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INTERNATIONAL COURT OF JUSTICE

**LEGAL CONSEQUENCES ARISING FROM THE POLICIES
AND PRACTICES OF ISRAEL IN THE OCCUPIED PALESTINIAN TERRITORY,
INCLUDING EAST JERUSALEM**

(REQUEST FOR AN ADVISORY OPINION)

**WRITTEN STATEMENT OF THE GOVERNMENT
OF THE REPUBLIC OF TOGO**

24 July 2023

[Translation by the Registry]

Further to the communications from the Registrar of the International Court of Justice dated 19 January and 6 February 2023, and the Note Verbale of 2 June 2023 addressed to States entitled to appear before the Court under the procedure concerning the request for an advisory opinion submitted to the Court by General Assembly resolution A/RES/77/247 of 30 December 2022, the Government of the Republic of Togo has the honour to present, for the attention of the Registrar, the following written statement.

1. On 30 December 2022, at the 56th meeting of its seventy-seventh session, the United Nations General Assembly adopted resolution A/RES/77/247, requesting the International Court of Justice, pursuant to Article 65 of its Statute, to render an advisory opinion on the *Legal Consequences arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem*.

2. The questions put to the Court presuppose violations of international law by Israel and ask what the legal consequences are of these presumed violations¹. More specifically, question (b) asks how the presumed violations affect “the legal status of the occupation”, and what are the “legal consequences that arise for all States and the United Nations from this status”.

3. The Court, pursuant to Article 66, paragraph 2, of its Statute, has invited the States entitled to appear before it to furnish information on the questions submitted to it, and fixed 25 July 2023 as the time-limit within which written statements may be presented.

4. In this regard, the Republic of Togo, concerned at the above-mentioned request from the General Assembly for an advisory opinion, would point out that the questions put to the Court raise a number of important issues.

5. First, it seems that the principal aim of this initiative is to encourage the Court to conclude that the legal framework established for bringing about peace between the Israeli and Palestinian sides, as approved by the international community and reflected in the repeated United Nations resolutions and in the binding Israeli-Palestinian agreements, should be abandoned in favour of a finding that the security presence of Israel in the Territory, which came under its control in 1967, is unlawful in itself and should be ended by a unilateral withdrawal without preconditions, negotiations or any agreements on security.

6. Such a conclusion would not only be inappropriate in legal terms, but also highly counter-productive. It risks further destabilizing the situation on the ground, jeopardizing the present Israeli-Palestinian co-operation in the areas of security, the economy and civil society — which could have considerable humanitarian consequences — giving power to extremist forces, and undermining the

¹ The questions set forth in para. 18 of the resolution are as follows:

“(a) What are the legal consequences arising from the ongoing violation by Israel of the right of the Palestinian people to self-determination, from its prolonged occupation, settlement and annexation of the Palestinian territory occupied since 1967, including measures aimed at altering the demographic composition, character and status of the Holy City of Jerusalem, and from its adoption of related discriminatory legislation and measures?

(b) How do the policies and practices of Israel referred to in paragraph 18 (a) above affect the legal status of the occupation, and what are the legal consequences that arise for all States and the United Nations from this status?”

agreed and legally applicable mandate which remains the only viable pathway to a peaceful resolution of this tragic conflict.

7. Second, the Republic of Togo fears that making use of the advisory opinion procedure in such a case could result in a weakening of the principle embodied in Article 36 of the Statute of the Court, whereby contentious proceedings may only be brought before it with the consent of the parties concerned. It also fears that this could undermine the Court's prestige and judicial integrity by creating a dangerous precedent. And lastly, this opinion risks exacerbating the hostility between the two sides and compromising the scope for achieving a peaceful and negotiated settlement of the conflict.

8. Consequently, as a United Nations Member State which shares the international community's hope of seeing all aspects of the Israeli-Palestinian conflict resolved in a peaceful way, the Republic of Togo supports the idea that the international community must seek to take measures that will encourage dialogue and negotiation, and believes that submitting isolated questions to the Court without the consent of the parties cannot encourage peaceful settlement of the conflict, but is more likely to have adverse consequences for the Court's ability to perform its judicial function.

9. For the reasons set out above, the Republic of Togo therefore asks the Court to use the discretionary power conferred on it by Article 65, paragraph 1, of its Statute and, on the grounds of judicial propriety, to decline to give the advisory opinion sought in this instance, so as to give a chance to the legal framework established for the purpose of resolving this conflict.

24 July 2023

(Signed) Koffi AKAKPO,

Chargé d'affaires *a.i.* at
the Permanent Mission of Togo
to the United Nations in New York.
