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Committee on the Elimination of Discrimination against Women

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Ways and means of expediting the work of the Committee on the Elimination of Discrimination against Women

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Note by the Secretariat

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I. Introduction

The present report contains information relevant to the work of the Committee on the Elimination of Discrimination against Women. Section II contains information on developments in the human rights regime, including information concerning the Human Rights Council, its universal periodic review mechanism, the Commission on the Status of Women and the General Assembly. Section III provides information on reports to be considered by the Committee at future sessions and on reports that have been received but have not been scheduled for consideration. Section IV contains information on the approaches of human rights treaty bodies to the consideration of States parties in the absence of a report. Section V addresses the working methods of the pre-session working group and section VI contains information of relevance to the Committee on the activities of the Division for the Advancement of Women and the Women's Human Rights and Gender Unit of the Office of the United Nations High Commissioner for Human Rights (OHCHR). A list of States that have not ratified or acceded to the Convention is contained in annex I to the present report. Annex II contains a list of States parties whose reports have been submitted but not yet considered or scheduled for consideration by the Committee, as of 30 April 2008.

II. Developments in the human rights regime

A. Human rights treaty bodies

At its fifth session, on 4 April 2008, the open-ended working group on an optional protocol to the International Covenant on Economic, Social and Cultural Rights adopted its report and agreed to transmit a draft optional protocol to the Human Rights Council for its consideration (A/HRC/8/7). The draft would invest the Committee on Economic, Social and Cultural Rights with competence to consider communications meeting standard admissibility criteria submitted by or on behalf of individuals or groups of individuals under the jurisdiction of a State party claiming to be victims of a violation of any of the rights set forth in parts II and III of the Covenant by that State party. In cases where the State party concerned recognizes the Committee's competence in that regard, the Committee would also be competent to receive and consider inter-State communications or to conduct an inquiry in cases where it receives reliable information indicating grave or systematic violations of the rights set forth in parts II and III of the Covenant. The draft builds on existing communications and inquiry procedures and contains a number of novel provisions, including article 4, providing that the Committee may, if necessary, decline to consider a communication that does not reveal that the author has suffered a clear disadvantage, unless the Committee considers that the communication raises a serious issue of general importance. Article 8, paragraph 4, provides that when examining communications the Committee should consider the reasonableness of the steps taken by the State party in accordance with part II of the Covenant and bear in mind that the State party may adopt a range of possible policy measures for the implementation of the rights set forth in the Covenant. Article 14, concerning international assistance and cooperation, inter alia, provides for the establishment of a trust fund to provide expert and technical assistance to States parties, with their consent, for the enhanced implementation of the rights contained

in the Covenant, thus contributing to building national capacities in the area of economic, social and cultural rights.

- On 3 May 2008, the Convention on the Rights of Persons with Disabilities and its Optional Protocol entered into force. Twenty-six States are party to the Convention, of which 16 are party to the Optional Protocol. The initial election of members to the Committee on the Rights of Persons with Disabilities must be held no later than six months after the entry into force of the Convention. Members are elected for a term of four years and are eligible for re-election once. The Convention mandates the Committee to consider the reports of States parties that are to be submitted within two years of the entry into force of the Convention for the State party concerned, and every four years thereafter and further whenever the Committee requests. The Optional Protocol provides the Committee with competence to consider communications from or on behalf of individuals or groups of individuals who claim to be victims of a violation by a State party to the Convention and the Protocol of the provisions of the Convention in cases where such communications meet the admissibility criteria set out in the Protocol. The Optional Protocol also provides for an inquiry procedure, which States parties to the Protocol may opt out of at the time of signature, ratification or accession. Among the principles set out in article 3 of the Convention are non-discrimination and equality between men and women, while article 6 specifically concerns women and disabilities.
- 4. The human rights treaty bodies have continued to harmonize and simplify their working methods. Both the Committee on the Elimination of Racial Discrimination and the Committee on the Elimination of Discrimination against Women have adopted guidelines for their treaty-specific documents, which will be submitted in tandem with the common core document. At its eighth session, held from 14 to 25 April 2008, the Committee on Migrant Workers adopted guidelines for its treaty-specific document. The Committee on Economic, Social and Cultural Rights discussed draft guidelines for its treaty-specific document during its fortieth session, held from 28 April to 16 May 2008. The Human Rights Committee is also discussing the possibility of adopting guidelines for its treaty-specific document, while the Committee on the Rights of the Child is discussing options in relation to draft guidelines for targeted reports in respect of the Convention and its two optional protocols.

B. Human Rights Council

1. Resolution 6/30 on integrating the human rights of women throughout the United Nations system

5. During the second part of its sixth session held from 10 to 14 December 2007, the Human Rights Council adopted resolution 6/30 on integrating the human rights of women throughout the United Nations system. The resolution, inter alia, specifically encourages States to consider ratifying or acceding to the Convention on the Elimination of All Forms of Discrimination against Women¹ and its Optional Protocol as a matter of priority and encourages entities of the United Nations

¹ United Nations, Treaty Series, vol. 2131, No. 20378.

system, Governments, intergovernmental and non-governmental organizations to pay full and systematic attention to the Committee's recommendations.

6. The Council reaffirmed its commitment to integrate effectively the human rights of women as well as gender perspective in its work and mechanisms, including in all phases of the universal periodic review, the Advisory Committee and the review of mandates and decided to incorporate into its programme of work sufficient and adequate time, at minimum an annual full-day meeting, to discuss the human rights of women, including measures that can be adopted by States and other stakeholders to address human rights violations experienced by women. The Council decided that the first such meeting should take place in the first half of 2008 and should include a discussion on violence against women in all its forms and manifestations. The Council also requested OHCHR to report on implementation of the resolution, including any obstacles and challenges in that regard. The Committee may wish to consider the outcome of the Council's discussion, as well as the Council's next annual meeting on the rights of women.

2. Universal periodic review

7. Pursuant to Human Rights Council resolution 5/1, on institution-building of the United Nations Human Rights Council, and its general guidelines, the first session of the working group on the universal periodic review was held from 7 to 18 April 2008, while the second session was held from 5 to 19 May 2008. Among the 16 countries reviewed by the working group were several that will be considered by the Committee at future sessions (Bahrain, Ecuador, Finland and the United Kingdom of Great Britain and Northern Ireland). The documentation submitted to the working group and the outcome of the working group in respect of those countries will be made available to the Committee.

C. Commission on the Status of Women

The fifty-second session of the Commission on the Status of Women was held from 25 February to 7 March 2008. The Chairperson of the Committee on the Elimination of Discrimination against Women addressed the Commission on the work of the Committee and participated in the panel discussion on the priority theme on key policy initiatives on financing for gender equality and the empowerment of women. The Commission adopted agreed conclusions on financing for gender equality and the empowerment of women, in which it, inter alia, called on Governments and other actors to make available human and financial resources for the empowerment of women and that funding had to be identified and mobilized from all sources and across all sectors to achieve the goals of gender equality and the empowerment of women. The Commission reaffirmed the Convention on the Elimination of All Forms of Discrimination against Women and the Optional Protocol and the Convention on the Rights of the Child and took note of the work of the Committee on the Elimination of Discrimination against Women towards the practical realization of the principle of equality between women and men and girls and boys. It urged Governments and/or, as appropriate, the relevant funds, programmes and specialized agencies of the United Nations system within their respective mandates, and invited the international financial institutions, civil society, non-governmental organizations and the private sector, bearing in mind national priorities to provide assistance to States parties to the Convention on the

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Elimination of All Forms of Discrimination against Women, upon their request, to support the implementation of the obligations of States parties under the Convention. The Commission also invited the Committee on the Elimination of Discrimination against Women to continue to give, while exercising its mandated functions, due consideration to financing for gender equality and the empowerment of women in its work. The Committee may wish to consider how it might respond to the invitation.

9. The Commission also adopted a number of resolutions² that are relevant to the work of the Committee, including resolutions on ending female genital mutilation and on women, the girl child and HIV/AIDS.

D. General Assembly

- 10. At its sixty-second session, the General Assembly adopted resolution 62/218, on the Convention on the Elimination of All Forms of Discrimination against Women. The Assembly decided to authorize the Committee to hold three annual sessions of three weeks each, with a one-week pre-sessional working group for each session, for an interim period effective from January 2010, pending the entry into force of the amendment to article 20, paragraph 1, of the Convention, and to authorize three annual sessions of the Working Group on Communications under the Optional Protocol to the Convention. The Assembly also decided to authorize the Committee to meet on an exceptional and temporary basis in the biennium 2008-2009 in a total of five sessions, three of which would occur in parallel chambers and two of which would be held at United Nations Headquarters in New York. The Assembly urged the Committee to evaluate progress and decided to assess the situation with regard to the location of the sessions of the Committee after two years, also taking into account the wider context of treaty body reform. The Chairperson of the Committee on the Elimination of Discrimination against Women was invited to address the Assembly at its sixty-third and sixty-fourth sessions, and the Secretary-General was requested to submit to the Assembly at its sixty-fourth session a report on the status of the Convention and the implementation of the resolution. The Committee may wish to consider modalities for the evaluation of progress called for by the Assembly.
- 11. Other General Assembly resolutions relevant to the work of the Committee include: resolution 62/132, on violence against women migrant workers; resolution 62/133, on the intensification of efforts to eliminate all forms of violence against women; resolution 62/134, on eliminating rape and other forms of sexual violence in all their manifestations, including in conflict and related situations; resolution 62/136, on the improvement of the situation of women in rural areas; resolution 62/138 on supporting efforts to end obstetric fistula; and resolution 62/140, on the girl child.

III. Reports to be considered by the Committee at future sessions

12. All States parties invited by the Committee to present their reports at the forty-first session, to be held from 30 June to 18 July 2008, will be able to do so. All

² See Official Records Editing Section, 2008, Supplement No. 7 (E/2008/27).

States parties invited by the Committee to present their reports at the forty-second session, to be held from 20 October to 7 November 2008, have agreed to do so. They are Bahrain, Belgium, Cameroon, Canada, Ecuador, El Salvador, Kyrgyzstan, Madagascar, Mongolia, Myanmar, Portugal, Slovenia and Uruguay.

13. The Committee invited the following States parties to present their reports at its forty-third session, to be held in January 2009: Armenia, Bhutan, Germany, Guatemala, Israel, Libyan Arab Jamahiriya and Rwanda. It has also indicated its intention to consider implementation of four States parties with long overdue initial reports, in the absence of a report at that session (Dominica, Guinea-Bissau, Haiti and Liberia).

IV. Consideration of States parties in the absence of reports

- 14. At its thirty-seventh session held from 15 January to 2 February 2007, the Committee decided to send letters to 12 States parties whose initial reports were more than 10 years overdue (Bahamas, Central African Republic, Chad, Comoros, Dominica, Grenada, Guinea-Bissau, Haiti, Lesotho, Liberia, Papua New Guinea and Seychelles) requesting that they submit their reports by a given date. It also decided to request the four States parties whose initial reports were more than 20 years overdue to submit all their overdue reports as combined reports by March 2008, for consideration at its forty-third session, in January 2009 (Dominica, Guinea-Bissau, Haiti and Liberia). Failing receipt of the reports within the suggested time frame, and as a measure of last resort, the Committee decided to proceed with consideration of the implementation of the Convention in those States parties in the absence of a report. Similarly, the Committee identified a time frame for the submission of the overdue reports of the other States parties and the sessions at which they would consider those States parties in the absence of a report in the event these reports were not submitted.
- 15. The Chairperson of the Committee or the Director of the Division for the Advancement of Women informed Dominica, Guinea-Bissau, Haiti and Liberia of the Committee's decision, and an invitation from OHCHR has been sent to those States parties inviting them to participate in the consideration of implementation of the Convention in their respective States parties at the forty-third session. This invitation indicates that a list of issues and questions will be formulated by the pre-session working group in July 2008 and transmitted thereafter to inform the States parties that they will be taken up at the forty-third session in the absence of a report. OHCHR has also encouraged the Resident Coordinators in the States parties concerned to offer assistance to States parties to the Convention in the preparation of their reports. Haiti submitted its report on 12 May 2008 and Liberia has indicated that its report will be submitted in September 2008, while no response has been received from the other States parties concerned.
- 16. The information below on the practice of other human rights treaty bodies is provided to the Committee to assist it in developing modalities for consideration of the implementation of the Convention in the absence of a report.

- 17. Most human rights treaty bodies have adopted the practice, reflected in their rules of procedure,³ pioneered by the Committee on the Elimination of Racial Discrimination in 1991 under the so-called "review procedure", of examining the implementation of the relevant treaty in the State party in the absence of the State party's report. The practice is provided for in article 36, paragraph 2, of the Convention on the Rights of Persons with Disabilities, which provides that if a State party is significantly overdue in the submission of a report, the Committee may notify the State party concerned of the need to examine the implementation of the Convention in that State party on the basis of reliable information available to the Committee, if the relevant report is not submitted within three months following the notification. The Committee shall invite the State party concerned to participate in such examination, and should the State party respond by submitting the relevant report, the usual process of consideration will occur.
- 18. In the current practice, the relevant treaty body notifies a non-reporting State party of its intention to examine the implementation of the relevant treaty by the State party in the absence of a report during a public meeting on a specified date. In many cases the notification by the treaty body of its intention to review the country in the absence of a report encourages the State party to submit the report. If the State party submits its report, the procedure is suspended and the normal process of consideration will begin.
- 19. In some cases, notification of the intention to consider implementation in the absence of a report will be followed by an indication by the State party that the report will be submitted at a later stage. In such circumstances, the treaty body may postpone the review to another session, pending receipt of the report.
- 20. Where the State party fails to respond to the notification of the consideration of implementation in the absence of a report, treaty bodies usually formulate a list of issues and questions, designed to elicit as much information as possible in order to proceed with the consideration of the country situation, which is transmitted to the State party. The State party is invited to respond to the list and send a delegation to attend the meeting at which its implementation will be considered.
- 21. A number of scenarios may follow after the transmission of the list of issues and questions to the State party. First, the State party may transmit a written response to the list of issues and questions but decide not to send a delegation. In such circumstances, the treaty body may decide to consider the written response transmitted by the State party. For example, at its eighty-eighth session, in October 2006, the Human Rights Committee decided to consider the situation of civil and political rights in Grenada at its ninetieth session, in July 2007, since the State party had not submitted its initial report, which was due on 5 December 1992. The State party submitted a written response to the Committee and the Committee considered its implementation on the basis of that response in the absence of a delegation at its ninetieth session.

³ See Official Records of the General Assembly, Fifty-eighth Session, Supplement No. 18 (A/58/18), annex IV, section P; Official Records of the Economic and Social Council, 2005, Supplement No. 2 (E/2005/22); Official Records of the General Assembly, Fifty-sixth Session, Supplement No. 38 (A/56/38), annex I, rule 49; Human Rights Committee (rule 70); Committee against Torture (rule 65); Committee on the Rights of the Child (rule 67, paras. 29-32).

- 22. Second, the State party may not submit a response to the list of issues and questions. The Committee concerned may decide to consider the country situation in the absence of a report, but in the presence of a delegation. For example, at its eighty-first session, in July 2004, the Human Rights Committee examined the situation of civil and political rights in the Central African Republic in the absence of a report and answers to a list of issues and questions, but in the presence of a delegation. The Committee chose to adopt provisional concluding observations, which were transmitted to the State party but were not made public in the light of assurances made to the Committee during the examination of the country situation that a report would be forthcoming. The Central African Republic submitted its second periodic report; the Committee considered the report at its eighty-seventh session, in July 2006, and adopted and made public the concluding observations. The Committee decided that the provisional concluding observations would become public and final if the State party did not respond or indicate that it would submit a report in the near future. The practice of adoption of provisional concluding observations was implemented to provide the State party with an additional opportunity to respond to the treaty body and engage in dialogue with the Committee.
- 23. Third, notwithstanding receipt of an indication that implementation will be considered in the absence of a report, and of the Committee's list of issues and questions, as well as further reminders, there may be no reaction from the State party concerned. In such cases, committees usually decide to proceed with the analysis of the country situation in the absence of a report and in the absence of a delegation. For example, in the light of the failure of the State party to submit its initial and 13 periodic reports, the Committee on the Elimination of Racial Discrimination considered the situation in Liberia under its review procedure and adopted concluding observations. Additionally, in its decision 3 (49), the Committee decided to remain seized of the situation regarding Liberia, under its early warning and urgent action procedure. At its seventy-ninth session, in October 2003, the Human Rights Committee examined the situation of civil and political rights in Equatorial Guinea in the absence both of a report and a delegation, and provisional confidential concluding observations were transmitted to the State party. At its ninety-first session, the Committee decided to convert the provisional concluding observations on the country situation of Equatorial Guinea into final and public conclusions since it had failed to submit its initial report.
- 24. The practice of other treaty bodies indicates that notification by a committee of its intention to examine a country situation in the absence of a party report (whether initial or periodic) can be a very effective way to engage non-reporting States parties. Generally, States parties will either be prompted to submit the overdue report, or will signal their intention to do so. In the absence of a response from the State party, practice has shown that treaty bodies will often formulate a list of issues and questions that they will present to the State party. This list of issues and questions may elicit a formal response or may encourage the State party to send a delegation to the session. Even in the absence of a response from a State party, the establishment of contact with the State party has been shown to open the door to future communication and cooperation between the treaty body and the State. The Committee may adopt provisional concluding observations, as in the case of the Human Rights Committee, or public and final concluding observations, as is the practice followed by the Committee on the Elimination of Racial Discrimination.

The Committee has used the answers to lists of issues and questions as the basis for preliminary debate. This was the case with Malawi during the Committee's sixty-ninth session, in August 2006. Following the preliminary debate and the assurances given by the delegation that it would submit a report, the Committee sent a letter to the delegation requesting that the overdue report (initial to sixth periodic reports) of Malawi be submitted no later than 30 June 2008.

25. In developing its practice in this context, the Committee may wish to consider the most recent practice of the Human Rights Committee, which transmits a list of issues and questions. The Committee may also wish to reflect on the developing practice of the Committee against Torture, which has invited States whose periodic reports are due in 2009 to respond to a list of issues and questions transmitted by the Committee, and agree that the answers to the list of issues, rather than a report, would form the basis of the dialogue. Of the 11 States that have received such invitations, six have formally responded positively to the invitation, while a further three have informally indicated their intention of so doing. The Committee may also wish to decide to adopt final and public concluding observations after the consideration of implementation in the absence of a report.

V. Working methods of the pre-session working group

26. At its last meeting, held from 4 to 8 February 2008, the pre-session working group recommended that the Committee consider the working methods of the pre-session working group with a view to their revision. Taking into account the various decisions made by the Committee in relation to the working methods of the pre-session working group (decisions 22/IV, 25/II, 31/III), the Committee may wish to decide that the pre-session working group further reduce the number of its list of issues and questions, particularly taking into account its decision that States parties' replies should not exceed 25 to 30 pages and that additional questions may still be raised during the constructive dialogue with the State party. The Committee may wish to decide that the pre-session working group limit itself to a maximum of 20 short, clear and focused questions, while continuing to cluster the questions under priority topics, rather than addressing specific articles. The Committee may also wish to decide that the pre-session working group pay priority attention to the State party's follow-up to its previous concluding observations. It may also wish to consider developing internal guidelines for the drafting of lists of issues.

VI. Activities of the Division for the Advancement of Women and of the Women's Rights and Gender Unit of the Office of the United Nations High Commissioner for Human Rights of relevance to the Committee on the Elimination of Discrimination against Women

27. Since the transfer on 31 December 2007 of the responsibility for servicing the Committee, from the Division for the Advancement of Women to OHCHR, the Division has continued to seek opportunities to highlight the synergies in the

holistic implementation of the Beijing Platform for Action⁴ and the Committee on the Elimination of Discrimination against Women. Several of the reports of the Secretary-General submitted to the Commission on the Status of Women at its fifty-second session, including on the Commission's priority theme, financing for gender equality and the empowerment of women (E/CN.6/2008/5), on forced marriage of the girl child (E/CN.6/2008/4) and on ending female genital mutilation (E/CN.6/2008/3), drew attention to the work of the Committee. The Division also provided substantive support to the Chairperson of the Committee on the Elimination of Discrimination against Women through her participation in the panel discussion entitled "Key policy initiatives on financing for gender equality and the empowerment of women: the experiences and efforts of the Committee on the Elimination of Discrimination against Women".

- 28. The Division continued its activities to support countries emerging from conflict in their implementation of the Convention. Following an invitation from the Minister for the Status of Women of Haiti, the Division conducted a high-level consultation mission to Haiti from 16 to 19 April 2007, with the participation of Françoise Gaspard and Regina Tavares da Silva, two members of the Committee. The Division supported the convening of a validation workshop, from 13 to 15 February 2008, on the draft report on Haiti required under article 18 of the Convention and the work of an international consultant to finalize the report, which was posted on the Ministry's website in March 2008 (available at http://www.mcfdf.gouv.ht/pdf/CEDEF.pdf) and received in the Secretariat in May. Throughout these efforts, the Division worked closely with the United Nations Stabilization Mission in Haiti.
- 29. The Division also continued its capacity-building support to the Government of Liberia for the promotion of gender equality and for the preparation of its report under the Convention. Following a high-level consultation mission in June 2006, workshops on implementation and reporting under the Convention for staff of the national machinery for the advancement of women were held from 19 to 21 March 2007, 18 to 22 June 2007 and on 19 and 20 November 2007. A report writers workshop will be held from 19 to 21 May 2008, and the Government has indicated that it intends to submit the report to the Committee in September 2008. These activities benefited from the contributions of Dorcas Coker-Appiah and Shanthi Dairiam, two members of the Committee. Throughout these efforts, the Division worked closely with the United Nations Mission in Liberia.
- 30. On 25 February 2008, the Secretary-General launched his system-wide multiyear campaign to eliminate violence against women and girls through 2015, coinciding with the target date for the implementation of the Millennium Development Goals. All entities of the United Nations system will participate in the campaign from their respective areas of comparative advantage. The campaign will focus on three key areas: global advocacy; strengthened efforts and partnerships at national and regional levels; and United Nations leadership by example.
- 31. The Division is convening an expert group meeting on good practices in legislation on violence against women, in collaboration with the United Nations Office on Drugs and Crime, from 26 to 28 May 2008, at the United Nations Office

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⁴ Report of the Fourth World Conference on Women, Beijing, 4-15 September 1995 (United Nations publication, Sales No. E.96.IV.13), chap. I, resolution 1, annex II.

in Vienna. The meeting will analyse different legislative approaches; assess lessons learned in regard to laws and legislative reforms on violence against women; and identify effective approaches and recommended future strategies for legislation on violence against women.

- 32. The OHCHR Women's Human Rights and Gender Unit has continued to analyse international jurisprudence in order to create a better understanding of the gender dimensions of different human rights violations so as to secure greater equality in outcome between the sexes. Several papers have been commissioned, including on laws that discriminate against women; prosecution of the purchaser of sex in the context of trafficking for the purposes of forced prostitution; prosecution of rape under international law; and protection of, and access to, social and economic rights by women in post-conflict situations. The Unit provided substantive input to the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment in the preparation of his report on the application of his mandate to women; to the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context; and to the Special Rapporteur on violence against women, its causes and consequences.
- 33. The Unit will continue to provide thematic analyses to the Committee and looks forward to specific requests for information. The Unit is also collaborating with Medica Mondiale, an international non-governmental organization, in the organization of a major conference, on seeking justice, the outcome of which should be of assistance to the Committee in its consideration of States parties affected by conflict or in situations of post-conflict or transition.

Annex I

States that have not ratified or acceded to the Convention

Africa

Somalia

Sudan

Asia and the Pacific

Iran (Islamic Republic of)

Nauru

Palau

Qatar

Tonga

Western Europe and other

Holy See

United States of America

Annex II

States parties whose reports have been submitted but not yet considered or scheduled for consideration by the Committee as of 30 April 2008

A. Initial reports

State party (report)	Date due	Date received	Previously considered	Previous report(s)
Timor-Leste (1)	16 May 2004	22 April 2008	_	Initial report

B. Periodic reports

State party (report)	Date due	Date received	Previously considered (session)	Previous report(s)
Egypt (6-7)	18 October 2002	27 February 2008	2001 (24)	3, 4-5
Japan (6)	25 July 2006	30 April 2008	2003 (29)	2, 3, 4, 5
Spain (6)	4 February 2005	21 April 2008	2004 (31)	3, 4, 5
Switzerland (3)	26 April 2006	18 April 2008	2003 (28)	1-2