

MADAGASCAR

Follow-up: State Reporting

i) Action by Treaty Bodies

CCPR, A/62/40 vol. I (2007)

CHAPTER VII. FOLLOW-UP ON CONCLUDING OBSERVATIONS

220. In chapter VII of its annual report for 2003 (A/58/40, vol. I), the Committee described the framework that it has set out for providing for more effective follow-up, subsequent to the adoption of the concluding observations in respect of States parties' reports submitted under article 40 of the Covenant. In chapter VII of its last annual report (A/61/40, vol. I), an updated account of the Committee's experience in this regard over the last year was provided. The current chapter again updates the Committee's experience to 1 August 2007.

221. Over the period covered by the present annual report, Mr. Rafael Rivas-Posada continued to act as the Committee's Special Rapporteur for follow-up to concluding observations. At the Committee's eighty-fifth, eighty-sixth and eighty-seventh sessions, he presented progress reports to the Committee on intersessional developments and made recommendations which prompted the Committee to take appropriate decisions State by State. In view of Mr. Rivas-Posada's election to the Chair of the Committee, Sir Nigel Rodley was appointed the new Special Rapporteur for follow-up on concluding observations at the Committee's ninetieth session.

222. For all reports of States parties examined by the Committee under article 40 of the Covenant over the last year, the Committee has identified, according to its developing practice, a limited number of priority concerns, with respect to which it seeks the State party's response, within a period of a year, on the measures taken to give effect to its recommendations. The Committee welcomes the extent and depth of cooperation under this procedure by States parties, as may be observed from the following comprehensive table.¹ Over the reporting period, since 1 August 2006, 12 States parties (Albania, Canada, Greece, Iceland, Israel, Italy, Slovenia, Syrian Arab Republic, Thailand, Uganda, Uzbekistan and Venezuela) have submitted information to the Committee under the follow-up procedure. Since the follow-up procedure was instituted in March 2001, only 12 States parties (Brazil, Central African Republic, Democratic Republic of the Congo, Equatorial Guinea, Mali, Moldova, Namibia, Surinam, Paraguay, the Gambia, Surinam and Yemen) and UNMIK have failed to supply follow-up information that has fallen due. The Committee reiterates that it views this procedure as a constructive mechanism by which the dialogue initiated with the examination of a report can be continued, and which serves to simplify the process of the next periodic report on the part of the State party.

223. The table below takes account of some of the Working Group's recommendations and details the experience of the Committee over the last year. Accordingly, it contains no reference to those States parties with respect to which the Committee, upon assessment of the follow-up responses provided to it, decided before 1 August 2006 to take no further action prior to the period covered by this report.

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Eighty-ninth session (March 2007)

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State party: Madagascar

Report considered: Third periodic (due since 1992), submitted on 24 May 2005.

Information requested:

Para. 7: Resumption of the work of the National Human Rights Commission, in accordance with the Paris Principles; provision of adequate resources for Commission to function effectively (art. 2).

Para. 24: Ensuring proper functioning of the judiciary, with sufficient resources, immediate release of detainees whose case files are missing (arts. 9 and 14).

Para. 25: Steps to ensure that cases registered are heard without excessive delay (arts. 9 and 14).

Date information due: 1 April 2008

Next report due: 23 March 2011

Note

1/ The table format was altered at the ninetieth session.

CCPR, CCPR/C/SR.2564/Add.1 (2008)

HUMAN RIGHTS COMMITTEE

Ninety-third session

SUMMARY RECORD OF THE SECOND PART (PUBLIC)* OF THE 2564th MEETING

Held at the Palais Wilson, Geneva,

on Wednesday, 23 July 2008 at 11.25 a.m.

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FOLLOW-UP TO CONCLUDING OBSERVATIONS ON STATE REPORTS AND TO
VIEWS UNDER THE OPTIONAL PROTOCOL

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Report of the Special Rapporteur for follow-up on concluding observations (CCPR/C/93/R.1)

1. Sir Nigel RODLEY, Special Rapporteur for follow-up on concluding observations, introduced his report contained in document CCPR/C/93/R.1.

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4. He recommended that reminders should be sent to Barbados, Brazil, the Central African Republic, Chile and Madagascar requesting additional information...

...

39. The draft report of the Special Rapporteur for follow-up on concluding observations was adopted.

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CHAPTER VII. FOLLOW-UP TO CONCLUDING OBSERVATIONS

194. In chapter VII of its annual report for 2003,²⁰ the Committee described the framework that it has set out for providing for more effective follow up, subsequent to the adoption of the concluding observations in respect of States parties' reports submitted under article 40 of the Covenant. In chapter VII of its last annual report (A/62/40, vol. I), an updated account of the Committee's experience in this regard over the last year was provided. The current chapter again updates the Committee's experience to 1 August 2008.

195. Over the period covered by the present annual report, Sir Nigel Rodley acted as the Committee's Special Rapporteur for follow-up on concluding observations. At the Committee's ninety-first, ninety-second and ninety third sessions, he presented progress reports to the Committee on inter-sessional developments and made recommendations which prompted the Committee to take appropriate decisions State by State.

196. For all reports of States parties examined by the Committee under article 40 of the Covenant over the last year, the Committee has identified, according to its developing practice, a limited number of priority concerns, with respect to which it seeks the State party's response, within a period of a year, on the measures taken to give effect to its recommendations. The Committee welcomes the extent and depth of cooperation under this procedure by States parties, as may be observed from the following comprehensive table.²¹ Over the reporting period, since 1 August 2007, 11 States parties (Bosnia and Herzegovina, Brazil, Hong Kong Special Administrative Region (China), Mali, Paraguay, Republic of Korea, Sri Lanka, Suriname, Togo, United States of America and Ukraine), as well as the United Nations Interim Administration Mission in Kosovo (UNMIK), have submitted information to the Committee under the follow up procedure. Since the follow up procedure was instituted in March 2001, 10 States parties (Barbados, Central African Republic, Chile, Democratic Republic of the Congo, Equatorial Guinea, Gambia, Honduras, Madagascar, Namibia and Yemen) have failed to supply follow up information that has fallen due. The Committee reiterates that it views this procedure as a constructive mechanism by which the dialogue initiated with the examination of a report can be continued, and which serves to simplify the process of the next periodic report on the part of the State party.

197. The table below takes account of some of the Working Group's recommendations and details the experience of the Committee over the last year. Accordingly, it contains no reference to those States parties with respect to which the Committee, upon assessment of the follow up responses provided to it, decided before 1 August 2007 to take no further action prior to the period covered by this report.

198. The Committee emphasizes that certain States parties have failed to cooperate with it in the performance of its functions under Part IV of the Covenant, thereby violating their obligations (Gambia, Equatorial Guinea).

20/ *Official Records of the General Assembly, Fifty-eighth Session, Supplement No. 40 (A/58/40), vol. I.*

21/ The table format was altered at the ninetieth session.

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Eighty-ninth session (March 2007)

...

State party: Madagascar
Report considered: Third periodic (due since 1992), submitted on 24 May 2005.
Information requested: Para. 7: Ensure the resumption of the work of the National Human Rights Commission, in accordance with the Paris Principles; provision of adequate resources for the Commission to fulfil its role effectively, fully and regularly (art. 2). Para. 24: Ensure the proper functioning and adequate funding of the judiciary; immediate release of detainees whose case files are missing (arts. 9 and 14). Para. 25: Ensure that any case registered may be heard without excessive delay (arts. 9 and 14).
Date information due: 1 April 2008
Date information received: NONE RECEIVED
Action taken: <u>11 June 2008</u> A reminder was sent.
Recommended action: A further reminder should be sent.
Next report due: 23 March 2011

VII. FOLLOW UP TO CONCLUDING OBSERVATIONS

237. In chapter VII of its annual report for 2003,²⁰ the Committee described the framework that it has set out for providing for more effective follow up, subsequent to the adoption of the concluding observations in respect of States parties' reports submitted under article 40 of the Covenant. In chapter VII of its last annual report (A/63/40, vol. I), an updated account of the Committee's experience in this regard over the last year was provided. The current chapter again updates the Committee's experience to 1 August 2009.

238. Over the period covered by the present annual report, Sir Nigel Rodley acted as the Committee's Special Rapporteur for follow-up on concluding observations. At the Committee's ninety-fourth, ninety-fifth and ninety-sixth sessions, he presented progress reports to the Committee on inter-sessional developments and made recommendations which prompted the Committee to take appropriate decisions State by State.

239. For all reports of States parties examined by the Committee under article 40 of the Covenant over the last year, the Committee has identified, according to its developing practice, a limited number of priority concerns, with respect to which it seeks the State party's response, within a period of a year, on the measures taken to give effect to its recommendations. The Committee welcomes the extent and depth of cooperation under this procedure by States parties, as may be observed from the following comprehensive table.²¹ Over the reporting period, since 1 August 2008, 16 States parties (Austria, Barbados, Bosnia and Herzegovina, Chile, Costa Rica, Czech Republic, France, Georgia, Honduras, Hong Kong Special Administrative Region (China), Ireland, Libyan Arab Jamahiriya, Madagascar, Tunisia, Ukraine and United States of America), as well as the United Nations Interim Administration Mission in Kosovo (UNMIK), have submitted information to the Committee under the follow up procedure. Since the follow up procedure was instituted in March 2001, 11 States parties (Botswana, Central African Republic, Democratic Republic of the Congo, Equatorial Guinea, Gambia, Namibia, Panama, Sudan, the former Yugoslav Republic of Macedonia, Yemen and Zambia) have failed to supply follow up information that has fallen due. The Committee reiterates that it views this procedure as a constructive mechanism by which the dialogue initiated with the examination of a report can be continued, and which serves to simplify the process of the next periodic report on the part of the State party.²²

240. The table below takes account of some of the Working Group's recommendations and details the experience of the Committee over the last year. Accordingly, it contains no reference to those States parties with respect to which the Committee, upon assessment of the follow up responses provided to it, decided before 1 August 2008 to take no further action prior to the period covered by this report.

241. The Committee emphasizes that certain States parties have failed to cooperate with it in the performance of its functions under Part IV of the Covenant, thereby violating their obligations (Gambia, Equatorial Guinea).

...

Eighty-ninth session (March 2007)

...

State party: Madagascar

Report considered: Third periodic (due since 1992), submitted on 24 May 2005.

Information requested:

Para. 7: Ensure the resumption of the work of the National Human Rights Commission, in accordance with the Paris Principles; provision of adequate resources for the Commission to fulfil its role effectively, fully and regularly (art. 2).

Para. 24: Ensure the proper functioning and adequate funding of the judiciary; immediate release of detainees whose case files are missing (arts. 9 and 14).

Para. 25: Ensure that any case registered may be heard without excessive delay (arts. 9 and 14).

Date information due: 1 April 2008

Date information received:

3 March 2009 Partial reply (responses incomplete with regard to paragraphs 7, 24, 25).

Action taken:

11 June 2008 A reminder was sent.

22 September 2008 A further reminder was sent.

16 December 2008 The Special Rapporteur requested a meeting with a representative of the State party.

29 May 2009 A letter was sent to request additional information.

Recommended action: If no information is received, a reminder should be sent.

Next report due: 23 March 2011

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20/ *Official Records of the General Assembly, Fifty-eighth Session, Supplement No. 40 (A/58/40), vol. I.*

21/ The table format was altered at the ninetieth session.

22/ As the next periodic report has become due with respect to the following States parties, the Committee has terminated the follow-up procedure despite deficient information or the absence of a follow-up report: Mali, Sri Lanka, Suriname, Namibia, Paraguay, and the Democratic Republic of the Congo.

CCPR, CCPR/C/SR.2738/Add.1 (2010)

Human Rights Committee
Ninety-ninth session

Summary record of the second part (public) of the 2738th meeting
Held at Palais Wilson, Geneva,
on Wednesday 28 July 2010, at 11:25 am

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Follow-up to concluding observations on State reports and to Views under the Optional Protocol

Report of the Special Rapporteur for Follow-up on Concluding Observations (CCPR/C/99/2/CRP.1)

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2. **Mr. Amor**, Special Rapporteur for Follow-up on Concluding Observations, said that, while he commended the excellent work of the secretariat, it was regrettable that the relevant staff did not have more time to devote to follow-up on concluding observations. At the Committee's request, he had undertaken to supply details of the contents of the letters sent to States parties concerning follow-up in which the Committee asked for further information, urged the State to implement a recommendation or, alternatively, noted that a reply was satisfactory.

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16. Madagascar had sent a partial response to the Committee's recommendations. On 25 June 2010, he had requested a meeting with a representative of the State party, but no reply had yet been received. A reminder should therefore be sent.

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24. **The Chairperson** said that, if there was no objection, he took it that the Committee wished to adopt the Special Rapporteur's recommendations.

25. *It was so decided.*

...

...

Chapter VII: Follow-up to Concluding Observations

203. In chapter VII of its annual report for 2003,¹⁶ the Committee described the framework that it has set out for providing for more effective follow-up, subsequent to the adoption of the concluding observations in respect of States parties' reports submitted under article 40 of the Covenant. In chapter VII of its last annual report,¹⁷ an updated account of the Committee's experience in this regard over the last year was provided. The current chapter again updates the Committee's experience to 1 August 2010.

204. Over the period covered by the present annual report, Mr. Abdelfattah Amor acted as the Committee's Special Rapporteur for follow-up on concluding observations. At the Committee's ninety-seventh, ninety-eighth and ninety-ninth sessions, he presented progress reports to the Committee on intersessional developments and made recommendations which prompted the Committee to take appropriate decisions State by State.

205. For all reports of States parties examined by the Committee under article 40 of the Covenant over the last year, the Committee has identified, according to its developing practice, a limited number of priority concerns, with respect to which it seeks the State party's response, within a period of a year, on the measures taken to give effect to its recommendations. The Committee welcomes the extent and depth of cooperation under this procedure by States parties, as may be observed from the following comprehensive table.¹⁸ Over the reporting period, since 1 August 2009, 17 States parties (Bosnia and Herzegovina, Chile, Costa Rica, Czech Republic, Denmark, France, Georgia, Japan, Monaco, Spain, the former Yugoslav Republic of Macedonia, Sudan, Sweden, Tunisia, Ukraine, United Kingdom of Great Britain and Northern Ireland and Zambia), as well as the United Nations Interim Administration Mission in Kosovo (UNMIK), have submitted information to the Committee under the follow-up procedure. Since the follow-up procedure was instituted in March 2001, 12 States parties (Australia, Botswana, Central African Republic, Democratic Republic of the Congo, Equatorial Guinea, Gambia, Namibia, Nicaragua, Panama, Rwanda, San Marino and Yemen) have failed to supply follow-up information that has fallen due. The Committee reiterates that it views this procedure as a constructive mechanism by which the dialogue initiated with the examination of a report can be continued, and which serves to simplify the preparation of the next periodic report by the State party.¹⁹

206. The table below takes account of some of the Working Group's recommendations and details the experience of the Committee over the last year. Accordingly, the report does not cover those States parties with respect to which the Committee has completed its follow-up activities, including all States parties which were considered from the seventy-first session (March 2001) to the eighty-fifth session (October 2005).

207. The Committee emphasizes that certain States parties have failed to cooperate with it in

the performance of its functions under Part IV of the Covenant, thereby violating their obligations (Equatorial Guinea, Gambia).

...

Eighty-ninth session (March 2007)

...

State party: Madagascar

Report considered: Third periodic (due since 1992) submitted on 24 May 2005.

Information requested:

Para. 7: Ensure the resumption of the work of the National Human Rights Commission, in accordance with the Paris Principles; provision of adequate resources for the Commission to fulfil its role effectively, fully and regularly (art. 2).

Para. 24: Ensure the proper functioning and adequate funding of the judiciary; immediate release of detainees whose case files are missing (arts. 9 and 14).

Para. 25: Ensure that any case registered may be heard without excessive delay (arts. 9 and 14).

Date information due: 1 April 2008

Date information received:

3 March 2009 Partial reply (responses incomplete with regard to paras. 7, 24, 25).

Action taken:

11 June 2008 A reminder was sent.

22 September 2008 A further reminder was sent.

16 December 2008 The Special Rapporteur requested a meeting with a representative of the State party.

29 May 2009 A letter was sent to request additional information.

3 September 2009 A reminder was sent.

11 December 2009 A reminder was sent.

25 June 2010 The Special Rapporteur requested a meeting with a representative of the State

party.

Recommended action: A reminder should be sent.

Next report due: 23 March 2011

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¹⁶ *Official Records of the General Assembly, Fifty-eighth Session, Supplement No. 40*, vol. I (A/58/40 (vol. I)).

¹⁷ *Ibid.*, *Sixty-Fourth Session, Supplement No. 40*, vol. I (A/64/40 (vol. I)).

¹⁸ The table format was altered at the ninetieth session.

¹⁹ As the next periodic report has become due with respect to the following States parties, the Committee has terminated the follow-up procedure despite deficient information or the absence of a follow-up report: Austria, Brazil, Central African Republic, Democratic Republic of the Congo, Hong Kong (China), Mali, Namibia, Paraguay, Republic of Korea, Sri Lanka, Suriname and Yemen.

Follow-up: State Reporting

ii) Action by State Party

CCPR, CCPR/C/MDG/CO/3/Add.1 (2009)

Information received from Madagascar on the implementation of the concluding observations of the Human Rights Committee (CCPR/C/MDG/CO/3)

[3 March 2009]

Introduction

1. In response to the recommendations made by of the Human Rights Committee in its concluding observations (CCPR/C/MDG/CO/3) following consideration of the third periodic report of Madagascar on the implementation of the International Covenant on Civil and Political Rights (CCPR/C/MDG/2005/3), the Malagasy Government has:

- Undertaken a review of its legislation to bring its National Human Rights Commission back into operation (I)
- Implemented the new law limiting the duration of remand detention in order to remedy the situation in respect of cases of long-term detention (II) and increase the resources provided to the Ministry of Justice so that it can fulfil its functions effectively (III)

I. RELAUNCHING THE OPERATION OF THE NATIONAL HUMAN RIGHTS COMMISSION

2. In order to implement paragraph 7 of the Committee's concluding observations, requesting that the State party should take measures in accordance with the Paris Principles, the Malagasy Government adopted Act No. 2008-012 of 17 July 2008 establishing the National Human Rights Commission (CNDH), enacted and published in Official Journal No. 3218 of 27 October 2008 (pp. 7681 to 7686).¹

3. This reform has led to the following innovations:

(a) The replacement of the decree establishing the CNDH by an act which reflects the Malagasy Government's wish to involve the parliament in restarting the work of the Commission;

(b) The shift from a decree to an act fosters a legal environment that is more stable and conducive to the sustainability of the CNDH;

(c) Incorporation of the basic provisions of the Paris Principles;

(d) Provisions relating to the independence of the CNDH, the possibility of investigating cases of human rights violations and the Commission's organizational structure,

including pluralist entities, have been incorporated in the act.

4. Before this matter was referred to parliament, meetings were convened with the participation of:

- Church representatives
- Members of the Office of the Ombudsman
- Non-governmental human rights organizations
- Former members of the CNDH

5. Relevant views that are in line with the Paris Principles have been incorporated in the act.

6. A multi-year plan, backed by the United Nations Development Programme (UNDP), provided for resumption of the work of the CNDH, with Government support for the process of appointing and training future members, lobbying for adequate financial resources and fostering decentralization by setting up regional offices.

7. The appointment process is currently under way.

II. MEASURES TO STOP AND PREVENT THE CYCLICAL REAPPEARANCE OF LONG-TERM DETENTIONS AND TO PUNISH DELINQUENT OFFICIALS

8. Pursuant to paragraphs 24 and 25 of the Committee's concluding observations, the Malagasy Government has adopted a substantive solution by way of the adoption and implementation of Act No. 2007-021 of 30 July 2007, amending and supplementing certain provisions of the Code of Criminal Procedure relating to remand detention and limiting the period thereof.

A. Limiting the period of remand detention

9. In relation to the preliminary judicial investigation:

(a) *Maximum period of detention on remand for ordinary offences* (article 3, paragraph 1 of Act No. 2007-021): "Without prejudice to the provisions of article 334, the period of validity of the committal order issued by an investigating judge or the chamber, provided for in article 223 bis, as well as that of the arrest warrant issued by the investigating judge in cases where the accused has been apprehended, is six (6) months for ordinary offences, and eight (8) months for serious offences";

(b) *Maximum period of detention on remand for serious offences* (article 3, paragraph 1 of Act No. 2007-021): "Without prejudice to the provisions of article 334, the period of validity of the committal order issued by an investigating judge or the chamber provided for in article 223 bis, as well as that of the arrest warrant issued by the investigating judge in cases

where the accused has been apprehended, is six (6) months for ordinary offences, and eight (8) months for serious offences";

(c) *Time-limit for processing by the Indictments Chamber* (article 3, paragraph 2 of Act No. 2007-021): "In the case of an order for transfer to the Indictments Chamber, the said Chamber must give a ruling within twelve (12) months of the date of the order";

(d) *Limitation of the writ of *habeas corpus** (article 3, paragraph 2 of Act No. 2007-021): "In the cases covered by articles 238, 290, 291 and 309 of the Code of Criminal Procedure, relating to committal orders by the public prosecutor, transfer orders, committal orders by the investigating judge and writs of *habeas corpus*, the period of validity of the writ of *habeas corpus* is limited to thirty (30) months from the date of writs, subject to immediate enforcement".

B. Penalties applicable to delinquent officials

10. According to article 5 of Act No. 2007-021 of 30 July 2007, amending and supplementing certain provisions of the Code of Criminal Procedure relating to remand detention: "Judges, registrars and government officials shall incur liability in case of non-compliance, whether wilful or resulting from simple negligence, of the time-limits provided for in the present Code, including those applicable to remand detention."

III. TRENDS IN THE BUDGET OF THE MINISTRY OF JUSTICE (2006-2008)

A. Trends in the operational budget

	2006	Rate of change 2006-2007	2007	Rate of change 2007-2008	2008
Salaries	19 692 559 000	27.80%	25 184 810 000	22.15%	30 764 745 000
Total 1	19 692 559 000		25 184 810 000		30 764 745 000
Operations (excluding salaries)					
Judiciary	5 706 556 000	54.80%	8 838 410 000	0.82%	8 911 253 000
of which: Criminal Justice Funds (FJC)	868 800 000	245.30%	3 000 000 000	0%	3 000 000 000
Prisons	1 559 900 000	252.40%	5 497 605 000	2.16%	5 616 775 000
of which: "Food products"	698 900 000	269.10%	2 579 665 000	35.67%	3 500 000 000
Compensation	2 045 152 000	46.60%	3 000 000 000	55.50%	4 665 000 000
Legal and Registry Service Training College (ENMG)/Prison Administration Training College (ENAP)	680 000 000	361.40%	3 138 000 000	0.02%	3 137 371 000
Total 2	11 559 308 000	77.12%	20 474 015 000	9.06%	22 330 399 000
Grand total (1 + 2)	31 251 867 000	53.80%	45 658 825 000	16.53%	53 095 144 000

B. Trends in the investment budget

Internal financing					
	2006		2007		2008
Establishment and further development of courts and tribunals	1 500 000 000	20%	1 800 000 000	23.90%	2 230 202 000
Internal security	1 500 000 000	20%	1 800 000 000	100.60%	3 611 420 000
Coordination programme support	150 000 000	-33.30%	100 000 000	65.30%	165 375 000
Strengthening of monitoring capacity	200 000 000	0%	200 000 000	33.70%	267 590 000
Audit court					
Public Investment Programme (PIP), Region					905 382 000
Total	3 350 000 000	16.41%	3 900 000 000	84.10%	7 179 969 000
External financing					
	0		500 000 000		1 511 732 000
Grand total	34 601 867 000	44.60%	50 058 825 000	23.42%	61 786 845 000

1/ The text of Act No. 2008-012 may be consulted on the Internet at: www.senat.gov.mg/index.php?option=com_content&view=category&id=37&Itemid=84