

No. 16679

**FRANCE
and
BENIN**

**Agreement concerning co-operation in the field of justice.
Signed at Cotonou on 27 February 1975**

Authentic text: French.

Registered by France on 11 May 1978.

**FRANCE
et
BÉNIN**

**Accord de coopération en matière de justice. Signé à
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Texte authentique : français.

Enregistré par la France le 11 mai 1978.

[TRANSLATION — TRADUCTION]

AGREEMENT¹ BETWEEN THE GOVERNMENT OF THE FRENCH REPUBLIC AND THE GOVERNMENT OF THE REPUBLIC OF DAHOMEY CONCERNING CO-OPERATION IN THE FIELD OF JUSTICE

The Government of the French Republic, on the one hand,
The Government of the Republic of Dahomey, on the other hand,
Have agreed as follows:

CHAPTER I. GENERAL PROVISIONS

Article I. The Republic of Dahomey and the French Republic shall establish a regular exchange of information in the field of judicial organization, legislation and jurisprudence.

Article II. In the context of reciprocal legal assistance and if there is no impediment, the two Contracting Parties may submit requests to each other for information or investigations in relation to civil or administrative proceedings instituted before their judicial authorities, and may transmit to each other free of charge copies of judicial decisions.

In the context of proceedings for the protection of minors, they shall afford each other mutual assistance in the search for and voluntary repatriation of minors and shall inform each other of the measures of protection taken by their authorities.

In the context of proceedings for the recovery of alimony abroad, they shall afford each other mutual assistance in the search for and hearing of persons owing alimony living in their territories and in the recovery of alimony without cost.

Article III. Evidence of the legislative provisions and customary law of either State may be presented to the courts of the other State in the form of certificates of custom made out either by the consular authorities concerned or by any appropriate authority or person.

Article IV. The judicial documents in implementation of this Agreement shall be transmitted, except where provided otherwise, through the diplomatic channel.

In urgent cases, however, they may be transmitted directly between the Ministries of Justice of the two States.

CHAPTER II. ACCESS TO THE COURTS

Article V. Nationals of each of the Contracting Parties shall have, in the territory of the other Contracting Party, unrestricted and easy access to both the administrative and the judicial courts for the purpose of claiming and protecting their rights. In particular, no security or deposit of any kind may be imposed on them by

¹ Came into force on 1 January 1978, i.e., the first day of the second month following the exchange of instruments of approval, which took place at Paris on 18 November 1977, in accordance with article LXXVI.

reason of their status as foreigners or the absence of domicile or residence in the country concerned.

The foregoing paragraph shall apply, subject to the provisions of public policy in the country in which the proceedings are instituted, to bodies corporate set up or authorized under the law of one of the Parties.

Article VI. *Avocats* members of the bar of one of the Contracting Parties may assist or represent parties before the courts of the other Contracting Party, whether in preliminary investigations or in court, under the same conditions as *avocats* members of the bar of the other Contracting Party.

However, *avocats* who choose to assist or represent parties before a court of the other State shall, for the purpose of receiving any notification provided for by law, elect as their domicile the office of an *avocat* of that State.

Article VII. Nationals of either State shall, in the territory of the other State, be entitled to legal aid on the same basis as nationals of that State, provided they comply with the law of the country in which the aid is requested.

Certificates of need shall be issued to applicants by the authorities at their normal place of residence, if they are resident in the territory of one of the two States. If the person concerned is resident in a third country, the certificates shall be issued by the diplomatic or consular agent of the country of which he is a national.

Information may be sought from the authorities of the country of which the plaintiff is a national.

CHAPTER III. TRANSMITTAL AND SERVICE OF WRITS AND EXTRA-JUDICIAL DOCUMENTS

Article VIII. Writs and extra-judicial documents, both in civil, social and commercial and in criminal and administrative matters, to be served on persons resident in the territory of one of the Contracting States, shall be sent direct between the Ministries of Justice of the two States.

Article IX. Requests for transmittal and writs in civil, social, commercial and administrative matters shall be sent in duplicate.

Such documents shall be accompanied by a descriptive note summarizing their essential aspects to be transmitted to the addressee. A model descriptive note is annexed to this Agreement.¹ The particulars appearing in the note shall refer, in particular, to the requesting authority, the identity of the parties, the nature of the document concerned, the purpose of the case, the value of the dispute, the date and time of appearance in court, the time-limits appearing in the writ and the court which made the decision.

Article X. The requested State shall serve the procedural documents and judicial decisions sent to it for that purpose by the requesting State.

This service may be effected by the simple transmittal of the document or the decision to the addressee. If the requesting State so requests, the requested State shall effect the service in one of the ways envisaged in its legislation for such service.

Proof of service shall consist of a dated receipt signed by the addressee or of a statement by the requested authority confirming that service has been effected and

¹ No model descriptive note has been established. (Information supplied by the Government of France.)

indicating the manner and date of service. One or other of these documents shall be transmitted immediately to the requesting State. At the request of the latter, the requested State shall specify whether the service took place in accordance with its law. If service could not be effected, the requested State shall immediately inform the requesting State of the reason.

A summons sent to a person who is under prosecution must be received by the requested State at least two months before the date fixed for the appearance of that person in court.

Article XI. The costs of serving writs and extra-judicial documents shall not be refunded.

However, in civil, social, commercial and administrative matters, the costs involved in assistance from law officials or arising from notification in a particular manner shall be payable by the requesting party.

Article XII. Where the address of the addressee of the document is incomplete or inaccurate, the requested authority shall nevertheless attempt to fulfil the request made to it. For that purpose, it may ask the requesting State for additional information so as to be able to identify and locate the person concerned.

Article XIII. The requested State may not refuse to carry out a request for service or notification unless it considers that the fulfilment of the request is liable to impair its sovereignty, security or public policy.

Article XIV. The provisions of this chapter shall be without prejudice to the right of the Contracting States to cause writs and extra-judicial documents addressed to their own nationals to be served directly by their representatives or deputies. Where there is a conflict between the legislation of the two countries, the nationality of the addressee shall be determined by the law of the country in which service is to be effected.

Article XV. The provisions of the preceding articles shall, in civil, social and commercial matters, be without prejudice to the right of interested parties resident in the territory of one of the Contracting States to have notice sent to or documents served on persons in the other State through law officials.

CHAPTER IV. TRANSMITTAL AND EXECUTION OF LETTERS ROGATORY

Section I. LETTERS ROGATORY IN CIVIL, SOCIAL, COMMERCIAL AND ADMINISTRATIVE MATTERS

Article XVI. Letters rogatory in civil, social, commercial and administrative matters to be executed in the territory of one of the Contracting Parties shall be executed by the judicial authorities.

The Contracting Parties also have the right to request their diplomatic or consular agents to serve directly, and without coercion, letters rogatory concerning their nationals with the purpose, in particular, of hearings, examination by experts, the production of documents or the examination of exhibits. Where there is a conflict between the legislation of the two countries, the nationality of the person to be heard shall be determined by the law of the country in which the letter rogatory is to be executed.

Article XVII. Letters rogatory shall be transmitted in accordance with the provisions of article IV above.

Documents confirming the execution of letters rogatory and also, where appropriate, information concerning their execution shall be transmitted through the same channel.

Article XVIII. The requested authority shall inform the requesting authority of the date and place of execution of the measure requested so that the authorities, the interested parties and, where appropriate, their representatives may be present.

Article XIX. The judicial authority which executes a letter rogatory shall apply the laws of its country in respect of the formalities to be observed.

However, it shall defer to a request of the requesting authority to proceed on the basis of a special formality, provided that it is not incompatible with the law of the requested State or its implementation is not possible either because of the judicial practices of the requested State or because of practical difficulties.

Letters rogatory must be executed as a matter of urgency.

Article XX. In executing the letter rogatory, the requested authority shall apply the appropriate means of coercion provided for under its domestic law.

Article XXI. When the letter rogatory is not executed either in its entirety or in part, the requesting authority shall be informed immediately through the same channel and the reasons shall be communicated to it.

Article XXII. The execution of letters rogatory may not give rise to the re-funding of any costs.

The requested State shall be entitled, however, to require that the requesting State refund the fees paid to experts, interpreters and persons who have made depositions and also reimburse costs resulting from the use of a special formality requested by the requesting State.

Article XXIII. The execution of a letter rogatory may not be refused unless it does not fall within the powers of the judicial authority or the requested State believes that it is liable to impair its sovereignty or its security.

Execution may not be refused on the sole ground that the law of the requested State provides for exclusive judicial competence in the case in question or envisages no course of law corresponding to the object of the claim made to the requesting authority or because it aims at a result which is not recognized under the law of the requested authority.

In the event that the requested judicial authority refuses to execute a letter rogatory, it shall issue a reasoned decision.

Article XXIV. The authorities of the Contracting States shall be empowered to appeal against decisions of the judicial authority, refusing to execute a letter rogatory.

They shall also be empowered to request the cancellation of documents confirming the execution of a letter rogatory where the rights of the defence have been violated or where transmittal of the judicial mandate has been irregular.

Article XXV. When the address of the person who is being summoned for a hearing is incomplete or inaccurate, the requested authority shall nevertheless attempt to fulfil the request made to it. For that purpose, it may ask the requesting State for additional information so as to be able to identify and locate the person concerned.

Section II. LETTERS ROGATORY IN PENAL MATTERS

Article XXVI. Letters rogatory in penal matters shall be transmitted in accordance with the provisions of article IV above.

Letters rogatory shall be sent together with the documents concerning their execution through the channel provided for in article IV.

The requested State shall have letters rogatory transmitted to it by the requesting State executed by its competent judicial authorities in accordance with formalities provided for under its legislation.

The requested State may transmit only certified copies or photocopies of the files or documents requested. However, if the requesting State specifically asks for the transmittal of the originals, this request shall be met as far as possible.

Article XXVII. At the express wish of the requesting State, the requested State shall inform it in good time of the date and place of execution of the letter rogatory. The authorities and the persons concerned may be present at the execution if the requested State agrees.

Article XXVIII. The requested State may delay the transmittal of exhibits, files and documents requested from it, if it needs them for an ongoing criminal case.

Exhibits and the originals of files and documents which have been transmitted in execution of a letter rogatory shall be returned as soon as possible by the requesting State to the requested State, unless the latter waives its right to them.

Article XXIX. The execution of letters rogatory shall not give rise to the refunding of any costs save the fees of experts.

Article XXX. The execution of a letter rogatory in criminal matters may be refused if the requested State believes that the execution of the request is liable to impair its sovereignty, security or public policy.

It shall be refused if the request relates to crimes which are considered by the requested State to be violations of military obligations not constituting crimes under ordinary law.

CHAPTER V. APPEARANCE OF WITNESSES IN CRIMINAL MATTERS

Article XXXI. If, in a criminal case, the personal appearance of a witness is necessary, the Government of the State in which he is resident shall call upon him to answer the summons. If he does, his travel expenses and subsistence allowance, which shall be calculated from his place of residence, shall be at least equal to those provided for under the scales and regulations in force in the State in which the hearing is to take place. At his request, he should be advanced all or part of the travel expenses by the consular authorities of the requesting State.

Article XXXII. No witness who is summoned in one of the two States and voluntarily appears before the judicial authorities of the other State may be prosecuted or detained in the latter State for offences or convictions antedating his departure from the territory of the requested State. This immunity shall cease fifteen days after the date on which the testimony has been completed and/or the return of the witness has become possible.

Article XXXIII. Requests for the sending of witnesses who are in custody shall be transmitted in accordance with the provisions of article IV.

Such requests shall be complied with, unless there are special objections, on the understanding that the said persons in custody are returned promptly.

The costs arising from such transfers shall be borne by the requesting State.

CHAPTER VI. JUDICIAL RECORDS

Article XXXIV. The Contracting Parties shall report to each other all convictions entered in the judicial records pronounced by their respective courts against nationals and persons born in the territory of the other State.

Article XXXV. In proceedings before a court of one of the Contracting Parties, the *parquet* of that court may obtain directly from the competent authorities of the other State an extract from the judicial records relating to the person against whom the proceedings are being taken.

Article XXXVI. Where, other than in the case of proceedings, the judicial or administrative authorities of one of the Contracting Parties wish to receive an extract from the judicial records of the other Party, they may obtain it directly from the competent authorities in the instances and within the limits prescribed in the legislation of that Party.

CHAPTER VII. INDICTMENT FOR THE PURPOSES OF PROSECUTION

Article XXXVII. Any indictment by one of the two States with a view to prosecution before the courts of the other State shall be communicated through the Ministries of Justice of the two States.

The requested State shall report the action taken on the indictment and, where appropriate, shall transmit a copy of the decision rendered.

CHAPTER VIII. CIVIL REGISTER AND AUTHENTICATION

Article XXXVIII. When the national civil registry services of one of the Contracting Parties register a civil certificate concerning a national of the other Contracting Party, they shall report the fact to the consular authorities of that State.

Article XXXIX. Each of the Government shall transmit to the Government of the other Contracting Party copies of the certificates referred to in article XLII issued in its territory and concerning its nationals.

Copies of such documents issued or rendered during the preceding quarter shall be transmitted within three months.

The Governments of the State of which the person concerned is a national shall enter in the civil register which it maintains appropriate particulars from such copies

and extracts in the margin of the birth or marriage certificates of the persons concerned.

Article XL. The competent authorities of the Contracting Parties shall issue, free of charge, copies of extracts from the civil register made out in the respective territories of each of the States, when so requested, for a duly specified administrative reason or for needy citizens.

They shall also issue, free of charge, copies of extracts from the civil register made out in the respective territories of the two States, where such extracts relate to aliens who are nationals of a third country or stateless persons and are requested for a duly specified administrative reason.

Extracts from the civil register made out or transcribed in diplomatic and consular posts shall be equated with extracts from the civil register made out in the respective territories of the two States.

Issue of copies of extracts from the civil register shall in no way prejudice the question of the nationality of the person concerned so far as the two States are concerned.

Article XLI. Such requests made by the French authorities or by the Dahomean authorities shall be transmitted to the Dahomean local authorities and the French local authorities by the competent diplomatic missions or consular posts.

Requests shall state briefly the grounds on which they are made.

Article XLII. Extracts from the civil register, as referred to in articles XXXVIII, XXXIX and XL above, mean, *inter alia*:

- Birth certificates;
- Declarations of still birth;
- Certificates of recognition of natural children made out by civil registrars;
- Certificates of legitimation;
- Marriage certificates;
- Death certificates;
- Transcripts of judgements or decisions relating to divorce and separation;
- Transcripts of court orders, judgements or decisions in matters relating to the civil status of individuals.

Article XLIII. Documents emanating from the judicial or other competent authorities of one of the two States and documents of which the accuracy and the date, the veracity of the signature and conformity with the original are certified by them shall be exempt from the requirement of authentication and all similar formalities when they have to be produced in the territory of the other State.

CHAPTER IX. THE RECOGNITION AND EXECUTION OF DECISIONS IN CIVIL, SOCIAL AND COMMERCIAL MATTERS

Article XLIV. In civil, commercial and social matters, decisions in adversary and non-adversary proceedings rendered by the courts in the territory of the French Republic or the territory of the Republic of Dahomey shall be recognized automatically in the territory of the other State provided that they satisfy the following conditions:

- (a) The decision was rendered by a court competent under the rules concerning conflicts of competence which are admitted in the State in which the decision is executed;
- (b) The decision has, under the law of the State in which it was rendered, acquired the force of *res judicata* and is enforceable;
- (c) The parties have been duly summoned, represented or declared in default;
- (d) The decision contains nothing contrary to the public policy of the State in which it is invoked or to the principles of the public law applicable in that State;
- (e) The decision must not conflict with a judicial decision which has been rendered in that State and has the force of *res judicata*.

Article XLV. The decisions referred to in the preceding article and decisions which are provisionally enforceable may be enforced by the authorities of the other State or be the subject of a formal procedure initiated by those authorities, for example, by entries or corrections in the civil registers, only if they have been declared enforceable.

In matters relating to the civil status of individuals, however, foreign judgements may be published without grant of execution in the civil registers if there is no impediment in the law of the State in which the registers are kept.

Article XLVI. Whatever the value of the dispute, execution shall be granted by the president of the high court or the court of the place where execution is to be carried out.

The president shall proceed and take a decision in the way provided for exceptional proceedings.

Article XLVII. The president shall confine himself to establishing whether the decision for which a grant of execution is requested satisfies the conditions laid down in article XLIV in order to be recognized *ipso facto*.

He shall automatically proceed with such an examination and record the outcome in the decision.

He shall, where necessary, order the requisite measures to ensure that the decision for a grant of execution is publicized in the same way as if it had been rendered in the State in which it is declared enforceable.

Execution may be granted for only part of the decision invoked.

Article XLVIII. The decision granting execution shall be binding on the parties concerned and throughout the territory to which this Agreement applies.

It shall, as from the date on which the grant of execution is obtained, make it possible for the decision which has been rendered enforceable to have, in so far as enforcement measures are concerned, the same effect as if it had been rendered by the court which has granted execution on the date on which execution was granted.

Article XLIX. The party invoking recognition of a judicial decision or requesting its execution shall produce:

- (a) A duly certified copy of the decision;
- (b) The original of the certificate of service of the decision or of any other equivalent document;

- (c) A certificate of the court clerk establishing that there is no objection to or appeal against the decision, or any appeal to the court of cassation;
- (d) Where necessary, a copy of the summons served on the defaulting party, certified as a true copy by the clerk of the court which rendered the decision.

Article L. Arbitral awards rendered in either State shall be recognized and enforced in the other State in accordance with the provisions of the New York Convention of 10 June 1958¹ on the Recognition and Enforcement of Foreign Arbitral Awards.

Article LI. Legal instruments and legalized instruments, including notarized documents, which are enforceable in either State shall be declared enforceable in the other by the president of the court referred to in the first paragraph of article XLVI in accordance with the law of the State in which they are to be executed.

The said authority shall merely ascertain whether the instruments meet the requirements for authenticity in the State in which they have been received and whether enforcement of their provisions is not contrary to the public policy of the State where enforcement is requested or to the principles of public law of that State.

Article LII. Land mortgage contracts concluded in either State shall be registered and shall be valid in the other State only when the document containing the agreement has been rendered enforceable by the competent authority in accordance with the law of the Party in which registration is requested.

The said authority shall merely ascertain that the documents and the pertinent power of attorney meet all the requirements for validity in the country in which they are received.

The preceding provisions shall also apply to documents recording the satisfaction or reduction of mortgages signed in either Party.

CHAPTER X. EXTRADITION

Article LIII. The Contracting Parties undertake to surrender to each other, in accordance with the rules and conditions laid down in the following articles, persons in the territory of either State who are the subject of proceedings or have been sentenced by the judicial authorities of the other State.

Article LIV. The Contracting States shall not extradite their own nationals. Nationality shall mean the nationality at the time of the commission of the offence for which extradition is requested.

The requested Party undertakes, however, in so far as it is competent to judge them, to have recourse to its judicial authorities in order to institute proceedings, in accordance with its own legislation, against any of its nationals who have committed offences in the territory of the other State, when it has received from the other Party through the diplomatic channel, a request for proceedings accompanied by the files, documents, exhibits and information in its possession.

The requesting Party shall be informed of the results of the request.

¹ United Nations, *Treaty Series*, vol. 330, p. 3.

Article LV. The following shall be subject to extradition:

1. Persons against whom proceedings are being taken for crimes or offences punishable under the laws of both Contracting States by at least two years' imprisonment;
2. Persons who, for crimes or offences punishable under the law of the requested State, are sentenced *audiatur et altera pars* or in default by the courts of the requesting State to at least two months' imprisonment.

Article LVI. Extradition may be refused if the offence in respect of which it is requested is regarded as a political offence or as an offence allied to a political offence.

For the purposes of this Agreement, an attempt on the life of a Chief of State or a member of his family shall not be considered to be a political offence.

Article LVII. Extradition shall be granted, under the conditions laid down in this Agreement, in matters relating to taxes, duties, customs and foreign exchange, when so decided by a simple exchange of letters for each specially designated offence or category of offences.

Article LVIII. Extradition for military offences which do not constitute offences under ordinary law shall be excluded from the field of application of this Agreement.

Article LIX. Extradition shall be refused:

- (a) If the offences in respect of which it is requested have been committed wholly or partly in the requested State;
- (b) If a final judgement on the offences has been rendered in the requested State;
- (c) If the act or the sentence falls under the statute of limitations in accordance with the legislation of the requesting State or of the requested State at the time of the latter's receipt of the request;
- (d) If the offences have been committed outside the territory of the requesting State by a person who is not a national of that State and the legislation of the requested country does not authorize proceedings in connection with such offences when they are committed outside its territory by an alien;
- (e) If an amnesty has been declared in the requesting State;
- (f) If an amnesty has been declared in the requested State, provided that it relates to an offence committed outside its territory by an alien whom it is empowered to prosecute.

Extradition may be refused if the offences are the subject of proceedings in the requested State or judgement on them has been rendered in a third State.

Article LX. A request for extradition shall be sent through the diplomatic channel.

It shall be accompanied by the original or a certified copy of either an enforceable sentence of a warrant of arrest or any other document having the same force and issued in the manner prescribed by the law of the requesting State.

The circumstances of the acts in respect of which extradition is requested, the time and place of their commission, their designation in law and references to the provisions applicable thereto shall be stated as accurately as possible. A copy of the

relevant legal provisions shall also be attached and, so far as possible, the particulars of the person claimed and any information which will help to establish his identity and nationality.

Article LXI. In an emergency, provisional arrest shall be made at the request of the competent authorities of the requesting State, pending receipt of the request for extradition and the documents referred to in the second paragraph of article LX.

A request for provisional arrest shall be sent to the competent authorities of the requested State either directly by post or telegraph or by any other means affording evidence in writing. It shall, at the same time, be confirmed through the diplomatic channel.

It shall state that one of the documents mentioned in the second paragraph of article LX exists and that it is intended to send a request for extradition.

It shall state the offence in respect of which extradition is requested, when and where it was committed, and particulars of the person claimed, which shall be as accurate as possible. The requesting authority shall be informed without delay of the result of its request.

Article LXII. Provisional arrest may be terminated if, within a period of 20 days after the arrest, the requested authorities have not received any of the documents mentioned in the second paragraph of article LX.

Release shall not prejudice re-arrest if a request for extradition is received subsequently.

Article LXIII. Where supplementary information is essential to ensure that the conditions laid down in this Agreement are fulfilled, the requested State, when it feels that the omission can be rectified, shall advise the requesting State through the diplomatic channel before it refuses the request.

A time-limit may be set by the requested State for the receipt of such information.

Article LXIV. If extradition is requested concurrently by more than one State, either for the same offence or for different offences, the requested State shall make its decision freely, having regard to all the circumstances and especially the possibility of subsequent extradition between the requesting States, the respective dates of the requests, the relative seriousness and the place of commission of the offences.

Article LXV. Where there are grounds for extradition, all property which may serve as evidence or has been acquired as a result of the offence and is found at the time of his arrest in the possession of the person claimed, or is discovered subsequently, shall, upon demand of the authorities of the requesting State, be confiscated and handed over to those authorities.

Such property may be handed over even if extradition cannot be effected because of the flight or death of the person claimed.

The rights acquired by third parties to such property are, nevertheless, reserved, and, if such rights exist, the property must be returned as soon as possible and without cost to the requested State on completion of the proceedings instituted in the requesting State.

If the authorities of the requested State deem it necessary for the purpose of criminal proceedings, they may temporarily retain the seized property.

In handing over the property, they may reserve the right to demand its return for the same reasons, undertaking to send it back as soon as possible.

Article LXVI. The requested State shall inform the requesting State through the diplomatic channel of its decision with regard to extradition.

Reasons shall be given for any complete or partial rejection.

If the request is agreed to, the requesting State shall be informed of the place and date of surrender and of the duration of detention undergone with a view to the extradition of the claimed person.

Except as provided for in the last paragraph of this article, if the claimed person is not taken over on the date fixed, he may be released after the expiry of a time-limit of 15 days from that date and must in any event be released after the expiry of a time-limit of 30 days. The requested State may refuse to extradite the person for the same offence.

If exceptional circumstances prevent the person who is to be extradited from being surrendered or taken over, the State concerned shall inform the other State before the period expires. The two States shall agree on another date for surrender, and the provisions of the preceding paragraph shall apply.

Article LXVII. If the person claimed is the subject of proceedings or has been sentenced in the requested State for an offence other than the one giving rise to the request for extradition, the latter State shall nonetheless take a decision on the request and inform the requesting State of its decision regarding the extradition, in the manner prescribed in the first and second paragraphs of the preceding article. If the request is agreed to, surrender shall, however, be deferred until the legal requirements of the requested State have been met.

Surrender shall take place on a date to be determined in accordance with the provisions of the preceding article.

The provisions of this article shall not prevent the person concerned from being sent temporarily to appear before the judicial authorities of the requesting State, on the express condition that he shall be returned once those authorities have rendered their judgement.

Article LXVIII. A person who has been extradited may not be the subject of proceedings or be sentenced or detained for the purpose of carrying out a sentence for any offence committed prior to his surrender other than the offence which has given rise to the extradition, except in the following cases:

1. When the person who is extradited, having been free to leave the territory of the State to which he has been surrendered, has not done so within 30 days of his final discharge or has returned to that State after leaving it;
2. When the State which surrendered him consents. A request for consent shall be submitted, accompanied by the documents referred to in the second paragraph or article LX and by a legal record of any statement by the extradited person on the extension of the extradition and mentioning the opportunity afforded to him to submit a memorandum in his own defence, to the authorities of the requested State. When the designation of the offence is altered in the course of the proceedings, the person extradited shall be the subject of proceedings or sentenced

only in so far as the factors constituting the newly designated offence would permit extradition.

Article LXXIX. Except in cases where the person concerned has remained in the territory of the requesting State under the conditions laid down in the preceding article or is returned to that territory under such conditions, the consent of the requested State shall be required to enable the requesting State to hand over the person surrendered to it to a third State.

Article LXX. Transit through the territory of one of the Parties of a person extradited by a third State to the other Party shall be accorded on the basis of a request made through the diplomatic channel and accompanied by the documents envisaged in the second paragraph of article LX.

However, if air transportation is used and no landing is envisaged, the requesting Party shall notify the Party whose territory is being flown over and confirm the existence of one of the documents envisaged in the second paragraph of article LX. In the event of an unscheduled landing, the arrest shall have the same effect as the request for provisional arrest envisaged in article LXI.

When the requested transit State has also requested the extradition of the person concerned, he may be detained in transit until the requirements of the law in that State have been met.

Article LXXI. Expenses incurred under the procedures described in this chapter shall be borne by the requesting State, it being understood that no claims shall be made for the costs of proceedings or of imprisonment.

CHAPTER XI. EXECUTION OF SENTENCES

Article LXXII. Any national of either of the Contracting Parties who has been given a sentence involving imprisonment or a more serious sentence may, at the request of either Government, and with the express consent of the person sentenced, be transferred to the authorities of the State of which he is a national.

The costs of the transfer shall be borne by the requesting State.

Article LXXIII. The State in which the sentence is enforced shall decide in matters concerning conditional release, notice being given to the State to which the court that has pronounced the sentence belongs.

Article LXXIV. Reprieve and amnesty shall be within the competence of the State to which the court that has pronounced the sentence belongs.

Article LXXV. Where a court of one State pronounces the death sentence on a national of the other State, a petition for a reprieve shall be entered automatically and the diplomatic representatives of that State shall be informed forthwith.

CHAPTER XII. FINAL PROVISIONS

Article LXXVI. This Agreement replaces and abrogates the Agreement concerning co-operation in the field of justice of 24 April 1961.¹

¹ United Nations, *Treaty Series*, vol. 811, p. 147.

It is concluded for a period of two years renewable by tacit agreement. Notice of termination shall be given through the diplomatic channel at least six months in advance.

This Agreement shall enter into force on the first day of the second month following the exchange of instruments of approval, which shall take place at Paris as soon as possible.

DONE at Cotonou on 27 February 1975.

For the Government of the French Republic:

[Signed]

PIERRE ABELIN
Minister for Co-operation

For the Government of the Republic of Dahomey:

[Signed]

MICHEL ALLADAYE
Minister for Foreign Affairs and Co-operation
