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Поощрение и защита всех прав человека, гражданских,
политических, экономических, социальных
и культурных прав, включая право на развитие

Доклад Специального докладчика по вопросу о праве на питание

Оливье де Шуттера*

Добавление

Миссия в Бенин

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Резюме

После описания состояния отсутствия продовольственной безопасности в Бенине Специальный докладчик анализирует правовые и институциональные рамки, регулирующие право на питание. Затем он рассматривает различные направления государственной политики, которые оказывают существенное влияние на постепенную реализацию права на питание в Бенине. Хотя крестьяне являются не единственной уязвимой группой в Бенине, основное внимание в докладе уделяется именно этой части населения с учетом того факта, что Бенин находится на важном этапе переориентации своей сельскохозяйственной политики. Рассматриваются, в частности, меры по подъему сельского хозяйства до и после падения цен на продовольственные товары в начале 2008 года, а также проекты, касающиеся организации отраслей сельскохозяйственного производства и улучшения функционирования рынков, обеспечения доступа к кредитам, проведения реформы системы землевладения и развития производства биотоплива. Специальный докладчик кратко останавливается на вопросе о способах улучшения обеспечения права на питание малоимущих слоев городского населения.

В докладе содержатся рекомендации, касающиеся улучшения реализации права на питание. Речь идет о более широкой поддержке распространения передового опыта в области устойчивого ведения сельского хозяйства, продолжения реинвестирования в системы распространения сельскохозяйственных знаний, уделения особого внимания влиянию международной торговли на мелких производителей или их вовлечению в каналы экспорта. Эти усилия должны координироваться в рамках национальной стратегии реализации права на питание — инициативы, которую Бенин при необходимости мог бы осуществлять в рамках имеющихся у него структур.

Annex

Report of the Special Rapporteur on the right to food, Olivier De Schutter, on his mission to Benin (12–20 March 2009)

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I. Introduction

1. The Special Rapporteur on the right to food, Olivier De Schutter, visited Benin from 12 to 20 March 2009, at the invitation of the Government. This mission was the first by a special procedures mandate-holder to the country since the establishment of the institutions of the Human Rights Council in 2007.
2. During the visit, the Special Rapporteur travelled to the regions of Lokossa and Glo-Djigbé. He met with the Minister for Foreign Affairs, the Minister of Justice, the Minister of Trade and with staff of the Ministries of Agriculture, Urban Planning, Energy and Water, Health, Family and Employment. He also met with the President of the Constitutional Court, the President of the Economic and Social Council, the Chief of Staff and President of the Supreme Court, and the Chief of Staff of the Office of the High Commissioner for Consultative Governance. In addition, he visited Akpro-Misséréké prison.
3. The Special Rapporteur met with representatives of NGOs and small farmers' associations, academics and researchers. He also met with the Secretary-General of the National Human Rights Commission, with United Nations system agencies and with several development partners.
4. The Special Rapporteur warmly thanks the Government of Benin for its invitation, for the welcome he received and for the openness shown by the Government throughout the visit. He considers that the invitation demonstrates a genuine will, at the highest level of State, to have an independent and objective assessment of the situation in the country with respect to the right to food. He also thanks the various civil society actors he met for their readiness to assist him and for the information they provided. In addition, he is grateful to the United Nations country team for its assistance throughout the preparation and conduct of his visit.

II. The state of food insecurity in Benin

5. An active adult should, in principle, consume at least 2,400 kcal per day.¹ In 2006, the average energy intake of the Beninese population was estimated at 1,300 kcal per person per day. At the end of 2008, 12 per cent of Beninese households, or 972,000 persons, were food insecure.²
6. There remain significant regional disparities. The departments of Alibori, Mono, Atacora, Couffo and Donga are particularly hard hit: between them, they account for about 60 per cent of the food-insecure population.
7. In terms of nutrition, women and children are the most affected groups. In 2006, 60 per cent of women aged 15–49 years were suffering from anaemia, and 10 per cent were underweight (body mass index of 18.5 or less). Undernutrition and poor health in mothers take a toll on infants and young children. Thus, 78 per cent of young children (aged 6 months to 5 years) suffer from anaemia.³ Between 2001 and 2006, 23 per cent of young children were underweight, and the prevalence of growth retardation increased from 31 per

¹ United Nations system in Benin, Common Country Assessment (CCA), 20 August 2007 (<http://www.bj.undp.org/docs/CCA.pdf>), p. xxii.

² Government of Benin, United Nations Food and Agriculture Organization (FAO), World Food Programme (WFP), *Analyse globale de la vulnérabilité, de la sécurité alimentaire et de la nutrition* (Comprehensive vulnerability, food security and nutrition analysis), (http://documents.wfp.org/stellent/groups/public/documents/ena/wfp_203247.pdf), p. 3.

³ Government of Benin “National strategy for infant and young child feeding”, October 2008.

cent of young children in 2001 to 38 per cent in 2006. The acute malnutrition rate was 4.7 per cent in 2005 (5.5 per cent for boys, and 3.9 per cent for girls). While some departments are more affected than others — Atacora, Plateau, Ouémé and Atlantique, for example — none has an acute malnutrition rate exceeding 10 per cent. However, more than 30 per cent of children suffer from chronic malnutrition in every department, with the exception of Littoral. Chronic malnutrition is more widespread among children in rural areas (40.4 per cent) than among their urban counterparts (29.9 per cent).⁴ In 2000, a national survey revealed that vitamin A deficiency affects the vast majority of children aged 12–71 months (73 per cent).⁵

8. There are also shortcomings with respect to feeding practices, notably affecting infants and young children (the average duration of breastfeeding declined from 22.3 months in 2001 to 21.4 months in 2006, and supplementary feeding practices are often inadequate).

9. It was in this — already fragile — context that the food crisis of 2007/08 occurred. The population of Benin was severely affected by the increase in food prices beginning in the last trimester of 2007, when prices of traditional foods such as cereals, tubers, legumes and root vegetables rose significantly. Overall, prices of these products went up by 25 per cent, with maize and rice prices climbing by at least 135 and 55 per cent respectively.⁶ The increase in the prices of widely consumed foodstuffs reduced the country's ability to accumulate food stocks, highlighting Benin's heavy reliance on imports of certain products to ensure its food security. Indeed, Benin is among the low-income countries that are most dependent on imports to feed their populations, along with Guinea-Bissau and Senegal.

III. Institutional and legal framework in Benin in respect of the right to food

10. The Constitution of 2 December 1990 refers in its preamble to the Universal Declaration of Human Rights of 1948, and to the African Charter on Human and People's Rights, adopted by the Organization of African Unity in 1981. While the Constitution does not allude explicitly to the right to food, it recognizes the right of all human beings to life (art. 15), health (art. 8) and to the development and fulfilment of their personal potential (art. 9). Benin is also party to other international human rights instruments, including, since 12 March 1992, the International Covenant on Economic, Social and Cultural Rights. Within the Government, the responsibilities of the Minister of Justice, Legislation and Human Rights include ensuring the observance, promotion and protection of human rights and of humanitarian law, in coordination with the other ministries and actors concerned.

11. The Beninese Human Rights Commission, established by Act No. 89-004 of 12 May 1989, is a governmental body but enjoys a certain measure of autonomy, which enables it to voice criticism of government policies. It is tasked with promoting and safeguarding human rights in Benin. The Commission consists of representatives nominated by the lawyers', judges' and doctors' associations and by NGOs, as well as individual members. A committee is currently working on the reform of the Commission to ensure that it is in compliance with the Paris Principles: on the basis of its present methods of operation, the Commission was granted only "C" status by the International Coordinating Committee of National Human Rights Institutions. The Commission has been of very limited

⁴ *Analyse globale de la vulnérabilité, de la sécurité alimentaire et de la nutrition* (supra note 2).

⁵ "National strategy for infant and young child feeding" (supra note 3).

⁶ Information on food security management in Benin in 2008 and prospects for the future, National Office for Food Security Assistance.

effectiveness to date, notably because it does not receive any public funding. The Special Rapporteur raised the issue of the Commission's reform during his visit. The process appears to be participatory and, according to the information provided, the special needs of rural areas are being taken into account.

12. During his mission, the Special Rapporteur had discussions with representatives of other authorities capable of contributing, through their activities, to the realization of the right to food. For example, the Economic and Social Council, an advisory assembly established under the Constitution and consisting of 30 public figures representing social and professional organizations, associations and civil society, has rendered opinions on such subjects as Beninese cotton (No. 001/2005/CES/PT), land ownership (No. 002/2005/CES/PT) and agricultural modernization (No. 002/2006/CES/PT). Popular consultation mechanisms have been put in place, including a national forum held annually to discuss a topic of serious concern. Thus, in October 2008, the Office of the High Commissioner for Consultative Governance organized a national forum on the realities of poverty and the challenges of the Millennium Development Goals, which resulted in a better understanding of the main needs of local populations in respect of, *inter alia*, access to seed, access to water, enhanced financial service provision and targeting of certain public programmes.

13. Benin does not have a framework law on the realization of the right to food, as recommended by the Committee on Economic, Social and Cultural Rights in its general comment No. 12 (1999) on the right to adequate food (E/C.12/1999/5, paras. 29–30). There is, however, a legislative framework for a food inspection system,⁷ while Act No. 2007-21 of 16 October 2007 on consumer protection in Benin stipulates in article 4 that: "Since the State is primarily responsible for meeting consumers' physical ... needs, the Government shall seek, through its policies, to ensure that consumers gain maximum benefit from the country's economic resources. The State shall guarantee that basic necessities are accessible to all, if necessary through a price regulation mechanism." This provision does not, however, appear to have been invoked in judicial proceedings to impose specific obligations on the Government with respect to, for example, managing the supply of food or regulating retail prices.

14. This legal and institutional framework could be improved. The realization of the right to food presupposes that the State will identify vulnerable groups through vulnerability and food insecurity mapping; pinpoint the obstacles that each of these groups encounters in exercising the right to food; define a strategy to overcome these obstacles, ensuring coordination among the various competent actors;⁸ and, once the responsibilities of these actors in implementing the strategy have been defined, establish mechanisms to ensure that they fulfil their obligations. The Voluntary Guidelines to Support the Progressive Realization of the Right to Adequate Food in the Context of National Food Security, adopted in 2004 by the United Nations Food and Agriculture Organization (FAO), provide States with specific recommendations on these different stages and on the elements of a national strategy for the realization of the right to food. The specificity of a rights-based approach to food insecurity lies in the fact that it proceeds from the situation of those who are most vulnerable to consider the policies that could be put in place to ensure that they are better able to meet their needs; such policies may include the expansion of the opportunities available to these groups to demand that their rights are respected.

⁷ Act No. 84-009 of 15 March 1984, which replaced Decree No. 48-282 of 16 February 1948 and is applied through eight implementing decrees issued on 14 June 1985.

⁸ On the need for better coordination in respect of child malnutrition, see the national strategy for infant and young child feeding (*supra* note 3).

IV. Public policies and the right to food in Benin

A. Agricultural policy

15. The food crisis of 2007/08 highlighted the vulnerability of a policy based on the withdrawal of the State from agriculture — apart from the substantial support provided to the cotton sector — which resulted, inter alia, in structural adjustment plans under which the State disengaged from most agricultural sector activities.

16. Even before the recent price crisis, however, the Government of Benin had become aware of this vulnerability, and there had been a visible re-engagement in agriculture.⁹ A strategic plan for agricultural sector revitalization was adopted. It consists of 14 strategies aimed at strengthening the agricultural sector and modernizing agriculture, notably through the supply and distribution of specific inputs, the construction of hydro-agricultural works, the mechanization of agriculture, and the development of storage and processing infrastructure. These are large-scale efforts, and the political will demonstrated through the strategic plan is to be welcomed.

17. Anticipating the food price crisis, the Government of Benin also approved the emergency food security support project at the end of December 2007. This project, which was steered from the President's Office through an interim working group established for the purpose, reinforced the aforementioned agricultural strategies. The project focuses principally on rice and maize production. It comprises three key measures: distribution of improved seed; organization of subsidized fertilizer supplies; and redevelopment of abandoned irrigated land. There are two additional components: support for the mechanization of agriculture and redeployment of rural extension services for farmers. Thus, the re-engagement in agriculture is largely following the "green revolution" model.

18. These programmes were financed by a massive increase in the funds allocated to agriculture. The agriculture budget, now the second largest public budget after education, effectively doubled between 2007 and 2009, reaching 1,200 billion CFA francs, or 12 per cent of the national budget. This significant increase was made possible by improvements in the collection of customs duties and taxes at the port of Cotonou, demonstrating that additional revenue may be released for agriculture without penalizing other sectors, even in a least developed country (LDC). Several international organizations, including FAO and the World Bank, supported these programmes through financial and technical assistance.

19. From a right to food perspective, what matters is not only the increase in agricultural production that the revitalization programme is expected to bring about, but also the increase in the incomes of the most vulnerable small farmers, those cultivating tiny plots with limited means. It emerged clearly, however, from the Special Rapporteur's discussions with the officials responsible for the programmes that two coexisting visions are shaping the revitalization plans and the operational measures for their implementation. The first is based on the hypothesis that development in Benin requires public support for the emergence of an industrial and commercial model of agriculture in which the main actors are entrepreneurs, large producers and private investors. The second envisages strong public support for the enhancement of family agriculture, with the main actors being small

⁹ For a comprehensive evaluation of government strategies for the revitalization of agriculture, see the aide-memoire of the joint mission to assess the feasibility of coordinated support by technical and financial partners to the efforts of the Government of Benin in response to the food crisis (mission coordinated by the World Bank), 4–15 August 2008 (http://www.fao.org/fileadmin/templates/worldfood/Reports_and_docs/BENIN_FINAL_Aide_memoire_VF_02_Octobre_2008.doc).

farmers assisted by State interventions. The two visions may be complementary, but they differ markedly in their implications for the allocation of budgets and the selection of target groups for public programmes.

20. Certain recent projects attest to the genuine support being provided to small farmers. According to information received by the Special Rapporteur, 16,000 small farmers over an area of 15,000 hectares benefited from the programme for the diversification of agriculture through valley development, under which tubewells were installed and existing sewerage systems brought back into service. By contrast, other programmes appear to have been designed mainly to help large producers, or have proved to be of greater benefit to them. This is true of efforts to support mechanization, notably the purchase of tractors, which are really only useful to producers who cultivate fairly large areas and can be supplied with fuel. Likewise, it seems that the organization of subsidized fertilizer distribution and the exemption of fertilizers from taxation have chiefly benefited the largest producers, as well as importers and wholesalers.¹⁰

21. The redeployment of rural extension services is another sign of the re-engagement in agriculture in Benin. Advisory services for farmers, which saw their staff cut under the structural adjustment programmes of the 1990s, have recently been reinforced. This is a wise choice. Extension services play a crucial role in disseminating useful information to producers (weather, sowing dates, market prices and agricultural best practices), and support for “public goods” in agriculture (extension, research, and storage and communication infrastructure) makes a greater contribution to increasing agricultural revenues than does support to “private goods” such as agricultural inputs (subsidies for fertilizer, or provision of seed). During his visits to the regions of Lokossa and Glo-Djigbé, the Special Rapporteur observed that this re-engagement by the State had had very positive effects for small farmers. Nevertheless, further effort is required to ensure that rural services benefit the most vulnerable groups, in particular small farmers living in the most remote areas: the Special Rapporteur noted, for example, that Ministry of Agriculture extension workers, whose travel budget is all too limited, sometimes choose to work with small farmers living near tarmacked roads.

22. This is an indication of the main challenge confronting the Government’s agricultural revitalization strategies, as far as the realization of the right to food is concerned. The current plans envisage the provision of differentiated support to the various types of farmer (small farmers, large concerns of more than 100 hectares, etc.). However, there is insufficient targeting of the most vulnerable groups — notably farm households living far from lines of communication, households with little or no land or productive capital, and lone mothers — in budget allocation for example.¹¹

23. Certain officials seem to harbour the view that small family farms are destined to disappear, and that small farmers have no role to play in the “modernization” of agriculture.

¹⁰ Ibid., para. 52.

¹¹ Mechanization is a good example of this phenomenon. There is a broad consensus on the need to move towards mechanization of agriculture, but the choice of the types of mechanization to be promoted is not neutral in terms of its impact on the gradual realization of the right to food. Although the strategic plan for agricultural sector revitalization calls explicitly for mechanization to be well thought-out, with technological choices reflecting the environmental and social conditions in each area (use of animal-drawn implements, light mechanization, light motorization), there seems to have been a disproportionate focus on large producers capable of using tractors. More substantial support to intermediate forms of mechanization (including the use of animal-drawn and motorized implements) could provide more benefits for a greater number of vulnerable small farmers. Furthermore, the use of tractors by small farmers assumes that they are being encouraged to form cooperatives and that they have access to fuel; generally, neither condition is being met.

This belief constitutes an obstacle to the targeting of revitalization efforts precisely towards the farm households that require priority support. It ignores small farmers' creativity and their potential to contribute to revitalization, which, however, have been demonstrated elsewhere. It does not take account of the fact that the larger concerns generally allocate a smaller proportion of their land to the production of staple foods and vegetables than do small farms.¹² Small farmers thus help to reduce the dependence of rural communities on imported foodstuffs and to limit their vulnerability to price fluctuations. Lastly, this belief is based on the premise that small farmers who leave the agricultural sector will automatically find other means of subsistence, in urban areas for example. This rarely proves to be the case today, given the weakness of the industrial and service sectors in Benin, attributable, inter alia, to the lack of regional integration and the fact that Benin is attempting to develop its industries at a time when other States have already achieved substantial economies of scale in manufacturing. If the towns cannot absorb more workers, then there is a need to invest in a development strategy that creates jobs, but also in initiatives to improve the situation of all small farmers, particularly the most vulnerable.

24. The potential risks of pursuing a "green revolution" based on the model of agricultural transformation followed by several Latin American countries in the 1950s and by several countries of South Asia in the 1960s must be given serious consideration. First, there is the question of the medium-term financial viability of the measures taken, an issue already raised in August 2008 by the mission of technical and financial partners, which found that the exit strategies of the current programmes needed to be clearer in this regard. In addition, this model runs the risk of accentuating the divide between the beneficiaries of agricultural transformation and those farm households that are excluded. The risk is all the greater when certain sectors are treated more favourably than others because of their ability to respond to the needs of the export market. Nor can the environmental risks be underestimated. They include contamination of fragile valley environments with pesticides and fertilizers, as has already occurred in certain cotton-growing valleys, and short-term reductions in fisheries productivity as a result of excessive use of chemical inputs. Lastly, pesticides are associated with short- and long-term risks to human health: accidental poisonings, headaches, rashes, birth defects, pregnancy complications and other illnesses are frequent in cotton-growing areas.

25. It would be desirable if the adoption of a national strategy for the realization of the right to food gave rise to a public debate on the reorientation of agriculture, taking account of all these dimensions — social, environmental and public-health — and exploring the alternatives available, for there are indeed alternatives. Benin could make still greater use of several agroecological farming techniques, systems and innovations, in order to capitalize on the natural assets of its ecosystems, rather than rely on the systematic use of costly foreign inputs such as fertilizers and pesticides. These alternatives are currently being used on a small scale in Benin, although the experience of the Songhaï Centre in Porto-Novo, regarded as an authority throughout the West Africa region, has shown that it is possible to reach high levels of productivity per hectare using sustainable agriculture and agro-processing techniques that are integrated and in harmony with local practices. Other actors, including the faculty of agronomic sciences in Abomey-Calavi, the National Agricultural Research Institute of Benin (INRAB) and the Africa Rice Centre (ADRAO), also have very interesting experience in this area.

¹² International Food Policy Research Institute (IFPRI) and Laboratory for Regional Analysis and Expert Social Assessment (LARES), *Impact des réformes agricoles sur les petits agriculteurs au Bénin, vol. I: Résultat des enquêtes des petits agriculteurs, des communautés, et des groupements villageois* (Impact of agricultural reform on small farmers in Benin, vol. I: Outcome of surveys of small farmers, communities and villages), April 2001 (<http://www.ifpri.org/node/2796>), p. 267.

26. These “ecologically intensive” alternatives receive too small a share of the funding available under the strategic plan for agricultural sector revitalization. However, they not only have significant potential to improve agriculture in general but are also especially relevant when it comes to improving the situation of the most vulnerable areas and/or groups. By protecting the natural environment and creating systems that are more resistant to climatic shocks, they enhance the realization of the right to food in the long term. Many systems have been recognized as meriting the greatest interest. The benefits of agroforestry for Benin have been demonstrated in several studies, including those undertaken by the Minister of Trade in her previous position. The cultivation of leguminous trees such as *acacia mangium* fertilizes the soil and, at the same time, produces forage, as does the use of covering plants, such as *mucuna* (“magic beans”). Planting fruit trees as part of valley development enables children’s diets to be improved by means of the vitamins in the fruit. The promotion of composting — a difficult technique, but one that yields significant results — allows the soil to be fertilized without resorting to the purchase of costly artificial fertilizers. The development of animal traction in the South would reduce the hardships of agricultural work by using techniques that are accessible to small farmers and could be achieved by disseminating breeds of cattle that are resistant to sleeping sickness (Lagoon and Borgou breeds) and providing veterinary care. Soil conservation projects, such as the anti-erosion measures in Atacora or the systems that could be inspired by the encouraging results of the soil development programme being implemented in Burkina Faso, have an important role to play too. The distribution of the best traditional seed varieties through the networks established pursuant to the emergency food security support project would also be very useful, as some of these varieties are well suited to the culinary practices and customs of local populations. Lastly, integrated control techniques allow farming to be less polluting (see the reduction in the number of pesticide applications achieved under the targeted phased control project in cotton growing, piloted over 30,000 to 40,000 hectares in Borgo-Alibora region). There are strong synergies between all these agroecological techniques: for example, the forage produced from leguminous trees enhances the prospects for developing animal traction. This is another argument for making such approaches a more integral part of programmes that receive support from the Government and the international community.

27. The Special Rapporteur is convinced of the potential benefits of these approaches with respect to the realization of the right to food. They are particularly appropriate for small farmers working in challenging agroecological environments. In addition, several of these practices could help to stimulate the creation of specialized jobs, in biopesticide production for example — through the development of small-scale but organized manufacture of products from papaya leaves, to combat whitefly in cowpeas, or from magosa leaves (*azadirachta indica* or neem), to combat aphids — or in food processing.

28. Lastly, experience shows the, as yet underexploited, potential of South-South cooperation and of the simple dissemination of agricultural good practice by means of innovations that are not agronomic but social and institutional in nature. A good example of this is the making and distribution by the Africa Rice Centre (ADRAO) of a video documentary demonstrating the best rice-cultivation techniques. This type of innovation is not expensive: the CD-ROM, which has been translated into five regional languages, sells for 500 CFA francs. It draws on existing resources, since distribution is effected by the rural media. As the experiments conducted in other countries demonstrate, the results may be very significant in terms of yields and increased incomes.

B. Organization of markets and channels

29. It has been established that food insecurity in Benin stems not from the country’s inability to produce sufficient quantities of food, but from the increase in prices during the lean season, as a result of which the urban poor, and small farmers who sell their reserves

when prices are low and later find themselves obliged to buy back food at prices significantly higher than those they received for their crops, are deprived of access to sufficient and adequate food.

30. Improving the commercialization of agricultural products must therefore be a priority, even ahead of increasing production, since it is liable to stimulate the entire agricultural sector and enable it to realize its full potential. Indeed, enhancing the opportunities for and conditions of commercialization paves the way for a series of improvements upstream, which, in turn, facilitate increased production and greater access for all to sufficient and adequate food. The following elements merit attention in this regard: (a) organization of storage and conservation of agricultural products, and their processing into foodstuffs; and (b) development of markets and organization of channels.

31. The National Office for Food Security Assistance has a vital role to play in this area and, moreover, was allocated additional funds by the Government to deal with the food crisis of 2008.

1. Improvement of storage, conservation and processing of agricultural products

32. The improvement of cereal storage systems and of capacity is crucial for Benin: storing agricultural products allows producers to avoid selling to middlemen during the harvest, when prices are at their lowest, and to phase sales (or direct use) between the harvest and the lean season, which guarantees more lucrative prices. The current storage capacity of the National Office for Food Security Assistance is clearly inadequate (12,000 tons, including 10,000 in rented premises, and only one storage depot per region). The mission took place as efforts were being made to determine current capacity and identify infrastructure requiring renovation.

33. The system for the purchase of crops from producers by the National Office is the subject of controversy in the agricultural sector. The prices, periods and areas of intervention are being questioned by many stakeholders. Enhanced information concerning the choices made and, above all, greater participation by producers' organizations, including in setting prices, would allow the necessary consensus to emerge for the revitalization of agriculture with the involvement of the greatest number of actors.

34. Improving the storage system is a priority in order to protect the most vulnerable producers and contain speculation by middlemen between the harvest and the lean season. The Special Rapporteur was not able, during his mission, to obtain precise information concerning the risk of speculation by private actors related to price volatility during this period. Smoothing prices by increasing the storage capacity of the National Office for Food Security Assistance, implementing transparent stock management and adopting purchase and sale price policies aimed at realizing the right to food would thus constitute a significant step forward. This would entail (a) involving producers' organizations in framing the volume and price policies of the National Office; (b) defining specific criteria to guide the selection of producers from whom the National Office purchases crops in order to avoid any risk of discrimination; and (c) reforming the system of State-subsidized shops (*boutiques-témoin*), so as to ensure that the sale of basic foodstuffs at low prices benefits the poorest households, including those living far from lines of communication.

35. Conservation and processing of agricultural products at local, national or regional level is an important factor in enhancing food security. The rate of crop loss owing to poor storage conditions is high, and reducing it is imperative. In addition, Benin should improve its capacity to process food products, so as to capture a greater share of the value added in the production chain. There is, in fact, great potential for the production of processed foodstuffs, which would reduce post-harvest losses, boost high nutritional value foods, create decentralized economic activity and thus generate income, enabling the most

vulnerable groups to have access to adequate food. For example, Benin imports large quantities of cereals, notably as a result of the increase in sales of sandwich bread and baguettes, even though local alternatives such as cassava-soya-wheat bread and sorghum-wheat bread exist and are of superior nutritional value. Other examples of processing at local level are the transformation of cassava into gari (as under the project of the Tanné Union of Small Farmers and Pastoralists) and the extraction of juice from cashew nuts. It would also be helpful to invest in technology for processing legumes such as morenga, with a view to removing certain obstacles to the consumption of legumes, an alternative source of protein to meat and fish, which are extremely costly for the poorest households.

36. These examples share a common feature: their development could be intensified without significant investment in industrial infrastructure. In fact, there remain major obstacles to the creation of a food-processing industry in Benin. These obstacles are associated with a number of factors: the limited domestic market; the tradition of trading rather than manufacturing in Benin; lack of regional integration; the weak investment climate; and, furthermore, a conviction among many experts and donors that, given the foregoing, there is no possibility of developing a profitable agricultural processing industry in Benin.¹³ There is, however, no reason for this opposition to industrial development. While such development does, to some extent, require the creation of regional markets and hence greater integration of the region's economies, industrialization would capture some added value and reduce imports of goods that could be produced in Benin.

2. Market functioning and organization of channels

37. Improving market functioning is also an important means of enhancing food security, since it strengthens the capacity of small farmers to sell their crops at lucrative prices. The improvement of communication infrastructure, particularly roads, is a key factor in creating an environment in which private actors can invest in the establishment of marketing channels. The importance of improving the provision of information on prices, a low-cost intervention that would potentially be very useful for small farmers, must also be stressed. Consideration could be given to the systematic dissemination of market prices for agricultural products via public and private radio, although similar information is already being disseminated, to some extent, by the National Office for Food Security Assistance.

38. The improvement of channels calls for strategic choices concerning the sectors that are to receive priority support and the geographical spread of the markets to be targeted. The strategic plan for agricultural sector revitalization targets three types of sector: sectors linked to food security (rice, maize, manioc, yams, tomatoes, onions, capsicums, meat, milk and eggs, and fish and shrimp), agro-industry (cotton, oil palms, pineapples and cashew nuts) and agrofuels (bioethanol derived from sugar cane and cashew apples, and biodiesel derived from castor oil and jatropha). For the period 2008–2011, the cotton sector remains the main recipient of support, followed by the fish, meat, pineapple, maize and milk sectors. As to the choice of markets, greater regional integration within the Economic Community of West African States (ECOWAS) could be of particular benefit to Benin, which enjoys access to the sea and proximity to Lagos, whose 8 million inhabitants could ensure demand for Benin's food products. The development of export channels will require greater vigilance to ensure that small farmers are integrated in global supply chains and are not excluded from markets. Small farmers experience greater difficulties in meeting the demands of exporters with respect to quality, regularity and organization. The involvement of the authorities to ensure respect for, and the advancement of, the situation of small farmers will in any case be necessary.

¹³ This was clearly the case for a project to develop industrial production of cotton wool, which was rejected by donors.

39. Support to producers' organizations is a key element in ensuring the success of a revitalization strategy that includes the most vulnerable farmers. The Special Rapporteur is aware that past experience in Benin has cast doubt on the benefits of developing cooperatives. However, the existence of strong producers' organizations allows members to share their experience, organize training tailored to their needs, increase their negotiating power vis-à-vis buyers and participate in the formulation of public policies affecting agriculture.

C. Access to credit

40. The authorities in Benin are cognizant of the lack of financing mechanisms that are adapted to agriculture and incorporate repayment schedules based on cultivation calendars and interest rates compatible with the sector's profitability. At the time of the mission, they planned to establish new institutions or credit mechanisms such as an agricultural bank, a national agricultural development fund or an agricultural insurance and disaster management scheme.

41. Special attention will have to be paid to facilitating access to these mechanisms by the most vulnerable groups, given the obstacles that such groups encounter in obtaining credit (including illiteracy, which prevents them from accessing information and preparing applications, and inability to provide documents and satisfactory guarantees).¹⁴ Indeed, access to credit must benefit not only the most successful agricultural investors, but also the great majority of small farmers, in particular women, as stipulated in article 14, paragraph 2 (g), of the Convention on the Elimination of All Forms of Discrimination against Women, which guarantees the right of women in rural areas to have access to agricultural credit and loans on a basis of equality. The goal of the new financing mechanisms cannot be merely to promote the technological advances and structural changes necessary for the development of agro-processing firms and of the rural economy, as explicitly stated in the strategic plan for agricultural sector revitalization. It must also be, as a priority, to enhance the situation of vulnerable groups and their right to adequate food.

42. The decision of the national microfinance fund in 2009 to participate in the financing of agricultural activities in rural areas marks a step forward in this regard, given that for, a long time, it focused its activities on the non-agricultural sectors.

43. Producer access to credit could also be improved through warrantage or inventory credit systems, whereby short-term loans are secured against stocks of produce (representing a share of the harvest), which can be sold by the bank if the borrowers default. Such systems have demonstrated their value in the subregion. Under warrantage, producers' organizations and private operators co-own a market mechanism that manages stocks of foodstuffs. Producers who deposit their stocks receive a certificate with a guaranteed value, which enables them to apply for credit to purchase inputs from approved distributors and/or finance institutions.

D. Access to land and rural land reform

44. Access to land is an important factor in the realization of the right to food in rural areas. The average plot size is significantly lower in the south (0.5 hectares), where there is severe pressure on the land and only 5 per cent of farms have an area of more than 5 hectares, than in the north (average plot size, 2 hectares; farms with an area of more than 5

¹⁴ See, *inter alia*, the results of the national workshop on the issue of access to credit, held in Cotonou on 22 and 23 August 2007.

hectares, 20 per cent).¹⁵ The current land tenure system is far from satisfactory: lack of legal certainty regarding land rights is leading to less than optimal exploitation of the land, which, in some cases, is accelerating its degradation; disputes over land are multiplying, particularly in the south of the country, prompting a growing number of small farmers to migrate to the north, which gives rise to more disputes; the coexistence of both customary and formal laws governing land rights and the dispersal of responsibility for registration is contributing to this insecurity, which discourages investment.

45. For all these reasons, Benin recently embarked on a process of reform. Act No. 2007-03 on rural land tenure provides a legal basis for the elaboration of a rural land scheme and the issue of land ownership certificates, with a view to recording existing rights to the land and guaranteeing legal security of ownership. The rights that may be exercised over the land are the right of ownership, which is recognized by a land title and encompasses not only the right to use the land, but also the right to rent, cede or sell it (art. 65); and the simple right of use for the purpose of obtaining income, when land is acquired in accordance with rules derived from local traditions, customs and practices (art. 66). The law thus ensures the coexistence of two property systems: one based on the issue of land titles, and the other based on customary land rights. Article 7 of the law defines how rights to rural land may be established in the absence of title and provides for groups of families with collective rights to certain lands to set up land interest organizations (art. 7, para. 1) in order to better protect their rights. It is in this context that a title issue programme was launched. At the time of the mission, the programme already covered more than 40 out of 77 communes.

46. This clarification of property rights is highly desirable in principle. It may foster access to credit by small farmers whose land rights are recognized.¹⁶ Recognition of these rights also encourages more reasonable use of natural resources; planting of trees, with beneficial effects on soil fertilization; and respect for ecosystems. At the same time, the certification process seems to have contributed to an increase in land prices, putting access to land ownership ever further beyond the reach of the poorest farm households. The recognition of collective rights to the land and the establishment of conciliation tribunals within each commune as the bodies competent, in the first instance, to rule on petty disputes over rural land (art. 124) are further positive aspects.

47. However, certain difficulties persist, the land reform notwithstanding. First, the issue of titles may strengthen owners' negotiating hand vis-à-vis the small farmers cultivating their land, particularly in a context of mounting land speculation, and it may lead to small farmers cultivating lands to which they have no title being deprived of the land on which they depend. It would be desirable for the rights of the current users of rural land to be more effectively guaranteed, for example by imposing strict conditions for their expulsion by the legal owners or by providing a procedure whereby expellees would be guaranteed the right to farm rural land belonging to the State that is at least equally productive.

48. Second, unless the clarification of land titles, through the establishment of rural land schemes in each commune, goes hand in hand with support to agricultural production benefiting the most vulnerable small farmers in particular, they could be tempted to cede their lands to investors — because it will now be easier for them to dispose freely of their lands and because there has been a marked renewal of interest among local and foreign investors in arable land — which could lead, in the medium term, to an increase in inequalities in rural areas and to greater agrarian concentration. It is thus important that programmes to support agricultural production revitalization should proceed at the same

¹⁵ Ministry of Agriculture, Livestock Rearing and Fisheries, "Intensification of the emergency food security support project", 2008.

¹⁶ Properly certified land rights can be used as security to obtain a loan (art. 9 of the law).

pace as the issue of land titles and that these programmes should be of particular benefit to the most vulnerable farm households, so that the yields from their plots are sufficiently remunerative for them. Otherwise, there will be a real risk of an unwanted rural exodus.

49. Third, it is imperative for the success of the reform that any possibility of abuse of power, or even corruption, on the part of the local authorities is eliminated. As a minimum, this presupposes that citizens have clear information on their right to challenge decisions taken by the local authorities before the competent judge.

E. The agrofuel sector

50. The pressure on the land, referred to in the previous section, could become still greater in the future, given the planned expansion of agrofuel production. At the time of the mission, Benin was actively seeking investors for large-scale projects in addition to the energy services delivery project of the Directorate-General for Energy, which seems prompted by a genuine desire for integrated rural development. A plan for the development of the agrofuel industry, still under elaboration during the mission, would provide for the transfer of large areas of arable land to foreign investors for the production of agrofuels. The Italian company Green Waves has reportedly secured the exploitation of 250,000 hectares for sunflower cultivation; the French firm Géocoton (formerly Dagrís) has begun to produce agrofuels from seed cotton; and information has been received on a project to turn over 400,000 hectares to palm oil cultivation in the south of Benin in order to produce biodiesel for export by foreign investors.

51. The Special Rapporteur encourages Benin, before continuing on this path, to carry out a rigorous assessment of the social and environmental impact of agrofuel sector development, including the impact on the food security of local populations. Agrofuel production will not contribute to the country's human development if, rather than improve farm incomes, it increases inequalities in rural areas by rendering access to land ownership more difficult for small farmers. The production of agrofuels for export may jeopardize food security if it reinforces the country's dependence on food imports, and hence its exposure to price volatility, and if it causes food produced locally to become more expensive. Lastly, the environmental impact of the cultivation in monoculture of plants intended for industrial use must be carefully measured. These impact studies should be undertaken in close consultation with local populations and small farmers' organizations, so as to guarantee that the development of these sectors truly benefits them. The feasibility studies consulted by the Special Rapporteur are silent on the impact of agrofuel development on the income structure in rural areas, although, from a right to food perspective, this is the most important point; moreover, the studies were not conducted in a participatory manner.

52. It is particularly important to ensure that foreign investors authorized to produce agrofuels in Benin are subject to clear obligations with regard to: (a) job creation and respect for labour law, including the minimum wage; (b) respect for environmental standards and effective management of natural resources; and (c) respect for the rights of local populations, in particular land users (see the previous report of the Special Rapporteur, entitled "Crisis into opportunity" (A/HRC/12/31, paras. 19–22)). It is recommended that investment agreements should include predefined penalties in the event of non-compliance with the conditions attached to the investment.

53. A coordinated regional approach to this issue would be desirable, so as to ensure that the various States of West Africa are not prompted to make concessions to foreign investors owing to competition among them for investment.

F. Social policies and programmes

54. Low-income urban households are one of the three groups that are most vulnerable to food insecurity, along with families of small farmers and self-employed fishermen.

55. In 2008, the average incidence of poverty was 25 per cent in urban areas, compared with 39 per cent in rural areas.¹⁷ There was a marked reduction in several regions, for example, from 26.6 per cent in 1995–1996 to 22.2 per cent in 1999–2000 in Atlantique, and from 23.5 to 12.7 per cent in Ouémé and 19.3 to 13.5 per cent in Zou over the same period.¹⁸

56. Benin has established a system of benefits for the most vulnerable groups. Decree No. 2006-228 regulating the organization of relief by the Ministry of the Family, Women and Children provides that persons who are living in extreme poverty, lack vital resources or are experiencing social and/or economic difficulties have the right to receive State assistance in the form of non-reimbursable benefits in cash or in kind (arts. 1 and 3). Abandoned and orphaned children, children with disabilities and children from deprived families are the subjects of special attention, as are detained juveniles (art. 5). The benefits may be provided immediately in emergencies, on a temporary basis in case of short-term need, or over a longer period not, however, exceeding three years. Special bodies have been set up to implement the system at national, departmental and commune level.¹⁹

57. The right to social benefits cannot be realized effectively unless the potential recipients are adequately informed as to their entitlements under the law, and unless remedies are available for persons who are arbitrarily excluded from receiving benefits. The risk of exclusion is particularly serious in the case of persons who are illiterate or have no legal residence and households living far from urban centres, for whom geographical distance can represent a major obstacle to fulfilling the required administrative procedures. The Government of Benin could undertake an assessment of the difficulties these categories encounter in accessing social benefits and consider ways of overcoming them.

58. Faced with the explosion in prices in 2008, the Government of Benin provided additional resources to the National Office for Food Security Assistance to enable it to deal with a particularly difficult situation. The National Office made arrangements to increase the supply of food on the national market, selling stocks of maize, rice and other products and setting up 87 State-subsidized shops selling widely consumed goods in 77 communes.²⁰ This experience was being evaluated at the time of the Special Rapporteur's visit.

V. The international dimension

59. Benin's integration in international trade could boost its development, but only if this opening up takes place in conditions that do not accentuate the unequal nature of the country's exchanges with the rest of the world, and only if Benin has the necessary

¹⁷ *Les réalités de la pauvreté face aux défis des objectifs du millénaire pour le développement* (The realities of poverty and the challenges of the Millennium Development Goals), report of the National Forum organized by the Office of the High Commissioner for Consultative Governance at the Palais des Congrès, Cotonou, from 7 to 9 October 2008, p. 43.

¹⁸ WFP, *Analysis of food security and vulnerability in Benin – A VAM contribution to the formulation of the Country Strategy Outline and Country Programme*, June 2002.

¹⁹ With regard to the administrative arrangements for the provision of assistance, see Decree No. 2008318 of 19 May 2008 on the establishment, organization and functioning of the bodies responsible for organizing relief.

²⁰ Information on food security management in Benin in 2008 and prospects for the future, National Office for Food Security Assistance.

flexibility to cope with the potential adverse effects on its own producers of the influx of cheap goods onto its markets. In this connection, the Special Rapporteur recalls the recommendations contained in his report on his mission to the World Trade Organization (see A/HRC/10/5/Add.2).

60. At the time of the present report's completion, the European Union and the countries of West Africa had agreed to conclude a regional agreement on trade and cooperation for development by October 2009. While the conclusion of economic partnership agreements between the European Community and the States of Africa, the Caribbean and the Pacific (the so-called ACP countries) may encourage investment in these countries, the process has also given rise to many questions since the negotiation of such agreements was launched in 2002. These questions concern the loss of tax revenue that may result from the lowering of customs duties, which represent a major source of income for the ACP countries; the threats to the most vulnerable sectors and hence to local producers; and the impact on the regional integration process.

61. This report is not the place for a detailed analysis of these potential repercussions. For the moment, the Special Rapporteur wishes to emphasize three points. First, the possibility afforded Benin, and the other West African countries, to resort to protection measures should be extended to cover industrial products, so as to allow the country to develop its industries and emerge from a situation characterized by unequal exchanges and a structural deterioration of the terms of trade.

62. Second, it is important to distinguish between the impact of trade liberalization on the country as a whole and the impact on the most vulnerable population groups. It is perfectly conceivable that an agreement conducive to Benin's economic growth and development might, nevertheless, benefit some sectors disproportionately, while penalizing others. The conclusion of any trade agreement should be preceded by a study of the impact on the right to food, so that measures can be taken, if necessary, to ensure the protection of that right for persons who depend on sectors that will be weakened as a result of the agreement. It would, moreover, be unacceptable for an economic partnership agreement to be concluded without specific and verifiable commitments on the part of the European Union to cease all agricultural dumping practices in the countries party to the agreement, the impact of such practices having been so harmful in the past.

63. Third, the opportunities created by international trade must benefit not only the most competitive producers, but also those less well-equipped for integration in export channels. The role of the Benin Agency for Trade Promotion is particularly important in this context, the Agency's mission being to promote contacts between Beninese economic actors and foreign buyers. It would be desirable for the Agency to develop a proactive approach aimed at facilitating access by small family farms to export markets, including in the emerging agrofuel sector. This goal would be furthered by the establishment of cooperatives bringing together small producers and enabling them to achieve economies of scale in marketing; by the provision of training and assistance in meeting quality standards imposed by foreign buyers; and by government support for equitable contract farming arrangements (conclusion of contracts between small producers and industrial partners). In this connection, the representation of small farmers' unions within the Agency's structures would be desirable.

VI. Conclusions and recommendations

64. **Benin has recently taken important initiatives to strengthen its agricultural sector and to help the poorest households, particularly those in rural areas, to cope with the increase in food prices. These initiatives are to be welcomed. They could be**

improved by being anchored in the right to food, with a view to achieving more effective targeting and guaranteeing that demands for participation and non-discrimination are met. This would avoid confusion between policies aimed at ensuring food security by increasing production and policies aimed at strengthening the right to food by guaranteeing access for all to adequate food.

65. The Special Rapporteur encourages the Beninese authorities to adopt a national strategy for the realization of the right to food, in accordance with general comment No. 12 (1999) of the Committee on Economic, Social and Cultural Rights (E/C.12/1999/5). Such a strategy should set key dates, objectives and indicators for realizing this right. Its adoption should be participatory, as called for in guideline 3.8 of the FAO Voluntary Guidelines to Support the Progressive Realization of the Right to Adequate Food in the Context of National Food Security.²¹ It should improve coordination among actors, which is still lacking. The Office of the High Commissioner for Consultative Governance could be provided with additional resources to enable it to coordinate the preparation of the national strategy and ensure the participation of the population in debates of concern to it.

66. Benin is encouraged to pursue its efforts to revitalize agriculture and to ensure that those efforts are geared primarily towards the realization of the right to food. The protection of the right to social security of the urban poor must also be strengthened. The Special Rapporteur recommends that Benin should:

(a) Maintain, and translate into reality, the goal set forth in the Maputo declaration of allocating 10 per cent of national budgetary resources for agricultural and rural development, and improve the balance between support to “private goods” (seed, fertilizers, mechanization) and support to “public goods” (extension, agricultural research, storage and communication infrastructure, development of markets and channels) in the allocation of public expenditure for agricultural sector revitalization;

(b) Place small farmers and sustainable agriculture at the heart of its national priorities, in accordance with the conclusions of the International Assessment of Agricultural Knowledge, Science and Technology for Development, adopted by Benin and 57 other Governments in Johannesburg in April 2008;

(c) Exploit the possibilities of wider dissemination of sustainable agriculture techniques, currently underused, among small farmers in order to facilitate the emergence of an agriculture that is productive, conservative and resistant to climatic and economic shocks. To this end, special attention could be paid to:

(i) Perpetuating sustainable agriculture pilot projects led by local communities or NGOs by tasking rural extension services to disseminate at regional and/or national level the best methods developed locally;

(ii) Promoting the following practices and systems: agroforestry and use of leguminous trees, development of animal traction, soil conservation, composting, and use of covering plants;

(iii) Drawing more fully on the potential of South-South cooperation by supporting regional centres such as the Songhaï Centre;

(iv) Exploiting the possibilities of participatory research;

²¹ Available online (<http://www.fao.org/docrep/009/y7937e/y7937e00.htm>). See also *The Right to Food Guidelines: Information Papers and Case Studies* (<ftp://ftp.fao.org/docrep/fao/010/a0511e/a0511e00.pdf>).

- (d) Strengthen the capacities of the most vulnerable small farmers by:
- (i) Expediting the redeployment of rural extension services and making support to vulnerable groups and dissemination of sustainable agriculture best practices one of the priorities of such services;
 - (ii) Increasing crop storage capacities, notably those of the National Office for Food Security Assistance, and investing in new infrastructure, so as to allow for more stable prices and phasing of sales between the harvest and the lean season;
 - (iii) Establishing transparent procedures for the purchasing of crops from producers at lucrative prices;
 - (iv) Increasing access to credit for small farmers, including through the use of innovations such as inventory credit systems;
 - (v) Creating insurance schemes suited to farmers' needs, notably in respect of risks linked to meteorological phenomena;
- (e) Conduct a study of the impact on the right to food before concluding any trade negotiations, following a participatory process;
- (f) Ensure that the title issue process under way does not encourage land speculation and is accompanied by measures to protect the users of the land from being expelled in violation of international human rights law;
- (g) Base any decision concerning the development of agrofuel sectors on rigorous participatory impact studies, focusing, at the same time, on the need to increase the incomes of small farmers and promote rural development;
- (h) Guarantee the right to social security, and ensure that everyone has access without discrimination to the social benefits provided for in national legislation.
67. The efforts undertaken in Benin could be supported by international assistance and cooperation. The Special Rapporteur recommends that the country's technical and financial partners should:
- (a) Align their development assistance programmes with the national strategy established by Benin for realizing the right to food, focusing their efforts on improving the situation of vulnerable groups and backing the development of public goods (rural extension services, agronomic research, storage and communication infrastructure, institutional development of channels) within the framework of support to sustainable agriculture;
 - (b) In the case of FAO in particular, help Benin to implement the Voluntary Guidelines to Support the Progressive Realization of the Right to Adequate Food in the Context of National Food Security and to elaborate a national strategy for the progressive realization of the right to food.
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