

Title: Convention creating the Niger Basin Authority
Parties: Benin, Cameroon, Chad, Côte d'Ivoire, Guinea, Mali, Niger, Nigeria, Upper Volta
Basin: Niger
Date: 1/21/1980

CONVENTION¹ CREATING THE NIGER BASIN AUTHORITY. SIGNED AT FARANAH, ON 21 NOVEMBER 1980,^{2,3}

PREAMBLE

...

Whereas the Act of Niamey relating to the Navigation and the Economic Co-operation between the States of the Niger Basin was signed on the 26th October 1963 at Niamey.

Whereas the Summit of Heads of State and Government met on the 26th January 1979 at Lagos and set up the objectives of dynamising the Organisation.

Considering the guiding Speech made by the Current Chairman of the Summit of Heads of State and Government to the 6th Ministerial Session of the River Niger Commission on the 11th March 1980 in Conakry.

Bearing in mind the need to promote the social and economic progress of their countries in order to improve the standard of living of their Peoples.

Convinced that the social and economic progress of their countries calls for an effective economic co-operation based on determined and concerted policy to put together their individual means for the attainment of a collective welfare.

Convinced of the necessity to promote the economic development of their countries through an integrated development of the Niger River Basin.

Reaffirming their willingness for unity and solidarity in the Organisation for the overall development of the Niger Basin.

Decide to transform the River Niger Commission into a "NIGER BASIN AUTHORITY".

CHAPTER I

CREATION AND COMPOSITION

Article 1

¹ No information is available regarding the entry into force of this Convention.

² Text received from the Niger Basin Authority.

³ Signatories: Benin, Cameroon, Chad, Ivory Coast, Guinea, Mali, Niger, Nigeria, Upper Volta.

1. By this Conventions, the High Contracting Parties decide to change the River Niger Commission to "NIGER BASIN AUTHORITY" hereinafter referred to as "THE AUTHORITY".
2. The AUTHORITY is established in lieu of the River Niger Commission established by the AGREEMENT RELATING TO THE RIVER NIGER COMMISSION AND TO NAVIGATION AND TRANSPORT ON THE RIVER NIGER, 51/ made in Niamey on 25 November 1964, and revised in Niamey on 2 February 1968 and on 15 June 1973 and in Lagos on 26 January 1979.
3. The AUTHORITY inherits all the assets and assumes all the obligations of the River Niger Commission.
4. The Headquarters of the AUTHORITY shall be in Niamey, Republic of Niger.

Article 2: Composition of the authority

The Riparian States of the Niger River, its tributaries and sub-tributaries who are signatories of this Convention, are members of the AUTHORITY and hereinafter referred to as "member States".

CHAPTER II

AIM AND OBJECTIVES OF THE AUTHORITY

Article 3: Aim

1. The aim of the AUTHORITY is to promote the co-operation among member States and to ensure an integrated development of the Niger Basin in all fields, by developing its resources particularly in the fields of energy, water resources,, agriculture, animal husbandry, fishing and fisheries, forestry exploitation transport, communications and industry,
2. In pursuance of the purpose mentioned in the preceding paragraph the action of the AUTHORITY shall be directed to the harmonization of national development policies in the Basin through the implementation of integrated development projects and programmes.

Article 4: Objectives

1. The AUTHORITY shall be responsible for:
 - (a) The harmonization and the co-ordination of national development policies in order to ensure an equitable policy as regards sharing of the water resources among member States.
 - (b) The formulation in agreement with the member States,, of the general policy of the development of the Basin which shall be consistent with the international status of the River Basin.

- (c) The elaboration and the execution of an integrated development plan of the Basin.
- (d) The initiating and monitoring of an orderly and rational regional policy for the utilization of the surface and underground waters in the Basin.
- (e) The designing and conduct of studies, research and surveys.
- (f) The formulation of plans, the construction exploitation and maintenance of structure and projects realized within the general objectives of the integrated development of the Basin.

2. For the purpose set out in the above paragraph (1) the "AUTHORITY" shall notably undertakes in harmony with the development plans of States relating to the Niger Basin and in accordance with the general objectives of integrated development of the Basin, the following activities:

(a) Statistics and planning

- (i) Collection, centralization, standardization, exploitation, dissemination, exchange of technical and related data;
- (ii) Co-ordination of plans,, projects and research carried out in the member States;
- (iii) Consideration of projects presented by the member States with a view to making recommendations on coordinated programmes of research and implementation;
- (iv) Monitoring of research and works undertaken by member States and subsequent exploitation of reports which such States should submit periodically;
- (v) Drawing up a master plan and an integrated development programme of the Basin with an identification, at the various stages of the programme, of priorities among alternative uses, projects and sectors.

(b) Infrastructure

- (i) Designing, study and construction of hydraulic multi-purpose structures of all types and sizes;
- (ii) Designing, study and construction of works, plants and projects in the fields of transports and communications;
- (iii) Improvement and maintenance of navigable waterways;

(iv) Development of river transport and promotion of an integrated multi-model transport system (sea-river-rail-road) as a factor of integration and for opening up the land-locked Sahelian member States.

(c) Water control and utilization

(i) Regulation of the flow and drainage of the main waterways;

(ii) Flood control;

(iii) Construction and maintenance of dykes;

(iv) Prevention and control of drought and desertification

(v) Prevention of soil erosion and sedimentation;

(vi) Setting up of structures and works for land development including salt water and drainage control.

(d) Environment control and preservation

(i) Protection of the environment comprising the establishment of norms and measures applicable to the States in the alternative uses of waters in the Basin;

(ii) Flood control;

(iii) Construction and maintenance of dikes;

(iv) Prevention and control of drought and desertification;

(v) Prevention and control of soil erosion and sedimentation;

(vi) Setting up of structures and works for land development including salt water and drainage control.

(e) Navigation control and regulation

The control and the rules of all forms of navigation on the River, its tributaries and sub-tributaries are governed by the principles laid down in the Act of Niamey relating to the Navigation and the Economic Co-operation among the States of the Niger Basin, signed at Niamey in 1963,

(f) Land and agro-pastoral development

(i) Development of food crops;

(ii) Development of agro-pastoral, fishery and forestry resources

(iii) Implementation of programmes allowing the rational use of waters for domestic, industrial, agricultural and pastoral purposes.

(g) Financing the projects and works

Applying for financial and technical assistance on a bilateral multilateral or international basis for carrying out studies and works for the development of the Niger River Basin and to that effect conclude agreements, provided that agreements involving financial commitments for the member States become effective only after approval by the Council of Ministers.

3. The terms, conditions and statutory provisions to be defined with the view to achieving the objectives as stated in paragraph (2) above, shall be, if necessary and in each cases provided for in riders which shall be annexed to the Convention of which they shall form an integral part.

4. The member States pledge to keep the Executive Secretariat informed of all the projects and works they might intend to carry out in the Basin.

Moreover, they pledge not to undertake any work on the portion of the River, its tributaries and sub-tributaries under their territorial jurisdiction which pollute the waters or modify the biological features of the fauna and the flora.

CHAPTER III

THE INSTITUTIONS OF THE AUTHORITY

Article 5: Institutions

1. The Institutions of the AUTHORITY shall be as follows:

(a) The Summit of Heads of State and Government;

(b) The Council of ministers;

(c) The Technical Committee of Experts;

(d) The Executive Secretariat and its specialized organs.

Article 6: The summit of Heads of State and Government

Composition and functions

1. The Summit of Heads of State and Government hereinafter referred to as "The Summit" is the supreme organ of orientation and decision,
2. The Summit is made up of Heads of State and Government or their duly accredited representatives.
3. The Summit shall define the general orientation of the development policy of the AUTHORITY and ensure the control of its executive functions with a view to achieving its objectives.
4. It shall meet once every two years in ordinary session in the member State holding the Chairmanship. The quorum shall be the simple majority.
5. The Summit may meet in extraordinary session at the request of the Current Chairman or a member State on the unanimous agreement of other member States.
6. The decisions and the directives of the Summit shall commit all the Institutions of the AUTHORITY.
7. The Summit shall definitely pronounce judgement on any matter which has not been resolved at the level of the Council of Ministers.
8. Except otherwise decided, the Summit shall elect a Chairman for two years by rotation among member States according to the French alphabetical order by country. Between two sessions he shall represent the summit and take decisions within his powers in the interest and for a harmonious operation of the Organization.

Article 7: The Council of Ministers

Composition and functions

1. The Council of Ministers of the AUTHORITY hereinafter referred to as "THE COUNCIL" is the organ of control of the AUTHORITY. It is made up of Ministers or their accredited representatives. Each member State shall have one vote. Each Minister may be assisted by experts.
2. The Council is responsible for the monitoring of the activities of the Executive Secretariat and shall report them to the Summit. It shall prepare the meetings of the Summit and examine all the problems, deal with the matters presented to it and submit the recommendations of these meetings to the Summit.
3. The Council shall meet once a year in ordinary session, The quorum shall be reached on simple majority. The recommendations and resolutions shall be adopted by consensus.

4. The Current Chairman of the Council shall convene an extraordinary meeting of the Council at the request of a member State.

5. The Council shall meet in the country assuming the chairmanship, or the Host Country or in any other place designated by the Chairman of the Summit. The Chairman is elected for two years. Between sessions, he shall represent the Council. He takes decisions according to the directives of the Summit and within the limit of the powers conferred upon him. The Chairmanship is assumed in rotation according to the French alphabetical order of the names of the countries.

Article 8: The Technical Committee of Experts

Creation, composition and functions

1. The Technical Committee of Experts shall comprise representatives from each member State, with the mandate to:

- (a) Prepare all meetings of the Council of Ministers;
- (b) Submit reports and recommendations to the Council of Ministers.

2. The Technical Committee of Experts may meet at the Executive Secretary's request according to a schedule approved by the Council of Ministers.

3. Any other meeting of the Technical Committee of Experts shall be approved by the Chairman of the Council of Ministers.

Article 9: The Executive Secretariat

1. The Executive Secretariat is the executive organ of the AUTHORITY.

2. The Executive Secretariat is run by an Executive Secretary who is appointed, upon recommendation by the Council of Ministers to the Summit of Heads of State and Government, for a period of four (4) years, renewable only once, Each member State has the right to present a candidate for the post of Executive Secretary.

3. The Executive Secretary is the Chief Executive Officer of the AUTHORITY. He is assisted by a Deputy Executive Secretary appointed by the Council of Ministers for a term of four (4) years, renewable only once. The Deputy Executive Secretary is under the authority of the Executive Secretary.

4. The Executive Secretary and/or the Deputy Executive Secretary may be removed from office by the Summit on the recommendation of the Council of Ministers.

5. Subject to the overriding importance of securing for the AUTHORITY the services of persons possessing the highest qualifications and technical experience, due regard shall be paid, on appointing officers to the offices of the Executive Secretariat, to the desirability of maintaining an equitable distribution of appointments to such posts among member States.

6. In the exercise of his duties, the Executive Secretary shall be responsible to the superior organs of the AUTHORITY, The Deputy Executive Secretary and the other officials of the Secretariat shall be responsible to the Executive Secretary.

7. The Executive Secretary shall be responsible for the administration of the AUTHORITY and all its organs. For this purpose, he shall specifically:

(a) undertake such works and studies with a view to achieving the objectives of the AUTHORITY as may be assigned to him by the Council of Ministers and formulate such proposals as may assist in the harmonious development of the AUTHORITY.

(b) Negotiate loans and receive gifts on behalf of the AUTHORITY with approval by the Council of Ministers.

CHAPTER IV

FINANCIAL PROVISIONS

Article 10: The budget of the Authority

1. It is established for every year a balanced Budget of the AUTHORITY.

2. All the expenses of the AUTHORITY, including those relating to the specialized organs of the Executive Secretary, are approved, for each fiscal year, by the Council of Ministers and are imputable to the Budget according to conditions and modalities which are defined in the Financial Regulations of the AUTHORITY.

Article 11: Contributions of member States

1. The operating Budget of the Executive Secretariat of the AUTHORITY shall be financed by contributions equally shared among the member States.

2. The member States pledge to pay regularly their annual contributions to the Budget of the AUTHORITY.

Article 12: Currencies of payment of contributions

1. The contributions payable by each member State of the AUTHORITY under this Convention shall be paid in convertible currency.

2. The Unit of Account in which the Budget of the AUTHORITY is established is that of the host country.
3. Are considered as “convertible currencies” under this article: currencies declared as such by the International Monetary Fund and other currencies which the Council shall consider as such.
4. The exchange rate of the currencies of the member States of the AUTHORITY meant for the payments of their contributions under this Convention,, shall be the official rate declared to the International Monetary Fund at the date of payment. In case the currency of a member State depreciated, the normal rate of buying and selling of the member State's Central Bank shall be applied.

Article 13: Financial regulations

1. The Council of Ministers shall establish the Financial Regulation with a view to implementing the provisions of this Chapter.

Article 14: The financial Controller and the External Auditor

1. A financial Controller shall be appointed by the Council of Ministers to whom he shall be answerable. He shall be directly responsible as far as the financial management of the Secretariat is concerned.
2. An External Auditor of the AUTHORITY is appointed on the recommendation of the host country to the Council of Ministers and may be removed from office when need be by the Council.
3. The rules governing the terms and conditions of service of the financial Controller and the powers of the External Auditor are as laid down in the Financial Regulations

CHAPTER V

SETTLEMENT OF DISPUTES

Article 15: Procedure for the settlement of disputes

Any dispute that may arise among the member States over the interpretation and/or implementation of this Convention shall be amicably settled through direct negotiations. In the event of failure to settle such disputes, the matter shall be referred to the Summit by a party to such disputes and the decision on the same shall be final.

CHAPTER VI

OTHER PROVISIONS

Article 16: Immunities, privileges and advantages

1. The AUTHORITY as an Inter-Governmental Institution shall enjoy legal personality.
2. The AUTHORITY shall have in the territory of each member State:
 - (a) The legal capacity required for the performance of its functions under this Convention;
 - (b) The power to acquire, enjoy and dispose of movable and immovable property;
 - (c) The right to institute legal proceedings.
3. In the exercise of its legal capacity under this Article the AUTHORITY shall be represented by the Executive Secretary.
4. The Executive Secretary and his Deputy shall be accorded diplomatic privileges and immunities by the member States. The other staff of the Commission shall be accorded such privileges and immunities as are accorded to officials of the Organisation of African Unity of equivalent status,

Article 17: Entry into force

The present Convention which is a revision of the Agreement of Niamey and the Riders which shall be annexed and which shall form an integral part of the Convention upon their signature by member States shall enter into force upon ratification by two thirds of signatory States in accordance with the constitutional procedures applicable in each signatory State.

Article 18: Amendments and revisions

1. Any member State may submit proposals for the amendment or revision of this Convention.
2. Any such amendment or revision proposed shall be sent to the Current Chairman of the Council who shall communicate them to other member States not later than 60 days after the receipt of such proposals.
3. All amendments and revisions to this Convention shall enter into force in conformity with the provisions of Article 17.

Article 19: Denunciation

1. Any member State may denounce this Convention after the expiration of ten (10) years as from the date of its entry into force.

2. The denunciation shall be made under the form of notification written to the depository Government which will in turn acknowledge receipt and communicate it to the Governments of other member States.
3. The denunciation shall take effect one year after the date of its reception unless it has been previously withdrawn. It shall not affect any study programmer works or other commitments already agreed upon before the denunciation, unless there is a previous contrary agreement to this effect.
4. The member State concerned shall meet all obligations under this Convention and by virtue of its status as a member, before the date mentioned in paragraph (3) above.

Article 20: Depository Government

The present Convention and all the instruments of ratification and accession shall be deposited with the Government of the Republic of Niger which shall forward certified true copies to all member States and notify them of the date of deposit of the instruments of ratification and accession and shall register this Convention with the organization of African Unity and the Organization of the United Nations.

CHAPTER VII

FINAL PROVISION

Article 21: Niamey Agreement

This Convention revises the Niamey Agreement, signed in Niamey on the 25th of November 1964, revised in Niamey on the 2nd of February 1968 and on the 15th of June 1973, and in Lagos on the 26th of January 1979.

...

Protocol to the Faranah-Convention, 1980

Preamble

THE HIGH CONTRATING PARTIES:

In pursuance of the objectives of the Act of Niamey dated 26 October, 1963 relating to Navigation and Economic Cooperation among Member States of the Niger Basin and the Convention creating the Niger Basin Authority;

CONSIDERING the new orientation of activities of the AUTHORITY towards concrete projects of developments;

RECOGNIZING the necessity to provide and finance the development projects of the AUTHORITY through its own resources;

DETERMINED to reinforce and development the economic cooperation among their countries for the welfare of their peoples;

THEREFORE AGREED AS FOLLOWS:

Chapter GENERAL PROVISIONS

Article 1 Creation

1. It is created a Development Fund for the aim of contributing to the development of the Niger Basin.
2. All Member States of the Authority are also members of the Fund.

Article 2 Functions

The Fund shall undertake the following activities:

1. Collection of financial resources necessary for the implementation of the objectives of the AUTHORITY.
2. Guarantee loans for the Implementation of projects.

Chapter II THE RESOURCES

Article 3 Value and RESOURCES

1. The value shall be fixed every year and shall be calculated on the approved capital expenditure in the following year.
2. The resources shall be from:
 - (a) Contributions of Member States;
 - (b) External resources mobilized for operations of the Fund;

- (c) gifts and grants;
- (d) Trust Fund;
- (e) any income from the Fund's operations.

Article 4
Unit of Account

The Unit of Account in which the Budget of the Fund is determined is the Special Drawing Right of the International Monetary Fund.

Chapter III
OPERATIONS
Article 5
Methods of Operations

The Fund shall be guided by sound banking principles.

In conformity with its objectives, the Fund shall facilitate the financing of regional projects and shall help to promote development in the Member States.

Chapter IV
ORGANIZATION AND MANAGEMENT
Article 6
Organs of the Fund

The organs of orientation, decision and management of the Fund are :

- The Board Directors
- The Executive Secretariat.

Article 7
The Council of Ministers

1. The Board of Directors of the Fund is the Council of Ministers of the NIGER BASIN AUTHORITY.
2. The powers of the Fund shall remain with the Board of Directors. In particular, the Board of Directors shall formulate general directives concerning the policy of the Fund in matters of expenditure.
3. The Board of Directors may assign some powers to the Executive Secretary.
4. The Financial Controller of the Fund is the same as that of the Executive Secretariat of the Authority.

Article 8
The Executive Secretary

The Executive Secretary is the accounting officer for the management of the Fund. He shall negotiate different transactions of the Fund. He is responsible to the Board of Directors of the Fund.

Chapter V
THE FINANCIAL PROVISIONS
Article 9
Financial Year

The financial year shall be from the 1st of January to the 31st of December of each year.

Chapter VI
WITHDRAWAL
Article 10
Withdrawal

The withdrawal of a Member State shall be in conformity with the provisions of the Convention creating the AUTHORITY.

Chapter VII
CESSATION OF ACTIVITIES
Article 11
Cessation

1. The Board of Directors may by consensus propose to the Summit of Heads of State and Government to put an end to the Fund's activities.

2. The Board of Directors shall take necessary steps towards putting an end to the activities of the Fund upon notification by the Summit.

Chapter VII

OTHER PROVISIONS

Article 12

1. The amendment, interpretation, arbitration, relations with other inter-African and international establishments shall be in accordance with the Convention establishing the Authority.

2. This protocol shall enter into force under the same conditions stipulated in the Convention creating the NIGER BASIN AUTHORITY of which it will be an integral part.

In Witness Whereof, we, the heads of state and government of the Niger Basin Authority, have signed this Convention.

Made at FARANAH, this 21st Day of November 1980 in single original in the English and French languages, both texts being equally authentic.