

No. 6618

**UNITED STATES OF AMERICA
and
NIGER**

**Exchange of notes constituting an agreement relating to
investment guaranties. Niamey, 28 February and
26 April 1962**

Official texts: English and French.

Registered by the United States of America on 16 April 1963.

**ÉTATS-UNIS D'AMÉRIQUE
et
NIGER**

**Échange de notes constituant un accord relatif à la garantie
des investissements. Niamey, 28 février et 26 avril 1962**

Textes officiels anglais et français.

Enregistré par les États-Unis d'Amérique le 16 avril 1963.

No. 6618. EXCHANGE OF NOTES CONSTITUTING AN AGREEMENT¹ BETWEEN THE UNITED STATES OF AMERICA AND NIGER RELATING TO INVESTMENT GUARANTIES. NIAMEY, 28 FEBRUARY AND 26 APRIL 1962

N° 6618. ÉCHANGE DE NOTES CONSTITUANT UN ACCORD¹ ENTRE LES ÉTATS-UNIS D'AMÉRIQUE ET LE NIGER RELATIF À LA GARANTIE DES INVESTISSEMENTS. NIAMEY, 28 FÉVRIER ET 26 AVRIL 1962

I

The American Ambassador to the President of the Republic of the Niger

L'Ambassadeur des États-Unis d'Amérique au Président de la République du Niger

EMBASSY OF THE UNITED STATES OF AMERICA

No. 71

Niamey, February 28, 1962

Excellency :

I have the honor to refer to conversations which have recently taken place between representatives of our two Governments relating to guaranties authorized by Chapter 2 Title III of The Act for International Development of 1961. I also have the honor to confirm the following understandings reached as a result of these conversations :

1. The Governments of the United States of America and of the Republic of the Niger will, upon the request of either of them, consult respecting projects in the Republic of the Niger, undertaken or 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 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 Republic of the Niger.

3. With respect to guaranties extending to projects which are approved by the Government of the Republic of the Niger, the Government of the Republic of the Niger 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 Republic of the Niger shall 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;

¹ Came into force on 26 April 1962 by the exchange of the said notes.

¹ Entré en vigueur le 26 avril 1962 par l'échange desdites notes.

- (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;
- (c) That any claim against the Government of the Republic of the Niger 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 the Republic of the Niger, nationals of the United States of America to whom such guaranties have been issued, shall be accorded by the Government of the Republic of the Niger treatment not less favorable than the most favorable treatment accorded, in like circumstances, to nationals of the Republic of the Niger 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 Republic of the Niger 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 Republic of the Niger shall 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 Republic of the Niger;
- (e) That the aforementioned subparagraph (c) with respect to the arbitration of claims shall not be applicable to guaranties against losses by reason of war provided for in subparagraph (d).

Upon receipt of a note from Your Excellency indicating that the foregoing provisions are acceptable to the Government of the Republic of the Niger, the Government of the United States of America will consider that this note and your reply thereto constitute an agreement between our two Governments on this subject, the agreement to enter into force on the date of your note in reply.

Accept, Excellency, the renewed assurances of my distinguished consideration.

Mercer COOK

His Excellency Hamani Diori
President of the Republic of the Niger
Niamey

e) Le sous-paragraphe (c) précité, à l'égard d'arbitrage des réclamations, ne sera pas applicable aux garanties contre pertes du fait de la guerre visées dans le sous-paragraphe (d). »

J'ai l'honneur de vous confirmer l'accord de mon Gouvernement sur les dispositions prévues ci-dessus.

Veuillez croire, Monsieur l'Ambassadeur, à l'assurance de ma très haute considération.

Diori HAMANI

Monsieur l'Ambassadeur des États-Unis d'Amérique
Niamey

[TRANSLATION¹ — TRADUCTION²]

REPUBLIC OF NIGER
FRATERNITY—LABOR—PROGRESS
The President of the Republic

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Niamey, April 26, 1962

Mr. Ambassador :

I have the honor to acknowledge receipt of your note No. 71, dated February 28, 1962, which reads as follows :

[*See note I*]

I have the honor to confirm to you my Government's agreement to the above-mentioned provisions.

Accept, Mr. Ambassador, the assurance of my very high consideration.

D. HAMANI

The Ambassador of the
United States of America
Niamey

¹ Translation by the Government of the United States of America.

² Traduction du Gouvernement des États-Unis d'Amérique.