pension', financed by employer contributions, is provided to cover work injury or occupational incapacity. The rate payable is based upon the degree of injury and average earnings prior to the onset of incapacity.

12. 'Widow's and Widower's Pensions' for survivors are derived through the deceased spouse's entitlement to Old Age Pension, Pension of Seniority or Incapacity Pension. The amount paid is 60 per cent of the benefit which was received by the deceased, or to which the deceased would have been entitled on reaching retirement age.

13. A 'Survivor's Pension' is also available under the Employment and Injuries and Occupational Diseases scheme, if the deceased had paid a year's contributions. The amount of benefit is 50 per cent of earnings of the insured.

9.3 Benefit exportability

Current arrangements

14. Long-term contributory benefits may be paid to both nationals and non-nationals abroad. It is possible for beneficiaries to retain benefits for old age, disability and widowhood when moving abroad or (if entitlement and eligibility conditions are fulfilled) to claim them subsequently from abroad. However, in order to receive the means-tested supplements to the Old Age Pension, Seniority Pension and Invalidity Allowance abroad, and any benefits for surviving dependents paid with the supplement, it is necessary for the beneficiary or in the case of benefits for widowhood, the deceased spouse, to have worked and paid contributions in Italy for the relevant main benefit for at least five years. If this entitlement condition is satisfied it is possible to retain the supplement if moving abroad and also to claim it subsequently from abroad.

15. The primary legislation which introduced the INPS contributory scheme was enacted in 1923 (Law 3184, 30112/23). The rules concerning the exportation of these benefits are stated in the secondary legislation (Article 90, Reg 1422, 28/8/24)
which provides that all the [insurance] benefits can be paid to anybody wherever the recipient is resident in the world. (At that time, the scheme only made provision for old age, disability and survivors.)

16. It is understood that the Permanent Incapacity Pension for work injury can be retained both if a beneficiary moves abroad and claimed from abroad provided the work injury arose in Italy, but it has not been possible to obtain a copy of the relevant section of the law in order to check this point.

17. The non-contributory means-tested Social Pension and supplement, the Allowances for the Handicapped, and the Attendance Allowance are not exportable as they are paid to resident nationals only. This condition of entitlement is contained in the primary legislation which governs these benefits.

18. Medical controls on continued eligibility for disability benefits are undertaken in the receiving country through the claimant’s doctor, or through the relevant institution if it is a country with which Italy has an agreement.

19. All benefits paid abroad are uprated in line with domestic increases.

Policy background

20. Prior to 1990 there were no restrictions upon the portability of the means-tested supplements to the Old Age Pension, Seniority Pension and Invalidity Allowance. In 1990, an amendment to the primary legislation introduced the requirement that in order to receive the supplements abroad, the person must have worked and paid contributions in Italy for at least one year, and in 1992 this requirement was increased to five years (Government Decree (No. 384, 19/9/92) enacted by Regulation No. 438, 14/11/92). This requirement was introduced to prevent people who had paid Italian contributions for only short periods before going abroad from receiving top-ups, regardless of how many contributions had been paid, under bilateral totalisation arrangements.

Impact of international agreements

21. Italy lists bilateral agreements with 18 countries. Seven of them are with other OECD members: Australia, Austria, Canada, Norway, Sweden, Switzerland and the USA. However, although the list does not include bilateral agreements with any EC members, Italy is shown on the equivalent lists provided by both Germany and the UK. The other countries with which Italy has entered into agreements are Brazil, Cape Verde, Liechtenstein, Mexico, San Marino, Tunisia, Uruguay, Venezuela and the former Yugoslavia. In addition, Italy has an agreement with the UK’s Crown Colony of Jersey and this was in fact the first agreement it concluded - in 1958. The next two agreements it entered into were with the former Yugoslavia in 1961 and Norway in 1962. Apart from the agreement with Venezuela which came into force in 1991, all the others were concluded between 1974-88.

22. Each agreement covers benefits for old age, invalidity, widowhood and work injury. Their effect is to ensure a person’s right to benefit in either country, and therefore any residence conditions which may pertain in an agreement country are overruled. The agreements make arrangements for the totalisation of entitlements to the benefits which are related to the length of insurance (i.e. old age pensions).

23. Italy as a member of the EC is subject to the Community's Social Security Regulations that were adopted in 1971 (see Appendix B). In general, these provisions do not alter the exportation of benefits permitted via Italy’s domestic legislation. However, under the 1992 amendment to Article 10 of Regulation 1408/71, it is possible for each member country to name specific, non-contributory benefits that cannot be claimed or paid in other member countries. Italy has now nominated the three means-tested supplements which domestic legislation does in fact permit to be paid abroad (under certain conditions already described) - i.e. the supplement to Old Age Pension, Seniority Pension and Invalidity Allowance. Other
benefits named as not payable in EC countries are the Social Pension, the Allowances for the Handicapped and the Attendance Allowance, but these are in any case defined as not exportable in Italy's domestic legislation.
### Table 5  Main Characteristics of Benefits Provided and Nature of any Restrictions on Payments Abroad

<table>
<thead>
<tr>
<th>ITALY</th>
<th>Contingency Covered</th>
<th>Type of Benefit</th>
<th>Persons Covered</th>
<th>Insurance Basis</th>
<th>Work Controls</th>
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<th>Restrictions</th>
<th>Claim from Abroad?</th>
<th>Restrictions</th>
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<td></td>
<td>Old Age Disability</td>
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<td>Non-contributory</td>
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</tbody>
</table>
10.1 Introduction

1. Japan's contributory social security system consists of a universal National Pension Scheme (NPS) and two supplementary employees' schemes, Employee's Pension Insurance (EPI) which applies mainly in the private sector and the Mutual Aid Association (MAA) benefits provided for government and other state employees. All three schemes are administered under the jurisdiction of the Ministry of Health and Welfare. The NPS and EPI schemes provide cover for 90 per cent of the people living in Japan and the benefits provided by these schemes are described in this presentation.

2. Originally established in 1959, the NPS has varying contribution rates based on whether a person is an employee, self-employed or non-employed. All residents between the ages of 20 and 60 are obliged to pay contributions (compulsory insurance was extended to non-national residents in 1982). The EPI and MAA schemes, which were established before the NPS, each provide an additional earnings-related component for employed persons. The NPS and the EPI schemes became administratively interlinked in 1986 under the 1985 National Pension Act. Since that time, the practice has been to pool all the various contribution payments and then to allocate appropriate sums to each scheme; the government also contributes one-third of the necessary funding.

3. A separate Workman's Accident Compensation Insurance Scheme is administered under the jurisdiction of the Ministry of Labour which collects contributions from employers but some government financing is also provided.

4. In addition two non-contributory benefits specifically for old age and disability are funded by the government.

5. There are no supplementary occupational or private pensions as such, but employers may establish and contribute to company pension funds which provide lump sums in lieu of pensions (Noble Lowndes, 1992).

6. Statistics received from the Japanese Embassy (2 March 1992) indicate that 2,869 people receive Japanese benefits abroad. The annual cost of payments abroad and the proportion of Japan's total social security budget these payments represent was not stated.

10.2 Eligibility and entitlement for benefits

Benefits for old age

7. An `Old Age Basic Pension' is provided through the NPS at age 65. Entitlement is through residence and periods of insurance. The minimum qualifying insurance period is 25 years during which contributions to the NPS are paid (or are exempted), or contributions are made to either the EPI or MAA, or the person is a dependent spouse of a person paying EPI or MAA contributions. These situations all count as `contributions-paid' periods. The benefit is flat-rate. A full flat-rate payment is made only if a person has a 40 years' contribution-paid period; if the contribution-paid period is less than 40 years, the pension is reduced proportionately.
8. An additional earnings-related ‘Old Age Employee’s Pension’ is paid if the claimant satisfies the eligibility conditions for Old Age Basic Pension and is further insured through the EPI for at least one month. A flat-rate dependent’s allowance is paid for spouses under age 65.

9. A non-contributory ‘Welfare Pension’ is provided for residents who reached retirement age before the National Pension Scheme came into force in 1961.

Benefits for disability

10. An ‘Invalidity Basic Pension’ (IBP) is paid under the NPS in the case of permanent disability due to sickness or injury. Entitlement is via contributions which must have been made during two-thirds of the qualifying insurance period before the incapacity began, but no specific length of qualifying period is stipulated. The rate of payment depends upon the degree of disability which is medically assessed with reference to a scheme enumerating states of invalidity. The ‘1st class’ payment is for those who have become completely incapacible; the ‘2nd class’ payment is for those whose capability is extremely limited. The payments are flat-rate. An Invalidity Allowance is paid to people who satisfy the qualifying conditions for IBP, but whose invalidity is of a lesser degree than above.

11. An additional earnings-related ‘Invalidity Employee’s Pension’ (IEP) is payable under the EPI scheme if the person satisfies the conditions of entitlement for IBP. The payments are at three rates. The first two relate to the IBP states of invalidity as above, while the third covers a less severe degree of invalidity, and in that case only an IEP is paid. The payments are also related to length of insurance, using the same formula as for the Old Age Employee's Pension. If, however, the person has been insured for less than 25 years, there is a threshold system which calculates a minimum payment based on an assumed 25 years insurance. A flat-rate increment is paid for a dependent spouse aged under 65 for the first two classes of invalidity.

12. A means-tested, non-contributory ‘Basic Pension for the Disabled’ is available for those whose disability started before the age of 20. This is payable to residents only.

Benefits for work injury

13. An ‘Injury and Disease Compensation Pension’ (IDCP) is paid if a worker is injured or falls ill due to employment and fails to recover after 18 months. The resulting disability must be over a certain degree for the person to qualify for the benefit. The payment is earnings-related and is also determined by the degree of disability.

14. A ‘Physical Handicap Compensation Benefit’ (PHCB) is paid if a person becomes physically handicapped upon recovering from work injury or illness. The amount payable is determined by degree of handicap (a lump sum is paid if it is less than a certain degree).

Benefits for widowhood

15. A ‘Survivor’s Basic Pension’ is paid if the deceased husband satisfied the conditions for the Invalidity Basic Pension, or if he had completed the qualifying period for Old Age Basic Pension. Those eligible are widowed mothers if they have in their care a child who is under age 18 or a disabled child who is under 20. The benefit is flat-rate.

16. A ‘Survivor’s Employee’s Pension’ is paid if the deceased has satisfied the insurance conditions for invalidity. Eligibility arises if at the time of death the spouse was an insured person under the EPI scheme, was in receipt of or entitled to a 1st or 2nd class Invalidity Employee's Pension and died within five years of first consultation or had completed the qualifying period for the Old Age Basic Pension. Survivors entitled to this benefit include both widows with or without dependent children, and widowers if they are over age 55. A childless widow over 35 receives an additional payment from the age of 40. The payment is earnings-related, representing 75 per cent of the Old Age Employee's Pension which would have been payable to the deceased. If the deceased had only been insured for less than
25 years, a threshold minimum payment system, similar to that used for Invalidity Employee's Pension, is applied.

17. A 'Bereaved Family Compensation Benefit' is available through the Work Injury Scheme, payable to a widowed spouse and other dependents. The amount of benefit is based on a proportion of the deceased's average daily wage.

10.3 Benefit exportability

**Domestic legislation**

**Current arrangements**

18. The National Pension Act 1985 does not contain provisions relating to the payment of benefits abroad. The primary legislation is supplemented by governmental regulations but as it has not been possible to obtain translations of these, the researchers were unable to examine in detail the administrative regulations governing the principle of portability of the Japanese contributory benefits.

19. Correspondence with the Ministry of Health and Welfare via the Japanese Embassy elicited the statement that 'a person who has the right to get benefit can receive it regardless of condition of residence and can go on holiday or emigrate' (letter, Embassy of Japan, 2 March 1992). Further specific enquiries established the following practices.

20. Contributory benefits available through the National Pension Scheme, Employee's Pension Insurance, and the Workman's Accident Compensation Insurance Scheme can be retained when the recipient moves abroad and can also be claimed subsequently from abroad if the necessary contribution conditions are satisfied. (It was not possible to elicit information on whether the eligibility conditions for receipt of work injury benefits would be fulfilled if the claimant was not living in Japan at the time the injury occurred.)

21. Dependents' allowances and derived survivor's benefits can also be paid abroad (if eligibility and entitlement conditions are met) as long as the dependent or the survivor is, or has formerly been, financially dependent upon the deceased.

22. It was not possible to establish how medical controls to monitor continued eligibility for disability benefits are conducted when recipients are abroad. In response to an enquiry it was indicated only that recipients living abroad must get a certificate of residence from the Japanese Embassy or if they are not Japanese nationals from the Embassy of their country of citizenship.

23. The two non-contributory benefits, Welfare Pension for the Aged and the Basic Pension for the Disabled, are only paid to those 'whose address is in Japan', and therefore cannot be paid abroad. In response to enquiries on the nature of the conditions of residence it was suggested that there are no specific conditions of terms of residence which govern these non-contributory benefits contained in the National Pensions Act. However, as with the contributory benefits, translations of the relevant administrative regulations were not available for scrutiny.

24. All benefits paid abroad are uprated.

**Impact of international agreements**

25. Japan does not currently have any bilateral social security agreements with other countries and it does not participate in any multilateral agreements.
Table 6  Main Characteristics of Benefits Provided and Nature of any Restrictions on Payments Abroad

<table>
<thead>
<tr>
<th>JAPAN</th>
<th>Contingency Covered</th>
<th>Type of Benefit</th>
<th>Persons Covered</th>
<th>Insurance Basis</th>
<th>Work Controls</th>
<th>Source of Funding</th>
<th>Retain Abroad?</th>
<th>Restrictions</th>
<th>Claim from Abroad?</th>
<th>Restrictions</th>
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<tbody>
<tr>
<td>Old Age</td>
<td>Disability</td>
<td>Widowed</td>
<td>Contribution</td>
<td>Non-contributory</td>
<td>Employees</td>
<td>Nationals</td>
<td>Residents</td>
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<td>Yes - Restricted</td>
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<td>Invalidity Basic Pension</td>
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<td>Survivor's Basic Pension</td>
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<td>Survivor's Employee's Pen.</td>
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<td>Survived Family Comp.</td>
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11.1 Introduction

1. The Netherlands' social security system is divided into two main groups, a National Insurance Scheme, which provides flat-rate benefits for old age, widowhood and disability, and an Employee Insurance Scheme which provides earnings-related benefits including a disability benefit for those in employment. The Disability Insurance Act 1967 which introduced this benefit replaced an earlier Industrial Injuries and Disabilities Act which provided benefits for work injuries. The National Insurance Scheme covers any person resident in the Netherlands; the condition of entitlement is being insured and insurance arises through residence. The benefits are financed through contributions paid by those with an income over a set level - thus those insured need not necessarily be contributors. The Employee Insurance Scheme is financed by contributions from employees and employers.

2. There are two means-tested 'social assistance' benefits for older and partially disabled workers which act as a top-up to the insurance benefits to ensure that income is supplemented to the level of the social minimum.

3. Since the retirement pension is flat-rate amounting to only a percentage of the minimum wage, private occupational pensions are common and cover most employees (Commission of the European Communities, 1992).

4. During 1991, the Netherlands had 113,478 recipients of benefit living abroad; the cost was 1,487 million guilders, representing 0.3 per cent of the country’s total social security budget (letter, Ministerie van Sociale Zaken en Werkgelegenheid, 20 February 1992).

11.2 Eligibility and entitlement for benefits

Benefits for old age

5. Under the National Insurance Scheme a flat-rate benefit, AOW, is payable to insured people after they reach retirement age at 65. The rate of payment represents 70 per cent of the minimum wage for a single pensioner and 50 per cent each for a pensioner couple. To qualify for full benefit the person must have completed 50 years of insurance. There is a deduction of 2 per cent for every year for which the person is not insured - i.e. the years when the person was not resident in the Netherlands.

6. When the General Old Age Pensions Act was introduced in 1957 transitional arrangements were made to provide a 'Transitional Pension' for those who could not qualify for a full pension because they would not have 50 years' insurance. A compensatory proportion of AOW is, therefore, paid through these arrangements, which is added to the amount of benefit payable on the number of years of actual insurance coverage in order to make up the full pension. These transitional provisions apply only to Dutch nationals living in the Netherlands and who have lived in the Netherlands for six years before reaching retirement age.

Benefits for disability

7. Under the National Insurance Scheme a flat-rate benefit, AAW is provided for people who are incapacitated for work. Inability to earn the same income as a comparatively healthy person in the same field is regarded as an incapacity for work. Eligibility arises after 52 weeks of incapacity. The benefit is payable to those...
with earned income in the preceding year unless the disability starts at an early age. The rate of payment is related to the degree of incapacity.

8. The Employee Insurance Scheme offers a benefit for disability, WAD. Every employee is compulsorily insured and the conditions of entitlement are to be an employee and to have paid contributions. The eligibility conditions are similar to those for AAW. Incapacity is related to loss of earnings and must have lasted for 52 weeks. Unlike AAW, however, the rate of payment is related both to the degree of incapacity for work and to the amount of last earned wage, but it is not related to the length of insurance. Beneficiaries are also permitted to top up their income through earnings or receipt of other benefits.

9. Two specific means-tested benefits are offered through social assistance provision for older and partially disabled workers who are resident or employed in the Netherlands. IOAW provides a top-up for older unemployed people as well as partially disabled employees who are unemployed 'in respect of the degree to which they are considered fit for work'. In addition those disabled from 17 years old who are receiving a disability insurance benefit may receive IOAW in the event of partial incapacity for work. For older and partially disabled self-employed people similar help is provided through IOAZ. Both these benefits top up income to the level of the social minimum.

**Benefits for widowhood**

10. A flat-rate survivor's benefit, AWW, is offered through the National Insurance Scheme which is payable to widows, widowers and orphans. Entitlement arises through the insurance of the deceased through the National Insurance Scheme (which arises via residence). For a widow, the conditions of eligibility require that she has an unmarried child of her own, or is certified incapable for work, or is over age 40. The benefit is flat-rate and the level of benefit for widows with dependent children is 100 per cent of the social minimum and 70 per cent of the social minimum for widows without dependent children.

**Domestic legislation**

11.3 Benefit exportability

Current arrangements

11. There are no provisions in the Dutch social security legislation explicitly relating to the payment of benefits abroad. Although the primary legislation is based on the principle of territoriality in so far as it provides that all residents are insured, it is also stated that 'entitlements are deemed to be attached to an individual person, irrespective of nationality or residence', meaning that once benefits are received they can be retained without restriction (Ministry of Social Affairs and Employment, 1990, p 130).

12. Thus the general policy of the government, as contained in the primary legislation has always been that the National Insurance and Employee Insurance benefits for old age, disability and widowhood can be retained without restriction by beneficiaries (who have met the entitlement and eligibility conditions) when they move abroad. Restrictions do arise with regard to the transitional arrangements for the old age benefit though, since the proportion of pension which is paid through these provisions is in principle only payable in the Netherlands and to Dutch nationals. However, in the regulations on the implementation of the 1957 General Old Age Pensions Act exceptions are made for nationals who are either already in receipt of the pension before they move abroad, or have been continuously insured since 1957 and are living abroad when reaching pension age. In both these cases the benefit can be paid.

13. Whether entitlements can be preserved and subsequently claimed from abroad depends upon the type of benefit, as indicated below.

14. The old age pension is described as a 'built-up scheme' where entitlement arising from periods of insurance related to residence can be accrued, reserved and
subsequently claimed from abroad (Article 14, General Old Age Pensions Act, 1/1/57 provides that those who are insured can claim this benefit at the age of 65 and makes no mention of residence requirements).

15. The benefits for disability and widowhood, AWW, AAW and WAO, on the other hand, are described as ‘risk’ benefits. Because the ‘risk’ cannot be anticipated, the benefit is not related to the length of insurance and entitlement arises through residence or employment in the Netherlands. Therefore entitlements cannot be accrued, preserved and subsequently claimed from abroad. These entitlement conditions are contained in the legislation for each benefit, (AAW, Article 4. General Disability Benefit Act, 1/1/76; WAO, Article 16. Disability Insurance Act, 1/7/67; AWW, Article 7, General Widows and Orphans Benefits Act, 1/10/59).

16. In the case of the derived right to benefit for widowhood, AWW, entitlement arises through the deceased's insurance. Therefore it is the residence of the deceased and not that of the survivor which is relevant when determining entitlement.

17. Medical controls on continued disability in the case of AAW and WAO payable abroad include provision for examinations to be held in countries with which the Netherlands has an agreement. If the recipient resides in a country with which there is no agreement, a medical examination in the Netherlands can be required for which finance is provided to meet travel costs.

18. Social assistance benefits, including IOAZ and IOAW, cannot be paid abroad as the entitlement conditions which require the recipients to be resident or employed in the Netherlands would not be met.

19. All benefits paid abroad are uprated.

20. The Netherlands lists bilateral agreements with 21 countries. Seven of them are EC members - Belgium, France, Germany, Greece, Portugal, Spain, the UK; and nine others are OECD countries - Australia, Austria, Canada, New Zealand, Norway, Sweden, Switzerland, Turkey, the USA. The remaining countries listed are Cape Verde, Israel, Morocco, Tunisia and the former Yugoslavia. The first agreement to be concluded was with Belgium in 1949. The agreements with the six other EC members were entered into between 1950 and 1966. The agreement with Turkey came into force in 1968, while the rest were entered into between 1971 and 1992.

21. The main rationale for entering into agreements is stated as being due to the 'phenomenon of industrialised countries recruiting labour from countries with excess manpower' (Ministry of Social Affairs and Employment, 1990, p. 132).

22. The agreements with Morocco and Switzerland cover only nationals of the respective countries. All the others apply either to employees or to those covered by the respective social security systems in the two countries concerned. The agreement with Israel allows for the legislation of the country in which the person is living to be applied (unless residence is not a condition for a particular benefit, in which case it is the country in which the person is employed); this is because both countries have national insurance schemes based on risk instead of length of insurance, and therefore do not require any form of pro rata totalisation. (Details of the agreement with New Zealand, which has some special features, are given in the equivalent section in that country's presentation.)

23. One important effect of the agreements is to lift the nationality restriction in the domestic legislation to allow non-nationals to qualify for increased AOW pension based on the transitional arrangements and to receive this abroad. The agreements also permit payment of a pro rata survivor's benefit (if the deceased was not insured in the Netherlands at the time of death), or a pro rata disability...
pension (if the disabled person was not in the Netherlands at the time the disability occurred) through totalisation. These arrangements are necessary for countries where, unlike in the Netherlands, the contingencies of disability or widowhood are related to the length of insurance.

24. As a member of the EC, the Netherlands is also subject to the Community's Social Security Regulations adopted in 1971 (see Appendix B), which the Ministry of Social Affairs and Employment describes as 'the most effective instrument for international coordination' (Ministry of Social Affairs and Employment, 1990).

25. Information provided in response to Question 14 of the Data Request List drew attention to the fact that the Netherlands was also a party to the 1953 European Interim Agreement on Social Security Schemes relating to Old Age, Disability and Survivors (see outline of provisions in Para. 31 of the German presentation), and that it also became a party to the follow-up 1972 European Convention on Social Security. This was intended to replace the Interim Agreement and to apply the principle of equal treatment for nationals of all the participating countries more extensively. However, to date, only eight of the original 17 signatories to the Convention have ratified it: Austria, Belgium, Italy, Luxembourg, the Netherlands, Spain and Portugal. It has therefore come into force only with respect to these countries.
Table 7  Main Characteristics of Benefits Provided and Nature of any Restrictions on Payments Abroad

<table>
<thead>
<tr>
<th>NETHERLANDS</th>
<th>Contingency</th>
<th>Type</th>
<th>Persons</th>
<th>Insurance</th>
<th>Work</th>
<th>Source of Funding</th>
<th>Retain Abroad?</th>
<th>Restrictions</th>
<th>Claim from Abroad?</th>
<th>Restrictions</th>
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<tbody>
<tr>
<td></td>
<td>Covered</td>
<td>Covered</td>
<td>Independent</td>
<td>Covered</td>
<td>Basis</td>
<td>Controls</td>
<td>of Funding</td>
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<td>Old Age</td>
<td>Disability</td>
<td>Widowhood</td>
<td>Contributory</td>
<td>Non-contributory</td>
<td>Means-tested</td>
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</table>
Chapter 12  New Zealand

12.1 Introduction

1. New Zealand's social security system is financed by taxation, and entitlement arises from residence requirements. Benefits are flat-rate and subject to an income-test. Benefits for work injury are provided through the Accident Compensation Scheme, a separate earnings-related compensation which is funded through employer levies, general taxation and motor vehicle registration fees.

2. Although one-third of New Zealand's taxpayers make some contribution to retirement plans these are mainly personal. Occupational pensions are not widespread outside the government sector (New Zealand, 1992).

3. At the beginning of 1992, New Zealand had 2,250 recipients of the old age benefit living abroad (the majority of them in Australia). The total estimated cost of payments abroad represents 2.32 per cent of the overall social security budget (letter, Department of Social Welfare, 27 January 1992).

12.2 Eligibility and entitlement for benefits

Benefits for old age

4. The benefit for old age is 'National Superannuation'. National Superannuation is a flat-rate, universal benefit which is subject to the National Superannuation Income Tax Surcharge administered by the Inland Revenue. This is referred to in New Zealand as an income test and it has been categorised as a means-tested benefit in this report. Entitlement is via specific residence requirements. Applicants must be ordinarily resident and present in New Zealand on the day of claiming, and must have resided in New Zealand for 10 years since attaining the age of 20, with five years of those 10 years occurring after the person reached the age of 50. Eligibility currently arises at age 61, but the age level is to be raised to age 65 by the year 2001.

Benefits for disability

5. An 'Invalid's Benefit' is paid to people over 16 who are totally blind or who have become permanently and severely restricted in their capacity for work to the extent of 75 per cent or more as the result of accident or illness or congenital defect. Applicants must be ordinarily resident and present in New Zealand on the day of claiming and have been ordinarily resident for 10 years before the date of the application.

Benefits for work injury

6. The Accident Compensation Scheme covers persons in employment who suffer injury by work-related occupational disease or an accident. It also covers workers who suffer non-work-related accidents in their own time.

7. An earnings-related 'Weekly Compensation' payment of 80 per cent of pre-accident earnings is provided if loss of earnings is due to an incapacity resulting from work injury. If the incapacity is more than 85 per cent, payment continues throughout its duration, subject to medical certification. If the incapacity is less than 85 per cent, compensation is paid for only 12 months and capacity for work is re-assessed after six months.

8. An 'Independence Allowance' is also payable to those who have incurred permanent disability resulting from work injury. The Allowance is paid in addition to the Weekly Compensation. Eligibility arises if the disability is 10 per cent or
more. The payment is flat-rate depending upon the degree of disability. Medical reassessments are carried out at least once every five years.

**Benefits provided for widowhood**

9. A means-tested `Widow’s Benefit’ is provided. Entitlement is via residence in New Zealand, and through the birth of dependent children in New Zealand, or the length of marriage or age of the widow, if she has no dependent children. Where earnings-related Accident Compensation is paid, the amount of the compensation is deducted dollar for dollar from any entitlement to Widow’s Benefit.

10. Weekly Compensation Benefit from the Accident Compensation Scheme, *Survivor’s Accident Compensation*, can also be payable to the surviving spouse of a deceased recipient; 60 per cent of the pre-accident earnings is paid, with another 20 per cent if there are dependent children still in the care of the surviving parent. Payment continues for five years or until the children are no longer dependent.

**12.3 Benefit exportability**

**Domestic legislation**

11. Section 77 of the Social Security Act 1964 permits recipients of National Superannuation to receive a full pension payment for 26 weeks during periods of temporary absence and provided they return to New Zealand within 30 weeks. However, under the General Portability Provision in Section 17A of the Social Welfare (Transitional Provisions) Act 1990, National Superannuation recipients can now receive 50 per cent of their benefit whilst permanently residing outside New Zealand.

12. Section 77 of the Social Security Act 1964 also permits recipients of both Invalid’s Benefit and Widow’s Benefit to receive payment for four weeks during a temporary absence. But if a person is receiving medical treatment overseas for which the Department of Health is providing assistance, benefit payment may continue for up to two years.

13. Due to the residence conditions attached to all these benefits it is not possible to preserve any entitlements and subsequently claim benefit whilst living in another country.

14. The rules concerning the payment abroad of the Weekly Compensation and the Independence Allowance are contained in Section 88 of the Accident Rehabilitation and Compensation Insurance Act 1992. These benefits can be retained if a beneficiary ceases to reside in New Zealand, subject to certain control mechanisms. Before the Weekly Compensation or the Independence Allowance can be paid abroad, the medical condition of the beneficiary must be assessed for the purposes of the Act by a person approved by the Accident Corporation. If further assessment is required, the Accident Corporation is not liable to meet any related costs incurred by the beneficiary overseas in excess of those which would have been incurred if the person had remained in New Zealand, or the costs of return travel to New Zealand for examination or assessment.

15. Accident Compensation benefits can also be claimed from abroad in some circumstances. A person who is ordinarily resident but suffers an injury covered by the Act while outside New Zealand may receive Weekly Compensation for six months. This is permitted if the person ordinarily resident in New Zealand had earnings while absent from New Zealand as well as earnings within the period of six months before leaving New Zealand. Any payment made is subject to medical assessment.

16. All benefits paid abroad are uprated.
17. Until the introduction of the General Portability Provision in 1990 which permits retention of National Superannuation by beneficiaries whilst permanently residing outside New Zealand, social security benefits were normally paid only to persons who were ordinarily resident and present in New Zealand. However, a provision under the Act did permit payment abroad of National Superannuation Widow’s Benefit and Invalid’s Benefit for 13 weeks if the beneficiary was ‘temporarily’ absent, and in 1984 this provision was amended to extend the period of payment abroad for all these benefits to 26 weeks during a temporary absence. This relaxation was introduced because it was felt that many European immigrants might wish to make what was described as the ‘trip of a lifetime’ and visit their countries of origin upon reaching retirement and that a permitted period of only 13 weeks pension payment abroad was too restrictive, given the cost of travel to Europe.

18. In 1991 the Social Security Act 1964 was further amended and incorporated a new provision in Section 77 which reduced the period of continued receipt of disability and widowhood benefits from 26 weeks to four weeks of temporary absence. However it left in place the provision that National Superannuation could be retained fully for 26 weeks during a temporary absence extending no longer than 30 weeks.

19. Pressure from other governments as well as from foreign nationals resident in New Zealand for payment abroad of National Superannuation on a permanent basis led to the introduction of the General Portability Provision in 1990. The actual legislation was influenced by the views expressed in a Ministerial Task Force Report on the Income Maintenance System and a Royal Commission on Social Policy, both of which recommended the introduction of only a partial portability provision for National Superannuation, i.e. 50 per cent, as indicated in Paragraph 11 above.

20. New Zealand has agreements with the UK, Australia and the Netherlands.

21. The agreement with the UK came into force in 1948, but was revised in 1984. It is essentially a ‘host country’ agreement whereby each country meets the costs of income replacement or income support benefits of the other country’s nationals living there. UK retirement pensions are paid in New Zealand although they are not uprated. The agreement assists migrants to qualify for the host country’s age pension by treating periods of residence in the UK as residence in New Zealand, and periods of residence in New Zealand as periods when UK contributions have been made.

22. The agreement with Australia also initially came into force in 1948 and, because at that time neither country permitted payment of benefits abroad, it too was designed as a ‘host country’ agreement. However, the revised agreement of 1989 introduced a new provision whereby New Zealand undertakes to re-imburse the Australian government for the cost of the Old Age, Widow and Invalidity benefits it pays to former New Zealand residents living in Australia. The need for this provision arose after Australia changed its domestic policy to permit the payment abroad of its Old Age Pension, and more significantly because of an imbalance in costs caused by the increasing numbers of New Zealanders taking up permanent residence in Australia and making application for Australian benefits and pensions.

23. The agreement with the Netherlands came into force in February 1992. It permits the totalisation of periods of residence/insurance in order to give entitlement to an Old Age Pension where necessary, and the benefit is then paid proportionally by each country. Each country covers the contingencies of disability
and widowhood for each other's nationals, as both countries' schemes in effect are based upon residence and are not related to the length of insurance. This agreement has yet to come into full effect.
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<th>Accident Compensation</th>
<th>Independence Allowance</th>
<th>Widow’s Benefit</th>
<th>Survivor’s Accident Comp.</th>
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Table 8: Main Characteristics of Benefits Provided and Nature of any Restrictions on Payments Abroad
13.1 Introduction

1. The Portuguese social security system consists of a contributory scheme and a non-contributory scheme; both schemes are under the jurisdiction of the Ministry of Employment and Social Security. The contributory General Scheme is financed by employer and employee contributions, and provides benefits for old age, disability, survivors, including widowhood, and industrial accident. It covers all salaried employees and wage-earners (with the exception of most bank employees, who have their own social security system). The self-employed are also obliged to join the social security scheme as are ‘directors’ in ‘certain cases’ (Wyatt, 1992). The contributory system has no nationality restrictions.

2. Voluntary contributions can be made by nationals who are not covered by the compulsory General Scheme, nationals abroad who are not covered by a reciprocal agreement, and by foreign and stateless persons who have been resident in Portugal for more than one year but are not covered by the General Scheme. These contributions qualify contributors for old age, widowhood and disability benefits with the same conditions of eligibility, but slightly longer periods of contributions are required in order to fulfil entitlement conditions.

3. The non-contributory system is financed by the state and provides means-tested benefits for old age, disability and widowhood (and also for orphans). These benefits are provided for nationals who are not otherwise protected by a compulsory contributory scheme. They are provided for resident nationals, and can be extended to refugees, stateless persons and resident foreigners.

4. An Occupational Diseases scheme is administered by the National Insurance Fund for Occupational Disease. (Provisions for injury at work are made by insurance companies under government supervision and are not, as yet, part of the general state scheme.)

5. Other state funded ‘social action’ payments are made in cases of individual need, but these payments are not relevant for the purposes of this study.

6. There is no ceiling on earnings taken into account for contribution purposes. Possibly because of a high level of pensions, and partly because private companies tend to be small, occupational schemes are not common in Portugal (Harrison, 1992; Wyatt, 1992; Commission of the European Communities, 1992).

13.2 Eligibility and entitlement for benefits

7. A contributory Old Age Pension is provided to men aged 65 and women aged 62 who fulfil the entitlement conditions of 120 months of contributions, (i.e. 10 years). The benefit is earnings-related and is equal to 2.2 per cent of the person’s average monthly wage for the best five years within the last 10, multiplied by the number of contribution years, subject to a maximum of 80 per cent and a minimum of 30 per cent of the individual’s average wage. A spouse’s supplement is payable, subject to level of earnings. If voluntary contributions have been made, 144 months of contributions are required.
8. A non-contributory 'Social Old Age Pension' is payable to resident citizens aged over 65, who are not covered by the General Scheme (or whose contributory pension is below the amount of the social benefit). This is a means-tested benefit and income must not exceed 30 per cent of the minimum wage (50 per cent in the case of a couple).

Benefits for disability

9. A contributory 'Invalidity Benefit' is payable for permanent incapacity for work i.e. involving loss of 66.6 per cent of earnings' capacity in a person's normal occupation. Permanent' means there has been no improvement for three years and the person cannot receive more than 50 per cent of normal renumeration. Entitlement arises if 60 months' contributions have been made. Persons in receipt of this benefit are not permitted to continue the type of work which they have been assessed as incapable of carrying out. Earnings from other activities are subject to a limit which is twice the value of the person's average renumeration used in the calculation of benefit; if earnings rise above this level, benefit is deducted. The rate of benefit is calculated as for the Old Age Pension (see above, paragraph 7). A flat-rate increase for a dependent spouse is payable. Invalidity Benefit provided through voluntary contributions requires 72 months' contributions and is paid for permanent incapacity for any kind of employment.

10. A flat-rate, contributory 'Constant Attendance Supplement' is provided if a person has permanent incapacity and requires the constant attendance of a third person.

11. A non-contributory, means-tested 'Social Invalidity Pension' is payable to resident nationals aged over 18 who have a total incapacity for work, and if attendance is needed an additional amount is payable.

Benefits for work injury

12. Within the statutory scheme, a benefit for Occupational Diseases is paid if the insured person suffers an occupational disease resulting in reduction or incapacity for work. The benefit is financed by employer contributions; there is no minimum qualifying period for contributors.

13. There are various rates of payment depending on whether the incapacity is partial or total and/or temporary or permanent. The payments are related either to a proportion of a 'base salary' or to a proportion of the reduction in earnings capacity.

Benefits for widowhood

14. A 'Bereavement Pension' is payable to a spouse including divorced spouses based on the deceased person's contributions. Thirty-six months' contributions are required if the spouse is over 35, disabled or caring for a child. The payment is for life or until remarriage; otherwise the pension is payable for five years only. The payment represents 60 per cent of the Old Age Pension or Invalidity Benefit which was being paid or would be payable to the deceased. Where voluntary contributions have been made, 72 months' contributions are required.

15. A non-contributory and means-tested 'Widow's Pension' is payable for those whose spouse was not covered by the contributory General Scheme. The payment represents a proportion of either the non-contributory Social Old Age Pension or the non-contributory Social Invalidity Pension.

16. A 'Survivor Pension' is also paid through the Occupational Diseases Scheme. There is no minimum contributory qualifying period. If the insured person dies, 30 per cent of earnings is paid to widows or widowers and 40 per cent is paid if the survivor is aged 65 or is an invalid.
13.3 Benefit exportability

**Domestic legislation**

17. The framework of the social security system is set out in the Constitution of 1976. General principles of the relevant law are found in both Statutes enacted by Parliament and in government decrees. The current system was enacted through the Basis of Social Security Law (No. 28/84), 14/8/84.

18. Article 23: Basis of Social Security Law states that

> The principle of the maintenance of acquired rights and of rights in the course of acquisition shall be applicable to the General Scheme. . . 

> Beneficiaries shall maintain their rights to cash benefits under the general scheme even if they transfer their residence out of the national territory subject to the provisions of the applicable international legislation.'

Thus the contributory benefits for old age, disability, occupational diseases and widowhood can be retained if the recipient moves abroad, and can also be claimed subsequently from abroad if entitlement and eligibility conditions are met.

19. The `Constant Attendance Supplement' for attendance needs is also exportable. Information received from the Portuguese authorities indicated that the benefit can be exported if the condition of severe disability can be established, and if it is possible to confirm attendance by a third person who assists a claimant with a permanent incapacity.

20. Medical controls over continued eligibility for the contributory disability and work injury benefits are exerted through the provision of medical certificates which have to be validated by the Portuguese Consulate if a beneficiary is residing or claiming from a country which does not have an agreement with Portugal. If the country does have an agreement, the medical control procedures to be followed are stipulated in the agreement.

21. Article 31: Basis of Social Security Law 14/12/84 states that entitlement to the non-contributory benefits depends upon `other conditions laid down by law'. An earlier legislative Decree No. 464-L/80 which established a minimum social protection scheme, states in Article 1 that the benefits are available to every Portuguese citizen who is resident in Portugal. Thus the non-contributory benefits are not exportable, as the entitlement conditions would not be met.

22. All benefits exported are uprated.

**Impact of international agreements**

23. Portugal has agreements with 13 countries outside the EC and agreements with four Community members. The countries outside the EC comprise seven OECD members - Australia, Canada, Luxembourg, Norway, Sweden, Switzerland, the USA - and two countries which are former colonial dependencies - Brazil and Cape Verde, plus Andorra, Argentina, Uruguay and Venezuela. The four EC members listed are Belgium, France, the Netherlands and the UK. The two earliest agreements to be entered into were with Argentina in 1967 and the USA in 1968; while the recent agreements are with Andorra, Australia, Uruguay and Venezuela (yet to come into force).

24. Since Portugal's contributory benefits are permitted under domestic legislation to be paid abroad, none of the bilateral agreements in any way modifies general policy on benefit exportability. However, Article 9: Basis of Social Security Law 14/12/84 explicitly articulates the principle that:

> The state shall promote the conclusion or accession to international social security systems for the reciprocal guarantee of equal treatment of Portuguese citizens and their families carrying on their activities or travelling...
in other countries as regards the rights and obligations of persons covered by the social security systems of those countries and the conservation of rights either acquired or in the course of acquisition when they return to Portugal.

25. As a member of the EC, Portugal is bound by the Community's Social Security Regulations which were introduced in 1971 and are outlined in Appendix B. Under the 1992 amendment to Article 10 dealing with the export of benefits (summarised in the Appendix) Portugal has listed the non-contributory benefits that cannot be paid abroad under the domestic legislation as `special, non-contributory benefits' which are not exportable within the EC.
<table>
<thead>
<tr>
<th>Name of Benefit</th>
<th>Contingency Covered</th>
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<th>Persons Covered</th>
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14.1 Introduction

1. The main Swedish benefits for old age, disability and widowhood are provided through two pension schemes which are covered by the National Act on Social Insurance 1962. There is the basic pension scheme (AFP) and an earnings-related pension (ATP) provided for all salaried employees, wage-earners and self-employed, with benefits related to the length of time a person has been attached to the labour force. Where the continuation of the basic and the earnings-related benefit is insufficient to reach a minimum amount, a supplement is paid. Both AFP and ATP are financed through a payroll levy on employers.

2. All persons employed in Sweden, including the self-employed, are also compulsorily insured through Work Injury Insurance, financed by employers’ contributions, which provides eligible persons with benefit additional to the disability benefits available under the AFP and ATP schemes.

3. There are also widespread and comprehensive mandatory occupational benefits which, with some exceptions, are uniform across groups of workers and are covered by collective labour agreements. The ATP and its allied schemes cover all salaried and wage-earning staff employed by members of the Swedish Employers Confederation (Harrison, 1992).

4. Sweden does not hold statistics on the total number of benefit payments made abroad. The only statistics available were for payments of AFP and ATP benefits made to recipients living in countries with which Sweden has a reciprocal social security agreement'. In 1992, 35,945 recipients received payments costing 736,707,192 Kronor.

14.2 Eligibility and entitlement for benefits

5. Eligibility for old age pensions is through retirement at 65, although there are provisions for payment of partial pensions between the ages of 60 and 64.

6. To be entitled to the basic ‘AFP Old Age Pension’ a person must have three years of residence in Sweden or three years with ATP pension points (see below paragraph 9). Basic AFP pension is calculated by two alternative rules, either according to the number of years residence in Sweden or in relation to the number of years with pension points under the ATP scheme, whichever is the most favourable. The rule of residence stipulates, for a full pension, 40 years of residence in Sweden between the ages 16 and 64. If the period of residence is shorter, the pension is reduced by one fortieth for each missing year.

7. A `Wife's Supplement’ is paid to a woman born in 1934 or before where her husband receives basic pension but she is not entitled to a pension in her own right. But this is a kind of dependent's allowance which is currently being phased out through transitional arrangements, as part of the move towards equal treatment for men and women. The benefit is means-tested.

8. A Pension Supplement’ is also paid through the AFP Scheme to old age and disability pensioners who qualify for little or no ATP benefit. The supplement is paid in as many fortieths or thirtieths as the main benefit.
9. Entitlement to the 'ATP Old Age Pension' arises through being credited with pension points for annual earnings above a 'base amount'. Pension points must be credited for at least three years. The pension is earnings-related and a full pension is based upon 30 years of employment, but is reduced by one thirtieth for each year without pension points.

Benefits for disability

10. 'Disability Pension' is provided under both AFP and ATP. It is payable through AFP to persons with a minimum period of three years' residence in Sweden, or three years with pension points, if they fulfill the medical requirements. The pension can be paid as a full pension, or 75 per cent, 50 per cent or 25 per cent of a full pension. The amount payable is related to the level of incapacity. A temporary Disability Pension is also available if it is thought that working capacity may be recovered in part or in whole.

11. The AFP Scheme also provides a 'Disability Allowance' for those over 16 who are unable to look after themselves and require daily help. The amount payable is flat-rate and dependent upon the degree of assistance needed.

12. 'Disability Pension' is also payable as an ATP benefit. Entitlement arises through being credited with pension points. If the person has been receiving sickness insurance benefits or pension points have been credited in two out of the four years prior to the onset of disability, the amount payable is based on assumed pension points up to retirement age. In these cases, the benefit may be at the same level as a full ATP retirement pension. If pension points have not been credited in two of the preceding four years, and the person was not receiving sickness insurance benefits at the onset of the disability (e.g. if residing abroad), the benefit payable is related to the length of insurance. Eligibility conditions are the same as for the AFP Invalidity Pension and the benefit can be awarded temporarily for three years if it is thought that working capacity may be recovered.

Benefit for work injuries

13. A 'Life Annuity' is provided for compensation for loss of earnings due to an accident at work or an occupational disease, and is calculated according to degree of disablement. Benefits are earnings-related subject to a maximum ceiling. If AFP and ATP disability benefits are also payable, then Work Injury Insurance only pays the difference between former income and those pensions.

Benefits for widowhood

14. In January 1990, new rules for payment of survivors' benefits were introduced in order to give effect to the principle of equal treatment for men and women with benefits being available for survivors with child care responsibilities. Transitional arrangements are, however, still in operation.

15. The AFP Scheme pays a flat-rate 'Adjustment Pension' to a man or woman under 65 who was living with the deceased at the time of death. This is a temporary payment for 12 months only, unless the surviving spouse has custody of and lives with a child, in which case it is paid until the child reaches the age of 12. Residence in Sweden is required. The right to and the amount of the benefit depend on the deceased's periods of residence, or years with pension points.

16. ATP provides a 'Survivor's Pension' with the same conditions of eligibility. A surviving spouse gets a percentage of his or her partner's ATP Old Age Pension or Disability Pension.

17. A 'Special Survivor's Pension' can also be paid to survivors without children under the age of 12 who are unable to earn an independent livelihood and are not entitled to another pension. This benefit can be derived from either AFP or ATP pensions and is financed from both schemes. The full pension is the same as the amount payable for either the AFP Adjustment Pension or the ATP Survivor's Pension.

18. A 'Survivor's Annuity' is payable through Work Injury Insurance to the surviving spouse or co-habitee with children. The conditions of eligibility are the
same as for the AFP Adjustment Pension. The amount payable represents a percentage of the deceased's former earnings. If the annuity is payable in addition to other AFP or ATP widowhood benefits, it is paid as a supplement to top up income from the other benefits to the maximum level payable through Work Injury Insurance.

14.3 Benefit exportability

**Domestic legislation**

**Current arrangements**

19. The rules concerning the export of Swedish benefits are also contained in the National Act on Social Insurance 1962.

20. Although Chapter 1 of the Act states that insured persons under the AFP Scheme must be resident in the country in order to receive benefit payment, it is also stated that they are regarded as still being resident in Sweden if they go abroad for less than one year. Thus, by default, AFP benefits are paid abroad while the recipient is out of the country for this period. The rules for the main AFP benefits - Old Age Pension, Disability Pension and the Adjustment Pension for survivors - are laid down in Chapter 5, Paragraph 1, which determine whether these can be retained abroad for more than one year and under what conditions.

21. Swedish nationals can retain AFP if a link is established with pension points acquired under the ATP Scheme. Nationals who have three years of ATP pension credit points can retain AFP benefits if moving abroad and can also claim those benefits from abroad. However, the amount of AFP benefits payable abroad is related to the length of time for which the claimant has been credited with ATP pension points: 30 years with pension points are needed for a full AFP benefit to be paid (the AFP component of the Special Survivor's Pension is also subject to these rules).

22. Non-nationals cannot either retain AFP benefits if they remain abroad for more than a year or claim them from abroad. Chapter 5, Paragraph 1 of the Act does, however, state that AFP benefits are exportable for nonnationals under a reciprocal agreement.

23. The Pension Supplement and the Disability Allowance, when paid as supplementary benefits, can be paid to Swedish nationals abroad in as many thirtieths as are being paid of the basic Old Age Pension. The Disability Allowance, when paid as a benefit in its own right is payable only in Sweden except where transitional arrangements apply (and it has therefore been entered as non-exportable on the summary table). The Wife's Supplement can be retained and claimed from abroad regardless of the wife's nationality.

24. There is also a rule of exemption in Chapter 5, Paragraph 16 under which discretionary payment abroad of those AFP benefits which are payable only in Sweden is permitted under exceptional circumstances: if, after investigation of the financial circumstances, it appears unreasonable to withdraw the pension; or if crucial medical treatment not available in Sweden is required abroad.

25. Chapter 1, Paragraph 3 of the Act states that ATP benefits are payable abroad regardless of a beneficiary's citizenship and country of residence. Thus they can all be retained if the person moves to another country and also be claimed from abroad if entitlement and eligibility conditions are met.

26. The Life Annuity available through Work Injury Insurance can be retained when beneficiaries move abroad. Employees working abroad continue to be insured under the Scheme provided they are working for a Swedish employer and the assignment lasts for under one year, and benefit can, therefore, be claimed from abroad in those circumstances only. Self-employed persons, though, must be resident in Sweden when claiming.
27. The medical controls required in the case of AFP and ATP benefits for temporary incapacity are exerted by the recipients sending in doctor's certificates from the country where they are resident.

28. All benefits paid abroad are uprated in line with domestic payments.

Policy background

29. When the basic AFP Scheme was established in 1946 it only permitted the payment of its main benefits to Swedish citizens who were resident in Sweden, although once a benefit had been received they could retain it when they moved abroad. In 1968 the law was amended to permit a citizen who had been registered in the census at the age of 62 (which, at the time, was five years before retirement age) and resident for five years prior to that to claim the relevant benefit both in Sweden and from abroad.

30. In 1979, following the publication of a national report on immigrants, policy towards the payment of basic AFP benefits to non-nationals was changed to permit them to be paid to those immigrants who are resident in Sweden and have been so for the previous five years and for a total of 10 years overall (amendment to National Act on Social Insurance 1962, Chapter 5, Paragraph 4). But the amended legislation did not put non-nationals on an equal footing with nationals with regard to payment of AFP benefits abroad. The rights of Swedish nationals to receive the Old Age Pension, Invalidity Pension and the Adjustment Pension for Survivors abroad under the conditions indicated in Paragraph 21 above was enshrined in the legislation at this time (amendment to the Act, Chapter 5 Paragraph 2).

31. When the ATP Scheme was established in 1960 non-nationals entitled to an ATP pension and living abroad received a pro rata pension based on 45 years' credits (as opposed to 30 years' credits required for nationals), and the payment was not uprated in line with domestic increases. Also the pension could be exchanged for a lump sum. In 1966, the calculation based on 45 years for non Swedish nationals living abroad was abolished and non-nationals could claim only a lump sum. In 1979, the relevant legislation was amended, with the effect of eliminating the distinction between national and non-national beneficiaries as regards the rate of benefit payment received abroad. (National Act on Social Insurance 1962, Chapter 1, Paragraph 3).

Impact of international agreements

32. Sweden lists bilateral reciprocal agreements with 19 countries. Fourteen are with other OECD members - Austria, Canada, France, Germany, Greece, Italy, Luxembourg, Netherlands, Portugal, Spain, Switzerland, Turkey, UK, USA; the remaining five countries listed are Cape Verde, Israel, Morocco and the former Yugoslavia plus the Canadian Province of Quebec. All the agreements were entered into between 1976 and 1991.

33. Agreements concluded after 1979 provide for equal treatment for the citizens of those countries with Swedish citizens provided for under Chapter 5 Paragraph 1 of the National Act on Social Insurance in relation to the exporting of AFP benefits. This means that in these agreements the citizenship of a widow is not relevant and the deceased husband must hold the citizenship of the agreement country. The phrasing of earlier agreements with the former Yugoslavia, Portugal, Switzerland, Turkey and France pre-dated the policy contained in Chapter 5 Paragraph 1, and are more restrictive on the issue of derived rights to benefit for widows: according to those provisions the widow has to be a citizen of the agreement country to be entitled to basic AFP benefits.

34. Sweden is also a party to the Nordic Convention on Social Security which came into force in January 1982. The Convention covers nationals of all five Nordic countries, and provides that nationals of one member country who reside, work or
study in another Nordic country should be accorded the same social security
benefits as the nationals of that country (Article 4)

35. Article 2 of the Convention lists the contingencies covered which are sickness
and maternity, disability, old age or death, occupational injury, unemployment,
cash benefits for children and social assistance.

36. The contributory schemes established by each member country are fully
exportable and provision is made to permit the totalisation of insurance periods so
as to ensure entitlement to benefits.

37. The Convention primarily deals with arrangements to facilitate entitlement to
the basic pensions provided in the different members countries. The overall effect is
to permit nationals of one Nordic country to use periods of residence in another
Nordic country for the calculation of these benefits.

38. A new Nordic Convention will come into force at the same time as the
European Economic Area (EEA) Agreement which will bring the arrangements in
the European Community (EC) and the European Free Trade Association (EFTA)
countries closer together. The new Convention will be restricted, in general, to non-
active Nordic nationals and to Nordic residents who are not nationals of an EEA
member state.
Table 10  Main Characteristics of Benefits Provided and Nature of any Restrictions on Payments Abroad

<table>
<thead>
<tr>
<th>Name of Benefit</th>
<th>Contingency Covered</th>
<th>Type of Benefit Covered</th>
<th>Persons Covered</th>
<th>Insurance Basis</th>
<th>Work Controls</th>
<th>Source of Funding Not Related to Non-contributors</th>
<th>Retain Abroad?</th>
<th>Restrictions Additional Residence Requirement</th>
<th>Restrictions Not Updated Temporary Payment Period</th>
<th>Restrictions Reduced Payment Period</th>
<th>Restrictions Not Updated Temporary Payment Period</th>
<th>Restrictions Reduced Payment Period</th>
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Chapter 15  United Kingdom

15.1 Introduction

1. The British social security scheme' consists of contributory National Insurance benefits, tax funded means-tested social assistance payments and tax funded non-contributory benefits paid to certain categories of beneficiary.

2. Contributory benefits paid under the National Insurance Scheme relevant to this study are retirement pension, invalidity benefit, widowed mother's allowance and widow's pension. With the exception of the earnings-related additional pensions (SERPS) they all provide flat-rate benefits.

3. The non-contributory benefits relevant to this study are those which are provided for old age (and in certain circumstances for survivors of the beneficiaries) and disability. Disablement benefit and associated payments are provided under an Industrial Injuries Scheme.

4. The main means-tested scheme is the Income Support Scheme which acts as both a minimum assistance scheme to those without means and a top-up payment to other benefits where these, taking account of a person's means and requirements, do not reach the income support level.

5. Occupational schemes, generally initiated by individual employers, are common. It is estimated that approximately 50 per cent of employees are covered, and this figure does not include those covered by the growing number of personal pension plans (Commission of the European Communities, 1992; Johnson et al., 1992). There is provision for allowing people to contract out of SERPS into occupational or personal pension plans.

6. Figures provided by the Overseas Branch of the DSS show that in the financial year 1991-2, 630,355 people received benefits abroad at a cost of £690 million. Using the estimated total outturn for all benefits paid in 1991-2, given in the 1992 Departmental Report, the cost of payments abroad represents 1 per cent of total benefit expenditure (DSS, 1992, Fig. 1, p. 1.).

15.2 Eligibility and entitlement for benefits

7. There are four categories of retirement pension. The main one is the `Category A Retirement Pension' which is a basic flat-rate benefit that can be supplemented by the SERPS. The payment is based on a person's contributory record at the age of 65 for men and 60 for women. Dependents' allowances are also payable.

8. Two requirements need to be met. First, a person must have paid in any one tax year, since 6 April 1975 and before death or pensionable age, contributions on earnings of at least 52 times that year's lower earnings limit or, before 6 April 1975, 50 flat-rate contributions. This means, in effect, that earnings must have been above the minimum threshold for National Insurance contributions to become

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1. Northern Ireland has a separate social security system governed by a separate set of legislative provisions including legislation governing the payment of benefits abroad. However, arrangements are made to coordinate the operation of Great Britain's and Northern Ireland's legislation to provide a single system of social security and the rules for entitlement for eligibility for benefits, and provisions for the payment of benefits abroad are broadly the same.
payable. Second, the contributor must have met this condition, using credits or contributions, if necessary while sick or unemployed, for the requisite years of working life, which are calculated from age 16 to the year before pensionable age. Years of special home responsibilities, where there may be no earnings or when they may be considerably reduced, because the person is caring for someone, are deducted from the number of years needed to qualify. Benefits are paid at a proportionally reduced rate if contributions have not been paid for the requisite number of years: 44 for a woman and 49 for a man. No benefit is paid if contributions have been paid for fewer than 25% of the requisite years.

9. `Category B Retirement Pension’ is provided for married women, widows and widowers at age 60/65 whose own benefit entitlement is less than that provided by the spouse’s contributory record on which it is based. Category B pension paid to a married woman is about 60 per cent of her husband’s pension. Category B pension paid to a widow or widower can include additional benefit paid through the SERPS based on the late spouse’s contributions. A married woman can receive a SERPS payment based on her own contributions in addition to a Category B pension.

10. A non-contributory pension is provided for people who were over retirement age in 1948 when the National Insurance Scheme was established. The `Category C Retirement Pension’ is payable to: those over retirement age; a married woman whose husband is receiving Category C pension; or widows of men who were over retirement age in 1948. Claimants must have been resident in Great Britain for 10 years between 1948 and 1970 and resident on 2 November 1970 or on date of claim. The benefit is flat-rate with dependents’ allowances payable.

11. A non-contributory flat-rate `Category D Retirement Pension’ is provided for those over 80 who have no other pension or one which is less than the value of this benefit. Claimants must have been resident in Great Britain for 10 of the previous 20 years and must be ordinarily resident either on their 80th birthday or on the date of the claim.

12. Means-tested Income Support’ is provided if income does not meet the minimum level of income laid down in Parliament for people not in full-time work, though this varies according to size of household, and premiums are paid for certain circumstances such as age and disability. The benefit is payable to people who are claiming in Great Britain, and it is a requirement that they should be available for work, unless they are exempted because they are sick, over retirement age or a single parent. Therefore it can be claimed as additional assistance to top up benefits received to cover the main contingencies of old age, disability or widowhood.

Benefits for disability

13. The National Insurance Scheme provides Invalidity Benefit (IVB) as a flat-rate benefit (with certain age additions) for those who are unable to work due to illness. Entitlement depends upon a person previously having satisfied the contribution conditions for the short-term Sickness Benefit’ (or Statutory Sick Pay where the contribution conditions for Sickness Benefit are satisfied). Eligibility arises if the claimant remains incapable of work after 28 weeks on these short-term benefits. The rate payable may be increased through the SERPS component but the accrual of new rights to this earnings-related supplement in respect of IVB ended in April 1991. Dependents' allowances are also payable.

14. `Severe Disablement Allowance’ (SDA) is a flat-rate, non-contributory benefit, varying with age, provided for people with long-term illness over age 16, who are unable to work and are not insured under the National Insurance Scheme. Entitlement arises through residence and presence conditions. Eligibility arises after 196 days certified incapacity for work. If incapacity began after the 20th birthday, the claimant must be at least 80 per cent disabled. Dependents' allowances are payable.
15. Recent changes in legislation have combined and extended in scope two former non-means-tested and non-contributory benefits, one for attendance needs and one for mobility needs, into a single one. The new ‘Disability Living Allowance’ (DLA) is based on care needs and/or mobility needs (depending upon whether the claimant has both requirements) and is paid at different rates according to the level of help needed for people disabled before age 65. Entitlement for DLA arises through residence and presence conditions. Eligibility for both the mobility and care components arises through age and ‘disability conditions’. The benefit is generally payable on top of other disability benefits.

16. The benefit for care needs. ‘Attendance Allowance’ (AA), remains for people becoming disabled after age 65. Entitlement is through residence and presence conditions and eligibility rests on ‘disability conditions’ which are the same as for the two higher rates of DLA’s care component.

17. ‘Disability Working Allowance’ (DWA) is a means-tested benefit which is payable to people in work who have a disability. Entitlement arises through residence and presence conditions. Eligibility arises when people working at least 16 hours a week have a physical or mental disability which puts them at a disadvantage in getting a job and the person is or has been receiving another disability benefit.

Benefits for work injury

18. ‘Disablement Benefit’ is payable to an employed earner who suffers an accident or disease caused through their work which results in a loss of faculty giving rise to a disability. Payment is related to the rate of disability which must generally be 14 per cent or over.

19. Two additional benefits can be paid with Disablement Benefit. ‘Constant Attendance Allowance’ (CAA) is payable if the disability is assessed as being 100 per cent and the claimant requires constant attendance as a result; payment depends upon the extent of attendance required. For those recipients of CAA who are assessed as likely to remain permanently in a condition of 100 per cent disability, an ‘Exceptionally Severe Disablement Allowance’ (ESDA) is also provided.'

Benefits for widowhood

20. The benefits paid to survivors are generally derived benefits where entitlement arises through the deceased’s contributions.

21. Widow’s Benefit consists of two income-replacement benefits which are provided through the National Insurance Scheme. Entitlement arises through the deceased husband’s insurance contributions and contributions must have been made for the requisite number of years. A ‘Widowed Mother’s Allowance’ is payable to widows who are receiving Child Benefit for a dependent child. The amount payable is flat-rate with a dependent’s allowance for each child. An earnings-related additional pension may also be paid.

22. Widows who are not eligible for this benefit can claim ‘Widow’s Pension’ if they are over 45 (or 40 if the husband died before April 1988) and under 65 when widowed, or when eligibility for Widowed Mother’s Allowance ceases. The flat-rate amount payable depends upon the widow’s age at the time of her husband’s death. An earnings-related additional pension may also be paid.

23. Widows of husbands who died as a result of an industrial accident or disease are treated as if they had satisfied the contribution conditions for full-rate Widowed Mother’s Allowance or Widow’s Pension.

2. Two other additional benefits which were previously available under the Industrial Injuries Scheme, the Reduced Earnings Allowance and the Unemployability Supplement, are not included here as, although payments continue for those whose entitlement arose respectively before 1/10/90 and 6/4/87, new claims cannot be made for these benefits.
15.3 Benefit exportability

**Domestic legislation**

**Current arrangements**

24. The British National Insurance benefits do not have nationality or residence requirements, however there has always been an overall disqualification on paying benefits abroad written into the primary social security legislation. Thus Section 113(1) of the current Social Security Contributions and Benefits Act 1992 states that:

‘Except where regulations otherwise provide, a person shall be disqualified for receiving any benefit, under Parts II-IV of this Act, and an increase of benefit shall not be payable in respect of any person as the beneficiary's wife or husband, for any period during which the person:

a) is absent from Great Britain; or

b) is undergoing imprisonment or detention in legal custody.’

25. The regulations which ‘otherwise provide’ are the Social Security Persons Abroad Regulations (PARs) (SI 1975/563) which have subsequently been amended. The PARs state which of Britain's National Insurance and non-contributory and non-means-tested benefits can be paid abroad and also lay down any specific conditions claimants may be required to meet for receipt of particular benefits.

26. Regulation 4 of the PARs lifts the disqualification on the payment abroad of Retirement Pension Category A and B as well as the two widows' benefits. These can all be retained when a beneficiary moves abroad and they can also be claimed from abroad if entitlement and eligibility conditions are fulfilled. However, Regulation 5 explicitly maintains the disqualification in the primary legislation on permitting payment of domestic upratings.

27. The non-contributory Retirement Pensions Category C and D can likewise be retained if a beneficiary moves abroad, but they cannot be claimed from abroad as the PARs do not lift the residence requirement as an entitlement condition for making a claim.

**Limiting regulations imposed on taking disability benefits abroad**

28. Most of the benefits covering disability can be paid abroad only subject to the claimant meeting specific conditions. With one exception all the benefits are payable abroad only for a temporary period; the PARs do not provide a general definition of what is meant by ‘temporary’ but in some cases a definite time-limit is specified.

29. The contributory Invalidity Benefit can be retained only during temporary absence and if the Secretary of State has certified that payment would be consistent with 'the proper administration of the Act' (which requires that work incapacity continues to exist). In addition, claimants must show that their absence is for the specific purpose of being treated for an incapacity which commenced before they left Great Britain, or that they have been continuously incapable of work for six months before the day of departure and have remained continuously so since their absence began (Regulation 2, PARs). It is not possible to claim IVB from abroad, though, as the entitlement condition which requires prior receipt of one of the short-term benefits (sickness or maternity) would not be fulfilled.

30. The same conditions govern the receipt of Severe Disablement Allowance abroad for a temporary period, and SDA also cannot be claimed from abroad as the PARs do not lift the requirement of residence and presence as conditions of entitlement to make a claim.
31. Regulation 9 of the PARs allows Disablement Benefit provided for work injury to be taken abroad unconditionally but the associated benefits, CAA and ESDA are payable abroad only for six months or such further period as the Secretary of State will certify. Disablement Benefit can be claimed from abroad if entitlement and eligibility conditions are met (i.e. if the accident or disease was contracted in Great Britain). CAA and ESDA cannot be claimed from abroad unless the absence is temporary.

32. Disability Living Allowance and Attendance Allowance may be paid to people abroad providing the claimant continues to satisfy the conditions of entitlement for these benefits which require them to remain ordinarily resident and present. ‘Present’ means that the absence is for not more than 26 weeks; if it is longer it must be ‘for the purpose of treatment’ and accompanied by a certificate from the Secretary of State to say further absence is reasonable. These benefits can, therefore, be retained abroad temporarily only. They cannot be claimed from abroad unless the conditions of entitlement are met which require the person to be ordinarily resident. DLA is, therefore, shown on the table as not being claimable from abroad.

33. Regulation 13 states that a beneficiary is not disqualified from receiving an increase for a dependent spouse because of the spouse’s absence from Great Britain providing he or she is resident with the beneficiary.

34. Income Support can be retained during an absence abroad of four weeks (or eight weeks if a child is taken abroad for medical treatment) if one of the following conditions is met: a claimant and partner are abroad and the partner is receiving a premium paid because of disability or age; the claimant is incapable of work and has been incapable for work for 28 weeks; the claimant is incapable of work and is going abroad for treatment; or the claimant is not required to sign on for work in Britain. These conditions are laid down in the secondary legislation which governs this benefit (Income Support (General) Regulations 1987). This benefit cannot be claimed from abroad as the requirement of residence as a condition of entitlement would not be met.

35. The other means-tested benefit, Disability Working Allowance, cannot be retained if going abroad beyond the initial 26 week award period, and it cannot be claimed from abroad, as the entitlement condition that the claimant must be present and ordinarily resident in Great Britain would not be fulfilled.

36. Although any beneficiaries receiving incapacity benefits abroad have to continue to satisfy the authorities that they remain incapable of work, there are no arrangements for exercising the control mechanisms by which incapacity benefits are monitored domestically except in most of the countries with which the UK has a social security agreement.

Policy background

37. A statutory disqualification on taking benefits abroad was included in the primary legislation covering a health insurance system that was introduced during the 1930s, (National Health Insurance Act 1936, Section 66(1)(C)). When, shortly after World War II, the Labour Government launched its plan to establish a comprehensive social security system, the decision was taken to follow this precedent. Accordingly, the National Insurance Act 1946 incorporated a provision which stated an overall disqualification on payment abroad of any of the benefits provided under the Act (Section 29(1)). This provision was adopted by Parliament virtually without comment and has since been retained, with almost identical wording, in subsequent Acts the equivalent section in the 1992 Act is quoted in Paragraph 25 above).

38. Britain’s policy has been to formulate enabling regulations in the secondary legislation that would lift the statutory disqualification in respect of specific named
benefits, subject to such limiting conditions as may be deemed appropriate for each case. The forerunner to the current PARs were the 1948 Insured Persons (Residence and Persons Abroad) Regulations, but the extent to which they lifted the disqualification on payment of benefits outside Great Britain was fairly limited.

39. While the 1948 Regulations removed the disqualification unconditionally for recipients of retirement pension and widows' benefits living in the 'Dominion' countries, recipients living elsewhere outside Britain were permitted payments only for six months and provided that the total period of absence did not exceed one year. Also included in the 1948 Regulations was a provision which expressly prohibited payment of any domestic upratings awarded to these benefits subsequent to a beneficiary's departure. As far as benefits relating to incapacity for work were concerned, the Regulations only permitted continued payment if the recipients were out of the country for less than six months and were absent 'for the specific purpose of treatment' for such period 'as the Minister may allow'.

40. It was not until 1955 that a major amendment to the 1948 Regulations was introduced, when the statutory disqualification was unconditionally lifted with respect to all retirement pensions and widows' benefits paid to beneficiaries living anywhere outside Britain (SI 1955/983). The government nevertheless resisted a demand that it should amend the regulations so as to permit payment abroad of domestic upratings - and, as already indicated, this prohibition is included in the current PARs.

41. In 1967 the Regulations were amended to increase the number of situations which made it possible for recipients of the long-term sickness benefit available at that time to continue to be paid while temporarily living abroad (SI 1967/828). That benefit has since been replaced by Invalidity Benefit, to which broadly the same conditions for payment abroad were attached (described in Paragraph 30). The PARs were amended in 1975, following the replacement of long-term sickness benefit with IVB, and the introduction of SDA and AA.

Impact of international agreements

42. The UK lists bilateral agreements with 34 countries. Three of the countries are former dominions - Australia, Canada, New Zealand - and are also fellow OECD members. The 18 other OECD members listed are Austria, Belgium, Denmark, Finland, France, Germany, Iceland, Ireland, Italy, Luxembourg, Netherlands, Norway, Portugal, Spain, Sweden, Switzerland, Turkey and the USA. Of the remaining countries, five are former colonial dependencies - Barbados, Cyprus, Jamaica, Malta, Mauritius; while another five are existing colonial dependencies or Crown dependencies - Bermuda, Gibraltar, Guernsey, Isle of Man, Jersey. Three countries cannot be readily characterised as belonging to a particular group, and these are Israel, Philippines and the former Yugoslavia. The earliest agreements to be negotiated, which came into force between 1946 and 1948, were with Iceland, Isle of Man, Ireland and New Zealand. The majority of the others were concluded between 1950 and 1979. Only three agreements have been entered into since 1980: those with Mauritius, Philippines and Barbados, which came into force respectively in 1981, 1989 and 1992.

43. The agreements can vary in coverage and may lift the eezg of the uprating of pensions and widows' benefits. Their main purpose is to 'fate the movement of migrant workers and protect rights to benefit accumulate.' ring their working lives.

44. All the agreements cover retirement pension and the widow's benefit, and all but three lift the prohibition on uprating contained in the PARs. The countries where uprating is not permitted are Australia, Canada and New Zealand. The UK is not included in the Canadian list of agreements (see Chapter 5, Paragraph 20), but the UK lists Canada, as the limited arrangement:
allows people moving to the UK to have periods of residence in Canada treated as periods during which the UK contributions have been paid for UK Retirement Pensions purposes, providing certain tests are satisfied.’
(Information from UK Department of Social Security, April 1993)

This arrangement also applies to Australia and New Zealand. For further details of the agreement with Australia see Chapter 5, Paragraph 28 and for New Zealand, see Chapter 12, Paragraph 21.

45. IVB is included in most of the agreements. In some of these agreements the provisions contained in the PARs are not modified and payment abroad is still restricted - for example, in Australia and New Zealand. Other agreements make provisions for lengthier periods of payment of IVB - for example, in Norway, Sweden, Austria, Iceland and Cyprus. The agreement with Jamaica is unusual in that it allows IVB to be paid long-term as long as the claimant was considered to be permanently incapable of work when he/she left the UK. In those circumstances, further medical controls would not be required, although the claimant must continue to satisfy the UK authorities that he/she remains incapable of work. The Barbados convention contains similar provisions.

46. Most agreements include arrangements to allow all three of the British benefits for industrial injury to be paid indefinitely in the other country. The arrangements determine which country's legislation will apply to new accidents or diseases depending upon where the person is insured at the time of the accident or when disease develops or worsens. The agreements with Australia, Canada, New Zealand and the USA do not cover industrial injury benefits. (The USA has a scheme for industrial injuries but it is not nationally regulated; Canada has a scheme which is administered by the individual provinces which are free to make their own agreements; Australia does not have an equivalent scheme.)

47. Attendance Allowance and Disability Living Allowance are included in the agreements with Jersey and Guernsey, and Attendance Allowance is included in the agreement with Norway. These permit periods of residence in one country to be treated as having been in the other for the purposes of a claim for that country's benefit. The other non-contributory benefits, Severe Disablement Allowance and Mobility Allowance, are not included in the agreements (the Disability Living Allowance was only introduced in 1992).

48. As a member of the EC the UK is also subject to the Community's Social Security Regulations adopted in 1971 which are outlined in Appendix B. The main impact on the exportability of Britain's benefits is to require upratings to be paid on retirement pensions and widows benefits and also to permit the retention on a permanent basis of the contributory Invalidity Benefit as well as the non-contributory Severe Disablement Allowance by beneficiaries living in another EC country (providing eligibility conditions are still met). Under the 1992 amendment to Article 10 dealing with the export of benefits (summarised in the Appendix), the UK has included all the non-contributory disability benefits (excluding Severe Disablement Allowance) mentioned in this presentation plus Income Support in its list of non-contributory benefits that are not exportable within the EC. However, transitional provisions were introduced at the same time which allow Disability Living Allowance and Attendance Allowance to be exported in certain circumstances where there was entitlement before 1 June 1992, the date on which the amendment first took effect.
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<th>Temporary Payment Period</th>
<th>Nationality</th>
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Table 11: Main Characteristics of Benefits Provided and Nature of any Restrictions on Payments Abroad
16.1 Introduction

1. The USA's Federal social security system provides contributory, entirely earnings-related insurance benefits (subject to a ceiling) for Old Age, Survivors and Disability (OASDI); benefits are also paid for dependents. Although there are no minimum pension levels, there is some weighting in favour of lower wage-earners. A Supplemental Security Income (SSI) Scheme provides means-tested assistance which is payable for the specific categories of old age and disability as a top-up or alternative to the OASDI benefits.


3. Benefits for work injury are provided through Workers' Compensation schemes which are financed by employers. As they are not part of the statutory social security system, their details are not included in this survey. However, it can be noted that benefits received under these schemes are paid abroad.

4. Statistics received from the US Department of Health and Human Services (10/2192) indicate that in January 1992, 352,239 recipients of OASDI benefits were receiving payments abroad at a cost of $130,756,195, representing 0.65 per cent of domestic OASDI expenditure per month. As shown in Paragraph 20, two-thirds of recipients abroad are non-nationals.

16.2 Eligibility and entitlement for benefits

5. The OASDI scheme offers an earnings-related retirement pension, *Old Age Insurance* to insured workers over 65; fully insured workers can claim from the age of 62, but the benefit is permanently reduced for each month of entitlement prior to the full retirement age.

6. Contributions are measured in credits for `quarters of coverage' (QCs). Entitlement to old age pension depends upon a minimum of six QCs with most workers needing 40 QCs (10 years' work), the maximum number required by law. The amount paid is based on average indexed monthly earnings. For a full pension the rate of benefit received is calculated to be 56 per cent of these monthly earnings for low wage-earners, 42 per cent for average wage-earners and 27 per cent for maximum wage-earners. Dependent's benefits may be paid, for example, to spouses divorced spouses over 62 and spouses who are caring for a child.

7. A means-tested SSI benefit is payable to those over 65 whose income does not meet the minimum standard. SSI recipients must live in the USA and either be a US national or a legal resident.

8. An earnings-related *Disability Benefit* is provided through the OASDI scheme. Entitlement depends upon a minimum of six QCs of coverage. In addition, employees who become disabled at the age of 31 must have worked for at least five years of the preceding 10 years; employees between the ages of 24 and 31 must have worked in at least half the period before the onset of disability; workers under 24 can qualify with a minimum of six QCs in the preceding three-year period. Eligibility is determined by inability to work (although continued earnings up to a
certain level are disregarded) and by the expectation that the inability is likely to last for at least a year or until death. Payments for dependents are paid on the same basis as for the dependents of old age pensioners.

9. SSI benefit is payable to people suffering a disability that meets the eligibility conditions for the OASDI Benefit, if income does not meet the minimum standard.

**Benefits for widowhood**

10. An earnings-related 'Survivor's Benefit' can be paid to certain family members of an insured person through the OASDI scheme. Entitlement arises through the deceased's contributions. A minimum of six QCs is required, and the age of the deceased determines the number of QCs required at the time of death. Benefits are paid at an unreduced rate to widows or widowers over age 65, but they may also be paid at a reduced rate from age 60, and from ages 50 to 60, to disabled widows or widowers and to a widow or widower who is caring for a child under 16.

**16.3 Benefit exportability**

**Domestic legislation**

**Current arrangements**

11. Under the US Social Security Act 1935, no restrictions are placed on the payment of OASDI benefits outside the USA to US citizens. But Section 202 (t) of the Act does stipulate that payment to beneficiaries who are not US nationals ceases if they are absent from the USA for at least six months. However, the same section in the Act also goes on to provide extensive exemptions to the prohibition. Briefly these exemptions apply to: citizens of countries which have social insurance or pension schemes meeting certain requirements and which make benefit payments abroad to eligible US nationals (64 countries are listed); citizens of countries with which the USA had a treaty in effect on 1/8/56 providing for equal treatment of each other's nationals with respect to social security benefits (six countries are listed); and citizens (and in some cases residents) of countries which have reciprocal social security agreements with the USA (13 countries are listed). The numbers of countries meeting the various exceptions to the general rule of non-payment outside the United States to non-US citizens can, and do, change from time to time. There is also an exemption for workers with at least 40 QCs or who have resided in the USA for a total of 10 years or more, and are citizens of countries which do not have similar social insurance schemes: the exceptions are countries whose benefit system does not pay benefits abroad to eligible US nationals who are outside that country (56 countries are listed as relevant in this connection).

12. Section 202 (t) also stipulates that payment abroad to dependents and survivors who became eligible for these benefits after 1984 and are not US citizens can only be made if they have had at least five years' residence in the USA during which time the relationship of the dependent/survivor to the worker must have existed. Because these restrictions affect OASDI beneficiaries, the table at the end of this chapter shows that OASDI payments abroad may be restricted by an additional residence requirement.

13. Finally, Treasury regulations and administrative decisions by the Social Security Administration, prohibit the delivery of US cheques to all beneficiaries in a few countries. These restrictions apply to communist or communist-type countries (Cuba, Kampuchea, North Korea and Vietnam), and to the former Soviet Union, in respect to which they are currently being reviewed.

14. Subject, therefore, to the various conditions applying to non-national beneficiaries, and to the Treasury regulations, all the OASDI benefits can be retained if the recipient goes abroad, and can also be claimed from abroad if entitlement and eligibility conditions are met. Individuals living abroad may make a claim by post or by visiting one of the 39 US Embassies around the world where staff have been trained in processing social security claims.

15. Benefits are uprated when paid abroad.
16. Controls on payments made abroad are undertaken by maintaining contact with the beneficiaries through the use of questionnaires. Two questionnaires are used depending on whether the beneficiary receives his/her own cheque or someone else receives it on his/her behalf. They elicit information about possible changes in work undertaken and marital status, residence and citizenship, how benefits are used by an individual receiving cheques on behalf of beneficiaries who cannot manage themselves, and other events which could affect the receipt of social security cheques outside the United States. Medical controls for disability benefits are undertaken either by a doctor named on a list maintained by the Embassies or by the beneficiary’s own doctor, and the US Department of Health and Human Services will pay for persons to see a doctor in order to check their medical condition. In cases where no improvement is expected, monitoring is not required.

17. SSI benefits are not payable abroad as it is a condition of entitlement that beneficiaries live in the USA.

Policy background

18. Until 1957, there were no restrictions placed on payment of OASDI benefits abroad. However, in 1956 Congress passed the legislation codified in Section 202 (t) of the Social Security Act which introduced the prohibition on payment to non-nationals abroad if the claimant is absent for more than six months, together with the exemptions as described.

19. The restriction on the payment of benefits abroad specifically to non-national dependents and survivors (with the exemptions described) was introduced in 1983. This was due to a perception that derived benefits were being claimed abroad by dependents and survivors who had resided in the USA only for short periods, or not at all, and who had not contributed to the US economy.

20. Although a great deal of legislative attention has been devoted to the issue of payment of social security benefits outside the United States over the years, the overwhelming majority of non-US citizens social security beneficiaries receive their payments because they meet an exception to the non-payment provision. While about 245,000 social security beneficiaries outside the United States are non-US citizens (about two-thirds of the entire foreign beneficiary roll), only about 14,000 of these (or about six per cent of the total) have their benefits suspended under the alien non-payment provision (letter, US Department of Health and Human Services, 15 August 1992).

Impact of international agreements

21. The USA lists bilateral agreements with 14 countries, all of them fellow OECD members: Austria, Belgium, Canada, Finland, France, Germany, Italy, the Netherlands, Norway, Portugal, Spain, Sweden, Switzerland and the UK. These agreements were entered into between 1978 and 1992. Two new agreements - with Ireland and Luxembourg are expected to be in force by late 1993.

22. Papers provided by the respondent in the USA (Yoffee, 1973: Butcher and Erdos, 1988) suggest that the US government’s approach towards payment of benefit abroad was, prior to 1978 ‘unilateral’, in that expatriates were expected to continue to pay social security contributions when working abroad, and benefits were fully exportable. It was the problem of ex-patriots being required to contribute in two countries and/or not meeting the entitlement criteria in either which prompted the government eventually to consider entering into bilateral agreements. The factors involved in the decision to negotiate an agreement include an appraisal of: “the extent to which an agreement would benefit US citizens, residents and American businesses; if it would further US foreign policy interests, including economic policy; and if it would impose excessive program or administrative costs” (Butcher and Erdos, p. 7).

23. US agreements must by law provide for the payment of pro rata retirement, survivors’ and disability benefits based on totalised periods of coverage; this was
introduced in 1977 as an amendment to Section 233 of the Social Security Act. Thus each country pays its benefits directly to the beneficiary, and there is no exchange of funds between countries.

24. The agreements ensure that US or foreign workers whose working lives are divided between the two countries concerned are not burdened by the problem of dual coverage requiring them to pay two lots of contributions. They also lift the six-month restriction on payment abroad for those non-nationals who do not meet the exemptions permitted under Section 202 (t) and therefore enable them to receive their ‘preserved entitlement’ abroad beyond this period.
<table>
<thead>
<tr>
<th>Name of Benefit</th>
<th>Contingency Covered</th>
<th>Type of Benefit</th>
<th>Persons Covered</th>
<th>Insurance Basis</th>
<th>Work Controls</th>
<th>Source of Funding</th>
<th>Retain Abroad</th>
<th>Restrictions</th>
<th>Claim from Abroad ?</th>
<th>Restrictions</th>
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Part III
Comparative Analysis
Chapter 17  The Countries' Arrangements for Exporting Benefits

1. In this chapter, comparison is made of national arrangements for exporting benefits which cover the same or similar contingencies and are provided for the same or similar purposes so that like can be compared with like as far as possible. International agreements, which may override the arrangements, are not included here.

17.1 Old age benefits

2. Four countries allow pensions to be retained and claimed from abroad without any restrictions - Italy, Portugal, Japan and the Netherlands. Italy and Portugal have earnings-related contributory pensions which are fully exportable. Japan has a two-tier system which provides a flat-rate contributory old age pension for all residents and an additional earnings-related employees' scheme, both of which can be taken abroad without any restrictions. The Netherlands has a single contributory scheme which includes all residents and which provides a flat-rate benefit, and this pension too is fully exportable.

3. Canada and Sweden have a two-tier system which provides basic non-contributory pensions with an additional earnings-related pension. In both countries there are restrictions attached to the exporting of the basic pension. The Canadian basic pension requires a longer period of residence in Canada in order for payment to be made abroad indefinitely than is required to be entitled to the benefit domestically. The Swedish restrictions on the basic pension prohibit payment abroad for non-nationals.

4. The remaining countries surveyed in the study all attach some restrictions to the payment of pensions abroad. France, Germany and the USA have single-tier earnings-related pensions. France allows pensions to be retained when going abroad, but pensions cannot be preserved or claimed from abroad by non-nationals. Germany pays nationals a Federal subsidy as part of the pension which is not paid to non-nationals. The USA places some restrictions on the retention and preservation of pensions abroad for non-US citizens.

5. The UK has a single-tier flat-rate contributory pension with earnings-related additions which can be retained and also preserved and claimed from abroad. However, the pension payments abroad are restricted by not being uprated in line with domestic upratings.

6. The Australian and New Zealand pensions are non-contributory and cover all residents but are subject to means tests, and there are restrictions on taking them abroad. Australian pensions granted after 1 July 1986 can be retained abroad but the rate of payment will generally be proportional to length of residence and it cannot be claimed from abroad. In New Zealand, pensions can be retained when going abroad, but are reduced to half their value for those moving abroad for longer than 26 weeks, and they cannot be claimed from abroad.

7. These arrangements are subject to reciprocal agreements with other countries which may override them. Some of the countries' restrictions carry with them a number of exemptions and this applies particularly in the case of those countries where the restrictions imposed fall on non-nationals.
8. Amongst the countries with contributory old age pensions, the Netherlands does not provide a means-tested top-up specifically for old age. The flat-rate pension, for a person who has a full (50 years) insurance coverage, does not fall below the basic minimum but where a person is not fully covered, a means-tested social assistance payment may be made under the general social assistance scheme administered by the local authorities. Germany does not have a specific category-based, supplementary top-up or alternative benefit for old-age, but the German social assistance scheme (Hilfe zum Lebensunterhalt (HLU)) does pay additional amounts to the aged. Locally provided or administered social assistance schemes have not, however, been included in this survey.

9. All the other countries which have contributory pension schemes provide either top-ups or alternative benefits which are means-tested or non-contributory. Of these, the two French allowances (allowance for elderly employed persons (AVTS)) and allowance for elderly self-employed persons (AVTNS)) can be retained abroad, although in the case of AVTNS this is subject to a person having made a year's contributions. These allowances, in addition to being means-tested, also depend for entitlement on the establishment of lengthy prior residence and/or work history in France. Italian contributory benefits have means-tested supplements which are fully exportable if five years’ contributions have been made.

10. Two means-tested Canadian allowances, which act as top-ups, guaranteed income allowance (GIS) and spouse's allowance (SPA), can be retained for six months when going abroad but cannot be claimed from abroad.

11. Apart from these French, Canadian and Dutch benefits, only the UK's non-contributory pensions, which act as alternatives to the contributory pension for the very elderly, can be retained abroad but they are not uprated and they cannot be claimed from abroad. Income Support, the basic, means-tested assistance scheme, which is included here because it pays premia for the elderly and is provided uniformly at central government level, can be retained for four weeks under certain circumstances but cannot be claimed from abroad.

12. None of the benefits provided by any of the other countries as a supplement or alternative to the contributory age pensions can be retained or claimed from abroad. They are all means-tested except for the non-contributory welfare pension which is paid in Japan for those too old to have been included in the pension scheme in 1961.

13. The two countries which have means-tested old age pensions - Australia and New Zealand - do not have separate additional benefits provided specifically for the elderly.

17.2 Benefits for widowhood

14. In the 10 countries with contributory pension schemes - that is, all the countries except Australia and New Zealand - benefits for widowhood are derived and entitlement is obtained through the deceased’s insurance status and contributions. With two exceptions the arrangements for exporting these derived benefits are the same as the arrangements for exporting the related old age pension, and the permissions, prohibitions and restrictions discussed above therefore apply.

15. The exceptions are the Netherlands and the USA. For the purposes of exporting, the Netherlands distinguishes between ‘built-up’ schemes such as old age pensions and the benefits provided for less predictable risks such as disability and widowhood. The latter can be retained but cannot be preserved abroad or claimed from abroad. However, in the case of widowhood it is important to note that the criterion for determining if the benefit is being claimed from abroad is whether the deceased person lived abroad, not whether the surviving spouse is abroad. The prohibition therefore applies only in the former case.
16. The exporting arrangements for benefits for widowhood in the USA stem from those made for dependents and derived beneficiaries under OASDI. Payments abroad to all dependents (including those widowed) who are not US citizens are not made for anyone who became eligible after 1984 unless they have had at least five years residence in the USA.

Other widows' benefits

17. Australia and New Zealand do not have contributory systems and benefits for widowhood are not derived.

18. In Australia where Widow B Pension is being phased out, the currently relevant provision is the Sole Parent's Pension which can be retained if both the deceased and the surviving spouse were in Australia when the deceased died. If this is not the case, it can be retained for only a year. The benefit cannot be claimed from abroad unless the sole parent is a woman who was living abroad with her deceased husband when he died, and was previously claiming Australian Wife Pension.

19. The New Zealand Widow's Benefit can be retained abroad for four weeks only and cannot be claimed from abroad.

20. Only Canada and France have additional top-up benefits for widowhood. The Canadian means-tested Spouse's Allowance (WSPA) can be retained for six months but cannot be claimed from abroad and the French means-tested Allowance for Family Mothers can be retained, but not claimed from abroad.

Monitoring benefits for widowhood

21. Although most of the benefits for widowhood are derived from pension schemes and the same exporting arrangements apply to them as to the pensions, in most of the countries further eligibility conditions are attached to these benefits over and above the death of the spouse. The most common of these are that the widowed person should have care of dependent children or be above a given age; others relate to the duration of the marriage and the previous financial dependence of the survivor on the deceased and whether the person re-maries. These conditions are relatively easily verifiable administratively, but the condition that a widowed person has insufficient income (in the case, for example, of the French Reversion Pension' which is means-tested) or that he/she is unable to earn a living (as in the Swedish `Special Survivor's Pension’) requires continued monitoring of personal circumstances. With the exception of the USA and Australia, the countries in the survey did not state whether any of these conditions presented particular problems when benefits were paid abroad. In the case of the USA (where the issue of the beneficiaries' earnings is particularly important in relation to age pension paid abroad since an earnings rule is applicable), beneficiaries have to report on information about work undertaken as well as any change in their marital status, and a questionnaire is sent to them for this purpose. In the case of Australia the means-test is administered by an annual review conducted by post.

17.3 Disability benefits

22. In 11 out of the 12 countries, the main disability benefits are benefits paid at times of incapacity for work or when earnings are reduced - although the definition, assessment and measurement of `incapacity' or `earnings-loss' varies between countries. Japan is the exception amongst the countries surveyed, as its disability benefits appear to be assessed according to a schedule which gives degrees of impairment.

23. Five of the countries providing incapacity benefits - Canada, Italy, Portugal, Sweden and the USA - apply the same exporting rules to these benefits as they do to their age pensions. In Canada, the contributory earnings-related Disability Pension provided through the CPP Scheme can be fully exported. In Italy, the earnings-related contributory Invalidity Allowance and Incapacity Pension, and in Portugal the earnings-related, contributory Invalidity Benefit, are retainable and can be claimed from abroad. In Sweden, the Disability Pension paid through ATP
is fully exportable, but the exporting of the Disability Pension paid through the AFP Scheme is restricted in the same way as is the AFP Old Age Pension. In the USA, the restrictions for non-nationals which apply under the age pension scheme also apply to benefits made under Disability Insurance.

24. In a sixth country in this survey, Germany, the same rules also apply to incapacity benefits as to pensions. However, where the incapacity benefit is paid because labour market conditions prevent a person from finding suitable work, the benefit cannot be taken abroad where labour market conditions are not known as the assumptions made in relation to Germany may not apply. German incapacity benefits can, however, be retained abroad for a year.

25. In four other countries the arrangements for exporting incapacity benefits are more restricted than those for age pension. In Australia the Disability Support Pension is paid for one year only, subject to important exemptions - one of which applies to people who are very severely disabled, that is, those classified as indefinitely ‘inactive’. In France, Invalidity Pension requires an additional entitlement condition over and above those required for age pensions which states that a person must have worked in France for 12 months preceding the onset of disability and therefore precludes claims from abroad. In the Netherlands, although pensions can be retained and claimed from abroad, the benefits provided for work incapacity cannot be claimed from abroad; as in the case of its benefit for widowhood, incapacity is seen as a ‘risk’ for which benefits cannot be accrued.

26. With the exception of Australia, the UK’s arrangements for exporting the contributory Invalidity Benefit and the non-contributory Severe Disablement Allowance are the most restricted. Unlike pensions, they can only be retained when going abroad temporarily and they cannot be claimed from abroad.

27. New Zealand is the only one out of the 12 countries surveyed where the arrangements for exporting disability benefits are less restricted than those for pensions although this relates only to New Zealand’s unique Accident Compensation Scheme and not to its Invalid’s Benefit. Although there are some restrictions on claiming the Accident Compensation benefits from abroad, they can be retained when going abroad subject to prior assessment that the person’s condition still warrants payment and continued assessment.

28. Amongst the countries surveyed, Germany, the Netherlands and the UK place some restrictions on exporting invalidity pensions. It is perhaps worth noting that, except for Sweden, they appear also to be the countries with the most easily accessible invalidity benefits. In Germany and the Netherlands, partial invalidity benefits can be paid, thus making it possible to include relatively more lightly disabled people; in the UK the contribution conditions for Invalidity Benefit are less strict than they are for age pensions, and no distinction is made amongst its recipients between the severely and less severely incapacitated.

29. Disability benefits provided for incapacity require assessment of a person’s ability to return to the labour market. However, incapacity may change over time and continued incapacity may need to be verified. Countries with more easily accessible invalidity benefits may employ medical reviews as control measures when the benefit is paid domestically which may however be difficult to replicate when a person is abroad, as appears to be the case with the UK’s control procedures.

30. Ten of the countries in the study explicitly state that they make arrangements which enable medical certification or review to be exercised while a beneficiary is abroad. The Department of Immigration in Australia maintains an Overseas Panel of Doctors System; Canada requests certification from the beneficiary’s doctor or the assistance of the Embassy; French controls are conducted through the Embassy; Italy, Sweden and the UK request medical certification; Portugal requires a medical certificate verified by the Portuguese Consulate; and the USA
requires a certificate from a doctor listed, and paid for, if necessary, by the Embassy.

31. The Netherlands and New Zealand require beneficiaries to return to their country for medical examinations if this is thought necessary. If the beneficiary is required to return to the Netherlands, the cost of travelling is provided. For those receiving New Zealand's Accident Compensation abroad the cost of returning to New Zealand for a further assessment is not reimbursed.

32. In countries which distinguish between permanent and temporary incapacity or in other ways identify the severity of incapacity, monitoring may be of less importance. Thus, Australia only allows Disability Support Pension to be paid abroad indefinitely to those categorised as 'severely inactive'; to be eligible for the Canadian benefit, the condition in the first place has to be 'severe and prolonged'; and eligibility for Portugal's benefit depends on the person being classified as 'permanently' incapacitated, there having been no improvement for three years previously. The USA exempts from monitoring abroad those whose condition is not expected to improve.

Additional and alternative benefits

33. Disability benefits intended to `top up' the main contributory disability/incapacity benefits or provide an alternative where people cannot qualify for the contributory schemes, are provided in France, Italy, Japan, the Netherlands, Portugal, the UK and the USA. With the exception of the UK and, in the case of Italy, the additional means-tested supplements to the contributory scheme - none of the countries allow these benefits to be exported.

34. The UK is exceptional, because its main alternative to the contributory Invalidity Benefit is Severe Disablement Allowance which is subject to the same exporting arrangements (see Paragraph 26). Additionally, the UK's Income Support (which is included here because it carries premia for disability and is provided uniformly by central government) is retainable abroad for four weeks. Italy provides means-tested supplements to the contributory invalidity allowance (not separately coded in the tabular summary). These supplements are paid regardless of nationality (unlike the other Italian means-tested benefits) and can be retained and claimed from abroad if the beneficiary has worked and paid contributions in Italy for at least five years.

35. The means-tested additional and alternative benefits in France, Italy (with the exception of the above) and Portugal are not exportable as they are in any case only paid to resident nationals. In Japan, the Netherlands and the USA, they are payable to all residents regardless of nationality but the residence condition means that they also are not payable abroad.

Benefits for attendance needs

36. Five countries in the survey - France, Italy, Portugal, Sweden and the UK - pay an allowance for disabled people's attendance needs. In France and Portugal they are provided through these countries' contributory schemes and, as with the contributory scheme of which they are a part, the Portuguese benefit for attendance can be paid abroad if the eligibility conditions can be confirmed and the French benefit can be retained but not claimed from abroad. The allowance for attendance needs paid through the French work injury scheme is also exported under the same conditions as the main benefit and is, therefore, subject to nationality restrictions.

37. Italy, Sweden and the UK pay non-contributory, non-means-tested allowances for attendance needs and their portability is more restricted. Italy's Attendance Allowance is paid only to resident nationals and thus has both restricted coverage within Italy and is not payable abroad. Sweden provides a non-contributory non-means-tested Disability Allowance for attendance needs as part of its AFP Scheme but, unlike AFP which is exportable with restrictions, it is not payable abroad (except when paid as a supplement). The UK's Disability Living Allowance (paid for both attendance and mobility needs) and Attendance Allowance are non-
contributory and non-means-tested, and can be retained abroad only with restrictions on duration and are not claimable from abroad.

### 17.4 Work injury benefits

38. The work injury benefits in Australia, Canada and the USA are not included in this survey as they are not statutorily provided. For Portugal, only the scheme for occupational diseases is included, as payments for work injury are not provided through the State scheme. In the Netherlands and New Zealand there are no separate work injury benefits: the Netherlands has an integrated Employee Insurance Scheme which covers all incapacity regardless of cause; New Zealand's Accident Compensation Scheme covers accidents regardless of cause. The exporting arrangements for these two schemes have been discussed above.

39. In France, Italy, Japan, Portugal and Sweden, the arrangements for exporting work injury benefits or, in the case of Portugal, benefits for occupational diseases are broadly the same as for the main incapacity/disability benefits.

40. In Germany and the UK the main benefits for work injury are treated differently for the purpose of exportability from their other invalidity and disability benefits. In Germany, Accident Insurance is not payable abroad to non-nationals who voluntarily live outside Germany. In the UK, whereas comparatively severe restrictions are placed on the exportability of the incapacity benefits, Disablement Benefit under the Industrial Injury Scheme is fully retainable abroad and can be claimed from abroad if the accident or disease was contracted in the UK. It may be worth noting that this benefit is paid for loss of faculty rather than work incapacity, and is therefore paid regardless of whether a person is working/earning. The benefit is compensatory and the concern about monitoring and a possible change in the condition of the person leading to a need to reduce benefit does not apply. There are, however, restrictions on taking abroad the additional allowances which may be paid with disablement benefit if a person requires attendance or is exceptionally severely disabled and these cannot be claimed from abroad.
Chapter 18  Policy Instruments Governing Exportability

1. The nature and use of the policy instruments which govern whether, when and in what form, benefits can be retained or claimed abroad are summarised below. The three policy instruments outlined in Chapter 1, Paragraphs 17-26 - entitlement conditions, specific exporting policies, and reciprocal agreements - and their application to the countries, are reviewed.

18.1 Residence entitlement conditions

2. There are inherent problems for the portability of benefits in some cases where residence is stipulated as a condition of entitlement. Residence conditions attach mainly, but not entirely, to non-contributory schemes and to non-contributory and means-tested schemes.

3. Residence as a condition is used for different purposes, and these affect portability in different ways. Where a specified period of years of residence is required for a person to qualify for a non-contributory benefit, and/or the rate of benefit payable is proportionate to the length of time a person has lived in the country, the use of residence is similar to the use of contributory conditions in insurance schemes. This type of residence qualification does not, therefore, necessarily preclude benefit portability.

4. Entitlement conditions which require that a person is either present or remains resident in a country clearly prevent portability, and to overcome them specific policies may then have to be devised to enable benefits to be taken abroad either fully or subject to limitations.

5. All the main benefits in Australia and New Zealand are non-contributory and means-tested, and require for entitlement both qualifying periods of residence and presence or residence. Benefit portability is thus inherently not possible and specific domestic policies are devised so that some of the benefits can be retained abroad, but they are subject to limitations.

6. Most of the contributory schemes do not have residence requirements attached to their entitlement conditions but it is interesting to note that in the Netherlands a distinction is made in this respect between the contributory flat-rate age pension and the flat-rate or earnings-related contributory benefits for disability and widowhood. In all these schemes in the Netherlands, insurance arises through residence (and in the case of the earnings-related scheme additionally through employment) but in the case of the age pension there is no requirement to be resident when claiming.

18.2 Specific domestic exporting policies

7. Where specific domestic exporting policies exist, they can ease portability by, in effect, overriding some of the entitlement conditions. Alternatively, they can impose restrictions where none are inherently created by entitlement conditions. In some cases they simply state that certain benefits are exportable, regardless of what their entitlement conditions dictate.

8. Except in the cases of Australia and New Zealand where the entitlement conditions are so constraining, specific exporting policies generally impose rather than ease restrictions contained on the entitlement conditions. Some of these
restrictions have, however, to be seen as enabling in so far as they are more relaxed versions, or just remnants of, earlier overall prohibiting policies or principles.

9. Italy, Portugal and Sweden as regards the ATP Scheme have policies concerning their contributory benefits which state that they are exportable, even though there are no inherent obstacles to portability in their entitlement conditions.

10. Japan and the Netherlands do not have, and never have had, specific exporting policies; in these countries the exporting arrangements arise out of the entitlement conditions.

11. Five kinds of restrictions used in the specific policies governing portability were identified in this survey and entered on the tables:

   (i) domestic upratings are withheld where benefits are paid abroad

   (ii) reductions are made in the amount of benefit payable abroad

   (iii) reductions are made in the period for which the benefit can be claimed abroad

   (iv) distinctions are made between nationals and non-nationals

   (v) additional residence qualifications are required.

These are discussed below as they apply to different countries' policies.

12. The UK’s exporting policy has the effect of prohibiting the payment of domestic upratings to the pensions which are retained abroad and can be claimed from abroad. This is a restriction, which is unique amongst the countries surveyed, but it is a relaxation of the overall policy to which reference has already been made above, which entirely prohibits any benefit to be exported. The relaxation dates back to 1955 since when old age and widows pensions have been paid abroad but not uprated. The UK is the only country in the survey which has a policy which, in effect, reduces the amount of a contributory benefit paid abroad, albeit a contributory benefit which is largely flat-rate.

13. In Australia and New Zealand specific exporting policies restrict the amount of benefit payable abroad. The ‘Working Life Residence’ calculation in Australia is a recently introduced, proportional payment which is likely to increase the number of reciprocal agreements which Australia can enter into. It currently affects very few beneficiaries, but it is a limitation on the present, less restricted policy which does not differentiate between payments made domestically and made abroad. New Zealand’s most recent policy allows Superannuation to be retained indefinitely, thus extending the previous provision which limited this payment to 26 weeks, but at half the amount at which it is paid domestically.

14. Australia, Canada, New Zealand and the UK have specific policies which reduce the period for which a benefit can be paid abroad.

15. The exporting policies in New Zealand permit retention of some benefits for a very short period only, and have thus overridden the residence requirements in the entitlement conditions governing New Zealand’s benefits. But the restrictions which remain are nevertheless the most severe of those imposed by any of the countries which limit the period for which benefits can be retained abroad.

16. The exporting policies in Australia introduced the unrestricted retention of benefits in 1973. Recent amendments, however, have introduced limits upon the length of time for which some benefits can be retained abroad.

17. The UK limits the duration for which contributory and non-contributory incapacity and disability benefits can be retained abroad. This restriction is
contained in subsidiary legislation, which arises out of, and indeed relaxes, a
general long-established specific policy in the primary legislation which prohibits
the exporting of any benefits at all. This overall prohibition is not governed by any
stated principle, and it applies to both nationals and non-nationals.

18. France, Germany, Sweden (regarding AFP benefits) and the USA all make
some distinctions between nationals and non-nationals in their exporting policies.
The Swedish AFP Scheme has an entitlement condition which requires residence
but allows for a relatively generous definition to include absence from Sweden for a
year. Exporting policy relaxes this for Swedish nationals with sufficient ATP
points, so that AFP can be retained and claimed from abroad indefinitely. But it
does not do so for non-nationals for whom the residence requirement remains.

19. The USA’s contributory OASDI scheme does not contain entitlement
conditions which limit portability, but the specific exporting policies impose some
restrictions based on nationality. There is a statutory provision that non-nationals
cannot take OASDI benefits abroad for more than six months although it also
states major categories of exemptions to this policy; and a further condition is
imposed on non-national recipients of dependents and derived benefits by
requiring them to have been resident in the USA for five years. The former
restriction was introduced in 1956 and the latter in 1983, and they have placed
some limitations on what was previously a more outward looking policy.

20. The French exporting policies are governed by a general principle which states
that foreign workers cease to be insured when not in France. This is relaxed to the
extent that nationals and non-nationals can retain contributory benefits abroad,
but non-nationals cannot preserve or subsequently claim from abroad.

21. In Germany, the principle contained in the Code covering social security
legislation originally stated that non-nationals should be excluded from retaining or
claiming benefit abroad, but the constitutional basis to this distinction has been
challenged, and Germany's revised social insurance legislation now states that
contributory benefits must be exportable. However, a distinction between nationals
and non-nationals remains in relation to the calculation of the pension for those
abroad, which for non-nationals does not include the estimated Federal subsidy.

18.3 International reciprocal agreements

22. In Australia, the 'Working Life Residence' rule requires 25 years' residence in
Australia in order for the full means-tested portion to be paid abroad, instead of 10
years for those who claim it within Australia.

23. Canada's exporting policies permit OAS benefit and its associated means-tested
benefits to be taken abroad but OAS can only be indefinitely retained, and claimed
from abroad, if additional qualifying periods of residence are met.

24. The impact of reciprocal agreements upon benefit exporting is extensive. Some
countries explicitly stated reasons for entering into agreements: emigration was
cited by Portugal; immigration by the Netherlands and Canada.

25. With the exception of Japan, all the countries in the study have made
reciprocal agreements with other countries, and in addition some are party to
multilateral agreements. The impact upon domestic exporting policies varies
according to the benefits provided in each country and the restrictions in domestic
policies which affect exporting. Thus countries with nationality restrictions may use
agreements to overcome those for the nationals of the agreement country. Countries
with contributory systems may seek to ensure that totalisation arrangements ensure coverage. Countries with residence-based systems, when making agreements with countries which have contributory systems, may seek to equate residence with length of insurance for the purposes of totalisation.
certain countries the primary benefit legislation specifically states that agreements may overcome restrictions in that legislation.

26. Virtually no information was provided to indicate the specific factors that had influenced the countries surveyed in choosing the particular countries with which they had concluded agreements. From the listings shown in the individual country presentations, it can be seen that in all cases a number of other OECD member states, which are therefore also important trading partners, have been chosen. It is noticeable that outside this group, Israel and former Yugoslavia both featured in the listings of the same five countries - France, Germany, Netherlands, Sweden and the UK. It is also noteworthy that four small states that are not members of the United Nations are included in the listings: Andorra on Portugal’s list; Liechtenstein on Germany’s and Italy’s lists; Monaco on France’s list; and San Marino on the lists of both France and Italy. The lists of France and the UK show agreements with countries that had been part of their former empires or under their military protection - 11 in the case of France and eight in the case of the UK. By contrast, Portugal has agreements with only two former dependencies; while the Netherlands’ list does not include any of its former dependencies. Lastly, it may be observed that four lists feature countries that are not independent sovereign states: thus the UK has agreements with five countries that are still dependencies, either of the State or of the Crown; France has an agreement with the UK’s dependency of Jersey and with the Canadian Province of Quebec; Italy also has an agreement with Jersey (and with the other Channel Islands); and Germany and Sweden have agreements with Quebec.

27. It seems clear from the above that the process of selecting particular countries from any identifiable group as appropriate agreement partners in a bilateral social security agreement is likely to be determined by certain special (possibly political) considerations over and above the more general considerations of whether there is a valuable trading relationship, a substantial degree of population exchange, or similarity of social security systems. The number of agreements concluded indicates the extent to which they serve as instruments for lifting the restrictions on benefit payment abroad imposed through the specific exporting policies already examined and determine the number of individual beneficiaries affected. Among the countries surveyed, the numbers of agreements concluded range from three (New Zealand) to 33 (France, not including the EC countries).

28. Four multilateral agreements have been referred to in this study. The 1971 EC Social Security Regulations, the 1982 Nordic Convention on Social Security, the 1953 European Interim Agreement on Social Security Schemes for Old Age, Disability and Widowhood, and the 1972 European Convention on Social Security. The two former arrangements each provide for the coordination of social security systems for nationals of contracting parties, but they differ in two main respects. First, the EC Regulations cover ‘workers’ whereas the Nordic Convention (to which Sweden is a party) covers those working or staying in another contracting country. Second, the EC Regulations do not cover social assistance schemes and an amendment has recently been added to permit member states to name specific non-contributory benefits as not being exportable within the Community. The Nordic Convention, however, includes social assistance benefits and makes provision for exporting basic pensions which, though associated with periods of employment, are non-contributory.

29. Both the 1953 European Interim Agreement, and the 1972 European Agreement which was drawn up to replace it, aim at implementing the principle of equal treatment for nationals of the contracting parties. But the 1953 instrument (which was signed by 17 countries, including France, Germany, Italy, the Netherlands, Sweden and the UK, covered in this survey) nevertheless permitted a number of restrictions. The 1972 instrument provides for a more extensive application of the principle of equal treatment, but so far has been ratified by only eight countries including Italy, the Netherlands and Portugal among the countries surveyed here.
Chapter 19 Summary of Common and Exceptional features

1. The relevance of three possible connections between arrangements for exporting benefits and benefit structure which were put forward earlier (see Chapter 2, Paragraph 19) can now be examined in the light of the research findings for the purpose of identifying common and exceptional features.

19.1 The connections between benefit structure and exportability

2. One connection suggested was that the closer the relationship between benefits and contributions, and the narrower the community of interests, the more readily would benefits be payable abroad. Contributory benefits would therefore be more easily exportable, and this would apply most particularly in schemes which reflected greater rather than lesser equivalence between contributions and benefits.

3. The arrangements for age benefits, disability benefits and benefits for widowhood in the 12 countries surveyed, show that benefits provided through contributory schemes are those which are easiest to retain and claim from abroad. Five of these countries pay contributory benefits abroad as a matter of course. The main pension scheme for age, disability and widowhood in Italy and Portugal, and the second-tier schemes in Sweden, Japan and Canada, are earnings-related, and reflect what was earlier referred to as a contractual relationship between the individual and the state where boundaries are formed by a community of risk-sharers in employment, rather than by the wider nation-state.

4. The arrangements in the other countries with insurance schemes do not fall into this pattern as easily. France, Germany and the USA, which also have earnings-related schemes, have arrangements which allow pensions to be taken abroad but impose some restrictions. Moreover, although in each of these countries benefits for widowhood and disability are part of the insurance schemes, particular restrictions apply or are used in practice, to benefits for widowhood in the USA, and disability in France and Germany.

5. The UK's pension scheme differs in structure from all the above in that it provides a predominantly flat-rate benefit; the relationship between contributions and benefits can therefore be seen to be less equivalent than that pertaining in the specific earnings-related schemes. As has been shown, the pension is exportable subject to a restriction: the severity of the restriction compared with those attached to the French, Gelman and American provisions, is discussed below (see Chapter 20). The UK's policy which restricts the exporting of the contributory invalidity benefit to a temporary period (and also imposes other conditions - see Chapter 14, Paragraph 30) places a limitation on a contributory benefit, albeit one which only requires a short contribution record. It is the only contributory benefit amongst those of the countries surveyed whose exportability is restricted by duration even though it does not have a residence requirement.

6. It might be expected, following the suggestion that benefits arising out of the more contractual type schemes covering employees only are likely to be the most easily exportable that, in contrast, those provided under more broadly based pensions designed for residents will be less portable. However, the arrangements in Japan, in relation to its first-tier scheme, and in the Netherlands fall outside any pattern which might be expected from this linkage. The Netherlands is unusual in providing a single-tier, flat-rate contributory pension, not only for employees, but
for all residents, which only weakly reflects the contractual relationships underlying the insurance schemes of the other countries discussed above, and also provides a benefit that can be fully retained abroad. As has been seen, the Netherlands’ pensions scheme has been deliberately constructed without the residence requirements attached to its other benefits in order to provide a pensioner with a portable right. The impression gained of Japan is that exportability is not an issue, and indeed it appears that only a very small number of Japanese pensioners live abroad.

**Labour market status**

7. Another suggestion put forward earlier (see Chapter 2, Paragraph 19 (i)) was that the payment of benefits abroad would be more likely to be allowed where beneficiaries were perceived to have clearly and legitimately left the labour market. At first sight the restrictions which apply in the Netherlands to claiming benefits for widowhood and disability abroad, the additional restrictions in the USA in relation to widowhood, and in France, Germany and the UK in relation to disability, might be seen as giving support to this view. However, while concern about ensuring labour market participation where possible does appear to be a reason for restricting the payment abroad of French, German and UK disability (incapacity) benefits, this is not given as a reason for restricting the benefits for widowhood and/or disability in the Netherlands or in the USA.

8. In the Netherlands the reason given for not permitting benefits for widowhood and disability to be claimed from abroad is that these are unpredictable risks, provision against which should be borne by the host country. However, it is also noticeable that these benefits are constrained (at the point of claiming) by a residence provision, which stems from the structure of the Netherlands’ pensions system and that, as seen earlier (Chapter 16, Paragraph 28), the benefits for incapacity are relatively accessible, i.e. open to those who might be expected to rejoin the work force.

9. The reasons for the differential treatment of those widowed in the USA stem from concern that payments should not be made to those who have never, or only for short periods, resided in the States.

**Communitarian benefits**

10. A third suggestion made (Chapter 2, Paragraph 19(iii)) was that the looser the relationship between benefits and contributions, and the more progressive the funding is perceived to be, and the wider the community of interests involved, the more restricted will be the arrangements for taking benefits abroad. Turning now from the insurance-based schemes to those which are non-contributory or non-contributory and means-tested, it can be seen that those benefits which rest on the more exclusive, ‘communitarian’ transactions, present more difficulties for exporting in almost every case.

11. With the exception of the arrangements for Australian age pensions granted before 1 July 1986 and New Zealand’s Accident Compensation Scheme (which, like some other countries’ work injury schemes, appears to be exportable because it is compensatory), none of the non-contributory benefits in this survey can be retained abroad without restrictions, very few can be claimed from abroad at all and none without restrictions. However, it should be noted that the restrictions on the Canadian and Swedish non-contributory (non-means-tested) pensions are the remains of limitations which, it seems, were historically placed on this kind of benefit: as has been seen in the section on entitlement conditions, they do not follow from inherent requirements to be resident when claiming.

12. No means-tested benefits can be retained abroad without restrictions (with the exception of some additional French and Italian benefits which are associated with periods of employment and contributions made), although half of the means-tested benefits in the study can be taken with restrictions, and very few can be claimed from aboard as entitlement conditions usually stipulate residence at time of claiming. However, it is notable that the problems of exporting means-tested benefits are not perceived to be connected with carrying out the test abroad. The
replies from the countries indicate that it is possible to test means, and also to undertake other monitoring activities abroad, although the effectiveness of such measures could not be researched.

13. In Australia and New Zealand, non-contributory, means-tested benefits are the main benefits, but many of the additional or alternative benefits available in countries which have contributory systems are of this kind. The limitations on the exporting commonly associated with such benefits may have a considerable impact on the incomes of those going abroad for whom the structural distinctions between one kind of benefit and another, paid for the same contingency, may have little meaning.
Chapter 20  Concluding Comment

20.1 Implications of the restrictions identified on payment of benefits abroad

1. Although it has not been possible to study the impact of these policies on individuals in the countries surveyed since the processes of delivery could not be observed, the different restrictive mechanisms used have some important implications, as is indicated in the following paragraphs.

2. The restrictions on the period of time for which a benefit can be retained abroad most severely limit portability. The ability to retain benefit for a period is helpful only to those who travel and not to those who either choose or need to reside indefinitely elsewhere. The restriction is even handed in its treatment of individuals but, in the absence of a reciprocal agreement, its effect on individuals will vary with the policies towards extending social security benefits to immigrants in the host country.

3. The restrictions which reduce the amount of benefit payable abroad are also 'universal' and treat the individual beneficiaries even-handedly. Their effects on individuals, though, will vary haphazardly, depending on the cost of living in the countries of destination and, in the absence of reciprocal agreements, on the extent to which there is access to additional benefits in the second country.

4. A non-uprating policy is a less immediately visible policy than those which substantially reduce benefits abroad from the start. It too has universal application, the impact of which will vary depending on the cost of living in the countries of destination. In the absence of agreements, its effects must be to penalise most those pensioners and widowed persons who have lived abroad longest, and are therefore possibly the oldest and neediest.

5. The policies which distinguish between nationals and non-nationals are selective, and they therefore affect fewer individuals than those restrictions which apply across the board. Moreover, these restrictions tend to carry extensive exemptions and, in some cases, the restrictions imposed on non-nationals are relatively slight. However, these policies are clearly discriminatory. Although reciprocal agreements may mitigate their effects, a disadvantage inflicted by the initial restriction may be experienced by non-nationals which cannot be erased by agreements. Whilst it has to be recognised that some countries confer nationality more easily than others, and that the effect of discriminating on this basis may, therefore, be more serious in some countries than in others, policies of this kind treat individuals who have been resident in the initial providing country unequally, bestowing on foreigners, who have been treated as citizens for the purposes of benefits paid domestically, a reduced form of citizenship when they move outside it.

6. As has been seen, the question of whether benefits can be taken abroad hinges on entitlement conditions, specific exporting policies and reciprocal agreements between countries. The entitlement conditions speak to the nature of the social security system put in place and adopted by the countries and the reciprocal agreements to their need for and willingness to have special relationships with other countries. The specific policies may be partly determined by the conditions governing the social security benefits themselves insofar as they may need to be overridden, but the choice of restrictions is not entirely governed thus, and some policies stem from principles preceding in time the particular benefits they cover.
Without a deeper knowledge of the culture of the country and the context in which these policies came about, it is possible to go only some way in explaining why they differ in the way they do. The analysis made in this study has drawn attention to the importance of the range of policies used by the 12 countries and has identified their common and distinct features.
Part IV

Appendices

Appendix A: Survey of Legislative Provisions in Selected OECD countries on Payment Abroad of Social Security Benefits

Appendix B: Summary of Key Provisions in the Social Security Regulations Adopted by the European Community
Survey of Legislative Provisions in Selected OECD Countries on Payment Abroad of Social Security Benefits

Dr Helen Bolderson
Brunel University, UK

DATA REQUEST LIST

THE BENEFITS PROVIDED IN YOUR COUNTRY’S SOCIAL SECURITY SYSTEM FOR OLD AGE, WIDOWHOOD AND DISABILITY

1. What long-term benefits are provided for old age, widowhood and disability?

2. For each benefit please indicate:
   i) how entitlement is accrued (for example, through contribution conditions or residence conditions);
   (ii) what the conditions of eligibility are (for example, age of retirement, degree of disability);
   (iii) whether it is available only to those who are nationals.

PAYMENT OF BENEFIT ABROAD

Countries may have general policies which either prohibit or permit the payment of benefits abroad and/or specific rules which vary from benefit to benefit, and according to circumstances. If this is the case in your country, could you please answer the following questions for each benefit stated in answer to question 1 above.

General Policy

3. Does your country have a general policy which either prohibits or permits the payment of benefits abroad? If so, please say what this policy is, when it was introduced and where it is stated, for example in primary legislation or subsidiary legislation.

Specific Rules

4. What are the rules which determine whether the benefit can be paid to people who are already receiving it in your country when they:
   (i) travel to another country temporarily (please state what is understood by ‘temporarily’ under your rules);
   (ii) move to another country permanently (please state what is understood by ‘permanently’ under your rules)?

5. What are the rules which determine:
   (i) whether persons living abroad can preserve any partial entitlements to a benefit which they had accrued before their departure;
   (ii) whether they can subsequently claim partial benefit on that basis while continuing to live abroad if they reach retirement age, become widowed or become disabled?
6. What are the rules which determine whether benefit for a dependent of a beneficiary can be paid abroad if that dependent is living abroad while the main beneficiary is living in your country?

7. What are the rules which determine whether benefit for widow/widower can be paid abroad if the husband/wife has died and the widow/widower lives abroad?

8. What are the rules which determine whether a particular benefit paid abroad can be uprated in line with domestic increases?

9. How long have the current rules been in force? Please state whether they have changed since the benefit was first introduced.

10. At what level in your organisation(s) and by whom are decisions made?

11. Have claimants got a right of appeal, if so to whom?

12. Do the rules given under questions 8 above arise from:
   i) primary legislation;
   ii) subsidiary legislation;
   iii) codes of instructions to officials;
   iv) decisions by appellate bodies;
   v) other sources (please specify)?

(Please give references wherever possible.)

**Bilateral and Multilateral Agreements**

13. Does your country have bilateral agreements with any other countries? If so:
   (i) please list them and give the date they were implemented;
   (ii) state whether and how these agreements alter domestic legislation concerning the payment of benefits abroad.

14. For non-EC countries, does your country have a multilateral agreement with a group of countries? If so:
   (i) please give details;
   (ii) state whether and how this agreement alters domestic legislation concerning the payments of benefits abroad.

**STATISTICS**

15. How many of the recipients of the benefits listed under question 1 currently live abroad? Please include, and if possible give separate figures for, dependents and those receiving a partial benefit.

16. What is the estimated cost of payments made abroad for each of these benefits?

17. What proportion of your country's total social security budget does the payment made abroad for each benefit represent?

*If there is material relating to the legislation covering these areas, or other documents, for example instructions to officials or public information leaflets, we would be very grateful if you could post them to us.*
Appendix B

SUMMARY OF KEY PROVISIONS IN THE SOCIAL SECURITY REGULATIONS ADOPTED BY THE EUROPEAN COMMUNITY

All EC member states are bound by the Community's social security law as embodied in Regulation 1408/71 which establishes the rules for coordinating the national social security systems, supplemented by Regulation 574/71 which lays down the necessary administrative procedures. These regulations were adopted by the Council of Ministers in 1971 as the instrument for implementing Article 51 of the Treaty of Rome which states that the Council shall 'adopt such measures in the field of social security as are necessary to provide freedom of movement for workers'.

Regulation 1408/71 and subsequent amending Regulations are seen by the European Court of Justice (ECJ) as overriding the provisions in the domestic legislation of the member states with respect to the exportability of their benefits. However, a Court ruling in 1989 also decided that where beneficiaries are covered by both the EC legislation and a reciprocal agreement between two member countries concluded prior to the introduction of Regulation 1408/71, they should have the benefit of whichever set of provisions is the more favourable to their interests (227/89 ECJ). A test case on this issue will, however, shortly be brought before the ECJ.

Persons covered

Regulation 1408/71 covers EC nationals who are, or have been, employed or self-employed and are subject to the legislation of one or more member countries; their dependents and survivors are also covered through entitlement to benefits derived from the insured person's contributions. Other people covered are survivors of deceased non-nationals but who are themselves EC nationals, and stateless persons and refugees. Two groups are explicitly excluded from coverage: people who have never been employed or self-employed or paid insurance contributions in a member state; and third-country nationals.

Range of benefits included

Regulation 1408/71 applies to the benefits provided through all the statutory social security systems established by the member governments, but it does not apply to social assistance benefits (whether a particular benefit is to be defined as coming under the category of social security or that of social/medical assistance has frequently been the subject of disputes brought before the ECJ).

Article 4 requires each member country to name specific benefits that apply under eight category heads: Sickness and Maternity Benefits, Invalidity Benefits, Old Age Benefits, Survivors' Benefits, Benefits in respect of Accidents at Work and Occupational Diseases, Death Grants, Unemployment Benefits, Family Benefits, and Special Non-contributory Benefits. The last category was added as the result of an amendment agreed by the Council of Ministers in 1992. It encompasses benefits that are specifically provided as a supplement to or replacement for any of the benefits named in the other categories, or which are aimed solely as specific protection for disabled people (EEC Regulation 1247/92).
Individual beneficiaries in a member country can challenge the government's decision not to include a particular benefit in the relevant EC category by bringing the matter before the ECJ.

The 1992 Amendment affecting exportability of special non-contributory benefits

In April 1992, Article 10, which lays down the provisions governing exportability of benefits within the EC (including the waiving of residence requirements), was amended through the adoption of Regulation 1247/92. In effect this permits member governments to name particular benefits that fall within the Special Non-contributory Benefits category as being payable only in the country of residence. Thus people in receipt of such benefits in the EC country where they are currently residing cannot generally retain them if they move to another member state. There are, though, transitional provisions which mean that some special non-contributory benefits can be taken to another EC country - in certain cases where there was entitlement to benefit before the amendment was introduced.

Effects of EC regulations on domestic exportability restrictions

The Regulations are seen to embody four general principles affecting the application of domestic law on benefit exportability: non-discrimination on grounds of nationality; retention of acquired entitlements to benefit when moving from one member state to another; aggregation of contribution payments and qualifying periods of residence and employment in order to permit acquisition and retention of the right to benefit; and the determination of the applicable law.

In practical terms, the effect of the EC regulations is therefore to override any domestic restrictions on the retention of benefits when the persons covered move from one member country to another. They are designed, in other words, to permit a proportional totalisation of all benefits that are related to length of insurance (i.e. all old age pensions and widows' benefits as well as some disability benefits). In the case of benefits that are not related to length of insurance, responsibility for payment of the relevant benefit lies with the country where the claimant was last insured or where he/she was insured at the time when his/her incapacity first occurred. This may not necessarily be the current country of residence.


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