

No. 21841

**FRANCE
and
TOGO**

Legal Convention. Signed at Lomé on 23 March 1976

Authentic text: French.

Registered by France on 12 April 1983.

**FRANCE
et
TOGO**

Convention judiciaire. Signée à Lomé le 23 mars 1976

Texte authentique : français.

Enregistrée par la France le 12 avril 1983.

[TRANSLATION — TRADUCTION]

LEGAL CONVENTION¹ BETWEEN THE GOVERNMENT OF THE FRENCH
REPUBLIC AND THE GOVERNMENT OF THE TOGOLESE REPUBLIC

The Government of the French Republic, on the one hand, and
The Government of the Togolese Republic, on the other,
Have agreed on the following provisions:

TITLE I. RECIPROCAL LEGAL ASSISTANCE

Chapter I. TRANSMITTAL AND SERVICE OF WRITS
AND EXTRA-JUDICIAL DOCUMENTS

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

The provisions of this article shall be without prejudice to the right of the Contracting Parties to cause writs and extra-judicial documents addressed to their own nationals to be served direct 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 State in which service is to be effected.

Article II. The Ministry of Justice of the requested State shall have the document served on the addressee.

If the addressee accepts it voluntarily, proof of service shall consist either of a dated receipt signed by him, or of a certificate by the requested authority confirming that service has been effected and indicating the manner and date of service.

One or other of these documents shall be sent direct to the Ministry of Justice of the requesting State.

If an addressee refuses to accept the document, the Ministry of Justice of the requested State shall return it to the Ministry of Justice of the requesting State forthwith and shall state the reason why service could not be effected.

Article III. The cost of serving writs and extra-judicial documents shall not be refunded.

Article IV. In criminal matters, summonses 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 said person's appearance.

Article V. When the address of the addressee of the document is inaccurate or incomplete, the requested authority shall satisfy the request submitted to it with all due dispatch. If need be, it shall ask the requesting State for additional information which might be useful in identifying and locating the person concerned.

Article VI. The provisions of the preceding articles shall, in civil, administrative

¹ Came into force on 1 September 1981, i.e., the first day of the second month following the exchange of the notifications (effected at Paris on 22 June and 30 July 1981) confirming the completion of the required procedures, in accordance with article LXIV.

and commercial matters, be without prejudice to the right of interested parties resident in the territory of one of the Contracting Parties to have documents served on persons in one of the two States through law officials.

Chapter II. TRANSMITTAL AND EXECUTION OF LETTERS ROGATORY

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

They shall be transmitted direct between the Ministries of Justice of the two States.

Article VIII. The provisions of article VII shall be without prejudice to the right of the Contracting Parties to cause letters rogatory concerning the hearing of their nationals to be executed direct by their representatives or deputies.

Where there is a conflict between the legislation of the two countries, the nationality of the person in respect of whom the hearing is requested shall be determined by the law of the State in which the letter rogatory is to be executed.

Article IX. The requested authority may refuse to execute a letter rogatory if the letter rogatory is liable to impair the sovereignty, security or public policy of the State in which it is to be executed.

Article X. Persons whose testimony is requested shall be invited to appear by ordinary administrative notice; if they refuse to comply with such notice, the requested authority shall employ the means of coercion provided for in its national legislation.

Article XI. The requested authority shall, at the express wish of the requesting authority, with all due dispatch:

- (1) Execute the letter rogatory by means of a special formality, if that formality does not conflict with its national legislation;
- (2) Inform the requesting authority in good time of the date and place of execution of the letter rogatory, so that the interested parties may be present, in accordance with the legislation of the requested State.

Article XII. If the purpose of the letter rogatory is the delivery of exhibits, files or documents, the requested State may postpone the said delivery if it needs them for pending criminal proceedings.

The exhibits and the originals of the files and documents which have been provided in execution of a letter rogatory shall be returned as soon as possible by the requesting State to the requested State, unless the requested State relinquishes them.

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

Chapter III. APPEARANCE OF WITNESSES IN CRIMINAL MATTERS

Article XIV. 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 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 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 30 days after the date on which the testimony has been completed and/or the return of the witness has become possible.

Article XV. Requests for the sending of witnesses who are in custody shall be addressed direct to the competent *parquet* through the Ministries of Justice.

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 incurred by this transfer shall be borne by the requesting State.

Chapter IV. JUDICIAL RECORDS

Article XVI. The Contracting Parties shall report to each other all convictions for crimes and offences pronounced by their courts against nationals and persons born in the territory of the other State. Extracts from the judicial records exchanged for that purpose shall be addressed direct by one *parquet* to the other.

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

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

Chapter V. CIVIL REGISTER AND AUTHENTICATION

Article XIX. The Government of the French Republic shall, at the times specified below, transmit to the Government of the Togolese Republic a copy or the original of certificates of recognition of natural children, marriage certificates, death certificates and certificates of legitimation issued in France, as well as extracts of judgements and decisions rendered in France in matters of divorce, separation, filiation, civil registration and deprivation of legal capacity which concern Togolese nationals.

Extracts of judgements and decisions rendered in matters of divorce and separation shall also be transmitted to the Government of the Togolese Republic when they concern persons who were married in Togo.

Each quarter, copies and extracts of such documents, certificates, judgements and decisions issued or rendered during the preceding quarter shall be transmitted by the Government of the French Republic to the Government of the Togolese Republic.

The Government of the Togolese Republic shall enter in the civil register appropriate particulars from such copies and extracts in the margin of the birth or marriage certificates of the persons concerned.

Article XX. The Government of the Togolese Republic shall, at the times specified below, transmit to the Government of the French Republic a copy or the original of certificates of recognition of natural children, marriage certificates, death certificates and certificates of legitimation issued in Togo, as well as extracts of judgements and decisions rendered in Togo in matters of divorce, separation, filiation, civil registration and deprivation of legal capacity which concern French nationals.

Extracts of judgements and decisions rendered in matters of divorce and separation shall also be transmitted to the Government of the French Republic when they concern persons who were married in France.

Each quarter, copies and extracts of such documents, certificates, judgements and decisions issued or rendered during the preceding quarter shall be transmitted by the Government of the Togolese Republic to the Government of the French Republic.

The Government of the French Republic shall enter in the civil register appropriate particulars from such copies and extracts in the margin of the birth or marriage certificates of the persons concerned.

Article XXI. Transmittal of the judgements and decisions referred to in articles XIX and XX shall concern only decisions which have acquired the force of *res judicata*.

Such transmittal shall be accompanied by a court clerk's certificate testifying that the decision is final.

Article XXII. The Government of the French Republic and the Government of the Togolese Republic shall issue free of charge copies of extracts from the civil register made out in their respective territories, when so requested, for a duly specified administrative reason or for needy nationals.

They shall also issue free of charge copies of extracts from the civil register made out in their respective territories, where such extracts relate to aliens who are nationals of a third country 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.

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 concerned so far as the two States are concerned.

Article XXIII. Requests made by the French authorities shall be transmitted to the Togolese local authorities by the representative of France or his deputy for the territory.

Requests made by the Togolese authorities shall be transmitted to the French local authorities by the representative of Togo or his deputy for the territory.

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

Article XXIV. Extracts from the civil register, as referred to in articles XXII and XXIII above, mean:

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

Article XXV. The following documents, made out by the authorities in either State, shall be accepted, without need of authentication, in the respective territories of the French Republic and the Togolese Republic:

- Copies of extracts from the civil register, as enumerated in article XXIV above;
- Copies of decisions, orders and other judicial documents of the French and Togolese courts;
- Affidavits, written statements or other judicial documents registered or filed in such courts;

- Notarized documents;
- Certificates of entitlement for annuitants;
- Documents issued by the competent authorities of either of the two States and documents whose accuracy and date, authenticity of signature or conformity with the original are attested to by the said authorities.

The foregoing documents shall bear the signature and the official seal of the authority competent to issue them and, in the case of copies, they shall be certified as true copies of the original by the said authority. In all cases, they shall be made out in such a way as to establish their authenticity.

Chapter VI. SECURITY FOR COSTS AND PENALTIES BY FOREIGN PLAINTIFFS
(*CAUTIO JUDICATUM SOLVI*) AND LEGAL AID

Article XXVI. French nationals in Togo and Togolese nationals in France shall, in the territory of each of the Contracting Parties, have free and unrestricted access to administrative tribunals and courts of law for the purpose of ensuring the exercise and protection of their rights.

No security or deposit of any kind may be imposed on them by reason of their status as aliens or the absence of domicile or residence in the country.

The provisions of this article shall also apply to bodies corporate set up or authorized under the law of one of the two States.

Article XXVII. Nationals of either State shall, in the territory of the other State, be entitled to legal aid on the same basis as the 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 countries. If the person concerned is resident in a third State, the certificate shall be issued by the appropriate consul for the territory.

Where the person concerned is resident in the State in which the request is made, additional information may be sought from the authorities of the State of which he is a national.

Article XXVIII. The Party eligible for legal aid in the State of origin shall be entitled to such legal aid without further review, within the limits laid down by the legislation of the requested State, for documents and proceedings invoking recognition of a judicial decision or rendering it enforceable, and for documents and proceedings to execute a judicial decision on which a grant of execution has been obtained.

Chapter VII. ENFORCEMENT OF SENTENCES

Article XXIX. Each State may, at the request of the other, decide to authorize the transfer of a national of the other State who has been given a sentence involving deprivation of liberty, so that he serves his sentence in the territory of the requesting State.

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

Article XXX. With the consent of the *parquet* of the court which has pronounced the sentence and of the Government of the State to which that court belongs, commutation, reduction and discretionary remission, conditional release and other procedures relating to the enforcement of sentences shall be decided in accordance with the law of the State in which the sentence is enforced.

The *parquet* of the court which has pronounced the sentence shall be notified of such decisions, through the Ministries of Justice.

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

The remission of fines shall be granted by the competent authority of the State in which the fine has been imposed at its discretion, notice being given to the competent authority of the State in which the offender is a resident.

Article XXXI. The two States shall notify each other of amnesty laws in the month in which they are promulgated.

Nationals of the two States, no matter where they are resident, shall automatically benefit from amnesty laws promulgated in the State to which the court which pronounced the sentence that has been amnestied belongs.

Chapter VIII. EXERCISE OF THE LEGAL PROFESSION

Article XXXII. French *avocats* members of the Togolese bar may freely exercise their profession in the courts of the Togolese Republic in accordance with Togolese law and with due regard for the traditions of the profession.

French nationals shall be free to enter the legal profession in Togo under the same conditions as Togolese nationals and they shall not be subject to any discrimination.

Togolese nationals shall be free to enter the legal profession in France under the same conditions as French nationals and they shall not be subject to any discrimination.

Nationals of either State may apply for membership in the bar of the other State provided they satisfy the legal requirements for such membership in the State in which they apply. All positions in the Council of the *Ordre des avocats* shall be open to them.

Article XXXIII. *Avocats* members of the Togolese bar may assist parties and plead before all French courts under the same conditions as *avocats* members of the French bar. As a reciprocal measure, *avocats* members of the French bar may assist parties and plead before all Togolese courts under the same conditions as *avocats* members of the Togolese bar.

Chapter IX. MISCELLANEOUS PROVISIONS

Article XXXIV. Evidence of the legislative provisions and customary law of either State shall be presented to the courts of the other State in the form of "certificates of custom" made out by the consultative authorities concerned.

Article XXXV. The Ministries of Justice of the two States may, as a form of reciprocal legal assistance, and if there are no indications, send each other requests for information or investigations in connection with civil or administrative proceedings brought before their judicial authorities and transmit to each other, at no cost, copies of judicial decisions.

In connection with proceedings to protect the person of a minor, they shall assist each other in locating and repatriating minors on an amicable basis and inform each other of the protection measures taken by their authorities.

As part of proceedings to collect alimony outside the country, they shall assist each other in the location and hearing of persons staying in their territories who owe alimony, and in the collection of alimony.

Article XXXVI. The Ministries of Justice shall provide to each other, upon request, information on the laws currently or previously in force in their respective States.

TITLE II. GRANT OF EXECUTION IN CIVIL AND COMMERCIAL MATTERS

Article XXXVII. In civil and commercial matters, decisions in adversary and non-adversary proceedings rendered by the courts in France or Togo shall automatically have the force of *res judicata* in the territory of the other State provided they satisfy the following conditions:

- (a) The decision was rendered by a court competent under the rules of private international law which are admitted in the State in which the decision is to be executed, unless a firm waiver is entered by the party concerned;
- (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 public law applicable in that State. Moreover, it must not conflict with a judicial decision which has been rendered in that State and has the force of *res judicata*.

Article XXXVIII. The decisions referred to in the preceding article 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.

However, in matters of personal status, decisions taken in other countries may be entered in the civil register without a grant of execution, if that does not conflict with the law of the State where the said registers are kept. In any case, the entry may be made simply for purposes of information.

Article XXXIX. Execution shall be granted at the request of an interested party by the competent authority, in accordance with the law of the State in which it is requested.

The procedure for requesting a grant of execution shall be governed by the legislation of the State in which execution is requested.

Article XL. The competent authority shall confine itself to establishing whether the decision for which a grant of execution is requested satisfies the conditions laid down in article XXXVII in order to have *ipso facto* the force of *res judicata*. It shall automatically proceed with such an examination and record the outcome in the decision.

Execution may not be granted when an appeal against the decision for which a grant of execution is requested has been entered with the Court of Cassation.

In granting execution, the competent authority shall, where necessary, order the requisite measures to ensure that the decision 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 XLI. The decision granting execution shall be binding on all parties concerned and throughout the territory to which this Convention 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 XLII. The party invoking the authority 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 competent clerk of court establishing that there is no objection to or appeal against the decision;
- (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;
- (e) Where necessary, a full translation of the above-mentioned documents, certified by a sworn translator.

Article XLIII. Arbitral awards validly rendered in either State shall be recognized in the other State and may be declared enforceable in that State if they fulfil the conditions of article XXXVII, where such conditions apply. Execution shall be granted in the manner laid down in the preceding articles.

Article XLIV. Legal instruments, including notarized 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 enforcement of their provisions is contrary to the public policy or principles of public law of that State.

TITLE III. EXTRADITION

Article XLV. 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 XLVI. The Contracting Parties shall not extradite their own nationals. Nationality shall mean the nationality at the time of 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 institute proceedings against any of its nationals who, in the territory of the other State, have committed offences which are punishable as crimes or correctional offences in the two States, 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 its request.

Article XLVII. 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 Parties 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 XLVIII. Extradition shall not be granted if the offence in respect of which it is requested is regarded by the requested Party as a political offence or as an offence allied to a political offence.

Article XLIX. Extradition shall be refused if the offence in respect of which it is requested consists solely of non-fulfilment of military obligations.

Article L. Extradition shall be granted, under the conditions laid down in this Convention, in matters relating to taxes, duties, customs and foreign exchange, when so

decided by a simple exchange of letters for each especially designated offence or category of offences.

Article LI. Extradition shall be refused:

- (a) If the offences in respect of which it is requested have been committed in the requested State;
- (b) If 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 State 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 or if an amnesty has been declared in the requested State, provided, in the latter case, that the offence is one for which proceedings may be instituted in that State when it has been committed outside the territory of that State by an alien.

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 LII. 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 or 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 legal 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 sought and any information which will help to establish his identity and nationality.

Article LIII. 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 LII.

A request for provisional arrest shall be sent to the competent authorities of the requested State either direct 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 LII 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 the particulars of the person sought, which shall be as accurate as possible. The requesting authority shall be informed without delay of the result of its request.

Article LIV. 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 LII.

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

None the less, the provisions of the preceding paragraphs shall not preclude the provisional release at any time by the requested State, to the extent that it is able to arrange to prevent the person sought from absconding.

Article LV. Where supplementary information is essential to ensure that the conditions laid down in this Convention 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 LVI. 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 request, the relative seriousness and the place of commission of the offences.

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

The property shall 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 in the said property shall be preserved and, where such rights exist, the property shall be returned to the requested State as soon as possible and without charge on completion of the proceedings in the requesting State.

The authorities of the requested State may keep confiscated property temporarily, where they consider that it is needed for criminal proceedings.

In transmitting the said property, they may reserve the right to request it again, in the same connection, on the understanding that they will return it as soon as possible.

Article LVIII. 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.

Unless otherwise agreed, the person extradited shall be conducted by the requested State to the place designated by the diplomatic mission of the requesting State.

Except as provided for in the last paragraph of this article, the requesting State shall have its agents take over 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 shall be released and cannot be claimed again 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 LIX. If the person sought 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, none the less, 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 LX. 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 territory after leaving it;
- (2) When the State which has surrendered him consents, a request for consent shall be submitted, accompanied by the documents referred to in the second paragraph of article LII and by a legal record of any statement by the extradited person on the extension of the extradition, mentioning the opportunity afforded 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 or detained only in so far as the factors constituting the newly designated offence would permit extradition.

Article LXI. 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 LXII. Extradition involving transit through the territory of one Contracting Party of a person surrendered by a third State to the other Party shall be granted on the application of the requesting State. The necessary documents shall be furnished in support of such a request in order to establish that the offence gives rise to extradition. The conditions laid down in article XLVII and those relating to the amount of the sentences shall be disregarded. If air transport is used, the following provisions shall apply:

- (1) When no stopover 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 mentioned in the second paragraph of article LII exists. In the case of an unscheduled landing, such notification shall have the effect of a request for provisional arrest as referred to in article LIII and the requesting State shall submit a request for transit under the conditions laid down in the preceding paragraphs.
- (2) When a stopover is scheduled, the requesting State shall submit a request for transit. When the requested State also requests extradition, transit may be interrupted until such time as the person claimed has fulfilled the requirements of the law of that State.

Article LXIII. Expenses incurred under the procedures prescribed in this title shall be borne by the requesting State, it being understood that no claim shall be made for the costs of the proceedings or imprisonment.

Article LXIV. This Convention shall supersede the Legal Convention between the French Republic and the Togolese Republic of 10 July 1963.¹

It shall be concluded for a period of two years and shall be automatically renewable unless it is denounced by either of the Contracting Parties.

Notice of denunciation shall be sent through the diplomatic channel at least six months in advance.

¹ United Nations, *Treaty Series*, vol. 722, p. 35.

This Convention shall enter into force on the first day of the second month following the exchange of instruments signifying the completion of the procedures required to this end in each of the two States.

This exchange shall take place at Paris as soon as practicable.

DONE at Lomé, on 23 March 1976, in two original copies.

For the Government
of the French Republic:

[Signed]

JEAN DE LIPKOWSKI
Minister of Co-operation

For the Government
of the Togolese Republic:

[Signed]

AYI HOUENOU HUNLEDE
Minister for Foreign Affairs
