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Togo

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I. Methodology and consultation process

1. This national report was prepared in accordance with United Nations General Assembly resolution 60/251 of 15 March 2006 on the establishment of the Human Rights Council, resolution 5/1 of the Human Rights Council and the general guidelines for the preparation of information provided within the framework of the universal periodic review (Human Rights Council decision 6/102).

2. The consultation process and the drafting of the report followed the stages set out below:

- Development of the Government's strategy on the universal periodic review
- Launch of universal periodic review initiatives and training for members of the Interministerial Commission for the Preparation of Initial and Periodic Reports, staff of ministerial departments, members of Parliament, and representatives of national human rights institutions and civil society organizations, as well as other representatives of Togolese society
- Wide-ranging consultations with those mentioned above
- Collation of information and preparation of first draft by the Interministerial Commission working with all those mentioned above
- Briefing of a delegation on the universal periodic review process in Geneva
- Preparation of the first draft of the national report with technical assistance from the International Organisation of La Francophonie
- Regional workshops to make improvements to the text
- National workshop to validate the text
- Approval of draft report by the Council of Ministers

II. Background, normative and institutional framework

A. Background

3. Covering an area of 56,000 km², Togo is bordered to the north by Burkina Faso, to the south by the Gulf of Guinea, to the east by Benin and to the west by Ghana. It has more than 40 ethnic groups, an estimated population in 2011 of 5.7 million people, of which 51 per cent are women, and a population growth rate of 2.4 per cent. The 15- to 59-year-old age group makes up 51 per cent of the population, 0- to 15-year-olds account for 42 per cent and the over-60s make up the remaining 7 per cent. Its economy is based primarily on agriculture, which accounts for 70 per cent of the economically active population and 40 per cent of gross domestic product.

4. Since independence in 1960, Togo has experienced alternating political systems: a multiparty system from 1960 to 1967, a single-party system from 1967 to 1991, and a multiparty system once again since 1991.

B. Normative framework

1. International

5. Togo has ratified or acceded to several instruments including: (1) the International Covenant on Economic, Social and Cultural Rights; (2) the International Covenant on Civil and Political Rights; (3) the International Convention on the Elimination of All Forms of Racial Discrimination; (4) the Convention on the Elimination of All Forms of Discrimination against Women; (5) the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and its Optional Protocol; (6) the Convention on the Rights of the Child as well as its two Protocols; (7) International Labour Organization conventions Nos. 4, 6, 29, 87, 98, 100, 105, 111 and 182; (8) the Geneva Conventions of 1949 and their two Additional Protocols; (9) the Convention on Cultural Diversity of the United Nations Educational, Scientific and Cultural Organization.

2. Regional

6. Togo is party to several regional instruments including: (1) the African Charter on Human and Peoples' Rights; (2) the Constitutive Act of the African Union; (3) the African Charter on the Rights and Welfare of the Child; (4) the Organization of African Unity Convention Governing the Specific Aspects of Refugee Problems in Africa; (5) the African Union Convention on Preventing and Combating Corruption; (6) the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa; (7) the Protocol to the African Charter on Human and Peoples' Rights on the Establishment of an African Court of Human and Peoples' Rights.

3. National

7. Togo has a considerable framework of legislation whose cornerstone is the Constitution of 14 October 1992, which, in articles 50 and 142, incorporates all of the rights and responsibilities set out in the Universal Declaration of Human Rights and in all the international human rights instruments ratified by Togo. The legislation includes: Act No. 2005-009 of 3 August 2005 on the trafficking of children; Act No. 2007-017 of 6 July 2007 on the Children's Code; Act No. 2009-011 of 24 June 2009 abolishing the death penalty; Act No. 2010-004 of 14 June 2010 on the Water Code; Act No. 2010-018 of 31 December 2010 amending Act No. 2005-012 of 14 December 2005 on the protection of persons with regard to HIV/AIDS; and the Act on the Press Code. In addition, the Constitution contains provisions that safeguard human rights, such as those on the right to life (art. 13), freedom of thought, conscience, religion, worship, opinion and expression (art. 25); the right to health (art. 34); the right to education (art. 35); and the right to a fair trial (art. 19).

8. As part of its drive to modernize legislation, the Government is considering draft bills:

- To amend the Criminal Code, to incorporate the various human rights instruments
- To amend the Code of Criminal Procedure, to strengthen citizens' guarantees in courts of law
- To amend the Individuals and Family Code, to remove provisions that conflict with international commitments
- To reorganize the justice system to bring it closer to citizens and redefine the courts' jurisdictions
- To promote gender equality in access to electoral mandates, elected office and appointments to State institutions and Government departments

C. Institutional framework

1. State institutions and judicial mechanisms

9. Since the adoption of the 1992 Constitution, political power has been exercised by the following institutions:

(a) The President of the Republic, who is the Head of State. The President is elected by direct universal suffrage in a single-round poll and is granted specific powers by the Constitution;

(b) The Prime Minister, who is the Head of Government. The Prime Minister is appointed by the President to lead and coordinate the Government's activities;

(c) The Parliament, which comprises the National Assembly and the Senate. The National Assembly is made up of 81 members elected by direct universal suffrage for a term of five years. There are currently three political parties represented and some non-affiliated members in the National Assembly. It adopts the laws and monitors the work of the Government. As the Senate is currently suspended, its powers are now temporarily exercised by the National Assembly;

(d) "The Constitutional Court, which rules on the constitutionality of laws and guarantees fundamental individual rights and civil liberties, regulates the activities of public institutions and the work of the public authorities" and is the highest judicial authority in the State in constitutional affairs. It announces the results of presidential and parliamentary elections and referendums, settling any disputes that may have arisen, and has very wide-ranging powers of ex ante and ex post control. It is governed by Organizational Act No. 2004-004 of 1 March 2004;

(e) The Court of Audit, which was established by Act No. 98-14 of 10 July 1998 on the organization and functioning of the Court of Audit, came into operation in September 2009. It audits the public accounts and helps the Government and Parliament monitor implementation of financial legislation;

(f) The Economic and Social Council, which is not yet operational;

(g) The High Audio-visual and Communications Authority (HAAC), which is a constitutional body responsible for monitoring and safeguarding freedom of expression, opinion and the press. It was established by Organizational Act No. 96/10/PR of 21 August 1996 and amended and supplemented by Organizational Act No. 2004-021 of 15 December 2004;

(h) The National Human Rights Commission, which was established by Act No. 87-09 of 9 June 1987 and recognized in the Constitution in 1992, restructured by Organizational Act No. 96-12 of 11 December 1996, amended and supplemented by Organizational Act No. 2005-004 of 9 February 2005 on the composition, organization and functioning of the National Human Rights Commission. It is an independent body. Its members benefit from immunity during the exercise of their duties and for one year after the termination thereof. Its mission is to ensure the protection and defence of human rights, to promote human rights by all possible means, in particular by examining and recommending to the authorities for adoption any proposed legislation related to human rights, to issue opinions in the field of human rights, to organize conferences and seminars on human rights, and to investigate reported human rights violations. It produces annual reports of its activities and makes recommendations to the State;

(i) The Ombudsman, who is an independent administrative authority appointed by the President for a period of three years. The Ombudsman is responsible for investigating appeals and complaints from citizens concerning malfunctioning of the

administration, local authorities, public bodies or any public agency, with a view to achieving an amicable settlement;

(j) The Independent National Election Commission, which organizes and supervises elections and referendums.

2. Administration of justice

10. The rule of law is enshrined in article 1 of the Constitution. Justice is delivered in the name of the Togolese people by the courts and tribunals. Provision is also made for the principle of a fair trial, including public hearings, the right to a defence and the obligation to justify decisions.

11. To meet the need for speedy justice, Togo has been modernizing its justice system and has recruited at least 20 judges and as many court registrars every year since 2005. To this end, a Justice Training Centre was established in 2010 to provide both initial and in-service training to professionals of the courts system.

12. The independence of the judiciary is guaranteed by the Constitution (art. 13) and enshrined in law by Organizational Act No. 96-11 of 21 August 1996 on the special status of judges. This law enshrines the principle of the irremovability of judges and grants the Higher Council of the Judiciary, which is mainly made up of judges, responsibility for managing judges' careers.

III. Promotion and protection of human rights

A. Civil and political rights

1. The right to life and physical integrity, the prohibition of torture and other cruel, inhuman or degrading treatment or punishment

(a) The right to life and security

13. Article 13 of the Constitution specifies that "the State shall guarantee the life, security, and physical and mental integrity of all persons living on its territory. No one shall be arbitrarily detained or deprived of his or her life." The right to life is also written into the Criminal Code, which seeks to protect life by providing for the criminal offences of intentional homicide (arts. 44 and 45), involuntary manslaughter (arts. 51 to 53), and for threats of these, even when they are not carried out (art. 50). Unfortunately, this right was violated during Togo's socio-political troubles, which necessitated the establishment of the Truth, Justice and Reconciliation Commission in 2008. Its mission was to implement the recommendations of the Global Political Agreement by shedding light on the acts of political violence committed between 1958 and 2005, to find the perpetrators, to make proposals to the Government on reparations measures aimed at bringing peace, and to recommend what action to take against the perpetrators, to combat impunity, and to avoid a recurrence of such acts.

14. The death penalty was abolished in 2009 and all such sentences which had been handed down but not yet enforced were commuted into life imprisonment.

(b) The right to physical integrity and the prohibition of torture and other cruel, inhuman or degrading treatment or punishment

15. Articles 13 and 21 of the Constitution guarantee Togo's citizens the right to protection from any assault causing bodily harm. To this end, Togo has ratified the

Convention against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment and its Optional Protocol. However, there have been cases of this right being violated during criminal investigations and detention.

(c) *Combating impunity*

16. The Government is combating impunity through the establishment of the Truth, Justice and Reconciliation Commission, judicial reform and the establishment of the Court of Audit.

2. Conditions of detention

17. There is no legislation on detention. A draft bill on prison policy and rehabilitation has been prepared with the financial support of the European Union in an attempt to remedy this. Other necessary bills may be drawn up with the help of development partners.

18. There are not enough prisons or enough places for inmates. The prisons that do exist are run-down. Despite bringing improvements, the Emergency Programme to Support the Prison Sector (PAUSEP), which operated between 2003 and 2006, did not succeed in solving the problems facing the sector. A similar programme incorporating the recommendations made in the PAUSEP evaluation would help improve conditions for inmates.

19. An example of overcrowding in prisons is the civil prison of Aného. Built to house 196 inmates, as of 1 June 2011, it had 339 inmates – an occupancy rate of 172.96 per cent. The national occupancy rate is 151 per cent. The Government has decided to solve this problem by building a new prison in line with international standards at Kpalimé.

20. The introduction of judges responsible for the enforcement of sentences and of liberties and detention judges, which is set out in the draft bill on the Code of Criminal Procedure, and the incorporation of the draft bill on alternative penalties to imprisonment will limit the number of inmates. In the meantime, the President and the Minister of Justice have shown a degree of leniency. In 2010, for example, 226 offenders received a presidential pardon. Between 2008 and 2010, over 353 offenders were granted a conditional release. The Parliamentary Human Rights Committee conducted a field mission in March 2009 to verify that human rights were being respected in short-stay prisons.

21. Conditions in prisons will improve thanks to increases in the operating budget for the Prisons and Rehabilitation Service (up from 24,200,000 CFA francs in 2006 to 267,603,000 CFA francs in 2010) and allocations for food (up from 300 million CFA francs in 2000 to 330 million CFA francs in 2010), and a prison service bolstered by the continuing recruitment drive for 500 new prison wardens. The Government accepts that these actions will not be enough to substantially improve conditions in detention. Its priority, other than seeking the financial and material resources that are needed to run detention centres effectively, is training for prison staff.

3. Police custody

22. Police custody is regulated by article 52 of the Code of Criminal Procedure and article 1 of the Act of 26 May 1987. It is for a maximum of 48 hours, renewable once if authorized by the State Prosecutor, except in the case of serious offences or drugs offences, for which custody may be extended to 8 days. There are two inspection mechanisms in place to ensure compliance with these time limits: one defined in the Code of Criminal Procedure and enforced by the Public Prosecutor's Office and the other by the Inspectorate-General of Security Services. Unfortunately, due to insufficient resources and staff, such inspections do not actually take place. In addition to these mechanisms, other human rights bodies such as the International Committee of the Red Cross inspect police detention

facilities. The reports produced make it possible to consider, with the collaboration of Togo's development partners, solutions to the issues raised. Despite all of these provisions, there are still cases where police custody exceeds the legal limit.

4. The right not to be forced into exile, the rights of asylum-seekers

23. Article 22, paragraph 2, of the Constitution states that "no Togolese may be deprived of the right to enter or leave Togo". The rights of asylum-seekers are enshrined in the Convention relating to the Status of Refugees, the International Covenant on Civil and Political Rights and the Convention Governing the Specific Aspects of Refugee Problems in Africa.

5. Freedom of access to the courts and the guarantee of a fair trial

24. Freedom of access to the courts and the guarantee of a fair trial are recognized by the Constitution in article 19. Article 1, paragraph 2, of the Code of Criminal Procedure specifies that any person who feels that his or her rights have been infringed may institute legal proceedings. The Code of Civil Procedure meanwhile specifies that any person who has a legitimate interest in the success or failure of a lawsuit may initiate legal proceedings (art. 3).

25. To bring justice closer to the citizens, district courts have been created in most of the prefectural capitals. There are now 30 courts of first instance, 2 appeal courts and 1 supreme court. The problem still remains, however, that specialized courts, i.e. the youth court and the labour court, only sit in Lomé. The draft bill on the organization of the courts, therefore, provides that, to meet its responsibilities, each region should have a regional court housing a youth court and a labour court. Furthermore, the regional court shall have jurisdiction in criminal and administrative cases at first instance.

26. In relation to the cost of legal proceedings, the Code of Criminal Procedure provides for fee exemptions for the poor. Although the law provides for legal aid, the system is not operational, as no procedure to define eligibility has been established. However, a defence lawyer is automatically allocated to any poor defendant. A draft bill on eligibility criteria for legal aid was approved in October 2010.

27. A department has been set up within the Ministry of Justice to ensure access to the law and justice system following the adoption of the national policy to train and educate the public about the law, their rights and legal proceedings.

28. The guarantee of a fair trial is contained in general and specific guarantees.

29. The general guarantees relate to the independence of the judiciary, reaffirmed in article 113 of the Constitution, which specifies that the judiciary is independent of the executive and legislative branches. In practice, however, the judiciary does not have sufficient means to be independent.

30. The specific guarantees relate to the obligation to respect the fundamental principles guaranteed by the Constitution, international instruments and the law, such as equality before the law, the presumption of innocence, the legality of criminal offences and penalties, the non-retroactivity of criminal laws, the right to a second hearing, the right to have cases heard within the stipulated time limits and the right to a defence. In practice, it would appear that these principles are not being respected everywhere. The accusation is that Togo has a two-tier justice system. To deal with this complaint from its citizens, in 2005, the Government launched a nationwide programme, still ongoing, to modernize the justice system.

6. Freedom of conscience and religion

31. According to article 1 of the Constitution, “Togo is a secular, democratic and social State”. Freedom of thought, conscience and religion is laid down in article 25 of the Constitution. There are three main religious communities that coexist peacefully in Togo: traditional African religions, Christianity and Islam, as well as various philosophical and esoteric groups. Freedom of worship is guaranteed within the framework of a secular State. This freedom does, however, give rise to certain problems such as noise pollution, so the Government has established a department of religion within the Ministry of Territorial Administration.

7. Freedom of opinion and expression

32. Freedom of expression and freedom of the press are guaranteed by articles 25 and 26 of the Constitution. The legal framework for the freedom of the press is set out in Act No. 98-004/PR of 11 February 1998 on the Press and Broadcasting Code and its amendments and supplements.

33. Amendments to the Press Code have decriminalized offences against legislation on the press except for those concerning the internal or external security of the State, incitement to ethnic or tribal hatred and appealing to the police to go against their duties towards the nation (Act No. 2004-015 of 27 August 2004). In 2011, Togo has approximately 11 television channels, 82 radio stations and around 200 press publications.

34. HAAC protects and monitors the exercise of these freedoms. The reorganization of HAAC in 2005 to make it more professional and impartial, and the allocation in 2009 of a support fund for the press of 350 million CFA francs and its establishment on a regular basis (75 million CFA francs per year) are among the steps taken by the Government to reaffirm its commitment to these freedoms. However, there were some issues in this area which required amendment of the 2005 Act by that of 2009, which gives the courts jurisdiction over the closure and suspension of television channels or radio stations.

8. The right to take part in the conduct of public affairs

35. The right of every citizen to take part in the conduct of public affairs is realized either directly, or indirectly through elected representatives (article 37 of the Constitution). The only restriction to this right concerns the loss of civil and political rights on conviction under a final judgement. The consolidation of the continuing process of decentralization will bolster citizens’ participation in the conduct of public affairs.

9. Freedom of assembly and association

36. Article 30 of the Constitution guarantees, under the conditions established by law, the exercise of the freedom of assembly and association. This guarantee, together with the flexibility of the procedure for obtaining registration and legal recognition, led to a boom in the number of associations (13,887) and political parties (95) in December 2010. The exercise of the freedom of assembly and demonstration is permitted subject to prior notification.

10. Arbitrary arrest

37. The Constitution (art. 15) provides that no person may be arbitrarily arrested or detained. Certain irregularities have occurred, however, in the work of the police, the gendarmerie and even the courts. The various socio-political crises that Togo has experienced have also undermined this right. Following the presidential election of April 2005, an effort was made to free some people being held in prison or police custody. This led to the establishment of the inspection system for police stations, gendarmerie posts and

prisons. Furthermore, a draft bill on the Code of Criminal Procedure is being prepared to reinforce the guarantees of citizens' rights in their dealings with the police and courts.

B. Economic, social and cultural rights

1. Right to a healthy environment

38. Article 41 of the Constitution reaffirms each citizen's right to a healthy environment. In light of this, Togo has created a ministry responsible for the environment and is party to a number of international legal instruments on environmental protection. It has also adopted several national laws, including Act 2008-005 of 30 May 2008 establishing the framework environment act; Act 2008-009 of 19 June 2008 on the Forestry Code; and Act 2009-001 of 6 January 2009 on biosafety.

39. Togo has established institutions such as: the National Commission for Sustainable Development, to monitor the mainstreaming of environmental factors in development policies; the National Environmental Management Agency, to support implementation of the national environment policy defined by the Government in the national environmental action plan, a national environment fund, a National Fund for Forestry Development; and advisory commissions for forestry resources.

40. In 2007, the Government signed an agreement with the Agence Française de Développement concerning the funding of the Lomé Urban Development Project. The aims of this project are to dredge the lagoons in Lomé, allocate vehicles to collect household waste, and organize awareness-raising campaigns to promote responsible citizenship. Togo has received additional funding from the European Union. In spite of these efforts, management of environmental issues still remains a major challenge in rural and urban areas.

2. Access to drinking water

41. In order to achieve Millennium Development Goal (MDG) 7 in respect of drinking water and sanitation, Togo has undertaken several initiatives such as adopting the Water Code, setting up a national asset management company and, pursuant to decree No. 2010-099/PR of 4 August 2010, adopting a national water policy. Access to drinking water is thus recognized in Togo as a fundamental human right. In 2010, activities to give local populations access to drinking water increased the availability of drinking water from 28 per cent in 2000 to 40 per cent in 2010 amongst rural populations, from 24 per cent to 29 per cent in semi-urban locations, and from 38 per cent to 49 per cent in urban areas. More than 841 boreholes are currently being drilled and 117 repaired in rural areas, serving to improve the country's performance in meeting these fundamental rights.

42. In terms of basic sanitation and hygiene, the percentage of the rural population with latrines rose from 10 per cent in 2000 to 11.73 per cent in 2010. Other action being taken includes the provision of community sanitation services.

3. Right to adequate housing

43. The National Housing Strategy was adopted in 2003 and updated in 2007 to reflect the socio-economic situation in the country. The housing sector is currently looking vulnerable and has the following distinguishing features: the land ownership rules are underpinned by an outdated and unsuitable legal framework that attempts to wed modern law with traditional law; there is a lack of real-estate developers; town planning rules do not exist or are out of date; construction materials are expensive prompting people to resort to self-built houses using flimsy materials; real estate loans are hard to come by and expensive and there are not enough appropriate banking institutions; construction capacity is limited

to 10,000 new houses each year, while the estimated requirement for new houses per year is 23,000.

44. The overall objective of the Strategy is to provide adequate housing for all in the future and in particular for low- and medium-income households. It includes a sectoral investment schedule with a detailed action plan in the form of the National Housing Programme covering the period from 2009 to 2013.

45. The Government is currently reviewing the blueprints for major towns and cities and drawing up blueprints for areas with upwards of 5,000 inhabitants. Draft bills are being drawn up for the Town Planning and Construction Code and the Real Estate Development Code.

4. Right to food

46. The continued implementation of the agricultural recovery strategy since 2008 and State subsidies on fertilizers and seeds made 2010 a bumper year, generating a surplus of 106,513 tons of crops, of which there were 82,973 tons of maize and 26,871 tons of sorghum. The National Food Security Agency is able to regulate prices for basic foodstuffs. Despite all these efforts, discrepancies remain in the level of enjoyment of the right to food.

5. Right to work and to social protection

(a) Right to work

47. Article 37, paragraph 1, of Togo's Constitution recognizes that each citizen has the right to work.

48. Since 2003, the Government has once again started appointing civil service officials through competitive exams and taking on individuals from outside of the civil service. The size of the civil service increased from 24,576 employees in 2003 to 43,422 in 2010. Similarly, regulations were passed in 2011 for programmes, such as the national volunteers' programme and the work integration and employment support programme, designed to make it easier for first-time jobseekers to enter the job market.

49. Implementing regulations for the Labour Code are at the validation stage. A permanent tripartite dialogue (Government, employers and workers) and the National Employment Agency have now been established. The ultimate aims of these measures are to improve working conditions and to achieve the consensus-based management of the world of work.

50. A draft statute for the civil service has been finalized as part of the civil service reform plan launched following the national consultations on Public Administration in 2006.

51. Despite all these efforts, the employment situation remains a matter of concern. A 2005 survey by the World Bank revealed that the unemployment rate stood at 6.1 per cent and the underemployment rate at 27.7 per cent with over 33 per cent of the active population living in vulnerable circumstances.

(b) Social protection

52. Togo has acceded to ILO conventions Nos. 102, 121, 128, 130 and 168 concerning social security. Nevertheless, for a long time only lip service has been paid to health and safety in the workplace because there is no legislation, or it is outdated and incomplete. The acts on the Social Security Code and establishing compulsory health insurance for civil servants were enacted on 15 February 2011.

6. Freedom of association and the right to strike

53. The freedom of association is enshrined in the Constitution (art. 39, para. 2). Article 6 of Act 2006-10 of 13 December 2006 on the Labour Code reaffirms this freedom. Decree No. 647/MTEFP/DGT of 1 June 2007, which defines the various kinds of workers' trade unions, facilitates the implementation of this principle.

54. Article 9 of the Labour Code prohibits any employer from exerting any means of pressure in support of or against trade union organizations. Any measure taken by an employer which runs counter to these provisions is considered as wrongful and will result in penal sanctions and damages to be paid. There is a single universal system governing the right to organize. The only formality involved in setting up a trade union organization is administrative. Togo has six trade union confederations which have hundreds of grass-root member trade unions.

55. Under article 39, paragraph 1, of the Constitution and articles 256 et seq. of the Labour Code, the right to strike is only recognized if all avenues for an amicable settlement prescribed by law, including attempts at reconciliation and arbitration, have been exhausted.

56. In the free zone, the freedom of association and the right to strike have been seriously compromised. Efforts have however been made to promote enjoyment of these rights, leading to the establishment of three trade unions and the drafting of a bill to make the provisions of the Labour Code applicable there.

7. Right to education and training

57. Article 35 of the Constitution sets out the principle of free and compulsory primary education for children up to the age of 15. This was previously referred to in executive order No. 16 of 6 May 1975 on the educational reform. The first stage of providing free education began in 2008 with the abolition of school fees for public preschools and primary schools under decree No. 2008-129/PR of 2 October 2008. This led to a 16 per cent rise in school enrolment rates, thereby bringing the net enrolment rate to 87.8 per cent.

58. To meet the challenge of achieving universal primary education by 2015 and thus reach MDG 3, in 2010 Togo adopted the education sector plan 2010–2020, with the triennial medium-term expenditure framework 2010–2012. Pursuant to this, the capacity of educational establishments was increased, more schools were created, new teachers were recruited and trained, and some educational establishments which had been set up as a result of local initiatives were transformed into public schools. The budget for primary school education was increased from 15,860,000,000 CFA francs in 2004 to 34,760,000,000 CFA francs in 2010. The secondary school budget was increased from 9,260,000,000 CFA francs in 2004 to 15,320,000,000 CFA francs in 2010.

59. Under outline act 2002-016 of 30 April 2002, the Ministry responsible for technical education and vocational training manages 18 centres for initial and in-service training. A number of secular and religious private schools also play a role in various training programmes. Despite the Government's efforts to improve access to high-quality training, a shortage of technical resources and funds makes it impossible to fully meet the demand for training.

60. In terms of higher education, besides a few private establishments, which mainly offer courses leading to the advanced vocational training certificate, Togo boasts two public universities: the University of Lomé and the University of Kara. There has been a consistent rise in student numbers: in 2005, the University of Lomé had some 14,453 students, including 2,864 girls, and by 2010, enrolment had reached 41,342, including 9,958 girls, for a capacity of 15,000 places. Over this same period, the number of students

at the University of Kara increased from 2,761 (including 366 girls) to 9,908 (including 1,848 girls) for a capacity of 5,500 places.

8. Cultural rights

61. Togo has ratified and acceded to the following UNESCO conventions and agreements: (a) the UNESCO Convention for the Safeguarding of the Intangible Cultural Heritage; (b) the Convention on the Protection and Promotion of the Diversity of Cultural Expressions; (c) the Convention concerning the Protection of the World Cultural and Natural Heritage; (d) the Agreement on the Importation of Educational, Scientific and Cultural Materials, adopted in Florence. Togo is also a member of the World Intellectual Property Organization and the African Intellectual Property Organization. A number of measures have been taken in this area, including the creation in Togo of the office of copyrights, the Ministry of Culture, a national museum and several regional museums. The country adopted a cultural policy in March 2011 with the aim of consolidating the country's cultural heritage.

9. Right to health

62. "The State acknowledges the right of citizens to health. It shall strive to promote that right." (article 34 of the Constitution). Act No. 2009-007 of 15 May 2009 on the Health Code stipulates the legal framework for health-care provision.

63. A five-year plan (2002–2006) and a strategy note were adopted in 2001 to clarify the general lines of the national public health policy. On the basis of the conclusions and recommendations of this plan, the priorities identified in the Poverty Reduction Strategy Paper (PRSP), and subregional and international guidelines on health, especially the MDGs, a new health development plan was drawn up for the period 2009–2013. Theme-based strategies (malaria, HIV/AIDS, reduction of maternal and neonatal mortality, vaccination, community-based interventions) have been implemented.

64. The number of workers in the health sector increased from 6,934 in 2004 to 12,693 in 2010, representing an average increase of around 11.8 per cent per year. Of these, 79 per cent are in the public sector, 14 per cent in the for-profit private sector and around 8 per cent in the faith-based private sector. The country has 1 doctor per 11,171 inhabitants, 1 State-registered nurse per 6,135 inhabitants and 1 midwife for 13,710 inhabitants. Health-care services consist of 789 health units, of which 529, or 67 per cent, are in the public sector, and 260, or 33 per cent, are in the private sector.

65. The geographical coverage of health services is as follows: 88 per cent of the population live within 5 km of health facilities and 62 per cent within 2.5 km. There are however disparities by region and by health district.

(a) *Maternal, newborn, infant and child health*

66. Around 84 per cent of pregnant women have antenatal consultations and receive support from midwives and birth attendants. The figure for maternal mortality is high, with 478 deaths per 100,000 live births. The infant mortality rate is estimated at 77 per thousand and the child mortality rate at 123 per thousand. In order to reduce these levels, the Government has begun implementing high-impact interventions, namely: subsidies have been given for caesarean section operations since 2 May 2001; a campaign was launched in 2010 to speed up the reduction of maternal mortality; and a national programme was launched in April 2011 to provide treatment for obstetric fistula.

67. Awareness-raising publicity campaigns by the Government and civil society organizations pushed up contraceptive use from 11.3 per cent in 2003 to 16.8 per cent in

2008. The proportion of births assisted by qualified health personnel rose from 51 per cent in 1998 to 62 per cent in 2006.

(b) *Immunization coverage*

68. An expanded programme of immunization (EPI) and a free public vaccine distribution system are in operation across the country. In 2006, 42.2 per cent of children received eight doses of EPI vaccine before their first birthday, and 43 per cent were fully immunized. At the same time, 6 per cent received no vaccinations at all. In 2001, measles-related mortality was reduced by 100 per cent and the morbidity level decreased by 84 per cent. Notwithstanding, measles immunization campaigns were conducted in 2004, 2008 and 2010. In 2007, Togo was certified by WHO as a country which had eradicated poliomyelitis. The immunization activities have been aimed at children under 5 years of age. In 2010, immunization coverage for poliomyelitis stood at 92 per cent, for tuberculosis at 94 per cent and for measles at 84 per cent.

(c) *Prevention, treatment and care for sexually transmitted infections and HIV/AIDS*

69. HIV prevalence was estimated at 3 per cent in 2008 compared to 3.6 per cent in 2001. The general trend towards stability observed since 2005 conceals significant regional discrepancies. The response is aimed at ensuring that persons living with HIV/AIDS have universal access to comprehensive prevention and treatment services, aftercare and support, so as to halt the HIV/AIDS epidemic and reverse the trend by 2015. The percentage of those living with HIV/AIDS who receive antiretroviral therapy stood at 53.9 per cent in 2009 compared with 27.3 per cent in 2006. Since 2008 the Government has made antiretrovirals free for all such individuals, who are covered by Act No. 2010-018 of 31 December 2010 on the protection of persons with regard to HIV/AIDS. This has increased the number of persons on antiretrovirals from 8,000 in 2008 to 24,000 in 2010. Health education and prevention of sexually transmitted infections and HIV/AIDS have been included on the primary school curriculum for 2009.

70. Furthermore, activities have been launched across the entire range of support centres to prevent mother-to-child transmission of HIV. The number of sites offering such activities increased from 48 in 2008 to 128 in 2009 (with a geographical coverage of 20.4 per cent). In 2009, this made it possible to reach about 32 per cent of the target population. Despite these significant results, there is still considerable progress to be made. In May 2010, Togo acceded to the International Health Partnership, through the signing in Geneva of a compact seeking to accelerate the achievement of MDGs 4, 5 and 6 and enhance the health of the country's population.

C. Rights of specific groups

1. Women's rights

71. Since 1975, International Women's Year, Togo has included activities for the protection and advancement of women in its key national development priorities. Moreover, Togo is party to several international instruments promoting women's rights, and in particular the Convention on the Elimination of All Forms of Discrimination against Women and the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa. Togo is firmly committed to improving the status of women across the board.

72. Article 11 of the Constitution establishes the principle of equality between men and women before the law. In 2009, a bill was adopted to redress gender inequalities and ensure that women enjoy their rights in full. This bill revised the Individuals and Family Code to

reflect changes in Togolese society and to bring it into line with the relevant international instruments ratified by Togo.

73. Various steps have been taken to promote gender equality: (a) the adoption in 2006 of a document on the national strategy to incorporate gender into policies and programmes; (b) inclusion of the gender dimension in the PRSP; (c) the adoption in January 2011 of the national policy on gender equality and equity and its plan of action; (d) inclusion of activities to improve the socio-economic and legal situation of women in the Interim Priority Action Programme 2008–2010; (e) validation in 2010 of a study on gender-based violence making it possible to categorize the different forms of violence against women and in particular emerging forms of violence (trafficking and exploitation of women), to gauge how pervasive these are and to identify strategies to put an end to them. The preliminary draft of the Criminal Code thus covers and systematically penalizes all gender-based violence.

74. A ministry dealing specifically with women's affairs was created in 2010 in order to speed up the implementation of all the Government's commitments in the area of women's rights. The Ministry organizes regular awareness-raising campaigns, targeting women and traditional knowledge-keepers.

75. In the professional sphere, the General Civil Service Regulations, the Labour Code and their relevant implementing texts address the issue of women in the workplace and provide them with legal protection.

76. Under articles 148 and 149 of the Labour Code, a pregnant woman whose condition is certified by a doctor may leave her work without notice and without having to pay a fine for breach of contract. She is entitled to 14 weeks' maternity leave and, after the birth, to one hour's rest during the working day.

77. The obstacles to the advancement of women's rights and to the implementation of the various relevant international instruments stem from: a reluctance to change traditional customs and practices (levirate, sororate, servitude), economic hardship and a high level of female illiteracy (66.7 per cent in 2006). Nevertheless, reform of the public administration by means of a review of the General Civil Service Regulations will provide better protection for women and reduce gender inequalities.

78. With regard to trafficking in women, Togo ratified the United Nations Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others; the Declaration of the Economic Community of West African States on the Fight against Trafficking in Persons; the Protocol to Prevent Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime; Multilateral Cooperation Agreement to Combat Trafficking in Persons, Especially Women and Children in West and Central Africa.

79. In addition to the Constitution, the following legislation and regulations are used to establish the status of women and promote and protect their rights: (1) Act No. 98-16 of 17 November 1998, prohibiting female genital mutilation; (2) Act No. 2006-010 of 13 December 2006 on the Labour Code; Act No. 2007-005 of 10 January 2007 on reproductive health; and Act No. 2010-018 of 31 December 2010 on the protection of persons with regard to HIV/AIDS. Nevertheless there are still areas of gender inequality, notably in the civil service (8,395 women across all departments out of a total staff of 43,422), Parliament (9 out of 81 members), Government (7 out of 32 ministers), and other decision-making bodies.

2. Rights of the child

80. Togo has worked with its partners to establish legislation that is compatible with the international and regional instruments to which it is party, and to improve the regulations for the institutional care of children considered victims through the following:

- Act No. 2007-017 of 6 July 2007, on the Children's Code
- Act No. 2009-010 of 11 June 2009 on the organization of the civil service in Togo, which modifies the limit for declaring new births from 30 to 45 days
- The Hague Convention on Protection of Children and Co-operation in respect of Inter-country Adoption
- Protocol to Prevent Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, ratified in Palermo in 2009

81. A number of measures have been taken to enact this legislation: the creation of a directorate-general within the Ministry of Social Action and National Solidarity to carry through the policies and programmes focused on children; the installation in 2009 of a telephone helpline and the drafting of practical reference documents for people involved in childcare; the establishment of the National Commission for the Care and Social Reintegration of Child Victims of Trafficking which helped to improve the organization of the reintegration into society and employment of 1,722 children between 2007 and 2010; and the establishment of the National Child Adoption Committee in 2008 to provide better guidance on the procedures.

82. Arrangements have been made in prisons to separate children in conflict with the law from adults. A youth court was created under the jurisdiction of the Lomé court of appeal, followed by the nomination of some 20 investigating judges acting as youth court judges in courts outside of the capital. Although the existence of street children is clear to see, there are not enough programmes to assist them and efforts are being made to meet this need.

83. Studies into the conditions of orphans and vulnerable children have made it possible to identify factors of vulnerability such as family poverty, HIV/AIDS infection, family status, shortages of care facilities for children in difficult circumstances, foster homes lacking know-how and financial means, and the lack of community services to help provide care for children in difficult circumstances.

84. Insufficient public awareness of the current law and scarce resources make establishing an environment which is protective of the rights of the child a major challenge.

3. Rights of the elderly and persons with disabilities

85. Article 33 of the Constitution places an obligation on the State to take steps to protect persons with disabilities and the elderly from social injustice.

86. A central office for the elderly within the Ministry of Social Action and National Solidarity conducts awareness-raising information campaigns for the elderly, develops projects to improve their living conditions and organizes policies designed to benefit them, such as the construction of a centre and the drafting of a national policy for the elderly.

87. Act No. 2004-005 of 23 April 2004 on the social protection of disabled persons reflects the Government's policy towards persons with disabilities. The Act is currently under revision to bring it into line with the Convention on the Rights of Persons with Disabilities, which Togo ratified on 11 January 2011.

88. There is also a national policy to rehabilitate persons with disabilities, a community-based rehabilitation programme and a national programme to combat blindness.

89. A National Orthopaedic Appliances Centre, five regional branches, and two vocational training centres have been created. The education centres for the visually impaired, for children with hearing disabilities and for mentally disabled children are private. The State however provides grants for these each year, as does the Togolese Federation of Associations of Disabled Persons.

90. The issue of the protection of children and the disabled has been introduced on the curriculum of the National School of Social Training and the National School for Medical Auxiliaries. Despite the fact that there is legislation to protect persons with disabilities, they still face difficulties: limited access to education for children with mental and sensory disabilities (they cannot go to ordinary schools); lack of access to public buildings (no ramps in schools and public places such as health-care centres); limited employment opportunities (public and private); difficult working conditions; and lack of attention given to the reproductive health of disabled women in the training of health workers.

4. Internally displaced persons and refugees

91. In the aftermath of the socio-political unrest from 1990 to 2005, some people had to leave their home areas to escape various abuses. An estimated 67,443 left including 3,000 in 2005. The successive governments since 2005 have implemented a policy of reconciliation, leading to the return of internally displaced persons.

92. An estimated 436,242 people were displaced by flooding between 2007 and 2010. A reception centre with a capacity of 1,000 was built with the support of the international community in the Golfe prefecture, to add to the seven intermediate reception centres that already exist.

93. Togo has welcomed some 20,000 refugees of 14 different nationalities, of whom 13,000 are from rural areas and 7,000 from cities. More recently, there has been an influx of 6,000 refugees from Côte d'Ivoire of whom there were 1,739 in the Avepozo camp as of 13 June 2011. The Togolese authorities are assisting the Office of the United Nations High Commissioner for Refugees in guaranteeing safety and protection to all refugees in the country. These refugees enjoy the same rights as the citizens of Togo. The Refugee Status Act of 2000 established the National Refugee Commission. Furthermore, the National Refugee Assistance Coordination Office was set up in 1994 to register refugees and provide them with the documents they need.

IV. Cooperation with human rights mechanisms

94. Togo recognizes that, due to a lack of funds, it has not fully met its obligations regarding the submission of reports to treaty bodies. However, thanks to stronger collaboration with the country office of the Office of the United Nations High Commissioner for Human Rights (OHCHR) since it was set up in 2006 and the revitalization of the Interministerial Commission for the Preparation of Initial and Periodic Reports on Human Rights, Togo has submitted: (1) its fourth periodic report on civil and political rights, in 2011; and (2) its sixth to seventeenth periodic reports on the International Convention on the Elimination of All Forms of Racial Discrimination, in 2008. It has also submitted the following reports: (1) its second periodic report on the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, in 2011; (2) its third and fourth periodic reports on the Convention on the Rights of the Child, in 2010; (3) its sixth and seventh periodic reports on the Convention on the Elimination of All Forms of Discrimination against Women, in 2010; (4) its initial report on the International Covenant

on Economic, Social and Cultural Rights, in 2009; and (5) its initial report on the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, in 2008.

95. Measures have been taken to implement a number of the recommendations made by the aforementioned treaty bodies: the adoption of the Children's Code; the creation of a telephone helpline; the definition of torture in the preliminary draft of the Criminal Code; the drafting of a text for a mechanism to prevent torture; and the abolition of the death penalty.

96. Regarding cooperation with special procedures mechanisms, the Special Rapporteur on torture visited Togo in 2007, and a joint mission of the United Nations and the African Union's Special Rapporteurs on the situation of human rights defenders visited Togo in 2008.

97. At the regional level, Togo presented its initial report on the African Charter on the Rights and Welfare of the Child in 2011 and submitted its third to fifth periodic reports on the African Charter on Human and Peoples' Rights.

98. At the interregional level, Togo has subscribed to the commitments undertaken within the International Organization of la Francophonie, particularly the Bamako Declaration and the Declaration of the Tenth Summit of Heads of State and Government adopted in Ouagadougou in November 2004.

V. Achievements, best practices, challenges and constraints

A. Achievements and best practices

99. Togo went through a long period of instability, partly due to the process of devolution of power, that created a polarization in the political field and had adverse effects in the area of human rights. Since 2006, Togo has adopted the Global Political Agreement, a policy and communication framework, to remedy the situation, and in 2009, it implemented the Permanent Framework for Dialogue and Consultation. The Government made strengthening political, economic, administrative and institutional governance the focus of its 2009–2011 PRSB.

100. A number of institutions have been established to ensure the promotion and protection of human rights: inter alia, the National Human Rights Commission under the Ministry of Human Rights, Consolidation of Democracy and Civic Training as well as ministries responsible for the advancement of women, for grass-roots development, for social affairs and national solidarity, for labour, and for employment and social security, and the Truth, Justice and Reconciliation Commission. Furthermore, the Government has decriminalized offences against the press laws and abolished the death penalty. It is also working in synergy with human rights institutions and in partnership with civil society organizations.

101. In the area of health care, subsidies have been allocated to cover 90 per cent of the cost of caesarean section operations and to provide free antiretroviral medication to protect people living with HIV/AIDS.

102. In terms of food production, the 2010 harvest produced a grain surplus.

103. Regarding the rights of children, Togo has established the National Commission for the Care and Social Reintegration of Child Victims of Trafficking, it established the National Committee for the Adoption of Children in 2008, and made changes to the organization of prisons to separate children in conflict with the law from adults.

104. With regard to social protection, acts have been passed establishing a social security code and instituting mandatory health insurance for civil servants.

105. In the area of training, a national fund for apprenticeships, vocational training and professional development was established and allowed 10,000 workers to be retrained between 2003 and 2009, for a total cost of 1,850,000,000 CFA francs.

106. Counselling and advice centres have been set up for female victims of violence.

B. Challenges and constraints

107. A number of constraints are impeding the Government from fulfilling its international commitments. Among them:

(a) **State institutions:** National Human Rights Commission and Interministerial Commission for the Preparation of Initial and Periodic Reports on Human Rights: lack of financial and human resources; lack of materials;

(b) **Cooperation with mechanisms:** tardiness in the submission of reports and in following the recommendations of treaty bodies and special procedures;

(c) **Civil and political rights:** administration of justice: obsolete infrastructure; lack of human and financial resources; lack of equipment; slowness of proceedings; and lack of specialized courts;

(d) **Economic, social and cultural rights:** poverty; illiteracy; lack of security in employment and housing; lack of social housing; unemployment; lack of equipment; not enough trained medical personnel; lack of health facilities; lack of health training; high cost of medication; poor access to drinking water; lack of human and financial resources; lack of materials; and limited access to professional training;

(e) **Rights of specific groups:** lack of facilities for orphans and vulnerable children; low birth registration rates, particularly in rural areas; poor access to resources and insufficient dissemination of legislation; high illiteracy rate; low level of female representation in decision-making bodies; sociocultural and traditional constraints; persistence of violence against women and children; exploitation of girls in domestic service; lack of training for health personnel on the reproductive health of women with disabilities; limited access to education; inaccessible facilities and public buildings; and problems with access to employment for disabled people;

(f) **Other:** consequences of the suspension of international aid; insufficiency or non-existence of statistics; and persistence of political rivalries.

VI. Priorities, initiatives and commitments

108. Priorities:

- Systematic inclusion of human rights in projects combating poverty
- Drafting and adoption of a plan to include the human rights-based approach
- Inclusion of human rights and citizenship in programmes, school and vocational training curricula, and training for security officials
- Continuation of educational activities and finalization of the national programme for civic training and education on human rights

- Capacity-building for the law enforcement and security services and members of the judiciary
- Strengthening of the independence of the judiciary
- Further dissemination of domestic and international human rights documents
- Strengthening of the operational capacities of the National Human Rights Commission as well as other institutions and organizations working to protect and defend human rights
- Continuation of the fight against impunity
- Implementation of the 2011 workplan of the peacebuilding and human rights promotion project signed with the United Nations Development Programme (UNDP)
- Implementation of the national strategy for peacebuilding and the promotion of human rights with the support of the OHCHR country office, UNDP, and the United Nations Regional Centre for Peace and Disarmament in Africa
- Strengthening of the dialogue between the State, civil society organizations and United Nations agencies
- Promotion of a universal social security policy
- Creation of a monitoring committee for the human rights-based approach adopted in the PSRP

109. Initiatives:

- Accelerate the process for the adoption of pending bills and draft bills
- Consolidate the decentralization process
- Implement the National Policy for Gender Equity and Equality adopted in January 2011
- Implement the cultural policy adopted in March 2011
- Implement the charter for public-private partnership in technical training
- Ensure that education on HIV is systematically included in technical training courses
- Adopt the draft bill on conditions for the allocation of legal aid
- Continue the national programme for the promotion and protection of human rights and the national strategy for consolidating democracy and peace for development
- Continue the national housing strategy
- Continue the national programme for the modernization of the judicial system
- Implement the national regional development policy
- Continue the public administration reform programme
- Continue the national programme for investing in the environment and natural resources
- Initiate cash transfer programmes as a primary instrument for social protection

110. Commitments:

- Strengthen efforts to combat illiteracy
- Continue to promote good governance

- Get the reporting schedule with treaty bodies back on track
- Strengthen awareness and training of women for leadership positions
- Publicize the recommendations of the universal periodic review
- Strengthen the capacity for following up on recommendations made by treaty bodies and during the universal periodic review
- Continue to bring domestic legislation into line with international instruments
- Ratify the Second Optional Protocol to the International Covenant on Civil and Political Rights
- Ratify the International Convention for the Protection of All Persons from Enforced Disappearance
- Bring down the unemployment rate
- Accede to the UNESCO Convention against Discrimination in Education

VII. Expectations in terms of capacity-building and requests for technical assistance

111. Appropriate assistance from the international community is greatly desired in the following areas:

- Training and refresher courses for members of the Interministerial Commission for the Preparation of Initial and Periodic Reports on Human Rights
- More sustained support to the Ministry of Human Rights, Consolidation of Democracy and Civic Training, the National Human Rights Commission, and the Truth, Justice and Reconciliation Commission
- Support for the establishment of a monitoring committee for the human rights-based approach and for a follow-up mechanism for the recommendation of the Truth, Justice and Reconciliation Commission
- Capacity-building to ensure equal access to justice
- Acceleration of the drafting and submission of overdue reports to International Labour Organization inspection bodies
- Training for civil society organizations
- Support for the harmonization of domestic legislation with international instruments
- Support for the dissemination of international instruments concerning human rights
- Support for the inclusion of human rights in school curricula
- Support for capacity-building for local elected officials, members of Parliament, law enforcement officials, local authorities and traditional leaders
- Exchange of expertise in the area of social protection policies
- Support for the implementation of a programme similar to the emergency programme to support the prison sector (PAUSEP)
- Support for the infrastructure of the two universities

VIII. Follow-up to the universal periodic review

112. Togo will: (1) provide feedback on the universal periodic review's findings; (2) present to Parliament the final report adopted by the Human Rights Council; (3) disseminate the universal periodic review's recommendations; (4) act upon the recommendations in coordination with the National Human Rights Commission, civil society organizations and the media.
