

CONVENTION ON INTERNATIONAL TRADE IN ENDANGERED SPECIES  
OF WILD FAUNA AND FLORA

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Sixty-ninth meeting of the Standing Committee  
Geneva (Switzerland), 27 November - 1 December 2017

Species specific matters

Malagasy ebonies (*Diospyros spp.*) and palisanders and rosewoods (*Dalbergia spp.*)

REPORT OF MADAGASCAR

1. This document has been submitted by Madagascar.\*

**A. Background**

At the 67th meeting of the CITES Standing Committee, following discussion with the Parties, Madagascar was asked to submit a report by 31 December 2016 on the implementation of the actions arising from the recommendation of the CITES Secretariat in paragraph 32 (doc. SC 67, 19.1), as follows:

- i) The Standing Committee has approved the results of an inventory, audit and use plan of at least a third of the stockpile to determine what volumes of the *Dalbergia* spp. and *Diospyros* spp. stockpiles have been legally accumulated and can be legally exported;
- ii) Madagascar regulates trade in palisander species, prohibits illicit trade and penalizes such trade in accordance with the provisions of the Convention; and
- iii) Madagascar demonstrates, to the satisfaction of the Standing Committee, a significant increase in enforcement actions, including by detailed reporting of the number of seizures, arrests, investigations and prosecutions of offences involving illegal logging and illegal trade in rosewood, ebony and palisander species from Madagascar.

As an outcome of the 17th meeting of the Conference of the Parties to CITES, held in 2016 in Johannesburg, South Africa, the CITES Action Plan for Malagasy ebonies and rosewoods was revised and is detailed in Decisions 17.203 to 17.208 "Malagasy ebonies (*Diospyros* spp.) and palisanders and rosewoods (*Dalbergia* spp.)" for purposes of clarification of responsibilities.

Madagascar is required to implement the actions described in Decision 17.204. These actions fall into three main groups:

- Sustainable management of biodiversity and scientific research [Decision 17.204, paragraphs a) to d)]
- Significant strengthening of law enforcement regarding forestry infractions [Decision 17.204, paragraph e)]
- Management of stockpiles of precious woods [Decision 17.204, paragraph f)]

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\* The geographical designations employed in this document do not imply the expression of any opinion whatsoever on the part of the CITES Secretariat (or the United Nations Environment Programme) concerning the legal status of any country, territory, or area, or concerning the delimitation of its frontiers or boundaries. The responsibility for the contents of the document rests exclusively with its author.

Madagascar submitted its report on the implementation of the aforementioned actions in December 2016. After reviewing the report and the Secretariat's recommendations based on it, the Standing Committee decided on 11 June 2017 via postal procedure to maintain its recommendation to suspend commercial trade in specimens of the species *Dalbergia* spp. and *Diospyros* spp. from Madagascar that are included in the CITES Appendices with annotations #15 and #5 respectively, until Madagascar has complied with the provisions in Decision 17.204, paragraphs e) and f). The CITES Secretariat notified the Parties on 27 June 2017 (Notification No. 2014/047).

At the present stage, Madagascar has made efforts to effectively implement Decision 17.204 at both the national and international levels, regarding the sustainable management of precious woods.

This document is the report of Madagascar for the 69th meeting of the Standing Committee. It is a follow-up to the progress report on the CITES Action Plan for Madagascar submitted in December 2016 and addresses paragraphs e) and f) of Decision 17.204, which read as follows:

- e) for those species identified under paragraph a), significantly strengthen control and enforcement measures against illegal logging and export at the national level including seizures, investigations, arrests, prosecutions, and sanctions;
- f) submit regular updates on audited inventories of at least a third of the stockpiles of species of *Dalbergia* and *Diospyros* from Madagascar, and a use plan for consideration, approval and further guidance from the Standing Committee.

B. Progress report on the implementation of Decision 17.204, e) and f) by Madagascar

I. Significant strengthening of law enforcement regarding forestry infractions [Decision 17.204, paragraph e)]

In accordance with Decision 17.204, paragraph e), Madagascar must report all cases of illegal exploitation of forestry resources as well as forest product seizures, investigations, prosecutions and punishment of offenders. Several actions were reported in December 2017. The current situation is as follows:

#### **I.1. Follow-up on the 89 pending infringement cases (SC 67 doc 19.1, paragraph 23)**

A follow-up report has been drafted on the pending infringement cases at the court of first instance. The Government has deployed a technical follow-up team (Order no. 26298/2016 of 8 December 2016 establishing the Inter-ministerial Committee for the monitoring of illegal trade in natural resources) and is closely working with the Ministry of Justice in the regions concerned. This has revealed that the number of cases amounts to 79, of which:

- 53 cases have been judged with the following outcomes:
  - 06 cases closed without further action
  - 903 cases committed to trial
  - 127 defendants tried, of which 107 convicted and 20 acquitted
- 21 cases being processed
- 05 cases not registered at the Public Prosecutor's Office.

**Table 1: Summary of the 79 infringement cases**

Regional Directorate for Environment, Ecology & Forests	No. of cases	No. of cases judged	No. of cases closed without further action	No. of cases committed to trial	No. of defendants tried	No. of defendants CONVICTED	No. of defendants acquitted	No. of cases being processed	No. of cases not registered at the Public Prosecutor's Office
MENABE	01	01	00	00	03	03	00	00	
ATSIMO ANDREFANA	03	03	00	00	02	02	00	00	
DIANA	05	04	00	00	11	11	00	00	01
ATSIMO ANTSINANA	03	02	00	00	13	10	03	01	
ANALAMANGA	25	14	03	00	37	34	03	07	04
BOENY	03	03	0	00	05	03	02	00	
ANALANJIROFO	05	05	02	00	10	06	04	00	
VATOVAVY FITOVINANY	13	07	00	03	10	05	05	06	
ANTSINANA	18	13	01	00	35	33	02	05	
MELAKY	03	01	00	00	01	00	01	02	
<b>TOTAL</b>	<b>79</b>	<b>53</b>	06	03	127	107	20	<b>21</b>	<b>05</b>

## **I.2. Follow-up on the actions regarding the seizure of rosewood in Singapore**

### **I.2.1. Action of Madagascar on the court case in Singapore**

Following the seizure of a rosewood shipment originating from Madagascar, 3,372 tonnes of rosewood are currently stockpiled in Singapore since March 2014.

As a consequence of the Malagasy Government's firm position on the illegality of the export of this timber, further reinforced in November 2016 by the hiring of an international lawyer registered at the Singapore Bar in order to defend its position, in May 2017 the High Court of Singapore sentenced the firm Kong Hoo, Ltd. to a fine of S\$ 500,000 in damages and 3 months' imprisonment for its director, Mr Wong Wee Keong, for the illegal import of protected species without authorization.

The Government of Madagascar and the Government of Singapore are in permanent communication regarding the follow-up of this case via their respective Ministries of Foreign Affairs.

In addition, with a view to a civil trial, the State of Madagascar filed a complaint for forgery against Kong Hoo Pte Ltd. and its director Mr Wong Wee Keong before the High Court of Singapore, under reference no. 174 of 2017. The purpose is to use civil action to ensure that the seized rosewood remains in Singapore and to claim damages against the defendants (see Annex II).

### **I.2.2. Launch of nationwide investigations to identify and prosecute accomplices in the illegal export of rosewood to Singapore**

Several inquiries are currently under way at a national level with the purpose of identifying and arresting the accomplices in the illegal export of the rosewood shipment seized in Singapore, following the complaint “against persons unknown” filed at the court of first instance by the Directorate of Legislation and Litigation in May 2017 and also report no. 265/14-MEF/SG/DGF/DCAI of 29 April 2014, filed by the Ministry of Ecology and Forests.

A first reminder for activation of the investigation was issued by the Public Prosecutor to the Police (Ministry of Public Safety) and the Gendarmerie (State Secretariat for the National Gendarmerie) on 18 August 2017 (see Annex III).

Arrest warrants and wanted notices were issued in October 2017 for three individuals involved in the acts of corruption linked to the illegal export of a significant amount of precious timber in the regions of SAVA and Analanjirifo. The warrants and notices are still valid.

### **I.3. Control measures against illegal exploitation at the national level**

#### **I.3.1. Suspension of the logging of precious woods**

In December 2016, the Malagasy Ministry of Environment, Ecology and Forests (MEEF) issued Instruction Note no. 897/16/MEEF/Mi suspending all commercial logging authorizations and exploitation permits within management transfer areas for precious woods.

Moreover, in the framework of the tendering procedure for selling forestry plots, the MEEF has decided to exclude from the sale the inventoried trees of *Dalbergia* spp. and *Diospyros* spp. The approved operator who wins the bid must respect this technical clause.

#### **I.3.2. Control measures at the regional level**

Each Regional Directorate for Environment, Ecology and Forests of the MEEF is responsible for monitoring the pressures on the forest as well as the illegal exploitation of forest products within its respective district.

Ordinance no. 60-128 specifies the procedure applicable for punishing infringements of legislation regarding forestry, hunting, fishing and nature protection. Officers in charge of forestry law enforcement can therefore seize and confiscate all products and proceeds of the infringements in accordance with this text.

Act 2005-018 on international trade in species of wild fauna and flora implements CITES at the national level and sets the general rules applicable to punish offences involving the use of species included in the CITES Appendices.

**Table 2: Summary of forestry infractions recorded at the regional level, first semester of 2017 (data from the Direction de Contrôle Forestier, 2017)**

Type of infraction	Region	Period	Number of timber units seized	Type of timber seized	Legal status
Forestry infraction – logging, illegal transport (palisander)	Menabe	March	46	Logs	Verdict: acquitted, fine of 2,000,000Ar
		April	1	Plank	Acquitted, fine of 60,000Ar
		April	33	Beams	Unknown perpetrator
		May	39	Logs	3 months' imprisonment, each of the 2 defendants must pay 200,000Ar
		June	97	Logs	Unknown perpetrators
		July	116	Logs	Unknown perpetrators
		July	6	Planks ( <i>battanes</i> )	Unknown perpetrators
		July	13	Roundwood	Unknown perpetrators
	V7V	March	89	Planks ( <i>battanes</i> )	Defendant under order of detention, case submitted to the court and pending examination
	Diana	May	2	Planks	Unknown perpetrator
		June	237	Sleepers	Three offenders under order of detention by the Court of Nosy Be
	Amoron'i Mania	April	7	Logs (products transformed into chairs and stools by the Zafimaniry)	Imprisonment: 5 years, suspended, each of the 2 defendants must pay 2,000,000Ar, ordinances nos. 621 and 622-NE/2017 of 07/06/2017 for the public auctioning of the seized goods
	Vakinankaratra	January	32	Logs	Unknown perpetrator, case forwarded to the court, awaiting ordinance for the public auctioning of the seized goods
		July	29	Logs	Unknown perpetrators
		August	117	Logs	Accomplices held on bail, search for the identified offenders, case currently under examination
	MELAKY	July	105	Sleepers, planks	Currently under examination by the court
	SAVA	March	1	Log	Illegal logging within Marojejy National Park, currently under examination by the court

### **I.3.3. Border control measures and costal surveillance**

In 2016, Madagascar requested the assistance of the maritime surveillance centre *Collecte Localisation Satellites* for the satellite monitoring of boat anchoring points in sensitive areas of north-eastern Madagascar. This allowed for the detection and anticipation of suspicious vessel movements. From 2017 onwards, the operation has been taken over by the Maritime Information Coordination Centre (*Centre de Fusion et d'Information Maritime*, or CFIM), which comprises several countries and institutions of the Indian Ocean and controls the maritime space of that ocean, including Madagascar. Thanks to the coordination in the fight against illegal trafficking with the Maritime Information Coordination Centre, whose objective is to enable the launch of an early warning if a potential or proven risk is identified, several illegal export attempts have been uncovered. This surveillance revealed the following illegal export attempts:

- February 2017: attempted export of 341 rosewood logs aboard a vessel named LUMINA at Antalaha (SAVA Region). 12 people charged, of which 9 have been placed under temporary detention by the court. The case is currently under examination by the senior magistrate of the Court of Antananarivo. The defendants have been thoroughly interviewed and the closure of the proceedings is pending execution of the delegation of judicial powers to the judicial police for the search and arrest of the remaining involved individuals, still at large.
- June 2017: attempted export of 22 rosewood logs aboard a small vessel at Mananara (SAVA Region). 3 people arrested and placed under detention. One more person, the owner of the vessel, is currently at large and under arrest warrant for both the Gendarmerie and the Police. The identity of this person has already been ascertained by the authorities.

Apparently, the seized rosewood timber does not originate from new fellings in protected areas but rather from attempts to move existing stockpiles yet to be inventoried. Thanks to the exchange of information between the different government bodies and informers and also to the prevention, surveillance and monitoring actions put in place, the players involved in these attempts have been dissuaded from their potential intentions and suspicious plans for the transshipment of rosewood.

#### **The facts**

Based on the information received by local informers, a vessel conducting coastal trade within Madagascar was suspected of preparing a transshipment of rosewood at the beginning of October 2017. It was the subject of intense monitoring by the Maritime Information Coordination Centre (CFIM). According to the information received, while it was docked at a port in eastern Madagascar, this vessel tried to recruit dockers with a promise of payment linked to a suspicious operation.

#### **Measures taken**

As soon as the CFIM received the information, it shared it with the various stakeholders involved in the fight against the trafficking of rosewood, namely the Ministry of Environment, Ecology and Forests, the Executive Secretariat of the Inter-ministerial Committee in charge of reforming the rosewood and ebony sector, the State Secretariat of the National Gendarmerie, the COMGN/DSR, the MDN/CEMGAM/COFONA and the Directorate-General for Customs. Upon reception of the information, these bodies informed their members in order to strengthen surveillance and intelligence gathering in the field. The CFIM continued to conduct investigations and all the above-mentioned bodies shared information throughout the monitoring process.

The Gendarmerie brigade located near the port conducted a search and inspection of the vessel prior to its departure. The *Préfet* (State representative) and the Gendarmerie of the region concerned set up a mechanism for the surveillance of the vessel after its departure. In addition, the customs authority activated its staff and reinforced the surveillance in the port in question. The vessel is still under surveillance, so the information is confidential at this stage.

### **I.3.4. Coastal surveillance through the use of speedboats acquired by the MEEF**

Of the 4 speedboats acquired by the MEEF, 2 are currently undergoing maintenance and repair work at the port of Tamatave; the other 2 are stationed in Sainte Marie region (near Masoala and Mananara Nord national parks). The Malagasy government has financial difficulties to operate these speedboats, whose estimated operating cost is approximately USD 100,000 per year.

#### **I.4. Strengthening of efforts to combat wildlife crime**

The Ministry of Environment, Ecology and Forests (MEEF), along with all other bodies involved in law enforcement such as the Prime Minister's office, the Gendarmerie, the Police, Customs, the Ministry of Justice, the Financial Intelligence Unit (SAMIFIN) and the Independent Anti-Corruption Bureau (*Bureau Indépendant de lutte Contre la Corruption*, or BIANCO), all validated at the national level the UNODC assessment mission report on wildlife crime on 1 August 2017. The MEEF submitted the validated version to the UNODC.

#### **I.5. Additional measures undertaken by the MEEF Government**

The MEEF conducted a first wave of staff recruitment to strengthen its team of frontline officers in early 2017. Currently, in September 2017, a second recruitment wave for new Judicial Forestry Police officers (forestry engineers and technical assistants) is under way, again with the goal of reinforcing the Forestry Department's field team in the context of forestry control. These newly recruited officers will work particularly in the 11 protected areas, including Masoala and Marojejy, to ensure protection against illegal land clearing and exploitation and trafficking operations.

Apart from these recruitments, throughout the various government departments, officials who were not fulfilling their responsibilities have been replaced. The Ministry of Environment, Ecology and forests, the Gendarmerie, the army and the regional prefecture have transferred their regional officials suspected of being involved in the trafficking of rosewood.

#### **I.6. Implementation of the “Special Chain to fight against trafficking of rosewood and ebony”**

As indicated in the 2015 report of Madagascar (SC 66 doc 46.2, January 2016), the law establishing the creation of this Special Chain was already issued by the President of the Republic of Madagascar and adopted by Parliament in 2015. The Government adopted the implementing decree for this law and the decree establishing the operational structures of the Special Chain in 2016 and 2017 respectively. These decrees act as an implementation framework allowing for the efficiency of the structures of the Special Chain.

##### **I.6.1. Attribution of compensation for the members of the Special Chain**

The Council of Ministers and the Government Council have recently adopted the decree setting the terms for the compensation attributed to the members of the Special Chain to fight against trafficking of rosewood and ebony.

In the framework of the preparation of the national budget for 2018 and despite the fact that the document specifying the medium-term expenses foreseen included the expenditure projections necessary to set up the new structures (e.g., the Special Chain to fight against trafficking of rosewood, the Anti-Corruption Units, the new courts of first instance), the budget allocation notified to the Ministry of Justice will not make it possible to program the operation of these new structures, including the Special Chain to fight against trafficking of rosewood. For this reason, the Ministry of Justice has made a request for additional credits for 2018 to the Ministry of Finance and Budget.

##### **I.6.2. Official designation of the members of the Special Chain's operational structure**

The Government has partially designated the representatives sitting in the Mixed Investigation Unit (*Brigade mixte d'enquête*), the Special Court, and the Stockpile Management Commission (*Commission de Gestion des Stocks*, CGS).

###### **I.6.2.1. Designation of the magistrates that will constitute the Special Chain**

In order to implement the legislation on the Special Chain, the Minister of Justice of Madagascar has issued Order no. 10 060/2017 of 27 April 2017 designating the magistrates that will constitute the Special Chain to fight against trafficking of rosewood and ebony.

###### **I.6.2.2. Designation of the magistrates that will constitute the Stockpile Management Commission (CGS)**

The Stockpile Management Commission (CGS) comprises one magistrate from the trial court and one magistrate from the Prosecutor's Office of the Special Chain, or their respective representatives. As the magistrates of the Special Chain are already designated in the aforementioned order, the Ministry of Justice has designated the magistrates that will compose the CGS.

## **I.7. Regional and international cooperation against the trafficking of precious woods**

### **I.7.1. Initiative of West African countries - Zanzibar Declaration**

Madagascar took part in the 5<sup>th</sup> forum of West African countries against the trafficking of precious woods held in June 2017. Following an analysis of the consistency of each country's legislation, the member States established a steering committee and designated one focal point per country in order to achieve synergy in the actions, coordination and information sharing. At present, there are plans to propose an action plan to implement the fight against the illegal trafficking of forestry products and precious woods. A study is under way in order to reach a collective agreement with the countries of destination of the wood.

### **I.7.2. Request for information from countries with seized shipments of Malagasy rosewood**

The CITES Management Authority of Madagascar sent letters to its counterparts in the transit and destination countries for Malagasy *Diospyros* spp. and *Dalbergia* spp. requesting their cooperation and information regarding these timber seizures. These countries and territories are China, Tanzania, Zanzibar, Singapore, Sri Lanka, Mozambique and Hong Kong. The goal is to facilitate the sale of this timber and use part of the proceeds to fund the implementation of Decision 17.204 by Madagascar.

## **II. Management of stockpiles of precious woods**

### **II.1. Stockpile verification mechanism and business plan for the sale of the timber**

In accordance with paragraph f) of Decision 17.204 on Malagasy *Diospyros* spp. and *Dalbergia* spp., Madagascar is required to submit to the Standing Committee regular updates on audited inventories of at least a third of its stockpiles of species of *Dalbergia* and *Diospyros* from Madagascar as well as a use plan for consideration, approval and further guidance from the Standing Committee.

At SC67, Madagascar underlined the considerable and very costly logistical requirements for auditing timber stockpiles. The State's determination to stop timber trafficking has resulted in a precious timber stockpiling phenomenon in Madagascar. From the State's point of view, the only acceptable solution to this stockpiling problem is to sell the timber.

In light of the review of the CITES Action Plan, the Government of Madagascar has deemed it necessary to update the document detailing the rosewood and ebony stockpile audit and use plan submitted to the Standing Committee in 2015.

To this end and in order to conduct these actions in accordance with international bodies such as the ITTO and in cooperation with the private sector, Madagascar has hired an international consultant to set up a stockpile verification mechanism and a business plan (see Annex IV). The goal is to create a solid and transparent basis for work in order to reach a zero-stockpile situation. This plan proposes solutions to the legal, social, economic and environmental problems that have destabilized Madagascar through the so-called "rosewood crisis".

It should be noted that while the "upstream" judicial and/or regulatory operations (e.g., seizures, non-detriment findings, prosecutions, fines) have involved a considerable institutional effort, the "downstream" operations (e.g., the sale of the seized wood and subsequently of the declared wood) have not been structured in any way. Therefore, this plan establishes the technical mechanisms of the sale itself (e.g., market research, assessment of global prices, list of potential buyers) based on the experience of other countries previously affected by similar management issues, such as Guatemala and India.

The structure of the stockpile verification mechanism and business plan comprises inventory systems that can be systematically verified, budgets, an asset valuation process, a risk assessment, a sale management structure, time-bound deliverables, a safety methodology and a fund reinvestment structure. Thus, all of the processes would be transparent and controlled by CITES and the Government of Madagascar.

### **II.2. Timber stockpile inventories**

Act no. 2005-018 of 17 October 2005 on international trade in species of wild fauna and flora states that the Management Authority is responsible for implementing the legal and regulatory description of the management of species of fauna and flora included in the CITES Appendices. However, as the goal is to draw up an inventory respecting the context of the country while complying with the requirements of CITES, the Government of

Madagascar has taken the initiative of establishing institutional structures (i.e., Special Chain, Executive Secretariat, Inter-ministerial Committee) as well as various regulatory measures to address this issue.

In December 2016, through its Ministry of Finance and Budget, the Government of Madagascar approved funding amounting to 750,000,000 ariary for the continuation of the stockpile inventory in order to reach the goal of inventorying one third of the total stockpiles and subsequently implementing the Special Chain. The use of this funding requires a regulatory framework; hence, a decree has been passed to create the credit provision account for the Stockpile Management Commission and the Executive Secretariat of the Inter-ministerial Committee in charge of reforming the rosewood and ebony sector. The budget release follows the administrative procedures established for the use of public funds. This is why the disbursement of the funds takes time.

In practice, the Government of Madagascar and the Ministry of Environment, Ecology and Forests (MEEF), in cooperation with other non-governmental bodies, will be the main authorities in charge of managing and leading the “Stockpile verification mechanism and business plan”, which will be monitored and coordinated by the Inter-ministerial Committee in charge of reforming the rosewood and ebony sector. The team of the Committee’s Executive Secretariat along with the technicians of the Forest Department and the members of the Stockpile Management Commission on a regional level will conduct the inventory, the counting and the sealing of the declared timber.

### II.2.1. Status of the stockpiles

Table 3: Stockpile numbers (Source: Executive Secretariat, power transfer in May 2017)

Type of stockpile/ Characteristics	Number of logs	Percentage	Comments
Seized	<del>28,582</del> <u>28,666</u>	100	2013-2014: Action of the Ministry of Forests
Seized, inventoried, marked and secured	27,725	97	2015-2016: Executive Secretariat
Seized, inventoried, marked, secured and audited	17,211	62	2015-2016: Audit made by the company SGS
Declared	274 111 <u>294,936 rosewood logs + 6 containers</u> <u>6,717 ebony logs</u> <u>138,935 rosewood plaquettes (see next page) + 4 containers</u> <u>450,409 ebony plaquettes (see next page) + 1,774 kg of ebony</u>		2015-2016: Estimate of the Executive Secretariat ( <u>power transfer in May 2017</u> )

Following the declarations submitted in ~~2014~~ 2011 (Ordinance 2011-001 of 8 August 2011), the estimated amount of timber currently held by operators is ~~274,111 logs (source: SE, 2016)~~ shown on Table 3 above. In addition, the Government of Madagascar has seized ~~28,666~~ 28,666 logs, of which 27,725 (97% of the seized stockpiles) have been inventoried, marked and secured using the method developed by SGS in the framework of the stockpile audits conducted in 2014, of which 17,211 (62% of the seized stockpiles) are concerned.

The following points should be noted:

- The difference with the data included in the report of Madagascar to CITES (SC 67 doc 19.2) is due to the compilation of data and the verification of information during the power transfer between the outgoing and

incoming Executive Secretariats. The figures are those of the basic working documents of the Executive Secretariat, which will be used as a basis for all the inventory operations that will follow in the field.

- The 6 and 4 containers correspond to wood declared by operators. At that stage there was still no procedure in place to open the containers. So far, the Executive Secretariat does not have any new information, but the investigations that will soon take place in the field will determine what the situation is.

- Plaquettes are small flat pieces of wood 2 to 4 cm wide and 20 to 25 cm long.

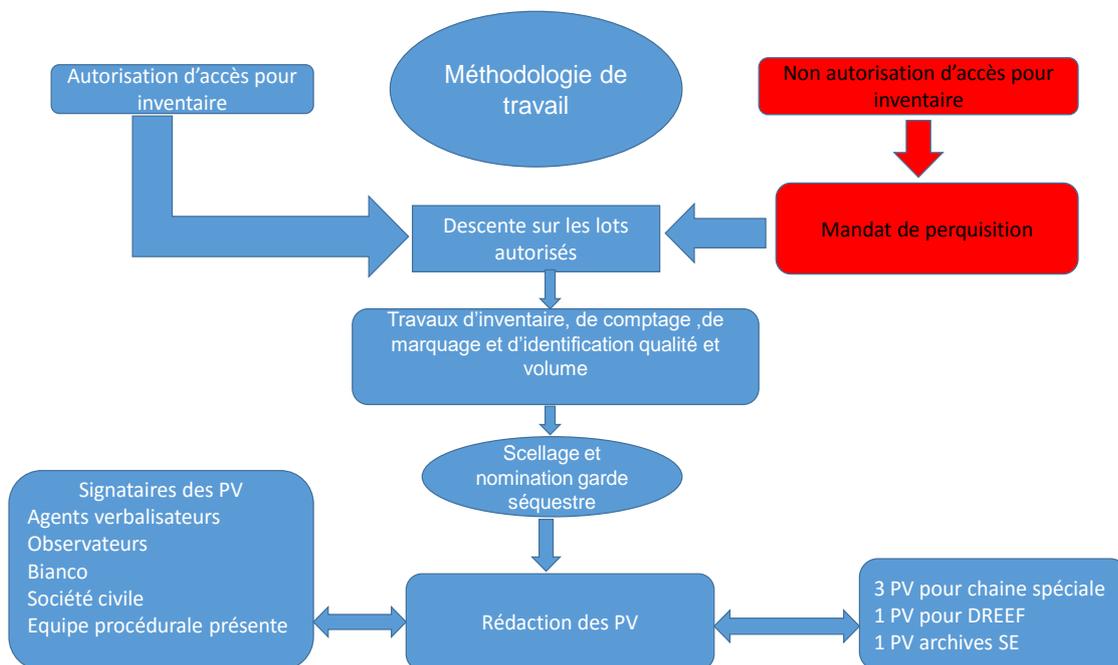
## **II.2.2 Methodology planned to conduct the inventory of declared timber**

The objective is to draw up an inventory of the stockpile of declared timber in order to know exactly its number, volume and quality. The priority area for the inventory is selected on the basis of the declarations made in 2011. Most declared timber (over 90%) is located in SAVA Region. The inventory will be conducted under the umbrella of the Prime Minister's office and the MEEF.

The procedure begins with a preparatory meeting of the of the Executive Secretariat's inventory team and the procedural team of the Forest Department (*Direction Générale des Forêts*) to present the methodology. In the field, there will be a meeting with the *Organe Mixte de Conception*, the regional law enforcement body in charge of making decisions regarding public order, to explain the procedure that must be followed while making the inventory. The operators that have declared precious wood will also be informed of the procedure that must be followed to grant the inventory team authorization to access the timber stockpiles.

The working methodology is summarized in Table 4. The inventory will be drawn up on the basis of the declarations made in 2011, whose documents are in the hands of the Executive Secretariat, and the comparison with the situation in the field. The inventory team will draw up a report and submit it to the Stockpile Management Commission and the Special Chain, which will decide on the legality of the stockpiles.

Chart 1: Working methodology



Using a similar procedure to that used for declared wood, the procedural team will randomly verify 20% of seized stockpiles.

## **III. Sustainable management of biodiversity and scientific research**

This report concerns only paragraphs e) and f) of Decision 17.204 on Malagasy ebonyes (*Diospyros* spp.) and palisanders and rosewoods (*Dalbergia* spp.). Yet, it should be noted that, following the recommendation made

by the CITES Secretariat in paragraph 32 ii)<sup>1</sup> (doc SC 67, 19.1) and Decision 17.204 b)<sup>2</sup> and with funding from FAO, a mission of a team of FAO consultants composed of a forestry expert and a FLEGT expert visited Madagascar from 23 August to 2 September 2017. This was part of the process of developing methods to estimate the amount of standing timber in order to make a non-detrimental finding (NDF). The FLEGT programme in Madagascar aims to improve forest governance; to this end, 4 direct assistance projects will be established, including the aforementioned NDF project.

The purpose of the mission is to determine the current knowledge available and to establish a consultation framework among stakeholders with the goal of making an NDF for endangered species of *Dalbergia* spp. and *Diospyros* spp. A field assessment and a consultation with the stakeholders have been carried out with the following objectives:

- collect and establish the scientific baselines in order to conduct a situational analysis of the populations and population dynamics of *Dalbergia* spp. and *Diospyros* spp. throughout Madagascar;
- summarize the legal and regulatory frameworks currently in effect in Madagascar, assess the level of implementation and make specific suggestions for improvement, taking into account known practices and draft texts in preparation such as the new Forestry Code, for a sustainable management of the populations of *Dalbergia* and *Diospyros*;
- support the creation of the FLEGT consultation mechanism (CTC-FLEGT) as an agreed framework for the improvement of forest governance.

Certain issues have been observed in the current regulatory framework that could be detrimental to the legal exploitation of *Dalbergia* and *Diospyros*. In fact, the current management of timber exploitation by species groups (categories), based on their final use but oblivious of the specific population and regeneration potential of each species, leads to the same 47 cm minimum exploitable diameter (MED) for all *Dalbergia* and *Diospyros* species, according to the current legislation. The same applies to the scale of management (exploitation planning), which is incompatible with the sustainable management of the harvested species (150 ha/year for the allocated plots, and 50 ha/year for the management transfer areas).

The consultation mechanism between stakeholders is being set up alongside the revision of the Forestry Code, as a framework for the improvement of forest governance. This new Forestry Code must provide the general guidelines excluding any possibility of harvesting species of *Dalbergia* spp. and *Diospyros* spp. proven to be critically vulnerable by national inventory results. MEDs for harvest as well as maximum exploitable volumes will be established at species level based on the results of scientific inventories conducted at a relevant management scale.

In the context of the EU FAO FLEGT 2017-2020 programme for Madagascar, the EU and FAO have made funding available for the revision of the Malagasy Forestry Code. This programme supports the creation of the consultation framework between stakeholders (all government services – national and decentralized –, scientists, private operators – loggers and artisans – and civil society – NGOs and village communities) for the discussion of all relevant issues regarding good forestry governance. This consultation framework will facilitate a revision of the Forestry Code that takes into account the concerns of all stakeholders.

#### **IV. Future plans**

##### **IV.1. Launch of the inventory of stockpiles of declared timber**

The first stage of the inventory of timber stockpiles focused on stockpiles seized by the Malagasy Government at the national level. The next inventory activity will focus mainly on stockpiles of declared timber and will be jointly conducted by the Executive Secretariat in charge of reforming the rosewood and ebony sector and the Stockpile Management Commission. The goal is to obtain an audited inventory of at least one third of the stockpiles before the end of 2017. Progress on this inventory will be used to prepare a report for the 69th meeting of the CITES Standing Committee as an information document in order to obtain approval for the partial sale of the verified stockpiles. These sales will provide funding for the CITES Action Plan for Malagasy precious woods.

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<sup>1</sup> *Madagascar regulates trade in palisander species, prohibits illicit trade and penalizes such trade in accordance with the provisions of the Convention.*

<sup>2</sup> *For those species identified under paragraph a) establish, in collaboration with the CITES Secretariat, a precautionary export quota based upon a scientifically robust non-detrimental finding.*

It is also necessary to create a business mechanism for high-end forestry products, in order to formally dispose of all officially verified stockpiles and reach a zero-stockpile situation.

#### **IV.2. Submission of a draft project for the FAO-FLEGT pilot study in order to make an NDF for palisander**

As announced at the 23rd meeting of the Plants Committee, held in 2017, the FAO-FLEGT programme will support a pilot initiative on the development of methods for the identification and monitoring of the status of existing populations of *Dalbergia* spp. in order to establish a management plan for specific species or species groups and assess the stocks of standing timber. Once these methods have been developed, they will subsequently be used for the remaining species.

In light of the findings of the FAO mission to Madagascar, the CITES Management Authority and Scientific Authority of Madagascar will revise and redraft the research proposal on this project.

#### **IV. 3. Mission of the CITES Secretariat to Madagascar**

Following the recommendation of the Standing Committee (Notification to the Parties No. 2017–047 of 24 June 2017), the CITES Secretariat will conduct a mission to Madagascar from 30 September to 7 October 2017 in order to assess progress in the implementation of Decision 17.204, paragraphs e) and f).

#### **C. Conclusion**

Madagascar has actively started to implement the actions arising from the CITES Action Plan for precious woods. Since 2014, significant progress has been made; nevertheless, much remains to be done, requiring the involvement of all stakeholders concerned by Decisions 17.203 to 17.208 on Malagasy ebonies (*Diospyros* spp.) and palisander and rosewoods (*Dalbergia* spp.) adopted at CoP17.

The implementation of the actions of the decision directed to Madagascar requires considerable logistical and financial resources that are not entirely available in the country.

With this in mind, besides the funding request addressed to financial and technical partners for the implementation of the stockpile verification mechanism and business plan in order to reach a zero-stockpile situation, Madagascar intends to do the following: negotiate with countries in possession of Malagasy rosewood (i.e., China, Tanzania, Mozambique, Singapore, Sri Lanka, and Hong Kong) on the possibility of auctioning these timber stockpiles, in order to bridge the funding gap and obtain the necessary resources to implement Decision 17.204. To achieve this, Madagascar strongly wishes that the CITES Secretariat and the Standing Committee will intervene to facilitate the negotiations.

**Decisions on Malagasy ebonies (*Diospyros* spp.) and palisanders and rosewoods (*Dalbergia* spp.)**

17.203 *Directed to source, transit and destinations Parties for Malagasy Diospyros spp. and Dalbergia spp*

Source, transit and destination Parties for specimens of species of the genera *Dalbergia* and *Diospyros* occurring in Madagascar are urged to:

- a) enforce all the measures that are recommended by the CITES Standing Committee concerning commercial trade in specimens of these species from Madagascar, including suspensions of such trade;
- b) develop action plans to effectively manage timber stockpiles of *Dalbergia* spp. and *Diospyros* spp. from Madagascar; and
- c) provide written reports describing progress made with implementation of paragraphs a) and b) of this Decision to the Standing Committee.

17.204 *Directed to Madagascar*

Madagascar shall:

- a) continue to develop an inclusive process to identify the main commercially valuable species in these genera from Madagascar, in cooperation with transit and destination Parties, the CITES Secretariat and relevant partners, such as the International Tropical Timber Organization (ITTO), the International Consortium on Combating Wildlife Crime (ICWC), the Food and Agriculture Organization of the United Nations (FAO) and other intergovernmental and non-governmental organizations concerned with trade in timber of rosewood, ebonies and palisanders;
- b) for those species identified under paragraph a) establish, in collaboration with the CITES Secretariat, a precautionary export quota based upon a scientifically robust non-detriment finding;
- c) subject to the availability of funds, organize workshops in support of the implementation of paragraphs a) and b) of this Decision, and to strengthen the national capacity to formulate non-detriment findings, and identify and agree on monitoring mechanisms that include appropriate technology (e.g. timber tracking);
- d) continue the production of identification materials for identifying timber and timber products of species of the genera *Dalbergia* and *Diospyros* from Madagascar;
- e) for those species identified under paragraph a), significantly strengthen control and enforcement measures against illegal logging and export at the national level including seizures, investigations, arrests, prosecutions, and sanctions;
- f) submit regular updates on audited inventories of at least a third of the stockpiles of species of *Dalbergia* and *Diospyros* from Madagascar, and a use plan for consideration, approval and further guidance from the Standing Committee; and
- g) provide written reports on progress with the implementation of paragraphs a) to d) of this Decision to each meeting of the Plants Committee; on progress with the implementation of paragraphs e) and f) of this Decision to the Standing Committee; and on progress with the implementation of this Decision to the Conference of the Parties at its 18th meeting.

17.205 *Directed to Parties*

Parties and relevant partners indicated in Decision 17.204 paragraph a) are invited to:

- a) provide technical and financial assistance to support the implementation of Decisions 17.203 to 17.208;
- b) provide technical and financial assistance in support of conducting audited inventories of *Dalbergia* spp. and *Diospyros* spp. from Madagascar; and

- c) provide reports to the Standing Committee, including information received from relevant partner organizations, concerning progress with the implementation of paragraphs a) and b) of this Decision.

*17.206 Directed to the Plants Committee*

The Plants Committee shall:

- a) review and assess reports from Madagascar on its implementation of Decisions 17.204 paragraphs a) to d), and from the Secretariat on the implementation of Decision 17.208, and provide recommendations to Madagascar and the Standing Committee and other bodies as appropriate;
- b) continue supporting the preparation of a standard reference for the names of species of the genera *Diospyros* and *Dalbergia* occurring in Madagascar, to be adopted, if appropriate, at the 18th meeting of the Conference of the Parties; and
- c) assist Madagascar in the identification of technical resources in support of the implementation of Decisions 17.204 paragraphs a) to d), and if needed, make recommendations to Madagascar, Standing Committee and other relevant organizations.

*17.207 Directed to the Standing Committee*

The Standing Committee shall review and assess reports from Madagascar on the implementation of Decision 17.204 paragraph e) and f), and from the Secretariat on the implementation of Decision 17.208, and make recommendations, which may include appropriate compliance measures and an assessment as to whether the conditions for a partial sale of audited stocks are in place, in accordance with the criteria established in Decision 17.204, paragraphs e) and f).

*17.208: Directed to the Secretariat*

The Secretariat shall:

- a) assist Madagascar, relevant Parties, and the Standing and Plants Committees in the implementation of Decisions 17.203 to 17.207;
- b) subject to available funding, assist with relevant capacity-building activities in Madagascar and transit and destination countries concerned by the trade in specimens of *Diospyros* spp. and *Dalbergia* spp. from Madagascar, including through international capacity building workshops; and
- c) provide written reports on progress with the implementation of this Decision to the Plants Committee and the Standing Committee, as appropriate.

**IN THE HIGH COURT OF THE REPUBLIC OF SINGAPORE**

Suit No. of 2017/ )

Between

**THE GOVERNMENT OF THE REPUBLIC OF  
MADAGASCAR**  
(No ID No. exists)

— *Plaintiff*

And

1. **KONG HOO PTE LTD**  
(UEN No. 196100186M)
2. **WONG WEE KEONG**  
(NRIC No. S14877641)

...*Defendants*

To:

1. **KONG HOO PTE LTD** having its registered address at Hillview Avenue #03-04 Lam Soon Industrial Building Singapore 669569
2. **WONG WEE KEONG** of 93 Cashew Terrace Cashew Estate Singapore 679603

**THIS WRIT OF SUMMONS** has been issued against you by the abovenamed Plaintiff in respect of the claim endorsed herein. Within eight days after the service of this Writ on you, counting the day of service, you must either satisfy the claim or cause an appearance to be entered for you using electronic filing service and in default of your so doing the Plaintiff may proceed with the action and judgment may be entered against you without further notice.

Dated this 24<sup>th</sup> day of February 2017

*Eldan*

\_\_\_\_\_  
Solicitors for the Plaintiff  
ELDAN LAW LLP

\_\_\_\_\_  
Registrar  
Supreme Court, Singapore

This Writ may not be served more than six (6) calendar months (if you are served in Singapore) after the above date unless renewed by an Order of the Court.

The Defendants may enter an appearance either personally or by a solicitor at the Registry of the Supreme Court.

### STATEMENT OF CLAIM

1. The Plaintiff is the sovereign government of the Republic of Madagascar ("Madagascar").
2. The 1<sup>st</sup> Defendant is a company incorporated under the laws of the Republic of Singapore and the 2<sup>nd</sup> Defendant is a shareholder and director of the 1<sup>st</sup> Defendant.
3. The Plaintiff has sovereignty over Madagascar's natural resources, including its natural fauna and flora. It is a signatory of and a contracting party to the Convention on International Trade in Endangered Species of Wild Flora and Fauna ("CITES"), a multilateral treaty that aims to regulate the international trade in wildlife to ensure that such trade does not threaten the survival of the same in the wild. Species are listed in the Appendices to the Schedule of CITES according to the extent they require protection. Species listed in Appendix II of CITES are classified as those threatened with extinction unless trade in specimens of such species is regulated to avoid utilization incompatible with their survival.
4. Timber from the botanical genus *Dalbergia* – specifically from certain species found in Madagascar and known commonly as Madagascan rosewood ("Rosewood") are listed in Appendix II of CITES in September

2013 and international trade, including export of the same from Madagascar is regulated under Madagascar law.

5. Singapore is also a signatory of and contracting party to CITES.
6. The Plaintiff had, pursuant to its obligations under CITES, imposed a zero export quota on Rosewood from 13 August 2013 ("**the Embargo**"), i.e., the export of Rosewood from Madagascar was prohibited under Madagasy domestic law (under the ordinance no.2011-00 on 08/08/2011 on the regulation and punishment of rosewood and ebony offences, and under the decree no. 2010-141 on 24/03/2010 concerning logging ban, exploitation and exportation of rosewood and ebony). The Embargo was extended on 14 February 2014.
7. In breach of the Embargo, the Defendants arranged for the export of 29,434 Rosewood logs weighing approximately 3,235 metric tonnes with an estimated market value in excess of US\$50 million ("**The Rosewood Shipment**") to Singapore.

#### **PARTICULARS OF BREACH**

- (a) The Rosewood Shipment was loaded onto the vessel MV Oriental Pride ("**the Oriental Pride**") off Madagascar between January and 12 February 2014 whilst the Embargo was still in force before

departing for Singapore where the 1<sup>st</sup> Defendant was named the consignee of the Rosewood Shipment.

- (b) The Rosewood Shipment was purportedly loaded onto the Oriental Pride in the Port of Toamasina in Madagascar. However, the Oriental Pride in fact did not call at any port in Madagascar between December 2013 and March 2014.
- (c) The Oriental Pride in fact departed Madagasy waters on or about 12 February 2014, whilst the Embargo was still in force; and
- (d) The Defendants did not have any or any valid permit to export the Rosewood Shipment or any rosewood from Madagascar.

8. The Rosewood Shipment comprises precious woods from stockpiles belonging to the Plaintiff.

9. In the premises, the Defendants had taken, without the consent of the Plaintiff, the Rosewood Shipment and converted the same to their own use and purposes.

10. By a letter dated 3 February 2017, the Plaintiff had through its solicitors in Singapore written to the Defendants to demand the surrender and return of

the Rosewood Consignment but the Defendants had failed and/or refused to do so.

11. By reason of the aforesaid, the Defendants had wrongfully detained the Rosewood Shipment.
12. Further and in their alternative, by reason of the aforesaid, the Defendants are guilty of trespass to the Rosewood Shipment.
13. By reason of the aforesaid, the Plaintiff had suffered loss and damage.

**AND THE PLAINTIFF CLAIMS:**

1. A declaration that the Rosewood Shipment is its property;
2. An order for the delivery up of the Rosewood Shipment;
3. Consequential damages to be assessed;
4. Interests;
5. Costs; and
6. Such other or further relief as this Honourable Court deems fit.

Dated this 24<sup>th</sup> day of February 2017

*Eldan*

**SOLICITORS FOR THE PLAINTIFF**

**ELDAN LAW LLP**

Note: If the Defendants enters an appearance, then they must also serve a defence on the solicitors for the Plaintiffs within fourteen (14) days after the last day of the time limited for entering an appearance, otherwise judgment may be entered against the defendants without further notice.

This Writ is issued by Eldan Law LLP of 1 Coleman Street, #08-03, The Adelphi, Singapore 179803, solicitors for the said Plaintiffs whose address of service is at 1 Coleman Street, #08-03, The Adelphi, Singapore 179803.

This writ was served by \_\_\_\_\_ by way of personal service (or as may be) (state manner of service or in accordance with the terms of an order for substituted service) on the Defendant (who are known to me) (or who was pointed out to me by { \_\_\_\_\_ } (or who admitted to me that he was \_\_\_\_\_) at \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_ 2017.

Endorsed this \_\_\_\_\_ day of February 2017.

Process Server

**Documents Ministère de la Justice**

COUR D'APPEL D'ANTANANARIVO  
-----  
TRIBUNAL DE PREMIERE INSTANCE  
ANTANANARIVO  
-----  
PARQUET  
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SOIT TRANSMIS N°225-PRI/CF/L4/S1B

A

Monsieur LE CHEF DU SERVICE DES AFFAIRES CRIMINELLES  
SPECIALISEES DE LA GENDARMERIE NATIONALE  
- ANTANANARIVO-

-COPIE PV N°265/14-MEF/SG/DGF/DCAI en date du 29 Avril 2014

« POUR OUVERTURE ET ENQUETE »

SUR : -CHEFS DE COUPE ET ABATTAGE, EXPLOITATION, CIRCULATION, TRANSPORT ET  
VENTE DES BOIS DE ROSE

-ET SUR TOUTES LES INFRACTIONS REVELEES PAR L'ENQUETE

Antananarivo, le 20 Octobre 2016  
P. LE PROCUREUR DE LA REPUBLIQUE,  
LE PREMIER SUBSTITUT,

MAHONJO Berthin

COUR D'APPEL D'ANTANANARIVO  
-----  
TRIBUNAL DE PREMIERE INSTANCE  
ANTANANARIVO  
-----  
PARQUET  
-----

SOIT TRANSMIS N°225-PRI/CF/L6/S1B

A

Monsieur LE DIRECTEUR GENERAL DU BUREAU INDEPENDANT  
ANT-CORRUPTION  
- ANTANANARIVO-

-PV N°265/14-MEF/SG/DGF/DCAI en date du 29 Avril 2014

« POUR OUVERTURE ET ENQUETE »

SUR : -CHEFS DE SUSPICION DE CORRUPTION ET ABUS DE FONCTION

-COUPE ET ABATTAGE, EXPLOITATION, CIRCULATION, TRANSPORT ET VENTE DES  
BOIS DE ROSE

-ET SUR TOUTES LES INFRACTIONS SOULEVEES PAR L'ENQUETE

Antananarivo, le 18 Octobre 2016  
P. LE PROCUREUR DE LA REPUBLIQUE,  
LE PREMIER SUBSTITUT,

MAHONJO Berthin

COUR D'APPEL D'ANTANANARIVO

-----  
TRIBUNAL DE PREMIERE INSTANCE  
ANTANANARIVO

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PARQUET  
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SOIT TRANSMIS N°225-PRT/CF/14/S1B

A

Monsieur LE CHEF DU SERVICE DES AFFAIRES CRIMINELLES  
SPECIALISEES DE LA GENDARMERIE NATIONALE  
- ANTANANARIVO-

-COPIE PV N°265/14-MEF/SG/DGF/DCAI en date du 29 Avril 2014

« POUR OUVERTURE ET ENQUETE »

SUR : -CHEFS DE COUPE ET ABATTAGE, EXPLOITATION, CIRCULATION, TRANSPORT ET  
VENTE DES BOIS DE ROSE

-ET SUR TOUTES LES INFRACTIONS REVELEES PAR L'ENQUETE

Antananarivo, le 20 Octobre 2016

P.LE PROCUREUR DE LA REPUBLIQUE,  
LE PREMIER SUBSTITUT,

MAHONJO Berthin

*Reçu 201 Ac/AC  
Le GEC Emma  
DPS/SACS  
[Signature]*

COUR D'APPEL D'ANTANANARIVO  
-----  
TRIBUNAL DE PREMIERE INSTANCE  
ANTANANARIVO

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PARQUET  
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SOIT TRANSMIS N°225-PRT/CF/17  
(1<sup>ère</sup> RAPPEL)

A

Monsieur LE CHEF DU SERVICE DES AFFAIRES CRIMINELLES  
SPECIALISSES DE LA GENDARMERIE NATIONALE  
-ANTANANARIVO-

Copie PV N°265/14-MEF/SG/DGF/DCAI en date du 29 Avril 2014  
EN AYANT L'HONNEUR DE VOUS DEMANDER DE VOULOIR BIEN D'ACTIVER L'ENQUETE  
CONCERNANT CETTE PLAINTE SUR CHEFS DE COUPE ET ABATTAGE, EXPLOITATION,  
CIRCULATION, TRANSPORT ET VENTE DES BOIS DES ROSE ET SUR TOUTES LES INFRACTIONS  
REVELEES PAR L'ENQUETE ;  
-PREMIER RAPPEL ; URGENCE SIGNALEE.

Antananarivo, le 18 Août 2017  
LE PROCUREUR DE LA REPUBLIQUE,



18 AUG 2017

RAZAFIMELISOA Odette Balisama



COUR D'APPEL D'ANTANANARIVO  
-----  
TRIBUNAL DE PREMIERE INSTANCE  
ANTANANARIVO

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PARQUET  
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SOIT TRANSMIS N°225-PRT/CF/17  
(1<sup>ère</sup> RAPPEL)

A

Monsieur LE CHEF DU SERVICE CENTRAL DES AFFAIRES  
CRIMINELLES  
-ANOSY-

Copie PV N°265/14-MEF/SG/DGF/DCAI en date du 29 Avril 2014  
EN AYANT L'HONNEUR DE VOUS DEMANDER DE VOULOIR BIEN D'ACTIVER L'ENQUETE  
CONCERNANT CETTE PLAINTE SUR CHEFS DE COUPE ET ABATTAGE, EXPLOITATION,  
CIRCULATION, TRANSPORT ET VENTE DES BOIS DES ROSE ET SUR TOUTES LES INFRACTIONS  
REVELEES PAR L'ENQUETE ;  
-PREMIER RAPPEL ; URGENCE SIGNALEE.

Antananarivo, le 18 Août 2017  
LE PROCUREUR DE LA REPUBLIQUE,

RAZAFIMELISOA Odette Balisama

Reçu par  
BP Ramamy