

AFRICAN UNION

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BRIEFING NOTE ON THE SITUATION IN COTE D'IVOIRE

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I. INTRODUCTION

1. At its 38th Meeting held in New York on 14 September 2005, the Peace and Security Council (PSC), after underlining the need to review the situation in Côte d'Ivoire before 30 October 2005, agreed to meet at Summit level to consider the matter and decide accordingly, and this, on the basis of a report which ECOWAS would submit to it, following a Summit to assess the situation with respect to the problems of the implementation of the outstanding agreements [PSC/AHG/Comm (XXXVIII)]. Thereafter, and after consultation with the Chairperson of the PSC for the month of October, it was decided that the envisaged meeting of the PSC be held in Addis Ababa on October 6, 2005.

2. This report gives account of the progress in efforts led by President Thabo Mbeki of South Africa on behalf of the AU since the Libreville meeting, as well as other developments related to the general situation in Côte d'Ivoire.

II. EVOLUTION OF MEDIATION EFFORTS SINCE LIBREVILLE

3. At its 23rd Meeting held in Libreville, Gabon, on 10 January 2005, the PSC examined the situation in Côte d'Ivoire. At the meeting, the PSC adopted the plan to end the crisis, which was submitted to the Ivorian parties by the AU Mediator, President Thabo Mbeki. The plan focused on the following points: the adoption of all the texts emanating from the Linas-Marcoussis Agreement of 24 January 2005, the implementation of the Disarmament, Demobilization and Reintegration (DDR) programme, the effective functioning of the National Transition Government, and the establishment, throughout the national territory, of a climate conducive to the restoration of peace and stability in Côte d'Ivoire. Council decided to renew the mandate of President Mbeki, and to ask him to pursue his efforts on behalf of the AU and to regularly inform the AU Chairman. Council finally urged all the Ivorian Parties to cooperate fully with President Mbeki and scrupulously honour the commitments made within the framework of the implementation of the proposals to end the crisis, contained in the road-map [PSC/AHG/Comm.(XXIII)].

4. After Libreville, President Mbeki pursued and intensified his efforts on the points mentioned above, on the basis of the road map adopted by the PSC. It is in this regard that he took part in an extraordinary Council of Ministers meeting convened by Prime Minister Seydou Diarra in Yamoussoukro on 11 January 2005, to bridge the views on both sides and resolve any likely conflicts. All members of the Government of National Reconciliation took part in this meeting, except for the Forces Nouvelles ministers who complained about the lack of security in Yamoussoukro. At this meeting President Mbeki presented the conclusions of the Libreville meeting and laid out the orientations to be followed by the Government, the parties in conflict, the international follow-up committee of the Linas-Marcoussis and the partners.

5. In March 2005, a mediation delegation, comprising, among others, legal experts, was in Abidjan. The delegation made an in-depth examination of the laws issuing from the Linas-Marcoussis Agreement, and concluded that they were not in conformity to the Agreement and needed to be re-examined. The contention was especially on laws relating to the Independent Electoral Commission (IEC), nationality, the identification of persons and the stay of foreigners in Côte d'Ivoire, the financing of political parties and political groupings and of electoral campaigns with public funds, the juridical regime of audiovisual communications and the national commission in charge of supervising identification. In the same vein, by a letter dated 10 March 2005, addressed to the Speaker of the Ivorian National Assembly, the Follow-up Committee equally asked for re-examination of the texts contested by the opposition.

6. In his letter of 18 March 2005 to the Follow-up Committee, the Speaker of the National Assembly underscored the respect due to the institutions of his country and pointed out that the laws in question had been adopted in strict conformity to the Constitution by the Ivorian Parliament, the sole depository of legislative power. He furthermore stressed that in view of the relevant provisions of the Ivorian Constitution, and given the evolution of the legislative procedure, the National Assembly was no longer seized of the laws adopted and promulgated; it could not become seized of them anew.

7. It is in this context that by letter dated 12 March 2005, President Mbeki invited the Ivorian Head of State and Prime Minister, respectively Laurent Gbagbo and Seydou Diarra, as well as the other concerned parties, notably Henri Konan Bédié, Chairman of the Parti démocratique de Côte d'Ivoire-- Rassemblement démocratique africain (PDCI-RDA), Alassance Dramane Ouattara, Chairman of Rassemblement Républicains (RDR), and Guillaume Soro, Secretary General of Forces Nouvelles, to a meeting in Pretoria. This meeting which took place from 3 to 6 April 2005, was crowned with the Agreement on the Peace Process in Côte d'Ivoire, by which the Ivorian parties reaffirmed their commitment to the Linas-Marcoussis and Accra II Agreements (signed on 7 March 2003) and III (signed on 30 October 2004) and to the Road Map elaborated by the Mediator, as well as their determination to hold presidential elections in October 2005, to be followed immediately by legislative elections. More specifically, the Agreement is centred on the following elements:

- the declaration of the end of the war by which the Ivorian parties agreed to the immediate and final cessation of all hostilities and the end of the war throughout the national territory;
- the commitment to immediately proceed with the disarmament and dismantling of the militia throughout the national territory;
- the organization of an immediate meeting between the Chiefs of Staff of the National Armed Forces of Côte d'Ivoire (FANCI) and the Armed Forces of the Forces Nouvelles (FAFN) to ensure the implementation of the National Disarmament, Demobilization and Reintegration Plan

(PNDDR). The two Chiefs of Staff were also mandated to formulate specific recommendations in respect of one army based on the values of integrity and republican morality and the restructuring of the Defence and Security Forces (FDS), as stipulated in paragraph 3(f) of the Linas-Marcoussis Agreement;

- the recognition of the need to guarantee the security of people and assets within the zone under the control of the Forces Nouvelles, including the recruitment and training of 600 individuals from the FAFN on the basis of national gendarmerie and police criteria that are in force;
- the acceptance of the plan proposed by the Mediation ensuring security for the Forces Nouvelles Ministers and the acceptance by the Forces Nouvelles to return to the Government of National Reconciliation;
- the agreement that the Prime Minister requires the necessary executive authority to accomplish his mission appropriately and that the delegated powers that the Prime Minister has are sufficient to enable him to accomplish his mission;
- the agreement to make the amendments to the composition, organization and functioning of the current Independent Electoral Commission, which will henceforth include two representatives nominated by each party that is a signatory to the Linas-Marcoussis Agreement to the Central Commission, which will in turn appoint a Bureau of 12 members representing each of the 10 parties, plus a representative of the President of the Republic and a representative of the President of the National Assembly;
- the organization of elections, with the participation of the United Nations in the work of the Independent Electoral Commission—the same request was extended to United Nations with respect to the Constitutional Council;
- the restoration of the status of the Radiodiffusion Television Ivoirienne (RTI) to that which it enjoyed before 24 December 2005 and the need for the RTI to immediately cover the whole national territory;
- re-tabling of laws before the National Assembly for the adoption of the texts that emanated from Linas-Marcoussis, by the end of April 2005, and invitation of all members of Parliament of the nation to support these amendments;
- the extension of the principle of financing of political parties to those parties that are not represented in Parliament due to the political context that prevailed in the past;

- the acceptance that the Mediator would make a determination on the amendment of Article 35 of the Constitution relating to eligibility to the Presidency of the Republic after consultation with the Chairman of the AU and the Secretary General of the United Nations;
- the acceptance that the interpretation of the Agreement will devolve on the Mediator, arbitrator between the parties, should there be a difference in interpretation of the whole or any part of the Agreement.

8. On 4 May 2005, the Security Council of the United Nations adopted Resolution 1600 (2005), welcoming the signature of the Pretoria Agreement. The Council, in addition, requested all the parties to fully implement the Agreement, and reminded them of the fact that they had decided to refer all difference regarding interpretation of the Agreement to the Mediator. In its Resolution 1603 of 3 June 2005, the Security Council adopted the Pretoria Agreement and demanded all signatories thereto and all the Ivorian parties to implement it fully without delay. Simultaneously, the Council reaffirmed its intention to apply paragraph 9 and 11 of Resolution 1572 (2004), adopted on 15 November 2004, if the parties did not honour their engagements in connection with the Linas-Marcoussis and Pretoria Agreements.

9. With regard to this last aspect, it should be noted that paragraph 9 of Resolution 1572 (2004) stipulates that all States shall take the necessary measures, for a period of 12 months, to prevent the entry into or transit through their territories of all persons designated by the Committee established by Security Council, as constituting a threat to the peace and reconciliation process in Côte d'Ivoire. Paragraph 11 stipulates that all States shall, for the same period, immediately freeze the funds, other financial assets and economic resources which are on their territories owned or controlled directly or indirectly by the persons designated by the Security Council Committee, or that are held by entities owned or controlled directly or indirectly by any persons acting on their behalf or at their direction, as designated by the Committee. It should be recalled that the Libreville Meeting, while supporting these measures, had requested that their entry into force be delayed to enable the Ivorian parties to prove their willingness to implement the Road Map proposed by the Mediator.

10. To follow-up on the Pretoria Agreement, the Mediator, using the powers granted to him by the parties, had, in a letter dated 11 April, requested the Ivorian Head of State to implement the provisions of Article 48 of the Constitution to enable all signatories of the Linas-Marcoussis Agreement to submit their candidatures to the scheduled presidential elections. After consultation with the active forces of the nation and the heads of State institutions, President Gbagbo decided, in a televised declaration on 26 April 2005, to apply article 48 of the Constitution and ordered that all candidates presented by political parties signatories to the Linas-Marcoussis Agreement were eligible for the presidential elections of October 2005 and that accordingly, Alassane Ouattara could, if he so wished, present his candidature for the October 2005 presidential elections. At the same time, the Head of State, "in view of the urgency and absolute necessity to organize the elections on the dates scheduled by the

Constitutions”, entrusted the establishment of electoral lists and electors cards to the *Institut National des Statistiques* (INS). This decision provoked stiff reaction from the opposition, which considers that the Independent Electoral Commission is the only structure legally entitled to handle all electoral processes, while the Institute should remain a technical organ under the control of the IEC. The opposition expressed doubts about the neutrality of the *Institut National des Statistiques* and contested the manner in which President Gbagbo was exercising his special powers. It should be noted that Article 48 of the Ivorian Constitution reads thus: “When the Institutions of the Republic, the independence of the nation, the integrity of its territory or the execution of its international commitments are threatened in a grave and imminent manner, and that the regular functioning of public constitutional powers is interrupted, the President of the Republic shall take the exceptional measures imposed by these circumstances after obligatory consultation with the President of the National Assembly and the President of the Constitutional Council.”

11. The Pretoria Agreement enabled progress to be made in the settlement of pending questions. Beside the problem of eligibility mentioned above, mention should be made of the withdrawal of FANCI and the Forces Nouvelles, of their heavy artillery from the front line, after a meeting of the four-party commission made of the United Nations Operations in Côte d’Ivoire (UNOCI), Operation Licorne, FANCI and the Forces Nouvelles, at Daoukro on 19 April; the efforts accomplished in view of the training of members of the Forces Nouvelles to ensure security in the North of the country; the measures taken to ensure the security of members of Government from the Forces Nouvelles and other candidates for the presidential elections; and the re-establishment of the Administrative Council of the RTI and its status.

12. However, the Agreement has not brought about the achievement of all the goals expected, because of the non-application of some of its provisions. In fact, the re-examination of laws deemed to be at odds with the letter and spirit of the Linas-Marcoussis Agreement, which is one of the important points of the Agreement, never even saw the beginning of execution. The submission by the Government of the texts to be re-examined to parliament did not take place, and the parliamentarians of the presidential majority continued to insist on not to re-examining the texts, as they expressed on 18 March 2005, in a reply letter of the Speaker of the National Assembly to the Follow-up Committee. Moreover, from 29 April to 1 May 2005, and from 31 May to 6 June 2005, Duekué, on the one hand, and Petit Duekué and Guitrozon, on the other hand, in the West of Côte d’Ivoire, in the Moyen Cavally region, were the scenes of bloody inter-community violence, during which several people were killed, while many others fled the areas. These attacks gave rise to mutual accusations between the presidential camp and the Forces Nouvelles. On their part, the parliamentarians of the Front Populaire Ivoirien (FPI) suspended their activities in the National Assembly, in order to call for the resignation of the Prime Minister, who according to them, had failed in his responsibilities.

13. On the other aspects of the peace process, no real progress was recorded in the implementation of the commitments made by the parties. Thus as concerns DDR, the Chiefs of Staff of FANCI and the Forces Nouvelles had agreed, on 14 May in Yamoussoukro, on the modalities of the PNDDR—whose cost was estimated at USD 30 million for a target population of slightly less than 50,000 persons – and decided to establish a special commission charged with formulating a plan to restructure the armed forces before September 26. However, a few days later, the Forces Nouvelles indicated that they were not going to disarm as long as a certain number of questions were not resolved, notably the dismantling and the disarmament of the militia, as well as the modification by the National Assembly of the law on the composition of the Independent Electoral Commission, the nationality and identification code.

14. This impasse led the Mediator to convene another meeting in Pretoria, crowned this time by the signing on 29 June 2005, of the Declaration on the implementation of the Pretoria Agreement. This Declaration consisted of 11 points, the most important of which are the following:

- Disarmament and Dismantling of the Militia: the meeting noted that the actual disarmament and dismantling of the militia had not yet commenced. In this regard, it was agreed that this process will commence immediately and end on 20 August 2005;
- Disarmament, Demobilization and Reintegration (DDR): the meeting expressed great concern with the lack of progress with regard to the DDR process, and encouraged FANCI, FAFN and the CNDDR to meet on 7 July to finalise the adoption of the DDR timetable. In addition, it was agreed that the intake of combatants in disarmament and demobilisation sites should start as from the July 2005;
- Security of members of government from the Forces Nouvelles and other Presidential candidates: In this regard, it was noted that the necessary security arrangements were now in place to allow the Forces Nouvelles ministers to fully resume their government duties, and that UNOCI and the Mediation would give priority to developing a protection plan and necessary security arrangements for the Minister of State Guillaume Soro, and Presidential candidates, Henri Konan Bedié and Alassane Ouattara;
- Independent Electoral Commission and Organization of elections: It was agreed that the legislation on the IEC should be adopted by 15 July, and that the IEC should become operational immediately thereafter and not later than 31 July 2005. The leaders reaffirmed that the IEC is the sole institution in charge of the electoral process and that the National Institute of Statistics should report to the IEC on all matters relating to elections;

- Re-tabling of laws: the meeting expressed concern that the laws had not been adopted as agreed in the Pretoria Agreement. The parties made an appeal to the representatives of the people of Côte d'Ivoire in the National Assembly to contribute to the peace process by assisting in the implementation of this Agreement. 15 July was retained as the date on which to adopt the amendments on the seven laws proposed by the Mediation, failing which the Mediator would be authorized to make a determination about exceptional measures, *inter alia*, ordinances and decrees, to be taken by the President to ensure the passage of the amendments. The said laws relate to the IEC, Financing of Political Parties, Nationality, Identification of persons and the residency of foreigners, the Human Rights Commission, the Print Media and Audio-Visual Communication;
- Eligibility to the Presidency of the Republic: The parties acknowledged that the announcement by the President of the Republic on 26 April 2005 marked a significant milestone in the creation of a favourable environment towards the holding of elections. It was stressed that should it prove necessary to use the provisions of Article 48 of the Constitution again, the matter would be discussed with the Mediation and other signatories;
- Sanctions: the parties agreed that the AU should impose appropriate sanctions against those parties who fail to implement the Pretoria Agreement and block the peace process. Similarly, the Mediation would proceed to recommend imposition of the UN sanctions as set out in Resolution 1572 (2004) of 15 November 2004, and other relevant Security Council resolutions.

15. At its 34th Meeting held in Sirte, Libya, on 3 July 2005, the PSC welcomed the signing of the Pretoria Agreement and the steps taken towards its implementation, as well as the Pretoria Declaration of 29 July 2005. Meanwhile, the PSC demanded that all signatories to the Pretoria Agreement and Declaration and all the Ivorian parties implement the agreements reached in good faith and without delay and work together to remove all obstacles with a view to ensuring that elections are held as scheduled, in October 2005, particularly through:

- the adoption of further measures to strengthen the Joint Declaration on the End of the War made on 6 April 2005 in Pretoria;
- the effective and immediate commencement of the disarmament and dismantling of the militia with a view to completing the process by 20 August 2005;
- the implementation of the DDR Programme; and

- the adoption by the National Assembly, by 15 July 2005, of all the amendments to the seven laws pertaining to the on-going process, as proposed by the Mediation.

16. The PSC called on all the Ivorian parties to continue to extend full cooperation to the Mediator and seek his assistance in the event of difficulties in the implementation of the existing agreements. Furthermore, it affirmed its determination, upon recommendation by the Mediator, to impose appropriate sanctions against those parties who block the peace process by failing to honour their commitments under the Pretoria Agreement and to request the UN Security Council to proceed with the implementation of paragraphs 9 and 11 of Resolution 1572 (2004).

17. For its part, the UN Security Council, in a statement made by its President on 6 July 2005, took note with interest of the Declaration on the Implementation of the Pretoria Agreement. The Security Council welcomed efforts undertaken by the African Union Mediation, and reiterated its full support to the African Union Mediator, and demanded that all signatories to this Agreement and all the Ivorian parties concerned, implement fully and without delay all the commitments made with the African Union Mediation. Finally, the Security Council affirmed that it stands ready, in close consultation with the African Union Mediation, to implement individual sanctions provided for in paragraphs 9 and 11 of Resolution 1572 (2004) against those who do not comply with these commitments or constitute an obstacle to their full implementation.

III. STATUS OF THE PEACE PROCESS IN THE AFTERMATH OF THE PRETORIA DECLARATION

18. The signing of the Pretoria Declaration raised new hope for the resumption of the peace process and reconciliation. From 7 to 9 July, the Chiefs of Defence Staff of the FANCI and the FAFN met in Yamoussoukro. At the end of the meeting, they agreed on the modalities of DDR operations, adopting a new calendar to this effect. It provided for the beginning of pre-cantonment of the armed forces on 31 July, while the disarming and demobilisation of the combatants would take place between 26 September and 3 October. The calendar also provided for the creation of a mixed committee for restructuring of the forces of defence and security, which committee was formed on 30 July. In general terms, a direct link was established between the implementation of different stages of the process of disarmament, of demobilisation and reintegration and those of other provisions of the Pretoria Declaration, especially those relating to legislative reforms, the IEC, as well as to dismantling and disarming of the militia. The pre-cantonment of the armed forces did not start on the scheduled date, the Chief of Staff of the Forces Nouvelles having declared that the legislative reforms undertaken by President Gbagbo were not in total conformity with the Linas-Marcoussis Agreement.

19 With regard to the militia, the period following the Pretoria Declaration was marked by some progress in their dismantling and disarmament; this was the case in the West of the country and in Abidjan, even if none of the operations concerned took place before the deadline of 20 August. According to the United Nations, by 1

September 2005, 4800 militia were already counted within the framework of these operations, but no firearm was turned in. One difficulty in this respect is the mobilization of the financial security envisaged for members of the dismantled militia.

20. As concerns legislative reforms, it should be noted that on 15 July 2005, in implementation of Article 48 of the Constitution and at the request of the Mediator, President Laurent Gbagbo signed decrees intended to make the legislative texts adopted by the National Assembly to comply with the Linas-Marcoussis Agreement. Out of a total of six laws rejected for reasons of non-conformity, two laws relating to the financing of political parties and groupings with public funds and the National Human Rights Commission, were in the opinion of the opposition, deemed to comply. On the other hand, the other four laws, namely, those relating to the special provision with regard to naturalization, the nationality code, identification of persons and residency of foreigners, as well as the IEC, are still subject to fundamental criticisms by the seven opposition parties (G7) and the Forces Nouvelles, which referred the issue to the Mediator on 27 July 2005. In substance, the criticisms allege that the law on the IEC, as modified, did not provide for the representation of the Forces Nouvelles in its local organs and did not ensure the supremacy of the IEC on the INS in the conduct of the electoral process; that the law on nationality in its then version continued to deprive certain categories of the population of their rights; and that the law on identification contained new criteria which were not agreed upon in previous agreements. In addition, the Forces Nouvelles announced that as long as their preoccupations were not met, they would not appoint any representatives to the IEC.

21. It is in this context and following a letter from the Mediator that President Gbagbo, using the special powers conferred on him by Article 48 of the Constitution, on 29 August, clarified certain of the decisions taken on 15 July 2005. Hence:

- Decision n° 2005-09/PR of 29 August 2005 relating to the code of citizenship introduced two new articles modifying and complementing the previous provisions on the acquisition of nationality by foreigners, men and women;
- Decision n° 2005-10/PR of 29 August 2005 relating to special provisions pertaining to naturalization introduced two new articles on the determination of the beneficiaries of naturalization and on the procedure for naturalization;
- Decision n° 2005-11/PR of 29 August 2005 relating to the IEC introduced three elements:
 - The Central Commission can establish as many commissions as it wishes and all signatories of the Linas-Marcoussis Agreement would be represented in the local commissions of the IEC and the members of the said commission would have the same rights;
 - the parties are authorized, in special cases, to replace their representatives in the IEC, after consultation with the Mediator, the High

Representative of the United Nations for Elections and other members of the IEC;

- the IEC is the sole institution responsible for the electoral process and the INS should render an account to it on all election-related issues.

22. On 31 August 2005, the South African Defence Minister, on behalf of the Mediator, briefed the Security Council. The report gave an account of developments that had occurred in the handling of controversial issues since the beginning of the Mediation, particularly the general security situation, the effective functioning of the Government, the disarmament and dismantling of militia, the adoption of laws emanating from the Linas-Marcoussis Agreement, the DDR and the extension of State services to the rest of the country. The Mediation concluded that all the necessary agreements to remove the obstacles to the operationalization of the process were in place. More specifically, it made the following observations:

- the level of mistrust among the Ivorian leadership continue to affect the manner in which they interact. The Mediator is sensitive to the historical base of such mistrust, but believes that the Ivorian leaders, like many others before them, need to assume the primary responsibility for working towards the restoration of trust among themselves;
- the Mediation understands that some parties would start to feel a little unsettled the closer it comes to the conclusion of the transitional period in Côte d'Ivoire;
- the Government of National Reconciliation, led by the Prime Minister, bears the primary responsibility for the implementation of the agreements. Accordingly, the capacity of the Prime Minister's Office needs to be strengthened considerably in order to enable it to discharge its mandate;
- the Mediation understands that while many in the international community have questioned the posture adopted by President Laurent Gbagbo in the past, the Mediation's experience suggests that he has now adopted a posture that seeks to focus on finding solutions to the problems besetting his country;
- while the Mediation supports the decision taken by the Security Council to the effect that any person who obstructs the implementation of the agreements should be the subject of sanctions, it urges the members of the Security Council to act in a manner that does not negatively affect the peace process in Côte d'Ivoire;
- the framework exists for elections to take place. Cooperation on the part of the Ivorian political leadership will determine whether elections proceed by the end of October 2005 or shortly thereafter.

23. In a joint letter of 8 September 2005, addressed to the Chairman of the African Union, the presidents of the PDCI-RDA, RDR, UDPCI and the MFA reviewed the different aspects of the crisis, in the light of the efforts of the Mediation: constitutional and legislative reforms; institutional reforms and malfunctioning of the Government of National Reconciliation; handling of information by State media; security; and the DDR process. The signatories of the letter challenged the conclusions of the Mediation as presented to the Security Council. They invited the Security Council and the AU to apportion responsibility for the delays observed and sanction those who are to blame, to note the impossibility of organizing transparent, fair and credible presidential elections by 30 October, and to initiate consultations between the signatory parties to the Linas-Marcoussis Agreement with a view to establishing a political transition. In conclusion, they reaffirmed their willingness to continue their efforts to contribute to the successful implementation of the peace process.

24. For his part, in the communiqué of the Council of Ministers of 9 September 2005, President Laurent Gbagbo reaffirmed that neither the Constitution, nor Marcoussis, nor Pretoria provided for a transition.

25. On 14 September 2004, the Committee for the Monitoring of the Implementation of the Linas-Marcoussis Agreement travelled to Bouaké for a working session with the *Forces Nouvelles*. On that occasion, Guillaume Soro stated that the resolution of the issue of identification and the dismantling of the militia, which should have been effective by the set deadline of 20 August 2005, remained prerequisites for the laying down of arms. The Secretary General of the *Forces Nouvelles* also informed the Committee of the transmission to the IEC of the references of its representatives. He felt that a transition without President Laurent Gbagbo was essential because constitutional legality would be consummated at this date. In his opinion, this transition would provide an opportunity to definitively resolve the problems of identification and the deliverance of identity cards, naturalization, revise the Constitution and reunite the country territorially and in the minds of the people. It should be recalled that in a declaration made on 21 September 2005, the *Forces Nouvelles* indicated that they would no longer collaborate with the Mediation.

26. It was in this context, and at the request of the AU Chairman, President Olusegun Obasanjo, that the 38th PSC Meeting was held in New York, on 14 September 2005, at the level of Heads of State and Government. On that occasion, the PSC, having commended President Thabo Mbeki, the AU Mediator, for his tireless efforts and expressed its appreciation for the progress made so far, expressed concern over the fact that the Ivorian parties did not demonstrate the necessary political will for the full implementation of the Agreements reached on the outstanding issues, particularly the dismantling and disarmament of the militias, the DDR and the creation of conditions for holding of free, fair and transparent elections. Council underlined the need to review the situation in Côte d'Ivoire before 30 October 2005, and requested the ECOWAS Summit to urgently convene to assess the situation and report thereon at a Meeting of the Peace and Security Council to be convened urgently, at Summit level, with the participation of ECOWAS leaders, to consider the matter and decide accordingly.

27. On 19 September 2005, President Gbagbo addressed a letter to the Secretary General of the United Nations, with a copy to the Chairperson of the United Nations Security Council, the Chairman of the African Union and the Chairperson of the AU Commission. In the letter, the Ivorian Head of State drew the attention of the AU Chairman to the contents of the Communiqué of the 38th PSC Meeting. He stressed that in his opinion, it was not an official PSC meeting justifying the publication of a resolution committing the organization as a whole, but a working session convened by the AU Chairman to be briefed on developments in the process in Côte d'Ivoire. With regard to the substance, the Ivorian Head of State expressed surprise at the Communiqué which treats the Ivorian parties on an equal footing including those that have not shown the political will to implement the agreements, while the report of the Mediator, who worked for eleven months on the issue, clearly indicated the stumbling block constituted by the refusal to disarm the rebellion. The Ivorian Head of State added that for his part, having implemented the agreements to least details, he felt that the communiqué was out of topic. He rejected in advance any submission to ECOWAS on Côte d'Ivoire due to the direct implication of some of its Member States in the conflict. Furthermore, he urged the United Nations to assume its responsibilities for the return of peace in Côte d'Ivoire, in compliance with the Pretoria Agreement. In reply to President Gbagbo's letter, the Commission, by Note Verbale dated 27 September 2005, addressed to the Ambassador of Côte d'Ivoire in Addis Ababa, indicated that the 38th PSC Meeting had been convened regularly, according to the Rules of Procedure in force. The Commission particularly specified that the meeting was convened at the request of the Chairman of the AU, Olusegun Obasanjo, and with the agreement of the Chairperson of the PSC, Thabo Mbeki, who chaired the deliberations, in accordance with the Rules of Procedure of the PSC.

28. Concerning the elections specifically, it should be underscored, as indicated above, that the Ivorian parties had, in the Pretoria Agreement, invited the UN to participate in the deliberations of the IEC and the Constitutional Council. Subsequently, the Security Council, in its Resolution 1603 (2005) of 3 June 2005, requested the Secretary General, on the basis of the Pretoria Agreement, to appoint, on an exceptional basis, after consultation with the AU and President Mbeki, a High Representative for the elections in Côte d'Ivoire, independent of UNOCI, who would provide assistance mainly in the deliberations of the IEC and the Constitutional Council. Thereafter, the Secretary General appointed Antonio Moreiro as High Representative for the elections. Mr. Moreiro visited Côte d'Ivoire from 8 to 18 August 2005, where he met President Gbagbo, the Prime Minister Seydou Diarra, the political parties and movements, as well as other sectors. In his report transmitted to the Security Council on 12 September 2005, he indicated that during his talks in Côte d'Ivoire, while always emphasizing that elections were not, in themselves, a panacea, he reminded his interlocutors that it was inconceivable to resolve the Ivorian crisis without credible elections whose conduct and results would command the respect of both national actors and the wider international community. He drew the attention of the Security Council to some potential and actual impediments to progress in organizing the electoral process (delays in the installation of the new IEC, difficulty in reaching overall agreement among

political parties on the internal rules of the IEC, the passion-laden issue of national identification, political and logistical obstacles to the deployment of around 300 magistrates all over the territory to conduct the *audiences foraines* (field court sessions), the lack of progress on the security front and the rather worrying status of resource mobilization). Mr. Moreiro also visited South Africa where, on 16 August, he met the Mediator with whom he discussed mainly the difficulties of setting up the IEC.

29. Finally, it should be pointed out that on 24 June 2005, the Security Council adopted Resolution 1609 (2005) whereby it decided that the mandate of UNOCI and the French forces which support it would be extended for a period of seven months, until 24 January 2006. The mandate of UNOCI, whose overall staff by 8 September was at 6430 men out of an authorized number of 7090, focuses, among other things, on the monitoring of the cessation of hostilities and movements of armed groups; disarmament, demobilization, reintegration, repatriation and resettlement; the disarmament and dismantling of militias; monitoring of the arms embargo; support for humanitarian assistance; support for the organization of open, free, fair and transparent elections; and assistance in the field of human rights.

IV. OTHER DEVELOPMENTS IN THE SITUATION

30. At the security, military, social and humanitarian as well as human rights levels, the situation remains of concern, as a result of the political impasse the country is experiencing. As indicated above, the Western part of the country was the scene, in April, May and June, of very violent community clashes leaving many dead and causing important movements of populations. Faced with this situation, the neutral forces were deployed over the area to contribute to efforts towards stabilizing the situation. At its meeting in Sirte, the PSC condemned the massacres that occurred in this area and urged the Ivorian parties to deploy all efforts to avoid the reoccurrence of such incidents. Moreover, in the night of 23 to 24 July 2005, unknown persons attacked police posts in the localities of Anyama, and Agboville, North of Abidjan, killing several elements of the Ivorian Defence and Security Forces. To check this situation, President Gbagbo replaced the civilian territorial administration with military authorities in the Western region of Moyen Cavalli; appointed a governor, military prefects and sub-prefects in the Western region. A Command Centre for security operations was also established in Abidjan.

31. Moreover, the death during the night of 2 to 3 July 2005, of Colonel Bakassa Traoré, after being beaten up together with Lieutenant-Colonel Jules Yao Yao Ahoussou, former FANCI spokesman, and retired General Laurent M'bahia Kouadio, after a dinner at the residence of the French Ambassador, heightened tension. General Philippe Mangou, Chief of Defence Staff of FANCI, denied any involvement of his men in the death of Colonel Traoré, who according to him, was ill and died a natural death. However, tracts and open letters denouncing this situation circulated, creating unease. It was in this context that the declaration was made on 18 August by General Mathias Doué, former Chief of Defence Staff of FANCI, demanding the departure of President Gbagbo and threatening to resort to all means necessary if the international community did not secure his departure.

32. Concerning human rights, the situation remains of great concern. According to the United Nations, during the period under review, arbitrary detentions, extra-judiciary executions, rape and other acts of violence and intimidation occurred, implicating all the parties involved. At the end of a stay in Côte d'Ivoire, from 6 to 9 July 2005, during which she met President Laurent Gbagbo, the Prime Minister Seydou Diarra, as well as officials of the opposition and the Forces Nouvelles, Louise Harbour, the United Nations High Commissioner for Human Rights, expressed concerned with the situation prevailing on the ground, as well as with the culture of impunity.

33. The humanitarian situation has continued to deteriorate, due to limited access to basic services, be it in terms of access to water, health or education. The populations in the Northern region particularly, are faced with serious water shortage; the town of Korhogo for example, lives by means of a ration of 2,000m³/day. The hopes of the populations lie in the programme for the rehabilitation of 700 pumps by the "Water and Sanitation" Sectoral Group initiated by local NGOs, in collaboration with UNICEF and the Human Hydraulics Department which should begin shortly. At the end of August, the Minister of Economic Infrastructure visited these regions to look into the situation and explore with the different contributors – humanitarian agencies and development partners – the possible solutions. Furthermore, education continued to suffer as a result of the crisis the country is going through. Indeed, for financial and security reasons, the final exams for 2004 and 2005, scheduled to take place from 12 to 27 September, in the areas under the control of the *Forces Nouvelles*, were postponed until a later date. The budget of 385 million CFAF required for the organization of the said exams is still not finalized and the security measures have not yet been taken.

34. In conclusion, it should be noted that the persistence of the crisis continues to affect economic activity, which is translated, among other things, by the aggravation of poverty. The United Nations estimated that 40% of the population lives below the poverty level, against 38% at the end of 1999. Considering the weight of the Ivorian economy in the region, the countries of the region as a whole are affected by the economic consequences of the current crisis.

V. OBSERVATIONS

35. In spite of all the efforts that have been made, the peace process in Côte d'Ivoire is once again faced with serious difficulties. The present situation and its inherent dangers for Côte d'Ivoire and for the region and the Continent as a whole requires that the Ivorian parties demonstrate a high sense of responsibility and overcome the mistrust and suspicion which, to date, have marked their relations. The situation also calls for resolute and coordinated action by the PSC and countries of the region, based on an objective evaluation of the situation. In this context, it is important to maintain close coordination with the United Nations.

36. At this point it should be highlighted that significant progress has been accomplished in the implementation of the Linas-Marcoussis and Accra III Agreements since the Libreville meeting, as evidenced by, *inter alia*, the resolution of the issue of

eligibility to the Office of President of the Republic for the elections of October 2005. Generally, the Pretoria Agreement and Declaration made it possible to find a compromise on the different aspects of the Ivorian crisis. At this juncture, a glowing tribute should be paid to President Mbeki, AU Mediator, for his perseverance, his unrelenting efforts and his commitment to the cause of peace and reconciliation in Côte d'Ivoire.

37. The challenge facing the AU and other stakeholders of the international community is that of ensuring the respect by the parties of the commitments to which they have subscribed. Clearly, this challenge will not be easy to address for its is true that the history of the peace process in Côte d'Ivoire is interspersed with agreements signed by the parties, whose implementation has always proven to be problematic.

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