



REPUBLIC OF BENIN

COUNTRY GOVERNANCE PROFILE REPORT

African Development Bank: Country Operations Department, West Region, OCCW
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This report was prepared following a joint Bank, UNDP and ACBF governance profile preparation mission to Benin from 25 April to 11 May 2004. The mission comprised Messrs R. KANE, Macroeconomist, OCCW, ADB (Head of Mission), A KOFFI, Governance Specialist, POPR, ADB, E. YOBOUE, Procurement Expert, PPRU, ADB, Ousmane SOMALI, ACBF Consultant, M. LALEYE, Development Policy Expert, ACBF and I. YANKPE GBERE, Consultant, UNDP. Dr Samba KA, Director, West Region, also participated in the mission.

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List of Acronyms and Abbreviations

ADB	African Development Bank
ADEX	Export Development Association
ADF	African Development Fund
AFD	Agence Française de Développement (French Development Agency)
AFJT	Benin Association of Female Jurists
AIDS	Acquired Immunodeficiency Syndrome
BCEAO	Central Bank of West African States
BD	Bidding Document
CAA	Autonomous Sinking Fund
CB	Competitive Bidding
CBDH	Benin Human Rights Commission
CC	Constitutional Council
CCIB	Benin Chamber of Commerce and Industry
CCJA	Common Court of Justice and Arbitration
CEDC	Children in Exceptionally Difficult Circumstances
CENA	National Autonomous Electoral Commission
CESORAI	Administrative and Institutional Reforms Monitoring and Orientation Unit
CFAA	Country Financial Accountability Assessment
CFAF	Franc of the African Financial Community
CMVP	Public Moralization Unit
CNCDH	National Human Rights Advisory Board
CNRE	National Vote Counting Commission
COBAC	Banking Commission of Central Africa
CS	Supreme Court
CSM	Higher Judicial Council
CSO	Civil Society Organization
CSP	Country Strategy Paper
CTD	Regional and Local Authorities
DGB	General Directorate for the Budget
DGDDI	General Directorate for Customs and Indirect Duties
DGI	General Directorate of Taxes
DGML	General Directorate of Maintenance and Equipment
ECA	United Nations Economic Commission for Africa
EU	European Union
FC	Finance Control
GDP	Gross Domestic Product
GIABA	Intergovernmental Action Group against Money Laundering in Africa
GNP	Gross National Product
GVC	Association of Cooperative Institutions
HAAC	Audiovisual and Communication High Authority
HDI	Human Development Index
HIPC	Heavily Indebted Poor Country
HIV	Human Immunodeficiency Virus
IDA	International Development Association
IEC	Information, Education and Communication
IGF	General Inspectorate of Finance
ILO	International Labour Organization
IMF	International Monetary Fund
INSAED	National Institute of Statistics, Economic Analysis and Demography
JPO	Judicial Police Officer
MDGs	Millennium Development Goals
MTEF	Medium-Term Expenditure Framework
NGO	Non-Governmental Organization
OHADA	Organization for the Harmonization of Business Law in Africa

PER	Public Expenditure Review
PRGF	Poverty Reduction and Growth Facility
PRS	Poverty Reduction Strategy
PRSP	Poverty Reduction Strategy Paper
RIAS	Regional Integration Assistance Strategy
SAP	Structural Adjustment Programme
SBEE	Benin Electricity and Water Corporation
SDR	Special Drawing Rights
SME	Small-and Medium-Sized Enterprise
UNDP	United Nations Development Program
WAEMU	West African Economic and Monetary Union
WHO	World Health Organization

EXECUTIVE SUMMARY

Context : Objective of Profile

1. This country governance profile (CGP) is a tool for an overall appraisal and dialogue regarding the country's major governance problems. Its objective is to analyze the strengths and weaknesses of mechanisms and institutions for good governance at national level and assess their impact on the level of efficiency in the use of public and private resources. The CGP also helps foster, through the diagnosis and analysis of the Government's good governance strategy, the adoption by the authorities and development partners, including the Bank, of a common approach for the promotion of governance. The CGP is not just another document in the area of good governance. On the contrary, it aims at creating synergy with the other initiatives pursuing the same objectives, notably objectives relating to country financial accountability assessment (CFAA), country procurement assessment review (CPAR) and public administration reform action plan. By the way, all these documents and reform programmes are part and parcel of the joint efforts of the Government and its partners to improve governance in Benin. The CGP is meant to be an issues and action paper outlining and reviewing Government's present strategy so as to identify priority intervention areas for marked progress in governance. In this perspective, this CGP could contribute to the improvement of the coordination of development partners. It would thus facilitate the development and implementation of specific capacity building and reform programmes in the area of governance.

Methodology

2. To carry out a diagnosis of the governance situation and identify the dysfunctions noticed, the present Benin CGP was first based on Bank policy documents and guidelines, mainly those relating to good governance. Hence, the CGP was prepared after consultation of available documentation, particularly that of the UNDP, the African Capacity Building Foundation (ACBF), the Bank, bilateral partners and the World Bank. The preparation of the CGP was preceded by a review of the terms of reference of the study with all parties concerned (Government, social partners and development partners). Interview guides on the various issues covered by the study were transmitted to the parties concerned before the conduct of the study. Then, in-depth discussions were held with numerous officials and representatives of public administration, the private sector, civil society, political parties and other development partners. The Government, with the support of the Bank, UNDP and ACBF, prepared this CGP under the auspices of the Permanent Secretariat of the National Commission for Development and Poverty Reduction (SP-CNDLP) which is established within the Ministry of Finance and the Economy. The CGP is a frame of reference for all initiatives in the area of capacity building and improvement of governance in Benin. The preparation of this profile report was carried out in a participatory manner and marked by a reconstruction of the provisional conclusions of the study with the parties concerned.

3. After a brief description of the main components of the concept of governance, the report diagnoses the present governance situation through an in-depth analysis of the essential elements of accountability, transparency, stakeholder participation, legal and judicial reforms and fight against corruption. The report then carries out an evaluation of the Government's good governance strategy, identifies priority governance areas and recommends guidelines and actions for the promotion of governance.

Diagnosis of the Governance Situation

4. The CGP identified elements for assessing empowerment and examined how accountability was implemented at the political, public administration and public finance levels.

5. *At the political level*, a new Constitution was prepared and adopted in December 1990 on the basis of liberal democracy principles, following a long period of instability punctuated by coups d'état. Since this date, the separation and balance of powers (legislative, executive and judicial) derive normally from the following three types of constitutional provisions: (i) impossibility of each power to encroach on or annihilate the prerogative of the other two powers; (ii) the effective exercise of the role of independent arbitrator by the bodies of the judiciary (Constitutional Council, Supreme Court, etc); and (iii) the clear definition of the missions and powers of institutions as well as the implementation of mechanisms for their interaction and collaboration. However, collaboration and synergy between the different powers are in fact only apparent because the executive dominates the other powers. This is true as concerns the budget where the legislature has no room for manoeuvre as reflected in its lack of power to amend the draft budget. In fact, four of the thirteen State budgets adopted since 1991 were by Presidential ordinance. Apart from the problems already mentioned concerning political institutions, it is necessary to cite the following issues which call for immediate empowerment: (i) inadequate adherence to the democratic culture; (ii) insufficient private sector and civil society participation in the making of decisions concerning them; (iii) insufficient civil society independence and autonomy; (iv) inadequate access to information; (v) insignificant role of civil society in conflict resolution; and (vi) insignificant role of civil society in the promotion of transparency and accountability.

6. Concerning the organization and functioning of territorial administration, it should be noted that the implementation of the Constitutional provision on decentralization has started with the adoption of many texts and organization of municipal elections in 2002. There are however serious obstacles to the implementation of decentralization.

7. Although there has been some progress in economic management through positive reforms, there are still difficulties in the implementation of these reforms. The Government's economic programme for the 2000-2003 period implemented with IMF support ended in March 2004 without the conclusion of a new programme. However, encouraging progress in ongoing discussions with the IMF allow the conclusion of a new PRGF programme after mid-2004. Regarding the private sector, the report notes that accountability and transparency are yet to be perfected not only at the level of corporate management but also in administrative services that compromise the most with economic operators (revenue offices, judicial system, etc.). Furthermore, business is still hampered by many administrative barriers which are not conducive to direct investment. Also, because of the growing informal sector, there is a pressing need to work out ways of increasing the taxation of the economy and fighting more effectively against tax evasion.

8. *Concerning transparency*, there are many weaknesses in Benin's procurement system and dramatic and urgent measures must be taken to ensure (i) in the public sector, efficiency and transparency in public expenditure in the framework of public contracts and (ii) in the private sector, a more conducive legal, financial and fiscal environment for keen competition. However, there is an ongoing voluntary and committed initiative at national level to radically review the provisions of the legal and regulatory framework¹. Government's determination and commitment to undertake such reform was translated into action in November 2002 by (i) an extensive consultation of all national actors involved in public procurement (Administration, Private Sector and Civil Society) which led to the formulation of an Action Plan to improve the public procurement system

¹ The legal and regulatory framework governing public procurement in Benin was established in 1996 by Ordinance No. 96-04 of 31 January 1996 as well as its implementation instruments .

and (ii) an effective partnership with the donor community for the provision of technical and financial assistance² in the implementation of the said action plan. Moreover, actions are being carried out to strengthen respect, which is at present relatively well ensured, for freedom of the press, political pluralism and access by the public to economic and social information.

9. *Conditions for the intensification* of stakeholder participation exist in Benin because civil society in the country is already relatively active and committed to the protection of human rights and improvement of the conditions of the most underprivileged social groups. The Government should take the necessary measures to put in place a conducive legal and regulatory framework for more active participation by civil society, political parties, the private sector, all economic actors and all of the country's regions. In this prospect, actions to strengthen credible civil society organizations should be undertaken with more sustained support of development partners.

10. *As regards the entrenchment of the rule of law*, this governance profile underlines the constraints faced by citizens in the area of protection of human rights. This situation is all the more disturbing as the persons concerned are those who are also affected by difficulties due to objective situations such as the country's poverty and limited human and financial resources of the administration. Hence, the unenviable situation of women, excessive child labour and a population who are ignorant of their rights. Public servants, who attach little importance to the law, are often tempted to use and even misuse their authority, which accentuates corruption in relations between the administration, citizens and persons subject to the jurisdiction of the courts.

Government's Strategy

11. The Poverty Reduction Strategy Paper (PRSP) is the main frame of reference of the Government's strategy for the promotion of good governance. It was observed that the implementation of this strategy encompasses many initiatives and programmes aimed at removing the constraints and dysfunctions of the State and civil society as revealed by the diagnosis carried out under this CGP. An evaluation of the strategy shows that there is a legal and institutional framework and that the planned reform programmes cover the key elements of governance, though one sometimes regrets the multiplicity of structures which undermine efficiency. At the same time, there is strong commitment on the part of development partners to back the Government in its efforts to improve governance. However, the question of effective implementation of the strategy still remains unresolved. Consequently, the relevance of this strategy is to be assessed in view of the need to change behaviours, ensure a better balance of powers, promote results-based management and take into account modern rationalities by integrating new technologies. A strong political will is indeed a prerequisite for pursuing and translating into concrete action the reforms undertaken, particularly those relating to public procurement, the fight against corruption, justice, strengthening of civil society and putting in place an enabling framework for the development of the private sector which is henceforth considered as the engine of growth for poverty reduction.

Priority Areas of Intervention for Partners and the Bank

12. The priority areas of intervention for development partners are the strategic thrusts of the National Poverty Reduction Strategy (NPRS), notably the entrenchment of the rule of law, strengthening of economic governance, improvement of the fiduciary framework and promotion of greater participation by stakeholders. This vast project, which is being implemented, is already benefiting from substantial support from technical and financial partners, especially as concerns

² The Bank and World Bank, through PARB and PERAC, supported from 2000 to 2002 public procurement reform initiatives in Benin. These programmes did not have a real impact on the improvement of the public procurement system mainly because of the too-fragmented actions undertaken and not based on a strategy for an overall reform of the system, on the one hand, and the weak commitment of the various actors at national level on the other hand. Following the national workshop on public procurement held in Cotonou in November 2002, a strategy, together with an action plan, for the reform of public procurement were prepared and the ABD and the World Bank are supporting the Benin Government in the implementation of the said action plan through the PASRP and PRSCI respectively.

civil service reform, capacity building, results-based public finance reform and establishment of a private sector development programme.

13. The Bank's intervention strategy in Benin outlined in the 2002-2004 CSP aims to support the Government's poverty reduction strategy one of whose major thrusts is governance. The Bank's strategy aims at reducing poverty through support to agriculture and rural development, strengthening of basic infrastructure and human resource development. Support for macroeconomic reforms will be pursued to achieve private initiative-driven sustainable growth.

14. The CGP fits properly into the previously identified priority areas. On the basis of the recommendations of the CGP, the potential areas for Bank intervention should focus on the following points: improvement of economic governance (budgetary reforms and improvement of the fiduciary framework), fight against corruption and money laundering, reform of public administration, reform of the judicial system and support for decentralization. From this viewpoint, in addition to the support it is providing for the implementation of the Poverty Reduction Strategy Support Programme, the Bank intends to finance, if necessary, new reform and governance support programmes on the basis of the recommendations of this CGP. It will also strengthen cooperation with the UNDP in the areas of good governance and sustainable human development (SHD) and coordination with the other development partners with a view to creating synergy in the implementation of the various initiatives focused on the improvement of governance.

15. The Bank encourages the Government to (i) put in place an institutional mechanism and a system for monitoring progress made in the area of good governance and capacity building, (ii) take necessary measures for proper ownership of the various governance improvement strategies, (iii) provide leadership and the necessary human and financial resources for the effective implementation of reforms and (iv) adopt, during a CGP validation workshop, a priority action plan for the improvement of governance.

I INTRODUCTION

1.1 Preamble

1.1.1 In 1999, the Bank Group adopted a governance policy to better enlighten its good governance promotion actions in its regional member countries (RMCs). This policy acknowledges that good governance calls for accountability, transparency, participation, the rule of law and the fight against corruption and that these factors are critical in establishing and sustaining an enabling environment for sustainable development. The Bank Group's strategic plan for the period 2003-2007 perceives good governance in the RMCs as a vital element in poverty reduction. In order to implement these initiatives, the Bank has launched the preparation of country governance profiles (CGP) in its Member States to (i) provide an analytical basis for a marked improvement of the Bank's knowledge in the area of governance in each RMC; (ii) serve as a frame of reference for responsible and open dialogue with the Government on the diagnosis of constraints as well as on the schedule of reforms and measures to remove them; and (iii) finalize the preparation of the country strategy paper (CSP) taking greater account of governance issues. The CGP which identifies potential areas for Bank intervention should facilitate the formulation of Bank operations aimed at strengthening good governance in the regional member countries.

1.1.2 The fourth strategic partnership technical meeting between the Bank and the United Nations Development Program (UNDP) had retained the preparation of Benin's CGP as one of the priority actions to be implemented as part of the cooperation outlined in the memorandum signed between the two institutions on 5 February 2001 in New York. This decision is a result of the importance accorded by the Bank and UNDP to governance as a vital element in poverty reduction as indicated in the respective policy papers and in the different initiatives taken by both institutions on the African continent.

1.1.3 In this prospect, a joint Bank, UNDP and ACBF mission went to Cotonou from 25 April to 11 May 2004 for the preparation of this country governance profile (CGP). This document carries out a diagnosis of Benin's governance situation by examining the following components: accountability, transparency, stakeholder participation, legal and judicial reforms, fight against corruption and private sector governance. It proposes recommendations to strengthen these different components of governance and identifies the priority areas in which the ADB, UNDP and ACBF could intervene, taking into account the actions carried out by the lead donors in the area of governance in Benin. This report is divided into five chapters. This introduction outlines the historical context and the key elements of governance. Chapter two presents a detailed diagnosis of governance in Benin, followed by an evaluation of the Government's governance strategy and its relevance. Finally, the method followed helps identify the priority governance areas and make recommendations for future actions that can contribute towards the improvement of governance.

1.2 Key Elements of Good Governance

1.2.1 Good governance is a concept covering the following elements : (i) an effective State; (ii) a mobilized civil society ; and (iii) an efficient public administration and private sector. In fact, an effective State creates a political and legal environment conducive to equitably distributed economic growth. Likewise, an active and dynamic civil society mobilizes individuals, groups and communities, facilitates political and social interaction, helps

generate human capital and encourages cohesion and stability within the society. A productive private sector generates jobs and income. It is moreover acknowledged that good governance encompasses the following key elements: (i) *accountability* defined as the obligation on an individual or organization, elected or appointed and vested with a public mandate, to render account to the people who vested him/it with such powers for actions and decisions taken in exercising such mandate ; (ii) *transparency* which presupposes that public accounts be published, that the public be informed of decisions taken by the State and participates in the monitoring of their implementation and that those decisions with an impact on the life of citizens be challenged ; (iii) *the fight against corruption* which includes misappropriation of public funds, misuse of power or breach of trust in both the private and public sectors ; (iv) *participation* defined as a process by which stakeholders exercise an impact on decisions of common interest and share in overseeing the resources and institutions that influence their life ; and (v) a *legal and judicial* system conducive to the rule of law and development in which laws are clearly defined and uniformly enforced by an objective and independent judiciary.

1.2.2 In the same vein, taking into consideration the elements underlined by the Bank, the development partners, including UNDP, add the following elements : (i) capacity to adjust whereby institutions and processes must aim at meeting the needs of all stakeholders ; (ii) consensus orientation which stipulates that good governance acts as an intermediary between different interests in order to achieve broad based consensus on what best serves the interests of the group and, failing which, on policies and procedures; (iii) equity which should give all women and all men the possibility of sustaining or improving their living conditions; (iv) efficacy and efficiency which will ensure that processes and institutions yield results commensurate with needs while using as best as possible available resources; and (v) strategic vision which gives leaders and the public a broad long-term perspective of good governance and human development as well as an idea of what is necessary for such development.

1.2.3 These characteristics are interdependent and strengthen each other. In this way, access to information results in increased transparency, extended participation and more effective decision-making. Extended participation contributes to both the exchange of necessary information and efficacy and legitimacy of the decisions taken. Legitimacy in turn results in efficient implementation and encourages participation through empowerment. To be equitable, the institutions which satisfy the needs of the population must be accountable and transparent and function while respecting the rule of law. These characteristics are vital to good governance and are an ideal. States must try, through broad consensus, to define the characteristics that they consider most important while ensuring the best balance between the State and the market.

II DIAGNOSIS OF THE GOVERNANCE SITUATION IN BENIN

The diagnosis helped carry out a detailed analysis of elements relating to accountability, transparency, stakeholder participation, legal and judicial reforms and the fight against corruption.

2.1 Accountability/Obligation to Render Account

Accountability is defined as the obligation on an individual or organization, elected or appointed and vested with a public mandate, to render account to the people who vested him/it with such powers for actions and decisions taken in exercising such mandate. Accountability is assessed at the political, administrative and economic levels.

Political Accountability

2.1.1 Benin's political evolution during the first twelve years following independence (1960-1972) was marked by a very dramatic instability of its political institutions punctuated by frequent coups d'état and other mass demonstrations which were sometimes, even often tribal in nature. Following the military coup d'état of 26 October 1972, the country was ruled for seventeen years by a socialist revolutionary military regime. The weaknesses of the regime were notably decay of the State, poor management of the economy and stifling of democratic freedoms. At the turn of the 1980s, the Government finally accepted to initiate in-depth reforms of the regime, which led to the holding in February 1990 of a Conference of the Vital Forces of the Nation which saw the advent of the democratic new deal in Benin.

Box 1 : Political and Constitutional Changes in Benin since Independence

Period	Constitutions and Essential Principles/Main Characteristics of Political Life during the Period
1960 to 1972	1. <i>The Constitution of 28 February 1959</i> : A parliamentary political regime with a Prime Minister and an omnipotent Legislative Assembly. This period was characterized by very unstable political institutions and governments due to upheavals resulting from embezzlement and deep-seated ethnicity driven by prevailing political and social life. The coup d'état of 26 October 1972 put an end to this period.
	2. <i>The Constitution of 26 November 1960</i> : A presidential regime characterized by the election of the President of the Republic with independence and separation of powers.
	3. <i>The Constitution of 11 January 1964</i> : A presidential regime characterized by a two-tier executive with a unicameral National Assembly which receives the oath of the President of the Republic, the Head of Government and the ministers.
	4. <i>The Constitution of 11 April 1968</i> : Strong presidential one-tier executive with a single party. It was the first Constitution to be adopted by referendum but which could not be implemented because of the breach of trust between the Army and the President. It was also suspended by the Directoire Charter of 26 December 1969 prepared following the putsch of 10 December 1969.
1972 to 1989	5. <i>The Constitution of 26 August 1977</i> : Up to the drafting of the Constitution based on the fundamental principles of democratic centralism, avant-garde role of the proletarian party and State interventionism in the economy, the Revolutionary Military Government (GMR) governed in accordance with Ordinance No. 74-68 of 18 November 1974 to lay down the power structure. This was a revolutionary period marked by relative political stability (17 years) despite numerous attempts to overthrow the government and the military aggression of 16 January 1977 sponsored by a group of exiled Benin citizens. The major political events of this period are the adoption in 1974 of the socialist regime based on the Marxist-Leninist ideology, the establishment on 30 November 1975 of the People's Republic of Benin in place of the Republic of Dahomey, the creation of the Benin People's Revolutionary Party as single party above the State, the changing of the national flag and the nationalization of enterprises. The revolutionary regime gave way under the weight of events in December 1989 with the renunciation by President KEREKOU of the Marxist-Leninist ideology, the dissolution of the "parti-Etat" and its governing bodies, and the victorious holding of the National Conference of February 1990.
1990 to date	6. <i>The Constitutional of 13 August 1990</i> : Formulated to organize powers during the transition period following the National Conference, it established a presidential-type regime. However, under this Constitution, the President of the Republic has very limited powers compared to the Prime Minister with whom he exercises executive power.. This is the democratic new deal era born out of the 1990 National Conference. It is characterized by the establishment of liberal democracy founded on respect of fundamental human rights, the establishment of the rule of law and the adoption of the principles of a liberal economy. The citizens of Benin work for the consolidation of the bases of a democratic system through : <ul style="list-style-type: none"> - The putting in place of anti-establishment institutions ; - Ensuring the normal and regular functioning of the institutions of the Republic; - The demonopolization of the air waves; - The moralization of public life and good governance; - The regular organization of free and transparent elections.
	7. <i>The Constitution of 11 December 1990</i> : Like the previous Constitutions, it instituted a presidential regime founded on the values and principles of multiparty democracy and on the separation of powers. In addition, it took full account of human rights. In total, it can be noted that in spite of all the political turmoil which characterized it, Benin has never experienced a constitutional void. It experimented a wide range of constitutional provisions which shows some degree of attachment to the rule of law.

2.1.2 *Political Stability, Weakness of the State* : a new Constitution was prepared and adopted in December 1990 on the basis of the principles of liberal democracy. Since then the country has organized, in an atmosphere of peace and political pluralism, several elections including four legislative, three presidential and one local, resulting in two changes of political regime in 1991 and 1996. With the Constitution of 11 December 1990, Benin again experienced a liberal democratic political regime with the separation of powers in a complete multi-party context. The democratic system put in place in Benin is marked by remarkable stability. In spite of this political stability and the effective establishment of all democratic

institutions provided by the Constitution, the State is not fully effective. In fact, the rule of law and the guarantee of peace and security have not yet been adequately ensured for all citizens especially because of the weak institutional capacities of the state and dysfunctions of the judicial system. Additionally, though the institutions in charge of the control and regulation of the executive have officially been put in place, they are not fully operational for want of means and adequate human resources, which do not allow for the effective enforcement of the obligation to render account at the level of the State. It should however be noted that the democratic system in place since 1990 is being established and consolidated with determination although there are still some lingering threats to the rule of law.

2.1.3 *Separation and Balance of Powers*: in Benin, the separation and balance of legislative, executive and judicial powers derive normally from the following three types of constitutional provisions : (i) impossibility of each power to encroach on or annihilate the prerogatives of the other two powers ; (ii) the effective exercise of the role of independent arbitrator by the bodies of the judiciary (Constitutional Council and Supreme Court) ; and (iii) the clear definition of the missions and powers of institutions as well as the implementation of mechanisms for their interaction and collaboration. This entails, in particular, the use by the National Assembly of its power to challenge the President of the Republic and to lay matters concerning the executive before the Supreme Council and the Constitutional Court, conditions of exercise by the President of the Republic of exceptional powers, definition of areas governed by law and conditions for intervention of the President in such areas. Furthermore, according to the Constitution, the executive cannot dissolve the Parliament and the latter cannot remove the President of the Republic from office. The independence of the judiciary is normally ensured by the irremovability of judges, the normal functioning of the Higher Judicial Council, the Supreme Court being the court of final judgment and the incompatibility of duties.

2.1.4 Despite this legal system, collaboration and synergy between the different powers are in fact only apparent because the executive dominates the other powers. This is true as concerns the budget where the legislature has no room for manoeuvre as reflected in its lack of power to amend the draft budget. In fact, four of the thirteen State budgets adopted since 1991 were by Presidential ordinance. Of course, such a situation makes it difficult for the legislature to exercise both a priori and a posteriori control over the executive. This is a basic constraint noticed at the level of the institutional framework for good governance in Benin which calls for appropriate mechanisms and greater determination on the part of political actors to ensure more effective accountability by each of the State's institutions.

2.1.5 *Electoral Process* : since the national conference, significant efforts have been made to render the electoral process more transparent and more credible. These include: (i) the introduction of transparent ballot boxes; (ii) the adoption of a single ballot; (iii) the stiffening of penalties in case of electoral fraud or negligence; and (iv) the setting up in 1994 of the National Independent Electoral Commission (CENA). However, in spite of the progress made, the results of the last polls were contested for various reasons including the late installation of members of the CENA often due to the method of designation of the representatives of the Parliament and the long delay in issuing an opinion on the constitutionality of elections. Indeed, the CENA is often suspected of partiality and there is doubt about its capacity to stop vote rigging. It should however be pointed out that the Government has already taken a number of measures to remedy some of the weaknesses mentioned above. For example, actions are being carried out to draw up a more reliable electoral register (known as computerized Permanent Electoral Register, LEPI). The

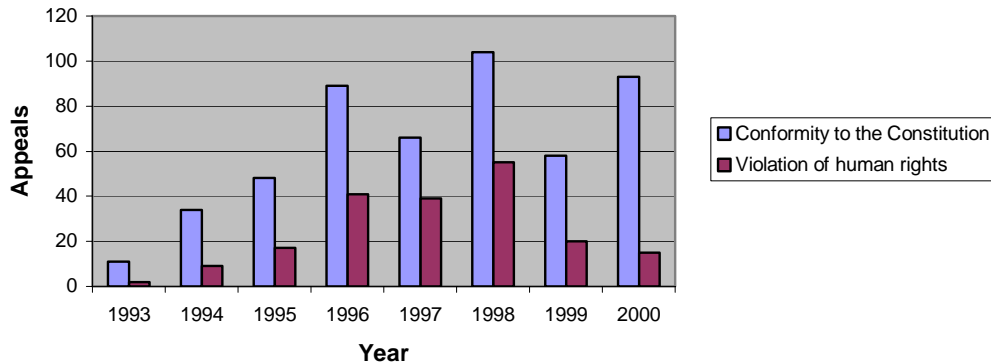
enactment of the law on LEPI and the necessary revision of the electoral law are undoubtedly some of the most pressing priorities to stop the next elections from undermining the stability, peace and security of the Republic of Benin.

2.1.6 *Political Code of Ethics and Practice*: in the absence of a formal document serving as a code of ethics and practice, the Charter of Political Parties (Law No. 90-023 of 13 August 1990 and the new Law No. 2001-21 of 9 July 2002) provide ethical landmarks for the activity of politicians. With the integral multi-party politics enshrined in that charter, the phenomenon of proliferation of political parties has developed as well as that of 'political nomadism'. Concerning institutions that ensure accountability by members of Government, the Constitution provides at the level of Parliament various enquiry mechanisms, written and oral questions as well as commissions. It also provides through the Court of Impeachment special procedures for trying the President of the Republic and ministers for high treason. Ministers are also criminally liable before common law courts. Likewise, the Supreme Court and the Constitutional Council rule on electoral matters. The Supreme Court has jurisdiction over local elections. Thus through the Audit Bench, it ensures compliance with the provisions of the law regarding electoral campaign expenditure and settles electoral disputes and petitions. The Constitutional Council ensures the regularity of elections, proclaims election results and settles legislative and presidential election disputes.

2.1.7 The consequence of the absence of a political code of ethics and practice was a serious erosion and a weakening of the political landscape with a strong ethnic coloration of most political parties as well as too much dependence on the personal finances of their leaders. The general observation is that very few political parties can proclaim that they operate in a democratic and participatory manner. The need to protect opposition political parties and the empowerment of politicians in such a volatile context led the Benin legislator to pass Law No. 2001 – 36 of 9 July 2002 to lay down rules and regulations governing the opposition even though the implementation of this law is not yet completely effective. It is necessary to adopt other codes of ethics governing certain areas of national political life, including the intervention of the Public Life Moralization Unit (CMVP) which is contributing towards the emergence of a corpus of rules of conduct for public servants and politicians. For example, the CMVP has launched operations intended to prevent the use of State vehicles for political campaigns. Civil society is also playing a lead role in the putting in place of real codes of ethics, particularly through the initiative of networks of NGOs involved in the organization of elections. Rules of conduct are published to control the behaviour of political stakeholders during elections.

2.1.8 *Control of the Constitutionality of Laws*: the Constitutional Council is the highest court that plays a key role in the control of compliance with the obligation to render account at the political level. It has the dual function of ruling on the constitutionality of laws and guaranteeing fundamental human rights and public liberties. As a general rule, with the exception of a few rare cases, the decisions of the Constitutional Council are respected by both the population and politicians. It is generally considered as a rigorous, credible and impartial institution in spite of a few recent events which made people fear that it was becoming politically inclined. These apprehensions were exacerbated by the composition of the Constitutional Council since the last legislative elections as all its members are from the presidential majority in the National Assembly.

Appeals to the Constitutional Council



2.1.9 To sum up, in Benin, almost all institutions that audit accounts and ensure accountability exist and function relatively well, in spite of a few difficulties due to lack of human and material resources as well as weak legal capacities. However, though these institutions have so far helped maintain social peace and stability, they could fail to do so and to guarantee good governance if their organization and method of operation are not significantly improved in the short and medium term. Indeed, there are serious dysfunctions related mainly to the observance of the obligation to render account and the imputability of political leaders. Apart from the problems already mentioned concerning constitutional political institutions, it is necessary to cite the following issues which call for immediate empowerment: (i) inadequate adherence to the democratic culture; (ii) insufficient private sector and civil society participation in the making of decisions concerning them; (iii) insufficient civil society independence and autonomy; (iv) inadequate access to information; (v) insignificant role of civil society in conflict resolution; and (vi) insignificant role of civil society in the promotion of transparency and accountability.

Administrative Accountability

2.1.10 One of the top priorities of the Benin Government's economic recovery programme is the reform and modernization of the administration. In fact, as recommended by the Conference of the Vital Forces of the Nation held in February 1990, the Civil Service and Administrative Modernization Forum was held in December 1994 to lay the foundation for an in-depth reform aimed at promoting a true 'revamping of Benin's administration' in a context marked by the entrenchment of the rule of law. The outcomes of the reform include: (i) the putting in place of an institutional framework for the implementation and monitoring of the reform ; (ii) organizational audit of some pilot ministries the conclusions of which have led to the reorganization of the ministries ; (iii) the setting up of secretariats general and directorates of forecasts and planning (DPP) in all ministries; (iv) the establishment in March 2003 of a single administrative management and staff salaries reference index (FUR). (v) the setting up in February 2001 of a "user office" in the Ministry of Public Service; and (vi) the implementation of results-based budgetary reform. Many measures were also taken to combat corruption and improve the management of public affairs, including the establishment of the Public Life Moralization Unit (CMVP) and the revitalization of the Higher Judicial Council (CSM) and the General Inspectorate of Judicial Services.

2.1.11 It should however be admitted that the reform efforts made by the Government since the Civil Service and Administrative Modernization Forum have had very little impact on State employees and users of administrative services. One of the main reasons for this is lack of ownership and internalization by all State employees due to the weak involvement of structures other than the Ministry of Public Service in the reform process and the absence of an information, education and communication (IEC) policy within the administration and for the public on the objectives and scope of the reform. The involvement of the private sector and civil society in the formulation and implementation of reforms is marginal, thus helping to perpetuate the predominance of the administration in the management of public affairs. In addition, there is no satisfactory control system for monitoring the adopted reforms.

2.1.12 The size of the public sector has been reduced drastically since the early 1990s. Between 1991 and 1997, more than 100 enterprises out of a total 155 were privatized or liquidated. In the civil service, jobs were reduced by 25%. The public administration now employs 30 000 civil servants and 6 000 contract workers. The relatively low level of civil service salaries does not encourage professional consciousness and results-based management. Another indication of the poor performance of reform actions is the improper management of human resources, which often results in weak planning, programming, budgeting and resource mobilization capacities of the administration due to lack of articulation between the macroeconomic, cultural, social and sectoral frameworks. Additionally, despite the CMVP's strong action to promote good governance values, the administration continues to be undermined by corruption and the culture of impunity which make demotivation and incompetence a predominant characteristic of the civil service.

2.1.13 The introduction of a merit-based promotion system for public servants likely to contribute to the efficiency of the administration seems to be a major obstacle to the adoption of the administrative reform bill tabled before the National Assembly since 2001. Trade unions are against the application of such a system giving as a reason difficulties of its implementation in the context of a politicized administration with untransparent procedures. Moreover, despite declarations of principles, attempts at implementing effective decentralization and deconcentration of State services have been very limited to date. Benin's administration is still very centralized as concerns both its organization and functioning. The concentration of resources and responsibility at the centre and lack of resources of structures or agencies in contact with the populations they are supposed to serve do not foster transparency and accountability by workers.

2.1.14 The decree of 29 November 2000 to organize relations between the administration and users of public services is yet to be implemented. Recruitment methods are not transparent. A UNDP study has shown that only 24% of appointments of cadres in the administration are done on the basis of applications. Administrative positions are politicized, resulting in high supervisory staff mobility, the consequence of which is a drop in professionalization and skills for the benefit of loyalty. The clarification of the missions of the State, the rationalization and modernization of the structures of the Administration, the promotion and development of human resources, in short, the ownership of the principles of good governance, especially those relating to accountability and transparency, are all projects with very modest outcomes after almost a decade of implementation of reforms. Hence, the need for the Government to show proof of a clearer and stronger political will for reform through concrete actions to redress the persistent dysfunctions and improve the public ethical framework.

Economic Management and Accountability

2.1.15 Macroeconomic and Sectoral Management : Benin, which is ranked among the least developed countries with a per capita income estimated at about US\$ 390 in 2002, embarked since the close of the 1980s upon a reform process backed by the Bretton Woods institutions and the other development partners including the Bank. Political stability and the democratic openness shown by the authorities helped pursue the implementation of many reform programmes focused on free market economy after a long period of a centrally planned economy. On the whole, the reforms undertaken contributed to the improvement of the macroeconomic framework, the liberalization of the economy, the progressive divestiture of the State of the productive sector, the restructuring of the financial sector and the improvement of public finance management. The financial system has also been rehabilitated and the business climate has started improving thanks primarily to a reform of taxation and the legal framework.

2.1.16 With the support of development partners, the reforms undertaken by the Government resulted in a real GDP growth rate of more than 5% during the 1996-2003 period. Inflation and the budget deficit in relation to GDP were controlled in accordance with the Government's programme objective. The viability of the balance of payments was achieved and the financial operations and capital account surplus helped raise the level of foreign assets to several months of imports and reach the completion point of the HIPC initiative in March 2003. At the regional level, it should be pointed out that Benin is one of the WAEMU Member States that strictly comply with the provisions of the regional macroeconomic convergence pact. It has continued to comply with all WAEMU first rank criteria since 2001, with the exception of the criterion relating to inflation which was slightly exceeded (see Annex II).

2.1.17 Structural Reforms : the Government's programme only covers reforms focused on the process of withdrawal from the productive sectors and restructuring of public enterprises. These reforms were initiated at the end of the 1980s and have led to the privatization of many enterprises. In 2003, the Government, as part of the modernization of the Cotonou port, computerized the activities of the port chain and put in place a one-stop shop whose goal is to reduce and speed up goods removal procedures. In addition, studies on the construction and leasing of a second deep-sea port in Cotonou are being conducted.

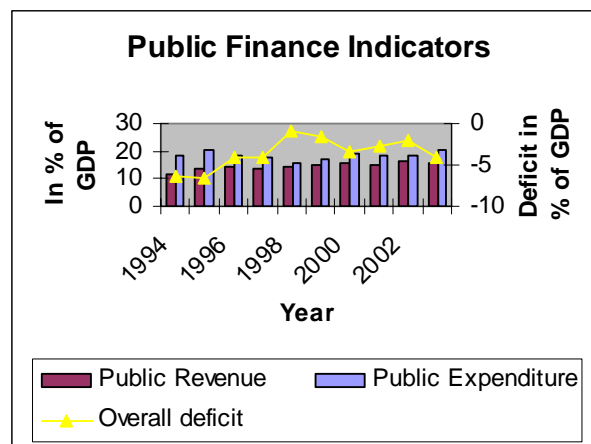
2.1.18 The Government intends to complete its privatization programme in 2005 by putting in place strategies and regulatory frameworks governing competition in the telecommunications (OPT), electricity (SBEE) and cotton (SONAPRA) sectors. An analysis of structural reform trends shows that the privatization process is far behind schedule. It has often been punctuated by a repeat of award procedures due to lack of transparency. For example, it should be noted that in spite of the Government's commitments since 2004, the State-owned telecommunication enterprise has not yet been privatized, and the efficiency of its management and its quality of service have not improved.

2.1.19 It is the same for infrastructure sectors essential for the reduction of poverty and improvement of competitiveness such as the water and electricity sectors as well as port activities, key sectors for developing exports and the transit function that Benin can exercise for the supply of goods to its landlocked neighbours. Little progress has been made in the water and port management sectors to attain the development goals. In contrast, progress has recently been made in the electricity sector and will be consolidated within the framework of the project to provide access to electricity services which was approved by the World Bank in June 2004.

2.1.20 In spite of the restructuring and modernization efforts, Benin's economy is not diversified because of overdependence on cotton which accounts for 80% of the country's exports. Consequently, persistent poverty in a context of relatively strong growth calls for the strengthening of reforms focused on the creation of wealth in a sustainable and diversified manner. In addition, the process of privatization and strengthening of the regulatory framework of the liberalized sector is slow and the State should take the necessary measures to completely withdraw from the productive sector.

2.1.21 Public Finance Management : progress in this area was made thanks to measures aimed at improving the managerial capacities of the tax administration, simplifying the tax system and broadening the tax base and controlling expenditure, particularly the wage bill. In 2002, the Government also carried out a financial accountability assessment (CFAA).

2.1.22 Revenue increased significantly from the 1990s, especially following the building of the revenue collection and control capacities of revenue services, in particular the creation of a special unit for major taxpayers, the broadening of the tax base and the simplification of the tax system, including the introduction of a single VAT rate of 18%. Additionally, greater rigour in the monitoring of the customs network and the fight against corruption resulted in an increase in State revenue. This policy, coupled with the stringent control of public spending, contributed to significantly reduce the State budget deficit. Continuation of the various reforms undertaken, increase in State revenue, control of public spending and compliance by Benin with the convergence criterion relating to the basic fiscal balance/GDP ratio are signs of the Government's efforts to sustain budget restraint. However, it should be pointed out that Benin recorded in the first quarter of 2004 a drop of about 18% in its customs revenue due particularly to a ban on re-exporting some products (41) to Nigeria and the decline in the competitiveness of Cotonou port in relation to Lomé port.



2.1.23 Budgetary Reform : Benin's adjustment efforts have helped improve dramatically public finance management and streamline public expenditure within the framework of Budget and programme budgets preparation. However, the rate of implementation of these reforms was slowed down by weak capacities and lack of ownership. There are still weaknesses, particularly the disparity in the mastery of new tools and inconsistency of sectoral strategies with the overall strategy outlined in the PRSP.

2.1.24 The weaknesses identified are much more due to the instruments used than to the MTEF approach described above. It is true that the approach used helps take into account from the outset the overall budget constraints but the budget forecast methods are very crude and the resulting budgets can only give a rough order of size. Rather, only programme budget preparation which sets out the quantified sector goals, the resources and activities to be implemented to attain them, and the resulting budget costs and integrates knowledge of the sector allows for the development of credible expenditure programmes.

Present Method of Preparation of MTEF in Benin

The application of the MTEF method in the budget preparation process started in 2002. At the beginning of the process, a macroeconomic and macrofinancial framework is established which gives a rough idea of the resources Benin could expect over the coming three years in accordance with the PRSP goals. The end of the process is marked by the compilation of proposals of all sectoral ministries that constitutes the country's MTEF which is ready for approval by the Government. It is therefore evident that the preparation of an MTEF is an iterative process that can be subdivided into six phases:

- Phase 1 : Microeconomic framework and estimates of resources that can be mobilized
- Phase 2 : Preparation of preliminary sectoral budget ceilings
- Phase 3 : Discussion and review of sectoral budget ceilings
- Phase 4 : Approval of ceilings of ministries and mechanisms by the Government
- Phase 5 : Finalization of SMTEFs
- Phase 6 : Finalization of the MTEF and approval by the Government

In the final analysis, the Government's ambition is to make the MTEF a budget restraint tool but also a tool for forecasting the future financing of sectoral policies. The MTEF also helps to streamline the allocation of resources by taking into account development and poverty reduction priorities. It also helps strengthen a priori control of public spending and institute a posteriori control. Hence, it helps assess the impact of the budget on the population and is an instrument for measuring budget efficacy.

2.1.25 The difficulties experienced by the ministries (i) in the preparation and implementation of programme budgets, (ii) in the monitoring of performance and (iii) in the preparation of a performance report based on relevant information are due, to a large extent, to the fact that the activities of ministries are still managed in a conventional manner. For some ministries, activities are centrally planned and programmed on the basis of projects and investment budgets and monitoring is above all financial. Also, the current budget is incidental and the salary budget is prepared and executed completely independent of the other two components of the budget. In addition, in spite of the progress made, the institutional framework for the management of public expenditure is yet to be aligned with the MTEF approach. Public finance management procedures do not take into account the effective integration of the planning and performance of public contracts in public expenditure. Lastly, there is no document at the level of the Administration that describes and outlines the procedure so as to preserve and improve it, if necessary.

2.1.26 The overall budget decentralized preparation procedure also needs to be strengthened. The progress made so far has to be consolidated by measures aimed particularly at completing the transition from the present resource-based culture to a results-based culture. In this connection, the structural weaknesses of monitoring-evaluation units in sectoral ministries should be corrected. In fact, most of these units lack a frame of reference and do not have appropriate indicators for measuring performance.

2.1.27 In addition, the staff of the units do not have the required training or the appropriate means for results-based management. The implementation of budget reform is confronted with inadequate human resources at the level of the Ministry of Finance and the Economy (MFE) and in the sectoral ministries. The staff in the Ministry of Finance and the Economy

(MFE) and sectoral ministries lack training in the management of the current computerized budget and accounting system. The staff of sectoral ministries need basic training in budget management. The average age of the MFE's staff is about 46 years. In fact 85% of the staff are 41 and more years old and their compulsory retirement age is 55 years. This asymmetry in age distribution may disrupt the activities of the MFE because it risks losing in the long run most of its experienced staff in no time, at the moment of grouped retirement over a short period. In addition, the staff's advanced years complicate their training in new computerized systems, which does not facilitate the implementation of modern budget management techniques. At the level of budget execution, SIGFIP is still far from exhaustive, notably without the posting of externally-funded investments and non-existence of interface with the Treasury. Furthermore, the frequent use of imprest accounts is a departure from the normal expenditure execution procedure.

Private Sector Structure and Accountability

2.1.28 The economic liberalism option chosen by Benin just after the National Conference of February 1990 established freedom of initiative. To operationalize the new guidelines on the development of entrepreneurship, a vast initiative was launched by the Government, backed by development partners, for the adoption and implementation of a bold private sector development policy. A round table was therefore held in Cotonou in November 1994 on the recovery of the private sector which resulted in the adoption of the Private Sector Recovery Programme (PSRP) implemented from 1996 with the support of several donors including the UNDP and the World Bank.

2.1.29 Many reform actions and measures have been taken since the choice of economic liberalism to improve the business climate and promote domestic and foreign private investment. These include: (i) the putting in place of a one-stop shop (Enterprise Formalities Centre comprising a centre in Cotonou and three other centres within the country) managed by the Benin Chamber of Commerce and Industry (CCIB); (ii) the revitalization of the CCIB with the establishment of a more efficient information system; (iii) the relaunch of the activities of the National Federation of Artisans of Benin (FENAB); (iv) the liberalization of economic sectors and state divestiture of productive sectors; (v) the start of the putting in place of a telecommunications, energy and water legal framework; (vi) the adoption of a more transparent public procurement code and a public procurement ethics and moralization code; (vii) the amendment of the investment code to broaden the scope of eligible activities; and (viii) the improvement of port management and simplification of tax and customs procedures.

2.1.30 The new labour code adopted in 1998 eases employment and layoff procedures but maintains the Minimum Guaranteed Interoccupational Wage (SMIG) and its periodic adjustment under pressure from labour. Lastly, the Government has undertaken the implementation of a nationwide industrial free zone programme to promote foreign investments in the export branches. It is necessary to underscore the significant contribution made by the Private Sector Recovery Programme in the improvement of the business environment through the formulation of policies and the creation or strengthening of investments for the promotion of private enterprises. It is also necessary to note the emergence and strengthening of institutions and structures run by private economic operators (consular chambers, professional organizations, etc.) Experiences of micro-finance institutions supported under the PSRP are today examples of the successes of the institutional approach to the establishment of a strong private sector.

2.1.31 After a decade of implementation of the PSRP, Benin offers appreciable assets for private sector development: political stability, the existence of a viable commercial bank sector and the availability of port and airport infrastructure. The geographical position of Benin enables it to play the role of preferred entry and transit gateway for the landlocked countries (Niger and Burkina Faso) and Nigeria. Benin's private sector was able to take advantage of this opportunity very early and affirmed this mission of a regional economic platform. For example, the port of Cotonou has, over the years, become the main transit port of used vehicles in West Africa, even though recently there has been preference for the port of Lomé.

2.1.32 However, the development of the private sector is still faced with persistent constraints including : (i) the weak financial and institutional capacity of promoters ; (ii) the low level of competitiveness of the economy; (iii) an unfavourable business environment for the formal sector; (iv) difficult access by SMEs to bank financing because of the scarcity of long-term resources and the absence of a viable risk guarantee system; (v) the inefficiency of the legal system; (vi) bureaucratic red tape and corruption in the administration; (vii) a tax policy which remains counter-productive; and (viii) an undiversified economy. Moreover, though transparency in the area of employment and application of labour instruments can be controlled relatively well in big enterprises, it is not so in the other enterprises. Trade unions report that some enterprises, including the big ones, do not comply with labour legislation and do not declare all their workers to the National Social Insurance Fund (CNPS). Unexpected controls carried out by the CMVP at many enterprises helped establish this fact and corrective measures are being taken.

2.1.33 Private and Informal Sectors : the informal sector is an important component of the private sector with a share in the national economy estimated at more than 50% in agriculture, 30% in trade and services and 8% in the manufacturing sector. Whole areas of the economy still escape from all forms of control and obligation to render account because of the increasing size of this sector which contributes to slow down the broadening of the tax base and fight against fraud and corruption. In fact, the authorities have a relatively tolerant attitude towards some forms of infringement of the law in the informal sector (for example, fuel trafficking) because of its contribution to poverty reduction and because it serves as a safety valve for possible social problems related to employment.

2.2. Transparency

2.2.1 *Transparency* presupposes that public accounts be published, that the public be informed about decisions taken by the State and participates in the monitoring of their implementation and that those which have an impact on the life of citizens can be challenged. For the citizen, transparency presupposes (i) the possibility to have access, easily and without any obstacle, to exact, recent and exhaustive data and information of a public as well as a private nature; and (ii) tolerance of the idea that political, economic and social choices can be the subject of public debate and can be analyzed and possibly challenged by public opinion.

Freedom of the Press

2.2.2 Access to information is necessary for democratization, a vital factor of sustainable and harmonious development. The media play an essential role in political expression and participation. Through their criticisms of the public authorities and broadcast of facts about governance transgressions, the media contribute to the awareness of the populations of the

conduct of affairs, thus causing the State to be more accountable. They help protect civil liberties, protest against misuse of power and bring to public attention demands for greater political pluralism. The period of centralized management characterized by a systematic restriction of the freedom of the press and expression was replaced from 1990 by an extensive liberalization of the audiovisual space. It is in such a context that the Constitution of 11 December 1990 provides for the establishment of the High Audiovisual and Communication Authority (HAAC) whose mission is “to guarantee and ensure the freedom and protection of the press as well as all means of mass communications in conformity with the law”. It ensures compliance with ethics in the area of information and the access of political parties, associations and citizens to official means of information and communication.

2.2.3 With the end of State monopoly over the air waves, the HAAC was entrusted with the management of radio frequencies. Such liberalization resulted in a real expansion of the audiovisual landscape and the country had in 2004 about fifty radios and six television channels (including three which are being installed). The private press is free and any citizen can create a newspaper (whether or not he is a journalist). All that is required is to declare it to the Ministry of the Interior, Security and Decentralization (MISD) and register it two hours before publication. To support the emergence and development of public communication, the State has been granting the private press since 1997 an annual subsidy of CFAF 300 million to build its capacities so as to become a responsible and independent private press.

2.2.4 The HAAC is expected to play a key role in the emergence of a pluralist and diversified press with a real influence on public opinion. However, the fact that the members of the Board of Directors of the HAAC have only a single five year term of office and that their method of appointment leaves little room for professionals (two-thirds of the members are appointed by the President and the National Assembly) can somewhat sully the independence of this institution. However, it should be underlined that it tried, during elections organized since its installation, to ensure equitable access by the various political forces to the public media. It is the same for the action which it is carrying out, through the management of the subsidy to the private press, to promote professionalization and respect of ethics. Likewise, the setting up in May 1999 of the Media Practice and Ethics Observatory (ODEM) contributes towards the moralization of the profession of journalist. Since its inception, the Observatory has received numerous complaints from citizens from all backgrounds and has, in some cases, also examined matters of its own volition. Thus, many cases relating to the exercise of the right of response, corruption of journalists, cases of libel and broadcast of false reports have been brought before ODEM. It probed into a case of corruption of a Benin journalist at the sub-regional level. In each case, after proceedings characterized by the hearing of the accused, ODEM was able to provide an appropriate answer to the complaints received and published its decision through press releases in the main newspapers.

2.2.5 In spite of the existence of a regulatory organ (HAAC) and a self-governance body (ODEM), Benin’s written press is characterized by a number of handicaps, namely: lack of professionalism, absence of investigative journalism worthy of the name, non-compliance with the rules of ethics, the reporting of facts without proof or without verification, often resulting in complaints and even lawsuits. The consequence is that Benin’s press issues messages which are not always relayed by the judicial system. To this should be added the very restricted nature of the target public of the written press because by publishing only in French, it is intended only for an elite who account for less than 20% of the total population.

Efforts are being made with the support of development partners, namely GTZ, Fondation Konrad, UNFA, DANIDA and UNDP, to contribute towards the professionalization of the sector and to enable the press to effectively play its role as an instrument that could check the actions of the executive.

Political Pluralism

2.2.6 Since 1991, political changes have also helped consolidate the democratic foundations. Hence, the electoral process has fostered political alternation through the presidential, legislative and municipal elections already organized. Political pluralism is also a reality. Today, the country has more than 150 political parties most of which have a very weak grass-roots base. Also, the majority of them have rather a regional or tribal base. Hence their low representation in the National Assembly [only 16 (13%) parties have Members of Parliament]. This situation results in turn in the excessive politization of the electoral process, in spite of all the legal measures taken to ensure the independence and efficiency of the CENA, transparency of the electoral process and registration on the electoral registers, as well as the credibility of results.

Access by the Public to Information Relating to Economic Priorities

2.2.7 Contribution of the National Statistical Apparatus to Transparency : the National Statistics and Economic Analysis Institute (INSAE) is a public administrative establishment under the supervisory authority of the Ministry in charge of the Economic Forecasting Plan and Development. It is the body responsible for ensuring the transparency of information relating to the Government's economic and social priorities. It provides secretarial services for the National Statistics Council (CNS), the operation of which is set out in Law No. 99-014 of 12 April 2000. The Benin statistics system has over the past years benefited from the support of development partners through the putting in place of the National Statistics Council Strategy Support Programme (PASCNS). In the same vein, it should be pointed out that, with the support of the United Nations system, the Government established a series of socioeconomic databases called BenInfo. BenInfo which is easy to access (from work stations, the Internet and information centres) uses a technology which allows for the storage and easy updating of indicators. There are, however, difficulties relating to the absence of a statistics development plan and the harmonization of data production sources.

2.2.8 Mechanism for the Monitoring and Evaluation of the Implementation of the Poverty Reduction Strategy (PRS): the institutional framework for the monitoring and evaluation of the implementation of the PRS is the National Development and Poverty Reduction Commission (CNDLP). The CNDLP is backed by a technical unit, namely the Social Change Observatory (OCS), whose goal is to ensure the collection and analysis of social indicators as well as the monitoring of the poverty situation. The OCS has a permanent mechanism for conducting regular surveys on poverty and household living conditions. In spite of the support of donors, notably for the training of high-level cadres, it is regrettable that the operation of the observatory is hampered by lack of resources and weakness of monitoring and evaluation tools and mechanisms. Concerning data, despite the detailed analysis of the poverty situation in the PRSP, the availability of reliable information and indicators for measuring the progress made and the impact of programmes is still very limited. It is therefore very necessary to pursue efforts in this area, notably through the allocation of sufficient resources to institutions and departments in charge of collecting and analyzing data for the effective monitoring and evaluation of the updating of the poverty reduction strategy.

Public Procurement System

2.2.9 Many measures have been implemented since 2001 with the support of partners including the Bank to improve public procurement procedures. These include the preparation of a manual of procedures, the establishment of a reference price index, a better preparation and examination of bids as well as the publication of contract awards. Following the Country Procurement Assessment Review (CPAR) in 2002, the Government put in place the Benin National Procurement Reform Coordination and Monitoring Committee (CNCS). This committee prepared a detailed plan of action for the implementation of the reform and conducted a study on the establishment of Public Procurement Units (CPMP) in the sectoral ministries.

2.2.10 In spite of the efforts already made to improve the procurement system, there are still weaknesses necessitating the continuation and consolidation of the reforms undertaken. In fact, the legal and regulatory framework does not meet international standards or the provisions of community agreements, notably the agreement relating to the transparency code in WAEMU public finance management. Furthermore, failure to adopt implementation texts as well as the weakness and inadequacy of the present documentation do not allow for an efficient implementation of the ordinance to institute the public procurement code. There are also no procedures in public finance management to enable the effective integration of the planning and execution of public contracts in public spending.

2.2.11 Regarding institutional capacities, it is necessary to stress the absence of a regulatory organ which is not involved in the implementation of public procurement procedures that allows for the continued modernization of the procurement system while ensuring the independent auditing of the functioning of the systems. In addition, the sectoral ministries still suffer from weak institutional capacities for the management and award of public contracts, inadequate human resources and equipment, the absence of public contract auditing and poor distribution of manuals of procedures.

Box 3 : Legal and Institutional Framework for Public Procurement

(i) Legislative and Regulatory Framework

Public Procurement in Benin is governed mainly by Ordinance No. 96-04 of 31 January 1996 to institute the Public Procurement Code Applicable in the Republic of Benin and the three instruments to implement the ordinance, namely : (i) Decree No. 99-288 of 2 June 1999 to lay down the operation of the different boards involved in the control and monitoring of the application of public procurement regulations; (ii) Decree No. 99-311 of 22 June 1999 to introduce a Public Procurement Ethics and Moralization Code; and (iii) Decree No. 99-312 of 22 June 1999 to lay down thresholds, direct agreement and consultation procedures and public procurement rules.

(ii) Institutional Framework for Public Procurement Management

It comprises mainly contracting authorities (deconcentrated and decentralized administrative entities) which are responsible for programming, planning and monitoring the execution of public contracts, on the one hand, and tender boards whose responsibility is to control and monitor the proper application of procurement regulations. The duties, organization and functioning of these different public entities are an obstacle to efficiency, and even transparency, in the execution of public contracts.

(iii) Procurement Operations and Private Sector Performance/Public Control

Public contract award and management operations are fully managed by the respective authorizing authorities (ministries or other public establishments and local authorities). The actual execution of public contracts is completely carried out by the Benin private sector which is organized through an independent private entity “ the Benin National Employers’ Council” and a public entity “the Chamber of Commerce and Industry” .

(iv) Integrity of the Public Procurement System

The Audit Bench established within the Supreme Court is responsible for auditing public expenditure and particularly public contracts. In accordance with a WAEMU directive, this institution ought to be transformed into a Court of Auditors to strengthen its efficiency and allow it to fully play the role legally and statutorily assigned to it. The ordinance to institute the Public Procurement Code does not provide for any appeal procedure or mechanism for bidders during the public contract award phase. Lastly, Benin has an anti-corruption regulatory and institutional framework which helped prepare in June 1999 a Public Procurement Ethics and Moralization code. Although the country has an organized and functional framework to fight against corruption in public procurement, there are still some serious weaknesses at the level of a posteriori independent public procurement prevention and control mechanisms.

2.2.12 In total, Benin’s public procurement system does not at present offer all required guarantees of transparency and integrity because of the absence of : (i) a non-judicial control mechanism through independent and systematic annual technical auditing of public contracts and the obligation to render account to the legislator in the area of procurement ; (ii) an independent appeal mechanism which suspends the public procurement procedure to enable bidders to defend their interests, invest and participate with confidence in the competition for public contracts ; (iii) specific anti-corruption provisions in the institutional and regulatory framework aimed at avoiding or eliminating conflicts of interest in public procurement; and (iv) performance criteria to measure transparency in public procurement and effectively punish errors committed by public or private sector actors within the framework of public procurement.

2.2.13 Box 3 shows the present public procurement system in Benin. A radical reform of the system is being carried out with the support of development partners, including the Bank.

Public Finance Management Control

2.2.14 The public finance control system in Benin comprises internal and external controls. The internal controls comprise the Financial Control and the General Inspectorate of Finance located within the Ministry of Finance and the Economy (MFE), on the one hand, and the Verification and Internal Audit Directorate (DIVI), on the other hand, which are the internal audit structures of sectoral ministries. External controls are carried out by the Audit Bench and the National Assembly. The difficulties experienced by the Financial Control which is

directly attached to the Ministry of Finance and the Economy can be analyzed in terms of constraints due to the very nature of the a priori control mission. They find expression basically in the tendency of vote holders to condemn such control and to consider its actors as obstacles to the efficiency of services. In addition, the Financial Control is confronted with constraints due to: (i) lack of efficiency and clarification of the respective missions of the control services; and (ii) the multiplicity of control organs with overlapping tasks which considerably tamper with the efficiency and effectiveness of control and encourage corrupt practices. Also, the weak human and material resource capacities for internal control do not militate in favour of its independence. The improvement of expenditure execution therefore requires the strengthening and consolidation of internal control with simplified procedures, a better definition of the duties of the various control structures and bringing together all internal control organs within the same ministry.

2.2.15 Concerning external control, the presentation and auditing of State accounts have improved remarkably. In fact, the Audit Bench conducted, on an experimental basis, the performance audits of five PERAC ministries for 2001. Audits of the 2002 and 2003 accounts are being carried out and should be completed by end -2004. Likewise, the 1998, 1999 and 2002 settlement bills have been tabled before the National Assembly. It should be noted that the 1998 audited budget law was already passed by the National Assembly on 11 July 2002. However, the capacities of the Audit Bench are still inadequate to fully perform its legal mandate as the total number of accounts that it has to examine and audit annually is estimated at about 300, including those of local authorities and public establishments. In addition, the Government must take necessary measures to ensure that the Court of Auditors is set up , in accordance with the WAEMU directives in order to guarantee the autonomy and independence of the external audit institution.

2.2.16 The National Assembly, through its Finance Committee, also carries out the external auditing of State accounts. After considering the report of the Audit Bench, the Finance Committee prepares an Audited Budget Law on the execution of the budget for submission to the National Assembly for adoption as a law. This committee has to be strengthened considerably, to enable it to better play its statutory vital role that is to evaluate the Government's performance in the area of public finance management as stipulated in the finance laws.

2.2.17 As regards transparency, access by the public to information is limited. In fact, information published by INSAE on public finances in its monthly and annual reports is not detailed and is irregular. Moreover, the monthly report on the status of execution of the budget published by the DGB is not exhaustive. It is the same for the monthly bulletin published by the General Directorate of Treasury which reviews public account balances intended for the Ministry of Finance and the Economy. Concerning public debt management, the Autonomous Sinking Fund updates all information on the level and structure of the debt. It also publishes a monthly document and a quarterly progress report. These reports are not systematically accessible to the public. Furthermore, data on the guaranteed loans of public enterprises and claims on them are not systematically recorded.

2.3 Stakeholder Participation

2.3.1 A democratic management of power and affairs implies the participation of all stakeholders in order to ensure adherence to the policies conducted insofar as the policies are profitable to them, on the one hand, and to create synergy and interaction between public

decision-makers and citizens so as to better take into account the aspirations of the populations in the implementation of the said policies. Indeed, it is increasingly established today that bad governance often results from the fact that governments do not foster necessary consultation with civil society, which frequently poses the problem of legitimacy. In traditional societies with or without centralized political power, the notion of participation is limited to the integration of all representatives of clans in the royal council. The participation of stakeholders is necessary to mobilize energies and arouse the interest of the populations in favour of sustainable development and to promote an equitable distribution of the fruits of development. Participation helps to promote feelings of confidence and mutual acceptance between citizens and their governments, between the public and private sectors and within the different social or political groups (ethnic, religious or regional) of a country.

Civil Society Participation

2.3.2 The debate on the definition of civil society is recent in Benin whereas the concept itself is old. It is commonly admitted that it is a space separating and uniting at the same time the State and the citizens. More precisely, civil society can be defined as the autonomous space composed of voluntary associations pursuing public goals beyond the citizen, on the one hand, and distinct from the market and the State, on the other hand. There are three different levels in the structure of civil society in Benin. The primary level comprises grass-roots community organizations and villagers' groups. This is the basic unit of civil society at local level. The intermediate level, which comprises NGOs and federations, establishes the link between the basic units of civil society and ensures their participation in institutions and political, social and economic processes beyond the local level. The higher level is composed of specialized civic organizations which perform two functions in favour of the entire civil society, namely: (i) a function of protection and promotion of civil society vis-à-vis the State and the market; and (ii) specialized functions of training, technical assistance, research and advocacy on policies.

2.3.3 Thus, civil society is composed of voluntary associations in the public interest, such as grass-roots community organizations, federations and networks, NGOs, trade unions, groups of affiliated trade unions, professional associations, local development associations, cultural associations, federations of producer and artisan associations, religious communities, traditional chiefdoms, etc. Seen from a positive angle, civil society is in a way a breeding ground for democracy. It is civil society that brings together citizens, organizes their interests, formulates their wishes and communicates them to decision-makers. It is it which serves as reference to political parties. Lastly, it is civil society which opposes excesses in order to contribute towards the emergence of a new political culture based on participation, dialogue and tolerance. The Coalition of National Anti-Corruption Organizations (FONAC) is, for example, an umbrella institution with about sixty associations, federations and confederations which are very active in the fight against corruption. Sensitization, denunciation and pressure by FONAC civil society organizations have generally had a significant impact on greater awareness of the population vis-à-vis the administration. These actions are always highly appreciated by the general public. For example, it is the instigator of the passing, from 1998, of the settlement law, which helped strengthen the budget execution control framework.

2.3.4 In the modern notion of civil society participation in State activities, civil society organizations should be real opposition forces and should not be considered as disguised representatives of opposition political parties. These organizations should serve as interface

between the State and the other components of the society. Responsible participation by organizations should be encouraged whenever possible. However, it would be necessary to define civil society with precision. It should be underlined that the organizations which represent the private sector and the lead trade unions deplore their weak involvement in certain initiatives, particularly those relating to the formulation and implementation of the national poverty reduction strategy (PRS). In general, civil society organizations hope that they will no longer be confined to the role of a stooge and underscore the need for effective participation in the preparation and monitoring of development programmes, particularly those on respect of the rights of workers, economic governance and the fight against corruption. It is therefore necessary to actively seek the greater involvement of civil society in decision-making bodies.

Gender Issues

2.3.5 With a view to improving the status of women and integrating them into the development process, the Constitution of 26 August 1977 (Benin's Constitution during the revolutionary period) proclaimed for the first time in Article 124 the legal equality of men and women. This provision was strengthened in 1990 by Article 26 of the present Constitution. This political will to give women their rightful place in the society led the Government to set up in 1990 the National Commission for the Integration of Women in Development which was followed by the establishment in 1996 of a Directorate of Women's Affairs and in 1998 by the setting up of a Ministry for Women's Advancement. National development strategies have always given the pride of place to gender policy. These strategies acknowledge the decisive role played by women in the economy and in society, as well as in the pursuance of the Beijing platform. However, the day-to-day reality is characterized by the marginalization of the female population of Benin in spite of their impact on the economy. Women accounted for 49.3% of the active population in 2002, as against 42.6% in 1992, with an annual growth rate of 4.6%. Some 96.8% of active women operate in the informal sector, mostly in the rural areas. On the other hand, their participation is greater in the liberal professions and technical branches where they account for 21.6% of the active population. In this connection, the adoption of the People and Family Code in June 2002 is an important step towards the improvement of the legal status of women. The Family Code was aligned with the Constitution in 2004 and entrenches equality between men and women, prohibits female genital mutilation and does not recognize polygamy. The code also allows women to have means of production. The abolition of school fees for girls is also one of the additional measures taken in favour of gender equality.

2.3.6 Despite attempts to enhance women's participation in political life since the 1990 National Conference, their representation in high offices of State and in elective offices is still insignificant. In fact, the percentage of women in Government has dropped, from 14.3% in 1990 to 5.6% in 1996. It then rose to 10.5% in 2001. Though the proportion of women occupying a seat in Parliament has risen slightly (7.2% in 2002 compared with 6.3% in 1993), it is still low. Similarly, the proportion of women elected mayor during the municipal elections of December 2002 is 3.9%. The proportion of salaried women in the public sector has hardly changed, from 25.4% in 1992 to 26.9% in 2002. Such marginalization of women in Benin seems to be explained by local ancestral customs which have always kept women away from certain activities. In the education sector where the country's efforts are most remarkable in the area of gender advancement, the majority of boys of school age in 2002 actually attended school, unlike girls. In fact, the gross girl enrolment ratio, all levels taken

into account, is 78.1% as against 110.46% for boys. The net primary enrolment ratio has followed the same trend, which today has resulted in a girl/boy ratio of 0.7.

2.3.7 Consequently, all development programmes aimed at improving governance in order to reduce poverty should necessarily integrate gender issues and strive to promote equity and equality of opportunity for all sections of the population. Thus, to eliminate gender disparities, the Government is conducting many policies and programmes. These include: the project for exemption of girls from payment of school fees, the network for the enrolment of girls, the Social Development Support Programme (DEVESCO) with its Education Project and the National Women's Advancement Policy and its Plan of Action. The efforts of the State are backed by the action of many women's associations and NGOs such as the Association of Female Economists of Benin (AFEB), the Association of Female Jurists of Benin (AFJB), GePIFED, and the Women's Mutual Assistance Association (ASSEF). Though women's associations often have very limited means, they are very active and have a real impact on women's advancement. For example, the AFJB provides very appreciable legal assistance to destitute women. The various associations are aware of the role that they can play in the struggle to improve the living conditions of women in order to better protect their interests and, therefore, deserve greater support from development partners.

2.3.8 The participation in and empowerment of all citizens for development activities is an absolute necessity. The specific importance of women in the development process has been demonstrated on several accounts and, hence, they should no longer be excluded from decision-making bodies and places at the risk of reducing the social impact of development programmes. In fact, the participation of women is one of the bases of sustainable development as it contributes, particularly their income-generating activities in rural areas, to poverty reduction.

Vulnerable Sections of the Population

2.3.9 Status of Handicapped Persons : this category of people are effectively taken care of at the political level. In fact, apart from setting up training centres for the disabled, efforts are made by the Benin authorities, through the Ministry of Family Affairs, Social Protection and Solidarity (MFPSS), to facilitate their integration into economic and social life. Awareness campaigns are conducted to show that handicapped persons are not completely exceptional human beings but people capable of participating fully in economic and social life. For example, a television programme run by deaf-and-dumb people is organized every Sunday on the national television channel. Moreover, in a move for survival, a part of this section of the population, namely a special category of the handicapped (persons with motor impairment) in Benin is massively involved in informal trade in adulterated oil products from Nigeria. Although there are measures prohibiting this type of trade, it is not rare to see them driving tricycles loaded with cans of this inflammable liquid without being bothered by the national customs services.

Security of People and Protection of Minorities and Refugees

2.3.10 Security of Property and Persons : Benin's army has changed tactics with the Conference of the Vital Forces of the Nation by taking the oath never to meddle in politics through coups d'état or use of force. Since 1990, the Armed Forces have scrupulously respected this principle of neutrality and republican spirit. They even often take an active

part in development activities such as the construction of roads and bridges under the control of the Ministry of Public Works and intervention in case of a disaster. A survey conducted by the American organization National Democratic Institute (NDI) on relations between civilians and the military in Africa concludes concerning Benin that: “the army by remaining neutral during the transition (1990-1991 transition period) and during the legislative and presidential elections significantly contributes towards the holding of free, fair and transparent elections and permits the transfer of power from one leader to another without a hitch. Benin’s army thus enhances its credibility and its status of an institution that is ready to adapt itself to the recent transition, to multi-party politics and to contribute to the ongoing democratization initiatives in the country”. Hence, since 1990, Benin’s army has remained republican and is being built.

2.3.11 In addition, the Constitution of 11 December 1990 entrusts the army with the mission of protecting the nation and the territorial integrity of the Republic as a sacred duty. Consequently, the Ministry of Defence has resumed conscription hitherto abandoned. Young men and girls from all social backgrounds and all regions of the country are recruited in a way to make the army the crucible for forging national unity and to have it serve as an agent of development. A bill on national service is being drafted.

2.3.12 *Protection of Refugees*: refugees are first received by the regional bureau of the United Nations High Commission for Refugees (HCR) which assesses their situation and registers them. Applications for asylum are then transmitted for study to the Ministry of the Interior, Security and Decentralization (MISD). Applicants for the status of refugee whose applications are approved obtain a refugee card which grants them as well as their children a number of rights. These refugee rights derive from the 1951 Geneva Convention relating to the status of refugees and the 1967 protocol governing aspects specific to the problems of refugees in Africa. In addition to these universal rights, a refugee recognized by the Benin Government has, in the Republic of Benin, certain rights deriving from Ordinance No. 75-41 of 16 July 1975 relating to the status of refugees and Decree No. 97-647 of 31 December 1997 to set up and define the composition, duties and functioning of the National Commission for Refugees. According to the provisions of these instruments, a refugee has the same rights and obligations as any citizen of Benin, with the exception of political rights (the right to vote, etc). Applicants whose applications are rejected can appeal to the Appeals Committee which is chaired by the MISD and comprises the representatives of the Ministry of Justice, the Ministry of Foreign Affairs and the High Commission for Refugees (which has an advisory role). As at 31 December 2003, Benin had 5034 refugees and 8014 applicants for asylum. The refugee population in Benin comprises mainly Togolese, Congolese (DRC), Rwandans and Nigerians, but most of them are from Togo. Most of them are men.

Child Trafficking: for some years now Benin has become the hub of trafficking in children. Because of persistent poverty, destitute parents entrust, against sums ranging from CFAF 10 000 to 20 000 (15 to 30 euros) their children to smugglers who claim to take care of their education, according to UNICEF reports. The children are then sold to big farmers, notably in cocoa and sugar cane plantations in Cameroon, Gabon, Côte d’Ivoire and Nigeria for sums ten times higher than what the parents received. According to recent statistics of the Benin Ministry of Social Protection, more than 6 000 Beninese children are also exploited in quarries and plantations in Nigeria. From September to October 2003, about 190 Beninese children who are the victims of such traffic and exploited in quarries to Abeokuta (about 100km north-east of Lagos) in Nigeria were collected by the authorities of Abuja and handed over to the Government of Benin.

Child Trafficking

On 14 July 2004, the AFP reported that the Beninese police intercepted 27 minors including nine girls, of Beninese nationality, victims of child trafficking. “The minors, most of whom were withdrawn from school, were abducted with the consent of their parents, against periodic salaries paid by the traffickers”, an official of the Beninese police declared to the AFP. These minors, aged 6 to 12 years, came from the Zakpota and Dassa-Zoume regions. They were intercepted at Hilacondji, a locality situated 110 kilometres north- west of Cotonou on the frontier between Benin and Togo. They were escorted by four Beninese who were questioned and handed over to the Cotonou judicial Police Department, the source stated underlining that “after the sensitization phase, we are declaring war on these traffickers”.

Administrative Deconcentration and Decentralization

2.3.13 Benin has a rich history of attempts at decentralization which finally resulted in the present top-down administrative system that is highly centralized, and largely ineffective and inefficient in the provision of basic services. The February 1990 Conference of the Vital Forces of the Nation marked the beginning, and the Constitution of 11 December 1990 laid down the major principles of the decentralization reform which aims at empowering the grass-roots population through elected boards. On the basis of these principles, a decentralization policy was initiated, coupled with deconcentration, within the legal framework defined by the Constitution and by five laws passed between 1994 and 1999. Since the launching of the reform, local elections have been organized in December 2002, council and municipal boards have been installed and mayors elected. Though Benin is very committed to decentralization, it is in the experimentation phase: the first five years of practice will determine, for example, the “definitive” form of territorial division. It is already quite clear that the viability of the set-up will depend on the judicious solutions which will be found to the identified problems.

2.3.14 *Administrative Decentralization*: there is only one level of decentralization in Benin, namely the council. The law divides the national territory into 77 councils, three of which have a special status (Cotonou, Parakou and Porto-Novo). It provides for the free administration of local authorities through elected boards, fixes the number of councilors per council considering the size of its population, and lays down the conditions of election of mayors and the officials of council and municipal boards. The laws on decentralization determine three series of powers: powers specific to councils; State power which councils exercise under State control; and powers that they share with the State. The freedom of management of the decentralized structures is not however complete: decentralization in Benin is real but is monitored through strong supervisory authority. For example, the State exercises supervisory authority over the council through the control of acts and the budget and provision of technical assistance. It provides support to the council in terms of human, financial and material resources. The first year of practice of this method of management of localities has however shown that many problems are still to be solved, namely: (i) the law is not very precise on the rate of transfer of the necessary resources and powers for a viable management of councils; and (ii) the law is also not very precise on the exact form of State supervision.

2.3.15 These inaccuracies in the laws organizing decentralization in Benin explain, to a certain extent, the delay and the present great national controversy around the effective transfer of resources and powers. They show, on the one hand, the unreasonable

expectations, and on the other hand, the reticence and resistance to change. In addition, it is important to know that the first year of implementation of decentralization was marked in some councils by unrest due either to the reconfiguration of local political forces or impatience on the part of each and everyone to see decentralization bring the necessary changes. This situation led to attempts (successful or not) to relieve mayors of their duties. All these facts demonstrate the dynamism of local political forces but could also be threats for the future of the ongoing decentralization experience if the system is not allowed to calm down and become clear with time through greater empowerment of the populations and improvement of governance.

2.3.16 *Administrative Deconcentration*: the recent reforms in Benin also led to a single level of deconcentration, namely the division. The reality on the ground is however more complex as mostly deconcentration mechanisms and techniques have always been used in the absence of real decentralization to ensure the presence of government on the ground. The reticence, resistance and dilatory manoeuvres to delay and even block the decentralization process result from this situation. That is why administrative deconcentration conditions are also a prerequisite for the success of decentralization. While it can be said that there is awareness of this need in Benin, it is also true that such awareness is still modest considering the scope of the actions to be envisaged.

2.3.17 Indeed, a review of the problems of deconcentration brings out the following points: (i) the existence of a great diversity of structures at the divisional and infra-divisional levels which are managed by the ministries; (ii) grossly inadequate human and financial resources for effective interventions on the ground; (iii) very ineffective control by the central structures over the deconcentrated structures; (iv) very varied performance of deconcentrated structures; (v) deconcentrated services are suffering from the consequences of an inappropriate budgetary system and a rigid management of civil service staff; (vi) deconcentrated structures are suffering from lack of collaboration and communication between them, hence the absence and ineffectiveness of interministerial coordination on the ground; (vii) inability of the Senior Divisional Officer (Prefect) to fully perform the role assigned to him by law; (viii) inadequate transfer of resources between deconcentrated structures and councils; and (ix) sometimes inadequate adaptation of deconcentrated structures to the birth of councils. In short, the deconcentrated administration is confronted with a serious streamlining and reorganization challenge and the central administration should also be reformed to create a more enabling context for effective and efficient decentralization.

Private Sector and Stakeholder Participation

2.3.18 *Present Situation and Private Sector-focused Reforms*: there is a real potential for the development of the private sector in Benin, particularly the agribusiness, tourism and handicrafts and services (transit, transport, logistics, Internet, etc.) sectors. In addition, the African Growth and Opportunity Act (AGOA) offers outlets for textile products. Tourism also holds out hope of bright prospects, which are confirmed by projects for the development of seaside resorts to attract more tourists. Benin could become an important trading centre between WAEMU countries and Nigeria. However, there are still many barriers to such development especially at the level of land tenure, legal protection of business, taxation and customs tariff system, management of public utility services and development of infrastructure (port, telecoms, water and electricity). These barriers seriously affect the competitiveness of enterprises and investments that would increase access by the populations

to these services. A Private Sector Development Support Project (PADSP) under the 1992 Private Sector Recovery Programme was approved by the IDA Board of Directors in November 1999. The Mid-term Review of the Private Sector Development Support Project (PADSP) carried out in March 2004 made a number of recommendations relating to: (i) the strengthening of Public Sector-Private Sector Dialogue; (ii) the improvement of the business environment, and lastly (iii) the strengthening of Public-Private Partnership for the Development of Infrastructure.

2.3.19 Private Sector and Participation : the private sector is acknowledged in the PRSP as the engine of sustainable and strong growth likely to reduce poverty. However, the actors and managers of the private sector have expressed the feeling of weak private sector participation in the formulation of public development strategies and policies. Also, to draw lessons from the past, an ad hoc Committee was set up in April 2003 to better involve the private sector and civil society in the implementation of the poverty reduction strategy (PRS). The provisional secretariat of the ad hoc Committee is provided by ADEX within the framework of the Joint Public/Private Sector Consultation Committee which is chaired by ADEX. The secretariat is responsible for preparing a plan of action for: (i) improving the participatory process; (ii) building the capacity of the private sector and civil society to carry out advocacy activities; (iii) developing a private sector/ public sector partnership; and (iv) strengthening the private sector development strategy which is one of the PRSP specific priorities (private sector financing, taxation, legal and economic environment, mechanization of agriculture, mastery of water supply, promotion of SMEs, development of tourism, improvement of infrastructure, continuation of the implementation of the TSP, management of the Port Authority of Cotonou, etc). The validation workshop should help adopt a plan of action for strengthening dialogue and consultation between the Government and the private sector in connection with the formulation and implementation of development policies.

2.3.20 Dialogue Between the Private Sector and the Public Sector: the Private Sector Development Support Programme (PADSP) comprises a 'business environment improvement' component which contains a sub-component 'support for the development of dialogue between the private sector and the government with a view to eliminating regulatory and administrative obstacles to investment and exportation' which led to the establishment of the Export Development Association (ADEX). The Association developed a joint organ called "Government/Private Sector Committee". Discussions within the Committee were expected to be on studies, including a competitiveness study and three studies to be conducted each year on the preparation of diagnoses and the formulation of proposals of measures to be taken to eliminate regulatory and administrative obstacles impeding investment and exportation. In total, there have been developments over the past few years which enable the two parties involved to stand out as interlocutors whose partnership mechanisms for development in the country must be developed and improved.

2.3.21 It should however be stated here that the institution of really effective dialogue between the private sector and the State is delayed by the multitude of professional organizations, the absence of a comprehensive legal framework acknowledged by all, weak consultation between private sector actors and quarrels about leadership. Nevertheless, there has been progress in this domain with notably the creation or revitalization of functional dialogue organs such as the Chamber of Commerce and Industry of Benin, the Trades Chamber and the Chamber of Agriculture. The Chamber of Commerce and Industry of Benin (CCIB) which was restructured and which has just renewed its governing bodies seems

to have been given a new impetus which should enable it to play a more active role in the institutionalization of more effective dialogue between the private sector and the State.

Cooperation and Regional Integration

2.3.22 Benin participates actively in the implementation of regional integration policies within the framework of ECOWAS and WAEMU, African Union (AU) and NEPAD. In this connection, it has undertaken within the framework of WAEMU (i) tax harmonization by applying notably the Common External Tariff (CET) from the year 2000 without any capital loss, (ii) the relative mastery, compared to other States of the Union, of convergence criteria in the area of the budget; (iii) the management of budget practices in accordance with the five WAEMU directives concerning public finance, (iv) the adoption of the West African Accounting System (WAAS) since 1998, and (v) the harmonization of business law with the OHADA uniform acts. Benin also contributed towards the implementation of regional economic integration projects, particularly in the areas of energy (CEB Togo-Benin). Such contribution will be reinforced by the future implementation of the Benin-Nigeria electrical interconnection (CEB/NEPA). Because of its geographical location, Benin plays a vital role in the development of the trade of landlocked countries. The Port Authority of Cotonou now handles about 30% of the freight of landlocked countries which are more affected by the crisis in Côte d'Ivoire. To enhance competitiveness, the Government will pursue the simplification of foreign trade procedures.

2.3.23 Regarding its trade integration into the sub-regional and global economy, a diagnostic study of Benin's integrated framework for the development of an integrated strategy to raise the level of its exports is being conducted since May 2004 with the support of IDA. This study will be followed by the one which will be carried out by the FIAS Department (Foreign Investments Advisory Service). The study will focus on the needed reform of land securitization and will help to formulate a new strategy for each of these areas in order to make general policy recommendations to the Government. Furthermore, this study will help at the same time to prepare and include in the budget a plan of action for the development of a land reform programme targeted at priority geographical areas and issues (tourist areas, land certificates, commercial contracts) and the use of title deeds to raise financial resources.

2.4 Legal and Judicial Reforms

Role and Responsibility of the Judiciary

2.4.1 Although the Conference of the Vital Forces of the Nation acknowledged the importance of legal and judicial changes on the scale of national concerns to create new conditions, it was towards the end of the 1990s that legal and judicial reforms effectively became a priority in the Government's programmes. In the framework of the ongoing new reform drive in the judicial sub-sector, Law No. 2001-37 of 16 June 2002 was adopted by Parliament with the aim of establishing a new judicial organization in Benin. At present, judicial power in Benin is based on a system that places side by side normal judicial organization and special judicial organization. The special set-up is made up of the Court of Impeachment which has jurisdiction to try the President of the Republic and his ministers for high treason and other offences (Articles 135 to 138 of the Constitution). The Supreme Court, which is the summit of the normal judicial organization structure, is the highest State

institution in administrative, judicial and auditing matters concerning State accounts. In addition, the collaboration mechanisms put in place by the Constitution entrust the judiciary with the important role of consolidating respect for the rule of law and regulating the functioning of public institutions as well as their interrelationships with the citizens. Although in practice these provisions have never been challenged and the fact that the ruling of the courts is binding on all citizens, the judicial system is confronted with serious dysfunctions which are all obstacles to its independence, its empowerment, its efficiency and its integrity.

2.4.2 The various studies conducted to assess the situation in the justice sector have helped underline the following constraints: (i) decay, inappropriateness of legal rules and present scattering of provisions relating to the same matters; (ii) lack of motivation and professional consciousness of actors of justice, partly due to the deterioration of the living and working conditions of magistrates and other professional categories; (iii) inadequate judicial coverage with hardly 8 courts and one Court of Appeals for the entire country; (iv) deterioration of living conditions in prisons due to chronic lack of resources; and (v) corruption and politicization of justice resulting essentially from an institutional heritage characterized by inadequate services, low administrative capacity, divorce between the administration and the society. Such inadequacy of institutional, material and human resources has contributed to render justice unreliable, expensive, slow and uncondusive to development.

Independence of Judicial Institutions

2.4.3 The Constitution of 11 December 1990 in Benin acknowledges the judicial system as the third power and thus guarantees its independence, both of the executive and of the legislative powers (Article 135 of the Constitution). However, it should be acknowledged that such independence of the judiciary is still far from becoming a reality in Benin. In fact, the submission of public prosecutors to the hierarchical power of the minister in charge of justice and human rights and the fact that they are removable poses the problem of the principle of independence. Even magistrates of the Bench who are irremovable (Article 126 of the Constitution) operate in an environment that does not guarantee their independence. In the same spirit, the conditions of appointment of Chamber Presidents and Judges (Article 124 of the Constitution) could also cast doubts on relations between the executive and the judiciary.

2.4.4 A recent survey at the level of the intelligentsia, conducted as part of the ECA study on governance indicators in Benin, helped deduce that in spite of all difficulties identified the independence of the judiciary is estimated by 42% of experts interviewed, whereas 77% of those surveyed feel that the system is at least averagely independent. These results attest the acknowledgement of the independence of the magistracy as a serious problem. In fact, many recent events confirm this diagnosis of a major crisis in justice. In 2004, the judiciary staff organized a seminar on the issue of the independence of the magistrate to show that the issue is an important and topical concern. The judiciary is not really organized, administered and managed in an autonomous manner in the sense that it is like an appendage of the executive whereas the President of the Republic, chairman of the Higher Judicial Council, is supposed to be the guarantor of its independence. This situation of ambiguity is increasingly deplored by the actors of the judicial system itself. The Tidjani Hassani Hamani affair with its enormous implications in the area of Human Rights, extradition procedures and relations between neighbouring States within the framework of the fight against transborder crime is a

very topical illustration of the pressure on the judiciary as well as the interference that it bears.

2.4.5 It is also important to point out that the presence among magistrates and the other professionals of dishonest and corrupt elements worsens the issue of the independence of court decisions as not only does the legal quality of the decisions leave a lot to be desired but also the situation serves as a pretext for dealings on the part of the executive that are open to criticism. This is why it is necessary to build in Benin the capacity of the judicial system such as to guarantee the country a strong and independent magistracy which will have all the authority and ethics necessary to ensure the application of the law and that will have adequate means to get organized and be efficient. This entails that justice be elevated to the rank of national priorities with as consequence a substantial increase in the appropriations allotted to it.

Government Reform Efforts

2.4.6 This situation led the Government to undertake concrete and urgent actions from 1998, including (i) the putting in place of the National Legislation and Codification Commission ; (ii) the institution of a special fund for the rehabilitation of justice in 1998 and 1999 ; (iii) the setting up of the National Human Rights Advisory Council ; (iv) the implementation of programmes for the rehabilitation and repair of some judicial infrastructure ; (v) the setting up of the General Inspectorate of Judicial Services ; (vi) the enactment of the organic law on the Higher Judicial Council in June 1999 ; (vii) the adoption of the integrated programme for strengthening legal and judicial services ; and (viii) reform of the legislative framework with the adoption of the new judicial organization (Law No. 2001-37 of 16 June 2002) and the law to lay down rules and regulations governing Legal and Judicial Officers (Law No. 2001-35 of 19 November 2001). Staff recruitment and training is under way, as well as the rehabilitation and construction of new courts and prisons infrastructure. These actions are supported by development partners, including the World Bank, European Union, and bilateral partners led by France. The actions need to be strengthened and pursued to ensure the independence of justice, improve legal information and strengthen training activities. In this connection, the UNDP has also recently signed with the Government a partnership agreement on a project called “national human rights policy support project” which takes into account a major component of legal assistance to destitute persons with the support of a corps of voluntary jurists which is expected to be created soon. In short, the Government has, through this reform programme, to show proof of a real political will to implement an essential instrument for the consolidation of democracy, to rehabilitate justice in the eyes of citizens and to restore Beninese and foreign investor confidence.

Alternative Conflict Resolution

2.4.7 Benin is a relatively peaceful country and conflicts beyond the capacity and competence of judicial bodies are rare, despite the weaknesses of these bodies. Certainly, the country is not experiencing any armed or politico-military conflicts, but there are peaceful confrontations at the political (presidential majority and opposition conflicts, constitutional crisis during the March 2001 elections, etc.) social (demands by worker and student trade unions, etc.), religious and border (between Niger and Benin about the Lété island) levels with high socioeconomic and financial stakes.

2.4.8 The main sources of conflicts identified in Benin are: lying, slander, money, land tenure, women and above all politics (MCRI-SCBE 2000). Politics seems to be the leading source of conflicts as the institutions envisaged to appease tensions or manage conflicts do not play their role. In addition, the ignorance of the populations of their rights and obligations towards the State, their neighbours and other citizens creates conflicts which only a good knowledge of republican laws can curb. All conflicts arising in the society are seeds of instability. They are a threat to social and political stability. In fact, conflicts are a threat to peace and the security of persons and property. Conflicts between stockfarmers and farmers in the controlled settlement areas of the Parc W of Niger (north of Benin) have, for example, led to people's deaths. It is the same for the political exodus which has followed some elections in the country.

2.4.9 High Audiovisual and Communication Authority (HAAC) : its mission is to prevent conflicts between governmental bodies and the private press, notably: (i) guarantee and ensure the freedom and protection of the press ; (ii) guarantee independence particularly in the area of information of the public media, radio, television and the written press ; (iii) guarantee rational and equitable access by political parties, trade unions, associations and citizens to public means of information and communication ; and (iv) ensure respect for pluralist expression of ways of thinking and opinion.

2.4.10 In addition to these constitutional institutions there are other civil society autonomous organizations including the Benin Human Rights Commission (CBDH), the Human Rights Defence League (LDH) and Amnesty International-Benin. The mission of the CBDH and LDH is to promote and safeguard human rights in the Republic of Benin. The CBDH is vested with wide powers and participates through its activities in education, protection and emergence of a democratic culture based on the respect of human rights. It should be pointed out that over the past few years trade union unrest was managed through joint State-Worker Committees which carried out negotiations leading to consensual agreements, even though compliance with the agreements and their implementation gave rise to very mixed feelings on both sides. The Media Ethics and Practice Observatory (ODEM) established more than five years ago is playing an increasingly remarkable role concerning complaints by readers and listeners against publications by the media, thus reducing the number of libel trials and their other implications in terms of civil and criminal liability.

2.4.11 Administrative and Military Hierarchy : Benin's new army was born during the Conference of the Vital Forces of the Nation when all the components of the army took the oath never to interfere in politics through coups d'état or the use of force. There is a visible withdrawal of the Armed Forces from political affairs. The army is now available to civilian power, in particular for conflict resolution.

2.4.12 Thus, in addition to the administrative authorities (municipal councilors, subdivisional heads and mayors) who settle most conflicts between councils, the military authorities, mainly Gendarmerie Brigade Commanders, intervene in the settlement of some conflicts. However, it should be remarked that the phenomenon of corruption which is eating into this corps renders its judgments partial and subjective. The stake in the Administration and military hierarchy is therefore to appoint actors who are able to manage such conflicts with rigour and equity as part of their missions in order to ensure the security of persons and property and maintain public peace and order. For purposes of efficiency, these authorities have the possibility of engaging traditional chiefs whose customary expertise in the management of conflicts cannot be doubted.

2.4.13 Customary Mechanisms : In the face of impunity which appears to be the rule in decisions rendered by justice in Benin and the inefficiency of the police (cf. paragraph 2.44), the people of Benin often resort to customary mechanisms for conflict resolution. Thus, traditional chiefs and leaders of the various creeds (churches, mosque, voodoo, etc.) can be seen intervening in conflict resolution. “These temple guards” occupy a choice place among traditional society organizations. Through their power of mediation and regulation, they contribute to the peaceful resolution of a large number of social conflicts.

2.4.14 There is no professionalization of institutions: the traditional chief is at the same time legislator, executor of decisions and judge. Common law sometimes helps to fill modern law gaps, even though traditional authorities are not sufficiently sensitized to this fact. On several occasions, common law has helped curb religious and customary conflicts.

2.4.15 Mediation by Civil Society: civil society has often played a decisive role in the resolution of many crises likely to undermine the democratization process. Its non-partisan nature enables it to effectively play this role. Civil society has acquired a reputation for being trustworthy on which everyone (political actors, those in power, members of the opposition, etc) would like to count to justify their stand. Everyone is very attentive to the opinions and judgements of civil society and avoids acts which could rob him or her of the sympathy of the people. During the various crises, civil society intervened alongside other actors as mediator. In this capacity, civil society in Benin had to carry all its weight in the key political events connected with a least five different types of crises :

- University crises: in 1994, the University of Abomey Calavi (then National University of Benin) had become a permanent hotbed of crises ;
- Legislative elections of March 1995: when the Government, seeing itself being stripped of its prerogatives as organizer of the electoral process, was reluctant to appoint its members to the National Autonomous Electoral Commission (CENA) ;
- 1996 budget crisis: when the President of the Republic ignored the opinion of the Constitutional Council and rendered the budget enforceable by ordinance ;
- Presidential elections of March 1996; when the stake was one of democratic alternation of power ;
- March 2001 presidential elections: when two presidential hopefuls who had to confront, in the second round, the candidate Mathieu KEREKOU who topped the list in the first round, stood down in turn.

2.4.16 Press Warning and Public Opinion : though progress is still to be made regarding respect for freedom of expression, the press has always played a key role in the resolution and especially prevention of conflicts in Benin. By constantly informing, warning and raising the awareness of the population on situations of conflict, it has always enabled Benin to avoid the worst, in particular during the March 2001 presidential elections. The prompt reaction of the press and public opinion helped, on several occasions, to prevent conflicts or to find a satisfactory solution to them because of the information on good governance and respect for human rights made available to everyone and the proper investigation which justice indirectly turned to good account. Efforts should be pursued to ensure respect for freedom of opinion and expression within the scope of the rules of ethics and practice.

2.4.17 Thus, the impunity enjoyed by some people guilty of misdemeanours and felonies, the partiality of some magistrates and corruption are very often denounced by the media (cf. criminal court expenses cases and the Hamani affair which led to the closure of the border between Benin and Nigeria and very recently the case of extradition of 25 Benin nationals involved in the Hamani affair in Nigeria). Lastly, under pressure of public opinion, public authorities increasingly acknowledge and denounce such ills and allow the press to assume both its function of warning public opinion and arbitrating in certain conflicts. The acknowledgement of the key role played by the media in the successful outcome of the Conference of the Vital Forces of the Nation of February 1990 accelerated the process of press liberalization. Journalists and other communicators snatched, even well before the texts authorized them, their freedom and challenged media monolithism. Today, the media have been granted constitutional guarantees to inform, denounce and divert public opinion.

The Land Tenure Issue

2.4.18 The land tenure issue occupies a significant place in economic governance. It impacts notably on access to property and private sector development and on public revenue mobilization through the land tax. In the pre-colonial era, land in Benin was governed by common law which granted right of use to the first settler and his descendants which was a collective right. Such traditional practice authorizes the loan and gift but not sale or hire of land. The first texts on land registration procedures date back to the colonial era. In August 1965, the legal framework for land tenure changed considerably with the passing of the law to organize land ownership in Dahomey. Nevertheless, this system is characterized by the absence of a land planning and management policy. In Benin, there are no guidelines delimiting precisely areas of land devoted to such or such activity, areas of land approved or not approved for development. The administration nurtures confusion in the management of land. By such acts, it contributes to the acknowledgement of land ownership but also to land insecurity. This situation has also encouraged many disputes relating to the absence of a land register (conflicts of proximity), to orality and to the informal nature of contracts, to the sharing of heritage, to the issue of inheritance by women, to confusion of some modes of access to land (gift and borrowing, for example).

2.4.19 In Benin, land management presupposes a reform of the legal and regulatory framework of the land tenure code. This entails, among other things, implementing actions focused on security of land tenure for the tenant farmer or buyer, reducing the costs of transfer of land ownership, improving the collection of the land tax and facilitating the management of land by local authorities. The major constraint in land management in Benin is the coexistence of modern law with common law which govern access to rural and urban land. Title deeds are not used to raise financial resources, which is a phenomenon impeding the development of the private sector. In fact, there is no mortgage financing or real estate mortgage financing worthy of this name. Moreover, there is discrimination against women in matters of land, in spite of the fact that women help to feed the ever-increasing population. Such discrimination can be seen in the unequal sharing of inheritance between boys and girls because of the patrilinear nature of Benin's society. However, this situation is circumvented by alternative solutions such as sharecropping, gift, borrowing of a parcel of land by women within the family, etc.

Private Sector Legal Framework and Environment

2.4.20 The economic liberalism option adopted by Benin at the Conference of February 1990 entrenched free enterprise. Apart from the constitutional provisions that guarantee private property and protect it against any nationalization, there are legal and regulatory provisions concerning private initiative (frequently in each Appropriation Law). The rules applicable hitherto to freedom of industrial and trade choice were both scattered and unsuitable for the business world. The uniform acts of the Organization for the Harmonization of Business Law in Africa (OHADA) which entered into force on 1 January 1998 put an end to the anachronism of the legislation in relation to economic developments, on the one hand, and ensure the alignment and efficacy of laws relating to the business contract, on the other hand, in Benin as well as in the other 14 (fourteen) Francophone member countries of Africa. Thus, the OHADA acts are today the centrepiece of the arsenal of legal texts governing private initiative activities in Benin. The majority of formal private sector operators have taken the necessary measures to align their operating conditions with OHADA rules. However, the various actors responsible for implementing the reform are yet to be trained. Likewise, the Beninese authorities are still taking the necessary support measures to align national law to the OHADA Uniform Acts. At this stage, it can be said that OHADA is not yet fully internalized by all economic actors in Benin.

2.4.21 Furthermore, the West African Accounting System (SYSCOA), which is based on the Uniform Act relating to the accounting law of the OHADA treaty, has entered into force since 1998 and henceforth sets out the conditions of the obligation to put in place an accounting system. Regarding control, the OHADA law lays down the conditions of practice of the profession of auditor. However, the control of auditors has only an insignificant incidence on accountability because of the scope of their mission. Other difficulties crop up in the performance of the control mission, notably difficulties related to the absence of an association, a company or any other corporate institution responsible for regulating the conduct of control activities (for example an association of chartered accountants, an auditors company). The consequence is the absence of rules of ethics and practice and the performance sometimes by unqualified and incompetent persons of accounts presentation and auditing missions.

2.4.22 The country's investment code is not attractive despite the amendments introduced in 1998, because of the smallness of the local market, the high cost of some factors of production as well as the level of taxation still considered restrictive, in spite of the reduction of the profit tax as well as the simplification and flexibility resulting from the introduction of VAT. Similarly, customs tariffs have been reduced by the coming into force in Benin of the Common External Tariff (CET) of the member countries of the West African Economic and Monetary Union (WAEMU). Benin is member of the World Customs Organization (WCO) whose recommendations on the securement and facilitation of customs and transit operations it implements. Thus, to facilitate customs clearance formalities, a one-stop shop has been put in place at the port of Cotonou bringing together all services intervening in the process.

2.4.23 *Framework Regulating Corporate Social Responsibility*: the corporate legal framework in Benin acknowledges the obligations of an enterprise relating to its social responsibility towards workers and to environmental protection. While striving to remove all obstacles to corporate decisions, the State seeks to avoid the dangers inherent in a bad management of the environment which would have catastrophic consequences on future generations and would not be in line with the goal of sustainable development. As part of the

regulation of relations between employers and workers, a new Labour Code was adopted on 22 January 1998 by Law No. 98-004 whose main characteristic is the liberalization of employment and layoff procedures. Additionally, employers have the obligation to register their workers with the National Social Insurance Fund and to pay social security contributions which include both the employer and worker's shares.

2.5 Combating Corruption and Money Laundering

2.5.1 Corruption includes misappropriation of public funds, misuse of power or breach of trust both in the private and public sectors. It is a constant concern of authorities, civil society and development partners in the political and economic development of Benin. The principal manifestation of corruption and its harmful effects concerns first the administration. It is very often the result of the following non-defining factors: (i) absence and weak control over political and administrative actors; (ii) scope of discretionary powers magnified by factors such as illiteracy and ignorance of the populations, absence of clearly define rules and procedures; (iii) absence of codes of ethics and practice; (iv) impunity and non-respect of the primacy of the law; (v) the high number of derogatory facilities in the budgetary procedures; (vi) slowness and unpredictability of court decisions; (vii) administrative centralization; (viii) lack of transparency in the funding of parties; and (ix) low State employee salaries. With time, the phenomenon of corruption has defied all approaches to thwart it and has become a real handicap for an efficient management of public resources.

2.5.2 Very early in the 1990s, to effectively combat this evil that is corruption, the public authorities tackled the issue from many fronts. The first area of intervention concerns the strengthening and revitalization of administrative control organs so as to render the internal control systems more efficient and disseminate a control culture. At the same time, emphasis was placed on the suppression of acts of corruption and sensitization as well as education on all elements which can help to better understand and combat the phenomenon. It is in this framework that many actions under the integrated programme for strengthening legal and judicial services were conceived, particularly with a view to putting in place rules of procedure and punishing certain reprehensible behaviours which had not been covered by the law. It is in this context that the Public Life Moralization Unit was set up in December 1996. It is attached to the Presidency of the Republic and entrusted with the mission of carrying out activities aimed at (i) educating citizens; (ii) preventing and detecting acts of corruption; and (iii) combating energetically all manifestations of corruption in the broadest meaning of the word. The CMVP organized a national forum for mobilization against corruption which gave birth to an association called National Front for Mobilization of Civil Society against Corruption (FONAC) to better channel civil society pressures so as to guarantee their effectiveness against the evil that is corruption.

2.5.3 An important step was made in Benin to understand the scope of corruption when in 1999 an ad hoc commission set up by the President of the Republic to list cases of embezzlement and bad management revealed that the cases corresponded to an overall amount of about CFAF 70 billion. The lethargy of judicial bodies, inappropriate legal framework, inadequate human and material resources and political obstacles prevented the political will expressed from being translated into either the reimbursement of the sums of money in question or punishment of the dishonest public servants concerned. This is why the general opinion is that the fight against corruption has been more rhetorical than real as impunity continues to reign. The actions of the CMVP such as the preparation of procedure manuals in Benin's administration did not yield tangible results. The problem of the most

appropriate strategies and means for combating corruption still remains unresolved. That is why the draft Penal Code submitted to Parliament contains new provisions that better define and repress certain misdemeanours and felonies which are acts of corruption. In reality, however, Benin is in search of a more exhaustive and more systematic anti-corruption law on the repression of the phenomenon that would contain judicious provisions on the control of illicit enrichment, money laundering, protection of witnesses or informants, the non-applicability of statutory limitation to economic crimes in accordance with the Constitution, access to information, etc. Since 2004, the Government of Benin has prepared and tabled before the National Assembly a bill on money laundering based on the WAEMU directive. An anti-corruption observatory has also been put in place with the support of the ADF and IDA.

2.5.4 *Institutional Anti-corruption Framework* : acts of corruption are detected especially by internal or/and external institutions of the administration and civil society surveillance or vigilance organs. In Benin, there are administrative control bodies within the administration, as well as controls carried out by the judicial and legislative powers. Administrative control is carried out within ministries by Inspection and Internal Verification Directorates (DIVI) which are responsible for assisting the minister in the control and evaluation of the activities of structures and projects under the ministry and national control organs, in particular the General Inspectorate of Finance (IGF), General State Inspectorate (IGF), General Inspectorate of Public Services and Jobs (IGSEP), General Inspectorate of Administrative Affairs (IGAA), General Inspectorate of Judicial Services (IGSJ), Public Life Moralization Unit, Economic and Financial Unit and ad hoc committees for financial control. Parliament can intervene as part of its prerogatives to control Government action and during the consideration and voting of the audited budget law. Judicial control is exercised as part of the power of the judiciary over public and private accountants. The Audit Bench of the Supreme Court has jurisdiction to exercise judicial control over the accounts of public accountants and administrative control over the management of voteholders but it is unable to fully carry out this mission. Political pressures, inadequate human and material resources and the absence of procedure manuals explain the quasi-inefficiency of these institutions. Hence the need to better involve and empower civil society and to ensure that the necessity for a results-based control culture is accepted. It is in this spirit that the Anti-corruption Observatory has recently been established to provide more precise information on the phenomenon and propose anti-corruption measures.

2.5.5 *Penalties Envisaged Against Acts of Corruption*: the penalties currently imposed for acts of corruption are strictly defined by the laws in force. The condemned act is repressed depending on how it is described by these laws. The repression of corruption is confronted with the problem of frequent unsuitability of instruments for describing acts and behaviours by dishonest actors. Although there are instances where the application of penalties to combat corruption has been twisted, it should however be stated that a public servant guilty of corruption is also liable to administrative (disciplinary and financial) as well as criminal and civil actions. Administrative sanctions do not exclude legal proceedings.

2.5.6 *Existence of Corruption Prevention Policies and Procedures*. The Public Life Moralization Unit (CMVP) set up for information, education and communication in the area of corruption has helped carry out some corruption prevention actions including: (i) the organization of sensitization activities to mobilize civil society, involve the judiciary and legislature and encourage more active collaboration of judges; (ii) the provision by the Government to the judiciary of financial and material resources to speed up the diligent

processing of cases under investigation for dissuasive purposes; (iii) the preparation of texts to implement the Public Procurement Code; (iv) the preparation and dissemination of manuals of procedures and user guides for ministries; (v) the strengthening of administrative control structures to facilitate the detection and prevention of fraud; (vi) the redefinition of the duties of the CMVP and its sustainability; (vii) the conduct of control activities upon denunciation through unexpected field visits or commissions of inquiry carried out with the support of ministries; (viii) the organization of relations between services of the Administration and users (Decree No. 2000-616 of 7 December 2000); (ix) the putting in place of modern technical instruments for corporate control; (x) the formulation of a strategic anti-corruption plan; (xi) the conduct of civic and moral education actions targeted at the youth through 1000 ethical, moral and civic precepts; and (xii) controls intended to prevent the misuse of government vehicles.

2.5.7 *Existence of a Code of Conduct and Ethics:* the Public Procurement Code of Ethics and Moralization which entered into force since 22 June 1999 is one of the implementation decrees of Ordinance No. 96-04 to institute the Benin Public Procurement Code. The code is a sort of integrity pact involving civil society with a view to rendering public procurement procedures transparent. In fact, corruption is rife in public contracting. A series of sensitization activities were carried out regarding this code across the country. Professional associations also have codes of ethics and practice.

2.5.8 However, these codes deal with professional misconduct which is not always analyzed in terms of corruption. The codes can help fight the phenomenon, but their objective cannot be reduced or translated in these terms. Furthermore, in the face of the harmful effects of the activities of criminal organizations, the fight against money laundering has become a pressing need which has occasioned an unprecedented mobilization of the international community. It is therefore necessary to implement, as soon as possible, Directive No. 07/2002/CM/UEMOA of 19 September 2002 relating to the fight against money laundering in WAEMU member countries.

III EVALUATION OF THE NATIONAL GOOD GOVERNANCE STRATEGY

3.1 Presentation of the Key Elements of the Strategy

3.1.1 Benin does not have, like some other African countries, a national good governance promotion programme per se, but there are a number of documents and policies containing measures relating to the improvement of governance. Thus, the PRSP adopted in December 2002 is the main frame of reference for the definition and implementation of actions relating to the promotion of good governance. The four strategic thrusts of the PRSP are: (i) strengthening of the medium-term macroeconomic framework; (ii) human resource development and environmental management; (iii) strengthening government and institutional capacities; and (iv) promotion of sustainable employment and building the participatory capacities of the poor. The matrix of actions of the poverty reduction strategy (PRS) comprise 135 policy measures including 58 which are directly related to the improvement of governance.

3.1.2 Other sources with specific actions for the improvement of governance include: the “Strategic Vision of Benin by the Year 2025”. The Government’s Vision plan of action for the period 2001-2006 aims, among other things, at: (i) the consolidation of democracy and good governance; (ii) the improvement of the economy and public finance; and (iii) regional

planning and balanced development. It is also necessary to recall the Results-based Budgetary Reform embarked upon since 2000 with the support of the ADF, the Administrative Reform Framework Paper adopted in 2000, the Final Plan of Action of public procurement reform, the Integrated Programme for strengthening legal and judicial systems and the Strategic Anti-Corruption Plan. There is no doubt that there is a need to formulate a good governance strategy that takes into account the actions adopted through all these documents and that presents a coherent and harmonized national good governance strategy. This document on Benin's governance profile could be, among other things, an important contribution towards the formulation of the national good governance strategy.

Politics and Rule of Law

3.1.3 This area of governance is characterized by the absence of an overall strategy and a multi-action approach at the level of each of the political accountability institutions. Thus, all institutions under the executive and other constitutional institutions (judicial control organs) have a corpus of actions aimed at consolidating them in the field of democracy and make them an element of the primacy of law. In general, such actions boil down to cross-cutting or sectoral institutional reforms aimed at modernizing structures, methods and procedures and changing the entire administrative culture. Concerning structural actions, it is necessary to point out the organizational audits carried out and which helped restructure some ministries, the reforms embarked on to better define the areas of intervention of the Presidency of the Republic, the reorganization of sectoral ministries and the initiation of projects on information and communication technologies. It is also necessary to note the actions taken regarding information management to improve communication, participation and transparency and promote ICTs. The Government through its plan of action, wanted to give the institutional reforms a focus in the hope that the different State powers will be exercised on the basis of principles compatible with the requirements of democracy, modernity and the obligation to render account. Its strategy is based on the empowerment of actors, the mobilization and appropriate use of their capacities, the progressive implementation of objectives and actions based on the values and principles of the Constitution and the need for a broad-based consensus: State – civil servants – users – civil society.

3.1.4 It should be underscored that the National Assembly has joined this reform and capacity building drive through two structures put in place with the support of development partners : (i) State Budget Control and Analysis Unit (UNACEB) which backs Parliament in the budgetary process with the assistance of UNDP and intervenes mainly in the preparation and control of the budget; and (ii) the National Assembly Development Policy Analysis Unit (CAPAN) backed by the ACBF and whose mission is to build the capacities of the National Assembly in policy analysis, drafting of bills and budget monitoring. CAPAN also plays a role in the reduction of the communication gap between the National Assembly and the public as well as the promotion of the sharing of experience with the other Parliaments of the sub-region.

Economic Management

3.1.5 Macroeconomic and Structural Management : there is a need to accelerate economic growth in order to sustainably reduce poverty in the coming years. To this end, it is necessary to put in place a viable macroeconomic framework and ensure good economic and financial governance so as to create an environment conducive to domestic and foreign private investments. This concern of the Government is taken into account in the main thrust

of the Poverty Reduction Strategy which focuses on the consolidation of the macroeconomic stability of Benin, that is, to create conditions capable of generating strong and sustainable economic growth in a context of price stability, bearable budget and external current account deficits and control of money supply.

3.1.6 To achieve these results, the Government has embarked upon the implementation of policies and reform measures aimed at: (i) strengthening the macroeconomic framework; (ii) containing inflation and money supply; (iii) improving the competitiveness of the economy through liberalization and strengthening of basic economic infrastructure (water, electricity, hydrocarbons, telephone, transport and land tenure); (iv) accelerating structural and sectoral reforms (State divestiture of productive sectors and elimination of barriers to the smooth functioning of the free market); (v) flexibility of labour legislation and the labour market with increased wages reflecting enhanced productivity as well as an appropriate education and vocational and technical training policy; (vi) consolidating the rehabilitation of the financial system through the strengthening of banking surveillance, compliance with the prudential mechanism and diversification of offers of more competitive financial services; (vii) improving the legal, regulatory and judicial environment for the efficiency of public administrations, compliance with rules of competition, eradication of corruption and receiving and supporting investors; and (viii) opening up foreign markets, compliance with WTO rules and promoting regional integration.

3.1.7 Structurally, the strategy focuses on continuation of the process of State withdrawal from the productive sectors, particularly through the completion of the ongoing reform in the cotton sector, finalization of the privatization programme in 2004-2005 and the putting in place of strategies and regulatory frameworks governing competition in telecommunications (OPT), electricity (SBEE) and cotton (SONAPRA) sectors. In this context, as the transfer to the private sector of cotton ginning plants is now completed, the effective liquidation of SONAPRA is envisaged in May 2004. Plans have also been made to finalize the privatization of SBEE in June 2004 and that of telecommunications in August 2005. Concerning public utilities (electricity and telecommunications), the Government will formulate and operationalize a performance-based regulatory framework. Regarding the Port Authority of Cotonou (PAC), the study on its privatization was initiated in 2004 with the hope of implementing the plan of action and related recommendations from 2005, including putting in place a private management of PAC.

3.1.8 To remedy bottlenecks and constraints in the implementation of public investment projects, the State plans to set up new delegated contracting authorities in addition to the two existing structures. The new legal framework governing the functioning of these agencies, which has already been adopted, will enter into force. Likewise, there are plans to establish a structure to which the implementation of public infrastructure projects will be entrusted. Such structure which will be endowed with the necessary human and material resources, will centralize the organization of shopping for the award of public infrastructure contracts and the monitoring of the physical and financial execution of the projects. Shopping would be organized primarily for delegated contracting authorities. Thus, the execution of infrastructure projects included in the Public Investment Programme (PIP) would no longer be under the responsibility of sectoral ministries but under the responsibility of this structure whose procedures, management and operation will be transparent and would be audited quarterly by external auditors.

3.1.9 Public Finance Management : Benin is one of the first WAEMU countries to adopt the programme approach. Reforms undertaken in this context resulted in the preparation of Mid-term Expenditure Frameworks (MTEFs) using an iterative process based on a macroeconomic framework. The Government's strategy consists in deepening budgetary reform in order to enhance the efficiency of public spending within a context of transparent management and increased accountability. The reform concerns: (i) use of the programme budget approach for an optimum allocation of resources; (ii) establishment of a new expenditure circuit and modernization of control; (iii) empowerment of spending ministries and the obligation to render account; and (iv) use of performance indicators. There are plans, particularly, to develop a plan of action to improve the MTEF and link programme budgets to the PRSP. This includes the adoption of clear guidelines in the macroeconomic framework brief and the circulars of the Ministry of Finance and the Economy on the budget for the preparation of sectoral draft budgets and the Appropriation Bill to ensure coherence between the MTEF, PRSP and programme budgets.

3.1.10 Furthermore, the extension of the programme approach to all sectoral ministries is planned from January 2006, which implies the increased use of performance indicators and that the impact of public expenditure, notably social, on the target populations can be really measured. Lastly, the preparation of programme budgets will be deconcentrated at the level of departments for 2005. At the same time, the Government computerized the expenditure circuit through the implementation of the Integrated Public Finance Management System (SIGFIP) which has helped speed up the execution of budget operations, ensure better circulation, reliability and transparency of budget and accounting information and built budget regulation capacity. During the next three years, the Government will ensure the full mastery of this system with the extension of programme budgets to all ministries and the exhaustive use of the SIGFIP at both ministerial and departmental levels.

3.1.11 To strengthen accountability, the control and internal audit function will be reinforced and consolidated. It is also envisaged to provide the Audit Bench with the necessary means to enable it to cover the whole range of its duties by preparing and putting at the disposal of the public each year a report on the execution of the finance law and the performance audit report of ministries, on the one hand, and by effectively carrying out the judicial control of public accountants. It is also a matter of guaranteeing the independence of the external audit institution, which is being transformed into a Court of Auditors. Also, the government will pursue the modernization of the information system within the finance administration through the computerization of revenue offices and improvement and popularization of procedures.

Administrative Reform

3.1.12 In accordance with the specifications contained in the June 2000 framework paper on administrative reform, the strategy of the State in this area aims to modernize and professionalize public administration to enable it not only to ensure the continuity of the State, but also to act as an efficient agent of development of the country according to cost-effectiveness criteria. To operationalize this overall objective, the following specific objectives were adopted, namely: (i) clarification and ranking of the missions that the State intends to continue to assume completely or partially with the definition of objectives, and sectoral strategies for each of the missions chosen or maintained; (ii) development of a new administrative culture geared towards a continued quest for improvement of individual performance; (iii) building of national managerial capacities for administrative reform; (iv)

consolidation and modernization of the legislative and regulatory framework aimed at covering areas which are not yet covered, on the one hand, and ensuring the constant and rigorous implementation of texts duly adopted so as to complete the construction of the rule of law; (v) improvement and streamlining of administrative organization (public structures and procedures) which will be rendered technically possible by the clarification of missions and objectives and, at the same time, by the rigorous application of rules and regulations; (vi) adaptation and modernization of management methods by seeking a better allocation of resources and above all the restoration of ethics; (vii) implementation of control procedures and efficient management of information to arm the Government with necessary tools for steering and monitoring the proper implementation of decisions; and (viii) increasing State resources and control of operating costs of public administration.

3.1.13 At the end of the donor round table on administrative reform held in Cotonou in November 2000, the Government retained six priority actions deriving from the recommendations of the Civil Service Forum and the 1994 administrative modernization. These include: (i) clarification of missions of the State; (ii) streamlining and stabilization of structures and administrative organization; (iii) promotion of information and communication technologies (ICTs); (iv) promotion of human resource development; (v) promotion of good governance through transparency and the fight against corruption in the administration; and (vi) implementation of the decentralization and deconcentration policy. At the institutional level, apart from the National Administrative Reform Commission (CNRA) set up in 1996, the General Directorate for the Reform and Modernization of the Administration (DGRMA) was established in August within the Ministry of Public Service. The DGRMA is henceforth the executing agency of the reform of the administration while the Administrative and Institutional Reforms Monitoring and Orientation Unit (CESCRAT) attached to the Presidency of the Republic monitors the reform.

3.1.14 Regarding the implementation of the strategy, it should be pointed out that after many years of delay, the implementation of the project for clarification of mission of the State started in 2003 with the support of UNDP and CIDA. The project background paper is now available and it is envisaged, for 2004, to finalize the legal framework of missions and to have the texts validated by the relevant bodies. After clarification of the missions of the State, the model organization chart of ministries will be reviewed on the new basis. With regard to the streamlining of administrative organization, an analysis of the man/post alignment as well as the preparation of nomenclatures of State jobs has now been initiated and should be completed in 2005. At the same time, the Government launched in 2002 the conduct of a diagnostic study on the functioning of ministries to identify overlapping missions, conflict of powers and structural inadequacies in relation to missions. Many procedural guides and user guides were prepared in the past. Concerning streamlining, it is planned to prepare a guide for the formulation of guides and manuals of procedures in order to harmonize and standardize practice in this area. Regarding human resource development, the Government conducted in 2004, with the support of the ACBF, a diagnostic study which will serve as a support document for the formulation of a national capacity building strategy.

Public Procurement Reform

3.1.15 In the area of procurement, the Government will ensure the implementation of the recommendations of the national workshop on public procurement held at the beginning of November 2002 in Cotonou, essentially to review the current system and replace it by a new more modern system that can guarantee and promote transparency, efficiency and

accountability and eliminate conflicts of interest. The reform is supervised by a National Coordination and Monitoring Committee (CNCS) whose composition will be extended to the private sector and civil society representatives and will be carried out in accordance with the final plan of action (PAL) adopted by the Government. The goal is to establish a transparent system by: (i) putting in place functional public institutions with distinct policy and surveillance responsibilities, on the one hand, and procurement procedures implementation responsibilities, on the other hand, (ii) strengthening the independence of the procurement system concretized by an institutional mechanism that ensures the efficient and objective examination of complaints (appeals) by bidders and guarantees the effective conduct of independent audits. The reform aims to achieve an efficient system through a clearly defined public procurement chain that empowers the various institutions involved in the execution of contracts and promotes an efficient distribution of tasks.

3.1.16 The objectives of the CNCS include the necessary corrections to the detailed plan of action to remedy the weaknesses noted and, above all, the definition of complementary actions and measures to guarantee the attainment of the above-mentioned objectives. This entails essentially: (i) the establishment of a regulatory organ in charge of the definition, control and monitoring of procurement regulation, one on the one hand, and the examination of complaints by bidders, on the other hand; and (ii) the restructuring of the public contracts execution chain in order to promote accountability by the various actors and ensure the efficiency of procurement.

3.1.17 Public procurement reform is supported by many development partners including the Bank with a view to contributing towards the transparent and efficient use of resources earmarked for the implementation of the poverty reduction strategy. Regarding the improvement of transparency of the legal and institutional framework for public procurement, the Government has already improved the procurement framework thanks to ADF and IDA support. By end-2005, the Government should effectively establish the Public Procurement Regulatory Agency (ARMP) and transfer the powers of the CNCS to the ARMP, install the Permanent Secretariat of the CNMP in accordance with the provisions of the amended decree and the CPMs in sectoral ministries with programme budgets and pursue the implementation of activities envisaged in the final plan of action of public procurement reform approved by the Government. Furthermore, there are plans to put in place modernized and standardized procurement procedures with notably the preparation of standard bidding documents (SBD) and standard evaluation reports, the revision of the Manual of Procedures and preparation of Public Buyer and Bidder Guides (GAPS). It is also envisaged to strengthen governance by integrating anti-corruption into procurement laws and regulations with the effective application of sanctions.

It should however be underscored that this procurement reform strategy has a number of risks. The first risk relates to the public resources auditing system which should be carried out in a non-judicial setting. The second risk is related to the capacities of sectoral ministries and State deconcentrated structures and the last risk is related to efficacy of the framework for coordination and dialogue with the private sector in order to foster its involvement in the execution of public contracts.

Decentralization

3.1.18 Benin has embarked on a decentralization process which seeks to empower the populations in the management of their localities, thus contributing to the entrenchment of

democracy at the grass-roots and to the promotion of sustainable local development. The Government intends to make decentralization an efficient poverty reduction tool because it institutes a new concept of populations who are no longer perceived as mere beneficiaries of services designed for them but as actors who initiate and decide by themselves what is most suitable for their well-being and exercise strict control over their elected representatives. The goal of decentralization is therefore the creation of favourable conditions for the exercise of local governance for the effective reduction of poverty. The Government also intends to build the managerial capacities of councils, support council development plans and strengthen the information and communication policy on local development. The main actions to be undertaken over the 2003-2005 period are: (i) installation of councils; (ii) effective transfer to councils of the prerogatives, powers and activities devolving upon them by virtue of the laws and regulations on decentralization; (iii) design and finalization of all management tools for the future local representatives as soon as they are installed; (iv) organization and holding of round tables of development partners in order to secure their support to councils; (v) support for the formulation of council development plans; (vi) continuation of the Decentralized Urban Management Project (PGUD) and implementation of the Decentralization and Urban Management Support Project; (vii) support to council administrations and to structures responsible for the implementation of decentralization; (viii) strengthening of the staff of councils, consolidation and popularization of existing management tools; (ix) putting in place in councils of an information and communication system.

3.1.19 Municipal and local elections were held in December 2003 and councils have been installed. Council development plans are being prepared. However, the problem of effective transfer to councils of prerogatives, powers and activities devolving upon them by virtue of the laws and regulations on decentralization is still to be solved. The central administration is still hesitating to transfer to the new local authorities certain portions of its power, notably those relating to the management of contracts. It is to be feared that council development programs are hampered because of inadequate resources for their implementation. This can undermine effective decentralization.

Private Sector Development

3.1.20 The poverty reduction strategy (PRS) accords great importance to the development of the private sector which must continue to be the engine of growth. The strategy aims to pursue and consolidate the reforms undertaken under the Private Sector Recovery Programme completed in 2002. To this end, the State will pursue its divestiture of public enterprises and ensure that its interventions are refocused on issues of regulation, promotion and support to growth. The main thrusts of the private sector development promotion policy are: (i) improvement of the business environment; (ii) strengthening of the competitiveness of enterprises; (iii) expansion and diversification of exports; (iv) support to micro-finance structures; (v) implementation of the project for training of entrepreneurs to render them more effective in the promotion of enterprises; (vi) development of large-capacity lorry parks and warehouses ; (vii) putting in place of the Private Sector Environment Observatory; (viii) setting up of an export insurance body; (ix) support for the creation, rehabilitation and strengthening of enterprises; and (x) strengthening of the mechanism for consultation and dialogue between the private sector and the State.

3.1.21 A study on the competitiveness of the Beninese economy and another study on corporate taxation were carried out within the framework of the private sector development

support project which is sponsored by the World Bank. Other actions were adopted concerning (i) the adoption of a competitiveness law and updating of Law No. 90-005 of 1990 on commercial activities; (ii) the putting in place of a special SME/SMI promotion programme; (iii) the revitalization and/or establishment of structures able to support or attract foreign investments; (iv) the implementation of a local building materials development programme; and (v) regional planning through the development of industrial zones.

3.1.22 The improvement of the legal framework for rehabilitating and promoting the private sector calls for the implementation of mechanisms able to guarantee and safeguard the rights of economic operators in the face of abuses of the administration. There is a need to revitalize synergy and partnership between the public authorities and professional organizations by increasingly involving the latter in the preparation, updating and popularization of instruments applicable to their activities. At the same time, to enhance accountability by the private sector, there are plans to implement actions to modernize the system of control at the level of the customs chain, sensitize operators on the content of instruments of an economic nature, in particular on tax policy provisions. These measures will also facilitate the transition from the informal sector to the modern sector.

Judicial Reform

3.1.23 The basic principles of Government's commitment in the area of judicial reforms are set out in the Justice Sectoral Policy Letter which states that "the consolidation of democracy and protection of human rights through the creation of an environment that guarantees legal and judicial security which allows for the promotion of citizens and fosters the recovery of the private sector which today is recognized as the engine of development in a liberal economy". In this context, the judicial system must be the backbone of good governance promotion policies and the real cornerstone of the process of entrenchment of the rule of law. To implement the reform, the Government adopted in May 2001 the Integrated Legal and Judicial Systems Capacity Building Program (PIRCS). The purpose of the Programme is to establish quality, efficient and credible justice that is accessible to the citizen and that contributes towards social peace and development. To this end, the plan is to equip the justice sector with a modern administration with adequate management systems and operating in a legislative framework suitable to the context of Benin.

3.1.24 The overall strategy proposed consists in carrying out, at the same, actions in each of the eight programme orientations/components so as to take into account their interdependence and the importance of carrying out at the same time a critical mass of actions bolstering the modernization of justice. This will be achieved through a participatory approach in the implementation of the following eight components: (i) strengthening of the Ministry in charge of Justice and Human Rights; (ii) strengthening of the organization and functioning of courts and tribunals; (iii) revamping of the statute of the magistracy; (iv) empowerment and protection of actors of justice; (v) building of the capacities of training institutions for professionals of Justice; (vi) modernization of the legal framework and harmonization of the law; (vii) modernization of the prisons system; and (viii) sensitization, information and education of actors of justice and the population on the justice reform programme. Concerning programme management, the Government recommends a results-based participatory approach. A National Monitoring Committee, comprising representatives of the executive, the judiciary and civil society, has been formed to steer the programme. The Technical Unit of the programme is in charge of implementation.

3.1.25 After the donor round table, the implementation of the PRCS started in 2002 thanks to the support of many development partners. In addition, justice is one of the priority sectors supported as part of the results-based budgetary reform. In this connection, the Government has made precise commitments to implement the reform measures provided for in the programme budgets, with the support of development partners including the World Bank which is envisaging an important 'justice' component in the second support loan for the poverty reduction strategy to be put in place in 2005.

3.1.26 As part of reforms supported by development partners, the Government has undertaken to revamp the legal and regulatory framework of the land tenure system. This reform focuses on land tenure security as concerns the owner and the buyer, reduction of transfer costs, improvement of the collection of the land tax and facilitation of land management by local authorities. Furthermore, concerning women in rural areas, the Government has undertaken to ease access to land and to review the Land Tenure Code hitherto in force. The draft bill relating to the Rural Land Tenure Code contains provisions which hold out prospects for rural women, in particular Article 10 which affirms the right of all citizens of Benin to agricultural land without discrimination as to sex under the conditions laid down by the laws and regulations in force. Activities planned from 2004 will allow for (i) the use of land titles to raise financial resources, (ii) the simplification of procedures for parcelling and selling land and fixed property taking into account the prevailing realities, (iii) the enumeration of all stages of the parcelling process, and (iv) easing of conditions for payment of parcelling charges.

Combating Corruption and Money Laundering

3.1.27 Combating corruption is an important component of the Government's poverty reduction strategy as the consequences of this phenomenon on growth and poverty are very disastrous. Many initiatives to combat corruption have been developed in Benin over the years both by civil society and the Government. All of these actions have had very little impact on corruption because of weak political will, inadequate civil society involvement in the fight as well as the absence of coordination between the various anti-corruption structures. It is in this spirit that a Strategic Anti-corruption Plan was adopted in 2001 with the following objectives: (i) put the administration at the service of development; (ii) render the government transparent and accountable; (iii) ensure transparency in politics in order to allow for the conquest of power through legal means; and (iv) consolidate social integration and nurture a more just society. These objectives were contained in the MLTF resolution approach which gradually starts by the detection and punishment of embezzlement, strengthening of the judiciary and placing emphasis on education and pressure from civil society the concern being efficiency, the economy and restoration of the credibility of the Government and confidence of the populations. This approach seeks, in the medium and long-term, to entrench preventive measures through the promotion of administrative and institutional reforms (ensuring the effective independence of the judicial system and reform of the civil service for example), put in place an effective reference framework for combating corruption, strengthen the primacy of the law, enhance civil society action, reform the attitudes and ethics of civil servants and improve their remuneration and evaluate annually the efficiency of the implementation of the Strategic Plan.

3.1.28 To this end, therefore, the key actions to be undertaken are: (i) establish an efficient legal framework for combating corruption; (ii) adopt a law against illicit enrichment and control the wealth of workers in charge of collecting the revenue of public bodies; (iii)

consolidate and strengthen the primacy of the law; and (iv) strengthen the action of civil society. Because of this vision, some priority actions should be underlined, namely: (i) revamping of the corruption control system and control in general; (ii) promotion of administrative and institutional reforms; (iii) building of civil society action capacity; (iv) creation of an environment that is hostile to corruption; and (v) strengthening the establishment, detection and punishment of acts of corruption.

3.1.29 Combating Money Laundering : the Government's strategy for combating money laundering aims to implement necessary measures for enforcement in Benin of the WAEMU community Directive on the fight against money laundering adopted in September 2002. In fact, for reasons of harmonization of methods for combating money laundering with WAEMU, the Directive contains a clause calling on all Member States to incorporate the Directive into their national positive law. The bill prepared for this purpose provides, among other things, for the institution of a National Financial Information Processing Unit (CENTIF). The mission of CENTIF will be, among other things, to receive, analyze and process information likely to establish the origin of transactions or the nature of operations for which natural persons and corporate bodies are accused. The anti-money laundering bill was transmitted to Parliament. In addition, CENTIF should be operational in the second half of 2005 with, in particular, the adoption of its basic texts and building of its capacities.

3.2 Diagnosis of the Relevance of the Strategy

3.2.1 Even though a national strategy per se is yet to be formulated, the various elements of ill-assorted programmes and actions put together constitute an appropriate response to governance problems identified in Benin. However, beyond the need for a more comprehensive approach, the relevance of the overall strategy would also benefit from being better coordinated and taking more into account reform implementation capacities, particularly at the institutional level. Moreover, the issue of monitoring and sustainability of reforms is posed at the preparation and steering phases.

3.2.2 The existence of necessary capacities for the formulation and implementation of reforms is an essential condition for their success. The fact that some of these reforms are imposed by partners and that national cadres do not master them and are not sufficiently/adequately involved is a major constraint to the improvement of governance which is compounded by the weak commitment of the authorities. Bad communication relating to reforms, the frequent change of officials responsible for implementing them and conscious and unconscious obstacles are proofs that the adherence of actors is sometimes doubtful. To date, the role and importance of civil society are not taken into account whereas they are, upstream as well as downstream, decisive for the suitability and efficiency of the envisaged reforms. Finalization of the national capacity building strategy will help to better focus the actions aimed at improving governance in the public sector.

3.2.3 Political Empowerment and Accountability: in this domain, it would be wise to speed up the implementation of the actions identified and to better control the politicization of the administration in order to avoid the orchestration of reforms for partisan ends. These are the factors that explain the slowness of reforms. It will also be necessary to promote the role of civil society which is very decisive in these reforms at the political level so as to bring them in line with the spirit and letter of the Constitution of 11 December 1990 and ensure

good governance. It would also be desirable to facilitate the development of mechanisms for dialogue between political actors.

3.2.4 Judicial and Legal Reforms: the Integrated Programme for Strengthening Judicial and Legal Systems has proven that it is, in general, an overall and coherent strategy for addressing the difficulties of the justice sector. It helped reverse the worsening trend of the crisis and the start of effective rehabilitation with the support of multilateral and bilateral development partners. The reforms initiated under the Integrated Programme must be pursued as concerns the rehabilitation of logistics, recruitment of judicial staff, training and adoption of more suitable new laws. The preparation of implementation texts of the new laws voted is also a pressing need. Signs of political will are remarkable with the quasi-doubling of the budget of Justice in 2004 and the introduction of the reform of PERAC/PARB within the concerned ministries. It is important to restore the credibility of judicial staff whose very low productivity and corruption are still obvious. It is necessary to pursue recruitments, apply the new texts on the statute of the magistracy and safeguard the independence of judicial staff. It is necessary to clarify the objectives and mission of justice (public prosecutor's office) in order to avoid slippages. Judicial statistics must be developed to enlighten decisions and evaluations.

3.2.5 Combating Corruption: the Strategic Anti-corruption Plan complies with all the rules in this area. Political will is still to be demonstrated by concrete repression acts. Impunity is still generalized. Civil society, education, information and communication actions as well as the coordination of structures involved in the combating of corruption must be strengthened. An anti-corruption law must also be adopted.

IV PRIORITY GOVERNANCE AREAS AND IDENTIFICATION OF POTENTIAL AREAS FOR INTERVENTION

The Poverty Reduction Strategy adopted in 2003 retains four strategic thrusts including the strengthening of governance and institutional capacities. The matrix of actions of the poverty reduction strategy (PRS) comprises 135 policy measures including 58 which are directly related to the improvement of governance. In addition, the forward-looking study "Strategic Vision of Benin by the Year 2025" deals in its plan of action for the period 2001-2006 with the consolidation of democracy and good governance. Apart from these different documents there are documents relating to results-focused budgetary reform embarked upon since 2000 with the support of the Bank, the Framework Paper on Administrative Reform adopted in 2000, the Final Plan of Action (PAF) for public procurement reform, the Integrated Programme for Strengthening the Legal and Judicial Systems and the Anti-corruption Strategic Plan. Recommendations from these reference documents and those deriving from this diagnosis of governance profile are presented in an exhaustive manner in Annex IV.

4.1 Priority Areas and Recommendations

4.1.1 Recommendations of priority actions were adopted on the basis of (i) the governance diagnosis carried out by the mission, (ii) the above evaluation of the implementation of actions to improve governance, (iii) outcome of the dialogue and presentation session of the CGP mission and (iv) current areas of intervention of partners in governance. These recommendations which have been the subject of many discussions between the partners and the Government, also confirm those retained under the Budget

Support Programme jointly funded by development partners including the Bank. On this basis, the recommendations made focus on :

- strengthening of political accountability ;
- macroeconomic management ;
- public finance ;
- administrative reform ;
- decentralization ;
- legal and judicial reforms ;
- combating corruption and money laundering ;
- public procurement system; and
- social protection and women's advancement.

Strengthening of Political Accountability: such strengthening calls for the continuation of actions undertaken at the legislative and executive levels.

4.1.2 *At the legislative level*, Benin is benefiting from support for building the capacities of parliamentarians provided notably by UNDP, ACBF and some bilateral partners. In the performance of its functions, the parliamentary institution is always confronted with serious operating and capacity problems. A needs assessment carried out in paragraph 2.1 relating to empowerment and accountability shows that it is urgent to remedy these numerous difficulties through the following actions: (i) enhancing the efficiency of technical committees, particularly in the control of the executive; (ii) training of Members of Parliament and cadres of the parliamentary institution in development policy analysis and preparation of Members' bills, and project and Members' bill analysis; and (iii) strengthening of the administrative and financial management of the Secretariat General of the National Assembly. Furthermore, it is necessary to place special emphasis on the gross insufficiency and inadequacy of working tools put at the disposal of the staff.

4.1.3 *At the level of the executive*: in Benin, the efficacy of reforms is marred by lack of coordination and leadership problems in the framework of governmental action. In this connection, actions should be pursued in the domains of (i) improvement of coordination, stimulation and monitoring mechanisms for cross-cutting programmes and (ii) streamlining and strengthening of control organs for a better execution of public expenditure. The reform of the control system concerns the entire internal public finance control system in Benin which is now carried out by the Finance Control, the General Inspectorate of Finance, both of which are established at the MFE, and specific General Inspectorates established in some ministries, on the one hand, and the Inspection and Internal Verification Directorates (DIVI) which are internal audit structures of sectoral ministries, on the other hand. Improvement of expenditure execution would therefore require the strengthening and streamlining of internal control with simplified procedures, a better definition of the duties of the different control structures and bringing together of the internal control organs within the same ministry. Success in the implementation of these reforms presupposes, for the Government, the preparation of a control vision and strategy for performance-based budget management. The expected outcomes of such reform will thus help generate information that can enlighten decision-makers on the proper functioning of an audited service. Such information should be on compliance with administrative, financial and accounting regulations and procedures, indicating risk levels and the levels of the results obtained.

Strengthening of Macroeconomic Management

4.1.4 Results-based public expenditure management focused on MTEF and programme budget preparation is a budgetary restraint tool as well as a tool for forecasting future sectoral policy financing. As such, Benin needs to strengthen its macroeconomic management in order to better factor in development and poverty reduction priorities. In this regard, the Government will have to (i) improve the macroeconomic framework to take into account poverty reduction concerns; (ii) consolidate activities for economic monitoring and decision making (Economic and Social Reports, performance charts, warning briefs), (iii) implement the plan of action for improving the MTEF and linkages between programme budgets and the PRSP/MTEF prepared with the support of the ADF and IDA; and (iv) adopt an institutional framework in line with the exigencies of unification of the ordinary budget and the PIP.

Improvement of Public Finance Management

4.1.5 Benin has made significant progress in budgetary reform which is pursued with the institution of programme budgets, monitoring of performance, presentation of accounts and programme evaluation in order to achieve the objectives of putting in place with the central administration of results-based management. However, the quality of programme budgets varies. Additional efforts would be required to improve the articulation of the strategic vision, the logical framework and performance/outputs indicators. To implement these management practices in its ministries the Government undertook in September 2004 to: (i) prepare, for adoption by the Council of Ministers, a results-based management policy and an operational implementation plan; (ii) initiate as early as 2004 the required actions to ensure the practice of results-based management in a number of programmes in 2005. In addition, the following will be pursued (i) reinforcement of means of action of revenue offices; (ii) extension of the system of management of externally-funded investment expenditures and their integration into the SIGFIP and extension of SIGFIP to all ministries and departments; (iii) restructuring and strengthening of the Directorate of the Budget to enable it to carry out the new functions deriving from budgetary reforms, namely delegation of expenditure authorization, budget consolidation and institution of results-based management.

Acceleration of Administrative Reform

4.1.6 A plan of action has already been adopted by the Government. From 2004, the plan comprises the following priorities: (i) clarification of missions of the State taking into account the effective implementation of the ongoing decentralization and review of organic instruments; (ii) updating of the automatic promotion system by establishing a new career and remuneration and contract-based employment system in the civil service; and (iii) establishment of a monitoring and evaluation system for measuring the performance of structures responsible for the implementation of reforms.

Decentralization

4.1.7 At the legislative and regulatory level, Benin has made progress in the area of decentralization, notably in the domain of regulations and instruments governing the functioning of decentralized structures. In the long run, this progress may be compromised if (i) an effective transfer to councils of the prerogatives, powers and activities devolving on them by virtue of the laws and regulations on decentralization is not carried out, (ii) support is not provided to council administrations and structures in charge of implementing

decentralization, (iii) the staff of councils is not strengthened, (iv) appropriate coordination mechanisms are not put in place in a context where the management of the perverse effects of council autonomy is mandatory and (v) the provision, mobilization or development of human, financial and material resources needed by these councils are not ensured.

Legal and Judicial Reforms

4.1.8 The Justice Sectoral Policy Letter sets out the fundamental principles of the reform of justice. The priority reform actions focus on : (i) strengthening and provision of the necessary infrastructure of the Supreme Court whose new head office is at Porto-Novo; (ii) review of the cost of services in order to render justice financially accessible to the majority of citizens; (iii) review of the code of criminal procedure so as to better guarantee individual rights; (iv) sensitization and training of judicial police officers and the forces of law and order so that, in handling of the accused, human rights are respected at all stages; and (v) the increased computerization of judicial services so as to ensure more efficient handling of cases.

Combating Corruption and Money Laundering

4.1.9 Benin has embarked on the implementation of an anti-corruption and money laundering policy. The Anti-corruption Observatory was established and it started since June 2004 the conduct of a survey on governance and corruption. To strengthen the anti-corruption and money laundering drive, Benin is planning, from 2005, to strengthen external controls and audits by transforming the Audit Bench into a Court of Auditors with sufficient resources. The National Assembly also plans to adopt by the end of 2004, the law incorporating into national legislation the WAEMU Directive relating to the fight against money laundering. The law will allow for the establishment of the National Financial Information Processing Unit (CENTIF).

Reform of the Public Procurement System

4.1.10 Remarkable strides have been made in the reform of the procurement system with the support of the ADF and IDA . A new regulatory and legislative framework has been put in place since 2004. Through the adoption of the law to amend the Public Procurement Code. This law sets up and defines the duties of the Public Procurement Regulatory Agency. By end 2004, Benin will put in place an institutional framework for reform of the public procurement system through the transfer of powers from the CNCS to the National Public Procurement Regulatory Organ, setting up of a new National Directorate of Public Procurement and the putting in place of Public Procurement Committees (CMP) at the level of sectoral ministries. From 2005, the reform of the public procurement system will lead to: (i) the preparation of standard bidding documents and standard bid opening and analysis reports; (ii) the determination of a reference price index; (iii) the computerization of the public procurement system; (iv) updating of the public procurement manual of procedures; and (v) integration of anti-corruption measures into laws and regulations governing public effective application of sanctions. The Bank and IDA are also planning to carry out a new CPAR review from 2005.

Social Protection and Advancement of Women

4.1.11 Improvement of social protection will be achieved through the extension to other localities of the Community-Based Programme for the Rehabilitation of the Handicapped and the establishment and building of the capacities of committees to fight against child trafficking. Regarding the advancement of women, it will be a question of (i) strengthening incentives for sending and maintaining girls in school, (ii) supporting training centres for girls' school dropouts, (iii) encouraging the retraining and redeployment of women who practice female genital mutilation and (iv) strengthening the training of women's groups in the processing and preservation of foodstuffs.

4.2 Areas of Intervention for Development Partners

4.2.1 The areas of intervention for the lead development partners in the area of good governance are presented in the matrix below :

	IDA	ADF	UNDP	ACBF	EU	USAID	Denmark	Netherlands	Canada	FRG	France	Switzerland
Political accountability	x	x	X	x	x				x			X
Macroeconomic management	x	x	X	x	x		x	x				X
Public finance							x	x	x			X
Administrative reform			X									
Decentralization							x					
Private sector/justice	x										x	
Combating corruption	x	x						x				
Public procurement												
Social protection and advancement of women												
							x					

4.2.2 **The Bank Group's** intervention in Benin in the area of governance is in keeping with the Poverty Reduction Strategy Support Programme (PRSSP). It is in the form of a budget support loan and an institutional support grant approved in December 2003. This programme is co-financed by the **World Bank**, the European Union, Switzerland, Denmark and the Netherlands. The PRSSP focuses on the following components : (i) acceleration of growth in a sustainable manner ; (ii) improvement of basic services and environmental protection ; and (iii) improvement and strengthening of governance. The programme aims, among other things, to complete the privatization programme and support the putting in place of strategies and a regulatory framework governing competition in the telecommunications, electricity and cotton sectors. The third component concerns : (i) results-based public finance reform; (ii) reform of the public procurement system; (iii) strengthening of the fight against corruption and money laundering; and (iv) improvement of the monitoring and evaluation of the poverty reduction strategy.

4.2.3 **UNDP** : the strategic thrusts of UNDP cooperation concern advocacy for sustainable human development, monitoring of poverty, decentralization with support directed essentially towards improvement of local governance and community development, microfinance through the provision of technical assistance and institution building, development of the private sector and environmental preservation. UNDP's good governance support programme covering an amount of US\$1 683 520 aims at strengthening (i) democratic institutions; (ii) national capacities in the promotion and respect of human rights; (iii) efficient mechanisms for participation by citizens in public management; (iv) a reliable, transparent and calm electoral process; (v) a public, central and local administration that meets the requirements of transparency, accountability and professionalism, and (vi) efficient economic and financial management that encourages private initiative. In addition, in

collaboration with USAID and Danish Cooperation, UNDP provides support for the establishment of a Permanent Computerized Electoral Register for Benin. Implementation of this project will help end the drawing up of specific registers which are unreliable and very costly under the leadership of the Autonomous National Electoral Commission during each election. In addition **Denmark** is carrying out specific selective actions for the promotion of good governance, notably support for decentralization, participation of women in community management structures and their integration into their sectors of intervention.

4.2.4 Cooperation between Benin and the **European Union** is carried out through the National Indicative Programme which determines key intervention sectors on which efforts are concentrated for a given period. For the period 2003-2007, the EU is providing assistance worth 208 million euros of which 12% is devoted to the improvement of governance and the rule of law, development of the private sector and actions to support culture. **France** is supporting the decentralization process, administrative reform and public finance management. It also provides assistance for strengthening defence and protection systems to promote the exercise of State authority and improve the security of persons and property. **The ACBF** supports many capacity building projects in Benin. The first project concerns the Economic Policy Analysis Unit (CAPE) which aims to build the capacities of Benin's administration in the analysis of the economic and social development problems of the country. The second project concerns the National Assembly's Development Policy Analysis Unit (CAPAN) whose objective is to build the capacities of Parliament to enable it to play its strategic role in the evaluation, formulation and dissemination of policies and laws in Benin.

4.2.5 **Canada** is supporting administrative reform, capacity building of the MFE control system and the electoral process. **Germany** places special emphasis on rural development, environmental management, decentralization and monitoring of poverty. **Canada** assists in the implementation of administrative reform, decentralization and reform of the control chain. Lastly, USAID is providing assistance for reform in the area of governance, decentralization and HIV/AIDS control. **Switzerland** is providing the Social Change Observatory (OCS) with support which should allow for a better monitoring and evaluation of the implementation of the PRS. In addition, it ensures the coordination of the development partners' theme group for the promotion of good governance in Benin. **USAID** places emphasis on the empowerment of citizens and civil society organizations through notably the strengthening of participation and managerial capacities in decentralized grass-roots communities as well as the improvement of the environment for private and local initiatives in the productive sectors.

4.3 Potential Areas for Bank Intervention

Areas for 2002-2004 CSP Concentration

4.3.1 The Bank's strategy in Benin for the 2002-2004 period is based on the Poverty Reduction Strategy Paper (PRSP). In accordance with a programme approach strategy, the sectors targeted by the Bank during the 2002-2004 period have as a basis the PRSP priorities, the recommendations of the seminar organized by the Bank and the Government with civil society and the private sector, as well as the Bank's experience in the country. In this context, the priority sectors adopted by the Bank in its intervention programme are: (i) rural development; (ii) basic infrastructure; and (iii) the social sector. These interventions will be backed by assistance for capacity building and support for reforms. The Bank will provide

technical support for building resource absorption capacities. With regard to the private sector, the Bank has already provided direct support for financing a cotton seed oil manufacturing plant called «Fludor-Benin S.A».

Potential Areas in light of the Governance Profile

4.3.2 The potential areas were determined on the basis of the priority needs identified in paragraph 4.1 above and the present areas of intervention of development partners. They focus on: (i) continuation of the improvement of the fiduciary framework and the public procurement system; (ii) direct support to the private sector; (iii) building of private sector capacities and elimination of barriers to private investment; (iv) reform of the justice sector; (v) fight against corruption and money laundering; and (vi) strengthening of structures and instruments for monitoring the poverty reduction strategy.

- (i) continuation of the improvement of the fiduciary framework and the public procurement system: the Bank will continue to support ongoing reforms for the entrenchment of results-based budgetary management. It will strengthen its support to internal and external control organs. It will also pursue its assistance for the establishment of the National Procurement Regulatory Organ, the National Directorate for Public Procurement and Procurement Units within technical ministries. Bank support will also help: (i) standard bidding documents and standard bid opening and analysis reports; (ii) determine a reference price index; (iii) contribute towards the computerization of the public procurement system; (iv) acquire software for the design and processing of documents used in public procurement; (v) update the public procurement manual of procedures; (vi) train staff in the public procurement system; and (vii) support the functioning of the reform group. The Bank is planning to provide institution support for the improvement of public resources control.
- (ii) direct support to the private sector and building of private sector capacities: insufficient diversification of production presupposes an improvement of the business climate and the elimination of barriers to private investment. The Government should also be supported, considering the improvements which will be made to the business climate, to provide direct assistance to the private sector through the putting in place of appropriate financing.
- (iii) combating corruption and money laundering: the Bank is currently supporting the Government to carry out the preparatory phase of the survey on corruption and governance status and to implement and disseminate the recommendations of the survey. The World Bank will be responsible for funding the survey on the ground. In addition, the Bank will support the Government in the creation and putting in place of CENTIF through the recruitment of a consultant to put in place operational structures and the constitution of a database, training of the cadres of CENTIF and procurement of logistics.
- (iv) strengthening of structures and instruments for monitoring the poverty reduction strategy: such strengthening is justified by the need to improve coordination, stimulation and monitoring mechanisms for cross-cutting programmes. Monitoring of the implementation of the PRSP will be carried out by the SP/CNDLP and the Social Change Observatory. To remedy the weaknesses of these structures, the Bank

plans to supplement the support provided by Danish Cooperation in order to strengthen the SP/CNDLP team's capacity to coordinate the PRSSP 1.

4.4 Framework for Monitoring the Implementation of the Recommendations of the Country Governance Profile (CGP)

4.4.1 This governance profile is a frame of reference for all capacity building and governance improvement actions. The implementation of the recommendations of the CGP is based on two essential points: the institutional framework for implementation of the CGP recommendations and the regular evaluation of governance and the status of capacities in Benin.

Institutional Framework

4.4.2 The CGP has already been validated in February 2005 in Benin. The validation brought together the representatives of Government services, private sector, trade unions and some development partners. Participants at the validation meeting lauded the Bank's efforts in the promotion of dialogue with all stakeholders in the improvement of governance in Benin. It was acknowledged that this CGP prepared in collaboration with the Bank, UNDP and the African Capacity Building Foundation allowed for a diagnosis of governance in the areas of empowerment, participation and accountability. The document also addressed the phenomenon of corruption and the issue of land tenure in Benin. Lastly, the CGP document proposed a plan of action for improvement of governance and building of capacities. Participants at the reconstruction meeting underscored the relevance of the content of the document and proposed improvements notably in the area of justice and administrative deconcentration which were integrated into this version of the CGP. The Government was informed that this document will be transmitted to the Board of Directors of the Bank and that it will serve as a framework for dialogue and a frame of reference for improvement of governance and capacity building in Benin. For the Government, this document is a contribution towards the formulation of national good governance programme.

4.4.3 The Government retained that the Permanent Secretariat of the National Commission for Development and Poverty Reduction (SP/CNDLP) is the focal point for the implementation of the CGP recommendations. This structure is responsible for coordinating the implementation of the PRSP. Lastly, the Government retained the principle of establishing an order of priority of the recommendations proposed by the plan of action of the study. This plan of action, which will be forwarded to the Bank, UNDP and ACBF, will be monitored by the Permanent Secretariat of the National Commission for Development and Poverty Reduction (SP/CNDLP). The Secretariat's task, in relation with the other departments and actors and development partners, will consist in playing the role of watchdog for all issues related to governance and capacity building.

Watchdog Function (Strategic Watchtower)

4.4.4 The implementation of the CGP recommendations must be based on a strategic monitoring exercise, hence a permanent evaluation which helps to obtain regular information on the progress made and to evaluate the efficacy and efficiency of programmes implemented and capitalize on successful experiences. The monitoring of the implementation of recommendations will be carried out by the SP/CNDLP. It is therefore recommended that the formulation of operational actions for capacity building and improvement of governance be

based on a permanent evaluation sequence. More precisely, it is proposed that a diagnostic review process be renewed which would be (i) both exhaustive and able to give proper account of the capacity building actions undertaken in the various development programmes and (ii) carried according to an outline and standardized procedures (report format, annual questionnaires to structures, statistical annexes to be updated, matrix of ongoing programmes, etc.).

4.4.5 The exercise of updating the diagnosis of capacities would be carried out in relation with the annual PRSP update deadlines. In fact, the PRSP is the basic reference for the determination of priority actions as indicated earlier on. It incorporates a series of other reference documents which develop the objectives, approaches, conditions of success, deadlines and performance expected of various policies or sectoral or cross-cutting programs.

4.4.6 In addition to the diagnosis and like policy letters or sectoral decennial plans, it is necessary to formulate periodically a summary policy paper on the capacity building actions to carried out (about ten pages) structured around three elements: long-term policies, a three-year priority framework and an outcome indicator framework. This document should set out the annual priorities to be carried out on the basis of the areas retained below. The priority and indicator framework would be evaluated and updated as part of the updating of the PRSP. In fact, it would practically be an integral part of the PRSP, by taking up the principles of a periodic evaluation of ongoing public programme impacts and updating of short and medium-term priorities.

4.4.7 The instruments proposed above meet the need to ensure a systematization of the evaluation and strategic planning of the strengthening of capacities and governance. On the this basis, the Government retained that the Permanent Secretariat of the National Commission for Development and Poverty Reduction of the Ministry of Finance and the Economy should perform the functions below relating to the monitoring of CGP recommendations :

- monitor the implementation of CGP recommendations;
- regularly carry out a review of the diagnosis and evaluation of governance, national capacities and capacity building programmes ;
- conduct consultations (seminars, workshops, initiation of coordination meetings with development partners on issues of operation or methods of capacity building and promotion of governance;
- regularly conduct studies to improve governance and capacity building ;
- put in place an information bank on the institutional framework and capacity building and governance programmes (the existing bank contains only about twenty documents) ;
- constitute a database on capacity building projects/programmes (monitoring indicators of impacts of implemented actions, placing emphasis particularly on training, organization and working means) ;
- provide a performance chart underlining, for the key programmes, gaps between the expected outcomes and the effective outcomes.

V CONCLUSIONS AND RECOMMENDATIONS

5.1 Conclusions

It is recommended that the Bank Group should continue to provide support to the Government to enable it to finalize and implement its good governance strategy. To this end, this governance profile is a choice instrument of fruitful dialogue that could result in the adoption by the Government of a priority action plan. The governance profile should be considered as a “cross-cutting” instrument focused on the improvement of governance (in its broadest meaning) and whose activities (updating and consolidation of the legal and regulatory framework, training plans, information systems, development of monitoring and control functions, promotion of consultation and participation mechanisms, etc.) will serve the PRSP objectives, notably during its review and updating. On the basis of the conclusions of this report, it is recommended:

5.2 Recommendations

To the Government :

- (i) To put in place a good governance programme. This recommendation is now being implemented. In this connection, the Government will draw on this CGP which is considered as a frame of reference ;
- (ii) To put in place an institutional mechanism and a system for monitoring progress made in the area of good governance and capacity building. The Permanent Secretariat of the National Commission for Development and Poverty Reduction (SP/CNDLP) was designated by the authorities as focal point for the monitoring of the implementation of the recommendations of this CGP ;
- (iii) To establish priorities in the recommendations retained by the CGP. The Government has pledged to transmit to the Bank, UNDP and ACBF a priority plan of action for the improvement of governance, following the reconstruction workshop on the CGP;
- (iv) To take the necessary measures to ensure adequate ownership of the various strategies relating to the improvement of governance ;
- (v) To assume leadership in the effective implementation of reforms and assign the necessary human and financial resources for their implementation ;
- (vi) To draw on the conclusions of the CGP to implement the African peer review mechanism which will address Benin in 2005.

To the Bank:

- (i) To draw on the priority action recommendations of this Governance Profile to design a governance support programme, in accordance with the CSP areas of concentration ;
- (ii) To strengthen cooperation with UNDP in the areas of good governance and sustainable human development (SHD) ;

- (iii) To agree with the Government, UNDP and the other development partners on studies to be conducted to deepen specific aspects relating to governance and capacity building ;
- (iv) To strengthen coordination with the other development partners with a view to creating synergy in the implementation of the various initiatives focused on the improvement of governance.

ANNEX I

LAWS AND DECREES RELATING TO GOOD GOVERNANCE

Politics

1. Law No. 90-32 of 11 December 1990: Constitution of the Republic of Benin
2. Law No. 90-10: Charter of political parties in Benin
3. Law No. 90-23 of 13 August 1990 and New Law No. 2001-21 of 9 July 2002 to establish political parties as players in the national political scene and to institute political ethical values
4. Law No. 2001-36 of 9 July 2002 to define the status of the opposition
5. Organic Law No. 98-1 of 16 January 1998 relating to the Court of Impeachment
6. Law No. 2000-18 of 3 January 2001 to lay down general election rules in the Republic of Benin.

Economic Management

1. Decree No. 2004/82 of 21 February 2004 relating to the organization and functioning of national bodies in charge of the National Poverty Reduction Strategy
2. Law No. 99/14 of 12 April 2002 to organize the National Statistics Council
3. Organic Law No. 86/21 of 16 September 1936 relating to the Finance Law
4. Decree No. 62/1587³ of 29 December 1962 to lay down general rules on public accounting
5. (i) Decree No. 62/288 of 2 June 1999 on the functioning of the National Tenders Board and Divisional Tenders Board in the area of national defence;
(ii) Decree No. 99/312 of 22 June 1999 to establish thresholds, negotiated contract and shopping procedures and rules applicable to design contracts;
(iii) Decree No. 99/311 of 22 June 1999 to introduce public procurement ethics and moralization code
6. Decree No. 99/514 of 2 November 1999 to organize the Ministry of Finance and the Economy
7. Decree No. 2000/266 of 22 May 2000 to organize the Treasury Judicial Agency
8. Decree No. 99/48 of 22 September 1999 to align the budget nomenclature with the norms of the West African Economic and Monetary Union (WAEMU)
9. Decree No. 2000/ 601 of 29 November 2000 to reform the procedures of execution of the State budget
10. Decree No. 99/311 to institute a Public Procurement Ethics and Moralization Code

³ A French decree implemented in Benin in the absence of a legal instrument to regulate public accounting

Administrative Reform

1. Decree No. 96/611 of 27 December 1996 to set up the National Commission for Administrative Reform (CNRA)
2. Law No. 97/28 of 15 January 1999 to organize territorial administration in the Republic of Benin
3. Decree No. 2000-616 of 7 December 2000 to organize relations between services of the Administration and users.

Judicial Reform

1. Law No. 64/28 of 9 December 1964 to organize the judicial system as amended by Law No. 90/3 of 15 May 1990
2. Law No. 2001/37 of 16 June 2002 to reorganize the judicial system in the Republic of Benin
3. Law No. 2001/35 of 19 November 2001: Statute of the Magistracy
4. Organic Law No. 94/27 of 15 June 1999 relating to the Higher Judicial Council
5. Law No. 2002/7 of 7 June 2002 to institute the Family and Individuals' Code
6. Decree No. 95/233 of 31 August 1995 to set up and organize the Anti-corruption and Service and Highway Robbery Committee
7. Decree No. 96-579 of 19 December 1996 to set up the Public Life Moralization Unit (CMVP).

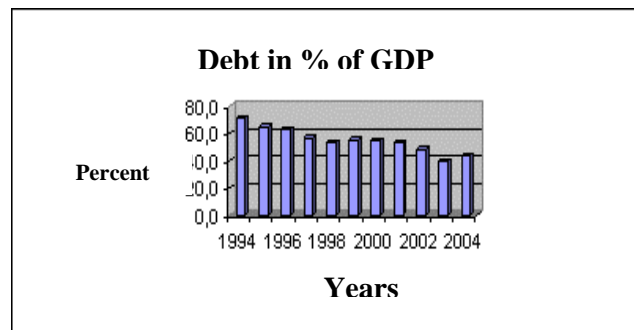
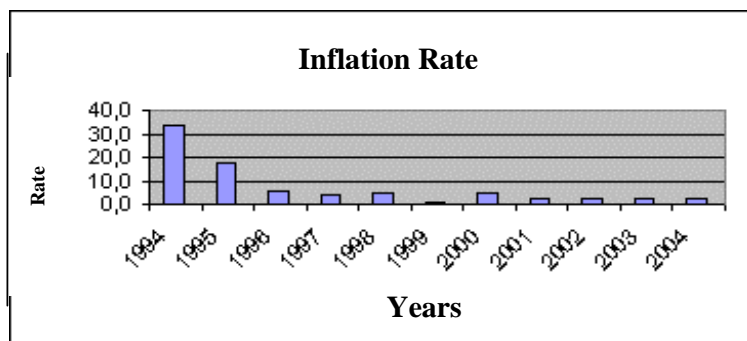
Private Sector Development

1. Law No. 92/23 of 6 August 1992 to organize the restructuring, rehabilitation and privatization of public enterprises
2. Law No. 98/4 of 22 January 1998 to institute the Labour Code
3. Law No. 90/2 of 9 May 1990 to institute the Investment Code
4. Law No. 90/18 of July 1990 to regulate the banking system
5. Decree No. 98/194 of 29 August 1990 to ratify the convention to set up the WAEMU Bank Commission
6. Decree No. 97-292 of 19 June 1997 to set up the Benin Chamber of Commerce and Industry.

ANNEX II

BENIN CGP : WAEMU CONVERGENCE CRITERIA

	Thresh old	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004
Prime criteria												
Basic fiscal balance	> 0	2.2	2.1	3.7	3.0	4.5	4.0	2.5	0.9	1.4	-0.5	0.0
Average annual rate of inflation	< 3%	33.4	17.4	6.0	3.9	4.9	0.6	4.7	2.8	2.4	2.4	2.7
Outstanding public debt in % of GDP	< 70%	70.8	64.9	62.7	56.5	53.3	55.3	54.2	53.2	48.1	39.2	43.7
Internal payments arrears	0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
External payments arrears	0	2.5	0.0	0.0	1.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Secondary criteria												
Wage bill on tax revenue	< 35%	50 ;2	43.8	40.8	39.0	35.4	33.2	31.0	32.0	31.9	33.5	33.4
Ratio of investment financed out of internal resources in relation to tax revenue	> 20	3 ;8	10.7	5.1	7.5	8.2	11.0	12.4	18.9	16.5	23.2	26.4
Current account deficit (excluding grants) as a ratio of GDP	< 5%	-2.5	-7.6	-6.9	-5.1	-6.0	-7.0	4.6	6.3	8.3	5.2	4.5
Tax ration	> 17	10.3	11.4	11.8	12.0	12.6	13.0	13.9	13.5	14.4	14.4	14.7



ANNEX III
SELECTED GOVERNANCE INDICATORS

Appeals to the Constitutional Council

Number of appeals against violations of human rights and civil liberties

YEAR	COMPLIANCE WITH THE CONSTITUTION (APPEALS IN GENERAL)	APPEALS AGAINST VIOLATIONS OF HUMAN RIGHTS
1993	11	2
1994	32 +2*	9
1995	48	17
1996	89	41
1997	65 +1*	39
1998	104	55
1999	58	20
5 April 2000	31	15

Respect of the Constitution : credibility of the Constitutional Council

Number of appeals against unconstitutionality

Indicators	1991- 1993	1994	1995	1996	1997	Total
Appeals against non-conformity to the Constitution	24	34*	48	89	65	260
Citizens	07	18	21	70	56	172
Executive	06	08	04	07	03	28
Legislature	08	06	09	01	-	24
Judiciary	-	-	01	01	01	03
Other institutions	-	-	06	01	03	10
Associations and similar bodies	03	04	07	09	04	27
Renderings	24	34	48	89	65	260

Source: Various decisions and renderings of the Constitutional Council from 1991 to 1997.

Assignment of staff in the judicial branch in 2000

Magistrates							Others			
Courts of Appeal and Courts of 1 st Instance		Supreme Court		MJLDH	Secondment	Total	Judicial officers	Court Registrars	Secretaries: Registry&Legal Department	Total
Bench	Legal Department	President’s cabinet	Outside cabinet							
63	19	3	8	28	20	141	11	34	37	82

NB: The magistrate/inhabitant ratio is currently 1 magistrate for 42 553 inhabitants

Number of cases examined by the judicial system

Number of cases examined by the judicial system										
Cases	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000
Assize Courts	23	12	16	22	20	33	57	95	79	49*
Judicial	More than 30 000 cases over this period, that is, about 3 000 cases examined every year									
1995 : 8086 examined by 70 magistrates, that is about 116 cases per magistrate										

Increase in number of political parties

	October 1990	December 1993	August 1994	November 1995	March 1999	September 2000
Number of parties	24	49	60	83	103	126

ANNEX IV

MATRIX OF PRIORITY GOVERNANCE ACTIONS IN THE PRSP

MEASURES	DATE	STATUS OF IMPLEMENTATION
<i>Reinforcing Political Accountability</i>		
<u>As concerns the Legislative</u> <ul style="list-style-type: none"> Build capacities for initiating Members' bills Build capacities for formulating and evaluating policies and programmes Build capacities for controlling the State budget Improve transparency and accountability in the management of Parliament's budget Improve access by the public to information and consultation with civil society with respect to the examination of bills and the monitoring of government policies and actions. 	2004-2006 2004-2006 2005 2005 2004-2005	
<u>As concerns the Executive</u> <ul style="list-style-type: none"> Streamline the organization of State structures Improve the participation of stakeholders in the formulation of policies Improve the mobilization and management of financial resources Improve coordination and stimulation mechanisms for cross-cutting programmes Implement and monitor government actions efficiently and rigorously (including sanctions) 	Dec. 2004 Dec. 2004 Dec. 2004 Sept. 2004 June 2004	
<i>Strengthening Macroeconomic Management</i>		
<ul style="list-style-type: none"> Pursue the improvement of the macroeconomic framework tool centred on poverty reduction Consolidate economic monitoring and decision-making activities (economic and social reports, performance charts, warning briefs) Provide INSAE with sufficient resources to carry out basic statistics activities including: (i) conducting regular surveys on household living conditions (ii) designing a questionnaire on basic indicators of well-being (iii) distributing such a questionnaire Draw up an action plan to improve the Medium-Term Expenditure Framework (MTEF) and links between programme budgets and PRSP/MTEF Adapt the institutional framework to the issue of unifying the current budget and the PIP Set up two new delegated implementing agencies Set up, after an in-depth study, a structure that will be the implementing agency of infrastructure projects financed under the State budget Prepare (by ST/CNDLP) a programme for the evaluation of the social impact of the implementation of the Poverty Reduction Strategy (PRS) 	2004-2006 2004-2005 Nov. 2004 June 2004 Dec. 2004 Dec. 2004 Dec. 2004 Sept. 2004	
<i>Improvement of Public Finance Management</i>		
<ul style="list-style-type: none"> Modernize and increase the means of action of revenue services and promote greater synergy between taxation services, MICPA and customs services Fight against fraud and tax evasion, contribute towards the computerization of the revenue processing system and design objective contracts within DGID Extend the expenditure management system to externally-financed investments and ensure that they are integrated into SIGFIB which should be extended to every ministry and department 	2004-2005 2005 2005 2005	

<ul style="list-style-type: none"> • Restructure and reinforce the General Directorate of the Budget (DGB) to enable it to perform its new duties following budgetary reforms, that is, delegation of expenditure authorization, unifying the budget and putting in place result-based management • Streamline the a priori and a posteriori internal control system • Reinforce external controls and audits by transforming the Audit Bench into a Court of Auditors provided with sufficient resources • Strengthen DGCP computer system to fight fraud more efficiently and step up payments * Build capacities in view of implementing priority programmes and planned reforms efficiently, consistent with greater accountability and transparency in the management of funds • Choose relevant indicators for measuring the performance of programme budgets and build the monitoring and evaluation capacities of technical ministries 	2004-2006 2004-2005 2003-2005 2005 2005	
<i>Acceleration of Administrative Reforms</i>		
<ul style="list-style-type: none"> • Finalize the clarification of the missions of the State, taking into account the effective implementation of ongoing decentralization and review organic instruments • Strengthen ownership of values of accountability and transparency by all government services and encourage government workers to adopt new behaviour patterns and mentalities • Update the system of automatic promotion by adopting a new APE career and remuneration system which establishes a genuine link between salary increments and productivity in the civil service • Promote civil service employment on a contract basis • Organize smooth dissemination of information between public administrative services and users • Implement an integrated system for APE management and staff management by objectives • Formulate and implement a national continuing professional training policy for the public sector • Render inspection and control bodies operational and effectively implement instruments governing civil service • Carry out job descriptions and ensure the use of procedure manuals in every public service • Improve access by the populations to government services and involve them in the assessment of these services • Put in place a monitoring and evaluation system for measuring the performance of structures in charge of the implementation of reforms 	2005 2003-2005 2004-2006 2004-2005 2003-2005 Dec. 2005 May 2005 June 2005 June 2005 March 2005 June 2005	
<i>Acceleration of Decentralization</i>		
<ul style="list-style-type: none"> • Organize municipal and local elections and create new councils • Transfer to councils the prerogatives, powers and activities devolving upon them by virtue of the laws and regulations on decentralization • Design and finalize management tools for future local representatives once they are installed • Support councils and bodies in charge of implementing decentralization • Increase council staff, consolidate and popularize existing management tools • Set up an information and communication mechanism within councils. 	Jan. 2003 2003-2005 2003-2005 2003-2005 2003-2005 2003-2005	

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