

No. 10370

**FRANCE
and
TOGO**

**Convention of establishment (with exchanges of letters).
Signed at Paris on 10 July 1963.**

Authentic text: French.

Registered by France on 18 March 1970.

**FRANCE
et
TOGO**

**Convention d'établissement (avec échanges de lettres). Signée
à Paris le 10 juillet 1963**

Texte authentique: français.

Enregistrée par la France le 18 mars 1970.

[TRANSLATION — TRADUCTION]

CONVENTION OF ESTABLISHMENT¹ BETWEEN FRANCE
AND TOGO

The President of the French Republic and
The President of the Togolese Republic,

Desiring to ensure to the nationals of each State, within the territory of the other State, the reciprocal enjoyment of a special status in accordance with the friendship between the two countries,

Have decided to conclude this Convention. For that purpose they have appointed as their plenipotentiaries :

The President of the French Republic : Mr. Michel Habib-Deloncle, Secretary of State for Foreign Affairs;

The President of the Togolese Republic : Mr. Apedo-Amah, Minister for Foreign Affairs,

who, having exchanged their full powers, found in good and due form, have agreed in the following provisions :

Article 1

Nationals of either High Contracting Party may enter the territory of the other Party freely, travel and reside therein and leave at any time, subject to the application of the laws relating to the police, security and public health.

Article 2

With the exception of political rights, nationals of either High Contracting Party shall, in the territory of the other Party, enjoy civil liberties under the same conditions as nationals of such other Party.

Article 3

In establishing a business, an enterprise or an industrial, commercial, agricultural or skilled-craft establishment, engaging in the corresponding activities and engaging in a wage-earning occupation, nationals of either High Contracting Party shall have the same rights as nationals of the other Party.

¹ Came into force on 8 February 1964 by the exchange of the instruments of ratification, which took place at Lomé, in accordance with article 19.

Article 4

All nationals of either High Contracting Party shall be accorded, in the territory of the other Party, the same treatment as is accorded to nationals of that Party in all matters relating to access to and the practice of the professions.

Nevertheless, as an exceptional and temporary measure, in the territory of either Party, access to certain professions may be reserved by priority to nationals of that Party, in order to permit their social advancement.

Article 5

Nationals of either High Contracting Party shall, in the territory of the other Party, be represented under the same conditions as nationals of the latter Party in commercial courts and in associations for the defence of economic and professional interests.

Article 6

Nationals of either High Contracting Party shall be accorded, in the territory of the other Party, the same treatment as nationals of the latter with regard to the possession and exercise of civil rights, both rights relating to property, in accordance with the laws in force in each country, and personal rights, in particular the right to invest capital, to acquire, possess, manage or rent movable and immovable property, rights and interests and to use and dispose of the same.

Nevertheless, the personal status of French nationals in the territory of the Togolese Republic shall be determined according to French law, and the personal status of Togolese nationals in the territory of the French Republic shall be determined according to Togolese law.

Article 7

Neither High Contracting Party shall take arbitrary or discriminatory measures liable to impair the property, rights and interests possessed in its territory by individuals or corporate bodies of the other Party, especially where such property, rights and interests derive from investment or from direct or indirect participation in a company or other corporate body.

Property belonging to individuals or corporate bodies of either High Contracting Party, in the territory of the other Party, shall not be expropriated for public use or nationalization except on payment of fair compensation determined not later than the time of expropriation.

Article 8

Nationals of either High Contracting Party shall, in the territory of the other Party, be accorded free and ready access to the courts, in all degrees of jurisdiction, both in pursuit and in defence of their rights and interests. In this respect they shall enjoy the same rights and advantages as nationals of the other Party.

Article 9

Nationals of either High Contracting Party shall possess the right to obtain, in the territory of the other Party, administrative concessions, authorizations and permits and to conclude public contracts under the same conditions as nationals of the other Party.

Article 10

Nationals of either High Contracting Party shall, throughout the territory of the other Party, enjoy the benefits of the laws concerning labour, social matters and social security under the same conditions as nationals of the other Party.

A technical agreement shall specify the conditions for the application of the preceding provisions with regard to social security benefits.

The High Contracting Parties undertake not to discriminate between their respective nationals with regard to access to social and health services and centres.

Article 11

Nationals of either High Contracting Party shall not be liable, in the territory of the other Party, to duties, charges, taxes or contributions of any description whatsoever, other or higher than those imposed on nationals of the other Party; in particular, they shall be entitled, under the same conditions as nationals, to reductions in, or exemptions from, taxes or charges and to basic reliefs, including deduction for dependents.

The High Contracting Parties shall agree, as appropriate, on measures to curb tax evasion and avoid double taxation.

Article 12

Nationals of either High Contracting Party residing in the territory of the other Party may be expelled only if they endanger national security or seriously offend against *ordre public* or morality.

In the cases mentioned in paragraph 1 the High Contracting Party intending to expel a national of the other Party shall advise the latter as soon as the decision is taken by the head of Government.

In justifiable cases of emergency the expulsion may take place immediately. In other cases, the person concerned shall be granted sufficient time to make the arrangements necessitated by his departure.

The High Contracting Party which effects the expulsion shall take appropriate steps to preserve the property of the person expelled.

Article 13

Sociétés civiles and *sociétés commerciales* established in accordance with the laws of one High Contracting Party and having their head office in its territory, shall be considered, for the purposes of applying the provisions of this Convention, as individuals of that Party with respect to the enjoyment, within the territory of the other Party, of all rights specified in this Convention to which a corporate body is entitled.

The right to establish maritime and air transport companies shall be dealt with in special agreements.

Article 14

Without prejudice to the provisions of article 7, paragraph 2, each High Contracting Party shall respect the rights acquired in its territory by individuals and corporate bodies which are nationals of the other Party.

French nationals established in Togo and Togolese nationals established in France at the time of the entry into force of this Convention may continue to engage in their occupation freely under the same conditions as nationals of the State in which they are resident.

Article 15

Application of the specific provisions of this Convention, laid down because of the close ties existing between the High Contracting Parties in various spheres, shall not be extended automatically to nationals of a third State by virtue of the general provisions of conventions concluded by one of the High Contracting Parties with that third State.

Article 16

If in the future either High Contracting Party should, outside the framework of any regional agreement to which it may accede, accord to nationals of a third

State most-favoured-nation treatment in any sphere connected with establishment, nationals of the other Party shall be accorded the same treatment.

Article 17

Each High Contracting Party shall give sympathetic consideration to all requests by the other Party concerning any question relating to the application of this Convention and shall consent to an exchange of views on the matter.

Any dispute between the High Contracting Parties relating to the interpretation or application of this Convention shall be settled through the diplomatic channel. If that should prove impossible, the dispute shall be submitted to an arbitral tribunal.

Article 18

This Convention shall be applicable in the respective territories of the French Republic and the Togolese Republic.

Article 19

This Convention shall enter into force on the date of the exchange of the instruments of ratification, which shall take place at Lomé.

This Convention shall be valid for a period of ten years. It shall remain in force thereafter until such time as one of the High Contracting Parties gives one year's notice of intention to terminate it.

IN WITNESS WHEREOF the plenipotentiaries have signed this Convention.

DONE in duplicate at Paris, this tenth day of July, one thousand nine hundred and sixty-three.

APEDO-AMAH

[SEAL]

Michel HABIB-DELONCLE

[SEAL]

EXCHANGES OF LETTERS

Ia

LIBERTY—EQUALITY—FRATERNITY

FRENCH REPUBLIC

MINISTRY OF FOREIGN AFFAIRS

Paris, 10 July 1963

Sir,

I have the honour to inform you that my Government requests assurance that the reference to the laws in force in article 6, paragraph 1 of the Convention of Establishment of 10 July 1963 will not have the effect of making the transmission of property to French nationals in Togo, through inheritance in cases of both intestate and testamentary succession, subject to the granting of authorization. I would be grateful if you would inform me whether your Government agrees to the foregoing definition of the scope of article 6, paragraph 1.

Accept, Sir, etc.

Michel HABIB-DELONCLE

His Excellency Apedo-Amah
Minister for Foreign Affairs
Chairman of the Togolese Delegation

IIa

EMBASSY OF THE TOGOLESE REPUBLIC

Paris, 10 July 1963

Sir,

You addressed to me a letter under today's date which reads as follows :

[See letter Ia]

I have the honour to inform you that my Government agrees to the foregoing definition of the scope of article 6, paragraph 1.

Accept, Sir, etc.

APEDO-AMAH

His Excellency Michel Habib-Deloncle
Secretary of State for Foreign Affairs
Chairman of the French Delegation

Ib

EMBASSY OF THE TOGOLESE REPUBLIC

Paris, 10 July 1963

Sir,

I have the honour to inform you that my Government interprets the provisions of article 15 of the Convention of Establishment of today's date as not infringing on the right of either State to conclude, as appropriate, agreements with third countries providing for rights or advantages similar to those set forth in the aforementioned Convention.

I would be grateful if you would let me know whether you agree to this interpretation.

Accept, Sir, etc.

APEDO-AMAH

His Excellency Michel Habib-Deloncle
Secretary of State for Foreign Affairs
Chairman of the French Delegation

IIb

LIBERTY—EQUALITY—FRATERNITY

FRENCH REPUBLIC

MINISTRY OF FOREIGN AFFAIRS

Paris, 10 July 1963

Sir,

You addressed to me under today's date a letter which reads as follows :

[See letter Ib]

Accept, Sir, etc.

Michel HABIB-DELONCLE

His Excellency Apedo-Amah
Minister for Foreign Affairs
Chairman of the Togolese Delegation