

No. 6378

**UNITED STATES OF AMERICA
and
TOGO**

**Agreement relating to investment guaranties. Signed at
Washington, on 20 March 1962**

Official texts: English and French.

Registered by the United States of America on 27 November 1962.

**ÉTATS-UNIS D'AMÉRIQUE
et
TOGO**

**Accord relatif à des garanties d'investissements. Signé à
Washington, le 20 mars 1962**

Textes officiels anglais et français.

Enregistré par les États-Unis d'Amérique le 27 novembre 1962.

NO. 6378. AGREEMENT¹ BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF THE TOGOLESE REPUBLIC RELATING TO INVESTMENT GUARANTIES. SIGNED AT WASHINGTON, ON 20 MARCH 1962

The Government of the United States of America and the Government of the Togolese Republic, desiring to increase economic cooperation between the two States, desiring to create favorable conditions for investments of American capital in Togo, and recognizing that contractual protection of such investment is likely to stimulate private economic enterprise, have agreed as follows:

1. The Governments of the United States of America and of the Togolese Republic will, upon the request of either of them, consult respecting projects in Togo proposed by nationals of the United States of America with respect to which guaranties under Chapter 2, Title III, of the Act for International Development of 1961, as it may be amended, have been made or are under consideration.

2. The Government of the United States of America agrees that it will issue no guaranty with respect to any project unless it is approved by the Government of the Togolese Republic.

3. With respect to such guaranties extending to projects which are approved by the Government of the Togolese Republic, the Government of the Togolese Republic agrees :

- (a) That if the Government of the United States of America makes payment in United States dollars to any person under any such guaranty, the Government of the Togolese Republic will recognize the transfer to the Government of the United States of America of any currency, credits, assets, or investment on account of which such payment is made, and the subrogation of the Government of the United States of America to any right, title, claim, or cause of action existing in connection therewith ;
- (b) That amounts in CFA francs or credits in CFA francs acquired by the Government of the United States of America pursuant to such guaranties shall be accorded treatment not less favorable than that accorded to private funds arising from transactions of United States nationals which are comparable to the transactions covered by such guaranties, and that such amounts in CFA francs or credits in CFA francs shall be freely available to the Government of the United States of America for administrative expenses;

¹ Came into force on 20 March 1962 by signature.

- (c) That any claim against the Government of the Togolese Republic to which the Government of the United States of America may be subrogated as a result of any payment under such a guaranty, shall be the subject of direct negotiations between the two Governments. If, within a reasonable period, they are unable to settle the claim by agreement, it shall be referred for final and binding determination to a sole arbitrator selected by mutual agreement. If the Governments are unable, within a period of three months, to agree upon such selection, the arbitrator shall be one who may be designated by the President of the International Court of Justice at the request of either Government ;
- (d) That if the Government of the United States of America issues guaranties to cover losses by reason of war with respect to investments in Togo, nationals of the United States of America to whom such guaranties have been issued, will be accorded by the Government of the Togolese Republic treatment no less favorable than that accorded, in like circumstances, to nationals of Togo or nationals of third countries, with reference to any reimbursement, compensation, indemnification, or any other payment, including the distribution of reparations received from enemy countries, that the Government of the Togolese Republic may make or pay for losses incurred by reason of war ; if the Government of the United States of America makes payment in U.S. dollars to any national of the United States of America under a guaranty against losses by reason of war, the Government of the Togolese Republic will recognize the transfer to the Government of the United States of America of any right, privilege, or interest, or any part thereof, that such nationals may be granted or become entitled to as a result of the aforementioned treatment by the Government of the Togolese Republic ;
- (e) That the aforementioned subparagraph (c) with respect to the arbitration of claims shall not be applicable to the type of guaranties against losses by reason of war provided for in subparagraph (d).

DONE in duplicate, in the English and French languages, both equally authentic, at Washington this twentieth day of March, one thousand nine hundred sixty-two.

For the Government of the United States of America :

G. Mennen WILLIAMS

For the Government of the Togolese Republic :

Hospice Coco