



Workshop to discuss implementation of Madagascar's use plan ("Business Plan") for securing and disposing of stockpiles of rosewood and other precious woods

Summary Report



June 19-21 2018, Antananarivo, Madagascar

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Background

Madagascar has suffered from unsustainable forest exploitation (both legal and illegal) for many years, with the situation more recently exacerbated by political instability that started in 2009. The main forest resources targeted by unsustainable practices have been the country's many valuable rosewood and ebony species, most of which are endemic. In 2012-13 ITTO, with a grant from the government of Norway, assisted Madagascar (before it became a member of the Organization in 2016) to develop a CITES Appendix II listing proposal for all rosewood and ebony species in the country. This listing was subsequently approved by the CITES CoP in 2013 and an action plan developed to assist Madagascar to implement the listing. This action plan included a formal ban on exports of these species by Madagascar until such time as sustainable management practices for the species could be put in place. The World Bank has assisted Madagascar in the development and early implementation of this action plan.

A key consideration in implementing the CITES listing for Madagascar's rosewood and ebony species is the handling of significant stockpiles of the species in the country. Following the political crisis in 2009, and in the period up to 2016, Madagascar passed several decrees and laws banning new harvest and possession of rosewoods, ebonies and palisanders and establishing a framework for managing stockpiles of these species. In 2011, through Ordinance 2011-001, the government provided a window of 30 days for timber operators to declare stockpiles and in this way avoid the penalties established in the ordinance. This resulted in reports submitted to CITES referring to around 300,000 logs in declared and/or seized stockpiles (in fact the majority of these stockpiled logs remain outside the control of the government and in the possession of those who declared them). At the 69th meeting of the CITES Standing Committee in 2017, the government of Madagascar introduced a "use plan" (hereafter referred to as "business plan" or BP) for these stockpiles and requested the Standing Committee to lift the trade ban on these species to allow the stockpiled wood to be sold. Following significant discussions, the Standing Committee decided to maintain the trade ban on Madagascar's rosewoods and ebonies until the government could provide evidence of significantly strengthened control/enforcement measures together with an audited inventory of at least one-third of the declared/seized stockpiles reported to CITES (i.e. around 100,000 logs) and a revised use plan taking account of the following issues:

- Timing – the activities in the proposed BP were not realistic within the envisaged timeframe
- Budget – funds for the inventories and other activities proposed in the BP (over \$8 million) are not secured
- Controls/oversight – the BP should include mechanisms to prevent laundering of non-stockpile timber, transparent allocation of any funds generated, and to monitor impact of any stockpile sales on illegal logging/timber trafficking activities
- Transparency – the BP should specify the role of all stakeholders including civil society and international organizations in monitoring activities
- Cooperation – the BP should clearly identify the role of the international community in its implementation
- Other – the BP should provide more detailed information on appropriate compensation/incentive schemes for stockpile holders; effective methods to mark, secure and track logs; and best auction strategies.

The Standing Committee concluded its discussions on this matter by urging Madagascar to make progress in developing a plan for how it will identify and take control of undeclared/hidden stocks of rosewood and ebony (i.e. those that weren't declared under the amnesty), and to provide a follow-up report to its 70th meeting in October 2018.

Following this meeting, extensive discussions took place between relevant stakeholders including the World Bank and the International Tropical Timber Organization. A consultant was retained to assist the government of Madagascar in revising the BP in accordance with the recommendations of the CITES Standing Committee. These discussions also led to a proposal from Madagascar for a workshop of relevant stakeholders from governments, civil society, private sector, academia, legal experts and international organizations to discuss

steps that could lead to implementation of the revised BP and to assist Madagascar to address some of the issues raised by the Standing Committee. The workshop was also intended to raise awareness amongst donors of Madagascar's need for urgent assistance to meet the conditions included in relevant CITES decisions/resolutions addressed to it, including implementing the BP.

The *Workshop to discuss implementation of Madagascar's use plan ("Business Plan") for securing and disposing of stockpiles of rosewood and other precious woods* was convened in Antananarivo, Madagascar from 19-21 June 2018. The workshop was co-hosted by the Government of Madagascar (Ministry of Environment, Ecology and Forests – MEEF) and the International Tropical Timber Organization (ITTO). A meeting with the recently appointed Minister of the Environment (Mr. Guillaume Venance Randriatefiarison) took place the day prior to the workshop during which the Minister expressed his government's support for solving the issues of Madagascar's precious woods and implementing the BP. The workshop opened on June 19 at the MEEF's OLEP facility in Antananarivo and continued on following days in the World Bank's country office in Antananarivo. The workshop agenda is attached in Annex 1; the list of participants is attached in Annex 2.

Opening session

Following an introduction of participants, the representative of the ITTO secretariat provided brief opening remarks, welcoming participants and thanking the government of Madagascar for inviting ITTO to assist it in convening the workshop. The representative of the CITES secretariat referred to the 6 year history of the issue of Madagascar's precious woods in various CITES fora, welcoming the workshop as a good opportunity to make progress on the key issue of stockpiles. The Chief of Staff of the Minister of Environment, Ecology and Forests welcomed participants to Madagascar and summarized steps taken by Madagascar to comply with CITES requirements, including making significant funds available to start inventories of stockpiles, establishing a new court to prosecute illegal logging and timber smuggling, and monitoring ship movements on the east coast of the country. He noted that Madagascar intended to submit a revised BP to the 70th session of the CITES Standing Committee in October and welcomed the inputs from workshop participants that would help in improving and finalizing the BP.

Summary of Day 1 discussions

The first day of the workshop consisted of a series of presentations under the relevant agenda headings. The list of presentations is contained in Annex 3 along with the web link indicating where the presentations can be viewed and/or downloaded.

Status of CITES deliberations on Madagascar's precious woods

The representative of the CITES secretariat provided a detailed summary of the evolution of discussions on Madagascar's precious woods at the CITES CoP, Standing Committee and Plants Committee since 2016. He noted that the preparation and submission of a revised version of the stockpile business/use plan was a key aspect of the wider decisions taken by CITES dealing with an action plan for implementing the CITES listings of Madagascar's rosewoods and ebonies. He noted that the issue of stockpiles was preventing orderly implementation of other CITES decisions/recommendations and that this issue needed to be addressed (presentation 1, Annex 3). He reviewed important upcoming dates on the CITES calendar including:

- 20-26 July 2018: Twenty-fourth meeting of the Plants Committee, Geneva, Switzerland
- 01-05 October 2018: 70th meeting of the CITES Standing Committee, Sochi, Russia
- 23 May-03 June 2019: 18th meeting of the Conference of the Parties (CoP), Colombo, Sri Lanka

Review of Madagascar's revised business plan

The consultant retained by the government of Madagascar presented the revised BP, focusing on the changes made to address the issues of timing, budget, control/oversight, transparency, cooperation and other aspects raised by the CITES Standing Committee at its 69th meeting (presentation 2, Annex 3). All of the issues raised by the Standing Committee were addressed in the revised BP, with the exception of the funding of the

implementation of the BP (particularly transporting/securing the stockpiles under government control) which was at least partially dependent on funds from stockpile sales (as proposed in the BP) or from other external sources. The two phases of the BP were explained, with the first phase concentrating on securing and marking declared stockpiles not under the government's control and providing incentives to stockpile holders to allow the government to take possession of the wood. The second phase would then concentrate on sales of stockpiled wood with appropriate independent oversight.

Participants generally welcomed Madagascar's efforts to revise the BP, but concerns were expressed by some that the BP should only be seen as one component of the wider CITES work plan for Madagascar's listed tree species. Some participants felt that Madagascar needed to make more progress in tackling illegal activities in the forest sector and in bringing involved individuals to prosecution. Concerns were also expressed that allowing the sale of stockpiled wood could stoke further unsustainable demand for rosewood and ebony from Madagascar's natural forests/protected areas and that any incentives offered to the holders of declared stockpiles to allow them to be taken under government control could be seen as possibly rewarding past illegal behavior. Participants welcomed the idea of independent oversight of any eventual sale process, noting that this was an important element of the BP given the ongoing problems with governance and transparency in Madagascar's forest sector. Participants were also informed that the stockpiled wood was deteriorating and that efforts to move it into controlled environments should be expedited in order to maintain the timber's quality and value.

Key components of the business plan

The following three key components of implementation of the business plan were presented and discussed.

Measures to secure and control stockpiles

The representative of the government of Madagascar provided details of steps taken to date to secure and control stockpiles. He noted that the government had allocated 800 million ariary (about US\$ 250,000) to auditing declared stockpiles outside the government's control accounting for about 50,000 logs (i.e. about half of the CITES Standing Committee's requirement to audit one-third of declared stockpiles). This had involved counting the wood, securing logs (in situ) with wire rope and marking them with paint so that any movement of logs after the audit would be obvious. Efforts were also undertaken by investigation squads to establish the legality of wood in the audited stockpiles.

The representative of Stardust informed participants about his company's anti-counterfeiting technology based on micro-particles embedded in spray-on paint combined with small, hand-held scanners capable of detecting the micro-particles. The micro-particles are extremely durable and inert/non-toxic. The technology has been used in a range of secure printing applications including with many government printers. A smart phone application is available to add time and geo-location data to authentication of markers undertaken using the hand-held scanners, allowing secure tracking of chain of custody of marked materials. Users of the system can be assigned different levels of access to data generated by it (presentation 3, Annex 3). Participants advised that the Stardust marking system would be a good method to ensure that any logs eventually sold were in fact those from the audited (and marked) stockpiles.

Legal framework for implementing business plan

The representative of MEEF provided details of the current legal framework related to precious woods (presentation 4, Annex 3). A new "special court" established under a law passed in 2015 would be responsible for prosecuting illegal logging crimes. The Ministry of Finance had made funds available to the Ministry of Justice for the new court to commence operations by the end of 2018. The details of the 2015 law were explained, including the establishment of a Commission for Stockpile Management and proposals for revenue sharing under implementation of the revised BP (25% to the federal budget, 25% to local/regional government budgets, with 70% of this to go to local communities, and 50% to improved forest management/protection).

The proposal to compensate or provide an incentive to stockpile holders who allow the government to take control of the stockpiles was also introduced.

The representative of Madagascar's Ministry of Justice presented further details on the legal framework to combat forest crime, including the establishment of new investigative authorities/brigades and on the structure and constitution of the special court (presentation 5, Annex 3). The three key laws/decrees adopted by Madagascar since 2014 dealing with illegal logging and trade of precious woods, including handling of stockpiles, are contained in Annex 4.

The representative of a local law firm involved in an ongoing court case seeking to have a shipment of Madagascar rosewood logs returned from Singapore (where it was seized for failing to have a valid CITES export permit) reported that an initial civil filing seeking the return of the logs had been rejected in a Singapore court and that an appeal had been lodged. However, progress had been slow to date. The Singapore government is currently involved in legal proceedings against the importer of the logs.

Participants welcomed the new court and other legal measures to crack down on illegal logging but noted that there was a need to strengthen the resources/capacity of Madagascar's judicial system in general and that perhaps some of any funds raised from a sale of stockpiles should be directed to this. Questions were also raised about the statute of limitations on illegal logging crimes (10 years), stressing the need to bring former high ranking officials (including one who travelled to Singapore to claim that the logs exported there without a CITES export permit were legally exported) to account.

Measures to improve management/conservation of precious woods

The representative of MEEF provided details of efforts to improve forest management and control of illegal activities in the main regions of Madagascar containing rosewood (presentation 6, Annex 3). He provided details of the work of an inter-ministerial commission (SE COMINT) in this regard.

The representative of Madagascar's CITES Scientific Authority provided details of an FAO-funded project underway in Diana, Menabe and Sava regions to collect data on three rosewood species to allow a CITES non-detriment finding to be produced for these species. She also provided details of a new EU-funded project to establish reference samples and identification protocols for all Malagasy rosewoods and ebonies. This project builds on earlier assistance provided by ITTO and will provide important tools for assisting Madagascar to implement the CITES listings of these species and to manage/conservate them more effectively (presentation 7, Annex 3). Workshop participants recommended that inventory work to be carried out under the BP could include the collection of reference samples from stockpiled wood in order to facilitate this and future wood identification efforts.

Summary of day 2 discussions

The decision was taken to remain in plenary on the second day of the workshop to focus attention on the following key issues that arose from discussions the previous day.

Governance of business plan

MEEF, together with the Executive Secretary of the Prime Minister's office and a inter-ministerial coordination body (SE-COMINT), will be in overall charge of the implementation of the BP, overseeing teams from MEEF and other government departments that will implement the technical work like inventories, etc. Following discussions during the workshop, it was decided that representative civil society partners will also be included in overall governance of the BP and that this should be reflected in the revised BP.

The proposed oversight committee would be made up of relevant international and national independent observers. Its role would be to provide advice and guidance on the implementation of the business plan,

including on the allocation of any revenues raised from implementing the BP. Workshop participants noted that the proposed oversight committee participants in the revised BP were only an example of what could be considered and that the final constitution of the oversight committee would be dependent on decisions by both the government of Madagascar and those to be invited to serve on the oversight committee. It was noted that support of the BP by the international community would be enhanced by a transparent process with effective oversight.

Funding arrangements to implement business plan

The representative of MEEF indicated that an additional 750 million ariary are being sought from the national budget to complete the inventory of one-third of declared stockpiles as required by CITES. However, this amount could not cover the cost of marking using technology like Stardust or the cost of transporting stockpiled wood to secure government-controlled holding areas (the most expensive part of the first phase of the BP and most likely significantly under-estimated in the draft BP budget of \$1 million to complete the inventories and securing of the stockpiles). Participants recommended that the revised BP include a realistic estimate of transport costs in the budget or a clear note indicating the basis for the figure presented.

Participants discussed the cost-saving option of partial implementation (i.e. in important rosewood regions like Sava) and also the possibility of leaving the stockpiles (once inventoried and reliably marked with a system like Stardust) under the guardianship of those who declared them rather than transporting them to government controlled holding areas. The representative of MEEF also raised the possibility of seeking authorization from CITES to begin limited sales of stockpiled wood based on the inventories carried out to date in order to raise funds to pay for the remainder of the work. All of these options had positive and negative features. Participants generally felt that imminent sales of stockpiled wood was not likely and that even for partial implementation of the business plan external funding would be required. It was noted that it would be very difficult to implement the BP without international support. The representative of China referred to the Sino-African partnership as one possible avenue of support. No other recommendations for funding implementation of the BP were forthcoming from bilateral donors. The government of Madagascar was therefore urged to continue appeals to the international donor community (both bilateral and multilateral) for support to implement the BP.

Buy-back/incentive scheme

Several participants voiced doubts about the feasibility and ethics of the proposed buy-back scheme, which might be seen as rewarding stockpile holders who may have obtained the wood illegally (some stockpiles may have been logged prior to the 2011 ban on new harvesting but many were probably logged after that date). The representative of the government of Madagascar clarified that consent of local populations and stockpile holders was needed to safely carry out required inventories, marking and transport and/or securing of stockpiled wood. Some kind of incentive mechanism was required to maintain social harmony and allow this work to progress. Participants advised that the term “buy-back” should not be used in the BP, which should instead refer to a compensation or incentive scheme to sustain local logistical costs of handling stockpiles. This could also help maintain social order.

Participants felt that the government of Madagascar should provide a clearer statement on the objectives of controlling the stockpiles (e.g. sale? security? slow or stop wood degrading?) and more justification for any incentive scheme included in the revised BP, ensuring that there is no implication that stockpile holders are being rewarded and avoiding up-front cash payments.

Work already undertaken that is transparent/verifiable contribution to business plan

The representative of MEEF reiterated the work that had already been undertaken with government funding to inventory and secure in situ about one-sixth of declared stockpiles. He confirmed that additional resources of about 750 million ariary were being sought to extend this work to meet the CITES requirement that one-third of declared stockpiles be verifiably inventoried. Workshop participants urged the government of Madagascar

to expedite this funding and the related inventory work. It was also noted that several boats had been purchased with World Bank support to facilitate monitoring of Madagascar's extensive coast and smuggling of precious woods, but funds were not available to cover the running costs and maintenance of these boats.

The establishment of the new special court to prosecute illegal logging crimes is also an important achievement but more progress needs to be made in bringing prosecutions and securing convictions for such crimes.

Ensuring stockpile sales are not a stimulus for unsustainable demand for standing timber

The representative of MEEF stressed that only marked wood from audited stockpiles could be sold under the BP which allows for a one-off sale of stockpiled wood only, all other (unmarked) wood would be considered illegal and banned from sale.

Workshop participants felt that re-opening sales of precious woods could send the message to local people that renewed logging was allowed. It would be important that any sales under the BP were accompanied by a robust monitoring plan for production forests and protected areas (by both MEEF and the proposed oversight committee) and an extensive communications plan. Communications should ensure that all stakeholders are made aware that the BP sales cover only wood in declared stockpiles and that attempting to sell any other precious woods will result in severe sanctions. Any renewed sales under the BP should be accompanied by an extension of the moratorium on any new harvests and sale of precious woods until such time as the capacity to undertake robust non-detriment findings has been attained. The government of Madagascar may also consider the destruction of any newly harvested specimens that it confiscates to send a message that new logging will not be tolerated during this moratorium.

Workshop participants also suggested that the government of Madagascar should establish close liaison with importing countries and explore the possibility of agreements with important importers to share information on flows of timber.

Other options for disposing of stockpiles

Options for stockpile disposal other than sales that were discussed during the workshop include destruction and/or local/community use of the wood. The representative of MEEF indicated that neither of these were realistic options for all of the stockpiled wood since the government needed to realize the maximum value from its natural resources to contribute to its goals of improved forest management and sustainable development. Local use of some of the stockpiled wood is encouraged by existing legislation but there is limited local processing capacity and therefore limited revenue potential. The government is considering offering companies ready to invest in local processing preferential access to stockpiled wood. If logs are to be legally exported existing legislation will need to be amended.

Some participants felt that the existence of increased domestic processing capacity could lead to more illegal logging to feed that capacity. The BP should include provision for yield studies of local processors who are provided access to stockpiled logs to ensure that volumes of finished products are consistent with the volumes of logs they obtain through the BP sales process.

The best way to optimize the value obtained for the stockpiled wood is to sort it into grades and target the graded wood to the market(s) that place the highest value on it, i.e. wood suitable for musical instruments and/or furniture could be targeted to export markets or local manufacturers who serve those markets, smaller/lower quality grades could be targeted to local crafts makers. All bidders for stockpiled wood sold under the BP should be required to undergo identity verification.

Stockpiles seized abroad

The representative of MEEF informed that rosewood and ebony from Madagascar had been seized by several countries due to lacking valid CITES export permits. Seizing countries include Hong Kong, India, Mauritius, Mozambique, Singapore, Sri Lanka and Tanzania. CITES regulations require the seizing country to dispose of illegally smuggled specimens of listed species in a manner so as to best achieve the objectives of the Convention, with no benefit to the smuggler(s). A special CITES permit is required if the seizing country decides that an auction of seized specimens is the best disposal strategy. The representative of the CITES Secretariat informed that an existing CITES decision calls on countries seizing smuggled wood from Madagascar to cooperate with Madagascar in sharing information that might help in bringing smugglers to justice. The representative of MEEF noted that to date negotiations with seizing countries had been quite difficult and cooperation limited. To date only India and Mauritius had responded to requests from Madagascar to negotiate over the seized wood, with the latter agreeing to return the seized wood to Madagascar (which covered the return transport cost).

Participants urged the government of Madagascar to continue negotiations with countries holding rosewood or ebony smuggled from the country. If agreements are reached with any of these countries to auction seized wood in the seizing country, then any such auctions should be carried out under the BP framework for domestic stockpiles, including close liaison with the proposed oversight committee monitoring sales of domestic stockpiles.

Measures to improve enforcement measures

It was noted that there have been few successful prosecutions of forest crime in Madagascar to date. There is now a new Minister of Justice and hopefully this will change. The representative of MEEF pointed out that the country's Independent Anti-Corruption Bureau (BIANCO) had charged individuals allegedly involved in the smuggling of the rosewood seized by Singapore in late 2017 and the case was expected to go to court later this year, although the fact that one of the individuals involved was an elected official meant that this was a complex process. He also pointed out that individuals who had declared stockpiles in line with the government promoted amnesty would not be prosecuted.

Participants noted that the CITES Standing Committee would expect the government of Madagascar to provide concrete examples of enforcement measures taken and not only to enumerate new laws that have been passed. This would also be a likely requirement for some donors to provide funds for implementing the BP. Participants noted that the report on enforcement measures was separate from the BP, but that the BP could, for example, call on countries that seize illegally exported Madagascar timber to cooperate and share information with Malagasy officials as called for in an existing CITES decision. Madagascar could also attempt to reach agreements with key importing countries to share information on all timber entering their markets that is known or suspected to be from Madagascar in order to improve enforcement measures when smuggling is suspected.

Steps towards the CITES Standing Committee and CoP

The representative of the CITES Secretariat reiterated the dates and details of important upcoming CITES meetings of relevance to Madagascar, particularly the upcoming 70th meeting of the CITES Standing Committee in October and CITES CoP 18 in May 2019 (presentation 8, Annex 3). He noted the deadline for documents to be submitted for both meetings (August 2 for SC 70 and December 24 for CoP 18). He reviewed the decision-making process of the Standing Committee which consists of 16 voting members from the various regional groupings in CITES, equally split between developed and developing countries. Decisions are taken by consensus or by simple majority vote, with the depositary government (Switzerland) casting the deciding vote in case of a tie.

The Standing Committee would expect Madagascar to provide the following to its 70th meeting:

- A report on national measures to control illegal forest exploitation and trade
- Details of verified inventories of at least one-third of declared stockpiles of rosewoods/ebonies
- A revised BP for its consideration and approval
- A plan for identifying and controlling undeclared stockpiles of rosewoods/ebonies

It is possible that a working group dealing with Madagascar would again be established early during the 70th meeting of the CITES Standing Committee. Such a working group would be open-ended but cannot include more non-parties (NGOs, international organizations, etc.) than CITES parties in its membership. Workshop participants who would attend SC 70 were encouraged to be involved in this working group.

The representative of CITES also reviewed the decisions taken at CoP 17 related to Madagascar. In addition to reporting on the various requirements included in these decisions (e.g. export quotas and identification protocols for all exploitable species, capacity to implement CITES, etc.) the government of Madagascar may wish to propose a review of these decisions in order to update/rationalize them. This idea could be proposed at SC 70 prior to CoP 18 and Madagascar was encouraged to include any such draft proposal in its report(s) to that meeting.

Closing session

The representative of the ITTO secretariat thanked participants for their active involvement in the workshop and informed that the workshop report and all presentations would be available on the ITTO website in due course.

The Chief of Staff of the Minister of Environment, Ecology and Forests thanked all participants, especially those who had travelled from overseas to Madagascar for the workshop. Prior to officially closing the workshop, he indicated that his government would be revising the BP taking into account the feedback received at the workshop and submitting it to the 70th meeting of the CITES Standing Committee before the established deadline.

Annex 1. Workshop agenda



Workshop to discuss implementation of Madagascar's use plan ("Business Plan") for securing and disposing of stockpiles of rosewood and other precious woods

June 19-21, World Bank Office, Antananarivo, Madagascar

Draft Agenda

Tuesday June 19:

- 9:00-9:30 Opening ceremony (Minister of Environment, ITTO, WB)
9:30-10:00 Status of CITES deliberations on Madagascar *Dalbergia* and *Diospyros* spp. (CITES)
10:00-10:15 Coffee
10:15-11:30 Detailed review of Madagascar's Business Plan (MG/consultant)
11:30-12:30 Discussion
12:30-14:00 Lunch
14:00-17:30 Presentations and discussions on specific issues under Phase 1 of Business Plan:
- Measures to secure and control stockpiles (MG/consultant)
- Measures to supervise/oversee eventual sales (MG/consultant)
- Legal framework for implementing Business Plan (MG)
- Measures to improve management/conservation of precious woods (MG)
17:30-18:00 General discussion and wrap up
19:00 Cocktail

Wednesday June 20:

- 9:00-9:30 Review of day 1
9:30-10:30 Proposed funding arrangements to implement Business Plan (MG)
10:30-12:00 Discussion
12:00-14:00 Lunch
14:00-17:00 Focused group discussions on stockpile control, oversight and funding
17:00-18:00 Report of focused group discussions (Chair(s))

Thursday June 21:

- 9:00-11:00 Next steps:
- Immediate actions to implement Phase 1 of business plan - who does what and how (MG)
- Presentation of Business Plan to SC 70 and workshop report (Chair(s))
11:00-12:00 Adoption of workshop report outline (Chair(s))
12:00-14:00 Lunch

Annex 2. List of participants

Governments

Madagascar

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Annex 3. List of presentations and web link

The following presentations referred to in the workshop report are available for download at:
http://www.itto.int/workshop_detail/id=5600

1. Status of CITES deliberations on Madagascar *Dalbergia* and *Diospyros* spp.
2. Detailed review of Madagascar's Business Plan
3. Measures to secure and control stockpiles
4. Legal framework for implementing Business Plan 1
5. Legal framework for implementing Business Plan 2
6. Measures to improve management/conservation of precious woods 1
7. Measures to improve management/conservation of precious woods 2
8. Next steps towards CITES Standing Committee 70th Session

Annex 4. Relevant laws and decrees adopted by government of Madagascar

MINISTRY OF ENVIRONMENT, ECOLOGY AND FORESTS DECREE N ° 2014-906

Establishing the Inter-ministerial Committee responsible for the sanitation of the rosewood and ebony wood industry

THE PRESIDENT OF THE REPUBLIC,

Given the Constitution;

Given the amended law n ° 90- 033 of December 21, 1990 concerning the Malagasy Environment Charter;

Having regard to Law No. 97-017 of 8 August 1997 revising forestry legislation;

Considering the law n ° 2001-005 of February 11th, 2003 bearing code of management of the protected areas;
Considering the ordinance n ° 2011-001 of August 08, 2011 relating to the repression of the infractions relating to the rosewoods and ebony wood;

Having regard to Decree No. 2010-141 of 24 March 2010 prohibiting the cutting, harvesting of rosewood and ebony in Madagascar;

Having regard to Decree No. 2014-200 of 11 April 2014 appointing the Prime Minister, Head of Government;

Considering Decree No. 2014-235 of 18 April 2014 appointing members of the Government;

On the proposal of the Minister of the Environment, Ecology and Forests,

In Council of Ministers;

DECREES:

TITLE I

GENERAL PROVISIONS

Article 1

The purpose of this Order is to create a structure for decision-making and coordination of all actions relating to stock management and sanitation of the rosewood and ebony wood industry. This structure, attached to the Prime Minister office, is called Inter-ministerial Committee responsible for the sanitation of the rosewood and ebony industry.

TITLE II

MISSION AND RESPONSIBILITIES

Article 2

The Inter-ministerial Committee, who is responsible for the sanitation of the rosewood and ebony industry is a decision-making body and coordination which mandate is to promote coherence and synergy of actions between concerned ministerial departments to arrive at a "zero stock" situation as well as "zero tolerance" for illegal logging and to eliminate the laundering of new cuts.

Article 3

The Inter-ministerial Committee in charge of the sanitation of the rosewood and ebony industry, in the accomplishment of its mission, establishes and implements an action plan which main objectives are:

- to liquidate rosewood and ebony stocks in Malagasy territory and abroad;
- to establish a mechanism to eliminate any illegal cutting of rosewood and ebony;
- to settle all existing disputes in this area under reserve of the legal authority, and,
- to ensure the enforcement of the texts in force.

This action plan aims at establishing good governance in the rosewood and ebony wood industry. The inter-ministerial committee in charge of the sanitation of the rosewood and ebony industry is responsible for

identifying key actions to fight against illicit trafficking, monitor their implementation and, where appropriate, take corrective necessary measures.

Article 4

The Inter-ministerial Committee in charge of the sanitation of the rosewood and ebony industry, in the accomplishment of its mission, can use appropriate ways both national and international customs and judicial cooperation.

TITLE III

COMPOSITION

Article 5

The Inter-ministerial Committee responsible for the sanitation of the rosewood and ebony industry is chaired by the Prime Minister, Head of Government, who sits ex officio on the committee.

It is composed by:

- The Prime Minister, Head of Government;
- The Minister of National Defense;
- The Minister of Foreign Affairs;
- The Attorney General, Minister of Justice;
- The Minister of Finance and Budget;
- The Minister of the Interior and Decentralization;
- The Minister of Public Security;
- The Minister of the Environment, Ecology and Forests;
- The Minister of Commerce and Consumer Affairs;
- The Minister of Transport and Meteorology;
- Minister of Crafts, Culture and Heritage;
- The Secretary of State for the Gendarmerie.

Article 6

The Inter-ministerial Committee responsible for the sanitation of the rosewood and ebony industry has an Executive Secretariat. Each member of the inter-ministerial committee responsible for the sanitation of the rosewood and ebony industry appoints a representative who sits on a temporary basis of the Executive Secretariat. These representatives are appointed by order of the Prime Minister, Head of Government on the proposal of each concerned ministerial department. The Executive Secretariat is headed by a full-time Executive Secretary. Its selection is done through a call for applications conducted by an evaluation committee set up by the Ministry of Environment, Ecology and Forests. The powers, organization and functioning of the Executive Secretariat are governed by regulations. The Executive Secretary is appointed by order of the Prime Minister, Head of Government. Terms of reference of the Executive Secretary are attached.

Article 7

The Executive Secretariat's mission is to ensure the implementation of the key actions identified by the Inter-ministerial Committee responsible for the sanitation of the rosewood and ebony wood industry. For proper implementation of its mandate, the Inter-ministerial Committee in charge of the sanitation of the rosewood and ebony wood industry makes available to the Executive Secretariat all appropriate means including human, material, financial resources and expertise.

Article 8

Ministries that are not officially part of the Inter-ministerial Committee responsible for the sanitation of the Rosewood and ebony sector remain fully responsible for the missions to which they are assigned.

Article 9

In accordance with Article 4, the Inter-ministerial Committee for the Sanitation of the Rosewood and ebony Wood Industry can seize the entities likely to be concerned by the good realization of its mission, for instance:

- Protected Areas Managers;
- The financial and technical partners and;
- Civil society.

TITLE IV

OPERATION

Article 10

The Inter-ministerial Committee responsible for the sanitation of the rosewood and ebony industry holds a monthly meeting or as necessary as called by its President. In the event of new seizures of rosewood and ebony stocks, the Inter-ministerial Committee for the Sanitation of rosewood and ebony chain must complete the steps at its level, within three months after the date of seizure, allowing the enforcement of the procedures in accordance with the provisions of the laws and regulations in force regarding prosecution and repression. The Inter-ministerial Committee responsible for the sanitation of the rosewood and ebony industry reports quarterly on the progress of the implementation of the action plan and the results of the prosecution and repression in case of seizures of rosewood and ebony stocks in the Council of Ministers. The public is informed by way of press and by any other means deemed useful.

Article 11

On the proposal of the Inter-ministerial Committee responsible for the sanitation of the rosewood and ebony, dedicated budget line is made available to cover the costs of the operations and operation of the Executive Secretariat. This budget line also includes the salary of the Executive Secretary. The use of funds in this budget line is made public at the end of January of the following year. The Inter-ministerial Committee in charge of sanitation of the rosewood and ebony industry ceases to publish details on use of the budget when the Government begins to publish the results of the overall budget execution.

TITLE V

FINAL PROVISIONS

Article 12

The duration of operation of the Inter-ministerial Committee in charge of sanitation of the rosewood and ebony wood industry is fixed until the achievement of the objectives stipulated in the action plan.

Article 13

All prior provisions contrary to this decree, in particular order n ° 22143/2012 of 16 August 2012 relating to the creation, organization and functioning of the Steering Committee in charge of the management and the sanitation of the precious wood sector are and remain abrogated.

Article 14

To the urgency and in accordance with the provisions of Article 4 of Ordinance No. 62-041 of 19 September relative to general provisions of domestic law and private international law, this Decree comes into force with publication by broadcast, television or billboard, regardless of its insertion in the Official "Paper" of the Republic of Madagascar.

Article 15

The Minister of National Defense,
The Minister of Foreign Affairs,
The Attorney General,
The Minister of Justice,

The Minister of Finance and Budget,
The Minister of Interior and decentralization,
The Minister of Public security,
The Minister of Environment, Ecology and Forests,
The Minister of Commerce and Consumer affairs,
The Minister of Transport and Meteorology,
The Minister of Crafts, Culture and Patrimony, and
The secretary of State of the Gendarmerie
Are responsible, each as far as it is concerned, for the execution of this decree which will be published in the Official Paper of the Republic.

Antananarivo, June 24, 2014

Hery RAJAONARIMAMPIANINA
President of the Republic

The Prime Minister, Head of Government
KOLO CHRISTOPHE Laurent Roger

The Minister of National Defense, Divisional General
Dominique Jean Olivier RAKOTOZAFY

The Minister of Foreign Affairs
Arisoa Lala RAZAFITRIMO

The Attorney General, Minister of Justice
Noëline RAMANANTENASOA

The Minister of Finance and Budget
Jean RAZAFINDRAVONONA

The Minister of the Interior and Decentralization
Solonandrasana Olivier MAHAFALY

The Minister of Public Security, the Police Comptroller General
Blaise Richard RANDIMBISOA

The Minister of the Environment, Ecology and Forests
Anthelme RAMPARANY

The Minister of Commerce and Consumption
Narson RAFIDIMANANA

The Minister of Transport and Meteorology
Jacques Ulrich ANDRIANTIANA

The Minister of Crafts, Culture and Heritage
Vaonalaroy RANDRIANARISOA

The Secretary of State for the Gendarmerie
Major General Didier Gérard PAZA

NATIONAL ASSEMBLY

LAW N ° 2015 - 056

Establishing the "special chain for controlling the traffic of rosewood and / or ebony" and the suppression of offenses relating to rosewood and / or ebony

The National Assembly adopted in its meeting of December 17, 2015, the law with following content:

TITLE I

GENERAL PROVISIONS

Article 1 - The purpose of this law is to:

- create a special unit called the "Special Chain to Control the Trafficking of Rosewood and / or Ebony wood";
- determine the composition, the mandates and the procedure applicable to the said chain;
- provide the punishment for offenses relating to rosewood and / or ebony;
- guarantee the management of seized or confiscated rosewood and / or ebony stocks.

Art.2.- The cutting, the felling, the possession, the storage of cut rosewood and / or ebony wood, the exploitation, the transport, the selling and the export of rosewoods and / or ebony are prohibited.

TITLE II

COMPOSITION, MANDATES AND PROCEDURES APPLICABLE TO THE SPECIAL CHAIN

Art. 3.- The Special Chain to control the rosewood and ebony trafficking is composed of:

1. The joint Investigation Brigades established in the localities with high sensitivity for traffic of rosewood,
2. The Special Court based in Antananarivo and,
3. The Stock Management Commission.

Art.4.- The terms and conditions for allocating indemnity to Special Chain to control rosewood and/or ebony wood trafficking members are determined by decree.

CHAPTER I

THE JOINT INVESTIGATION BRIGADES

Section I

Composition

Art.5.- A joint investigation brigade (BME) is created at the level of each locality with high sensitivity in terms of rosewood traffic. Localities with a high sensitivity of rosewood traffic king are determined by decree.

Art.6- The Joint Investigation Brigade is made up of judicial police officers and judicial police agents of the national police, the gendarmerie and forestry agents. It is chaired by a forest agent qualified as Judicial Police Officer.

Art.7.- It is placed under the direct authority of the prosecution department of Special Court. The activities of the Brigade consist of implementing the instructions ordered by this Special Court prosecution department and reporting only to this one.

Art.8.- In case of close connection and / or indivisible link between offenses relating to rosewood and ebony and offenses under the jurisdiction of another administration, one agent from such administration becomes ex officio one of officers reporting an offense.

Section II

Assignments

Art.9.- The Joint Investigation Brigade is in charge of:

- Collecting all necessary information relating to possible rosewood and ebony traffic, including the use of special investigation techniques such as controlled deliveries, undercover operations, wiretapping on written order from Magistrate of the Public Ministry or an order of the chamber of the Special Court;
- Identifying offenses relating to rosewood and ebony;
- Investigating on the said offenses.

Section III

Procedures

Art.10- The Joint Investigative Brigade may be seized of a complaint or denunciation from an association or an organization whose statutes define in their object the defense of the environment, the protection of the forests or from a third person. Anyone who is aware of any offense relating to the trafficking of rosewood and ebony is also obliged to report it to the joint Brigade Investigation under penalty of penal sanctions stipulated by Article 71, 5 ° of the present law. The Joint Investigation Brigade may also take action ex officio.

Art.11- In the hour following the notice of the offense, the Joint Investigation Brigade sends data information on the apprehended author (s) to the Ministry in charge of Forests, to the prosecution department of the Special Court and to the Ministry of Justice. The agents of the Joint Investigation Brigade, who found the offense, make a report within twenty-four hours after the places of deposit of the seized objects, which are fixed by decree, are decided.

Art.12.- The close watch duration is in accordance with the provisions of Article 136 and the Code of Criminal Procedure.

Art.13- The Joint Investigative Brigade has the right to seize all goods liable to confiscation, to retain shipments and all other documents relating to the seized objects which contributed to the realization of the offense. The report of the finding and seizure or sequestration may be drafted at the place of deposit of the seized objects, or at the venue of notice of the offenses.

Art.14- The reports of finding and seizure state:

- The date and cause of the seizure;
- The names, qualities and residency of the person (s) responsible for the prosecution;
- The nature of the seized objects and their quantity;
- The presence or not of the offender and any request for attendance of the offender ;
- The name and the quality of the guardian;
- The venue of offense reporting and the time of completion.

The minutes are composed of:

- The reports of the finding of the offenses and their nature;
- The reports of seizure stating the nature and quantity of the seized objects;
- The reports of sequestration indicating the name and quality of the custodial guard;
- The records of investigation.

Art.15- If the offender is present; the records have to mention that he has read the contents and signed. The reports made in the absence of the offender have the same effects and validity as those written in his presence.

Art.16- Once the report completed, one copy is sent to the Ministry in charge of the Forests for conclusions which will be annexed to the reports. When the investigation is completed, the Joint Investigation Brigade is required to transmit the case and refer the arrested person(s) to the Special Court's prosecution department.

Art.17 – The reports made by a single sworn agent shall be authentic in the absence of evidence to the contrary. The reports made by two sworn agents are authentic until false entries of the material findings they relate. They are authentic in the absence of evidence to the contrary by the accuracy and sincerity of the confessions and statements they report. The reports which record the infringements systematically include the seizure of the products. Templates of the reports, seizure or confiscation are available in annex of the present law.

Art.18 - The agents of the Joint Investigation Brigade may directly request the members of Fokonolona for the search and seizure of rosewood and / or ebony in fraud or illicit circulation. They may also remunerate any non-governmental person who has provided them information that has led directly to the discovery of the offenses referred to in this Act or the identification of the offenders. The modalities of the remuneration of these persons are determined by decree.

Art.19- In the respect of the texts in force, they can penetrate in all the places which they consider useful during the investigation on the infringements. They can search in any transportation equipment. The officials responsible for noting the offenses of trafficking in rosewood or ebony which, for the sole purpose of obtaining evidence relating to the offenses covered by this Act and under the conditions set out in this Act, are not punishable for committing facts that could be interpreted as elements of an offense referred to in articles 69, 70 and 71 of the present law. In order to obtain proof of the offenses provided by this Law, the judicial authorities of the Special Court may order, in case of serious evidence and for a fixed period: the placing under surveillance of bank accounts and similar accounts, the access to computer systems, networks and servers, the placing under surveillance or tapping of telephone lines, fax machines or electronic means of transmission or communication for a maximum of 4 months, audio and video recording of the acts and conversations, the communication of authentic acts and private contracts, banking, financial and commercial documents. They may also order the seizure of the aforementioned documents.

Art. 20- Where the investigations or orders relative to an infraction relating to rosewood or ebony justify it, the Prosecution department of the Special Court or, after the opinion of the Magistrate, the seized investigating chamber, may authorize, under their respective control, an undercover operation under the conditions set out in the following paragraphs. The infiltration consists, for an officer or a judicial police officer specially authorized under conditions fixed by decree and acting under the responsibility of a judicial police officer in charge of coordinating the operation, of supervising persons suspected of committing an offense by masquerading as one of their co-perpetrators, accomplices or receivers. For this purpose, the officer or the judicial police officer is authorized to use an assumed identity and to commit, if necessary, the acts mentioned in articles 69, 70 and 71 of this law. For their nullity, these acts can not constitute an incentive to commit offenses.

CHAPTER II THE SPECIAL COURT

Art.21- The Special Court, with national jurisdiction, is based in Antananarivo.

Art.22.- Without prejudice to the application of the provisions of article 13 of the organic law n ° 2014-043 of 9 January 2015 relative to the High Court of Justice, it is only competent to prosecute and judge the offenses relating to rosewood and ebony wood, provided by articles 69, 70, 71 and 72 of the present law, whether committed in or outside protected areas. The Special Court has full jurisdiction. It can rule on the legality of

administrative acts. It is not obliged to comply with any act it deems illegal. In case of illegality, the administrative act is not applicable but is not canceled.

Art.23.- The Special Court shall have jurisdiction over offenses provided by the present Law:

- when they were committed on the land, sea and air territory of the Republic of Madagascar;
- when committed on board of a flying flag ship; an aircraft registered in accordance with the legislation of the Republic of Madagascar or a fixed platform on its continental plateau;
- when they were committed on board or against an unmanned leased aircraft to a person who has the principal headquarter of his business or his permanent residence in the Republic of Madagascar;
- When rosewood or ebony from Madagascar is apprehended in a foreign territory.

Art.24.- The Special Court has the jurisdiction to examine and judge cases concerning minors under the age of eighteen at the time of committing the acts alleged against them.

Art.25- The jurisdiction of the Special Court extends to the offenses which, combined with the one subject of prosecution, become indivisible case, as well as to those that are connected to, provided that they have been pursued in the same procedure.

Art.26.- Any case must be examined and tried within a period not exceeding six months from the date of deferment of the defendant.

Section I

Composition

Art.27- The Special Court includes:

- The prosecution department of court ;
- The investigating chamber;
- The trial court;
- The clerk' office.

Art.28.- The trial court is composed of:

- 1) A magistrate of the judiciary organization, President having effectively been a magistrate within the body of the magistracy for at least ten (10) years ;
- 2) Four magistrate advisors of the judiciary organization, having effectively been a magistrate for at least eight (08) years within the body of the magistracy, including two years as titular and two year as substitute;
- 3) Four technical assessors from forest administration selected by lot for each case and type of offense, including two incumbents and two substitutes.

Art.29.- The investigating chamber is composed of three magistrates, having actually performed as magistrate for at least eight (08) years within the body of the magistracy and one registrar. The most ancient magistrate with the highest grade is by right President of this chamber.

Art.30.- The Public Prosecution department is composed of two magistrates who have practiced at least ten (10) years as magistrate within the body of the magistracy and one secretary. The most ancient magistrate with the highest grade is by right the head of the Public Prosecution department.

Art.31.- The magistrates composing the Special Court are designated by the Attorney General, Minister of Justice on the proposal of the Superior Council of Magistracy.

Art.32.- The Special Court is assisted by clerks who are specially assigned to it.

Section II

Assignments and procedures

Sub-section I

The Public Prosecution department

Art.33.- The Prosecution department of the Special Court is specifically responsible for the prosecution of offenses relating to rosewood and ebony. It has direct authority over the Joint Investigative Brigades.

Art.34.- The procedure of the preliminary investigation is only applicable at the level of the Special Court.

Art.35.- The magistrate of the public prosecution department of the Special Court appeals the investigating chamber with introductory speech for prosecution to conduct the preliminary investigation in accordance with the Code of Penal Procedure.

Art.36.- At any moment of the investigation, the magistrate of the public prosecution department, by additional indictment, may require the investigating chamber to carry out all acts which it deems useful for manifestation of the truth.

Art. 37.- The magistrate of the public prosecution department may, at any time of information, request the investigating chamber to communicate the record of the case file to him, to be returned within twenty-four hours.

Sub-section II

Investigation

Art. 38. The investigating chamber proceeds, in accordance with the law, with all acts of information which it judges useful for manifestation of the truth. It has the duty to make the case for prosecution and defense of the accused. It may also have information acts by means of rogatory commission.

Art. 39. - The investigating chamber may issue the warrants listed in Article 100 of the Code of Criminal Procedure. It may, upon consultation of the magistrate of the Public Ministry, issue a warrant for arrest that may be executed outside the territory of the Republic.

Art. 40.- If the accused is left at liberty, the investigating chamber shall refer to the competent authority for measures to have him banned for leaving the country.

Art.41.- The Public Prosecutor and the civil party have the right to oppose a decision of the investigating chamber to leave the accused at liberty, in accordance with the provisions of Article 223 bis of the Code of Criminal Procedure.

Art.42- Any irregular release of a detained person shall be deemed to be an act of complicity of the prison officer or any other person who has participated in or facilitated the unlawful departure in any manner whatsoever and is punished by the same penalty as the offender under this Act.

Art. 43. - Anyone detained for any of the offenses provided by this law may not benefit from the provisions of articles 104 and following of Decree No. 2006-015 of 17 January 2006 on the general organization of the Prison Service relating to the work of detainees.

Art.44.- The investigating chamber may require any judge of the Courts of First Instance, to proceed with information acts that are considered necessary, by sending a rogatory commission to this end.

Art. 45. In the context of information, the investigating chamber may send international rogatory commissions to foreign judicial authorities, in conformity with international conventions and the Code of Criminal Procedure. These will be particularly necessary in case of seizure or discovery in the territory of another State of rosewood or ebony from Madagascar.

Art.46.- When the case file is ready for hearing, the investigating chamber communicates it to the public prosecution department of the Special Court, which must take its requisitions within ten (10) days. If the board considers that the act does not constitute a crime or offense or that there is no charge against the defendant, it makes an order of non-suit with all the legal consequences thereof. If the act constitutes an offense or a crime and if there are sufficient charges against the accused, the Investigating Chamber makes an order for the return of the accused to the trial court of the Special Court.

Art.47.- In the case of deferment, the Public Ministry of the Special Court immediately transmits the case file to the President of the trial court to be judged.

Sub- section III

The Trial Court

Art.48.- The trial court, composed of the President, two councilors and two assessors, permanently sits in Antananarivo, if need be, in the concerned regions.

Art.49.- At the request of the Public Ministry of the Special Court, the President of the trial court shall fix the date of hearing within a period of one month upon reception of the case file.

Art.50.- At all hearings of the trial court, the public prosecutor is represented by a member of the prosecution department of the said court. The server of notice or, as the case may be, an officer of the Forest Administration is heard at the trial Court to support the accusation and to prove the materiality of the facts. He attends and sits after the magistrate of the Public Ministry.

Art.51. - The incumbent assessors and substitutes are chosen by lot for each case from a list of twenty (20) names of forest administration technicians, aged 25 and over, enjoying their civic and political rights. The list is established yearly by the Ministry in charge of Forests. The conditions for establishing this list are specified by decree.

Art.52.- None can be an assessor in a case in which he/she has performed an act of judicial police or investigation or in which he/she is a witness, informant, interpreter, expert, plaintiff or civil party. Anyone found in one of the cases provided for in Article 41 of the Code of Criminal Procedure may be removed from the list of assessors at the request of one of the parties. If one of the members of the trial formation is in one of the listed cases, he or she must withdraw.

Art.53.- There are as many drawing lots as there are cases on the docket. Notice shall be given to the assessors, immediately and in writing, at the instance of the Public Prosecutor, of the days and times at which the cases for which they are selected and called.

Art.54.- The assessors failing, either at the opening of the hearing or at the special appeal of the causes, without valid excuse, will be condemned to a fine of 20.000 Ar to 100.000 Ariary pronounced by the President without formality nor delay, either automatically, or on the requisitions of the public prosecutor. After the closing of the hearing, the validity of the apology will be assessed by the President of the trial of the Special Court who will discharge on the requisition of the public prosecutor near the Special Court the assessor, if failing, of the fine pronounced against him.

Art.55.- The drawing of lots is carried out publicly, in the presence of the Public Ministry, the assessors, the accused and their defenders or those duly summoned, the civil party and its council or those duly summoned and an interpreter if necessary.

Art.56.- For each case, the assessor drawn by lot shall take an oath in front the trial court, in the following terms: "I swear that I will fully take my responsibility to judge legitimately, and with justice, to be honest, to maintain and never disclose the secret of the litigation process, to keep the truth and the dignity required by my position as assessor at the Special court for control of rosewood and ebony trafficking."

Art.57.- The Public Prosecutor, the defendant or the civil party may each challenge an assessor, without giving reasons for their refusal.

Art 58. – The court clerk establishes a report of the draw. A copy is attached to each case file.

Art.59- The trial court is competent for the judgment of the minors under eighteen at the time of offense. The excuse of minority is applicable and the minors will benefit, as regards to the penalties, from the provisions of articles 35 to 37 and 43 to 46 of the ordinance n ° 62-038 of September 19, 1962 on the protection of the childhood. When a juvenile is involved in proceedings involving adults, the trial court adjudicates cases by separate debates and judgments.

Art.60.- Any request for nullity of a pleading must be presented, on pain of final foreclosure, at the latest at the opening of the debates. If there is no foreclosure, the nullity is pronounced only if it is proved that the sanctioned non-observance contravene the interests of the person it concerns.

Art.61.- From the opening of the hearing, the President of the trial court is vested with a power by virtue of which he may, in his honor and conscience, take all necessary measures for the manifestation of the truth. He may specifically make a warrant to summon and hear any person or to bring to him any new documents which appear to him useful for the manifestation of the truth. He ensures the police of the hearing in accordance with the provisions of articles 356 and following of the Code of Criminal Procedure.

Art.62- The State and any aggrieved person, including any association or organization envisaged in article 10 of the present law, can constitute a civil party at the Trial Court which is competent to rule on actions on damages resulting from the offense. If the victim has not been able to present his claim to the Trial Court and the latter is definitively unsuccessful or has failed to rule on his claims, he may refer again to the Trial Court by simple demand.

Art.63- The selected cases are awaiting judgment.

Sub-section IV
Legal remedies

Art.64- The decisions rendered by the Trial Court are rendered in first and last resort.

Art.65.- Conflicting or deemed contradictory decisions rendered by the Trial Court may be appealed in higher court.

Art.66.- Default decisions rendered by the Trial Court are subject to opposition at the said Court in accordance with the provisions of the Code of Criminal Procedure.

Art.67.- The opposition and the appeal to the Supreme Court are received by declaration at the Clerk's Office which holds, for this purpose, an ad hoc register numbered and initialed by the President of the Trial Court. The

time limits for opposition and appeal to the Supreme Court are provided by the Code of Criminal Procedure and Law No. 2004-036 of 1 October 2004 on the organization, powers, functioning and procedure applicable to the Supreme Court Supreme Court and the three Courts composing it.

Art.68.- In case of appeal, the case file is, within twenty days of the declaration, transmitted by the clerk of Special Court directly to the Prosecutor General of the Supreme Court under penalty of a fine of 10,000 Ar per case file sent late. This fine is pronounced by the First President of the Supreme Court on the requisition of the Public Prosecution department.

TITLE III

OFFENSES AND PENALTIES

Art.69.- Anyone who has made or attempted to cutting or felling rosewoods and / or ebony woods shall be punished with 10 years' hard labor and a fine of fifty million Ariary (50,000,000 Ar) to one hundred million Ariary (100,000,000 Ar).

Art.70.- Are punished with a sentence of forced labor of 20 years and a fine of one hundred million of Ariary (100 000 000 Ar) to five hundred million of Ariary (500 000 000 Ar):

- 1) Those who have exploited or attempted to use rosewood and / or ebony;
- 2) Those who have, unlawfully, put into circulation by land, sea or air, or transported or transported rosewood and / or ebony;
- 3) Those who have stored and / or held in any place without permission, rosewoods and / or ebony;
- 4) Those who have made the sale and purchase of rosewood and / or ebony;
- 5) Those who have illegally exported in any way rosewood and / or ebony;
- 6) Those who directly or indirectly intervene in the rosewood and / or ebony traffic circuit, whatever title and level of responsibility, including sponsors and beneficiaries, in addition to complicity provided by the Penal Code in Articles 60 and following;
- 7) Any captain, officer or crewman or any person who transports or conceals rosewood and / or ebony wood in any type or form of sea transport;
- 8) Those involved in the organization, preparation or perpetration of any of the offenses under this Act by providing any form of support or service and knowing that such support or service will be used for the commission of one of the said offenses, are punishable by the same penalty as that applicable to the main offense.

Art.71- Are punished with:

- 1) Imprisonment of 6 months to 2 years and a fine of one million (Ar 1,000,000) to five million (Ar 5,000,000) Ariary or only one of these two sentences anyone who has threatened to violence or prevented verbalisers from performing their duties.
- 2) A prison sentence of 2 to 5 years and a fine of ten million (AR 10 000 000) to forty million (AR 40 000 000) Ariary or only one of those two penalties, whoever destroyed evidence or concealed evidence of an offense under this Act.
- 3) A prison sentence of 2 to 5 years and a fine of ten million (Ar 10,000,000) to forty million (Ar 40,000,000) Ariary or one of these two penalties only, any holder of materials used to commit offenses under this Act.
- 4) A prison sentence of 2 to 5 years and a fine of ten million (AR 10 000 000) to forty million (Ar 40 000 000) Ariary or only one of these two penalties, any member of the Joint Investigation Brigade which, having knowledge of the commission of one of the offenses provided for by this law, has not taken action of its own motion.
- 5) A prison sentence of two to five years and a fine of ten million (Ar 10,000,000) to forty million (Ar 40,000,000) Ariary or only one of those two penalties, whoever was able to prevent by his immediate

action, without risk to him or to a third party, the commission of any of the offenses provided by this present law, willfully refrain from doing so.

Art.72.- When infractions under this present law have been committed on behalf of a legal entity by its organs, representatives or leaders, the latter is punishable with fine of hundred millions Ariary (Ar100,000,000) to five hundred millions (Ar 500,000,000) Ariary. The legal persons can be in addition condemned to:

- a permanent or a five years maximum period of time ban to carry on directly or indirectly certain professional activities;
- a definitive or a five years maximum period of time closure of the establishment used for providing services for infringement;
- dissolution when they have been created to commit the incumbent facts;
- the diffusion of the decision by the way of written press or any other audiovisual media communication.

The criminal responsibility of the legal entity does not exclude the individual authors or accomplices of the acts.

Art.73.- The co-authors, the accomplices and the receivers are punished with the same penalties as the principal authors and are sentenced jointly and severally to the costs and damages. The attempt is punishable in the same Title as the offense itself.

Art.74.- Notwithstanding articles 40 and following of the Ordinance n ° 60-128 of October 3rd, 1960 fixing the procedure applicable to the repression of the infringements with the forest legislation, in no case, the offenses envisaged by the present law cannot be the subject of a transaction.

Art.75.- Notwithstanding the provisions of articles 462 and 463 of the Penal Code, no mitigating circumstance may be retained in favor of persons found guilty as authors, co-perpetrators or accomplices of the offenses listed above.

Art.76.- The faculty granted to judges by articles 569 et seq. Of the Code of Criminal Procedure to order the suspension of the execution of imprisonment or a fine shall be abolished towards individuals convicted of any of the offenses listed above.

Art.77.- The provisions of articles 75 and 76 of the present law do not apply to the minors under 18 years at the time of the offenses.

Art.78.- Judicial authorities and officials responsible for the detection and punishment of offenses related to the cutting, felling, exploitation, transport, marketing and export of rosewood and / or ebony can seize the possessions in connection with the offense under investigation, as well as any elements likely to identify them, in accordance with the rules of ordinary law.

Art. 79. - The competent judicial authority may, ex officio or at the request of the public prosecution department or of another concerned administration, order at the expense of the State provisional measures, including the blocking of bank accounts, the freezing of capital and financial transactions of legal entities and / or individual persons suspected of trafficking in rosewood and / or ebony on property of any kind that may be seized or confiscated.

Art.80.- The request for the release of these measures may be made at any time to the Jurisdiction of the Special Court by the Public Ministry of the Special Court or, after the opinion of the latter by the competent Administration or by the owner. The decision of the jurisdiction of the Special Court is subject to appeal.

Art.81.- The decision for condemnation may further pronounce the confiscation for the benefit of the State, decentralized territorial authorities, public and parapublic bodies, all or part of the possessions of the condemned up to the suffered prejudice.

Art.82.- Except in the case of repetition, shall be exempted from punishment, any person, author of any of the offenses provided for by this Act, who, before any prosecution, has revealed the offense to the administrative or judicial authority and identified the other people involved. Except in the case provided for in the preceding paragraph, the maximum penalty incurred by any person, perpetrator or accomplice of any of the offenses provided by this present Law, who, after the commencement of proceedings, has permitted or facilitated the arrest of the others involved, will be reduced by half. In addition, the person will be exempted from the additional penalties provided for in articles 79 and 81 of this law.

Art.83.- The accused, prejudiced and convicted of offenses provided for and punished by the present law can be incarcerated in a special section.

TITLE IV

SEIZURE, CONFISCATION, TRANSPORTATION AND STOCK MANAGEMENT

Art.84.- All rosewood and / or ebony seized or confiscated is the property of the State and is sold at the behest of the Commission for Stock management provided for in Article 88 of this Act by decision of the Special Court.

Art.85.- The proceeds of the sale of seized and confiscated rosewoods and ebony are classified as State revenue. For this purpose, they are paid to the Public Treasury. The distribution of the proceeds of the sale of seized and confiscated rosewoods and ebony woods shall be determined by decree.

Art.86.- No decision of justice or other decision can order the restitution or the release of the seizure of seized or confiscated rosewood and / or ebony under penalty of penal prosecution envisaged by the article 70 , 6 ° of this present law and possibly disciplinary sanctions.

Art.87.- Only transport operations related to and necessary for the movement of seized and confiscated products, in particular from the unloading site to the places of sequestration or storage, the evacuation of confiscated products at the completion of the procedures by the Forestry Administration may be subject to an authorization for transport, for evacuation or pass, which modalities are fixed by decree.

Art.88- A commission for management of seized or confiscated stocks of rosewood and / or ebony is created. The composition, the assignments and operation of the said commission shall be fixed by regulation.

Art.89.- All export licenses already issued by the Ministry in charge of the Environment, Ecology, Sea and Forests are repealed by this present law.

TITLE V

PROTECTIVE MEASURES

Art.90.- The State shall take adequate measures to ensure the protection of witnesses or persons conducting the investigation and their families against violence, threats of violence or any other form of intimidation or reprisal due to complaints, hearings or statements made, reports made or the investigation.

Art.91.- The President of the Special Court may order the application of testimonial aids for victims and vulnerable witnesses in order to facilitate their testimony at the Special Jurisdiction.

These testimonial aids may include:

- allowing a witness to testify outside the courtroom using a CCTV device, to testify behind a screen or other device that allows him or her not to see the accused or,

- authorizing the presence of a support person while testifying.

Art.92.- Any witness under the age of 18 or with a disability that makes it difficult for him/her to communicate may use testimonial aids or other measures if he/she made the request.

Art.93.- The President of the Special Jurisdiction must grant the measure of protection, unless he is of the opinion that it would be detrimental to the smooth administration of justice, and not to compromise the right of the accused to a fair and equitable trial. The President of the Special Jurisdiction may prohibit any communication between the person of trust and the witness while the witness is testifying. To obtain from the witness or the victim a full and candid testimony, the President of the Special Court may order protective measures taking into account the age of the witness, the physical or mental deficiencies of the witness, the nature of the offense and the nature of any relationship between the witness and the accused.

Art.94.- However, he/she has the power to exclude the public or certain persons from the courtroom, for all or part of the debates, when such a measure is in the interest of public morality, the maintenance of order or the proper administration of justice. The president may prohibit the media from disseminating the identities of victims and witnesses in all court proceedings, including preliminary investigations. Publication bans are designed to protect the privacy of victims and witnesses, and to allow them to participate more fully in the criminal justice system.

Art.95.- When the hearing of a person witness is likely to seriously endanger his life or his physical integrity or that of the members of his family or his relatives, the Prosecutor's office or the investigating chamber of the Special Court may, by reasoned decision, authorize the statements of that person to be collected without his identity appearing in the record of the proceedings. The decision of the judicial authority, which does not reveal the identity of the person, is attached to the witness's record of hearing, on which does not appear the signature of the concerned person. The identity and address of the person are recorded in another report signed by the concerned person, which is entered in a separate file of the record of the proceedings. The identity and address of the person are entered in a numbered and initialed register which is opened for this purpose in the Special Court.

Art.96.- Under no circumstances may the identity or address of a witness who has benefited from the provisions of Article 95 be disclosed. The disclosure of the identity or address of a witness who has benefited from the provisions of Article 95 shall be punished with imprisonment of six months to two years' imprisonment and a fine of one million (Ar 1,000,000) to five million (Ar. 5,000,000) Ariary.

Art.97.- The accused person may, within 10 days from the date on which he has been informed of the content of a hearing conducted under the conditions of Article 95, contest to the President of the Jurisdiction the recourse to this procedure. The President of the tribunal entertaining Jurisdiction decides by reasoned decision not subject to appeal, in view of the documents of the proceedings and those appearing in the identification file of the witness. If he considers the challenge justified, he orders the cancellation of the hearing. He may also order that the identity of the witness be disclosed on condition that he has expressly accepted it. The person who is charged or referred to the tribunal entertaining Jurisdiction may request to be confronted with a witness heard under the provisions of Article 95 by means of a technical device allowing the witness to be heard. The voice of the witness is then made unidentifiable by appropriate technical methods. No sentence may be pronounced solely on the basis of statements collected under the conditions provided for in article 95 and in the preceding paragraph of this article.

TITLE VI

INTERNATIONAL COOPERATION

Article 98. Requests for extradition of persons sought for the purposes of proceedings in a foreign State shall be executed for the offenses provided by this Law or for the purpose of enforcing a sentence relating to such an offense. The procedures and principles provided for the extradition treaty in force between the requesting State and Madagascar are applied. In the absence of extradition treaties or legislative provisions, extradition shall be carried out in accordance with the procedure and the principles defined by the Model Treaty on Extradition adopted by the United Nations General Assembly in its Resolution 45 / 116.

TITLE VII

TRANSITIONAL AND FINAL PROVISIONS

Art.99.- On the date of the establishment of the Special Court, the Economic and Anti-corruption criminal courts, the Courts of first instance, the Courts for children, the investigating judges, the children's judges, the Prosecution departments simply seized or acting in summary information to judge or investigate offenses under the jurisdiction of the Special Court are required to divest themselves, as they stand, for the benefit of the said Court. The warrants issued continue to have effect and need not be validated unless their period of validity is about to expire under the provisions of ordinary law. The extension will be done under the conditions provided by Article 334 bis of the Code of Criminal Procedure. The Court of Appeal will continue to hear cases judged in first instance that were the subject of an appeal before it, prior the date of the establishment of the Special Court.

Art.100.- The provisions of the Penal Code and those of the Malagasy Code of Criminal Procedure which are not contrary to the provisions of this present law shall apply.

Art.101.- Statutory texts will be taken as necessary for the application of this law.

Art.102.- Are and remain repealed all provisions contrary to this law in particular:

- Ordinance n ° 2011-001 of 08 August 2011 on the regulation and repression of infringements relating to rosewood and ebony
- Decree n ° 2011-590 of 20 September 2011 laying down the modalities of transport of seized and confiscated rosewood and ebony wood
- Decree No. 2011-589 of 20 September 2011 setting transitional provisions for the Jurisdiction in charge of the prosecution and adjudication of offenses relating to rosewood and ebony
- Decree No. 2010-141 of 14 March 2010 prohibiting the cutting, harvesting and export of rosewood and ebony in Madagascar

Art.103.- This law will be published in the Official Paper of the Republic. It will be executed as Law of the State.

Art.104.- Due to the urgency and in accordance with the provisions of Articles 4 and 6 of Ordinance No. 62-041 of September 19, 1962 on General Provisions of Domestic Law and Private International Law, the present Law enters immediately in force as soon as it is published by radio, television or billboard, independently of its insertion in the Official Journal of the Republic.

Antananarivo, December 17, 2015

THE PRESIDENT OF THE NATIONAL ASSEMBLY

THE SECRETARY,

RAKOTOMAMONJY Jean Max

DECREE N. 2016-801 – implementing law no. 2015-056 of 03 February 2016 on the creation of the "Special Chain for rosewood and/or ebony trafficking control" and repression of offenses relating to rosewoods and ebony

THE PRESIDENT OF THE REPUBLIC,

Given the Constitution;

Having regard to Ordinance No. 60-128 of October 3, 1960 laying down the procedures applicable to the punishment of infringements of forest legislation, hunting, fishing and nature protection;

Considering the law n ° 97-017 of August 08, 1997 revising the forest legislation;

Considering the law n ° 2005-018 of October 17, 2005 on the international trade of the species of fauna and flora;

Considering the law n ° 2015-005 of February 26, 2015 on revision of the Code of Management of the protected areas;

Given the law n ° 2015-056 of 03 February 2016 establishing the "special chain against the traffic of rosewood and / or ebony" and repression of offenses relating to rosewood and / or ebony;

Considering Decree No. 2014-906 of June 24, 2014 establishing the Inter-ministerial Committee in charge of the sanitation of the rosewood and ebony wood industry;

Having regard to Decree No. 2016-250 of 10 April 2016 appointing the Prime Minister, Head of Government;

Having regard to Decree No. 2016 -265 of April 15, 2016, amended and supplemented by Decree No. 2016-460 of May 11, 2016 appointing members of the Government;

Considering the decree n ° 2016-352 of May 4th, 2016 fixing the attributions of the Keeper of the Great Seal, Minister of the Justice, as well as the general organization of the ministry;

Considering the decree n ° 2016-298 of April 26th, 2016 fixing the attributions of the Minister of Environment, Ecology and Forests as well as the general organization of the Ministry;

On the joint proposal of the Attorney General, the Minister of Justice and the Minister of the Environment, Ecology and Forests

In the Council of Ministers,

DECREES:

CHAPTER 1

GENERAL PROVISIONS

Article 1 - This decree lays down the procedures for the enforcement of the law n ° 2015-056 of February 3, 2016 on the creation of the "Special chain for rosewood and / or ebony trafficking control" and the repression of offenses relating to rosewood and ebony.

Art. 2. – It determines the locations with high sensitivity in the traffic of rosewood and ebony wood, the composition of the Joint Investigation Brigade, the cost for operation of the Joint Investigation Brigades, the determination of the places of deposit of seized goods, the modalities of remuneration of the informants, the conditions of authorization for an infiltration mission, the conditions for drawing up the list of assessors sitting in the special jurisdiction based in Antananarivo, the composition, the mandate and the functioning of the Stock Management Commission, the arrangements for seized and confiscated rosewood and ebony wood, the arrangements for distributing the funds from the sale of seized and confiscated products and the lines of use of the funds from sales of seized and confiscated products.

CHAPTER II

LOCALITIES WITH HIGH SENSITIVITY IN TRAFFIC OF ROSE WOOD AND EBONY WOOD

Art. 3. –The locations with high traffic sensitivities are the following areas, including:

- Diana region including the Districts of Antsiranana and Ambilobe,
- SAVA region, including the Districts of Vohémar (Iharana), Sambava, Antalaha and Andapa;

- Analanjirofo region including the Districts of Maroantsetra, Mananara Nord, Soanieran'Ivongo and Fénérive-Est;
- Atsinanana region including the districts of Toamasina I and II and Brickaville;
- Vatovavy Fitovinany Region including the District of Manakara;
- Atsimo Atsinanana region including Farafangana and Midongy Atsimo Districts;
- Anosy region including the Tolagnaro District;
- Menabe region including Districts of Morondava, Belo sur Tsiribihina, Mahabo and Miandrivazo;
- Atsimo Andrefana region, including the districts of Ankazoabo Atsimo, Toliara I and II, and Sakaraha;
- Melaky Region including the Maintirano District,
- Boeny region including Districts of Mitsinjo, Ambato-Boeny and Mahajanga I and II;
- Analamanga region.

CHAPTER III

THE JOINT INVESTIGATION BRIGADE

Art. 4.- The joint investigation brigade is composed of four (04) forest agents, three (03) members of the National Police, and three (03) elements of the National Gendarmerie in the accomplishment of their mission. It is chaired by the sworn forest officer who is a water and forest engineer, chosen and appointed by the Minister in charge of Forests from a list proposed by the General Director of Forests. The proposed agents must demonstrate good character. The joint investigation brigades are set up in the regions of the high-sensitivity localities for the trafficking of rosewood and ebony

CHAPTER IV

THE COSTS FOR FUNCTIONING OF THE JOINT INVESTIGATION BRIGADE

Art. 5.- The operating expenses of the Joint Investigation Brigade, the transportation of seized and confiscated products, the means inherent to all movements, and others in particular the premises, are financed among others by the account of trade "Action in Favor of the Tree" , The General Budget of the State and if necessary, the funds obtained from the Technical and Financial Partners. The State commits itself to accelerate the disbursement procedures for the functioning of the JIB.

CHAPTER V

PREMISES FOR DEPOSITING THE SEIZED GOODS

Art. 6.- In the event of sequestration, the seized goods must be transported and deposited in secured places by the Forest Administration with the support of the police.

CHAPTER VI

MODALITIES OF REMUNERATION OF INFORMANTS

Art. 7.- The amount of compensation that may be paid under Article 18 paragraph 2 of Law No. 2015-056 of 03 February 2016 establishing the "Special Chain for control of the trafficking of rosewood and / or of "ebony" and the punishment of offenses relating to rosewood and / or ebony shall be determined by regulation. However, compensation must not exceed four per cent (4%) of the market value of the seized and confiscated products and must be justified by a decision to award compensation to informants issued by the Ministry in charge of Forests.

The Joint Investigation Brigade or the unit that used the informant is required to keep, in a confidential and protected manner, any document that establishes the identity of the informant. The informant may be a corporation or individual.

This amount is covered by the "Action in Favor of the Tree" trade account and cannot be appealed. The payment from is established by the forest judicial officer (OPJ) but upon cashing, a receipt is issued by the payer to the payee. Payment status and receipts are kept confidential and filed by the Joint Investigation

Brigade. The beneficiaries are the Fokonolona members who participated in the information. This information retribution system must be used with the maximum of precautions to avoid any drifts.

CHAPTER VII

THE CONDITIONS OF EMPOWERMENT FOR INFILTRATION MISSION

Art. 8.- May be authorized to participate in undercover operations as defined by Article 20 of Law No. 2015-056 of 03 February 2016 on the creation of the "Special Chain for control of the trafficking of rosewood and / or ebony" and the suppression of offenses relating to rosewood and / or ebony, officers or judicial police officers of the national police service or the units of the national gendarmerie and agents of the Administration, to whom the law has invested judicial power, who are specially empowered to carry out investigations and who have fulfilled the following conditions:

- demonstrating good character ;
- being honest and never having been convicted by the courts or by a disciplinary body ;
- having a sense of cooperation ;
- having no direct or indirect link with persons subjects to investigation

They are considered to be qualified to fulfill the missions of infiltrated agents at the end of a relative training course. The authorization referred to in paragraph 1 of this article shall be issued by the Public Prosecutor or, where appropriate, by the Substitute, who has received the written authorization from the first, territorially competent after approval of higher authorities. This approval can be granted only on the proposal of the superiors to whom the agent reports to. This authorization and the approval may be withdrawn at any time by the authorities which issued or granted them. The withdrawal of the accreditation cancels the authorization.

CHAPTER VIII

CONDITIONS FOR ESTABLISHING THE ANNUAL LIST OF ASSESSORS

Art. 9.- An ad hoc commission composed of the President of the Special Court, two (02) representatives of the Directorate General of Forests is responsible for preparing a preliminary list of assessors to be submitted to the Minister in charge of Forests. This commission meets at the latest on September 1st of each year. The lists are valid from January 1st to December 31st of the year for which they were established.

Art. 10.- Before the meeting of the commission and in sufficiently useful time, the Forest Administration gathers all information on the persons likely to be registered on the annual list and fulfilling the conditions envisaged with the article 409 of the Code of the penal criminal procedure and draws up a list of at least **forty (40) names** selected among the technicians of the Forest Administration. Each person presented will have a sheet indicating his name, first name, date and place of birth, filiation, profession, education and residence as well as information on his morality. The registration of each name is decided by majority. When it is divided, the president has the casting vote. A statement is established and signed by the president and the members of the commission, which is deposited at the office of the General Direction of Forests. A copy, certified by the president, is transmitted to the Minister of Forests, with his observations and proposals, before 1 October. To this copy are annexed by the president of the information sheets of the proposed citizens. Each of these information sheets must indicate the names, first names, age, nationality, profession and residence of the person concerned, as well as a brief assessment of his behavior and morality.

Art. 11.- In view of the preparatory list and its annexes, the Minister in charge of Forests, establishes by decree a final list of **twenty (20) technical assessors** of the Special Court. The decree is published in the Official Paper of the Republic. A copy is sent to the Trial Court of Special Court and to the Prosecutor at the Special Court.

Art. 12.- Upon receipt, the Public Prosecutor's Office shall notify each of the **twenty (20) assessors** of the order concerning him. This notification must be made to person. In the absence of notification to person, it must be made both at home and to the mayor, who must notify the person without delay. The Public Prosecutor's Office of the Special Court is obliged to immediately inform the Minister in charge of Forests of the deaths,

incapacities or legal incompatibilities that would affect one of the twenty (20) assessors on the annual list, as well as long duration absences and changes of residence coming to his knowledge, to the end of his replacement.

Art.13.- As a transitional measure, this list is sent to the Special Court no later than forty (40) days after it has been set up. It is valid only during the year in which it was established.

CHAPTER IX

COMPOSITION, ASSIGNMENT AND FUNCTIONING OF THE STOCK MANAGEMENT COMMISSION

Art. 14.- The Stock Management Commission is composed of:

- a magistrate of the jurisdiction of the Special Court or his representative,
- a magistrate of the Special Court Prosecution or his representative,
- Forest Judicial Police Officer who chairs the Joint Investigation Brigade,
- the Regional Director in charge of Forests, depending on the case,
- a judicial police officer of the National Police member of the Joint Investigation Brigade,
- a judicial police officer of the National Gendarmerie member of the Joint Investigation Brigade,
- a representative of the Ministry of National Defense,
- a representative of the Executive Secretariat of the Inter-ministerial Committee responsible for the sanitation of the rosewood and ebony wood industry,
- a representative of the concerned Region or District,
- The Director General of Bianco or his representative,
- a representative from an association or organization whose statutes define in their object the defense of the environment, the protection of forests.

The appointment of members is done by inter-ministerial decree.

Art. 15.- The Stock Management Commission, provided by the Article 88 of Law No. 2015-056 of 03 February 2016 on the creation of the Special Chain to control the Rosewood and / or Ebony Wood trafficking" and repression of offenses relating to rosewood and / or ebony, is competent to monitor and manage the stocks seized by the courts and confiscated.

Art. 16.- The Stock Management Commission meets when convened by the President; it establishes regular status of the stocks whether they have been confiscated or declared, seized by the Joint Investigative Brigade or by order of the magistrates composing the Special Court, specifying their volume, the date and the place as the case may be, as well as the follow-up to the proceedings, until confiscation by the trial court. The information relating to the realization of the implementation of the "sales as is" or after evaluation must be reported in this regular status of the stocks. The stock management commission is chaired by the Regional Director in charge of Forests, depending on the case.

Art. 17.- The seized rosewoods and ebony woods are ceded, by decision of the Special Court, by public tender.

Art. 18.- The invitation to tender shall be elaborated and issued by the stock management commission, in the relevant district, and shall be posted on boards provided for this purpose in the premises of the concerned District, the concerned Region, the Circumscription and concerned cantonment in charge of the Forests, the Commune of the place of sequestration, the Chamber of Commerce, Industry and Agriculture if necessary. The international tender notice is drawn up following the model set by the stock management commission.

Art. 19.- With a view to supporting craft activities, this decree recognizes the allocation of part of the seized and confiscated products for the benefit of groups of artisans legally constituted and officially recognized by the Ministry in charge of Crafts. This part is defined according to their need which is fixed by regulation. The public tender for this part is carried out according to the procedure of call for tenders receiving the

candidatures of the concerned groups. The public tender is open to any individual or legal person except those qualified as false bidders including those recognized as insolvent towards the Forest Administration. Interested persons have forty five (45) days period of time from the publication of the notice of invitation to tender to send their bids to the headquarters of the stock management commission. The submission procedures are set by the stock management commission. The headquarters of the stock management commission are fixed according to the circumstances by the commission. Tenders shall be opened in public session by the stock management commission on the fifth (5th) day after the deadline for submission. The commission can deliberate only in the presence of all its members.

Art. 20.- The product offered for sale is awarded to the bidder with the highest proposed amount. The results of the tendering procedure are displayed in the same way as the tender notice and notified to the successful tenderer. The product cannot be sold in the event that the highest amount is deemed unsatisfactory by the commission, taking into account the prices prevailing on the market. If applicable, another notice of sale is issued in accordance with the provisions of articles 18 and followings of the present decree.

Art. 21.- The price of the sold product is to be paid to the finance controller of the concerned district within five (5) days:

- Either by certified bank check for provision or to the order of the "Action in Favor of the Tree" trade account,
- Or by postal order to the order of the trade account "Action in Favor of the Tree".
- After payment, a removal order is issued to the successful tenderer by the stock management commission.

Art. 22.- The collection of the sold products is carried out, on presentation of the removal order mentioned in above article 21, with the concerned sequester in a deadline fixed by the stock management commission. The indemnity of the custodian (s) is fixed at twenty thousand (20,000) ariary per day per person, but should not exceed fifteen per cent (15%) of the value of the seized and confiscated products. This indemnity is taken over by the trading account "Action in Favor of the Tree" and is granted to them once the sale procedure is closed. After the period of sequestration set by the stock management commission, the contractor shall pay the daily allowance allocated to the custodian. Where appropriate, the removal of the products must be carried out only after payment of the indemnities by the successful tenderer.

CHAPTER X

TRANSPORT OF SEIZED WOOD

Art. 23.- Any transport operation related to the movement of seized and confiscated products in order to secure timber or sale, in accordance with the provisions of Article 84 of Law No. 2015-056 of 03 February 2016 establishing the "The Special Chain to control the trafficking of rosewood and / or ebony "and the punishment of offenses relating to rosewood and / or ebony, requires that the seized rosewoods and ebony woods to be simultaneously marked with the following: marking hammer, paint marking and electronic coding, under the supervision of the stock management commission.

Art. 24.- Issuing of transport authorizations for seized and confiscated products is the responsibility of the Forest Administration.

Art. 25.- The transport authorization indicates in particular:

- the reference number of the statement,
- the name of the species, the size,
- The number and volume of transported products,
- the marks affixed to the products,
- the name of the carrier,
- the vehicle number or the identification of the means of transport,

- the date and time of departure certified by the verification officer,
- the places of origin and the destination of the products as well as the date of receipt,
- the name of the receiving agent in the places of sequestration.
- the receiving date and time in the places of sequestration.

CHAPTER XI

TERMS OF DISTRIBUTION OF THE PRODUCTS OF THE SALE

Art. 26.- In application of article 85 of the law n ° 2015-056 of February 3rd, 2016, the revenue coming from the sale of seized and confiscated products are paid to the Public Treasury fund with the following distribution:

- 25% are collected for the benefit of the General State Budget;
- 25% is paid to the benefit of the concerned Decentralized Territorial Communities, including 15% Province, 15% Region and 70% Commune;
- 50% is paid to the benefit account "Action in Favor of the Tree" of which:
 - 50% is used to finance activities related to the management, restoration and protection of biodiversity and protected areas affected by harvesting;
 - 18% is used to finance income-generating activities for the development of the concerned basic communities;
 - 8% is paid as compensation to informants;
 - 8% are paid and distributed, in equal shares, as a report bonus to the verbatim agents of the Combined Investigation Brigade and the prosecution officer of the Forest Administration;
 - 4% is paid, as a bonus, for the benefit of all State agents, including agents of any other Administration that has lent a hand to the elements of the Joint Investigation Brigade;
 - 4% is paid, as a bonus, to the Executive Secretariat of the Inter-ministerial Committee responsible for the sanitation of the rosewood and ebony wood industry;
 - 4% is paid for the functioning of the Ad Hoc Technical Committee for the control of Biodiversity Crimes;
 - and 4% is paid for operating the Stock Management Commission.

CHAPTER XII

LINES OF USE OF THE PROCEEDS OF THE SALE

Art. 27.- The proceeds from the sale of the seized and confiscated products will be used to finance respectively:

- social investments;
- sustainable development projects of regional and communal interests, in particular road, hospital and educational infrastructures, as well as infrastructures related to the supply of drinking water, sanitation and hydro-agricultural development;
- the sovereign use of the State in the control of the forests and in particular the Protected Areas, the management and community governance initiatives located in the Region of collection of the woods, the management of protected areas and the protection of the biodiversity of Madagascar, forest governance and sanitation operations;
- development projects including income-generating activities initiated by the communities.

CHAPTER XIII

MISCELLANEOUS AND FINAL PROVISIONS

Art. 28.- All provisions contrary to this decree are and remain abrogated in particular article 3 paragraphs 1 and 2 of the decree n ° 2014-906 of January 24, 2014 creating the Inter-ministerial committee in charge of the sanitation of the sector rosewood and wood of ebony. The Inter-ministerial Committee in charge of the sanitation of the rosewood and ebony industry collaborates with the Special Chain in particular by transmitting all information and useful documents.

Art. 29.- Due to the urgency and in accordance with the provisions of Article 4 of Ordinance No. 62-041 of 19 September 1962 on General Provisions of Domestic and Private International Law, this Decree shall enter into force upon its publication by broadcasts, television or billboards regardless of their inclusion in the *Official Paper* of the Republic.

Art. 30.- The Attorney General, the Minister of Justice, the Minister of Finance and Budget, the Minister of the Interior and Decentralization, the Minister of Public Security, the Minister of the Environment, Ecology and Forests, the Minister of Culture, the Promotion of Handicrafts and the Protection of the Heritage, the Secretary of State at the Ministry of National Defense in charge of the Gendarmerie are responsible, each as far as they are concerned, for the execution of this decree which will be published in the *Official Journal* of the Republic.

Antananarivo

RAJAONARIMAMPIANINA Hery Martial
The President of the Republic

The Prime Minister
Head of Government

MAHAFALY Solonandrasana Olivier

The Attorney General, The Minister of Justice
ANDRIAMISEZA Charles

The Minister of Finance and Budget
RAKOTOARIMANANA François Marie Maurice Gervais

The Minister of the Interior and Decentralization
MAHAFALY Solonandrasana Olivier

The Minister of Public Security
ANANDRA Norbert

The Minister of Environment Ecology and Forests
NDAHIMANANJARA Bénédicte Johanita

The Minister of Culture, the Promotion of Handicrafts
and the Protection of the Heritage
RABENIRINA Jean Jacques

The Secretary of State to the Ministry of National
Defense in charge of the National Gendarmerie
PAZA Didier Gérard