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**FRANCE
and
NIGER**

**Convention on co-operation in judicial matters. Signed at
Niamey on 19 February 1977**

Authentic text: French.

Registered by France on 20 February 1981.

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[TRANSLATION — TRADUCTION]

CONVENTION¹ ON CO-OPERATION IN JUDICIAL MATTERS
BETWEEN THE FRENCH REPUBLIC AND THE REPUBLIC
OF THE NIGER

PART I. RECIPROCAL LEGAL ASSISTANCE

*Chapter I. TRANSMITTAL AND SERVICE OF WRITS AND
EXTRAJUDICIAL DOCUMENTS*

Section I. WRITS AND EXTRAJUDICIAL DOCUMENTS IN CIVIL, SOCIAL,
COMMERCIAL AND ADMINISTRATIVE MATTERS

Article 1. Requests for service and notification of writs and extrajudicial documents in civil, social, commercial and administrative matters from one of the two Contracting States shall be received by the central authorities of the requested State, i.e., by the Ministry of Justice.

Article 2. Receipts, certificates and reports relating to the service or non-service of documents shall be retransmitted directly to the requesting judicial authority.

Article 3. The central authorities of the two Contracting Parties shall arrange for service or notification of documents through the channel which they consider most appropriate, whether it be through a process-server, notification by an agent appointed for that purpose or simply by postal channels or any other means.

They may also arrange for service or notification by a special method requested by the requesting State, provided that it is not incompatible with the laws of the requested State.

The authority requested by the central authority to arrange for the service or notification of a document may always serve it by simple summons or by postal channels. In that case, it must be possible to reach the addressee in a manner deemed to be certain and reliable; notification shall then be given by registered letter with return receipt requested.

Article 4. The provisions of the above articles do not preclude:

- (a) The option of mailing writs directly to persons abroad;
- (b) The option for nationals of either Contracting Party of directly requesting officers of the Court of either State to effect service;
- (c) The option for officers of the Court, civil servants or other competent persons of the State of origin of arranging for service or notification of documents directly through the officers of the Court, civil servants or other competent persons of the State of destination;
- (d) The option for the Contracting States of arranging for writs and extrajudicial documents addressed to their own nationals to be served directly and freely

¹ Came into force on 21 February 1980, i.e., 30 days after the exchange of notifications confirming the completion of the required constitutional procedures, in accordance with article 77.

by their respective consuls. In the event of a conflict of laws, the nationality of the document's addressee shall be determined by the law of the State in which service is to be effected.

Article 5. Requests for forwarding and writs shall be submitted in duplicate.

Documents shall be accompanied by a record card summarizing their main content to be served to the addressee. A model of a record card¹ is annexed to the present Convention. The particulars on this card refer, *inter alia*, to the requesting authority, identity of the parties, nature of the document in question, subject of the petition, amount in dispute, date and place of court appearance, time-limits stipulated in the document and court rendering the decision.

Article 6. Proof of delivery of a document shall consist either of a marginal note, receipt or acknowledgement dated and signed by the addressee or of a certificate or report issued by the requested authority confirming that delivery has been effected and indicating the method and date thereof.

These documents shall be accompanied by one of the copies of the document served.

If the request for forwarding has not been executed, the requested authority shall return the document forthwith to the requesting authority, and shall state the reason why the document could not be served, particularly in cases where the addressee has refused to accept it.

Article 7. The cost of serving or attempting to serve writs shall not be refunded.

However, the cost incurred as a result of the intervention of an officer of the court, or of service by a special method, shall be defrayed by the requesting party.

Article 8. If the address of the person on whom the document is to be served is incomplete or inaccurate, the requested authority shall nevertheless endeavour to satisfy the request made to it. For that purpose, it may ask the requesting State for additional information that would enable it to identify and locate the person concerned.

Article 9. Execution of a request for service or notification may be refused only if the requested State deems it likely to impair its sovereignty or security.

Section II. JUDICIAL DOCUMENTS, JUDICIAL DECISIONS AND APPEARANCE OF WITNESSES IN CRIMINAL MATTERS

Article 10. Judicial documents and judicial decisions which are to be notified to persons in the territory of one of the two States shall be sent directly by the *parquet* of the requesting State to the *parquet* of the requested State.

However, these documents may also be transmitted through the diplomatic channel.

Article 11. The requested State shall effect the delivery of judicial documents and judicial decisions transmitted to it for that purpose by the requesting State.

¹ A model of a record card was not submitted by the French Government.

Such delivery may be effected by a simple handing over of the document or decision to the addressee. At the express instance of the requesting State, the requested State shall effect delivery by a method prescribed in its legislation for the service of similar documents.

Proof of delivery shall consist either of a receipt dated and signed by the addressee, or of a statement issued by the requested authority confirming that delivery has been effected and indicating the method and date thereof. The document showing proof of delivery shall be transmitted forthwith to the requesting State. On the application of the requesting State, the requested State shall indicate whether delivery was effected in accordance with its law. If it was not possible to deliver the document, the requested State shall inform the requesting State forthwith why delivery could not be effected.

A summons to appear in court issued to an accused person must be received by the requested State at least two months before the date set for the appearance of that person.

Article 12. Costs incurred in carrying out requests for reciprocal assistance under articles 10 and 11 above shall not be refunded.

Article 13. If, in a criminal case, the personal appearance of a witness is necessary, the requested State in whose territory the witness is resident shall urge him to accept the request which will be made to him. 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 shall be advanced all or part of the travel expenses by the consular authorities of the requesting State.

No witness who is summoned in one of the two States and voluntarily appears before the judicial authorities of the other State shall be prosecuted or detained in the latter State by reason of acts committed or a conviction pronounced prior to his departure from the territory of the requested State. This immunity shall cease 30 days after the date on which the testimony has been completed and the witness has been given the opportunity to return.

Article 14. Requests for the sending of witnesses being held in custody shall be addressed to the Ministry of Justice of the other State.

Such requests shall be complied with, unless there are special objections, subject to such persons being returned promptly.

The costs incurred as a result of transfers of this type shall be defrayed by the requesting State.

Chapter II. TRANSMISSION AND EXECUTION OF LETTERS ROGATORY

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

Article 15. 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 States shall also have the right to cause letters rogatory concerning the hearing of their nationals, their investigation by experts, and the

production and examination of documents to be executed directly and freely by their diplomatic or consular agents. In the event of a conflict of laws, the nationality of the person in respect of whom the hearing is requested shall be determined by the legislation of the State in which the letter rogatory is to be executed.

Article 16. Letters rogatory shall be transmitted by the central authorities of the two Contracting States in accordance with the provisions of article 1 above.

The documents confirming the execution of letters rogatory and, if necessary, information relating to their execution shall be transmitted by the same channel.

Article 17. The requested authority shall announce the date and place of execution of the request so that the parties concerned and, if necessary, their representatives may be present.

Article 18. The judicial authority which executes a letter rogatory shall apply the laws of its country with respect to the formalities to be observed.

However, on application of the requesting authority, the requested authority shall execute the letter rogatory by means of a special method, unless the method conflicts with the legislation of the requested State, or it cannot be executed, either because of the legal customs of the requested State or because of practical difficulties.

The letter rogatory must be executed without delay.

Article 19. In executing the letter rogatory, the requested authority shall apply the appropriate means of coercion provided for in its national law.

Article 20. When the letter rogatory remains unexecuted in whole or in part, the requesting authority shall immediately be so informed by the same channel and the reasons shall be communicated to it.

Article 21. The cost of executing letters rogatory shall not be refunded.

However, the requested State has the right to require the requesting State to reimburse compensation paid to experts, interpreters and witnesses as well as the cost of execution by means of a special method requested by the requesting State.

Article 22. Execution of a letter rogatory may be refused only if it does not fall within the powers of the judicial authority or if the requested State deems it likely to impair its sovereignty or security.

Execution may not be refused for the sole reason that the law of the requested State claims exclusive legal competence in the matter or does not provide for legal recourse in respect of the subject of the request made to the requested authority, or because execution might have a result which would be inadmissible under the law of the requested authority.

If the requested judicial authority refuses to execute a letter rogatory, it shall issue a pronouncement indicating the grounds.

Article 23. The authorities of the Contracting States are entitled to appeal against the decision by which the judicial authority refuses to execute a letter rogatory.

They are also entitled to request the annulment of the documents confirming the execution of a letter rogatory if the rights of the defence have been violated or if the transmission of the warrant was irregular.

Article 24. If the address of the person whose examination is requested is incomplete or inaccurate, the requested authority shall nevertheless endeavour to satisfy the request made to it. For that purpose, it may ask the requesting State for additional information that would enable it to identify and locate the person concerned.

Section II. LETTERS ROGATORY IN CRIMINAL MATTERS

Article 25. Letters rogatory in criminal matters shall be sent directly by the Ministry of Justice of the requesting State to the Ministry of Justice of the requested State.

In urgent cases, they may be sent directly by the judicial authorities of the requesting State to the judicial authorities of the requested State. If the requested authority is not competent to execute the letter rogatory, it shall automatically transmit it to the competent authority and promptly inform the requesting authority accordingly. Letters rogatory, together with the documents relating to their execution, shall be returned through the channel prescribed in the preceding paragraph.

The requested State shall, by the methods prescribed by its legislation, execute letters rogatory relating to a criminal case which are sent to it by the judicial authorities of the requesting State and whose purpose, *inter alia*, is to obtain records of the investigation or exhibits, files or documents.

The requested State may transmit only certified true copies or photocopies of the files or documents requested. However, if the requesting State expressly asks for the originals to be produced, its request shall be complied with as far as possible.

Article 26. On the express application 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 competent authorities and the parties concerned may be present at such execution if the requested State consents thereto.

Article 27. The requested State may delay the delivery of articles, records or documents whose communication is requested if they are required for criminal proceedings in progress.

Both the articles and the originals of records and documents which have been communicated in execution of a letter rogatory shall be returned as soon as possible by the requesting State to the requested State, unless the latter signifies otherwise.

Article 28. The cost of executing letters rogatory, save for the fees of experts, shall not be refunded.

Chapter III. COMMON PROVISIONS

Article 29. Reciprocal legal assistance in criminal matters may be refused if the requested State deems that the execution of the request is likely to impair its sovereignty, security or public policy.

Chapter IV. COURT RECORDS

Article 30. The two States shall report to each other all convictions entered in the court records pronounced by the courts of one State against nationals of the other State and against persons born in the territory of the other State.

Article 31. In proceedings before a court of one of the two States, the *parquet* of that court may obtain direct from the competent authorities of the other State an extract from the court records relating to the person against whom the proceedings are being taken.

Where, other than in the case of proceedings, the judicial or administrative authorities of one of the two States wish to receive an extract from the court records of the other State, they may obtain it direct from the competent authorities, in the instances and within the limits prescribed in the legislation of that State.

Chapter V. REPORTS WITH A VIEW TO PROSECUTION

Article 32. Any report made by one of the two States with a view to prosecution before the courts of the other State shall be the subject of communications between the Ministries of Justice.

The requested State shall inform the requesting State of the action taken on the report and shall, if appropriate, transmit a copy of the decision reached.

Chapter VI. CIVIL REGISTER AND AUTHENTICATION

Article 33. The two States shall, at the times specified below, transmit to each other a copy or the original of certificates of civil registration and, in particular, certificates of recognition of natural children, certificates of adoption, marriage certificates, death certificates and certificates of legitimation issued in their territory, as well as extracts of judgements and decisions rendered with respect to divorce, separation, filiation, civil registration and deprivation of legal capacity which concern persons born in the territory of the other State.

The two States shall also transmit to each other extracts of judgements and decisions rendered with respect to divorce and separation which concern persons who were married in the territory of the other State.

Copies and extracts of such documents, certificates, judgements and decisions issued or rendered during the preceding quarter shall be transmitted during the current quarter.

Appropriate particulars from such copies and extracts shall be entered in the margin of the birth or marriage certificates of the persons concerned at the request of the recipient State.

In the event of marriage between a national of France and a national of the Niger the competent civil registrars of the State of residence shall send a copy of the marriage certificate to the competent consul of the other State.

Article 34. The competent authorities of France and the Niger shall issue free of charge copies of extracts from the civil register made out in the respective territories of the two States when requested to do so for a duly specified administrative reason or for their indigent nationals.

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 nationals of a third State or to stateless persons and copies of them are requested for a duly specified administrative reason.

Extracts from the civil register made out or transcribed at diplomatic missions and consular posts shall be deemed to be equivalent to extracts from the civil register made out in the respective territories of the two States.

The fact that copies of extracts from the civil register have been issued shall in no way prejudice the question of the nationality of the person in question as far as the two States are concerned.

Article 35. Requests made by the authorities of France and by the authorities of the Niger respectively shall be transmitted to the local authorities of the Niger and to the local authorities of France by the competent diplomatic missions or consular posts.

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

Article 36. Extracts from the civil register, as referred to in articles 34 and 35 above, shall mean:

- Birth certificates;
- Declarations of still births;
- Certificates of recognition of natural children made out by civil registrars or public officials;
- Certificates of adoption;
- 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 register.

Article 37. Documents issued by the judicial authorities or other competent authorities of either of the two States, as well as documents whose validity and date, authenticity of signature or conformity to the original are certified by them, shall be exempt from authentication or any similar formality, where they must be produced in the territory of the other State.

Chapter VII. ACCESS TO COURTS, SECURITY FOR PAYMENT UNDER JUDGEMENTS (JUDICATUM SOLVI) AND LEGAL AID

Article 38. Nationals of either of the two States shall, in the territory of the other State, have free access to the courts for the purpose of claiming and defending their rights.

Article 39. No security or deposit in any form shall be required of the nationals of either of the two States in the territory of the other State by reason either, of their status as aliens or of their lack of domicile or residence in the country.

The preceding paragraph shall apply to bodies corporate set up or authorized under the laws of either of the two States.

Article 40. Nationals of either State shall be entitled in the territory of the other State to the benefit of legal aid on the same basis as nationals of that State, provided that 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 of 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 State, the certificate shall be issued by the diplomatic or consular official of the country of which he is a national.

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

Chapter VIII. MISCELLANEOUS PROVISIONS

Article 41. The central authorities of the two Contracting States may, within the context of legal aid, and if nothing stands in the way, request from each other information or investigations in connection with civil or administrative proceedings before their judicial authorities and may transmit to each other copies of judicial decisions free of charge.

Under procedures to protect minors, they shall provide mutual assistance in the search for and voluntary repatriation of minors and shall inform each other of the protective measures taken by their authorities. Under procedures for the collection of alimony abroad, they shall assist each other in the search for and examination of defaulters residing in their territory as well as in the out-of-court collection of alimony.

Article 42. The Contracting Parties shall establish a regular exchange of information concerning judicial organization, legislation and legal practice.

Article 43. Proof of the laws and usage of one of the two States may be brought before the courts of the other State in the form of a certificate of usage issued either by the consular authorities concerned or by any qualified authority or person.

Article 44. Any national of either of the two Contracting States who has been sentenced to a term of imprisonment or to a more serious penalty must, at the request of either Government, 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 45. Conditional release shall be decided on by the State in which the sentence is enforced, on the advice of the State whose court imposed the sentence.

Article 46. Reprieve and amnesty shall be within the competence of the State whose court imposed the sentence.

Article 47. When a court of one of the two States imposes the death sentence on a national of the other State, a petition for reprieve shall in all cases be lodged automatically and the diplomatic representative of that State shall be so informed forthwith.

Article 48. *Avocats* members of a French bar may assist or represent parties in all courts of the Niger, during the preparation of the case and at the hearing, under the same conditions as *avocats* members of a bar of the Niger. On the basis of reciprocity, *avocats* members of a bar of the Niger may assist or represent parties in all French courts, during the preparation of the case and at the hearing, under the same conditions as *avocats* members of a French bar.

However, an *avocat* who exercises the right to assist or represent parties in a court of the other State shall, for the receipt of all notifications stipulated by law, elect as his domicile the office of an *avocat* of that State.

PART II. RECOGNITION AND EXECUTION OF DECISIONS
IN CIVIL, SOCIAL AND COMMERCIAL MATTERS

Article 49. In civil, social or commercial matters, decisions in adversary or non-adversary proceedings rendered by all courts in the territory of the French Republic or in the territory of the Republic of the Niger shall be recognized *ipso jure* in the territory of the other State if they satisfy the following conditions:

- (a) The decision was rendered by a court which is competent under the conflict of jurisdiction rules of the requested State;
- (b) The decision, under the law of the State in which it was rendered, is no longer subject to ordinary appeal or appeal to the Court of Cassation;
- (c) The parties have been properly summoned, represented or declared in default;
- (d) The decision contains nothing contrary to the public policy of the State in which it is invoked;
- (e) An action involving the same parties, based on the same facts and having the same objectives:
 - Is not pending before a court of the requested State; or
 - Has not given rise to a decision rendered in the requested State; or
 - Has not given rise to a decision rendered in another State and meeting the necessary conditions for its recognition in the requested State.

Recognition or execution may not be refused for the sole reason that the court of origin applied a law other than that which would have been applicable under the rules of private international law of the requested State, except in respect of personal status or capacity. In the latter cases, recognition or execution may not be refused if the application of the law designated by those rules would have led to the same result.

Article 50. The decisions recognized in accordance with the preceding article and capable of being executed in the State of origin shall not be the subject of compulsory execution by the authorities of the other State or be the subject of a formal procedure initiated by those authorities, such as entries or transcripts in the civil register, until they have been declared executory in that State.

However, in matters involving personal status, foreign judgements may be published in the civil registers without a grant of execution if the law of the State in which the registers are maintained so allows.

Article 51. Execution shall, irrespective of the value in dispute, be granted by the president of the *tribunal de grande instance* or of the *tribunal de première instance* at the place where the decision is to be executed.

The president shall consider the case and make his ruling in the manner prescribed for summary proceedings (*référés*).

Article 52. A party qualifying for legal aid in the State of origin shall be granted it without further investigation within the limits laid down by the legislation of the requested State in respect of documents and procedures to make a decision recognized or render it executory, and in respect of documents and procedures to enforce the decision granting execution.

Article 53. The president shall confine himself to establishing whether the decision for which enforcement is requested satisfies the conditions laid down in article 49.

He shall automatically proceed with such an examination and report the outcome in his ruling.

He shall, where necessary, order the requisite measures to ensure that the decision for which execution is requested 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 54. The ruling granting execution shall be binding on all parties concerned and throughout the territory to which this Convention applies.

The ruling granting execution 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, as 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 55. The party to the proceedings which invokes the authority of a judicial decision or requests execution thereof shall produce:

- (a) A copy of the decision meeting the requirements for authenticity;
- (b) The original of the certificate of service of the decision or of any other equivalent document;
- (c) A certificate of the clerk of court establishing that there is no objection to or appeal against the decision or recourse to the Court of Cassation;
- (d) Where applicable, 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 56. Arbitral awards rendered in either State shall be recognized in the other State and may be declared enforceable in that State if they satisfy the conditions laid down in article 49 in so far as those conditions are applicable. Execution shall be granted in the manner established in the above articles.

Article 57. Legal instruments, including notarized and authenticated documents, which are enforceable in either State shall be declared enforceable in the other State by the competent authority, 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 the provisions whose execution is requested are contrary to the public policy of the State where execution is requested or to the principles of public law applicable in that State.

PART III. EXTRADITION

Article 58. The two States undertake to surrender to each other, in accordance with the rules and conditions laid down in the present Convention, 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 59. The two States shall not extradite their own nationals. Nationality status shall be determined as of the date of commission of the offence for which extradition is requested.

If the person whose extradition is requested is a national of the requested State, that State shall, at the request of the requesting State, submit the matter to its competent authorities so that legal proceedings may be initiated, where appropriate, against him. The requesting State shall be kept informed of the action taken on its request.

Article 60. The following shall be subject to extradition:

1. Persons against whom proceedings are being taken for crimes or offences punishable under the legislation of the two States by at least one year's imprisonment;
2. Persons who, for crimes or offences punishable under the legislation 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 61. Extradition may be refused if the offence in respect of which it is requested is regarded by the requested State as a political offence or as an offence connected with a political offence.

Article 62. Extradition shall be granted on the conditions laid down in the present Convention in matters relating to taxes, duties, customs and foreign exchange only when so decided by a simple exchange of letters for each specifically named offence or category of offences.

Article 63. Extradition shall not be granted if the offence in respect of which it is requested is regarded by the requested State as consisting solely of a breach of military obligations.

Article 64. Extradition shall be refused:

- (a) If final judgement on the offences has been rendered in the requested State;
- (b) If the prosecution or the penalty is barred by statutory limitation under the legislation of the requesting State or of the requested State at the time of the latter's receipt of the request;
- (c) If the offences were committed wholly or in part inside the territory of the requested State;
- (d) If the offences were committed outside the territory of the requesting State by a person not a national of that State and the legislation of the requested State does not permit prosecutions for such offences when they are committed outside its territory by an alien;
- (e) If an amnesty has been declared in the requesting State or if an amnesty has been declared in the requested State, provided that, in the latter case, the offence is among those which may be prosecuted in that State when they have been committed outside its territory by an alien.

Extradition may be refused if the offences are the subject of proceedings in the requested State or have been the subject of a judgment in a third State.

Article 65. The request for extradition shall be sent through the diplomatic channel. It shall be accompanied by the original or a certified copy of an enforceable sentence, a warrant of arrest or any other document having the same force issued in the manner prescribed by the legislation of the requesting State. The

circumstances of the acts in respect of which extradition is requested, the time and place of their commission, their legal designation and references to the legal provisions applicable thereto shall be stated.

Article 66. In urgent cases, if the competent authorities of the requesting State so request, a provisional arrest shall be made pending receipt of the request for extradition and the documents referred to in article 65.

A request for provisional arrest shall be transmitted to the competent authorities of the requested State either directly by post or telegraph or by any other means constituting a written record.

It shall indicate that one of the documents specified in article 65 exists and that the requesting authority intends to send a request for extradition.

It shall state the offence in respect of which extradition is requested and when and where the offence was committed, and shall give a description of the person sought. The requesting authority shall be informed without delay of the action taken on its request.

Article 67. Provisional arrest may be terminated if, within a period of 20 days after the arrest, the requested authority has not received any of the documents mentioned in article 65.

Release shall not preclude recourse to the extradition procedure laid down in this Part if a request for extradition is received subsequently.

However, the provisions of the preceding paragraphs shall not preclude provisional release at any time by the courts of the requested State, provided that they take such measures as they may deem necessary to prevent the flight of the person sought.

Article 68. When supplementary information is essential to the authorities of the requested State in order to ensure that the conditions laid down in the present Convention are fulfilled, those authorities, if they believe that the omission can be rectified, shall advise the authorities of the requesting State before they reject the request. A time-limit may be set by the authorities of the requested State for the receipt of such information.

Article 69. 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 independently, having regard to all the circumstances and especially the possibility of subsequent extradition as between the requesting States, the respective dates of the requests and the seriousness and the place of commission of the offences.

Article 70. When there are grounds for extradition, any articles which may serve as evidence or are associated with the offence and were found in the possession of the person sought at the time of his arrest or were discovered subsequently shall, at the instance of the authorities of the requesting State, be confiscated and handed over to those authorities.

The articles may be handed over even if extradition cannot be carried out because of the escape or death of the person sought.

However, any rights which third parties may have acquired to the said articles shall be preserved. When such rights exist, the articles shall be returned

without charge to the requested State as soon as possible after completion of the proceedings in the requesting State.

The authorities of the requested State may keep the confiscated articles temporarily, if they consider that course necessary for the purposes of criminal proceedings.

When transmitting the articles, they may reserve the right to request their return for the same reason, while undertaking to send them back as soon as possible.

Article 71. The requested State shall inform the requesting State 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 date and place of surrender.

Except as provided for in the last paragraph of this article, the requesting State shall have its agents accept the person to be extradited within a period of one month from the date determined in accordance with the third paragraph of this article. Once that period has expired, the person in question shall be released and cannot be sought again for the same offence.

If special circumstances make it impossible to surrender or receive the person who is to be extradited, the State invoking such circumstances 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 72. If the person sought is the subject of proceedings or has been sentenced in the requested State for an offence other than that giving rise to the request for extradition, the latter State shall none the less take a decision on the request and inform the requesting State of its decision regarding extradition. If the request is agreed to, however, the surrender of the person concerned shall be deferred until the requirements of justice have been satisfied in the requested State.

Surrender shall take place in accordance with the provisions of article 71. The provisions of the present article shall not prevent the person concerned from being handed over in order 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 73. A person who has been surrendered may not be the subject of proceedings or an after-trial judgement or be detained for the purpose of carrying out a sentence in respect of any offence committed prior to his surrender other than that which has given rise to the extradition, except in the following cases:

1. When the person 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 release or has returned to that territory after leaving it;
2. When the State which has surrendered him consents.

A request for consent shall be submitted, accompanied by the documents specified in article 65 and by a legal record reproducing any statements by the extradited person on the extension of the extradition and mentioning the oppor-

tunity given to him to submit a memorandum in his own defense 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 tried or judged only in so far as the factors constituting the newly designated offence provide grounds for extradition.

Article 74. Except in cases where the person concerned has remained in or has returned to the territory of the requesting State under the conditions laid down in the preceding article, the consent of the requested State shall be required for the handing over by the requesting State to a third State of the person surrendered to it.

Article 75. Extradition involving transit through the territory of either State of a person surrendered to the other State shall be granted upon application submitted by the requesting State. The documents required to establish that the offence is one giving grounds for extradition shall be furnished in support of the application. The conditions relating to the length of sentences shall be disregarded.

If air transport is used, the following provisions shall apply:

1. When a stop-over is scheduled, the requesting State shall submit an application for the transit of the person concerned to the State in whose territory the stop-over is to take place;

When the requested State of transit also has requested extradition of the person concerned, transit may be interrupted until such time as the requirements of justice have been fulfilled in that State;

2. When no stop-over is scheduled, the requesting State shall notify the State over whose territory the flight is to be made and shall certify that one of the documents listed in article 65 exists.

In the case of an unscheduled landing, such notification shall produce the same effects as the request for provisional arrest referred to in article 66, and the requesting State shall submit an application for transit on the conditions laid down in paragraph 1 of the present article.

Article 76. Costs incurred as a result of extradition in the territory of the requested State shall be borne by that State.

Nevertheless, the cost of transfer by air transport at the instance of the requesting State shall be borne by that State.

Costs incurred as a result of transit through the territory of the requested State of transit shall be borne by the requesting State.

PART IV. FINAL PROVISIONS

Article 77. This Convention shall abrogate and supersede the Agreement on judicial matters of 24 April 1961 between France and the Niger.¹

It is concluded for a period of five years, which may be extended by tacit agreement.

¹ United Nations, *Treaty Series*, vol. 1364, No. 1-23024.

It may be denounced at any time by either Contracting Party; notification of this denunciation must be given through the diplomatic channel at least three months in advance.

This Convention shall enter into force 30 days following the exchange of notifications establishing that, on both sides, the constitutional provisions in force in each of the two States have been complied with.

Either Contracting Party may at any time request the modification of one or more provisions of this Convention and the opening of negotiations to that end.

DONE at Niamey on 19 February 1977.

For the Government
of the French Republic:

[Signed]

His Excellency
Mr. ROBERT GALLEY
Minister for Co-operation

For the Government
of the Republic of the Niger:

[Signed]

His Excellency Captain
MOUMOUNI DJERMAKOYE ADAMOU
Minister for Foreign Affairs
and Co-operation