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**REPORT OF THE CHAIRPERSON OF THE COMMISSION ON
THE SITUATION IN MADAGASCAR**

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I. INTRODUCTION

1. At its 355th meeting, held on 13 February 2013, Council considered the situation in Madagascar, in the light of the Roadmap signed in Antananarivo, on 17 September 2011, by most of the Malagasy political stakeholders, and adopted communiqué PSC/PR/Comm.1(CCCLX). The present report takes stock of the implementation of the different components of the Roadmap, particularly as regard the transitional institutions, the electoral framework, the confidence building measures and the national reconciliation efforts, as well as the implementation and support mechanisms of the Agreement. It concludes with observations on the way forward.

II. INSTITUTIONS OF THE TRANSITION

2. Significant progress has been made in the establishment of the main transitional institutions as provided for in the Roadmap in its articles 1 to 9. In this respect, the signatory parties to the Roadmap managed to establish the following institutions: the President of the Transition, the consensus Prime Minister, the Congress of the Transition (CT), the Higher Council of the Transition (CST) and the National Independent Electoral Commission of the Transition (CENI-T).

3. Although a signatory to the Roadmap, the camp of former President Albert Zafy decided not to be part of the transitional institutions, including the two chambers of the Malagasy Parliament which are the CT and the CST, within which 52 seats in total had been allocated to it. That camp continues to denounce the lack of consensus and neutrality of the transitional institutions, conditioning its return to the full application of the Roadmap. Recently, it included, among its demands, the organization of a constitutional referendum before the holding of the next presidential and legislature elections.

4. As regards the Ratsiraka camp, it has so far refused to sign the Roadmap. Initially, it requested the prior annulment of the NOTAM (Notice to Airmen') issued by the Malagasy authorities against former President Didier Ratsiraka. The NOTAM ordered, among others, the airlines not to board him to fly to Madagascar. After the amendment of the said NOTAM, this camp called for the convening of a summit meeting of the four leaders of the Rajoelina, Ravalomanana, Ratsiraka and Zafy camps, extended to other Malagasy political leaders, to find a lasting solution to the political problems facing the country.

5. During the first phases of the implementation of the Roadmap, Mr. Jean Omer Beriziky, single candidate presented by the Zafy camp – which is part of the opposition – was appointed, on 28 October 2011, to the post of the Prime Minister of consensus by the President of the Transition. The Ravalomanana camp stated that the choice of the Chairman of the High Authority of the Transition (HAT) was not to outcome of a consensus and that it did not comply with article 5 of the Roadmap, which stipulates that the Prime Minister of consensus should not be from the alliance

which supports the HAT Chairman. Furthermore, the transitional institutions are dominated by the Rajoelina camp, a situation partially due to the boycott of the said institutions by the Zafy and Ratsiraka camp. Finally, it is worth mentioning the almost permanent rivalry and competition between the President of the Transition and the Prime Minister of consensus, which has a negative impact on the consensual nature of the transitional institutions, for it divides the transitional Government into two antagonistic camps. This state of affairs had an impact on the management of the number of issues, particularly return of the former President Marc Ravalomanana or members of his family to the country, the management of natural disasters, the trafficking of rose wood and the renewal of contracts for some major mining companies.

III. ELECTORAL FRAMEWORK

6. Since its establishment, the CENI-T, with the support of UN experts, has endeavored to set up a credible, neutral, transparent and independent electoral framework, as stipulated in the Roadmap in its article 10. On 1 August 2012, it adopted, together with the United Nations representatives, the electoral timetable, which was updated in February 2013. The latter provides for the 1st round of election, coupled with the legislative elections, to be held on 25 September 2013, and for local elections to be held on 23 October 2013.

7. Within the framework of the financing of the electoral process, an Electoral Process Support Project for Madagascar (PACEM) 2012-2014 was signed on 24 October 2012 by the Malagasy Government with its development partners. As at 9 April 2013, pledges of contributions for an amount of US\$ 54,448,014 were made, out of an indicative electoral budget of US\$ 60,293,904. The funds actually disbursed by the different donors amount to US\$ 22,330,725.

8. In March 2013, the Government of National Unity adopted a number of decrees on the implementation modalities of the provisions of the organic law relating to the presidential and legislative elections. Other legal texts will soon be adopted. Furthermore, a Special Electoral Court in charge of electoral dispute and the proclamation of the final results of the presidential and legislative elections has also been established. Since 8 April 2013, it has begun receiving candidatures for the forthcoming presidential election; the deadline for the submission of candidatures expires on 28 April. For the legislative elections, the candidatures should be submitted between 6 and 26 May 2013.

9. The decisions by both Marc Ravalomanana and Andry Rajoelina to withdraw their candidatures, on 10 December 2012 and 15 January 2013, respectively, gave a new impetus to the electoral process and, more generally, to the implementation of the Roadmap. These announcements followed the decision adopted by the SADC extraordinary summit held in Dar-es-Salaam, on 7 and 8 December 2012.

10. On 15 January 2013, the President of the Transition proposed a change in the sequence of elections, so that they commence with the legislative polls instead of the presidential one. On 18 January 2013, he formally addressed a letter to the Chairman of the CENI-T to request him to reverse the order of the elections, beginning with the legislative elections to be followed by the

presidential ones. That request was contrary to the electoral timetable adopted jointly by the CENI-T and the UN experts, which provided for the holding of the presidential elections, before the legislative ones. The President of the Transition substantiated his request with the fact that, according to him, the recurrent post-electoral crises faced by Madagascar stem from the holding of presidential elections before the legislative elections.

11. The organic law no 2012-015 relating to the election of the first President of the 4th Republic states, in its article 6, that individuals who are condemned and not granted amnesty shall neither be eligible nor voters. As pointed out above, the submission of candidatures for the presidential elections started on 8 April 2013, before the conclusion of the process of granting amnesty. This situation may lead to the exclusion of some potential candidates from the forthcoming elections. The candidates for the legislative elections may also face the same problem.

12. At the time of finalizing this report, the Ravalomanana camp, following a meeting held in Pretoria, on 13 and 14 April 2013, announced the conditional renunciation of its leader to return to Madagascar before the elections and the designation of his spouse, Mrs. Lalao Ravalomanana, to represent it at the forthcoming elections. The Ravalomanana camp has threatened to boycott the forthcoming elections should that candidature be rejected by the Special Electoral Court and to call again for the return of Mr. Ravalomanana. And yet, this risk is real. Indeed, the organic law no.2012-015 of 1 August 2012 on the election of the first President of the 4th Republic stipulates that any candidate to the presidential elections should be residing on the territory of the Republic of Madagascar since at least six months before the deadline set for the submission of candidatures and reside on the territory of Madagascar on the day of the submission of his/her candidature. Having returned to Madagascar on 12 March 2013, under some conditions, one of which requires that she refrains from making any political statement or participating in any political rally, Mrs. Lalao Ravalmana obviously does not meet the necessary conditions.

IV. CONFIDENCE BUILDING MEASURES AND NATIONAL RECONCILIATION EFFORTS

13. As part of the confidence building measures and the national reconciliation efforts provided for in the Roadmap in its articles 15 to 31, a law on amnesty for national reconciliation was adopted on 3 May 2012, and promulgated afterwards. The latter provides for two distinct but complementary procedures for granting amnesty, namely a broad and full-fledged amnesty and an amnesty upon request. Crimes against humanity, war crimes and genocide, as well as serious violation of human rights, cannot be considered for amnesty.

14. A special Commission has been established within the Supreme Court to deal with issues relating to the granting of the broad and full-fledged amnesty. On 28 February 2013, the Special Commission issued a first list of 16 individuals benefiting from the broad and full-fledged amnesty. On 8 April, a second list of 20 individuals was published. A Malagasy Reconciliation Council (CRM), provided for in the Roadmap in its article 25, was also set up to deal with issues of amnesty upon request. To date, the procedure for amnesty upon request has not yet begun. This concerns particularly senior officers currently in prison as the result of their condemnation for involvement in the attempted coup d'Etat of 17 November 2010, the killings of 7 February 2009, or in the different

mutinies of the National Gendarmerie Intervention Force (FIGN). Under the confidence building measures, collaborators and members of the family of former President Ravalomanana have returned to Antananarivo.

15. Difficulties remain as regards the unconditional return to Madagascar of all the Malagasy citizens in exile for political reasons, including Mr. Marc Ravalomanana, as well as the adoption of security and confidence-building measures to establish a serene and peaceful atmosphere, by putting an end to the judicial prosecutions initiated against members of the opposition. Similarly, mention should be made of violations of fundamental freedom and the accusations leveled against the Malagasy security forces concerning the abuses committed in the south of the country within the framework of an operation against cattle wrestlers, known as “Dahalo”. Finally, the National Solidarity Fund (FNS), provided for in the Roadmap in its article 27, is yet to be established.

V. IMPLEMENTATION AND SUPPORT MECHANISMS

16. A Follow-up and Monitoring Committee of the Roadmap, provided for in its article 28, has been established, and is operational. Furthermore, the Roadmap states that following the effective establishment of the Government of Transition of National Unity, the Parliament of the Transition and an Independent National Electoral Commission, which is neutral, inclusive and consensual, as well as the conclusion of an agreement on a Roadmap for the period of the Transition, SADC and the AU will strongly appeal to the international community to fulfill a number of commitments enumerated in articles 33 to 43 of the Roadmap. The International community is accused by some Malagasy authorities and stakeholders of not having lived up to all its commitments and for not having adequately supported the implementation process of the Roadmap.

17. An AU – SADC Liaison Office was established in Antananarivo, in March 2012, to support the transition process. This office works in close coordination and cooperation with the AU partners, particularly the European Union (EU), the International Organization of *La Francophonie* (OIF), the United Nations and the Indian Ocean Commission (IOC). The IOC and OIF have opened representations in Antananarivo to support the electoral process and the efforts to end the crisis in Madagascar. It should be noted that UN expertise has been critical in the elaboration of the electoral timetable and in the management of the international financial contributions to the electoral process.

18. In a letter dated 18 March 2013, addressed to the Commissioner for Peace and Security, the Chairman of the Follow-up and Monitoring Committee on the Application of the Roadmap particularly requested the support of the international community for building the capacity of the National Follow-up and Monitoring Mechanism for the Application of the Roadmap; the suspension and gradual lifting of the sanctions imposed on Madagascar, depending on the implementation of the various components of the Roadmap; and the consideration by the partners of the possibility of resuming their assistance and development cooperation. The Chairman of the Committee also requested the lifting of the individual sanctions imposed on current or former personalities in charge of the transition, so that the candidates who wish to stand for the forthcoming elections are treated equally.

VI. OBSERVATIONS

19. Significant progress has been made in the implementation process of the Roadmap to end the crisis in Madagascar, as evidenced by the establishment of the main transitional institutions, which, despite their shortcomings, are at present functional. The CENI-T and the United Nations have indicated that they are technically ready to organize the forthcoming elections. The majority of the Malagasy political actors are in favor of the pursuit of the electoral process until its conclusion, for they consider it to be the best way to end the crisis. Most of them are also ready to participate in the forthcoming elections.

20. However, the non application or partial application of some provisions of the Roadmap should be highlighted. They relate particularly to the neutral, inclusive and consensual character of the transition process, the confidence building measures and national reconciliation, including respect for fundamental freedoms, granting of amnesty and unconditional return of all the political exiles, as well as support by the international community of the implementation of the Roadmap.

21. Although the road ahead for the implementation of all the provisions of the Roadmap is still long, and in spite of the risk of reversal of the gains made owing to the numerous challenges mentioned above, the efforts of the Malagasy transitional authorities, which made it possible to record some progress, should be encouraged by the international community. In this regard, the lifting of sanctions imposed on 109 Malagasy political personalities should be considered. Similarly, an appeal should be made to the members of the international community for the continuation of their assistance to the electoral process and the gradual resumption of their economic and financial support to Madagascar. The Commission intends to organize, as quickly as possible, a meeting of the International Contact Group on Madagascar to enhance the coordination of the action of the international community and mobilize the necessary support for the successful conclusion of the process to end the crisis in Madagascar.

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Report of the Chairperson of the Commission on the Situation in Madagascar

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