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OF THE TRUST TERRITORIES

## POPULATION, LAND CATEGORIES AND TENURE IN TOGOLAND UNDER FRENCH ADMINISTRATION\*

Working Paper Prepared by the Secretariat<sup>1/</sup>

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\* For figures of population, distribution of land, etc., see the Annex.

<sup>1/</sup> As requested by the Committee on the Rural Economic Development of the Trust Territories at its third meeting on 15 May 1951.

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/I. POPULATION  
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## I. POPULATION

A. General

1. On 31 December 1950 the population of Togoland under French Administration was 998,600, of which 997,217 were indigenous inhabitants and 1,443 were Europeans including Africans and others of European status (assimilés).<sup>1/</sup>

2. No data is available of the number of Africans not indigenous to the Trust Territory or of the size of the Lebano-Syrian immigrant community.<sup>2/</sup>

B. Distribution

3. The geographic distribution of the population on 31 December 1950, by cercle and sub-division, was as follows:<sup>3/</sup>

<u>Cercle</u>	<u>Sub-division</u>	<u>Africans</u>	<u>Europeans and assimilés</u>	<u>Total</u>
Lomé	Commune-mixte	31,628	1,101	
	Lomé	35,789	-	
	Tsévié	88,484	29	
	<u>Total</u>	<u>155,901</u>	<u>1,130</u>	157,031
Anécho	Commune-mixte	5,927	61	
	Remainder of the cercle	178,379	4	
	<u>Total</u>	<u>184,306</u>	<u>65</u>	184,371
Centre		106,884	68	106,952
Klouto		53,312	45	53,357
Sokodé	Sokodé	80,513	69	
	Bassari	58,688	7	
	<u>Total</u>	<u>139,201</u>	<u>76</u>	139,277
Lama-Kara		188,443	22	188,465
Mango	Mango	58,035	28	
	Dapango	111,134	9	
	<u>Total</u>	<u>169,170</u>	<u>37</u>	<u>169,207</u>
<u>Grand Total</u>				998,660

1/ Annual Report, 1950, p. 173.

2/ Annual Report, 1950, para. 11, p. 27.

3/ Annual Report, 1950, p. 173.

## II. CATEGORIES OF LAND

### A. General

4. The total area of the Territory is approximately 55,000 sq. km.<sup>4/</sup> Almost half of the land suitable for cultivation is idle. This land, where accessible and not infested with the tsetse fly to the point of rendering it unsuitable for habitation, lacks adequate water resources. The Administering Authority states that the main reason for neglecting its possible development lies, however, in the lack of population for the cultivation of such land.<sup>5/</sup>

### B. Categories of land

5. In 1950 the Administering Authority estimated that 55,000 sq. km. of the Territory's land area comprised the following categories:<sup>6/</sup>

- (a) Arable land (including fallow land)<sup>7/</sup> ..... 20,000 sq. km. (36%)
- (b) Forests (accessible and suitable for exploitation) ..... 2,000 sq. km. ( 4%)
- (c) Meadow and permanent pasture land ..... 2,000 sq. km. ( 4%)
- (d) Savannah woodland and insufficiently developed areas <sup>8/</sup> ..... 24,700 sq. km. (45%)
- (e) Forest and hunting reserves<sup>8/</sup> ..... 1,800 sq. km. ( 3%)
- (f) Other lands<sup>8/</sup> ..... 4,500 sq. km. ( 8%)

There are no mineral areas under development.<sup>9/</sup> Category (d) comprises the East-Mono-West Sokodé area which is sparsely populated and which is being

<sup>4/</sup> Annual Report, 1950, paragraph 1(a).

<sup>5/</sup> Annual Report, 1950, para. 85, p. 90.

<sup>6/</sup> Annual Report, 1950, para. 88-89, p. 90 and T/AC.36/L.41, p. 2.

<sup>7/</sup> Annual Reports for 1947 (p. 135) and 1948 (p. 133) estimated that arable land amounted to 8,000 sq. km.

<sup>8/</sup> Categories (d), (e) and (f) were estimated as amounting to 40,000 sq. km. in 1947 and 43,000 sq. km. in 1948.

<sup>9/</sup> Annual Report 1950, para. 92, p. 101.

progressively developed through the voluntary or directed emigration of the Cabrais people. Category (f) consists of areas of forest-covered mountains unsuitable for exploitation.<sup>10/</sup>

C. Geographical distribution of categories of land

6. No precise information on the geographical distribution of categories of land is available at the United Nations.

III. LAND TENURE AND LEGISLATION IN RELATION TO LAND CATEGORIES

A. Total alienated area

7. The area alienated under registered property title to non-indigenous inhabitants (Europeans, Lebanese, missionary societies, companies and corporations) is 565 hectares, mostly in urban areas.<sup>11/</sup>

8. The land area of private domain held by the government under registered title is 3,164 hectares.<sup>11/</sup> No information is available on the total area of land held by the government under public and private domain. The area of ex-German lands, held by the government, for which no title has yet been established comprises about 13,000 hectares.<sup>12/</sup>

9. The land of the private domain (domaine privé) of the Territory is alienable. The alienation of such land is done through provisional and final concessions. The Administering Authority states that such concessions are in no way different from sales under certain conditions; provisional concessions become final upon fulfilment of the conditions of the sale.<sup>13/</sup>

On 31 December 1950, the non-indigenous inhabitants held in the urban areas 20 hectares under provisional and 26 hectares under final concessions. On the same date, they held in the rural areas 36 hectares under provisional and 325 hectares under final concessions.<sup>14/</sup>

<sup>10/</sup> Ibid., para. 88-96, p. 90.

<sup>11/</sup> Ibid., para. 87, p. 81 and T/AC.36/L.41, p. 2.

<sup>12/</sup> Annual Report, 1948, p. 126.

<sup>13/</sup> Annual Report, 1949, p. 80.

<sup>14/</sup> Annual Report, 1950, para. 44, pp. 79-80 and T/AC.36/L.41, p.9.

10. The Administering Authority states that there are very few long or short term leases of domanial land. An area of 2,575 hectares of ex-German lands (domaine d'Agou), in the Klouto Cercle, is leased by the government to a French corporation.<sup>15/</sup> Another area of 3,000 hectares is leased by an indigenous inhabitant to a French planter in the Mango Cercle.<sup>16/</sup>

B. Main provisions of land legislation

(a) General

11. Land legislation in Togoland under French Administration provides for two forms of land tenure:

- (i) right of possession (Decree of 15 August 1934) and
- (ii) registered property title (Decree of 24 July 1906 rendered applicable in the Territory by the Ordinance of 31 January 1923).

The first deals with the indigenous inhabitants only, in particular, those who own and use the land under customary law. The second applies equally to indigenous and non-indigenous inhabitants.<sup>17/</sup>

The land area for which the indigenous inhabitants have obtained title stating their right of possession in accordance with customary law is 794 hectares.<sup>18/</sup> The land area for which indigenous inhabitants have established registered property titles is 6,814 hectares. Five-sixths of this area is registered as individual property and the remainder, or 1,111 hectares, as property of family units.<sup>19/</sup> In addition, the indigenous inhabitants held in the urban areas 27 hectares under provisional, and 18 hectares under final concessions. In the rural areas, they held 14 hectares under provisional, and 12 hectares under final, concessions.<sup>20/</sup>

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<sup>15/</sup> Annual Reports 1947, p. 133; 1948, p. 126; 1949, pp. 81 and 84.

<sup>16/</sup> Annual Report, 1949, p. 84.

<sup>17/</sup> Annual Report, 1948, p. 124 and T/AC.36/L.6, paras. 4 and 9.

<sup>18/</sup> Annual Report, 1948, p. 124.

<sup>19/</sup> Annual Report, 1950, para. 87, p. 81 and T/AC.36/L.41, p. 2.

<sup>20/</sup> Ibid., para. 44, pp. 79-80 and T/AC.36/L.41, p. 9.

12. The Administering Authority states that the protection of the interests of the indigenous inhabitants, who own and use their land under customary law, is provided by the Decree of 13 March 1926 under which no land constituting the collective property of the indigenous inhabitants or held by indigenous chiefs on behalf of communities may be sold or leased to private parties without the consent of the Commissaire de la Republique sitting in Privy Council.

13. The Administering Authority states that the protection of the interests of the indigenous inhabitants who own their land under individual property title is also provided by Article 7 of the Trusteeship Agreement under which no land belonging to a native or to a group of natives may be transferred, except between natives, without the previous consent of the competent public authority.<sup>21/</sup>

(b) Alienation

14. Although the land of the private domain (domaine privé) of the Territory is alienable, it cannot be alienated without the consent of the Representative Assembly.<sup>22/</sup> In principle, the private domain comprises all land for which no property titles are registered.<sup>23/</sup> At present, it is composed of:

- (i) ex-German lands,
- (ii) lands over which undefined rights of use are held (in particular, fallow lands classified as indigenous reserves), and
- (iii) vacant and ownerless lands over which no person is in a position to claim rights of property or use.<sup>24/</sup>

15. Public domain comprises the seacoast, navigable and non-navigable waterways, lakes, canals and irrigation ditches, aqueducts, harbour and roadsteads, railways and roads, public works utilizing hydraulic energy and military posts and fortifications (Decree of 1 September 1945).<sup>25/</sup>

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<sup>21/</sup> Annual Report, 1950, para. 87, p. 85 and T/AC.36/L.6, para. 8.

<sup>22/</sup> T/AC.36/L.41, p. 4.

<sup>23/</sup> Ibid., p. 2.

<sup>24/</sup> Ibid., p. 8 and T/AC.36/L.6, para. 25.

<sup>25/</sup> T/AC.36/L.6, para. 17.



16. Authorization to occupy portions of the public domain (domaine public) on sea, river or land, and exceptions to easements of way, may be granted by decision of the Representative Assembly, but such authorization may at any time be rescinded without compensation.<sup>26/</sup>

17. Portions of the public domain, including military installations and areas, recognized to be of no use for public services or of no general interest, may be dropped from the public domain. They then become part of the private domain and may then be alienated by decision of the Representative Assembly (Decree of 24 September 1945).<sup>27/</sup>

18. Procedure for the acquisition of real property required for the operation of public services or for any other reason of public utility varies according to whether the real property is registered or held according to local custom. Registered real property may be expropriated only by order of the judicial authorities. Before the property may be expropriated, a statutory decision must be passed by the Representative Assembly. Real property held according to local custom may be expropriated by decision of the Representative Assembly, which determines also the amount of compensation.<sup>28/</sup>

19. The Administering Authority states that, under the administrative law, domanial lands which are not used for the public services and are not expected to be used for the purposes of general interest must be offered for public sale. For this reason, the long or short term leases of domanial lands are very rare.<sup>29/</sup>

20. The procedure for alienation of domanial lands differs according to whether the land is urban or rural.<sup>30/</sup>

21. In urban centres lands are divided into lots and are offered for public tender or public auction by a decision reached in the Representative Assembly. No person making a tender or bid may be awarded more than three urban lots

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<sup>26/</sup> Annual Report, 1949, p. 80 and T/AC.36/L.6, para. 19.

<sup>27/</sup> T/AC.36/L.6, para. 20.

<sup>28/</sup> Ibid., paras. 21, 22 and 24.

<sup>29/</sup> Annual Report, 1949, p. 81.

<sup>30/</sup> T/AC.36/L.6, para. 26.

in the same locality. If no competitive tenders or bids are made, indigenous inhabitants may be granted urban lots free of payment.<sup>31/</sup>

22. In rural areas the land must be offered for public tender. If there are no competitive applications, the land is granted to the applicant.<sup>32/</sup>

23. Grants of rural lands convey only the surface rights. The right to subsoil products, including all natural mineral deposits and the use of sources of hydraulic energy, is retained by the Territory.<sup>33/</sup>

24. The full ownership of rural lands may not be awarded or granted until the prescribed time-limits have expired and the terms of the grant have been complied with.<sup>34/</sup>

25. Rural lands of not more than 10 hectares in one piece may be granted free of charge to indigenous inhabitants or communities. If the conditions of the grant have been duly complied with, full ownership is granted after a period of twenty-five years, provided that in the event of sale of such land, a minimum of 2 hectares is set aside as an inalienable indigenous homestead.<sup>35/</sup>

26. The Representative Assembly must be consulted in connexion with any grant of an area of more than 200 hectares.<sup>36/</sup>

27. In the event of disagreement between the Representative Assembly and the Commissaire de la Republique relating to the grant of agricultural concessions covering up to 1,500 hectares, a decision is taken by the Minister for Overseas France. Decisions on the concessions for greater areas are taken by the Council of Ministers after the hearing and advice of the Assembly of the French Union.<sup>37/</sup>

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<sup>31/</sup> T/AC.36/L.6, para. 27.

<sup>32/</sup> Ibid., para. 30.

<sup>33/</sup> Ibid., para. 31.

<sup>34/</sup> Ibid., para. 33.

<sup>35/</sup> Ibid., para. 37.

<sup>36/</sup> Ibid., para. 38.

<sup>37/</sup> Ibid., para. 39.



28. Grazing lands are leased to the highest bidder for a term of twenty-five years and such leases are renewable.<sup>38/</sup>

C. Indigenous land tenure

29. The types of land tenure of the indigenous inhabitants vary widely as to Cercle and ethnological group:

The Mobas (Mango cercle) - Land belongs to the chief and is allotted to families on the basis of usufruct. The land cannot be alienated and returns to the chief when abandoned by the users.

The Tchokossis (Mango cercle) - The land belongs exclusively to the chief of the tribe. There is no notion of individual, collective or family property whatsoever.

The Cabrais-Lossos (Iama-Kara cercle) - The concept of individual land property is widely spread. They may freely dispose of their land under a simple control and supervision of their chief.

The Cotocolis, Bassaris and Komkombas (Sokodé cercle) - Neither individual nor collective appropriation of land is permitted. The land is not alienable and the King himself cannot dispose of it.

The Amba, Ouatchis, Akpessor, Akabou (Centre cercle) - The custom is a very clear cut one; the land is God's and the natives enjoy its use through their village communities.

The Ewés (Klouto cercle) - Collective ownership of land, originally based on a family unit, with ever increasing tendency towards establishing individual property rights in respect of the rich land bearing profitable produce.

The Ouatchis, Minas, Fons (Anecho cercle) - Family ownership of land with the exception of Porte-Seguro, where village ownership of land prevails.

The Ewés (Lomé cercle) - Mixture of family and individual ownership of land. The latter is clearly predominant in Lomé city.<sup>39/</sup>

30. Two legal forms of indigenous land tenure exist in Togoland:

- (i) customary possession, and
- (ii) private property, as defined in the French civil code.<sup>40/</sup>

<sup>38/</sup> T/AC.36/L.6, para. 36.

<sup>39/</sup> Annual Report, 1948, pp. 123-124, and T/AC.36/L.41, pp. 4-5.

<sup>40/</sup> Ibid., p. 124 and T/AC.36/L.41, pp. 7-8.

31. The right to customary possession lasts only as long as actual occupation.<sup>41/</sup> It conveys rights of sale, exchange and lease, but such transactions have only relative validity and may at any time be declared void under the Decree of 24 July 1906.<sup>42/</sup> Once in possession of such title, the occupier may be dispossessed only by a judgment of the indigenous court.<sup>43/</sup> The Administering Authority states that in no case, however, may it confer the right of property as determined in the French civil code, although it represents a distinct advancement in that direction.<sup>44/</sup>

32. Private ownership of land may be established through registration in the Land Register and such registration confers a final and imprescriptible title of ownership.<sup>45/</sup>

D. Arable land under cultivation

33. Of the total land area of the Territory, 5,423 sq. km. of approximately 10 per cent was under cultivation during 1950. Of these, 674 sq. km. were under industrial crops and 4,749 sq. km. under food crops.<sup>46/</sup> No information is available at the United Nations as to the types of tenure under which this land is held.

E. Forests and savannah woodlands

34. Under this category are some 22,500 sq. km. of land or approximately 41 per cent of the total land area of the Territory.<sup>47/</sup> The forests and savannah woodlands are unevenly distributed over the Territory.<sup>48/</sup>

<sup>41/</sup> T/AC.36/L.6, para. 4.

<sup>42/</sup> Ibid., para. 6.

<sup>43/</sup> Ibid., para. 7.

<sup>44/</sup> Annual Report, 1948, p. 124.

<sup>45/</sup> T/AC.36/L.6, para. 9.

<sup>46/</sup> Annual Report, 1950, p. 253.

<sup>47/</sup> Annual Report, 1949, p. 96. Dense forests amount to approximately 1 per cent of the total land area of the Territory.

<sup>48/</sup> Annual Report, 1950, para. 90, p. 98.

35. There are no forest concessions in the Territory.<sup>49/</sup> A number of small enterprises are in operation, mostly for the purpose of gathering firewood. They operate under the system of permits which may be obtained after payment of the established fees.<sup>50/</sup> The forests of the domain (forêts domaniales) may be exploited only under State management or by regular cuttings, sold by public tender.<sup>51/</sup>
36. The forests of the Territory are divided into classified forest reserves and protected forests.<sup>52/</sup>
37. Classified forests are included in the "private" domain of the Territory. At present they cover an area of 38,450 hectares of 0.7 per cent of the total area of the Territory (1.75 per cent of the forest area of the Territory).<sup>53/</sup> Classification of an additional 40,000 hectares of forests is contemplated during the year 1951.<sup>54/</sup>
38. Protected forests are all other forests not classified as forest reserves. The indigenous inhabitants continue to exercise their customary usage rights in the protected forests. Protected forests are considered, however, as a transitional form which will disappear in due course and be either classified as forest reserves or disposed of in order to increase the cultivated area.<sup>55/</sup>
39. Measures for the protection and regeneration of forests were extended by the Decree of 4 October 1938 and the Ordinance of 23 November 1940 to mountain slopes, coastal dunes and all treeless or insufficiently wooded lands. Such areas are classified as "reafforestation areas".<sup>56/</sup>

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<sup>49/</sup> Annual Report, 1947, p. 142.

<sup>50/</sup> Annual Report, 1949, pp. 97 and 98.

<sup>51/</sup> T/AC.36/L.6, para. 50 and Annual Report, 1948, p. 137.

<sup>52/</sup> Annual Report, 1949, p. 96.

<sup>53/</sup> Annual Report, 1950, para. 90, p. 99 and T/AC.36/L.6, paras. 43, 44.

<sup>54/</sup> Ibid., para. 90, p. 100.

<sup>55/</sup> T/AC.36/L.6, para. 56 and Annual Report, 1949, p. 96.

<sup>56/</sup> T/AC.36/L.6, para. 54.

40. The forest law of the Territory is embodied in the Decree of 4 October 1938. It provides for the protection of forests by the establishment of classified forest reserves, for reafforestation, controlled exploitation of forest domains and enforcement of regulations against forest fires. With respect to the latter, the Decree provides for the collective responsibility of the indigenous communities unless proven otherwise.<sup>57/</sup>

F. Meadows and permanent pastures

41. Meadows and permanent pastures cover 2,000 sq. km. or approximately 4 per cent of the total area of the Territory.<sup>58/</sup> Grazing lands may be leased to the highest bidder for a term of twenty-five years, the lease being renewable.<sup>59/</sup> No data is available as to the number of such leases, or the area affected.

G. Mineral areas under development

42. There are no mineral areas under development in the Territory.<sup>60/</sup> A total of four prospecting licences have been granted in the Territory.<sup>61/</sup>

43. The mining legislation of the Territory is embodied in the Decree of 26 October 1927 under which the prospecting licence is valid for three years and may be renewed not more than twice for a period of two years.<sup>62/</sup> A prospecting licence carries the right to obtain a concession<sup>63/</sup> which is valid for 50 years and may be renewed twice for further periods of 50 years.<sup>64/</sup>

H. Other lands

44. Under this category the Administering Authority includes the mountainous forest area considered as wasteland. It comprises 4,500 sq. km. or 8 per cent of the total land area.<sup>65/</sup>

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<sup>57/</sup> Annual Report, 1947, p. 141.

<sup>58/</sup> Annual Report, 1950, paras. 88-98, p. 90.

<sup>59/</sup> T/AC.36/L.6, para.36.

<sup>60/</sup> Annual Report, 1947, p. 147.

<sup>61/</sup> Annual Report, 1950, para. 92, p. 101.

<sup>62/</sup> T/AC.36/L.6, para. 65.

<sup>63/</sup> Ibid., para. 70.

<sup>64/</sup> Ibid., para. 74.

<sup>65/</sup> Annual Report, 1950, paras. 88-98, p. 90.

<u>Estimated population</u> (1950)	<u>Area of the Territory</u>	<u>Land alienated to non- indigenous inhabitants</u> (1950)	<u>Land held by the indigenous inhabitants</u> (1950)
<u>Total:</u> 998,660	<u>Total:</u> 55,000 sq. km.	1. Under registered titles: 565 hect.	1. Under registered title: 6,814 hect.
Indigenous inhabitants 997,217	Distributed as follows (1950):	2. Under provisional concessions: 56 hect.	2. Under title of right of possession: 794 hect.
Europeans and assimilés 1,443	1. Arable land (including fallow land) 20,000 sq. km.	3. Under final concessions: 351 hect.	3. Under provisional concessions: 41 hect.
	2. Forests (accessible and suitable for exploitation) 2,000 sq. km.	4. Under leases: 5,575 hect.	4. Under final concessions: 30 hect.
	3. Meadow and permanent pasture land 2,000 sq. km.	5. Private domain of the Territory under registered titles: 3,164 hect.	5. Under customary forms of tenure: No data available
	4. Savannah and insufficiently developed areas 24,700 sq. km.	6. Ex-German lands not under title or lease: 10,425 hect.	
	5. Forest and hunting reserves 1,800 sq. km.	7. Total area of the private domain of the Territory: Data not available	
	6. Other lands 4,500 sq. km.	8. Total area of the public domain of the Territory: Data not available	