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Security Council Committee established pursuant to resolution [1540 \(2004\)](#)

Note verbale dated 22 April 2019 from the Permanent Mission of Togo to the United Nations addressed to the Chair of the Committee

The Permanent Mission of Togo to the United Nations presents its compliments to the Chair of the Security Council Committee established pursuant to resolution [1540 \(2004\)](#) and, with regard to the note verbale dated 18 March 2019, concerning the provision of up-to-date information on the implementation of the resolution, has the honour to transmit herewith the third report of Togo on such implementation and the annex¹ thereto (see annex).

¹ On file with the Secretariat and available for consultation.



Annex to the note verbale dated 22 April 2019 from the Permanent Mission of Togo to the United Nations addressed to the Chair of the Committee

Report of Togo on the implementation of Security Council resolution 1540 (2004)

Technological progress has fostered – as reflected in the frequency of abhorrent terrorist attacks around the world – the emergence of a new type of threat to international peace and security: the possession and use of weapons of mass destruction by non-State actors, in this case terrorists. The world has been living with this fear for almost two decades, ever since the attacks of 11 September 2001. As the threat evolved, it became clear that there was a need for a new legal instrument, global in scope, that covered all aspects of that threat. Security Council resolution 1540 (2004), unanimously adopted on 28 April 2004, was a response to that threat.

Togo, which according to its current technological status is not a nuclear power, is no less committed to the fight against nuclear proliferation and against weapons of mass destruction in general. Togo, thanks to the political will of its leaders, responded favourably to resolution 1540 (2004) and has been fully committed to its implementation, in particular with regard to its legal implications.

This commitment has resulted in the submission of two reports. It was clearly stated in the first, submitted on 30 July 2010, that Togo had never manufactured or imported weapons of mass destruction, did not possess them and consequently never used them. However, since the problem of weapons of mass destruction is a cross-cutting issue, and the concept covers various areas, the second report, together with the national action plan and taking into account all aspects of the resolution, was submitted on 15 October 2014.

Since then, there have been further developments in the implementation of resolution 1540 (2004), and they have been covered in this third report, which is intended to provide the Security Council Committee established pursuant to resolution 1540 (2004) with accurate and up-to-date information so that it can fulfil its obligations in preparation for the next comprehensive review.

Accordingly, the purpose of this report is to add additional information, relating to incorporation of the legal provisions of resolution 1540 (2004) into domestic legislation and regulations, that had not been covered in previous reports, and other information that has become available since the previous submission.

The new information relates to newly ratified treaties and conventions and to developments in domestic legislation on strategic trade border controls.

The Ministry of Foreign Affairs, through the national focal point, requested and obtained the relevant information to finalize this report from the ministries and services concerned with disarmament and public security issues. These are the Ministry of Defence and War Veterans, the Ministry of Security and Civil Protection, the Ministry of Health and Public Hygiene, the Ministry of Agriculture and Livestock and Fisheries Production, the Ministry of the Environment, Sustainable Development and Nature Protection, the National Authority for the Prohibition of Chemical Weapons in Togo, the National Institute of Hygiene, the Central Office for the Suppression of Illegal Drug Trafficking and Money-laundering, and the Customs and Indirect Taxation Commission of the Togolese Revenue Office.

I. Treaties and conventions ratified

The legal instruments on disarmament include international treaties and regional conventions, as follows.

A. At the international level

Togo has ratified the following legal instruments:

- 21 March 2018: ratification by Decree No. 2018-064/PR of the Protocol to Eliminate Illicit Trade in Tobacco Products, signed on 11 November 2012 in Seoul
- 6 February 2017: accession to the Protocol of 2005 to the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, adopted in London on 14 October 2005
- 13 September 2016: ratification by Act No. 2016-024 of the International Convention on the Control of Harmful Anti-fouling Systems on Ships, adopted on 5 October 2001 in London and entered into force on 17 September 2008
- 13 June 2016: ratification of the Protocol to Amend the Convention on Offences and Certain Other Acts Committed on Board Aircraft, adopted on 4 April 2014 in Montréal, Canada
- 7 July 2016: ratification by Act No. 2016-017 of the International Convention Relating to Intervention on the High Seas in Cases of Oil Pollution Casualties, adopted on 29 November 1969 and entered into force on 6 May 1975
- 17 July 2012: ratification of the Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition, supplementing the United Nations Convention against Transnational Organized Crime, adopted on 31 May 2001 in New York.

B. At the regional level

At the regional level, Togo is a party to the following legal instruments:

- European Union Chemical, Biological, Radiological and Nuclear Risk Mitigation Centres of Excellence Initiative for the countries of the African Atlantic Façade and Tunisia, launched in 2010 in Rabat, to which Togo acceded on 5 August 2013
- Charter on Maritime Security and Safety and Development in Africa, adopted on 15 October 2016 and ratified on 16 January 2017
- The Economic Community of West African States Protocol relating to the Mechanism for Conflict Prevention, Management, Resolution, Peacekeeping and Security, adopted in Lomé on 10 December 1999
- Regulation C/REG.3/05/2008 of 18 May 2008 on harmonization of the rules governing pesticides registration in the Economic Community of West African States region
- Regulation No. 04/2009/CM/WAEMU of 27 March 2009 on the harmonization of the rules governing the approval, marketing and control of pesticides in the West African Economic and Monetary Union

- Implementing regulations of 2 June 2012 relating to the powers, organisation and functioning of the West African Committee for Pesticide Registration.

II. Legislative and regulatory provisions and institutional measures

The following laws and regulations govern the control of strategic trade and the management of dangerous products.

A. National legislation

The National Assembly has updated several major pieces of legislation in order to adapt them to new socioeconomic challenges and to address emerging security risks and threats, as follows. The main actions taken include:

(a) The adoption of the new Customs Code by Act No. 2018-007 of 25 June 2018, which entered into force on 1 January 2019. The main changes relate to:

- The destruction of seized or abandoned dangerous goods (art. 337)
- Transaction value and alternative methods (art. 19ff.)
- Controlled deliveries and undercover operations (art. 53)
- Level of control of post-clearance declarations (art. 117ff.)
- Inward processing (art. 176)
- Punitive measures for attempted crimes (art. 267)
- Cooperation and partnership (art. 252).

(b) The adoption in 2015 of a new criminal code, which strengthens legislation against illicit trafficking, in particular in its articles 263–270;

(c) The promulgation of Act No. 2009-001 of 6 January 2009 on biosafety.

B. Regulatory provisions and institutional measures

The Government of Togo is aware that effective efforts to counter the proliferation of weapons of mass destruction and their means of delivery and trafficking require the establishment of specialized institutions, and it has created the relevant services by decree, as follows:

(a) Decree No. 2004-053/PR of 28 January 2004 establishing the Central Office for the Suppression of Illegal Drug Trafficking and Money-laundering, pursuant to Act No. 98-008 of 18 March 1998 on drug control. The Office has demonstrated its effectiveness on a number of occasions;

(b) Establishment of the National Authority for the Prohibition of Chemical Weapons: created on 4 October 2015 by Presidential Decree No. 2015-082/PR, the Authority is the institution responsible for combating the development, manufacture, use, storage and transfer of toxic chemicals, in order to ensure their responsible use for the benefit of the population. Under the supervision of the Ministry of Foreign Affairs, the main objective of the Authority is to counter the proliferation of chemicals in all their forms throughout Togo in order to ensure better use of such products for the socioeconomic well-being of the population. The mission of this national agency is to assist the Government with the design and implementation of the national policy

on the prohibition of chemical weapons and on their destruction, as well as chemicals prohibited by the Organisation for the Prohibition of Chemical Weapons. It has powers to carry out inspection visits to all companies and services whose operation requires the use or handling of chemicals. The Authority's activities were officially launched on 29 September 2017, and it issued its first activity report on 13 March 2018;

(c) Establishment of the National Civil Protection Agency: created by Presidential Decree No. 2017-011/PR of 31 January 2017, the Agency's mission includes providing the public with information and education on civil protection. It is responsible for coordinating the activities of all bodies involved in disaster management and prevention in order to limit the impact of disasters and strengthen the resilience of the population;

(d) The accession of Togo to the European Union Chemical, Biological, Radiological and Nuclear Risk Mitigation Centres of Excellence Initiative with the appointment of a national focal point within the Ministry of the Environment to coordinate preparation of the national action plan. In this regard, it is worth highlighting the report of the mission to collect data on industrial facilities in Togo, which was carried out in March 2016 by the Ministry of the Environment and Forest Resources in collaboration with Expertise France as part of project 41 of the Initiative on the management of high-risk chemical facilities and risk reduction in the African Atlantic Façade region, of which Togo is a member. The mission facilitated the collection of available information that could assist with the implementation of measures needed for the management of high-risk chemical facilities in Togo in accordance with European regulations, namely the Seveso Directives² and Regulation (EC) No. 1272/2008 on classification, labelling and packaging of substances and mixtures. The Mission also facilitated identification of the following local texts relating to industrial facilities:

- Act No. 2008-005 of 30 May 2008 on the framework law on the environment
- Decree No. 2006-058/PR of 5 July 2006 establishing the list of works, activities and planning documents subject to environmental impact assessment and the main rules of such assessment (art. 2, art. 6 and annexes)
- Order No. 013/MERF of 1 September 2006 regulating the procedure, methodology and content of environmental impact assessments (arts. 2–47)
- Ordinance No. 77-24 of 16 August 1977 delimiting territorial waters and creating a protected economic maritime zone (arts. 1–4)
- Decree of 14 December 1927 regulating dangerous, unhealthy or incommensurable establishments in the territory of Togo (arts. 1–36)
- Order No. 346 of 23 June 1928 establishing the classification of dangerous, unhealthy or incommensurable establishments, pursuant to the decree of 14 December 1927 (arts. 1 and 2 and annexes)
- Order No. 347 of 23 June 1928 concerning dangerous, unhealthy or incommensurable establishments of the third category (arts. 1–9)
- Order No. 348 of 23 June 1928 determining the conditions for application of the decree of 14 December 1927 regulating dangerous, unhealthy or incommensurable establishments on the territory of Togo (arts. 1 and 2)

² The Seveso Directives is the generic name of a series of European directives that require European Union Member States to identify industrial sites posing major accident risks, known as “Seveso sites”, and to maintain a high level of prevention.

- Order No. 415 of 19 September 1935 supplementing the table attached to Order No. 346 of 23 June 1928 establishing the classification of dangerous, unhealthy or incommodious establishments (arts. 1–3)
- Order No. 416 of 20 July 1931 supplementing decrees Nos. 347 of 23 June, 363 of 73 June and 477 of 22 August 1928 concerning dangerous, unhealthy or incommodious establishments (arts. 1–8)
- Order No. 19 bis-MTP-PAL of 28 June 1968 defining the procedure for the establishment of industries or commercial installations in the port area (arts. 3–5)
- Decree No. 97-227/PR of 22 October 1997 approving the disaster relief organization plan for Togo (ORSEC-Togo plan) (art. 1)
- International Ship and Port Facility Security Code, adopted on 12 December 2002 by resolution 2 of the Conference of States Parties to the International Convention for the Safety of Life at Sea, 1974 (sections A 1–19, and sections B 1–19)
- Act No. 2011-018 of 24 June 2011 on the status of an industrial free zone (art. 1 and art. 19)
- National risk analysis and coverage plan adopted by the Fire Brigade of Togo;

(e) The establishment of operation “Entonnoir” (funnel) by decree of the Council of Ministers in 2009, designed to combat the illegal sale of contraband adulterated fuel.

In addition to these measures, there are regulations on pesticides and plant protection products including:

- Inter-ministerial Order No. 068/16/MAEH/MERF/MSPS of 17 March 2016, on the organization and functioning of the National Pesticide Management Committee
- Inter-ministerial Order No. 087/16/MAEH/MEFPD of 12 April 2016 setting the amounts and procedures for collection of examination fees for applications for authorisation, certification and approval of pesticides in Togo.

With regard to biological weapons, Togo became a signatory to the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction as soon as it opened for signature on 10 April 1972 and ratified the Convention on 10 November 1976. In order to establish a partnership with the Convention and to monitor its implementation in Togo, the Government appointed a national focal point in October 2018.

With regard to the public health system, the World Health Organization noted, in its report on the mission undertaken from 16 to 20 April 2018 for a joint external evaluation of Togo’s main capacities in the implementation of the International Health Regulations, that the country had legislation, regulations, administrative requirements and other government instruments favourable to the implementation of the Regulations. However, as a preliminary assessment of those documents, followed by a review, was not carried out, the Organization has not made any recommendations to the Government concerning necessary adjustments.

In addition to these health measures, the National Biosecurity Framework was developed in December 2004. Indeed, having ratified the Convention on Biological Diversity on 4 October 1995 and the Cartagena Protocol on Biosafety to the Convention on 24 May 2000, Togo has benefited from financing under project No. GF/2716-02-4387 for the implementation of its national biosecurity framework,

in order to gradually establish the conditions for mitigating risks related to the use of modern biotechnology.

The development of this national framework has provided guidance for: (a) a national biosecurity policy; (b) a legislative system; (c) an administrative system; (d) a system for risk assessment and management; and (e) mechanisms for public participation and information-sharing.

With regard to biosecurity and biosafety, there are regulations on the premises and infrastructure of medical biology laboratories establishing a minimum level of biosecurity as well as regulations on the national classification of microorganisms. However, the areas of sample transport and individual and collective protective measures in medical biology laboratories still require regulation.

Togo has had a legal and regulatory framework for biosecurity and biosafety since the promulgation of the Biosecurity and Biosafety Act. Reference documents are also being developed, including a national action plan for biosecurity and biosafety for the period 2017–2021, a national biosecurity and biosafety policy and emergency management procedures for biosecurity and biosafety in laboratories. Several administrative bodies are involved in this biosecurity and biosafety approach, with support from the World Health Organization: the Ministry of Health and Public Hygiene, the Laboratory Directorate, the National Institute of Hygiene, university hospitals, veterinary laboratories and the Armed Forces Health Service.

In addition, Togo has a strategic plan for the management of medical waste for the period 2016–2020.

C. Laws, regulations and institutional measures under development

The procedure for the adoption of national laws and measures to implement resolution 1540 (2004) is underway. This includes:

- Endorsement of proposed legislation on the prohibition of the development, production, stockpiling and use of chemical weapons and on their destruction
- The signing of Interministerial Order No. 2014/053/MS/MEF/MAEC of 30 April 2014, establishing a preparatory committee for the establishment of a national radiation protection and nuclear safety and security authority
- Establishment of the National Authority for the Prohibition of Biological Weapons
- The plan to establish a national commission for the prohibition of weapons of mass destruction
- The accession of Togo (now under way) to the Hague Code of Conduct against Ballistic Missile Proliferation.

D. Holding of a national workshop for capacity-building of national actors involved in the implementation of resolution 1540 (2004)

A capacity-building workshop for national actors involved in strategic trade and management of sensitive products was held in Lomé from 23 to 25 January 2019 on the theme of strengthening the implementation of national controls related to strategic trade in the context of Security Council resolution 1540 (2004).

Funded by the European Union, this important meeting was organized by the United Nations Office for Disarmament Affairs through its Regional Centre for Peace

and Disarmament in Africa, in collaboration with the Government of Togo, the Security Council Committee established pursuant to resolution 1540 (2004) and the World Customs Organization.

This workshop, which took place at the midpoint of the Committee's mandate, is a logical consequence of the presentation, on 15 October 2014, of the previous report of Togo, which was accompanied by an action plan (2016–2022) for implementation that involved most of the relevant ministerial departments and the institutions concerned. Point 7 of the action plan included a call for technical and operational capacity-building, and the Government had submitted a request for assistance in that respect.

At the end of the workshop, which consisted of informative presentations by international experts and group discussions, the participants who were from technical services and departments such as customs, the National Authority for the Prohibition of Chemical Weapons and the ministries of defence, foreign affairs, security, trade, justice, the environment, agriculture and health, were better equipped in the field of strategic trade control, in particular through an improved knowledge of:

- Resolution 1540 (2004)
- The concept of a strategic good
- The international legal framework for trade control
- The Strategic Trade Control Enforcement Programme of the World Customs Organization.

The meeting also provided an opportunity to assess the implementation of the resolution in Togo by reviewing the national action plan and to define perspectives by sharing experiences and good practices. It emerged that 12 of 17 previously listed actions had been carried out, a rate of 70 per cent.

E. Visit of a Moroccan delegation to Togo as part of the mentoring programme

As part of a mentoring programme initiated by the Organisation for the Prohibition of Chemical Weapons for the national authorities responsible for the prohibition of such weapons in the context of measures to implement the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction, a partnership has been established between Togo and the Kingdom of Morocco. Accordingly, a Moroccan delegation visited Togo from 25 to 29 March 2019 with a view to fostering an exchange of best practices.

This visit enabled the National Authority for the Prohibition of Chemical Weapons in Togo to strengthen its technical and operational capacities. Senior officials of the Authority also benefited from the expertise of the Moroccan authorities and obtained the necessary information to ensure that the various Togolese stakeholders could take ownership of the practical arrangements in the field of chemicals management and control. Institutions and industries involved in chemical management were visited: the Customs and Indirect Taxation Commission, the Autonomous Port of Lomé, companies in the Togolese free trade zone, and the Gnassingbe Eyadema International Airport in Lomé.

The visit to Togo by the Moroccan delegation followed the visit to Morocco from 14 to 20 October 2018 by a delegation from the National Authority for the Prohibition of Chemical Weapons. The visit contributed to a number of outcomes,

including the involvement of the customs service, industries, the trade sector and civil protection services in the implementation of the Convention on Chemical Weapons and the incorporation of provisions on legal competence into Togolese draft legislation on chemical weapons.

III. Challenges, suggestions and proposed actions

With regard to the Government's objectives, and as indicated above, Togo's challenges in countering the proliferation of weapons of mass destruction and their means of delivery were taken into account in the 2014 report. However, new challenges have arisen since then.

A. Challenges

The challenges relate mainly to structural problems and the lack of resources, including:

- The lack of a national monitoring and coordination mechanism for efforts to control and counter weapons of mass destruction
- Insufficient and inadequate infrastructure for the control of weapons of mass destruction
- Limited dissemination of the conventions relating to weapons of mass destruction
- The lack of specific oversight mechanisms for each of the legal instruments on weapons of mass destruction
- The low level of awareness among the public of the toxicity of chemical, biological, nuclear and radiological materials
- The porosity of borders to new threats such as terrorism
- Cybercrime and the development of cyberattacks
- The difficulties of monitoring illegal online transactions
- The potential for corruption of screening officers.

B. Suggestions

To effectively meet its obligations under resolution [1540 \(2004\)](#), the Togolese Republic requests the support of the Committee in order to carry out the following activities:

- (a) The strengthening of cooperation between the Committee and the Togolese Republic;
- (b) The establishment of a national monitoring and coordination mechanism for efforts to monitor and counter weapons of mass destruction;
- (c) The conduct of campaigns to raise awareness of the conventions on weapons of mass destruction through workshops and seminars, particularly in large cities and in border cities;
- (d) The assessment of steps and actions taken by Togo for implementation of the resolution;

(e) Capacity-building for Togolese experts responsible for matters relating to chemical, biological, nuclear and radiological weapons;

(f) Capacity-building for technical control services, including customs and forensic services, in the fight against cybercrime.

C. Proposed actions

At the end of the workshop held from 23 to 25 January 2019, at which the national action plan was evaluated, the participants made relevant recommendations that can be implemented through the following proposed actions:

- The drafting and adoption of domestic laws on the non-proliferation of weapons of mass destruction, such as the draft legislation on prohibition of the development, production, stockpiling and use of chemical weapons and on their destruction
- The establishment of a national commission on the prohibition of weapons of mass destruction
- Revitalization of the Interministerial Committee responsible for the preparatory work for the establishment of a national authority for radiation protection, safety and security
- The establishment of a national register of all laboratories using chemicals or other hazardous substances and the training of public and private laboratory technicians
- The organization of a joint training workshop for the customs and immigration services of Togo and the bordering countries of Benin, Ghana and Burkina Faso.

Done at Lomé, 8 April 2019
