

No. 21831

**FRANCE
and
CONGO**

**Convention concerning personnel assistance provided by the
French Republic to the People's Republic of the Congo
(with protocols, annex and exchanges of letters). Signed
at Brazzaville on 1 January 1974**

Authentic text: French.

Registered by France on 12 April 1983.

**FRANCE
et
CONGO**

**Convention relative au concours en personnel apporté par
la République française à la République populaire du
Congo (avec protocoles, annexe et échanges de lettres).
Signée à Brazzaville le 1^{er} janvier 1974**

Texte authentique : français.

Enregistrée par la France le 12 avril 1983.

[TRANSLATION—TRADUCTION]

CONVENTION¹ CONCERNING PERSONNEL ASSISTANCE PROVIDED
BY THE FRENCH REPUBLIC TO THE PEOPLE'S REPUBLIC OF THE
CONGO

The Government of the French Republic,
The Government of the People's Republic of the Congo,
Conscious of the bonds which unite them,
Anxious to promote the full development of such bonds in a spirit of mutual assistance
and understanding,

Desiring to continue their co-operation at the technical, administrative, financial and
cultural levels,

Have agreed as follows:

Article I. The Government of the French Republic shall, to the best of its ability, make available to the Government of the People's Republic of the Congo the personnel whom the latter requires; such provision of personnel shall be independent of any assistance which is the subject of special conventions relating either to the operation of certain services or institutions or to the execution of temporary missions with specific objectives.

PART I. PROCEDURES FOR THE ASSISTANCE PROVIDED
BY THE FRENCH REPUBLIC

Article II. The two Governments shall draw up by mutual agreement a list of posts which may be held by personnel subject to the rules of the French civil service and made available by the French Republic to the People's Republic of the Congo. This agreement shall be reviewed annually.

For each post which the Government of the People's Republic of the Congo wishes to fill in this way, a job description shall be prepared stating the place of residence, the nature of the functions and the standards of competence of the French technical official concerned.

Within the limits of the personnel thus agreed on, the competent French authorities shall second to the People's Republic of the Congo such personnel as the French Government can supply from its own personnel resources.

In the event of termination of service prior to the end of the normal tour of duty as it is specified in article V below, the Government of the French Republic shall provide, to the best of its ability, replacements for the outgoing personnel.

Article III. Within the framework of agreements, particularly cultural agreements, concluded between the two Governments, the French Republic shall facilitate to the very best of its ability the training or advanced training in French institutions of Congolese civil servants and personnel presented by the Government of the People's Republic of the Congo.

¹ Came into force on 1 November 1981, i.e., the first day of the second month following the exchange of the instruments of approval, which took place at Paris on 30 September 1981, in accordance with article XIX.

Article IV. With a view to filling the posts referred to in article II, first paragraph, the Government of the French Republic shall at the earliest possible date submit to the Government of the People's Republic of the Congo the candidatures of personnel whom it intends to make available for service in the territory of the latter.

On receipt of the candidatures, the Government of the People's Republic of the Congo shall have two months in which to approve the candidates proposed or to reject them.

Once this time-limit has expired, or in the event of rejection, the personnel who have not been accepted shall revert to the jurisdiction of the Government of the French Republic.

The latter shall, however, as far as possible, submit new proposals which may be accepted or rejected on the conditions set forth above.

Article V. On receipt of the notification of acceptance of the proposed candidates by the People's Republic of the Congo, the competent French authority shall announce the assignment of the official concerned to that Republic and shall take all the necessary measures for his transfer.

The appointment of accepted candidates to the post in question shall be announced by decision of the competent authority of the People's Republic of the Congo and shall be for a period of two years from the date of their arrival in the territory of that Republic.

Any transfer of an official covered by this Convention which is contemplated by the Government of the People's Republic of the Congo and which would result in a change in duty station or in the level or nature of the post to which he was appointed by virtue of article IV, above, shall be the subject of an agreement between the two Governments.

Article VI. The French technical co-operation personnel serving in the Congo on the date of entry into force of this Convention shall be subject to its provisions. However, the expiry of the period of assignment specified in article V above shall, in their case, coincide with the termination of their tour of duty under the relevant regulations and the corresponding leave entitlement.

Article VII. On expiry of the period laid down in article V above, the personnel shall automatically revert to the jurisdiction of the French authorities.

This period may, however, be extended by maximum of six months, except in case of *force majeure* or health reasons, by a simple exchange of letters at least one month before the expiry of the normal term.

In any case, the secondment may be renewed in the manner in which it was announced.

Article VIII. The Government of the French Republic and the Government of the People's Republic of the Congo reserve the right to terminate an assignment or post at any time, provided that they notify simultaneously the other Government and the person concerned through the competent French authority, giving three months' notice, from the date of such notification.

As an exceptional measure and in cases where, in the estimation of either of the two Governments, serious difficulties might occur if the person concerned remained in his post, the Government of the French Republic or the Government of the People's Republic of the Congo may disregard the requirement to give advance notice.

The reasons for the decision must be stated.

Whenever a period of assignment is terminated prematurely by decision of the People's Republic of the Congo, unless such decision is prompted by professional mis-

conduct or a punishable offence on the part of the accused official, all the costs of the return passage in accordance with the French regulations shall be borne by the People's Republic of the Congo.

Such termination of assignment shall not preclude the replacement of the person concerned on the conditions set forth in article II above.

Article IX. Subject to the provisions of article VI above, the granting to personnel of such official leave as they are entitled to under the regulations in force in the French Republic shall not terminate the assignment defined by this Convention.

Evacuation of personnel for health reasons, convalescent leave and extended leave granted outside the territory of the People's Republic of the Congo shall terminate the assignment.

The same shall apply to sick leave when it involves repatriation.

The costs of repatriation or evacuation for health reasons shall be borne by the French Republic.

PART II. RECIPROCAL OBLIGATIONS OF THE GOVERNMENTS AND THE PERSONNEL

Article X. Officials made available to the Government of the People's Republic of the Congo under this Convention shall carry out their duties under the authority of the Government of that country and shall be obliged to comply with its regulations and instructions.

They 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 likely to reflect unfavourably on the Government of the French Republic or the Government of the People's Republic of the Congo.

The two Governments shall also undertake not to require of officials covered by this Convention any act or manifestation not connected with their duties.

In the performance of their duties, the officials covered by this Convention shall in general receive aid and protection from the Government of the People's Republic of the Congo.

The Government of the People's Republic of the Congo undertakes to make good any damages caused by officials assigned to it by the Government of the French Republic in the performance of or because of the performance of their duties.

When damage is the result of personal misconduct by the official, the Government of the French Republic shall represent that official for the purpose of reimbursing any compensation which the Government of the People's Republic of the Congo may have been required to pay, and the Government of the French Republic shall, if necessary, seek to collect that amount from the French official concerned.

Article XI. The personnel seconded for service with the People's Republic of the Congo may not engage in any gainful activity as it is defined in the general regulations governing them. As an exceptional measure and when warranted in the general interest, this prohibition may be waived by joint decision of the Governments of the People's Republic of the Congo and the French Republic. When the spouse of one of the officials assigned to the People's Republic of the Congo engages in any private gainful activity in the territory of that State, the person concerned shall make a declaration to that effect to the Government of the French Republic and the Government of the People's Republic of the Congo, who may, by joint decision, take appropriate measures to safeguard the interests of the service.

Article XII. The Government of the People's Republic of the Congo shall forward to the Government of the French Republic annual reports on the manner in which the personnel seconded to it under this Convention have performed their duties. It shall be understood and agreed that, in every case, the performance files shall be transmitted in full.

Article XIII. Officials made available to the Government of the People's Republic of the Congo under this Convention shall not incur any administrative penalty on the part of that Government other than their return, on stated grounds, to the Government of the French Republic.

PART III. APPORTIONMENT OF FINANCIAL COSTS

Article XIV. The Government of the French Republic shall bear the cost of:

- The remuneration and family allowances, in accordance with French regulations, of the personnel seconded to the People's Republic of the Congo;
- Transportation of each official and his family from his place of residence to the point of entry in the People's Republic of the Congo and, at the time of repatriation, from the point of departure in the People's Republic of the Congo to the place determined, in so far as he is concerned, by the regulations in force in the French Republic;
- The travel allowance applicable to the above journeys, subject to the same reservation;
- The contribution necessary to maintain the official's pension rights in accordance with the rates in force under the regulations of the French Republic.

Article XV. The Government of the People's Republic of the Congo shall pay the Government of the French Republic a monthly grant for each official seconded to it as a contribution to the costs of their remuneration.

Procedures for this contribution shall be specified in an implementing protocol.

Article XVI. The People's Republic of the Congo shall provide the personnel concerned with the benefits in kind attaching to the post specified in the letter of appointment. Housing and furniture shall, in any case, be provided, having regard to the post occupied and the family status of the officials concerned.

Such officials shall, in particular, receive medical treatment, drugs and hospital care on the same grounds and on the same conditions as permanent officials in the service of the Government of the People's Republic of the Congo.

Except in the case of specific allowances attaching to the post held or function exercised, expenses or allowances relating to any travel in Congolese territory, reimbursement of expenses, or allowances for overtime or leave provided for by law in the People's Republic of the Congo, a list of which shall be communicated to the Government of the French Republic, the Government of the People's Republic of the Congo shall not grant to the personnel covered by this Convention any special remuneration in their personal capacity.

The People's Republic of the Congo shall be responsible for all the expenses mentioned above as long as the official assigned to it remains in its territory and for the duration of any travel and missions outside the Republic undertaken in accordance with the decision of the Government of the People's Republic of the Congo.

Article XVII. Payments made to the People's Republic of the Congo in respect of income tax by personnel seconded to it shall be computed according to the provisions set forth in the annex to this Convention concerning the tax régime.

PART IV. MISCELLANEOUS PROVISIONS

Article XVIII. The terms and conditions for the implementation of this Convention shall be established, as and when necessary, by agreement between the two Governments or their duly authorized representatives.

Additional protocols may be concluded to cover officials in certain services or groups in consideration of their special status or the special functions which they may be called upon to assume in the People's Republic of the Congo. Such protocols may, on an exceptional basis, derogate from the clauses of this Convention.

Article XIX. This Convention, which supersedes and annuls the agreement of 23 July 1959, is concluded for a period of two years and may be renewed by tacit agreement, unless it is denounced by one of the Contracting Parties. Notice of denunciation must be submitted through the diplomatic channel at least three months in advance.

This Convention 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.

Each Contracting Party may at any time request the amendment of a provision or provisions of this Convention and the opening of negotiations for that purpose.

DONE at Brazzaville on 1 July 1974, in two original copies, in the French language.

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 People's Republic
of the Congo:

[Signed]

DAVID CHARLES GANAO
Minister for Foreign Affairs

PROTOCOL CONCERNING THE IMPLEMENTATION OF ARTICLE XV OF THE
CONVENTION CONCERNING PERSONNEL ASSISTANCE PROVIDED BY
THE FRENCH REPUBLIC TO THE PEOPLE'S REPUBLIC OF THE CONGO

The Government of the People's Republic of the Congo and the Government of the French Republic have jointly decided on the following provisions:

Article I. Pursuant to the provisions set forth in article XV of the Convention concerning personnel assistance provided by the French Republic to the People's Republic of the Congo, the Government of the People's Republic of the Congo undertakes to pay, as from the date of the entry into force of the Convention as a contribution to all the costs set forth in article XV, first paragraph, a fixed monthly grant of thirty thousand (30,000) CFA francs equivalent to six hundred (600) French francs, for each of the officials concerned, throughout the period of secondment, including the statutory administrative leaves following the completed tour of duty. The amount of this grant may be revised by joint agreement at the request of either Government.

Article II. A statement of monies due, drawn up on the basis of personnel seconded to the Government of the People's Republic of the Congo as at 1 January, including those on statutory leave, shall be issued by the Government of the French Republic and shall cover the period from 1 January to 30 November.

The amount specified in that statement shall be paid by the Government of the People's Republic of the Congo before 1 December.

The statement of monies due issued for the month of December shall reflect any adjustments to take into account the actual number of personnel between 1 January and 30 November.

Payment in respect of the statement of monies due for the month of November must be made before 31 March of the following year.

Article III. This Protocol shall enter into force on the same date as the Convention concerning personnel assistance provided by the French Republic to the People's Republic of the Congo.

DONE at Brazzaville on 1 January 1974, in two original copies, in the French language.

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 People's Republic
of the Congo:

[Signed]

DAVID CHARLES GANAO
Minister for Foreign Affairs

ANNEX CONCERNING THE TAX RÉGIME FOR TECHNICAL CO-OPERATION PERSONNEL MADE AVAILABLE TO THE GOVERNMENT OF THE PEOPLE'S REPUBLIC OF THE CONGO BY THE GOVERNMENT OF THE FRENCH REPUBLIC

Article I. The personnel made available to the Government of the People's Republic of the Congo by the Government of the French Republic for the purpose of technical co-operation will not be required to pay direct taxes, in an amount greater than that resulting from the application of the personal income tax under the conditions laid down below and the national investment fund not exceeding 10 per cent of the amount of the personal income tax.

Article II. The remuneration paid by the French Government in respect of technical co-operation shall be taken into account in computing the gross tax base for the purposes of the tax on personal income to the extent of the amount declared annually by the competent French authorities.

This amount shall exclude family allowances of all kinds.

It shall include:

- (a) The portion of the salary which corresponds to the gross basic remuneration paid to personnel serving in the Congo;
- (b) All remuneration paid to such personnel in respect of normal leave;
- (c) Any benefits in kind which may be granted to such personnel, taxed as follows:
 - Housing, 4 per cent of the remuneration referred to in sub-paragraph (a) above;
 - Other benefits in kind, according to their actual value.

The net tax base shall be the gross basic remuneration thus defined after the subtraction of 6 per cent deducted for retirement pension, and social security contributions, and then, the deduction provided for in article 41 of the General Tax Code of the Congo, but at the rate of 20 per cent rather than 40 per cent.

The effective personal income tax rates applicable to the various net taxable income brackets comprising each unit shall be fixed in this manner, and the number of units shall be determined in accordance with the provisions of article 91 of the General Tax Code in force in the People's Republic of the Congo.

Up to 150,000 CFA francs	5 per cent
From 150,000 to 300,000 CFA francs	10 per cent
From 300,000 to 500,000 CFA francs	15 per cent
From 500,000 to 800,000 CFA francs	20 per cent
From 800,000 to 1 million CFA francs	30 per cent
From 1 million to 3 million CFA francs	40 per cent
From 3 million to 6 million CFA francs	55 per cent
Over 6 million CFA francs	65 per cent

The amount of tax so derived shall be reduced by a tax credit equal to 2 per cent of the net base defined in article 2 above.

The contribution obtained in this manner shall be reduced by 20 per cent when the net total income per unit is less than 300,000 CFA francs and by 10 per cent when it is between 300,000 and 600,000 CFA francs.

Article III. The personnel covered by this Convention shall automatically benefit from any reductions as a consequence of ordinary law amendments made by the Government of the People's Republic of the Congo in the mode of assessment or computation of tax referred to in article I and any reductions as a consequence of the introduction of a new tax structure.

DONE at Brazzaville on 1 January 1974, in two original copies, in the French language.

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 People's Republic
of the Congo:

[Signed]

DAVID CHARLES GANAO
Minister for Foreign Affairs

ADDITIONAL PROTOCOL CONCERNING THE PROVISION OF TEACHING PERSONNEL

Article I. The list of requirements in respect of French teaching personnel shall be transmitted by the Congolese authorities to the French authorities before 1 February each year with a view to their being seconded in good time.

Article II. Such personnel shall be appointed under the conditions laid down in article V of the Convention, by decision of the authorities of the People's Republic of the Congo for two consecutive school or academic years which may be renewed in accordance with the provisions of article VII of the said Convention.

Article III. The weekly hours of work required of the teaching personnel seconded by the Government of the French Republic for service with the Government of the People's Republic of the Congo shall be those prescribed for them in their original national service.

Article IV. Teaching personnel seconded for service with the People's Republic of the Congo shall be granted the school or academic holidays established by the relevant Congolese regulations. "Summer vacation" leave shall, however, be no less than 75 consecutive days in the case of personnel engaged in teaching duties and no less than 60 consecutive days in the case of personnel performing administrative duties.

DONE at Brazzaville on 1 January 1974 in two original copies in the French language.

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 People's Republic
of the Congo:

[Signed]

DAVID CHARLES GANAO
Minister for Foreign Affairs

ADDITIONAL PROTOCOL CONCERNING MILITARY MEDICAL SERVICE PERSONNEL SECONDED TO THE PEOPLE'S REPUBLIC OF THE CONGO, WITH THE STATUS OF DETACHED PERSONNEL

Article I. French military medical personnel must respect the code of medical ethics and practice in force in the People's Republic of the Congo.

Article II. Reports made by the Congolese authorities on the performance of their duties by the military medical service personnel, as well as requests for disciplinary measures, shall be transmitted to the French representation in the People's Republic of the Congo, which shall inform the Congolese authorities of action taken on such requests.

The French representative shall delegate responsibility in matters of performance reports and discipline to the most senior of the highest-ranking French military doctors.

Article III. Personnel of the military medical service may be subject to inspection, in connection with their status, by the general officers of the said service on mission, with the consent of the Government of the People's Republic of the Congo.

DONE at Brazzaville on 1 January 1974 in two original copies in the French language.

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 People's Republic
of the Congo:

[Signed]

DAVID CHARLES GANAO
Minister for Foreign Affairs

EXCHANGES OF LETTERS

I a

Brazzaville, 1 January 1974

Sir,

A review of the Convention concerning personnel assistance provided by the French Republic to the People's Republic of the Congo has brought out the specific problem posed by the status of French judicial personnel seconded for the purpose of technical co-operation. It would be advisable to guard against a situation in which the maintenance of these officials in their judicial functions could be construed in future as contrary to the sovereignty of the People's Republic of the Congo. Therefore, in order to avoid any such interpretations and the difficulties that could ensue, it is the wish of the French Government that the Government of the People's Republic of the Congo should henceforth refrain from assigning judicial functions to the officials in question.

Nevertheless, in order to avoid upsetting the smooth operation of the Congolese courts, the present situation may be maintained, if the Government of the People's Republic of the Congo so desires, until the expiry of the current contracts of each of the judicial personnel concerned.

It remains understood, however, that the French Government will continue to second to the Government of the People's Republic of the Congo such judicial personnel as the Congo may deem it necessary to request in order to carry out studies or conduct training missions.

For the immediate present, however, I have the honour to propose, for your approval, the following provisions with a view to ensuring for the judicial personnel who are to remain provisionally in the Congolese courts guarantees comparable to those granted to them in France in keeping with their special status.

The provisions of the Convention concerning personnel assistance shall be applicable to judicial personnel only in so far as they are compatible with the statutory provisions applicable to them.

Judicial personnel shall enjoy the independence, immunities, guarantees, privileges, honours and prerogatives, to which members of the judicial profession of the People's Republic of the Congo are entitled.

The latter State shall protect judicial personnel from any threats, offensive behaviour, insults, defamation attacks and coercion of any kind to which they may be subjected in or in connection with the performance of their functions. It shall where necessary, make amends for any injury which may result therefrom.

Judicial personnel may not be challenged in any way regarding decisions in which they participate, utterances in court or acts relating to their functions.

No correctional or criminal proceedings may be instituted against a judicial officer except with the approval of a commission composed of two Congolese judges appointed by the Government of the People's Republic of the Congo and two French judges appointed by the Government of the French Republic.

The commission shall meet when convened by the Minister of Justice of the People's Republic of the Congo. It shall elect its own chairman. If the votes are equally divided, the Commission shall be deemed to have given an unfavourable opinion.

The opinion of the Commission shall be conveyed, if appropriate, to the competent public prosecutor's office. Should proceedings be instituted, the Government of the French Republic shall be kept informed and the judicial officer against whom the proceedings are being taken shall be entitled to the special jurisdiction provided for in the applicable legislation of the Congo.

The most senior of the highest-ranking judicial officers seconded to the People's Republic of the Congo shall, in accordance with the procedure laid down in the Convention concerning personnel assistance, draw up and transmit reports on the performance by the judicial personnel of their duties, in the manner and at the intervals prescribed in the regulations governing them in their original service.

Problems involving the careers of the judicial personnel concerned in their original branch of service may be dealt with by an annual mission, the cost of which shall be borne by the budget of the French Republic.

I should be grateful if you would confirm your agreement to the foregoing provisions.
Accept, Sir, etc.

[Signed]

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

Mr. David Charles Ganao
Minister for Foreign Affairs
of the People's Republic of the Congo

II a

Brazzaville, 1 January 1974

Sir,

On today's date you sent me a letter which reads as follows:

[See letter I a]

I have the honour to inform you that the Congolese Government is in full agreement with the said provisions.

Accept, Sir, etc.

[Signed]

DAVID CHARLES GANAO
Minister for Foreign Affairs
of the People's Republic of the Congo

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

I b

Brazzaville, 1 January 1974

Sir,

In reviewing the Convention concerning personnel assistance provided by the French Republic to the People's Republic of the Congo, the Congolese delegation confirmed that the regulations currently applied to entry into the territory of the People's Republic of the Congo authorize the duty-free and tax-exempt admission of the personal goods and effects of French technical assistance officials, and of the documents necessary for their work.

The Government of the People's Republic of the Congo intends to maintain these provisions and to continue the current practice of applying them liberally. Any amendment in this area which may be deemed to be necessary in future shall be the subject of consultation between the two Governments.

I should be grateful if you would confirm your agreement to the foregoing provisions.
Accept, Sir, etc.

[Signed]

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

David Charles Ganao
Minister for Foreign Affairs
of the People's Republic of the Congo

II *b*

Brazzaville, 1 January 1974

Sir,

On today's date you sent me a letter which reads as follows:

[*See letter I b*]

I have the honour to inform you that the Congolese Government is in full agreement with the said provisions.

Accept, Sir, etc.

[*Signed*]

DAVID CHARLES GANAO
Minister for Foreign Affairs
of the People's Republic of the Congo

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