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**GRANT NUMBER H656-TG**

# **Financing Agreement**

**(Fourth Economic Recovery and Governance Grant)**

**between**

**REPUBLIC OF TOGO**

**and**

**INTERNATIONAL DEVELOPMENT ASSOCIATION**

**Dated April 18 , 2011**

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**FINANCING AGREEMENT**

AGREEMENT dated April 18, 2011, entered into between the 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 macroeconomic policy framework. 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 this 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 eighteen million Special Drawing Rights (SDR 18,000,000) (“Financing”).
- 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 April 15 and October 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 Recipient's macroeconomic policy framework and 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 promptly inform the Association of any situation that would have the effect of materially reversing the objectives of the Program or any action taken under the Program.

#### **ARTICLE IV — REMEDIES OF THE ASSOCIATION**

- 4.01. An Additional Event of Suspension shall occur if 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; TERMINATION**

- 5.01. An Additional Condition of Effectiveness shall be that the Association is satisfied with the progress achieved by the Recipient in carrying out the Program and with the adequacy of the Recipient's macroeconomic policy framework.
- 5.02. 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 its Minister of the Recipient at the time responsible for finance.
- 6.02. The Recipient's Address is:
  - Ministry of Economy and Finance
  - Immeuble CASEF
  - B.P. 387
  - Lomé
  - Togo
  - Facsimile:
  - 228-221-0905
- 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          | 248423(MCI) or | 1-202-477-6391 |
| Washington, D.C. | 64145(MCI)     |                |

AGREED at Washington DC, USA, as of the day and year first above written.

REPUBLIC OF TOGO

By //s// Dédé Ahoéfa Ekoue  
Authorized Representative

INTERNATIONAL DEVELOPMENT ASSOCIATION

By //s// Hervé Assah  
Authorized Representative

## **SCHEDULE 1**

### **Program Actions; Availability of Financing Proceeds**

#### **Section I. Actions Taken under the Program**

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

##### ***Public Financial Management***

1. Preparation by the Recipient of draft decrees and laws to implement the six UEMOA Directives pertaining to public finances;
2. (i) Publication of the Recipient's 2010 quarterly budget execution report; and (ii) submission to the Recipient's Parliament of the draft 2011 budget law with a medium-term expenditure framework for each of the education, health and agriculture sectors;
3. Adoption by the Recipient of the Treasury Management Planning Order;
4. Submission by the SOTOCO's liquidator, CEET, SNPT and Togotélécom of their respective 2007 and 2008 financial statements to the Recipient's Court of Accounts;
5. Development and operation of the Procurement Website, and publication and circulation of the Procurement Newspaper;

##### ***Cotton Sector***

6. Implementation of an analytical accounting system for NSCT which is consistent with the recommendations of the Assessment Report;
7. Provision of training to farmer leaders toward a better participation within the NSCT board;

##### ***Phosphate Sector***

8. Adoption of a detailed action plan and budget for the activities that are to be implemented by the Recipient under EITI; and

##### ***Energy Sector***

9. Adoption by the Recipient of the Utility Tariff Adjustment Order.

**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 is allocated in a single withdrawal tranche, from which the Recipient may make withdrawals of the Financing. The allocation of the amounts of the Financing to this end is set out in the table below:

| <b>Allocations</b>            | <b>Amount of the Financing Allocated<br/>(expressed in SDR)</b> |
|-------------------------------|---|
| (1) Single Withdrawal Tranche | 18,000,000  |
| <b>TOTAL</b>                  | <b>18,000,000</b>   |

**C. Withdrawal Tranche Release Conditions.**

1. No withdrawal shall be made of the Single Withdrawal Tranche unless the Association is satisfied: (a) with the Program being carried out by the Recipient, and (b) with the appropriateness of the Recipient's macroeconomic policy framework.

**D. Deposit of Financing Amounts**

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 ("Dedicated Account") on terms and conditions satisfactory to the Bank.
2. The Recipient shall ensure that upon each deposit of an amount of the Financing into the Dedicated Account, an equivalent amount is accounted for in the Recipient's budget management system, in a manner acceptable to the Association.

**E. Audit.** Upon the Association's request, the Recipient shall:

1. have the Dedicated Account 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 Dedicated Account and its audit as the Association shall reasonably request.

**F. 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 December 31, 2011.

## APPENDIX

### Section I. Definitions

1. “Assessment Report” means the Recipient’s report No. 0028/MCDAT/DGDAT dated March 2, 2010 recommending new analytical accounting system software for NSCT related to management information and cost accounting.
2. “CEET” means the *Compagnie Energie Electrique du Togo*, the public utility established in accordance with the Recipient’s Decree No. 2006-013/PR dated February 22, 2006 and operating under the laws of the Recipient, and in charge of the distribution of electricity in the Recipient’s territory.
3. “Dedicated Account” means the dedicated deposit account referred to in Section II.D.1 of Schedule 1 to this Agreement.
4. “EITI” means the Extractive Industries Transparency Initiative, a coalition of governments, companies, civil society groups, investors and international organizations which aims to strengthen governance by improving transparency and accountability in the extractives sector.
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 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:



| <b>Group</b> | <b>Sub-group</b> | <b>Description of Item</b>  |
|--------------|------------------|---|
| 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) 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, without the Recipient (or other such recipient) having taken timely and appropriate action satisfactory to the Association to address such practices when they occur.

6. “General Conditions” means the “International Development Association General Conditions for Credits and Grants”, dated July 31, 2010 with the modifications set forth in Section II of this Appendix.
7. “NSCT” means the *Nouvelle Société Cotonnière du Togo*, a cotton ginning and marketing company established in the Recipient’s territory pursuant to Decree No. 2009-011/PR of January 23, 2009.
8. “Procurement Newspaper” means the newspaper entitled *Marchés Publics, Bulletin d’Informations de la Direction Nationale du Contrôle des Marchés Publics du Togo*.
9. “Procurement Website” means the internet website found at [www.marchespublics-togo.com](http://www.marchespublics-togo.com).
10. “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 February 8, 2011 from the Recipient to the Association 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.
11. “Single Withdrawal Tranche” means the amount of the Financing allocated to the category entitled “Single Withdrawal Tranche” in the table set forth in Part B of Section II of Schedule 1 to this Agreement.
12. “SNPT” means the *Société Nouvelle des Phosphates du Togo*, the state-owned and operated entity established in accordance with the Recipient’s Decree No. 049/PR dated May 14, 2007 and operating under the laws of the Recipient.
13. “SOTOCO” means the *Société Togolaise de Coton*, the state-owned company responsible for the production and support activities of the cotton sector dissolved pursuant to the Recipient’s Decree No. 2009-011/PR entitled *Décret portant dissolution de la SOTOCO* dated January 29, 2009.
14. “Treasury Management Planning Order” means the ministerial order entitled *arrêté n° 342/MEF/SG/DGCTP portant création d’un comité de trésorerie*, dated December 31, 2010 establishing a new framework for the Recipient’s treasury management planning.
15. “Togotélécom” means the state-owned and operated entity established in accordance with the Recipient’s Decree No. 96-22/PR entitled *Décret portant scission de l’Office des Postes et Télécommunications du Togo (OPTT) en deux sociétés d’Etat : Société des Postes du Togo (SPT) et la Société des Telecommunications du Togo (Togotélécom)*, dated February 28, 1996 and operating under the laws of the Recipient.
16. “UEMOA Directives” means the six Directives pertaining to the harmonized framework for public financial management of the West African Economic and Monetary Union (hereinafter referred to as UEMOA) implemented pursuant to the Decision N° 33/2009/CM/UEMOA entitled *Décision portant adoption du programme d’appui aux réformes du cadre harmonisé des finances publiques au sein de l’UEMOA*, dated December 17, 2009:

- (a) Directive N° 01/2009/CM/UEMOA entitled *Directive portant Code de Transparence dans le Gestion des Finances Publiques au sein de l'UEMOA*, dated March 27, 2009;
  - (b) Directive N° 06/2009/CM/UEMOA entitled *Directive portant Lois de Finances de l'UEMOA*, dated June 26, 2009;
  - (c) Directive N° 07/2009/CM/UEMOA entitled *Directive portant Règlement Général sur la Comptabilité Publique au sein de l'UEMOA*, dated June 26, 2009;
  - (d) Directive N° 08/2009/CM/UEMOA entitled *Directive portant Nomenclature Budgétaire de l'Etat au sein de l'UEMOA*, dated June 26, 2009;
  - (e) Directive N° 09/2009/CM/UEMOA entitled *Directive portant Plan Comptable de l'Etat au sein de l'UEMOA*, dated June 26, 2009 ; and
  - (f) Directive N° 10/2009 entitled *Directive portant Tableau des Opérations Financières de l'Etat au sein de l'UEMOA*, dated June 26, 2009.
17. “Utility Tariff Adjustment Order” means the order (*arrêté*) entitled *Arrêté Interministériel No.019/MME/MEF/MPR-PDAT/MCPSP portant fixation des tarifs de vente de l'énergie électrique au Togo* dated November 26, 2010 pursuant to which the electricity utility tariffs have been adjusted.

## **Section II. Modifications to the General Conditions**

The modifications to the General Conditions 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".