



## UPDATE OF UNHCR'S POSITION ON THE INTERNATIONAL PROTECTION NEEDS OF ASYLUM-SEEKERS FROM CÔTE D'IVOIRE

### I. Introduction

Following the failed military coup in September 2002 and the ensuing conflict in Côte d'Ivoire in 2002, the country was divided into two zones: the rebel-occupied north, under the *Forces Nouvelles* ("New Forces") of Guillaume Soro, and the government-controlled south, under the rule of President Laurent Gbagbo.<sup>1</sup> The violent conflict generated large-scale displacement, both internally and externally. In January 2004, the United Nations High Commissioner (UNHCR) issued a "Position on the Return of Rejected Asylum Seekers to Côte d'Ivoire," which recommended a moratorium on returns with the exception of individuals from Abidjan whose relatives had been contacted in the city prior to their return.<sup>2</sup> For asylum-seekers originating from outside Abidjan, but not meeting the refugee definition, the position recommended that they be extended complementary forms of protection. An "Update on International Protection Needs of Asylum-Seekers from Côte d'Ivoire", issued in October 2006, reaffirmed and expanded the previous position with regard to the international protection needs of persons from Côte d'Ivoire. It recommended the granting of asylum of asylum to persons fleeing Côte d'Ivoire and urged that no asylum-seeker from Côte d'Ivoire should be forcibly returned, including those from Abidjan.<sup>3</sup>

Since then, the situation in Côte d'Ivoire has undergone significant positive changes that warrant an update<sup>4</sup> of UNHCR's position on the international protection needs of asylum-seekers from Côte d'Ivoire. In December 2006, President Laurent Gbagbo initiated for the first time direct talks with the rebel leadership. After a successful process of negotiations, representatives of the Government and the *Forces Nouvelles* signed on 4 March 2007, the *Accord politique de Ouagadougou* (the "Ouagadougou Agreement"),<sup>5</sup> in Ouagadougou, Burkina Faso. While several peace agreements have

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<sup>1</sup> The two were separated by the Zone of Confidence (ZOC), set up by international forces to maintain the peace, and currently dismantled.

<sup>2</sup> See: UNHCR, *UNHCR Position on the Return of Rejected Asylum Seekers to Côte d'Ivoire*, 10 January 2004, available online in UNHCR's Refworld at <http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain?docid=4020dc034>.

<sup>3</sup> See: UNHCR, *Update on International Protection Needs of Asylum-Seekers From Côte d'Ivoire*, 5 October 2006, available online in UNHCR's Refworld at <http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain?docid=452a39fe4>.

<sup>4</sup> The current position supersedes all previous UNHCR positions on Côte d'Ivoire.

<sup>5</sup> For the text of the "Ouagadougou Agreement", see the Annex to: UN Security Council, *Letter dated 13 March 2007 from the Secretary-General addressed to the President of the Security Council on the Ouagadougou Political Agreement*, S/2007/144, 4 March 2007, available online in UNHCR's Refworld at <http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain?docid=46a8817029>.

been signed in the past, there are real and positive indications that the current agreement is largely being respected.

Two weeks after the signing, the Parties have established a joint military command structure, responsible for vital security tasks. The planning process for the restructuring and reform of the armed forces has commenced. In April 2007, a new Government was formed, comprised of representatives of the two main political parties as well as several members of smaller ones. The Government has reached agreement on a road map for implementation of the Ouagadougou Agreement. On other sensitive issues such as the removal of the Zone of Confidence, disarmament, the elections and the identification process, important agreement has also been reached, the implementation of which will depend on a continued commitment to the peace process. Modest numbers of internally displaced persons (IDPs) and refugees have returned to their previous places of origin or habitual residence.

Generally conditions in Côte d'Ivoire continue to improve, and a framework for lasting peace is in place. Nevertheless, as this paper also highlights, violent incidents and inter-communal tension remain cause of some concern in certain parts of the country. These areas must be monitored and their concerns addressed by the new Government, but it is UNHCR's position that the current conditions can no longer be characterized as a situation of generalized violence.

## II. The Ouagadougou Agreement: An assessment

As indicated above, on 4 March 2007, the President of Côte d'Ivoire, Laurent Gbagbo, and *Forces Nouvelles* leader Guillaume Soro signed a new peace agreement in Ouagadougou, Burkina Faso. The agreement was facilitated by the President of Burkina Faso, Blaise Compaoré, in his capacity as Chairman of the Economic Community of West African States (ECOWAS). The Ouagadougou Agreement brings together the "five-point plan", presented by President Gbagbo on 19 December 2006, and various aspects of previous agreements brokered by the international community.<sup>6</sup>

The Ouagadougou Agreement is the first to have resulted from the leaders and senior officials of the country's main belligerents meeting directly and negotiating peace of their own volition. Solutions have been agreed for highly contentious and divisive issues such as the re-structuring of the army and the creation of a unity government. According to a recent mission of the Security Council, the Agreement's "originality lay in the fact that it had been the outcome of the will of the two main parties to the conflict. The Agreement also established a framework that should allow for the resolution of issues that had previously prevented progress in the peace process."<sup>7</sup>

The Agreement sets an ambitious timetable for the implementation of the following principal tasks:<sup>8</sup> (a) the establishment of a joint military command, (b) the creation of a new, power-sharing government, (c) the gradual removal of the *Zone of Confidence* (ZOC), or buffer zone between north and south Côte d'Ivoire, (d) the dismantling of all

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<sup>6</sup> In the preamble to the Ouagadougou Agreement, the signatories express only their "attachment" to preceding agreements, thereby giving precedence in all matters to the Ouagadougou Agreement. See: *Preamble*.

<sup>7</sup> UN Security Council, *Report of the Security Council Mission to Addis Ababa, Khartoum, Accra, Abidjan and Kinshasa, 14 to 21 June 2007*, 11 July 2007, S/2007/421, para. 51, available online in UNHCR's Refworld at: <http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain?docid=469c6dc32>.

<sup>8</sup> Ouagadougou Agreement, see above footnote 5, para. 4.

pro- and anti-government militias, (e) the organization of elections (to take place by January 2008) and (f) the implementation of the identification process and voter registration before the elections. While there have been some technical delays in the implementation of the timetable, the signatories seem thus far to be abiding by their commitments.

#### **A. Establishment of Joint Military Command**

Parties to the Ouagadougou Agreement committed to a process of restructuring and reform of the two armies with the aim of establishing new defence and security forces linked to the values of integrity and morality of the Republic. This is to be achieved through a special mechanism for restructuring and reform of the armed forces and the creation of a *Centre de Commandement Intégré* or Integrated Command Centre (CCI). The CCI in Tiébissou was created by presidential decree signed on 16 March 2007 and inaugurated on 16 April 2007.<sup>9</sup> A Governmental seminar in May 2007 decided on the establishment of a working group to develop a plan for the composition and functioning of the new defence and security forces.

Under the Agreement, the newly formed Integrated Command Centre and mixed police units are vested with the responsibility of performing crucial security tasks. A measure that is expected to build confidence is the agreement that the majority of the *Forces Nouvelles* will be integrated into a new reformed Ivorian army, rather than the integral disarmament and demobilization of the former rebels. This integration process into the regular military will of course take time. Capacity is lacking and, while tremendous efforts have been made, “the requisite planning capacity, logistics, personnel and financial resources are not yet in place.”<sup>10</sup> Another point to be considered is the demand expressed by the *Forces Nouvelles* officers that their grades, obtained while in rebellion, be fully recognized.

#### **B. Creation of a new, power-sharing Government and restoration of State administration**

On 26 March 2007, President Gbagbo and Mr. Soro signed a supplementary agreement designating the latter as Prime Minister of Côte d’Ivoire.<sup>11</sup> Mr. Soro replaced Charles Konan Banny, who had been appointed by mediators to act as transitional Prime Minister in December 2005.<sup>12</sup> Pursuant to the Agreement’s timetable, which stated that a new, power-sharing government would be formed within five weeks of the signing of the Agreement, Prime Minister Soro announced a 33-member cabinet on 7 April 2007. Eleven members of the new Government are from the ruling *Ivorian Popular Front (FPI)*, seven are from the *Forces Nouvelles* and five come from *Rassemblement des Républicains (RDR)*, *Parti Démocratique de Côte d’Ivoire (PDCI)*, and other smaller

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<sup>9</sup> UN Security Council, *Thirteenth Progress Report of the Secretary-General on the United Nations Operation in Côte d’Ivoire*, S/2007/275, 14 May 2007, para. 6, available online in UNHCR’s Refworld at <http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain?docid=46516a592>.

<sup>10</sup> *Ibidem*, para. 24.

<sup>11</sup> *Ibidem*, para. 5.

<sup>12</sup> In accordance with UN Security Council Resolution 1633 (2005), which called for the selection of a prime minister “acceptable to all”. See: *Resolution 1633(2005), The situation in Côte d’Ivoire*, S/RES/1633 (2005), adopted by the UN Security Council at its 5288th meeting, on 21 October 2005, para. 5, available online in UNHCR’s Refworld at <http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain?docid=43f308e212>.

political parties. The Prime Minister has secured the agreement of the Government to a “consensual” road map for the implementation of the Ouagadougou Agreement.<sup>13</sup>

The Government has indicated its intention to put in place new institutional arrangements to implement the restoration of State administration throughout the country. According to the *Comité national de pilotage du redéploiement de l’administration*, to date, more than half of all civil servants who were displaced during the crisis have returned to their posts. The Government is currently focusing on appointing *préfets* and *sous-préfets*, who are expected to be deployed to the north and west. The Prime Minister has indicated that the two parties have already agreed on 90 per cent of the candidates for the posts of *préfets*. The 600 police auxiliaries from the *Forces Nouvelles*, who were trained by UNOCI, are expected to provide security for the return of the *préfets* and civil servants.<sup>14</sup>

### C. Gradual removal of the Zone of Confidence (ZOC)

As per the Ouagadougou Agreement, the gradual removal of the ZOC was scheduled to begin one week after the formation of the new government, i.e. on 15 April 2007. In late March 2007, a proposal for dismantling the ZOC was submitted to the United Nations Security Council outlining a gradual removal of the zone and recommending that it be reduced to a “green line”.<sup>15</sup> According to the Quadripartite Agreement<sup>16</sup> of 11 April 2007, the “green line” is to be delineated by 32 points corresponding to cities and towns in the region.<sup>17</sup> The “impartial forces (UNOCI<sup>18</sup> only)” will be temporarily installed in 17 observation posts along the line. These will begin to be dismantled after two months and replaced by mixed brigades of government and rebel soldiers, as the need arises.<sup>19</sup>

The Quadripartite Agreement stated that the official dismantlement of the zone would begin on 16 April 2007 and conclude in December 2007 by which time all observation posts should have been removed. The official commencement of dismantlement was marked by a ceremony held on 16 April 2007 in Tiébissou in the presence of President Gbagbo and Prime Minister Soro.<sup>20</sup> A number of more substantial steps were also taken. The Integrated Command Centre (CCI) was inaugurated, although the generals who will be in charge of it have yet to be appointed. United Nations (UN) forces were removed from a former ZOC checkpoint in Tiébissou and a mixed brigade was sent to

<sup>13</sup> UN Security Council, *Report of the Security Council Mission*, see above footnote 7, para. 53.

<sup>14</sup> UN Security Council, *Thirteenth Progress Report*, see above footnote 9, para. 59.

<sup>15</sup> See: United Nations Office for the Coordination of Humanitarian Affairs (UNOCHA), *Côte d’Ivoire: OCHA Rapport Hebdomadaire No. 12/13, Du 19 mars au 01 avril 2007*, 1 April 2007, <http://www.reliefweb.int/rw/rwb.nsf/db900sid/JBRN-726CZJ?OpenDocument&cc=civ>.

<sup>16</sup> In order to facilitate the lifting of the zone of confidence, on 11 April 2007 the Chiefs of Staff of the national defence and security forces and the *Forces Nouvelles*, General Philippe Mangou and General Soumaila Bakayoko, as well as the Force Commanders of UNOCI and Licorne, signed an agreement nullifying “code 14” of 31 July 2005, which had provided the legal basis and security arrangements for the zone. At the request of the two Chiefs of Staff, UNOCI and Licorne subsequently assisted the integrated command centre to define the coordinates of the green line that will replace the zone of confidence. See: UN Security Council, *Thirteenth Progress Report*, see above footnote 9, para. 9.

<sup>17</sup> See: “Other Relevant Facts”, in: Security Council Report (SCR), *Monthly Forecast on Côte d’Ivoire – May 2007*, [http://www.securitycouncilreport.org/site/c.giKWLeMTIsG/b.2701277/k.51D6/May\\_2007BR\\_Cte\\_dIvoire.htm](http://www.securitycouncilreport.org/site/c.giKWLeMTIsG/b.2701277/k.51D6/May_2007BR_Cte_dIvoire.htm).

<sup>18</sup> “United Nations Operation in Côte d’Ivoire” (UNOCI) or “Opération des Nations Unies en Côte d’Ivoire” (ONUOI).

<sup>19</sup> *Ibid.*

<sup>20</sup> See: UNOCHA, *Côte d’Ivoire: OCHA Rapport tri-Hebdomadaire No. 15/16/17, Du 9 au 29 avril 2007*, 29 April 2007, [http://www.reliefweb.int/rw/RWFiles2007.nsf/FilesByRWDocUnidFilename/948DF3B25FA8BACC852572D00068DBB4-Full\\_Report.pdf/\\$File/Full\\_Report.pdf](http://www.reliefweb.int/rw/RWFiles2007.nsf/FilesByRWDocUnidFilename/948DF3B25FA8BACC852572D00068DBB4-Full_Report.pdf/$File/Full_Report.pdf).

the village of N’gattadolikro, formerly located in the ZOC.<sup>21</sup> To date, therefore, the process of dismantling the zone is on schedule.

#### **D. Disarmament**

Although the Ouagadougou Agreement foresaw disarmament beginning on 23 April 2007, no handing over of arms in fact took place until 19 May 2007. Disarmament began when the *Front de Résistance du Grand-Ouest* (FRGO), a pro-government militia headed by Denis Maho Glofeis, surrendered an estimated 1,000 weapons as well as ammunition to the UN Battalion from Benin (BENINBATT) in Guiglo.<sup>22</sup> The weapons were subsequently destroyed along with militia uniforms.<sup>23</sup> According to recent reports, the FRGO, which claims to be 15,000 strong, remains yet to be fully disarmed, while numerous other, particularly rebel, militia groups have still not begun to disarm.<sup>24</sup>

A number of obstacles stand in the way of successful Disarmament, Demobilization and Reintegration (DDR), as the process is called. First, the exact number and locations of militia members remain unknown. Rebels claim to number upwards of 40,000 while loyalist militias say they total around 20,000.<sup>25</sup> Military sources, on the other hand, maintain that there are only between 3,000 and 4,000 rebels and no more than 5,000 loyalists. The dearth of reliable information will make DDR more difficult to conduct and assess.

Second, it remains uncertain whether all the militias will commit themselves fully to DDR. Earlier attempts, most recently in the summer of 2006, proved unsuccessful. In July of 2006, an estimated 150 weapons were handed over to the Government, but no further disarmament took place and violence resumed shortly thereafter.<sup>26</sup> Militia men going through the process claimed more entitlements than had been foreseen. During the assembly of combatants in 2006, both belligerents prevented UN forces from taking part and monitoring the process. Since the Ouagadougou Agreement, rebel representatives have said they will not begin disarming before the pro-government militias have handed over their weapons.<sup>27</sup> Thus, while the new Government and the support of international actors play a key role in DDR, its success will ultimately depend on the compliance of the armed groups themselves in the months to come.

A third obstacle lies with the political economy of DDR. The process will not be complete if focused on only disarmament and demobilization. A vital component of DDR is the retraining and employment of ex-fighters many of whom, particularly in the south-western region, have made violent crime a profession. With meager government funding and the poor state of the Ivorian economy, it is becoming increasingly difficult

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<sup>21</sup> See: Ange Aboa, *Ivory Coast’s President Gbagbo Says War is Over*, Reuters, 16 April 2007, <http://www.alertnet.org/thenews/newsdesk/L16195782.htm>.

<sup>22</sup> Weapons handed over include AK-47s, PM 9mm sterling, RPG 7 and 12 mm hunting guns. See: “Variety of weapons handed to BENINBATT following symbolic dismantling ceremony”, in: UNOCI, *Daily Brief on Côte d’Ivoire for 22nd May 2007*, 22 May 2007, [http://www.onuci.org/archives/daily\\_brief/220507be.pdf](http://www.onuci.org/archives/daily_brief/220507be.pdf).

<sup>23</sup> UNOCHA, Integrated Regional Information Networks (IRIN), *Côte d’Ivoire: Pro-Government Militias Make Symbolic Start to Disarmament*, 21 May 2007, <http://www.reliefweb.int/rw/RWB.NSF/db900SID/EDIS-73ER7F?OpenDocument&rc=1&cc=civ>.

<sup>24</sup> *Ibid.*

<sup>25</sup> See: Emmanuel Duparq, *Following Peace Revelry, Ivory Coast Struggles with Implementation*, Agence France-Presse (AFP), 20 May 2007, <http://www.reliefweb.int/rw/RWB.NSF/db900SID/DHRV-73E3GP?OpenDocument&rc=1&cc=civ>.

<sup>26</sup> UNOCHA/IRIN, see above footnote 23.

<sup>27</sup> *Ibid.* See also: Aboa, see above footnote 21.

to offer sufficient incentives to groups and individuals who need to be disarmed. In 2006, the Government agreed to pay fighters USD 900 each to disarm and to cover their accommodation and food for a substantial period.<sup>28</sup> An estimated USD 105 million was needed to fund just this aspect of the programme.<sup>29</sup>

Like the earlier Linas-Marcoussis Agreement,<sup>30</sup> the Ouagadougou Agreement also commits the Government to compensating individuals for disarming and to helping them integrate into either the official armed services or civil society.<sup>31</sup> The President and the Prime Minister both called for international support, including financial assistance, for the Government's initiative to establish a "civic service" for demobilized youths. The programme would provide former combatants and militia members with employment training, as well as financial support to establish small businesses.<sup>32</sup>

General Ouassenan Koné, the head of the national disarmament programme, has said reintegration support is being offered to ex-combatants but the details of such support have not yet been made known.<sup>33</sup> Even if disarmament were a complete success, discontent and unrest due to the adverse economic situation is likely to fuel instability for some time.

## **E. Organization of elections**

Despite delays in the disarmament process, President Gbagbo maintains that elections will be held within the timeframe outlined in the Ouagadougou Agreement, i.e. in January 2008.<sup>34</sup> It should be noted that the Ouagadougou Agreement is largely silent on the role to be performed by the United Nations on some major tasks, such as the electoral process and the certification and arbitration of elections results.<sup>35</sup> A letter from President Compaoré of Burkina Faso dated 27 March 2007 assures the Security Council that the UN and the international community will continue to play an important role in

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<sup>28</sup> James Copnall, *Ivory Coast Faces Worst Economic Crisis*, BBC News, 20 June 2006, <http://news.bbc.co.uk/go/pr/fr/-/1/hi/business/5097634.stm>.

<sup>29</sup> At the time, it was estimated that some 50,000 combatants, a mix of loyalists and rebels, needed to be disarmed and reintegrated. This meant USD 45,000,000 alone would be needed to pay the ex-fighters. Already facing financial difficulties, former Prime Minister Charles Konan Banny asked Paris, Brussels and Washington for funds. In the end, the World Bank agreed to lend USD 80 million, with other countries, namely the European Union, contributing the additional USD 25 million needed. See: *ibid*.

<sup>30</sup> At the invitation of the President of France, a round table of Ivorian political forces met in Linas-Marcoussis, France, from 15-23 January 2003. The round table adopted a reconciliation agreement, known as the "Linas-Marcoussis Agreement". For the text of the Agreement, see the Annex to: UN Security Council, *Letter dated 27 January 2003 from the Permanent Representative of France to the United Nations addressed to the President of the Security Council on the Linas-Marcoussis Agreement*, S/2003/99, 27 January 2003, available online in UNHCR's Refworld at <http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain?docid=46a8937c2>.

<sup>31</sup> Ouagadougou Agreement, see above footnote 5, Section 3.2 ("National Disarmament, Demobilization and Reintegration Programme"). According to the Agreement, the DDR activities will be implemented in conformity with the recommendations in the Linas-Marcoussis Agreement and modalities foreseen in pursuing military agreements. The UN, World Bank and European Commission will assist the national institutions in the planning and implementation of the DDR programme. For further details on the process, see UN Security Council, *Thirteenth Progress Report*, see above footnote 9, p. 14-15.

<sup>32</sup> UN Security Council, *Report of the Security Council Mission*, see above footnote 7, para. 57.

<sup>33</sup> Ange Aboa, *Militias Burn Guns as Ivory Coast Peace Advances*, Reuters, 19 May 2007, <http://www.alertnet.org/thenews/newsdesk/L19197874.htm>.

<sup>34</sup> UN Security Council, *Thirteenth Progress Report*, see above footnote 9, para. 4.

<sup>35</sup> A specific role for the UN is mentioned in the following areas: supervision and implementation of the disarmament and demobilization process; supervision of the cantonment of units of the former fighting forces and the storage of their weapons; maintaining observation posts along the green line. See: UN Security Council, *Thirteenth Progress Report*, see above footnote 9, para. 13.

the peace process, in particular in supporting the implementation of the key tasks set out in the Ouagadougou Agreement.<sup>36</sup> Concerning the upcoming elections, it is envisaged that the UN will help provide security, observe the electoral process and provide technical advice to the authorities. Already, former President Henri Konan Bédié, the head of the *Parti Démocratique de Côte d'Ivoire* (PDCI), and Alassane Dramane Ouattara, former Prime Minister and the head of the *Rassemblement des Républicains* (RDR), have announced their intention to run in the elections.

#### **F. Identification process and voter registration**

There appears to be widespread belief that the elections will be held some time in the first quarter of 2008. Even if the deadline for elections is met, whether they succeed or not will depend heavily on the resumption and completion of the identification process in Côte d'Ivoire.<sup>37</sup> The identification process has been a source of controversy in the Ivorian crisis and dates back to the *Ivoirité* campaigns of President Henri Konan Bédié in the early 1990s.<sup>38</sup> An estimated 3 to 4 million individuals live in Côte d'Ivoire today without identity papers. Approximately half of them are of voting age and live mostly in the northern region of the country.

The identification process is key to the resolution of three problems underlying the Ivorian conflict: eligibility for citizenship of some three million immigrant residents, the exploitation of ethnicity for political gain, and competition for land resources between “indigenous” and immigrant communities in the volatile western region.<sup>39</sup> Due to the citizenship policies of the early 1990s, there is still a great deal of confusion as to who qualifies for Ivorian nationality. In addition, there are a number of individuals whose proof of nationality has been destroyed or lost (e.g. birth certificates, parents’ birth certificates). There are also those who could have obtained Ivorian nationality pursuant to the *jus sanguinis*<sup>40</sup> provisions of Ivorian law but for whatever reasons chose not to. The determination of nationality will impact upon the right of individuals to vote, and, crucially, eligibility for land tenure.

The Ouagadougou Agreement underscores that the absence of clear and coherent identification, without a unique administrative document proving identity and nationality constitutes a source of conflict. It remains, however, unclear on some critical dimensions of the identification process such as the precise definition of Ivorian nationality and the right of individuals to appeal court rulings on nationality. It is uncertain to what extent these issues will be resolved through the proposed identification process.

Sections I and II of the Ouagadougou Agreement set out the Government’s intention to (a) organize *audiences foraines*<sup>41</sup> in a total of 208 mobile courts, (b) update civil registers and reconstitute those that have been destroyed or lost, (c) begin the voter registration process, allowing the use of birth registration documents, i.e. *jugements*

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<sup>36</sup> *Ibidem*, para. 17.

<sup>37</sup> Regarding identification, the Ouagadougou Agreement is largely in accordance with the Linas-Marcoussis Agreement of 2003, which outlined a detailed approach to the identity question.

<sup>38</sup> UNHCR, see above footnote 3. See also: Human Rights Watch (HRW), *World Report 2007: Côte d'Ivoire*, 11 January 2007, <http://hrw.org/englishwr2k7/docs/2007/01/11/cotedi14956.htm>.

<sup>39</sup> HRW identifies these as the three key problems underlying the Ivorian conflict. See: *ibid*.

<sup>40</sup> Literally: “right of blood”, denoting entitlement to citizenship through parental citizenship.

<sup>41</sup> *Audiences foraines* are itinerant judicial hearings which conduct late birth registration and issue *jugements supplétifs*, administrative determinations which would be valid in lieu of missing birth certificates to determine citizenship,

*supplétifs*, to function as proof of nationality<sup>42</sup> and (d) outline a new process for citizens and residents to obtain identity cards.

Two processes for obtaining new identity cards are outlined in the Ouagadougou Agreement. According to the first, *identification ordinaire* or regular identification, Ivorians must present a nationality certificate in addition to either a *jugement supplétif* or a birth certificate to obtain the new national identity card. Non-Ivorians must present a birth certificate or *jugement supplétif* or consular documentation indicating their nationality to obtain certification of their identity in accordance with their status. Within this context, it remains unclear how nationality, i.e. ‘Ivorianness’ and ‘non-Ivorianness’ is defined.<sup>43</sup> In the absence of a birth certificate or parents’ birth certificates, witnesses may testify to the nationality of an individual, but it is unclear how this will be adjudicated in practice and whether individuals can appeal the rulings of the *audiences foraines*.

A second process of identification is outlined in the Ouagadougou Agreement in the interest of “accelerating the process of identification”.<sup>44</sup> According to this second process, “identification on the basis of the new electoral list,” all citizens on the new list will be given an identification number by which they may obtain a voter’s card and new national identity card. The new electoral list is based on a previous list from 2000. All nationals 18 years of age and over must present either a birth certificate or *jugement supplétif* to register, i.e. no nationality certificate is necessary. Yet, here again, the Ouagadougou Agreement does not specify by which criteria the nationality of the applicant will be determined or whether a person who is excluded may contest this decision.

While voter registration and identification were scheduled to start on 21 May 2007,<sup>45</sup> they have yet to begin, with a Presidential Decree nominating new judges to sit on the *audiences foraines* signed on 5 June 2007. The implementation of a just and transparent identification process remains uncertain. Although the Ouagadougou Agreement resolves the question of the authority of the mobile courts, it does not detail the procedure or qualifications to be used to determine nationality, a weakness which also existed in the Linas-Marcoussis Agreement. This is a critical issue since civil registries are incomplete and countless certificates and other documents were destroyed or lost during the war, making the obtaining of a *jugement supplétif* for many people complicated or impossible. It also remains unclear whether an individual who has been denied Ivorian nationality under one of the two identification processes may still apply under the other.

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<sup>42</sup> Ouagadougou Agreement, see above footnote 5, para. 1.1.2 and 2.1.2.

<sup>43</sup> In addition to the lack of a clear definition for “Ivorianness”, the Ouagadougou Agreement also does not address how it will guarantee the recognition of Ivorian nationality for individuals whose proofs of Ivorian nationality were destroyed (e.g. birth certificates, parents’ birth certificates), or individuals who for whatever reason did not previously declare their Ivorian nationality despite their qualifying according to *ius sanguinis* provisions of Ivorian law.

<sup>44</sup> Ouagadougou Agreement, see above footnote 5, para. 1.3.2.1.

<sup>45</sup> UN Security Council, *Thirteenth Progress Report*, see above footnote 9, para. 4.

### III. Security situation<sup>46</sup>

The assassination attempt on the life of Prime Minister Soro on 29 June 2007 has not jeopardized the peace process in Côte d'Ivoire. This incident notwithstanding, following the signing of the Ouagadougou Agreement, there is no longer a situation of generalized violence in Côte d'Ivoire. Violence has ceased between the Ivorian military and the *Forces Nouvelles* since November 2004. The number of attacks by unknown sources which had increased during 2006 in the western area and the ZOC, have decreased since the signing of the Ouagadougou Agreement, although hold-ups and roadblocks are still common in the area of Bangolo in the ZOC. Abidjan continues to experience night-time armed robberies, as in the pre-2002 period. No serious abuses of civilians however have been alleged against either of the two former belligerents,<sup>47</sup> although complaints of harassment by the police forces in Abidjan continue to be reported. The signing of the Ouagadougou Agreement was immediately followed by a lull in violent acts by militia members and other armed groups not directly affiliated with the military or *Forces Nouvelles* but these have since resumed again in parts of the southwest, the former ZOC and near the border with Burkina Faso in the province of Savannes.

Security concerns today lie primarily with the militias and other armed individuals acting independently of the military and *Forces Nouvelles*. The Government of Côte d'Ivoire, the UN and human rights organizations were increasingly concerned with these armed groups.<sup>48</sup> The groups are primarily located in the southwest and most of their attacks are motivated by profit, i.e. banditry. The weak economy, high levels of unemployment and the high percentage of individuals in possession of or with access to weapons suggest that it will take time before peace and order can be fully restored to these areas.<sup>49</sup>

#### A. The Southwest

Violent incidents in Moyen-Cavally and the neighbouring 18 Montagnes region have been concentrated in the districts of Zou and Bangolo between Man and Duekoué. These areas are on the main commercial transport routes. About two thirds of them are located in the former ZOC. While there was a reduction in the number of incidents in the last two weeks of March, due apparently to the arrival of military escorts and Pakistani UN forces, by 8 and 9 April 2007, after the official suppression of the ZOC, there had been a sharp upsurge in incidents. These have consisted for the most part of robberies and hold-ups.<sup>50</sup> Médecins Sans Frontières (MSF) reported almost daily

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<sup>46</sup> All data in this section is from UNOCHA. See: *Côte d'Ivoire: OCHA Rapport Hebdomadaire No. 11, Du 12 au 18 mars 2007*, 18 March 2007, <http://www.reliefweb.int/rw/rwb.nsf/db900sid/EVOD-6ZNCZD?OpenDocument&cc=civ&rc=1>; *Rapport Hebdomadaire No. 12/13*, see above footnote 15; *Côte d'Ivoire: OCHA Rapport Hebdomadaire No. 14, Du 2 au 8 avril 2007*, 8 April 2007, <http://www.reliefweb.int/rw/rwb.nsf/db900sid/YSAR-727SP3?OpenDocument&cc=civ&rc=1>; and *Rapport tri-Hebdomadaire No. 15/16/17*, see above footnote 20.

<sup>47</sup> HRW reports incidents of extortion, robbery and beating of civilians in all regions of the country by the government forces, their allied militias and the *Forces Nouvelles* in 2005 and 2006. See: HRW, *Because They Have the Guns... I'm Left with Nothing: The Price of Continuing Impunity in Côte d'Ivoire*, Vol. 18, No. 4 (A), May 2006, <http://hrw.org/reports/2006/cotedivoire0506/>. See also: HRW, see above footnote 38. No incidents of violence against civilians by the two belligerent parties have been reported by UNOCHA in its *Rapports Hebdomadaires*, N° 11-17 of 2007, see above footnote 46.

<sup>48</sup> UNOCHA/IRIN, see above footnote 23.

<sup>49</sup> See for more on the weak economy and the high unemployment: UN Security Council, *Thirteenth Progress Report*, see above footnote 9, para. 40.

<sup>50</sup> See the above-mentioned OCHA reports for a more complete list of incidents.

attacks towards the end of April 2007 and early May 2007, but these have since subsided.<sup>51</sup>

In the province of Bas Sassandra, also in the southwest, incidents have taken place around Meagui (Gnamangui) and San Pedro, both of which are key cocoa transit points. There is concern about rising tension between communities of Burkinabé and Baoulé origin in Meagui in particular. Incidents have included a land dispute between the two communities in early April 2007 which witnessed a kidnapping and the wounding of two individuals of Burkinabé origin. UNOCI fears that the growing tension will spread through the entire region of Tabou in the south-western tip of Bas Sassandra.

## **B. Central Côte d'Ivoire**

While the incidents in Moyen-Cavally and 18 Montagnes are part of a longer unbroken history of violence, the incidents in Vallée du Bandama are of particular concern in that they mark a *resurgence* of inter-community unrest at the center of the former ZOC near and around Bouaké, which is at the heart of the country's cocoa-growing region. In the last three weeks of April, a village inhabited by persons of Burkinabé origin was burned to the ground in N'gattadolikro following a dispute with the Baoulé community. OCHA reports that a total of sixteen homes and their inhabitants' belongings were destroyed and a conflict between communities living in Brobo ended in a shooting. On 1 July 2007, OCHA reported almost nightly robberies of civilian homes and four attacks on UNOCI staff over the preceding two weeks.<sup>52</sup>

## **C. The North**

Like Central Côte d'Ivoire, the province of Savannes, particularly along the border with Burkina Faso, has also experienced an upsurge in incidents, consisting primarily of hold-ups and robberies. At least eight incidents have been reported in Ferkessedougou alone since the end of April 2007.

## **D. Analysis**

While the frequency and extent of incidents in these regions are not comparable to those at the peak of violent activity, incidents have increased since the lull that immediately followed the signing of the Ouagadougou Agreement. Incidents in all regions have been clustered around key commercial transport routes and economic centres suggesting that they are motivated primarily by economic concerns. In Moyen-Cavally, 18 Montagnes and Savannes, incidents are symptomatic of a continuing lack of control and order in the western parts of the provinces near the former ZOC. In Bas Sassandra and Vallée du Bandama, incidents have tended to be connected with inter-community tensions.

The south-western region of Côte d'Ivoire stands out from the rest of the country both in its history of armed individuals and groups and the character of attacks and violent incidents. Some of the armed groups were initially formed in 2002 in response to a need to protect the region from warring northern and southern forces. Some are former fighters from the conflicts in Sierra Leone and Liberia, apparently mostly interested in

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<sup>51</sup> Médecins Sans Frontières (MSF), *Ivory Coast: Increasing Violent Attacks against Civilians in the Former Zone of Confidence*, Press Release, 25 April 2007, [http://www.msf.org/msfinternational/invoke.cfm?objectId=28BF4B94-15C5-F00A-25B0668F6FC7A278&component=toolkit.pressrelease&method=full\\_html](http://www.msf.org/msfinternational/invoke.cfm?objectId=28BF4B94-15C5-F00A-25B0668F6FC7A278&component=toolkit.pressrelease&method=full_html).

<sup>52</sup> UNOCHA, *Côte d'Ivoire: OCHA Rapport Hebdomadaire N° 26 – 23 juin au 1er juillet 2007*, 6 July 2007, <http://www.reliefweb.int/rw/rwb.nsf/db900sid/LRON-74UH78?OpenDocument&cc=civ&rc=1>.

pillage and theft.<sup>53</sup> Violence in this region has always had a more economic character, but the trend has become more obvious in recent months.

While the failed disarmament attempts of the past two years in this region indicate continued dissatisfaction with the political situation, they also reflect reluctance on the part of some groups to cease what are often highly lucrative activities. Despite the promising peace agreement between the two largest belligerent groups in Côte d'Ivoire, the persistence of militia and wanton attacks since the Ouagadougou Agreement is symptomatic of the inability of the new Government and international forces, at present, to establish control over these groups, which seem increasingly to be motivated by short term, profit-making aims. This is a development that if left unaddressed could spread further within the provinces and to other regions of Côte d'Ivoire.

#### **IV. The return of IDPs and refugees<sup>54</sup>**

Since the signing of the Ouagadougou Agreement on 4 March 2007, some IDPs and refugees have begun spontaneously returning to their homes, although exact numbers are unknown.<sup>55</sup> Attempts have been made by local NGOs, international NGOs and IOM to facilitate their return. Population movement has involved primarily the return of IDPs to villages in the provinces of Moyen Cavally and 18 Montagnes although over 200 are reported to have returned to Bouaké from Abidjan and other cities in the south.<sup>56</sup> Some Ivoirians residing in Guinea spontaneously returned to their villages along the border in 18 Montagnes. While no particular problems have been reported, it is still too early to tell whether these returns will be sustainable.<sup>57</sup>

According to a series of profiling exercises of the IDP population carried out in the first quarter of 2007 by UNHCR in five locations in Abidjan and Grand Bassam, 20% of the IDP population of Ivorian citizenship interviewed expressed the wish to return within six months. Another 46% would consider return after six months, while 34% have decided not to return at all. In contrast, 90% of IDPs of uncertain citizenship interviewed indicated they do not wish to return to their previous places of residence. The majority of the IDPs are from the Vallée du Bandama, 18 Montagnes and Moyen Cavally regions.

Efforts have been made by NGOs and international organizations to assess the conditions for return. Key impediments to return are insecurity and the perception of insecurity. In one, more positive, example, OCHA facilitated an inter-agency mission to Péhé on 5 March 2007 in the province of Moyen Cavally and the neighbouring villages of Diai and Tahibli to assess conditions for the return of a group of IDPs living in the

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<sup>53</sup> Lansana Gberie, *The Crisis in Ivory Coast*, Global Policy Forum, 24 June 2004, <http://www.globalpolicy.org/security/issues/ivory/2004/0624analyze.htm>.

<sup>54</sup> The data below is from UNOCHA in: *Côte d'Ivoire: OCHA Rapport Hebdomadaire No. 10, Du 05 au 11 mars 2007*, 11 March 2007, <http://www.reliefweb.int/rw/rwb.nsf/db900sid/EVOD-6ZCHDL?OpenDocument>, and its *Rapports Hebdomadaires*, N° 12-17 of 2007, see above footnote 46.

<sup>55</sup> UNHCR, *Supplementary Appeal for Côte d'Ivoire. Protection and assistance to internally displaced persons*, March 2007, <http://www.unhcr.org/partners/PARTNERS/4603eb472.pdf>.

<sup>56</sup> UNOCHA, see above footnote 52.

<sup>57</sup> Internal Displacement Monitoring Centre (IDMC), *Côte d'Ivoire: Progress in the peace process allows cautious optimism for IDPs. A profile of the internal displacement situation*, 7 June 2007, [http://www.internal-displacement.org/8025708F004BE3B1/\(httpInfoFiles\)/6B3E67CE564FCB11C12572F30044163F/\\$file/Côte+d'Ivoire+June+2007.pdf](http://www.internal-displacement.org/8025708F004BE3B1/(httpInfoFiles)/6B3E67CE564FCB11C12572F30044163F/$file/Côte+d'Ivoire+June+2007.pdf), under "Peace process promotes return but obstacles remain" (p. 105-106).

*Centre d'Accueil Temporaire des Déplacés* (CATD) in Guiglo. It was determined that, for security reasons, only 14 of the 18 intended villages could be used. Reception centres were set up with IOM assistance to place returnees in host families. The return of the IDPs began on 21 March.<sup>58</sup>

Lack of infrastructure and preparedness as well as the prospect of food insecurity are also obstacles to sustainable return.<sup>59</sup> In Bouaké, for instance, where IDPs have begun to return from Abidjan, Yamoussoukro and other cities, children do not have access to education or healthcare.<sup>60</sup> The World Food Programme recently expressed concern about such long-term effects of the crisis as food insecurity, particularly for returning populations.<sup>61</sup>

A number of reconciliation ceremonies have been organized in parts of the west and southwest to facilitate return and reintegration. Near Guiglo, for instance, a ceremony of reconciliation was organized in the province of Glô-Kouion on 14 April 2007 by the IOM and local NGO *Union Villageoise de Production Agro-Pastorale* (UVPAP). The ceremony was intended to facilitate the return of some 600 individuals of Burkinabé origin from the CATD to camps in the villages of Nioudé, Béoua and Troya. IOM's return and reintegration programme has so far helped several hundreds of IDPs.<sup>62</sup>

Concerning the return of Ivorian refugees, teams composed of representatives working in Man from UNICEF, OCHA, the International Refugee Committee (IRC), and NGO the Pan American Health Organization arrived in Kouhan Houlé on 8 March 2007 to assess the situation of some 400 individuals – both Ivorian and Guinean – who had recently crossed the border from Guinea. They are reported to be living currently in the three sites of Kouhan Houlé, Gbapleu and Danipleu.

## V. Assessment of international protection needs

In light of the foregoing, it is apparent that with the signing of the Ouagadougou Agreement on 4 March 2007, and a clear demonstration of the parties' commitment to respect its implementation, the situation in Côte d'Ivoire has undergone positive changes. While the full completion of the DDR process and the identification process will take time, and the security in some areas remains a source of concern, the progress in the implementation of the Agreement has allowed Côte d'Ivoire to make significant steps towards stability. In consequence, UNHCR is revising its position on the international protection needs of asylum-seekers from Côte d'Ivoire to be as follows:

- 1) All claims of Ivorian asylum-seekers should be considered on the basis of their individual merits according to fair and efficient refugee status determination procedures employing the definition of refugee as set out in Article 1A of the 1951 *Convention relating to the Status of Refugees* and/or Article I(1) of the 1969

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<sup>58</sup> The returnees are all of Burkinabé origin, and were escorted by the *Forces de Défense et de Sécurité* or the Defense and Security Forces of Côte d'Ivoire (FDS).

<sup>59</sup> See, for example, UN Human Rights Council, *Report of the Representative of the Secretary-General on the Human Rights of Internally Displaced Persons*, Walter Kälin. *Addendum: Mission to Côte d'Ivoire*, A/HRC/4/38/Add.2, 18 October 2006, para. 52-53.

<sup>60</sup> UNOCHA, see above footnote 52.

<sup>61</sup> *Ibid.*

<sup>62</sup> International Organization for Migration, *Cote d'Ivoire: Increased returns of Internally Displaced Persons require more funding*, 8 May 2007, <http://www.reliefweb.int/rw/rwb.nsf/db900sid/LSGZ-72ZCW6?OpenDocument&cc=civ&rc=1>.

*OAU Convention governing the Specific Aspects of Refugee Problems in Africa.* Where this is relevant, excludability should be assessed based on the exclusion clauses of Article 1F of the 1951 Convention and/or Article I(5) of the OAU Convention.

2) In countries where the 1969 OAU Convention is applied, and where the individual is found not to be eligible under Article I(1), eligibility under Article I (2) should be favourably considered in relation to persons originating from the areas between and around the towns of Man (18 Montagnes) and Duekoue (Moyen Cavally), the southwestern third of Bas Sassandra, between Meagui and San Pedro, the area in and around the city of Bouaké in the province of Vallée du Bandama and the region in and around the cities of Ferkessedougou and Ouangolodougou and on the border with Burkina Faso (see map). Where this is relevant, excludability should be assessed based on the exclusion clauses of Article I(5) of the OAU Convention. Where the definition of Article I(2) is employed, internal flight alternative is not relevant.

3) In countries where the OAU Convention is not applicable and where the individual is found not to be eligible under Article 1A(2) of the 1951 Convention, a complementary form of protection should be favourably considered for persons originating from the areas between and around the towns of Man (18 Montagnes) and Duekoue (Moyen Cavally), the southwestern third of Bas Sassandra, between Meagui and San Pedro, the area in and around the city of Bouaké in the province of Vallée du Bandama and the region in and around the cities of Ferkessedougou and Ouangolodougou and on the border with Burkina Faso. Where this is relevant, excludability should be assessed based on the exclusion clauses of Article 1F of the 1951 Convention.

4) Where the possibility of the application of an internal flight alternative is invoked, this necessitates regard for the personal circumstances of the individual concerned and the specific situation in the various parts in Côte d'Ivoire. Due attention should be paid to relevance analysis, including the agent of persecution, and the reasonableness analysis.<sup>63</sup> Careful consideration should be given to, *inter alia*, the fragile peace process, the significant number of IDPs in the various parts of the country and the difficult humanitarian and economical situation of many Ivorians. Where the definition of Article I(2) is employed, internal flight alternative is not relevant.

5) Individuals already recognized as refugees, whether on a prima facie basis or following individual status determination, should retain this status. It follows that any return of a refugee to Côte d'Ivoire must be on a strictly voluntary basis. Refugee status of such persons should be reviewed only if there are indications, in an individual case, that there are grounds for cancellation of refugee status which was wrongly granted in the first place; revocation of refugee status on the grounds of Article 1F(a) or (c) of the 1951 Convention; or cessation of refugee status on the basis of Article 1C(1-4) of the 1951 Convention.

6) As regards individuals found not to be in need of international protection following determination of their claims in fair and efficient procedures including

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<sup>63</sup> See: UNHCR, *Guidelines on International Protection No. 4: "Internal Flight or Relocation Alternative" Within the Context of Article 1A(2) of the 1951 Convention and/or 1967 Protocol Relating to the Status of Refugees*, 23 July 2003, HCR/GIP/03/04, available online in UNHCR's Refworld at: <http://www.unhcr.org/cgi-bin/txis/vtx/refworld/rwmain?docid=3f2791a44>.

a right of appeal, UNHCR urges States to exercise caution when considering their return. In this respect, States' obligations under applicable international human rights law remain unaffected. Moreover, given that the positive developments that are highlighted in this paper are relatively recent, that the security situation is still volatile, and that there are numerous obstacles currently to the return of IDPs and refugees, including lack of infrastructure and food insecurity, States may wish to give due consideration to humanitarian reasons when contemplating the return of rejected asylum-seekers.

This position will remain valid until further notice.

UNHCR  
July 2007

