

CONFORMED COPY
GRANT NUMBER H 3890-TG

Financing Agreement

(Economic Recovery and Governance Grant)

between

REPUBLIC OF TOGO

and

INTERNATIONAL DEVELOPMENT ASSOCIATION

Dated May 29, 2008

FINANCING AGREEMENT

AGREEMENT dated May 29, 2008, entered into between REPUBLIC OF TOGO (“Recipient”) and INTERNATIONAL DEVELOPMENT ASSOCIATION (“Association”) for the purpose of providing financing in support of the Program (as defined in the Appendix to this Agreement). The Association has decided to provide this financing on the basis, *inter alia*, of: (a) the actions which the Recipient has already taken under the Program and which are described in Section I of Schedule 1 to this Agreement; and (b) the Recipient’s maintenance of an appropriate macro-economic policy framework.

WHEREAS, the Recipient and the Association therefore hereby agree as follows:

ARTICLE I — GENERAL CONDITIONS; DEFINITIONS

- 1.01. The General Conditions (as defined in the Appendix to this Agreement) constitute an integral part of this Agreement.
- 1.02. Unless the context requires otherwise, the capitalized terms used in the Financing Agreement have the meanings ascribed to them in the General Conditions or in the Appendix to this Agreement.

ARTICLE II — FINANCING

- 2.01. The Association agrees to extend to the Recipient, on the terms and conditions set forth or referred to in this Agreement, a grant in an amount equivalent to one hundred and seven million and one hundred thousand Special Drawing Rights (SDR 107,100,000) (the “Grant”);
- 2.02. The Recipient may withdraw the proceeds of the Financing in support of the Program in accordance with Section II of Schedule 1 to this Agreement.
- 2.03. The Maximum Commitment Charge Rate payable by the Recipient on the Unwithdrawn Financing Balance shall be one-half of one percent (1/2 of 1%) per annum.
- 2.04. The Payment Dates are December 15 and June 15 in each year.
- 2.05. The Payment Currency is Euro.

ARTICLE III — PROGRAM

- 3.01 The Recipient declares its commitment to the Program and its implementation. To this end:
- (a) the Recipient and the Association shall from time to time, at the request of either party, exchange views on the progress achieved in carrying out the Program;
 - (b) prior to each such exchange of views, the Recipient shall furnish to the Association for its review and comment a report on the progress achieved in carrying out the Program, in such detail as the Association shall reasonably request; and
 - (c) without limitation upon the provisions of paragraphs (a) and (b) of this Section, the Recipient shall exchange views with the Association on any proposed action to be taken after the disbursement of the Financing which would have the effect of materially reversing the objectives of the Program, or any action taken under the Program including any action specified in Section I of Schedule 1 to this Agreement.

ARTICLE IV — REMEDIES OF THE ASSOCIATION

- 4.01. The Additional Event of Suspension is when a situation has arisen which shall make it improbable that the Program, or a significant part of it, will be carried out.

ARTICLE V — EFFECTIVENESS

- 5.01. The Effectiveness Deadline is the date ninety (90) days after the date of this Agreement.

ARTICLE VI — REPRESENTATIVE; ADDRESSES

6.01. The Recipient's Representative is the Minister of the Recipient at the time responsible for Economy and Finance.

6.02. The Recipient's Address is:

Ministry of Economy and Finance
Immeuble CASEF
B.P. 387 Lomé - Togo

Facsimile:

(228) 221 09 05

6.03. The Association's Address is:

International Development Association
1818 H Street, N.W.
Washington, D.C. 20433
United States of America

Cable address:

Telex:

Facsimile:

INDEVAS
Washington, D.C.

248423(MCI) or
64145(MCI)

1-202-477-6391

AGREED in the District of Columbia, United States of America, as of the day and year first above written.

REPUBLIC OF TOGO

By /s/ Lorempo Tchabré Landjergue

Authorized Representative

INTERNATIONAL DEVELOPMENT ASSOCIATION

By /s/ Antonella Bassani

Authorized Representative

SCHEDULE 1

Program Actions; Availability of Financing Proceeds

Section I. Actions Taken Under the Program

The actions already taken by the Recipient under the Program include the following:

Public Finance Management

- The Recipient has submitted to the National Assembly, the version of the draft 2008 budget law which takes into account the Association's comments.
- The Recipient has adopted (by ministerial decision) and implemented an instrument (dashboard) for the monthly monitoring of budget execution.
- The Recipient has (i) introduced a budget line starting with the 2008 budget, to cover force majeure expenditures (natural catastrophes, etc.), and (ii) forbidden (by ministerial decision) the use of Payment Orders (PO) not supported by Telegram Letters (TL), except for the servicing of external debt.

Public Procurement

- The Recipient has adopted (through the Council of Ministers) an action plan for public procurement reforms on the basis of the 2003 CPAR (Country Procurement Assessment Report).

Cotton Sector

- The Recipient has established a Billing Verification Task Force (*Mission de Vérification*) to (i) review the cases of potential over billing identified in the audit of SOTOCO (regarding inputs, supplies and shortfalls in fiber revenues), and (ii) clarify which ones require follow up.
- The Recipient has taken a decision (by a resolution of the SOTOCO Surveillance Council) on the option for restructuring/liquidation of SOTOCO following the workshop and based on the finalized strategic audit.

Financial Sector

- The Recipient has put in place a new administration for BTCI to manage the implementation of the restructuring measures, as recommended by the Banking Commission of UMOA.

Energy Sector

- The Recipient has implemented the definitive management structure of CEET, as evidenced by: (i) the establishment of a board of directors (according to the existing law - Law 90-26 of December 4, 1990); (ii) the adoption of the statutes of CEET in harmony with the OHADA law; and (iii) the appointment of a General Manager.

Section II. Availability of Financing Proceeds

- A. General.** The Recipient may withdraw the proceeds of the Financing in accordance with the provisions of this Section and such additional instructions as the Association may specify by notice to the Recipient.
- B. Allocation of Financing Amounts.** The Financing shall be withdrawn in a single tranche. The allocation of the amounts of the Financing to this end is set out in the table below:

Allocations	Amount of the Financing Allocated (expressed in SDR)
Single Tranche:	
Part (A)	96,400,000
Part (B)	10,700,000
TOTAL AMOUNT	107,100,000

- C. Deposits of Financing Amounts.** Except as the Association may otherwise agree:
1. The Recipient shall open, prior to furnishing to the Association the first request for withdrawal from the Financing Account, and thereafter maintain a dedicated deposit account for the withdrawal of the funds of Part B of the Grant (“Deposit Account”), designated by the Recipient and acceptable to the Association:
 2. The Recipient shall ensure that upon each deposit of an amount of the Financing into the Deposit Account, an equivalent amount is accounted for in the Recipient’s budget management system, in a manner acceptable to the Association.
- D. Audit.** Upon the Association’s request, the Recipient shall:
1. have both Deposit Accounts audited by independent auditors acceptable to the Association, in accordance with consistently applied auditing standards acceptable to the Association;

2. furnish to the Association as soon as available, but in any case not later than four months after the date of the Association's request for such audit, a certified copy of the report of such audit, of such scope and in such detail as the Association shall reasonably request; and

3. furnish to the Association such other information concerning the Deposit Accounts and their audit as the Association shall reasonably request.

E. Excluded Expenditures. The Recipient undertakes that the proceeds of the Financing shall not be used to finance Excluded Expenditures. If the Association determines at any time that an amount of the Financing was used to make a payment for an Excluded Expenditure, the Recipient shall, promptly upon notice from the Association, refund an amount equal to the amount of such payment to the Association. Amounts refunded to the Association upon such request shall be cancelled.

G. Closing Date. The Closing Date is June 30, 2009.

APPENDIX

Section I. Definitions

1. “Banking Commission of UMOA” means the regional banking commission in charge of supervision of credit institutions established and operating pursuant to its governing treaty, dated April 24, 1990.
2. “BTCI” means *Banque Togolaise pour le Commerce et l’Industrie*, the Recipient’s principal financial institution, responsible for retail banking, established under No. T0024K, pursuant to the *Arrêté 26/MEF/DE*, dated February 6, 1996.
3. “CEET” means *Compagnie Energie Electricité du Togo*, the state-owned company of the Recipient, established and operating under Law 90-26 of December 4, 1990, responsible for production and distribution of electricity to end users.
4. “Deposit Account” means the Deposit Account referred to in Schedule 1 to this Agreement.
5. “Excluded Expenditure” means any expenditure:
 - (a) for goods or services supplied under a contract which any national or international financing institution or agency other than the Association or the Bank has financed or agreed to finance, or which the Association or the Bank has financed or agreed to finance under another Financing, credit, grant or loan;
 - (b) for goods included in the following groups or sub-groups of the Standard International Trade Classification, Revision 3 (SITC, Rev.3), published by the United Nations in Statistical Papers, Series M, No. 34/Rev.3 (1986) (the SITC), or any successor groups or subgroups under future revisions to the SITC, as designated by the Association by notice to the Recipient:

Group	Sub-group	Description of Item
112		Alcoholic beverages
121		Tobacco, un-manufactured, tobacco refuse
122		Tobacco, manufactured (whether or not containing tobacco substitutes)
525		Radioactive and associated materials
667		Pearls, precious and semiprecious stones, unworked or worked
718	718.7	Nuclear reactors, and parts

		thereof; fuel elements (cartridges), non-irradiated, for nuclear reactors
728	728.43	Tobacco processing machinery
897	897.3	Jewelry of gold, silver or platinum group metals (except watches and watch cases) and goldsmiths' or silversmiths' wares (including set gems)
971		Gold, non-monetary (excluding gold ores and concentrates)

- (c) for goods intended for a military or paramilitary purpose or for luxury consumption;
 - (d) for environmentally hazardous goods, the manufacture, use or import of which is prohibited under the laws of the Recipient or international agreements to which the Recipient is a party;
 - (e) on account of any payment prohibited by a decision of the United Nations Security Council taken under Chapter VII of the Charter of the United Nations; and
 - (f) under a contract with respect to which the Association determines that corrupt, fraudulent, collusive or coercive practices were engaged in by representatives of the Recipient or other recipient of the Financing proceeds during the procurement or execution of such contract, without the Recipient (or other such recipient) having taken timely and appropriate action satisfactory to the Association to remedy the situation.
6. "General Conditions" means the "International Development Association General Conditions for Credits and Grants", dated July 1, 2005 (as amended through October 15, 2006) with the modifications set forth in Section II of this Appendix.
7. "Program" means the program of actions, objectives and policies designed to promote growth and achieve sustainable reductions in poverty and set forth or referred to in the letter dated April 28, 2008 from the Recipient to the Association (Letter of Development Policy) declaring the Recipient's commitment to the execution of the Program, and requesting assistance from the Association in support of the Program during its execution.

8. “Single Tranche” means the amount of the Financing allocated to the category entitled “Single Tranche” in the table set forth in Part B of Section II of Schedule 1 to this Agreement.
9. “SOTOCO” means *Société Togolaise de Coton*, the state-owned cotton company of the Recipient, established and operating under Law 90-26 of December 4, 1990, responsible at the national level, for marketing and ginning of cotton and selling of cotton fiber.

Section II. Modifications to the General Conditions

The modifications to the “International Development Association General Conditions for Credits and Grants”, dated July 1, 2005 (as amended through October 15, 2006) are as follows:

1. The last sentence of paragraph (a) of Section 2.03 (relating to Applications for Withdrawal) is deleted in its entirety.
2. Sections 2.04 (*Designated Accounts*) and 2.05 (*Eligible Expenditures*) are deleted in their entirety, and the remaining Sections in Article II are renumbered accordingly.
3. Sections 4.01 (*Project Execution Generally*), and 4.09 (*Financial Management; Financial Statements; Audits*) are deleted in their entirety, and the remaining Sections in Article IV are renumbered accordingly.
4. Paragraph (a) of Section 4.05 (renumbered as such pursuant to paragraph 3 above and relating to *Use of Goods, Works and Services*) is deleted in its entirety.
5. Paragraph (c) of Section 4.06 (renumbered as such pursuant to paragraph 3 above) is modified to read as follows:

“Section 4.06. *Plans; Documents; Records*

... (c) The Recipient shall retain all records (contracts, orders, invoices, bills, receipts and other documents) evidencing expenditures under the Financing until two years after the Closing Date. The Recipient shall enable the Association’s representatives to examine such records.”

6. Section 4.07 (renumbered as such pursuant to paragraph 3 above) is modified to read as follows:

“Section 4.07. *Program Monitoring and Evaluation*

... (c) The Recipient shall prepare, or cause to be prepared, and furnish to the Association not later than six months after the Closing Date, a report of

such scope and in such detail as the Association shall reasonably request, on the execution of the Program, the performance by the Recipient and the Association of their respective obligations under the Legal Agreements and the accomplishment of the purposes of the Financing.”

7. The following terms and definitions set forth in the Appendix are modified or deleted as follows, and the following new terms and definitions are added in alphabetical order to the Appendix as follows, with the terms being renumbered accordingly:

(a) The definition of the term “Eligible Expenditure” is modified to read as follows:

“‘Eligible Expenditure’ means any use to which the Financing is put in support of the Program, other than to finance expenditures excluded pursuant to the Financing Agreement.”

(b) The term “Financial Statements” and its definition as set forth in the Appendix are deleted in their entirety.

(c) The term “Project” is modified to read “Program” and its definition is modified to read as follows:

“‘Program’ means the program referred to in the Financing Agreement in support of which the Financing is made.” All references to “Project” throughout these General Conditions are deemed to be references to “Program.”