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INTRODUCTORY NOTE TO U.N. SECURITY COUNCIL RESOLUTION 1975 ON CÔTE D'IVOIRE
BY SAIRA MOHAMED*
[March 30, 2011]
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Introduction

More than four months after then-incumbent president Laurent Gbagbo lost an election to opposition leader Alassane Ouattara, refused to step down, and plunged Côte d'Ivoire into a wave of violence that killed hundreds, the U.N. Security Council adopted Resolution 1975,¹ its third resolution in 2011 on the situation in Côte d'Ivoire. In previous resolutions, the Council had authorized the deployment of police units and additional personnel to the United Nations Operation in Côte d'Ivoire ("UNOCI") and extended the redeployment of troops and equipment from the United Nations Mission in Liberia.² Escalating the Council's involvement in Côte d'Ivoire, Resolution 1975 urged former president Laurent Gbagbo to step aside and imposed targeted sanctions on Gbagbo, his wife, and three associates.³ Moreover, the Resolution marked the beginning of an intensified military campaign and the end of Gbagbo's struggle; in the days after the adoption of Resolution 1975, U.N. and French forces launched crippling air strikes on Gbagbo's military bases, residence, and presidential palace, ultimately leading to the former president's capture less than two weeks later.

Background

Laurent Gbagbo assumed the presidency of Côte d'Ivoire in 2000. Although his term ended in 2005, he remained in office until the November 2010 presidential election, the country's first in ten years. The Ivorian Commission Electorale Indépendante declared Ouattara the winner, a result recognized by the United Nations, the African Union, the Economic Community of West African States, the United States, and the European Union. Gbagbo, however, maintained that he had won the election. Over the coming months, massive violence erupted throughout the country between forces loyal to Gbagbo and those loyal to Ouattara; a campaign of rape and murder caused the deaths of an estimated 400 civilians. Although most reporting at that time focused on violence by pro-Gbagbo forces, a June 2011 report by the U.N.-sponsored independent commission of inquiry—tasked by the Human Rights Council with investigating violations of human rights following the November election—determined that pro-Ouattara forces were responsible for violence against civilians as well.⁴

Resolution 1975 and its Implications

The primary function of Resolution 1975 was to impose a travel ban and assets freeze on five individuals, based on the determination that they had "obstruct[ed] peace and reconciliation in Côte d'Ivoire" and "commit[ed] serious violations of human rights and international humanitarian law"⁵: Gbagbo; his wife, Simone Gbagbo, who served as Chairperson of the Parliamentary Group of the Ivorian Popular Front (FPI); Désiré Tagro, the Secretary-General of the Gbagbo "presidency," according to the Resolution; Pascal Affi N'Guessan, FPI Chairman; and Alcide Djédjé, an advisor to Gbagbo. The Council's unanimous adoption of the Resolution with fifteen votes in favor⁶ indicates the widespread opposition to Gbagbo's continued bid for power and suggests the acceptance among the Council's members of targeted sanctions as a standard tool to be used in conflict situations, just as targeted sanctions had been imposed against Muammar Qaddafi and a number of his associates in Libya the month before.⁷

Ultimately more significant than the issuance of sanctions, however, were the Council's statement "urg[ing]" Gbagbo "to immediately step aside,"⁸ the first resolution containing such language, and its reiteration of the Security Council's authorization for UNOCI and supporting French forces to use "all necessary means" to carry out the mission's mandate "to protect civilians under imminent threat to physical violence."⁹ In its statement of UNOCI's mandate, the Resolution included efforts "to prevent the use of heavy weapons against the civilian population,"¹⁰ and in the days after the Council issued the Resolution, the 9000-strong UNOCI and French forces stepped up rocket attacks on Gbagbo's military camps, as well as his residence and presidential palace. Amid accusations that the purportedly neutral peacekeepers were taking sides in the conflict, Secretary-General Ban Ki-moon maintained that these operations were undertaken "in self-defense and to protect civilians" and were "in line with" UNOCI's mandate.¹¹ The mission was ultimately successful. After months of diplomatic efforts to convince Gbagbo to abandon his fight for power, it seems that it was instead the air strikes that finally compelled his surrender.

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Resolution 1975 did not limit its focus to ending the civil war; it also looked to the future, and to the possibility of accountability. Using notably tentative language situated in the preamble, rather than in the operative paragraphs, the Resolution gestured toward future international criminal prosecutions by “considering” that the attacks against the civilian population “could amount to crimes against humanity,” the perpetrators of which “must be held accountable under international law.”¹² Instead of referring the situation in Côte d’Ivoire to the International Criminal Court (“ICC”), as it had done with the situation in Libya only a few weeks earlier,¹³ the Council merely noted that if Côte d’Ivoire—which is not a party to the Rome Statute—were to file a declaration accepting ICC’s authority to exercise jurisdiction with respect to these events, the door to prosecutions could be open. Indeed, the machinery of the ICC was quickly set in motion. In May, Ouattara affirmed his government’s acceptance of the Court’s jurisdiction,¹⁴ and in June, ICC Prosecutor Luis Moreno-Ocampo requested authorization to investigate war crimes and crimes against humanity committed in Côte d’Ivoire since November 28.¹⁵ If the request is granted, this will mark the second exercise of the Prosecutor’s *proprio motu* powers, this time arriving with a unique form of political cover that the Security Council offered through its invitation to the ICC in Resolution 1975.

* * *

In his May 2011 address to the Sofia Platform, U.N. Secretary-General Ban Ki-moon described the events in Côte d’Ivoire and those in Libya as setting a “historic precedent, a watershed in the emerging doctrine of the responsibility to protect.”¹⁶ The two interventions, however, are distinct in many ways. Whereas intensified air strikes by UNOCI and French forces managed to quickly secure the surrender of Gbagbo, the NATO-led campaign in Libya has yet to end the violence there. The character of the interventions, too, are distinct, with the military operation in Côte d’Ivoire primarily undertaken under the banner of a U.N. peacekeeping force, rather than a U.N.-authorized coalition of national forces. In this regard, it is not simply the existence of these two interventions that should be noted in discussions of an emerging responsibility to protect (and the absence of similar interventions in Bahrain, Syria, and Yemen, of course, raise questions about the Secretary-General’s claim of a “precedent”). Instead, critics and enthusiasts of humanitarian intervention alike might also want to keep their eye on the continuing debates about impartiality and neutrality of peacekeepers, still a subject of some controversy even after years of more robust U.N. peacekeeping,¹⁷ and how in the future these debates will figure into expressions of opposition to U.N. involvement in internal crises.

ENDNOTES

- 1 S.C. Res. 1975, U.N. Doc. S/RES/1975 (Mar. 30, 2011) [hereinafter Resolution 1975].
- 2 See S.C. Res. 1968, U.N. Doc. S/RES/1968 (Feb. 16, 2011); S.C. Res. 1967, U.N. Doc. S/RES/1967 (Jan. 11, 2011).
- 3 See Resolution 1975, *supra* note 1, ¶¶ 3, 12.
- 4 See Report of the Independent, International Commission of Inquiry on Côte d’Ivoire at 1, Human Rights Council, 17th Sess., U.N. Doc. A/HRC/17/48 (Extract) (June 6, 2011).
- 5 Resolution 1975, *supra* note 1, ¶ 12; see also S.C. Res. 1572, ¶¶ 9–11, U.N. Doc. S/RES/1572 (Nov. 15, 2004) (setting out criteria for targeted sanctions against persons “who constitute a threat to the peace and national reconciliation process in Côte d’Ivoire”).
- 6 See U.N. SCOR, 66th Sess., 6508th mtg., 2, U.N. Doc. S/PV.6508 (Mar. 30, 2011) (recording vote).
- 7 See S.C. Res. 1970, ¶¶ 15–21, U.N. Doc. S/RES/1970 (Feb. 26, 2011) [hereinafter Resolution 1970].
- 8 Resolution 1975, *supra* note 1, ¶ 3.
- 9 *Id.* ¶ 6.
- 10 *Id.*
- 11 Press Release, Secretary-General, As Côte d’Ivoire Plunges into Violence, Secretary-General Says United Nations Undertakes Military Operation to Prevent Heavy Weapons Use against Civilians, U.N. Doc. SG/SM/13494 (Apr. 4, 2011).
- 12 Resolution 1975, *supra* note 1, pmb1.
- 13 See Resolution 1970, *supra* note 7, ¶ 4.
- 14 Press Release, Int’l Criminal Court [ICC], Situation in Côte d’Ivoire Assigned to Pre-Trial Chamber II, Doc. ICC-CPI-20110520-PR672 (May 20, 2011).
- 15 Press Release, ICC, ICC Prosecutor Requests Judges for Authorization to Open an Investigation in Côte d’Ivoire, Doc. CC-OTP-20110623-PR686 (June 23, 2011).
- 16 Press Release, Secretary-General, Libya Côte d’Ivoire Events Mark Historic Precedent, Secretary-General Tells Sofia Platform, Citing ‘Watershed’ in Responsibility to Protect Doctrine, U.N. Doc. SG/SM/13548 (May 6, 2011).
- 17 See, e.g., Alexei Anishchuk, *Moscow Questions Use of Force in Ivory Coast*, REUTERS, Apr. 5, 2011 (noting concerns of Foreign Minister Sergei Lavrov that U.N. peacekeeping missions should be “neutral and impartial”); see also Int’l Comm’n on Intervention and State Sovereignty, *The Responsibility to Protect: Research, Bibliography, Background* 180 (2001) (contending that “there is a growing appreciation that impartiality differs from neutrality”).

UNITED NATIONS SECURITY COUNCIL RESOLUTION 1975 ON CÔTE D'IVOIRE*

[March 30, 2011]

+Cite as 50 ILM 505 (2011)+

United Nations

S/RES/1975 (2011)



Security Council

Distr.: General
30 March 2011

Resolution 1975 (2011)

Adopted by the Security Council at its 6508th meeting, on 30 March 2011

The Security Council,

Recalling its previous resolutions, in particular resolutions 1572 (2004), 1893 (2009), 1911 (2010), 1924 (2010), 1933 (2010), 1942 (2010), 1946 (2010), 1951 (2010), 1962 (2010), 1967 (2011), 1968 (2011) and the statements of its President relating to the situation in Côte d'Ivoire, and resolution 1938 (2010) on the situation in Liberia,

Reaffirming its strong commitment to the sovereignty, independence, territorial integrity and unity of Côte d'Ivoire, and *recalling* the importance of the principles of good-neighbourliness, non-interference and regional cooperation,

Reiterating its strong desire that the post-electoral crisis in Côte d'Ivoire be resolved peacefully and require an overall political solution that preserves democracy and peace and promotes lasting reconciliation among Ivoirians,

Commending the constructive efforts of the African Union High-level Panel for the resolution of the crisis in Côte d'Ivoire and *reiterating* its support to the African Union and the Economic Community of West African States (ECOWAS) for their commitment to resolve the crisis in Côte d'Ivoire,

Welcoming the decision of the Peace and Security Council of the African Union adopted at its 265th meeting at the level of Heads of State and Government, held on 10 March 2011 in Addis Ababa, which reaffirms all its previous decisions on the rapidly deteriorating post-electoral crisis facing Côte d'Ivoire since the second round of the presidential election, on 28 November 2010, which recognize the election of Mr Alassane Dramane Ouattara as the President of the Republic of Côte d'Ivoire,

Welcoming the political initiatives and noting the communiqué and the resolution on Côte d'Ivoire adopted by the Authority of Heads of State and Government of ECOWAS on 24 March 2011,

Expressing grave concern about the recent escalation of violence in Côte d'Ivoire and the risk of relapse into civil war and *urging* all parties to show utmost restraint to prevent such outcome and to resolve their differences peacefully,

Condemning unequivocally all provocative action and statements that constitute incitement to discrimination, hostility, hatred and violence made by any party,

Condemning the serious abuses and violations of international law in Côte d'Ivoire, including humanitarian, human rights and refugee law, *reaffirming* the primary responsibility of each State to protect civilians and *reiterating* that parties to armed conflicts bear the primary responsibility to take all feasible steps to ensure the protection of civilians and facilitate the rapid and unimpeded passage of humanitarian assistance and the safety of humanitarian personnel, *recalling* its resolutions 1325 (2000), 1820 (2008), 1888 (2009) and 1889 (2009) on women, peace and

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http://www.un.org/Docs/sc/unsc_resolutions11.htm.

security, its resolution 1612 (2005) and 1882 (2009) on children and armed conflict and its resolution 1674 (2006) and 1894 (2009) on the protection of civilians in armed conflicts,

Welcoming the Human Rights Council resolution A/HRC/16/25 of 25 March 2011, including the decision to dispatch an independent international commission of inquiry to investigate the facts and circumstances surrounding the allegations of serious abuses and violations of human rights committed in Côte d'Ivoire following the presidential elections of 28 November 2010,

Stressing that those responsible for such serious abuses and violations, including by forces under their control, must be held accountable,

Reaffirming that it is the responsibility of Côte d'Ivoire to promote and protect all human rights and fundamental freedoms, to investigate alleged violations of human rights and international law and to bring to justice those responsible for such acts,

Considering that the attacks currently taking place in Côte d'Ivoire against the civilian population could amount to crimes against humanity and that perpetrators of such crimes must be held accountable under international law and noting that the International Criminal Court may decide on its jurisdiction over the situation in Côte d'Ivoire on the basis of article 12, paragraph 3 of the Rome Statute,

Determining that the situation in Côte d'Ivoire continues to constitute a threat to international peace and security,

Acting under Chapter VII of the Charter of the United Nations,

1. *Urges* all the Ivorian parties and other stakeholders to respect the will of the people and the election of Alassane Dramane Ouattara as President of Côte d'Ivoire, as recognized by ECOWAS, the African Union and the rest of the international community, *expresses* its concern at the recent escalation of violence and *demands* an immediate end to the violence against civilians, including women, children and internally displaced persons;
2. *Calls upon* all parties to pursue the overall political solution of the African Union and, in this regard, *welcomes* the decision of the African Union Peace and Security Council Summit of 10 March to appoint a High Representative for the implementation of the overall political solution and calls upon all parties to fully cooperate with him;
3. *Condemns* the decision of Mr. Laurent Gbagbo not to accept the overall political solution proposed by the High-Level panel put in place by the African Union, and *urges* him to immediately step aside;
4. *Urges* all Ivorian State institutions, including the Defence and Security Forces of Côte d'Ivoire (FDSCI), to yield to the authority vested by the Ivorian people in President Alassane Dramane Ouattara, *condemns* the attacks, threats, acts of obstructions and violence perpetrated by FDSCI, militias and mercenaries against United Nations personnel, obstructing them from protecting civilians, monitoring and helping investigate human rights violations and abuses, *stresses* that those responsible for such crimes under international law must be held accountable and *calls upon* all parties, in particular Mr. Laurent Gbagbo's supporters and forces, to fully cooperate with the United Nations Operation in Côte d'Ivoire (UNOCI) and cease interfering with UNOCI's activities in implementation of its mandate;
5. *Reiterates* its firm condemnation of all violence committed against civilians, including women, children, internally displaced persons and foreign nationals, and other violations and abuses of human rights, in particular enforced disappearances, extrajudicial killings, killing and maiming of children and rapes and other forms of sexual violence;
6. *Recalls* its authorization and *stresses* its full support given to the UNOCI, while impartially implementing its mandate, to use all necessary means to carry out its mandate to protect civilians under imminent threat of physical violence, within its capabilities and its areas of deployment, including to prevent the use of heavy weapons against the civilian population and requests the Secretary-General to keep it urgently informed of measures taken and efforts made in this regard;

7. *Calls upon* all parties to cooperate fully in the operation of UNOCI and French forces which support it, in particular by guaranteeing their safety, security and freedom of movement with unhindered and immediate access throughout the territory of Côte d'Ivoire, to enable them to fully carry out their mandate;
8. *Calls upon* all parties to fully cooperate with the independent international commission of inquiry put in place by the Human Rights Council on 25 March 2011 to investigate the facts and circumstances surrounding the allegations of serious abuses and violations of human rights committed in Côte d'Ivoire following the presidential elections of 28 November 2010, and *requests* the Secretary-General to transmit this report to the Security Council and other relevant international bodies;
9. *Condemns* the use of Radiodiffusion Télévision Ivoirienne (RTI) and other media to incite discrimination, hostility, hatred and violence, including against UNOCI, as well as acts of intimidation and violence against journalists, and *calls for* the lifting of all restrictions placed on the exercise of the right of freedom of expression in Côte d'Ivoire;
10. *Expresses* deep concern about the increasing number of internally displaced persons and Ivorian refugees, especially in Liberia, caused by the crisis in Côte d'Ivoire, and *calls on* all Ivorian parties to cooperate fully with United Nations agencies and other actors working to enhance access to humanitarian aid to refugees and internally displaced persons;
11. *Reiterates* its longstanding demand that Mr. Laurent Gbagbo lift the siege of Golf Hotel without delay;
12. *Decides* to adopt targeted sanctions against those individuals who meet the criteria set out in resolution 1572 (2004) and subsequent resolutions, including those individuals who obstruct peace and reconciliation in Côte d'Ivoire, obstruct the work of UNOCI and other international actors in Côte d'Ivoire and commit serious violations of human rights and international humanitarian law, and therefore *decides* that the individuals listed in Annex I of this resolution shall be subject to the financial and travel measures imposed by paragraphs 9 to 11 of resolution 1572 (2004), and *reaffirms* its intention to consider further measures, as appropriate, including targeted sanctions against media actors who meet the relevant sanctions criteria, including by inciting publicly hatred and violence;
13. *Decides* to remain actively seized of the matter.

Annex I

Targeted sanctions

1. Laurent Gbagbo

Date of birth: 31 May 1945

Place of birth: Gagnoa, Côte d'Ivoire

Former President of Côte d'Ivoire: obstruction of the peace and reconciliation process, rejection of the results of the presidential election.

2. Simone Gbagbo

Date of birth: 20 June 1949

Place of birth: Moossou, Grand-Bassam, Côte d'Ivoire

Chairperson of the Parliamentary Group of the Ivorian Popular Front (FPI): obstruction of the peace and reconciliation process, public incitement to hatred and violence.

3. Désiré Tagro

Passport number: PD – AE 065FH08

Date of birth: 27 January 1959

Place of birth: Issia, Côte d'Ivoire

Secretary-General in the so-called “presidency” of Mr. Gbagbo: participation in the illegitimate government of Mr. Gbagbo, obstruction of the peace and reconciliation process, rejection of the results of the presidential election, participation in violent repressions of popular movements.

4. Pascal Affi N’Guessan

Passport number: PD-AE 09DD00013.

Date of birth: 1 January 1953

Place of birth: Bouadriko, Côte d’Ivoire

Chairman of the Ivorian Popular Front (FPI): obstruction of the peace and reconciliation process, incitement to hatred and violence.

5. Alcide Djédjé

Date of birth: 20 October 1956

Place of birth: Abidjan, Côte d’Ivoire

Close advisor to Mr. Gbagbo: participation in the illegitimate government of Mr. Gbagbo, obstruction of the peace and reconciliation process, public incitement to hatred and violence.
