

**SITUATION IN CÔTE D'IVOIRE
IN THE CASE OF
*THE PROSECUTOR v. LAURENT GBAGBO***

**ANNEX 17
Public Document**

Linas Marcoussis Agreement of 24 January 2003

LINAS-MARCOUSSIS AGREEMENT

1. At the invitation of the President of the French Republic, a round table of Ivorian political forces held in Linas-Marcoussis from 15 to 23 January 2003, brought together the following parties: **FPI, MFA, MJP, MPCI, MPIGO, PDCI-RDA, PIT, RDR, UDCY and UDPCI**. The proceedings were chaired by Mr Pierre Mazeaud, with the assistance of Judge Keba Mbaye, former Prime Minister Seydou Diarra and facilitators appointed by the UN, the African Union and ECOWAS.

Each delegation analysed the situation in Côte d'Ivoire and advanced proposals to restore confidence and end the crisis. As a result of the vision shown by the delegations, the Round Table was able to achieve a rapprochement of positions and the following consensus, all of whose components – principles and annexes – are of equal value:

2. The Round Table welcomes the cessation of hostilities made possible and secured through the deployment of ECOWAS forces, backed by French forces, and urges strict compliance therewith. It calls on all parties to bring an immediate end to all acts of violence and to embed peace. It calls for the immediate release of all political prisoners.
3. The Round Table reaffirms the need to preserve the territorial integrity of Côte d'Ivoire and respect for its institutions and to restore the authority of the State. It recalls its commitment to the principle of accession to power and the democratic exercise thereof. Accordingly, it agrees as follows:
 - (a) As of the close of the Paris Conference, a national reconciliation government shall be formed to secure a return to peace and stability. It shall be tasked with bolstering the independence of the judiciary, rebuilding the Civil Service and public services and national reconstruction. It shall apply the Round Table programme hereto appended, which comprises constitutional, legislative and regulatory provisions.
 - (b) It shall establish an electoral timetable with a view to holding credible and transparent elections, the dates of which it shall determine.
 - (c) The national reconciliation government shall be headed by a consensus Prime Minister who shall remain in office until the next presidential election, which he or she may not contest.
 - (d) The government shall be composed of representatives appointed by each of the Ivorian delegations which participated in the Round Table. The ministries shall be evenly distributed between the parties for the life of that government.
 - (e) The government shall, for the discharge of its mandate, be vested with executive powers, as delegated by the Constitution. The political parties represented in the National Assembly and which participated in the Round Table shall undertake to secure the support of their members of parliament for the implementation of the governmental programme.
 - (f) Upon assuming office, the national reconciliation government shall endeavour to rebuild an army committed to the values of integrity and republican morality. It shall rebuild the defence and security forces and may, to this end, receive external advice, in particular the assistance offered by France.
 - (g) In contribution to the restoration of the security of persons and property throughout national territory, the national reconciliation government shall organise the regrouping of opposing forces and proceed with their disarmament. It shall ensure that no mercenaries remain on national territory.
 - (h) The national reconciliation government shall enlist the assistance of ECOWAS, France and the United Nations to decide how security is to be provided for such operations by their own forces.

- (i) The national reconciliation government shall take the necessary measures for the release and amnesty of all soldiers detained on grounds of undermining national security and shall afford the same measure to soldiers in exile.
4. The Round Table hereby decides to institute a committee to monitor the application of the Paris Accords on Côte d'Ivoire, mandated with securing compliance with the undertakings given. The committee shall refer any obstruction to or breach in the implementation of such Accords to national, regional and international bodies for appropriate remedial action.
- The Round Table recommends to the Conference of Heads of State that the monitoring committee be established in Abidjan and that it be composed of representatives of those countries and organisations tasked with securing the execution of the Paris Accords, namely:
- the representative of the European Union;
 - the representative of the Commission of the African Union;
 - the representative of the Executive Secretariat of ECOWAS;
 - the Special Representative of the Secretary-General, who shall coordinate the organs of the United Nations family;
 - the representative of the *Organisation internationale de la Francophonie*;
 - the representatives of the IMF and the World Bank;
 - a representative of the G8 countries; and
 - the representative of France.
5. The Round Table invites the French government, ECOWAS and the international community to ensure the security of prominent persons who took part in its proceedings and, where necessary, that of members of the national reconciliation government until such time as the government is in a position to assume that task in full.
6. The Round Table wishes to commend ECOWAS for its mediation and the African Union and the United Nations for their endeavours and extends its gratitude to France for its role in organising this meeting and in the achievement of the present consensus.

At Linas-Marcoussis, 24 January 2003

FOR THE FPI: Pascal Affi N'Guessan
 FOR THE MFA: Innocent Kobena Anaky
 FOR THE MJP: Gaspard Deli
 FOR THE MPC: Guillaume Soro
 FOR THE MPIGO: Félix Doh
 FOR THE PCI-RDA: Henri Konan Bedié
 FOR THE PIT: Francis Wodié
 FOR THE RDR: Alassane Dramane Ouattara
 FOR THE UDCY: Théodore Mel Eg
 FOR THE UDPCI: Paul Ako
 THE CHAIR: Pierre Mazeaud

ANNEX PROGRAMME OF THE RECONCILIATION GOVERNMENT

I - Nationality, identity and status of foreign nationals

1. The Round Table considers that Law No. 61-415 of 14 December 1961 establishing the Ivorian Nationality Code – amended by Law No. 72-852 of 21 December 1972, founded on the complementarity of *jus sanguinis* and *jus soli*, and which contains extensive provisions as regards naturalisation by a decision of the public authorities – is a broad and well-drafted instrument.

The Round Table takes the view, however, that the application of the Law raises many difficulties, owing to ill-informed communities and the practices of public services and law enforcement and security forces which disregard the law and human rights.

The Round Table identified a specific legal difficulty in applying articles 6 and 7 of the Nationality Code. That difficulty is exacerbated by the fact that, in practice, a certificate of nationality is valid only for three months and applicants must repeatedly prove their nationality by producing certain documents. Nonetheless, the Code has hitherto been applied.

Accordingly, the national reconciliation government shall:

- a. resume forthwith existing naturalisation procedures through the use of improved information and, where necessary, cooperation projects implemented with the support of international development partners;
 - b. submit, within six months, an extraordinary naturalisation bill aimed at resolving in a straightforward and accessible manner those situations which at present are at an impasse and fall within the purview of ordinary law (in particular, the cases of former beneficiaries of articles 17 to 23 of Law No. 61-415 repealed by Law No. 72-852 and persons residing in Côte d'Ivoire before 7 August 1960 and who have not exercised their right of option within the prescribed time-limits) and at supplementing the existing instrument by incorporating into the new article 12, foreign men married to Ivorian women.
2. To address the uncertainty and length of the identification processes and potential abuses arising from security checks, the national reconciliation government shall develop new measures concerning civil status and identification, essentially:
 - a. The suspension of the current identification process, pending the issuance of decrees on the application of the Law, and the prompt establishment of a national identification commission headed by a judge and composed of representatives of political parties tasked with the supervision and oversight of the National Office for Identification.
 - b. Strict compliance of the Identification Law with the Nationality Code as regards proof of nationality.
3. Having regard to the large number of foreign nationals in Côte d'Ivoire, who have greatly contributed to national wealth and to the position and particular responsibility of Côte d'Ivoire in the subregion, thereby also benefiting their countries of origin, the Round Table considers that the impediments occasioned by bureaucracy or by law enforcement and security forces, often in breach of the law and human rights to which foreign nationals particularly fall victim may be the result of non-compliance with identification provisions.
 - a. The national reconciliation government shall therefore abolish forthwith the residence permit [*carte de séjour*] requirement for foreign nationals from ECOWAS States under article 8(2) of Law No. 2002-03 of 3 January 2002 and shall ground the necessary immigration checks on means of identification which are not open to abuse.
 - b. Furthermore, the national reconciliation government shall consider all legislative and regulatory provisions aimed at ameliorating the status of foreign nationals and the protection of their property and person.

c. The Round Table further calls on all ECOWAS Member States to ratify without delay existing protocols on the free movement of persons and goods, to strengthen cooperation on migration management, to respect the fundamental rights of immigrants and to diversify development hubs. Such action may be implemented with the support of international development partners.

II - Electoral regime

1. The Round Table is of the view that Law No. 2000-514 of 1 August 2000 establishing the Electoral Code raises no difficulties and forms part of a process of legislative improvement and that Law No. 2001-634 of 9 January 2001 establishing the Independent Electoral Commission constitutes a significant step towards transparent elections.
2. The national reconciliation government shall:
 - a. ensure the impartiality of measures for identification and drawing up the electoral rolls;
 - b. propose various amendments to Law No. 2001-634 with a view to improving the representation of Round Table stakeholders on the Central Commission of the Independent Electoral Commission, including within the Bureau;
 - c. submit within six months a bill on the status of the opposition and the public funding of political parties and election campaigns;
 - d. submit within one year a bill on unjust enrichment and organise effective monitoring of declarations of assets by elected persons;
 - e. take any measure to secure the independence of the judiciary and impartiality of the media, both in respect of electoral disputes and electoral propaganda.

III - Eligibility for the Presidency of the Republic

1. The Round Table considers that article 35 of the Constitution pertaining to the election of the President of the Republic must refrain from reference to concepts devoid of legal effect or pertaining to legislative instruments. The national reconciliation government shall therefore propose the following eligibility criteria for the President of the Republic:

The President of the Republic shall be elected for a five-year term by universal direct suffrage. He or she may stand for re-election only once. The candidate must enjoy civil and political rights and be at least thirty-five years of age. He or she must hold Ivorian nationality exclusively and be born of a father or mother of Ivorian origin.

2. The Nationality Code shall be amended by the following addition to the conditions for the loss of Ivorian nationality set forth at article 53: holding elected or governmental office in a foreign State.
3. The President of the Republic shall make public his or her medical report every year.

IV- Land regime

1. The Round Table considers that Law No. 98-750 of 23 December 1998 establishing the land tenure regime unanimously enacted by the National Assembly constitutes an instrument of reference in an area of legal sensitivity and economic importance.
2. However, the national reconciliation government shall:
 - a. incorporate in the gradual implementation of this instrument an outreach campaign for rural communities, with a view to taking a meaningful step towards genuine land security;
 - b. propose an amendment aimed at improving the protection of rights established in accordance with the provisions of article 26 of the Law concerning heirs of landowners holding rights pre-dating the promulgation of the Law but who do not satisfy the criteria of access to property prescribed by article 1 of the Law.

V - The media

1. The Round Table condemns the incitement to hatred and xenophobia spread by certain sectors of the media.
2. The national reconciliation government shall, within one year, reinstate the general press governance regime so as to bolster the role of the regulatory authorities, safeguard the neutrality and impartiality of public service broadcasting and promote the financial independence of the media. Such measures may be supported by international development partners.
3. The national reconciliation government shall restore forthwith the freedom to broadcast of international radio and television media.

VI – Human rights and freedoms

1. The national reconciliation government shall establish forthwith a national human rights Commission which shall protect rights and freedoms in Côte d'Ivoire. The Commission shall be composed of delegates from all parties and a unanimously approved Chair.
2. The national reconciliation government shall seek the establishment of an international commission to expedite investigations and establish the facts throughout the national territory in order to document grave violations of human rights and international humanitarian law since 19 September 2002.
3. On the basis of the report of the International Commission of Inquiry, the national reconciliation government shall determine those matters to be brought to justice so as to end impunity. The Round Table singles out for particular condemnation the acts of death squads and their commanders and the perpetrators of summary executions throughout the territory, and is of the view that the perpetrators of such acts and their accomplices shall be tried before international courts.
4. The national reconciliation government shall endeavour to facilitate humanitarian operations in favour of all victims of the conflict throughout national territory. On the basis of the report of the National Human Rights Commission, it shall take measures to compensate and rehabilitate the victims.

VII - Regrouping, disarmament and demobilisation

1. Upon assuming office, the national reconciliation government shall undertake the process of the concomitant regrouping of forces under the supervision of ECOWAS and French forces.
2. In a second phase, it shall determine disarmament and demobilisation measures, also to be effected under the supervision of ECOWAS and French forces.
3. All recruits enlisted since 19 September shall be demobilised forthwith.
4. The national reconciliation government shall secure the social reintegration of soldiers from all backgrounds with the support of programmes of the Disarmament, Demobilisation, Repatriation, Resettlement and Reintegration (DDRRR) type which may be implemented with the support of international development partners.
5. The national reconciliation government shall take the necessary measures for the release and amnesty of all soldiers detained on grounds of undermining national security and shall afford the same measure to soldiers in exile. The amnesty law shall under no circumstances exonerate the perpetrators of grave economic crimes and grave violations of human rights and international humanitarian law.
6. The national reconciliation government shall undertake an audit of its armed forces and, in a context of economic hardship, determine the extent of the sacrifices which it may approve to discharge its obligations as regards national defence. On this basis, it shall restructure the armed forces and, to this end, enlist external assistance.

VIII - Economic revival and need for social cohesion

1. The national reconciliation government shall reinstate the free movement of persons and goods throughout national territory and facilitate the resumption of school, public service, economic and social activities.
2. It shall promptly prepare a plan for the reconstruction and development of infrastructure, the revival of the national economy and the strengthening of social cohesion.
3. The Round Table recommends that international institutions and international development partners provide support to the process of rebuilding Côte d'Ivoire.

IX - Implementation

The national reconciliation government shall ensure that the constitutional, legislative and regulatory reforms mandated by the decisions which it is required to take are introduced without delay.