

**No. 14225**

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**FRANCE  
and  
MADAGASCAR**

**Convention on technical assistance (with annexes, protocol  
and exchange of letters). Signed at Paris on 4 June 1973**

*Authentic text: French.*

*Registered by France on 22 August 1975.*

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**FRANCE  
et  
MADAGASCAR**

**Convention relative à l'assistance technique (avec annexes,  
protocole et échange de lettres). Signée à Paris le 4 juin 1973**

*Texte authentique : français.*

*Enregistrée par la France le 22 août 1975.*

[TRANSLATION — TRADUCTION]  
TECHNICAL ASSISTANCE  
CONVENTION<sup>1</sup>

*Article 1.* At the request of the Government of the Malagasy Republic, the Government of the French Republic may, as its means permit, provide assistance in the form of personnel for the achievement of the development and training objectives set by the Malagasy Republic. Such assistance shall be provided within the framework of schedules of posts, which may be revised annually as necessary.

*Article 2.* Officials seconded to the Government of the Malagasy Republic must be approved by that Government.

*Article 3.* Such officials shall be subject, throughout the period of secondment, to the authority of the Government of the Malagasy Republic and shall be required to comply with the laws and regulations of the Malagasy Republic.

DONE at Paris, on 4 June 1973.

For the Government of the French Republic:

[Signed]

JEAN-FRANÇOIS DENIAU  
Secretary of State  
to the Minister for Foreign Affairs

For the Government of the Malagasy Republic:

[Signed]

DIDIER RATSIRAKA  
Commander (Navy)  
Minister for Foreign Affairs

A N N E X I

CONCERNING TECHNICAL ASSISTANCE

PART I. GENERAL PROVISIONS

*Article 1.* Officials seconded to the Government of the Malagasy Republic by the Government of the French Republic shall be governed by the terms of this annex.

*Section I.* RECRUITMENT AND APPROVAL

*Article 2.* A statement of the needs for French technical assistance personnel, drawn up by the Government of the Malagasy Republic, shall be communicated to the Government of the French Republic.

A job description specifying the nature of the post and the qualifications required of the official who will occupy it shall be prepared for each post which the Government of the Malagasy Republic wishes to fill in this manner.

<sup>1</sup> Came into force on 19 March 1975, the date of entry into force of the General Agreement signed at Paris on 4 June 1973 (see p. 261 of this volume).

*Article 3.* In order to fill such posts, the Government of the French Republic shall publicize the vacancies as widely as possible.

Subject to the regulations of the French civil and military services relating to comparative rank, the Government of the Malagasy Republic may also publicize the vacancies and bring the names of candidates applying directly to it to the notice of the Government of the French Republic.

Applications shall be submitted to the competent agencies of the French Republic so that they may be referred to the Government of the Malagasy Republic within the required time.

*Article 4.* The Government of the French Republic shall communicate to the Government of the Malagasy Republic the names, titles and qualifications of the officials whom it proposes to second to it.

The Government of the Malagasy Republic shall have a period of one month in which to draw up a final list of the officials whose candidature it accepts, specifying in each case the place of assignment and the date on which the official will be required to take up his duties. Upon the expiry of the one-month period, or in case of rejection, the Government of the French Republic shall resume full authority over personnel who have not been approved. It shall, however, as its means permit, make further nominations, which may be either approved or rejected in the same manner as is indicated above.

Should an official who has been approved arrive more than two months after the date initially scheduled, the Government of the Malagasy Republic may change his assignment, with the prior agreement of the person concerned and of the Government of the French Republic.

## *Section II. SERVICE OBLIGATIONS*

*Article 5.* Subject to the provisions of articles 24 and 31 of this annex, the period of secondment to the Malagasy Republic shall be 24 months, comprising a tour of duty of 20 months and four months' leave.

*Article 6.* The assignment of an official who has been approved in accordance with the procedure specified in article 4 above shall be determined by decision of the competent authority of the Malagasy Republic and shall be communicated to the person concerned and to the Government of the French Republic.

*Article 7.* An official seconded to the Government of the Malagasy Republic by the Government of the French Republic may be transferred for service reasons to any place within the territory of the Malagasy Republic. A change of assignment or place of residence may be made only after prior notice to the official concerned and with the prior agreement of the Government of the French Republic.

*Article 8.* Officials seconded to the Government of the Malagasy Republic by the Government of the French Republic shall be bound by the obligation to exercise professional discretion in all matters relating to facts or information of which they have knowledge in the performance of their duties.

They shall refrain from any act which may be detrimental to either the Government of the French Republic or the Government of the Malagasy Republic. The two Governments undertake not to require their participation in any manifestation extraneous to the service or to utilize them in activities of a like nature.

*Article 9.* In case of professional misconduct on the part of an official seconded to the Government of the Malagasy Republic by the Government of the French Republic, the Malagasy authorities shall draw up a report specifying the nature and circumstances of the acts imputed to him.

This detailed report, accompanied, as necessary, by a request to the person concerned for explanations in writing and his reply and by all requisite items of information, shall be communicated to the Government of the French Republic, together with a request for disciplinary action if appropriate.

The Government of the French Republic shall keep the Government of the Malagasy Republic informed of the action taken on any such request.

Professional misconduct may also result in a decision by the Government of the Malagasy Republic, on stated grounds, to retransfer the person concerned to the Government of the French Republic, or in a decision by the Government of the French Republic, on stated grounds, to terminate his secondment to the Government of the Malagasy Republic.

*Article 10.* In case of the opening of a judicial investigation or the institution of penal proceedings against an official seconded to the Government of the Malagasy Republic by the Government of the French Republic, the Government of the Malagasy Republic shall, irrespective of the charge, immediately inform the Government of the French Republic.

### *Section III. REMUNERATION, GUARANTEES AND BENEFITS*

*Article 11.* The Government of the French Republic shall bear the cost of the remuneration of the officials whom it seconded to the Government of the Malagasy Republic and shall contribute to their housing and furnishing costs under a special arrangement of its own design.

The Government of the Malagasy Republic shall share all the above costs in the form of a contribution, the amount and method of payment of which shall be determined by agreement between the two Governments.

*Article 12.* Subject to the provisions of articles 20 and 21 of this annex, the Government of the French Republic shall bear the cost of:

- transport for officials and their families, under the French regulations applicable to them, from their place of habitual residence to the point of entry into the Malagasy Republic and, upon repatriation, from the point of exit from the Malagasy Republic to their place of habitual residence;
- travel allowances in respect of the above journeys;
- evacuation for health reasons;
- the contribution necessary to maintain pension rights under the relevant French regulations.

Travel expenses arising from the performance of public service missions within the Malagasy Republic or elsewhere shall be borne by the Government of the Malagasy Republic.

*Article 13.* In the performance of their duties, officials seconded to the Government of the Malagasy Republic by the Government of the French Republic shall receive aid and protection from the Government of the Malagasy Republic.

They shall enjoy the rights and guarantees accorded to international technical co-operation experts in respect of words spoken or written and acts done by them in their official capacity in or on the occasion of the performance of their duties.

They shall be entitled to import into the Malagasy Republic, free of duty, their goods and personal effects, instruments, publications and documents necessary for their work. The same exemption from duty shall be granted at the time of exit from Madagascar upon the final departure of the official.

As regards the purchase locally of a vehicle for personal use, they shall enjoy special conditions, which shall be the subject of an exchange of letters.

The conditions for the transfer to France of the amount of any savings from the remuneration and allowances received in respect of their posts shall be governed by the provisions agreed upon elsewhere between the two Governments.

They shall be entitled to transfer freely to France, at the time of their final repatriation upon termination of a secondment, the proceeds from any sale in the Malagasy Republic of their vehicles, movable property and personal effects.

*Article 14.* The Government of the Malagasy Republic shall bear the cost of compensation for any damage caused by officials seconded to it by the Government of the French Republic in or on the occasion of the performance of their duties. Should a legal action be brought in respect of such damage, the Malagasy Republic shall, for the purpose of the proceedings, substitute itself for the official who is being sued.

Where the damage results from personal misconduct on the part of an official, the Government of the French Republic shall substitute itself for the official in reimbursing all or part of any compensation which the Government of the Malagasy Republic has had to pay, provided that the Government of the French Republic may take action to recover the amount involved from its national.

*Article 15.* Officials seconded to the Government of the Malagasy Republic by the Government of the French Republic shall receive, for themselves and their families, medical care, medicinal supplies and hospitalization on the same terms and conditions as officials on the regular staff of the Malagasy civil service.

*Article 16.* The specific allowances attaching to the post or the duties of an official governed by the terms of this annex, and the travel allowances paid to him under Malagasy regulations, may be entered against his name in a semi-annual statement drawn up by the Government of the Malagasy Republic and communicated to the Government of the French Republic upon its request.

*Article 17.* Officials seconded to the Government of the Malagasy Republic by the Government of the French Republic and their spouses shall not engage in any gainful activity without giving advance notice to the Government of the Malagasy Republic and the Government of the French Republic in order that, after consultation between the two Governments, appropriate measures may, if necessary, be taken to safeguard the interests of the service.

Authorization shall thereafter be granted or denied by the Government of the Malagasy Republic.

*Article 18.* The Government of the Malagasy Republic shall transmit annually to the Government of the French Republic its observations and comments on the performance of officials seconded to it.

*Article 19.* Officials seconded to the Government of the Malagasy Republic by the Government of the French Republic shall be subject to normal Malagasy taxes.

The two Governments shall determine by agreement the procedure whereby income acquired by technical co-operation personnel is to be reported to the Malagasy authorities for the purpose of assessment of the general income tax.

#### *Section IV. TERMINATION OF SECONDMENT*

*Article 20.* Either the Government of the French Republic or the Government of the Malagasy Republic may terminate the secondment of an official at any time, provided that it gives one month's notice to the other Government stating the reasons. The person concerned shall be informed that such notice has been given.

Where a secondment is terminated prematurely at the desire of the Government of the French Republic alone, that Government undertakes to replace the official as soon as possible. To that end, the Government of the French Republic shall, simultaneously with the notice, if any, stating the reasons for termination, submit to the Government of the Malagasy

Republic for its approval, in the manner indicated in article 4 above, one or more nominations for a replacement.

Where a secondment is terminated prematurely at the desire of the Government of the Malagasy Republic alone, all costs of passage upon repatriation in accordance with French regulations shall, except if such action is taken as a result, in particular, of professional misconduct, an unlawful act or a violation of obligations under article 8 above, be borne by the Government of the Malagasy Republic.

*Article 21.* Subject to the provisions of article 38 of this annex, the granting of annual leave during the period of secondment shall not terminate such secondment.

If, however, the Government of the Malagasy Republic does not intend to use the services of the official during the unexpired portion of the period of secondment following such leave, it shall give notice of its decision in the manner indicated in article 20 of this annex at least one month before the departure on leave of the official.

Decisions on the granting of leave shall be taken by the Government of the Malagasy Republic and endorsed by the Government of the French Republic. Subject to the provisions of the third paragraph of article 20 of this annex, transport costs shall be borne by the Government of the French Republic as specified in article 12 above.

*Article 22.* The requisite measures shall, as necessary, be taken jointly by the two Governments to ensure that the date of termination of an official's service in the post to which he has been assigned is set with due regard to the exigencies of the service and to the provisions applicable to him under French regulations with respect to leave entitlements and the granting of costs of passage upon repatriation.

## PART II. SPECIAL PROVISIONS FOR CERTAIN PROFESSIONS

### *Section I. TEACHING PERSONNEL*

*Article 23.* Save in exceptional cases, particularly that of higher education, a statement of the needs for French teaching personnel shall be drawn up annually by the Government of the Malagasy Republic and communicated to the Government of the French Republic before 1 January of each year with a view to secondment as from 15 September of the same year. If the exigencies of the service so require, the date of 15 September may be advanced to 1 August at the earliest or put back to 31 December at the latest.

*Article 24.* The assignment of teaching personnel shall be determined by the authorities of the Malagasy Republic for two consecutive school or university years according to the Malagasy school or university calendar.

In the case of higher education, special measures may be decided upon by mutual agreement for the organization of temporary teaching assignments.

*Article 25.* The period of secondment to the Government of the Malagasy Republic may be extended from year to year by tacit agreement, in the absence of a request to the contrary by the official concerned or a decision by either of the two Governments.

The official must submit his request for termination or non-renewal of his secondment to the Government of the Malagasy Republic not later than 15 November of any year. Such termination shall not, however, take effect before the end of the current school or university year.

A decision by either Government to terminate or not to renew a secondment must be communicated to the other Government not later than 1 January of any year.

Subject to the provisions of article 20 of this annex, the secondment shall in all cases terminate on 15 September of the same school or university year.

*Article 26.* Teaching personnel seconded to the Government of the Malagasy Republic by the Government of the French Republic shall be entitled to the school or university vacations laid down under the relevant Malagasy regulations. The aggregate entitlement shall not, however, be less than 75 days, but this may be reduced to 60 days in the case of officials performing administrative duties. Forty-five days of such vacation shall be granted consecutively.

The dates of the 45 consecutive days of vacation shall be set by the Malagasy authorities according to the exigencies of the service and, so far as possible, the wishes expressed by the official. In case of termination of the secondment, the 45 consecutive days of vacation must begin not later than 1 August.

*Article 27.* The weekly working hours of teaching personnel seconded to the Government of the Malagasy Republic by the Government of the French Republic shall be those in force under Malagasy regulations for the category to which they are assimilated.

The weekly working hours for the various categories shall, as necessary, be specified in a special protocol.

Overtime work in excess of the weekly working hours thus established shall be performed by the official concerned only with his consent; remuneration in respect thereof shall be paid by the Government of the Malagasy Republic at the prevailing rates for Malagasy personnel of the same grade possessing the same qualifications.

*Article 28.* Administrative and educational supervision, under French regulations, of teaching personnel seconded to the Government of the Malagasy Republic by the Government of the French Republic shall be carried out by one or more officials qualified to perform such duties. The official or officials in question shall be seconded to the Government of the Malagasy Republic by the Government of the French Republic and may, at the request of the Malagasy authorities, assist in the further training of Malagasy teaching personnel.

*Article 29.* In order that the career development of teaching personnel seconded to it by the Government of the French Republic may proceed normally, the Government of the Malagasy Republic shall authorize visits by the necessary general inspection missions and the holding of competitive and other professional examinations.

*Article 30.* Teaching personnel seconded to the Government of the Malagasy Republic by the Government of the French Republic shall enjoy the conditions of service, professional guarantees and academic freedoms traditionally accorded to members of the teaching profession.

## *Section II. MILITARY PERSONNEL*

*Article 31.* French military personnel who are detailed, in accordance with the provisions of part I of this annex, to assist in the operation of the Malagasy armed forces shall be assigned to a unit answerable to, and managed and administered by, the French Embassy.

They shall be seconded to the Malagasy Government for a period determined in accordance with the French regulations concerning tours of duty abroad; the period of secondment may, in exceptional cases, be extended or renewed by mutual agreement.

*Article 32.* Such personnel shall serve in civilian dress, unless occupying operational posts, in which case they shall wear Malagasy uniform.

They shall be at the disposal of the Government of the Malagasy Republic in accordance with the traditional rules governing the use of their branch or service but shall not hold positions of command or of high responsibility. They shall not participate in missions for the maintenance of order or in operations of an international nature.

All decisions of the Government of the Malagasy Republic concerning them shall be brought to the attention of the Government of the French Republic, and all decisions of the

Government of the French Republic concerning them shall likewise be brought to the attention of the Government of the Malagasy Republic.

*Article 33.* In case of improper conduct imputable to a member of the technical military assistance personnel, the Malagasy military authority shall address to the French Embassy a disciplinary report stating the facts and proposing disciplinary action. The disciplinary report shall be communicated to the person concerned by the Malagasy military authority. The said authority must be informed of the action taken on the report.

The Malagasy military authority may, pending punitive action, take measures privative of liberty against the member of the technical military assistance personnel, should such measures appear essential; it shall notify the French Embassy accordingly as soon as possible.

*Article 34.* Problems relating to the position of French technical military assistance personnel with respect to their general status may be reviewed by missions, the costs of which shall be borne by the Government of the French Republic. The Government of the Malagasy Republic shall, as its means permit, facilitate the task of such missions.

*Article 35.* Offences committed outside the service by technical military assistance personnel shall be within the jurisdiction of the Malagasy judicial authorities, provided that the Government of the Malagasy Republic shall immediately inform the Government of the French Republic, as stipulated in article 10 of this annex.

French technical military assistance personnel who are sentenced by the Malagasy courts to penalties privative of liberty shall, at the request of their Government, be handed over to the French authorities for execution of the sentence. The costs of transfer shall be borne by the French State.

In the case of offences committed in or on the occasion of the service, the prosecution and preliminary judicial investigation shall be within the competence of the Malagasy military justice system.

The perpetrators of such offences shall be handed over to the French Embassy, which shall undertake to produce them before the Malagasy judicial authorities for all preliminary investigation proceedings. The record of the case shall thereafter be handed over to the French military justice system in order for judgement to be rendered. The Malagasy authorities must be informed of the decision.

### *Section III.* JUDICIAL PERSONNEL

*Article 36.* Subject to the provisions of this annex, judicial personnel seconded to the Government of the Malagasy Republic by the Government of the French Republic shall continue to be governed by the regulations applicable to them.

They shall not be entrusted with any trial functions.

*Article 37.* Problems relating to the career of judicial personnel in their parent service may be reviewed, once a year, by a mission, the costs of which shall be borne by the Government of the French Republic. The Government of the Malagasy Republic shall, as its means permit, facilitate the task of the person in charge of the mission.

### PART III. TRANSITIONAL AND MISCELLANEOUS PROVISIONS

*Article 38.* Officials who are governed by the laws and regulations of the French Republic and who, on the date of signature of the General Agreement, are performing duties in services which are subject to the authority of the Government of the Malagasy Republic shall be deemed to be seconded to that Government for the purpose of continuing to perform the duties entrusted to them. They shall accordingly be subject to provisions of this annex.



*Article 39.* The provisions of this annex shall not apply to the personnel of French agencies carrying out co-operation mission in Madagascar in implementation of specific conventions or agreements between the two Governments, unless there is an exchange of letters specifying the agency which is to benefit and laying down the conditions for such implementation.

DONE at Paris, on 4 June 1973.

For the Government of the French Republic:

[Signed]

JEAN-FRANÇOIS DENIAU  
Secretary of State  
to the Minister for Foreign Affairs

For the Government of the Malagasy Republic:

[Signed]

DIDIER RATSIRAKA  
Commander (Navy)  
Minister for Foreign Affairs

## PROTOCOL

FOR THE IMPLEMENTATION OF ARTICLE 11 OF THE ANNEX CONCERNING TECHNICAL ASSISTANCE

The Government of the French Republic and the Government of the Malagasy Republic have agreed on the following provisions:

*Article 1.* Pursuant to the provisions of article 11 of the annex concerning technical assistance, the Government of the Malagasy Republic undertakes to pay, with effect from the date of entry into force of the General Agreement, as a contribution to the remuneration of technical assistance personnel and to the provision of housing and furnishings, a standard monthly allowance of one thousand seven hundred French francs, equivalent to eighty-five thousand Malagasy francs, for each of the officials in question throughout the period of secondment, including the regulation period of administrative leave following completion of the tour of duty. The amount of this allowance may be revised by mutual agreement at the request of either of the two Governments.

*Article 2.* A statement of claims, prepared on the basis of the number of personnel on duty or on regulation leave as at 1 January, shall be produced by the Government of the French Republic and shall cover the period from 1 January to 30 November.

The Government of the Malagasy Republic shall pay the amount of this statement of claims before 1 December.

The statement of claims for the month of December shall be an adjustment statement allowing for the actual number of personnel on duty between 1 January and 30 November.

The statement of claims for the month of December shall be paid before 31 March of the following year.

*Article 3.* This Protocol shall enter into force on the same date as the General Agreement.

DONE at Paris, on 4 June 1973.

For the Government of the French Republic:

[Signed]

JEAN-FRANÇOIS DENIAU  
Secretary of State  
to the Minister for Foreign Affairs

For the Government of the Malagasy Republic:

[Signed]

DIDIER RATSIRAKA  
Commander (Navy)  
Minister for Foreign Affairs

## EXCHANGE OF LETTERS

### I

#### THE SECRETARY OF STATE FOR FOREIGN AFFAIRS

Paris, 4 June 1973

Sir,

The second paragraph of article 19 of annex I to the Convention on technical assistance, concerning the tax treatment of technical co-operation personnel, has provided that our two Governments should determine by agreement the procedure whereby income acquired by technical co-operation personnel will be reported to the Malagasy authorities for the purpose of assessment of the general income tax.

I have the honour to propose for your approval the following provisions:

For the purpose of assessment of the general income tax payable in Madagascar by technical co-operation personnel, the Government of the French Republic shall communicate to the Government of the Malagasy Republic, before 28 February of each year, the gross taxable amount of remuneration paid by it during the preceding year to each of the officials seconded to the Government of the Malagasy Republic.

This gross taxable income shall comprise the following elements:

- for the period of presence in Madagascar, the gross basic contractual remuneration plus cost-of-living adjustment;
- for the period of leave, the regulation pay plus living allowance;
- the aggregate of the above components reduced *pro rata temporis* by the amount of non-taxable family allowances valued at two thousand five hundred French francs for a married taxpayer and one thousand five hundred French francs for each dependent child for an entire year.

In the case of personnel whose remuneration is not fixed by contract, the gross taxable amount, before deduction of family allowances, for the period of presence in Madagascar shall be determined by applying to the aggregate amount of the elements of pay received in respect of that period the ratio which exists, in the case of personnel whose remuneration is fixed by contract, between the gross basic contractual remuneration plus cost-of-living adjustment as

stated above, being the numerator, and the aggregate amount of their pay in respect of the period of presence in Madagascar, being the denominator.

The tax shall be assessed on a net basis determined after the deduction of payments, withholdings, expenses and charges of any kind borne by the officials and allowed as deductions under Malagasy law.

To the net taxable income thus established these shall be added, according to the rules laid down by Malagasy law:

- supplements to pay and allowances, not representing expenses, received by the person concerned in addition to the items of remuneration enumerated above;
- income from other sources received by the official, his spouse or children treated as his dependants, provided that the provisions of international conventions in force give the Malagasy Republic the right to levy tax thereon.

The personnel referred to in this letter shall, at the request of the Government of the French Republic, benefit from any measures more favourable than those specified in these provisions, should a situation arise in which other technical or cultural co-operation personnel effectively benefit from such measures in Madagascar under bilateral conventions.

I should be grateful if you would confirm that you agree to the above provisions, which would enter into force on the same date as the General Agreement.

Accept, Sir, etc.

JEAN-FRANÇOIS DENIAU

Mr. Didier Ratsiraka  
Minister for Foreign Affairs of the Malagasy Republic

## II

Paris, 4 June 1973

Sir,

You have addressed to me a letter, dated 4 June 1973, which reads as follows:

*[See letter I]*

I have the honour to inform you that the Government of the Malagasy Republic agrees to the proposals made in that letter, which shall enter into force on the same date as the General Agreement.

Accept, Sir, etc.

*[Signed]*  
DIDIER RATSIRAKA

Mr. Jean-François Deniau  
Secretary of State to the Minister for Foreign Affairs of the French Republic

## A N N E X II

## CONCERNING TECHNICAL MILITARY ASSISTANCE

*Article 1.* Relations between the two States with respect to the training of officers and logistic support shall be governed by the terms of this annex.

*Article 2.* For the purpose of training officers of the Malagasy armed forces, nationals designated by the Government of the Malagasy Republic with the agreement of the Government of the French Republic may be admitted to French military academies and establishments.

The Government of the French Republic shall bear the costs of transport and instruction.

The Government of the Malagasy Republic shall bear the costs of pay and maintenance, including social security contributions.

*Article 3.* The Government of the Malagasy Republic may call on the Government of the French Republic for the maintenance and supply of *matériel* and equipment.

The modalities of transfer shall be determined by mutual agreement.

DONE at Paris, on 4 June 1973.

For the Government of the French Republic:

[Signed]

JEAN-FRANÇOIS DENIAU

Secretary of State

to the Minister for Foreign Affairs

For the Government of the Malagasy Republic:

[Signed]

DIDIER RATSIRAKA

Commander (Navy)

Minister for Foreign Affairs

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