

**AGREEMENT ON SOCIAL SECURITY BETWEEN  
THE GOVERNMENT OF AUSTRALIA AND  
THE GOVERNMENT OF IRELAND  
(DUBLIN, 9 JUNE 2005)  
[2005] ATNIF 7**

**Documents tabled on 21 June 2005:**

- **National Interest Analysis [2005] ATNIA 12  
with attachment on consultation**
- **Text of the proposed treaty action**

**Background Information:**

- **Ireland political brief and fact sheet**
- **List of other treaties with Ireland**
- **List of Social Security treaties with other countries**

# NATIONAL INTEREST ANALYSIS – CATEGORY 1 TREATY

## SUMMARY PAGE

### **Agreement on Social Security between the Government of Australia and the Government of Ireland (Dublin, 9 June 2005)**

[2005] ATNIF 7

#### **Nature and timing of proposed treaty action**

1. It is proposed that Australia enter into a new Social Security Agreement with Ireland. The new Agreement was signed on 9 June 2005.
2. On entry into force, the proposed Agreement will replace the previous Agreement between Australia and Ireland on Social Security ([1992] ATS9) in accordance with Article 22(1) of the new Agreement. This Article preserves the entitlements of those persons receiving benefits under the current Agreement.
3. Pursuant to Article 23, the proposed Agreement shall enter into force on the first day of the second month following the month in which the instruments of ratification are exchanged. It is proposed that, subject to completion of the necessary domestic processes, the exchange of instruments of ratification take place in November 2005 to enable entry into force on 1 January 2006.

#### **Overview and national interest summary**

4. Australia's international social security Agreements are bilateral treaties which close gaps in social security coverage for people who migrate between countries. They do this by overcoming barriers to pension payment in the domestic legislation such as requirements on citizenship, minimum contributions record, past residence record and the current country of residence.
5. Australia's current Agreement with Ireland ensures that both countries share responsibility for providing long-term social security coverage for people who move between these countries. The new Agreement does not significantly change the nature of the current Agreement. It makes a limited number of amendments to the current Agreement principally by:
  - a. replacing references to 'invalid pension' with 'disability support pension' and limiting payment to people who are severely disabled in line with Australia's other social security agreements;
  - b. including provisions to avoid double coverage to ensure that superannuation contributions do not have to be made into both countries' systems for an employee seconded to work temporarily in the other country.
6. The new Agreement will continue to bring economic and political benefits to Australia. Not only will it assist in maximising the foreign income of Australian residents, and the flow-on effect of these funds into the Australian economy, it will also serve to reinforce Australia's political, business and strategic interests. The Agreement will strengthen bilateral relations, facilitate further people-to-people contact and exchanges and provide choices in retirement for individuals who have migrated, or who will migrate, to Australia or Ireland during their working lives.
7. The new Agreement provides for access to certain Australian and Irish social security benefits and portability of these benefits between the countries. Portability of benefits allows for the payment of a benefit from one country into another country and is an underlying principle of Australia's bilateral agreements on social security where the responsibility for providing benefits is shared. Under the new Agreement, residents of Australia and Ireland will be able to move between Australia and Ireland with the knowledge that their access to benefits is recognised in both countries.

## **Reasons for Australia to take the proposed treaty action**

8. Australia's network of social security agreements improves access to income support for people whose adult lives are split between Australia and the other country that is a party to the Agreement. Most people benefiting from these agreements are age pensioners.

9. The revised Agreement with Ireland incorporates the same general principles as the previous Agreement and a number of other agreements Australia has on social security, including those with Austria, Canada, Chile, Croatia, Cyprus, Denmark, Germany, Ireland, Italy, the Netherlands, New Zealand, Portugal, Slovenia, Spain and the United States. A key element in the new Agreement and these other social security agreements is the sharing of responsibility between the Parties in providing adequate social security coverage for former residents of their countries.

10. As at April 2005 the Australian Government was paying a total of 373 payments into Ireland and of those 193 are being paid under the existing Agreement. As at December 2004 the Irish Government advised that it pays 1,848 pensions into Australia, and 588 of these are paid under the Agreement.

11. The current Agreement has been in force since 1 April 1992. It has worked well for the last 13 years but substantial changes to both countries' social security systems have necessitated the updating of the Agreement. Australia was keen to revise the Agreement because it was out of step with the Australian Government's policy on disability support pensions (DSP). The change is in line with the approach taken in all our new agreements.

12. The new Agreement continues to ensure that both countries will share the financial responsibility for providing these benefits. Both the current and new Agreement provide that an individual may be eligible for benefits from both countries if they meet certain eligibility criteria and they have lived and/or worked in both countries during their working life. Residents of Australia and Ireland will be able to continue to move between Australia and Ireland knowing that their access to benefits is recognised in both countries and that each country will contribute fairly to support those who have spent part of their working lives in both countries.

13. The key differences between the new Agreement and the current Agreement in regard to access to social security benefits are as follows:

- DSP is restricted to people who are considered to be severely disabled, that is, people assessed as having no capacity to work or no prospects for rehabilitation within two years of being granted DSP. This change to DSP will bring the Agreement into line with all of Australia's other agreements; and
- When a person comes to Australia on a temporary basis, their rate of benefit will remain the same for the first 26 weeks. Similarly, when a person departs Australia, on a temporary basis, their rate will remain the same for the first 26 weeks of the absence. This will simplify administrative processes and also reduce the number of overpayments incurred by pensioners who move between the two countries temporarily.

14. Double coverage provisions have also been included to ensure that Australian and Irish employers do not have to make two superannuation contributions for an employee seconded to work temporarily in the other country. Under current arrangements the employer may be required to make contributions under both Australian and Irish legislation. The new provisions will ensure the employer, and the employee where compulsory employee contributions are required, have to contribute only to the relevant superannuation scheme in their home country.

15. The new Agreement with Ireland is one of a number of Australia's existing bilateral social security agreements that have been revised recently. The others are the Agreements with Austria, Canada, Malta, the Netherlands, Portugal and Spain.

## **Obligations**

16. Article 1 defines terms used in the Agreement and in some cases limits Australia's obligations under it.

17. Article 2 sets out the scope of the legislation covered by the new Agreement. For Australia it includes the social security law relating to age pension, disability support pension for the severely disabled, pensions payable to widowed persons and the law concerning the Superannuation Guarantee. The Irish legislation covered under the new Agreement includes old age (contributory) pension, retirement pension, widow's and widower's (contributory) pensions, invalidity pension, orphan's (contributory) allowance, bereavement grant and the liability for the payment of employment and self-employment contributions. Article 2(3) provides that the Parties may agree to extend the categories of beneficiaries.

18. Article 3 describes the group of people to whom the Agreement applies. It provides that the Agreement shall apply to any person who is or has been an Australian resident or is or has been subject to the legislation of Ireland.

19. Article 4 is a statement of principle, common to all bilateral social security agreements. It ensures that all persons to whom this Agreement applies shall be treated equally in regard to rights and obligations derived from relevant Australian or Irish legislation.

20. Part II, which consists of Articles 5 to 9 contains provisions for avoiding double coverage (Superannuation Guarantee).

21. Article 5 provides that the purpose of Part II is that employers and employees who are subject to the legislation of either country do not have a double liability in respect of the same work of an employee.

22. Article 6 provides that the Agreement applies only in circumstances where there would otherwise be double coverage. For example, where an Australian employer sends an Australian employee to work temporarily in Ireland, and the Australian employer would be required to pay contributions under both Australian superannuation guarantee laws and the relevant Irish laws.

23. Article 7 refers to diplomatic and consular relations and states that this Agreement does not affect the provisions of the Vienna Convention on Diplomatic Relations (1961) or the Vienna Convention on Consular Relations (1963). These Conventions set out the criteria by which diplomatic agents and consular officials shall, with respect to services rendered by them for the sending State, be exempt from social security provisions in force in the receiving State.

24. Article 8 is aimed at avoiding double coverage of employees or liability of employers in respect of superannuation. This Article specifies that in certain circumstances only one country's legislation relating to coverage will apply. The general rule is that only the legislation of the country in which the employee is working will apply. The main exception to this rule is where the employee has been seconded to work temporarily in that country (a four year limit applies for non-Government employees). In those situations, only the relevant legislation of the employee's home country will apply.

25. If the employee is working on a ship in international traffic then the relevant legislation of the country where the employee is resident will apply. If the person is a member of the travelling or flying personnel of a transport undertaking employed in the territory of both Parties that person shall generally be subject to the legislation of the Party in which the undertaking has its registered office. In any case for Australia, an Australian resident employee working for an Australian resident employer shall be subject to the legislation of Australia.

26. Article 9 provides that the Competent Authorities may agree to extend the four-year period and also may agree to make exceptions to the above rules in particular cases for a class of employees or a particular type of work. This provision is designed to permit the Competent Authorities to correct anomalous coverage situations that may arise to the disadvantage of employers/employees or to eliminate double coverage in unforeseen circumstances.

27. Article 10 deems a person in Ireland to be an Australian resident and in Australia for the purposes of lodging a claim for an Australian benefit.

28. Article 11 establishes the circumstances in which periods of insurance (as defined in Article 1) in Ireland can be used to satisfy the minimum residence requirements for an Australian benefit stipulated in the *Social Security Act 1991*. Under this Article, the claimant is able to add these 'deemed' periods to actual periods of residence in Australia in order to qualify for an Australian benefit. Article 13 imposes a similar obligation on Ireland to treat the relevant periods of residence in Australia as periods of insurance in Ireland.

29. The method of calculating the rate of Australian benefits is set out in Article 12. This Article obliges Australia, when calculating a person's entitlement, to modify the method of calculation of the person's income under the domestic social security law, both inside and outside Australia. Paragraph 3 specifies that certain Irish benefits paid to Australian pensioners resident in Ireland will be disregarded under the Australian income test. This is consistent with concessions given in other agreements and with the principle of shared-responsibility. Paragraphs 4 and 7 specify that the method of calculating the rate paid will remain unchanged for the first 26 weeks of a temporary visit to or from Australia.

30. Articles 13 and 14 relate to corresponding obligations for Ireland as outlined in Articles 11 and 12 for Australia, in assessing certain periods of residence in Australia as periods of contributions and the method of calculating the rate of Irish benefits.

31. Article 15 deals with the lodgement of claims and enables the lodgement of social security claims, notices or appeals in either country in accordance with administrative arrangements to be put in place under Article 19.

32. Article 16 provides that, when determining the eligibility or entitlement of a person to a benefit under the Agreement, all events and periods that have a bearing on the entitlement are to be taken into account. Paragraph 2 ensures that benefits granted under the Agreement will not be paid in respect of any period prior to the date of implementation of the Agreement. The Article also provides a mechanism by which a Party may recover an overpayment of a benefit resulting from the subsequent grant (with arrears) of an equivalent benefit from the other Party. Such a provision is particularly necessary for Australia's income tested social security system and is a standard provision in Australia's bilateral agreements on social security.

33. Article 17 ensures the portability or payment of benefits under this Agreement in both countries.

34. Article 18 sets out the means, subject to relevant domestic laws, regulations and policies, through which the relevant authorities are to cooperate in order to implement the Agreement and ensure its effective operation. It also provides for the exchange of information so that the Agreement can be applied. Any information that is transmitted under the Agreement is to be treated as confidential and used only for the purposes of implementing the Agreement.

35. Article 19 provides that the Competent Authorities shall make whatever administrative arrangements are necessary in order to implement the Agreement.

36. Article 20 provides for the resolution of any difficulties in the interpretation or application of the Agreement.

37. Article 21 stipulates that either Party may request a review of the Agreement. Where either Party request a review of the Agreement the Parties shall meet as soon as possible after the request.

38. Article 22 ensures that a person's qualification to receive a benefit under the current Agreement will not be affected by the terms of the new Agreement. People already receiving benefits under the existing Agreement will continue to remain qualified to receive those payments on the basis of that agreement. The new Agreement will only determine claims lodged after the new Agreement comes into force.

## **Implementation**

39. A new Schedule containing the full text of the new Agreement will be added to the *Social Security (International Agreements) Act 1999*. The regulation making powers contained in Sections 8 and 25 of that Act will be used to implement the Agreement.

## **Costs**

40. The Agreement is expected to result in a reduction of \$0.24 million in administered outlays in the forward estimates period. Departmental costs will be absorbed.

## **Regulation Impact Statement**

41. The Office of Regulation Review (Productivity Commission) has been consulted and confirms that a Regulation Impact Statement is not required for this Agreement.

### **Future treaty action**

42. The Agreement does not specifically provide for the negotiation of any future legally binding instruments although Article 21 obliges the Parties to review the Agreement when requested to do so by either Party. While the Agreement does not specifically deal with amendments, it may be amended at any time by agreement between the Parties and in accordance with the Vienna Convention on the Law of Treaties.

43. Any future treaty action would be subject to Australia's domestic treaty-making process, including tabling and consideration by the Joint Standing Committee on Treaties.

### **Withdrawal or denunciation**

44. Article 24(1) provides that the Agreement shall remain in force until the expiration of 12 months from the date on which either Party receives from the other a note through the diplomatic channel indicating its intention to terminate the Agreement. In the event of termination, Article 24(2) preserves the rights of those people who are receiving benefits or who have lodged claims and would have been entitled to receive benefits under the Agreement and those people affected by the double coverage provisions of paragraphs 1 or 2 of Article 8 or Article 9.

45. Any withdrawal by Australia from this treaty would be subject to Australia's domestic treaty-making process.

### **Contact Details**

International Agreements  
International Branch  
Department of Family and Community Services

**Agreement on Social Security between the Government of Australia and  
the Government of Ireland (Dublin, 9 June 2005)  
[2005] ATNIF 7**

## CONSULTATION

1. Three separate groups (listed below) were contacted as part of the treaty process. These were Irish Community groups (20), Welfare organisations (20) and State/Territory Governments (8).
2. Letters and an information sheet outlining the changes to the new Agreement were sent to each group on 6 May 2005 seeking their views and asking for a response by 30 May 2005.
3. Two formal responses were received. One from the Queensland and one from the Tasmanian Government. Neither response raised any issues. No other comments were received from any other group or government agency.

The Irish Community Organisations consulted were:

<b>Community</b>	
Association of Irish Chartered Accountants in Australia (NSW)	Irish Australian Association of SA
Australian Irish Heritage Association (WA)	Irish Australian Business Association (WA)
Australian Irish Welfare Bureau (Illawarra)	Irish Australian Chamber of Commerce (Vic)
Australian Irish Welfare Association (Vic)	Irish Chaplaincy (NSW)
Australian Irish Welfare Bureau (NSW)	Irish Club of WA (WA)
Cairde Na hEireann (ACT)	Irish Echo (NSW)
Canberra Irish Club (ACT)	Irish National Association (NSW)
Celtic Club (WA)	Lansdowne Club (NSW)
Claddagh Association of WA	Queensland Irish Association
Gaelforce Promotions (WA)	Sydney St Patrick's Parade

The Welfare Organisations consulted were:

<b>Welfare</b>	
ACROD (National Office)	Ethnic Communities' Council of Western Australia
ACT Multicultural Community Council	FECCA
Association of Independent Retirees	Multicultural Council of NT Inc
Australian Council of Social Service	Multicultural Council of Tasmania
Combined Pensioners and Superannuants Association	National Ethnic Disability Alliance
COTA National Seniors	National Seniors Association
Council of Intellectual Disability Agencies	Physical Disability Council of Australia Ltd
Ethnic Communities' Council of NSW	Southern Cross Group
Ethnic Communities' Council of QLD	Welfare Rights Centre
Ethnic Communities' Council of Victoria	Multicultural Communities Council of SA



**Agreement on Social Security between the Government of Australia and  
the Government of Ireland (Dublin, 9 June 2005)  
[2005] ATNIF 7**

The State and Territory Governments Contacted were:

<b>Group</b>
ACT Chief Minister's Department
QLD Department of Premier & Cabinet
VIC Department of Premier & Cabinet
NT Department of Chief Minister
SA Department of Premier & Cabinet
TAS Department of Premier & Cabinet
WA Federal Affairs
NSW Intergovernmental & Regulatory Reform Branch

## **Political Brief – Ireland**

***Bilateral relations:*** Ireland and Australia have strong bilateral ties based on common values and shared heritage. The Irish were among the first settlers to Australia and approximately 30 per cent of Australians today are believed to have some Irish ancestry. Over the past few years government ministers have made regular high level visits. The Forum for Australia-Ireland Cooperation provides a mechanism to review and support the developments in the bilateral political, economic and cultural relationship through regular ministerial discussions. Australia and Ireland have a number of bilateral agreements covering areas such as taxation (1968, revised 1983, 2003), social security (1954, revised in 1992) and medical treatment for travellers (1998).

***Trade relationship:*** Ireland was Australia's 25th largest merchandise trading partner in 2004. Two-way merchandise trade was valued at A\$2 billion, with the balance being A\$1.6 billion in Ireland's favour. Total goods and services trade with Ireland in 2004 was valued at just over A\$2.6 billion. This represents a growth of 14 per cent in total goods and services trade over 5 years. Ireland is currently Australia's sixth-largest market for wine; other main exports include coal, medicaments and computers. Tourism continues to grow as a key sector of bilateral services trade. Australia and Ireland have significant and rapidly growing investment; Ireland is the 17<sup>th</sup> largest destination for Australian investment. Irish foreign investment into Australia has almost doubled from A\$749 million in 1998/99 to A\$1.48 billion in 2003. Australian investment into Ireland has soared from A\$483 million to A\$1.65 billion over the same period. Further opportunities exist for Australian investors in the information, infrastructure and bio technology sectors.

***Political overview:*** Ireland was established through the conclusion of the *Anglo-Irish Treaty* in 1921. The Constitution of 1937 and the Republic of Ireland Act 1948 severed Ireland's last formal links with the UK. Under the Constitution, legislative power is vested in the Parliament (Oireachtas), which consists of a President who is head of state and elected directly by the people for a period of seven years, currently Mary McAleese; the upper house (Seanad); and the Lower House (Dail). The President and the Seanad have limited functions and powers, the Dail which consists of 166 seats is the primary legislative body. The Prime Minister, currently Bertie Ahern, is known as the Taoiseach. The Government comprises Fianna Fail (81 seats) and the Progressive Democrats (8 seats) and has the support of a number of independents. Opposition parties includes Fine Gael (31 seats), the Labour Party (21 seats), the Green Party (6 seats) and Sinn Fein (5 seats). The next general election is due by May 2007

***Foreign policy:*** Ireland joined the (then) European Community in 1973. Its foreign policy is coordinated with, and focused on, EU member states. A cornerstone of Irish foreign policy has been the concept of neutrality. However, as a member of the UN and the EU, Ireland has consistently supported peacekeeping efforts through the provision of troops and observers. Northern Ireland is also high on the Irish domestic political agenda. The conclusion of the Belfast (Good Friday) Agreement in 1998 presented a vision for the future not yet realised, Ireland continues to work towards a peaceful resolution to the Northern Ireland conflict.

***Economic indicators:*** The Irish economy has grown faster than any of its EU partners over the last decade. Ireland recorded an economic growth rate of 11 per cent in late 2000, GDP growth peaked at an estimated 5.6 per cent in 2004. The annual rate of inflation in Ireland in 2004 was 2.2 per cent and it is expected to remain low. In 2004 the unemployment rate stood at 4.5 per cent, slightly down on the previous year's level of 4.7 per cent. Private consumption is likely to drive economic growth in the near future, buoyed by stronger jobs, incomes growth and accelerated investment.



# IRELAND

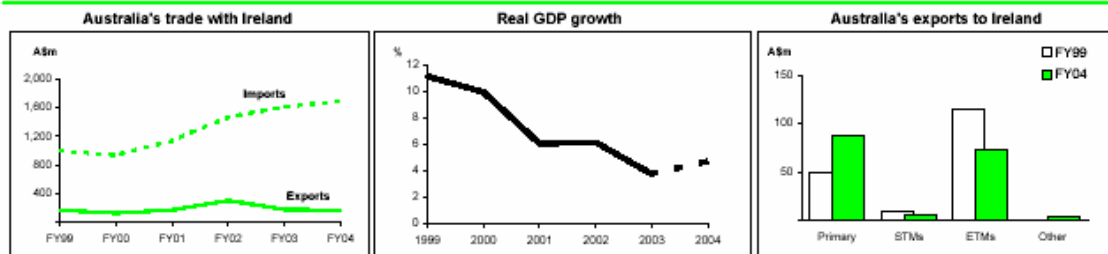
Fact Sheet

## General information:

<b>Capital:</b>	Dublin	<b>Head of State:</b>	
<b>Surface area:</b>	70 thousand sq km	<b>Head of Government:</b>	
<b>Official languages:</b>	Irish, English		
<b>Population:</b>	3.9 million (2003)		
<b>Exchange rate:</b>	A\$1 = 0.5719 Euros (Jun 2004)		

## Recent economic indicators:

	1999	2000	2001	2002	2003(a)	2004(b)
<b>GDP (US\$bn):</b>	95.4	95.2	103.4	121.8	152.6	177.3
<b>GDP per capita (US\$):</b>	25,650	25,190	26,990	31,190	38,730	44,540
<b>Real GDP growth (% change YOY):</b>	11.1	9.9	6.0	6.1	3.7	4.7
<b>Current account balance (US\$m):</b>	240	-350	-680	-1,530	-2,140	-2,780
<b>Current account balance (% GDP):</b>	0.3	-0.4	-0.7	-1.3	-1.4	-1.6
<b>Goods &amp; services exports (% GDP):</b>	88.1	94.8	97.8	93.7	81.0	83.2
<b>Inflation (% change YOY):</b>	1.6	5.6	4.9	4.7	3.5	1.9
<b>Unemployment rate (%):</b>	5.6	4.3	3.9	4.4	4.7	4.4



## Australia's trade relationship with Ireland:

Major Australian exports, 2003-2004 (A\$m):		Major Australian imports, 2003-2004 (A\$m):	
Alcoholic beverages	46	Medicaments (incl. veterinary)	463
Coal	35	Other food products	353
Medicaments (incl. veterinary)	29	Computers	142
Medical instruments	9	Organo-inorganic compounds	113
Computers	5	Medical instruments	96

Australian merchandise trade with Ireland, 2003-2004:		Total share:	Rank:	Growth (yoy):
Exports to Ireland (A\$m):	171	0.2%	44th	-6.2%
Imports from Ireland (A\$m):	1,686	1.3%	18th	4.9%
Total trade (exports + imports) (A\$m):	1,858	0.8%	26th	3.8%
Merchandise trade deficit with Ireland (A\$m):	1,515			

Australia's trade in services with Ireland, 2003-2004:		Total share:
Exports of services to Ireland (A\$m):	388	1.1%
Imports of services from Ireland (A\$m):	323	0.9%
Services trade surplus with Ireland (A\$m):	65	

## Ireland's global trade relationships:

Ireland's principal export destinations, 2003:			Ireland's principal import sources, 2003:		
1	United States	20.5%	1	United Kingdom	34.9%
2	United Kingdom	18.1%	2	United States	15.8%
3	Belgium	12.6%	3	Germany	7.9%
4	Germany	8.3%	4	Netherlands	4.1%
5	France	6.1%	5	Japan	3.8%
14	Australia	0.8%	33	Australia	0.2%

Compiled by the Market Information and Analysis Section, DFAT, using the latest data from the ABS, the IMF and various international sources.

(a) all recent data subject to revision; (b) EIU forecast.

Fact sheets are updated biannually; next update: May 2005

## **List of other Treaties between Australia and Ireland**

- Exchange of Notes between Australia & Ireland constituting an Agreement relating to Air Services  
**[1957] ATS 16**
- Agreement between the Government of Australia and the Government of Ireland for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion, with Respect to Taxes on Income and Capital Gains  
**[1983] ATS 25**
- Treaty on Extradition between Australia and Ireland  
**[1989] ATS 9**
- Agreement with Ireland on Social Security  
**[1992] ATS 9**
- Agreement on Medical Treatment for Temporary Visitors between Australia and Ireland  
**[1998] ATS 14**
- Films Co-Production Agreement between the Government of Australia and the Government of Ireland  
**[1998] ATS 22**
- Exchange of Letters amending the Agreement on Medical Treatment for Temporary Visitors with Ireland of 12 September 1997  
**[2003] ATS 2**

## **List of Bilateral Social Security Treaties Australia has with other countries**

1. Agreement with the Republic of Austria on Social Security **[1992] ATS 35**
2. Agreement on Social Security with Canada **[2003] ATS 4**
3. Agreement on Social Security with the Republic of Chile **[2004] ATS 18**
4. Agreement with the Republic of Croatia on Social Security **[2004] ATS 19**
5. Agreement on Social Security with the Republic of Cyprus **[1993] ATS 5**
6. Agreement with the Kingdom of Denmark on Social Security **[2001] ATS 2**
7. Agreement on Social Security with the Federal Republic of Germany **[2003] ATS 7**
8. Agreement on Social Security with the Republic of Italy **[2000] ATS 29**
9. Agreement with the Kingdom of the Netherlands on Social Security **[2003] ATS 12**
10. Agreement on Social Security with New Zealand **[2002] ATS 12**
11. Exchange of Notes amending the Agreement on Social Security with New Zealand of 28 March 2001 **[2002] ATS 12**
12. Agreement with Portugal on Social Security **[2002] ATS 21**
13. Agreement on Social Security with Slovenia **[2004] ATS 2**
14. Agreement between Australia and Spain on Social Security **[2003] ATS 3**
15. Agreement with the United State of America on Social Security **[2002] ATS 18**
16. Agreement on Social Security with the Kingdom of Belgium **[2002] ATNIF 31**  
(not yet in force)
17. Agreement with Malta on Social Security **[2004] ATNIF 8**  
(not yet in force)