



To: Mr. KIM,

Please find attached for your information and onward transmission to the Secretary-General, the final version of the response to the Mbeki article in Foreign Policy, which the SG has expressed an interest in. The article is still under consideration by the publishers. The DSG will refer to the response in her own letter to the former President.

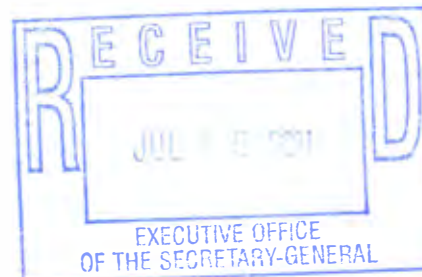
A handwritten signature in dark ink, appearing to read 'N. Haysom', followed by a horizontal line.

Nicholas Haysom

15 July 2011

Cc: VN

11-06136



United Nations



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Executive Office of the Secretary-General
Cabinet du Secrétaire général

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11-06136 Response to Mbeki article

<u>DCDC</u>	<u>CDC</u>	<u>SG</u>
Recommended	For SG's approval <input type="checkbox"/>	Approved <input type="checkbox"/>
Action: <i>SG's info</i>	For SG's attention <input type="checkbox"/>	Noted <input type="checkbox"/>
<i>15/July/11</i>	For SG's information <input checked="" type="checkbox"/>	Seen <input type="checkbox"/>
Date:	For SG's signature <input type="checkbox"/>	Signed <input type="checkbox"/>
Comment	Date: <i>15-07-11</i>	Date:
(if applicable): <i>76</i>	Comment (if applicable):	

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EXECUTIVE OFFICE OF THE SECRETARY-GENERAL
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REFERENCE:

**Response to former President Thabo Mbeki's article published in
the 29 April 2011 issue of "Foreign Policy" entitled -
*"What the world got wrong in Côte d'Ivoire"***

The former President of South Africa, Mr. Thabo Mbeki, published an article in the "Foreign Policy" journal on 29 April 2011 titled « What the World Got Wrong in Côte d'Ivoire » in which he argues that Africans should take the lead in resolving their own disputes. In the article he also asks why the United Nations is seeking to entrench former colonial powers in Africa. Notwithstanding his familiarity with the issues at the heart of the crisis in Côte d'Ivoire, and his engagement in the search for a peaceful solution during the period between 2005 – 2007, President Mbeki has presented an inaccurate account of the recent events in that country. His defence of Mr. Gbagbo's attempt to thwart the democratically expressed will of the Ivorian people and try to retain power through the use of force is also surprising.

When Mr. Gbagbo's mandate expired in 2005, Ivorians, Africa and the larger international community invested a further five years in finding a political solution to the crisis and in creating the conditions conducive to the conduct of free and fair presidential elections. In the Pretoria Agreement, signed under the auspices of President Mbeki in 2005, the Ivorian parties, including Mr. Gbagbo, explicitly stated that elections were central to the process of returning their country to normalcy. In the Agreement, they voluntarily created a certification mechanism that was assigned to the United Nations. In 2007, the Ivorian parties decided to find their way to a lasting solution to the Ivorian conflict through direct dialogue, under the facilitation of President Compaoré of Burkina Faso. They made it clear that from the time they signed the Ouagadougou Political Agreement in March 2007 they had assumed full ownership and responsibility for the successful implementation of the peace process. It was therefore the parties themselves, and in particular Mr. Gbagbo as President, that dictated the pace of the process, determined the timelines and devised solutions to overcome the numerous obstacles that emerged.

The presidential elections had been postponed several times because the Ivorian parties felt that not enough progress had been made towards disarmament and the reunification of the country, including of the armed forces, and that the conditions were not yet conducive to the holding of free and fair elections. Last year, however, Mr. Gbagbo determined that it was time to hold the presidential elections and that the progress made towards the reunification of the country would allow the conduct of credible presidential elections. In August 2010, at his own initiative and without any pressure from any external actor, Mr. Gbagbo signed a decree setting 31 October as the date for the first round of the presidential elections. This date was endorsed by the Permanent Consultative Framework established under the Ouagadougou Agreement comprising Mr. Gbagbo, Mr. Bédié, Mr. Ouattara and Mr. Soro, thus confirming their unified agreement that the time was right to hold these elections. Thus, contrary to

President Mbeki's claim that elections were not the best solution for Cote d'Ivoire at the time, all the Ivorian political leaders, including Mr. Gbagbo recognized that the elections were needed and that, after so many postponements, the population was getting so frustrated that any further delay could itself have caused violence. In a number of meetings with United Nations officials, Mr. Gbagbo expressed the view that the reunification and disarmament issues no longer posed an obstacle to the holding of free and fair elections. In his briefings to the Security Council, former Ivorian Foreign Minister Alcide Djédjé also reported that the conditions for the conduct of credible elections were in place. Clearly, it was not the timing of the elections, nor the conditions in which they were conducted that created a crisis and caused violence. The violence emanated from Mr. Gbagbo's attempt to rig the result, as well as his refusal to cede power to the winner.

The first round of the presidential elections on 31 October 2010 marked an important milestone. The campaign took place in a peaceful atmosphere, voter turnout was unprecedented at 81%, and the parties accepted the results and the certification by the Special Representative of the United Nations Secretary-General, who had previously secured their agreement to the certification criteria and methodology. Mr. Gbagbo, who emerged as the leading candidate, expressed his appreciation to the Special Representative for his role in certifying the elections as well as for the technical and logistical support provided by UNOCI.

The second round was held on 28 November and the Ivorian people again demonstrated their commitment to the democratic process through a high voter turnout and the generally peaceful atmosphere that prevailed on that day. National and international observers assessed that voting took place in a satisfactory manner, notwithstanding several incidents of violence. The Independent Electoral Commission announced the provisional results on 2 December and declared candidate Alassane Ouattara as the winner of the run-off election, but the Constitutional Council proclaimed fabricated results on 3 December giving "victory" to Mr. Gbagbo. The Special Representative of the Secretary-General followed exactly the same agreed procedure in certifying the second round and his analysis yielded the same outcome as the one announced by the Electoral Commission, while determining that the final results proclaimed by the Constitutional Council were not based on facts. The Special Representative also indicated that, even if the complaints of former President Gbagbo had been found valid, candidate Ouattara would still be the winner of the polls. A separate analysis by the Facilitator's Special Representative also confirmed the outcome announced by the Independent Electoral Commission. The Constitutional Council, for its part, did not follow any transparent process but simply nullified the results from Mr. Ouattara's stronghold in the north in an arbitrary manner. It is notable that ECOWAS and the African Union supported the certification by the Special Representative and endorsed the results as announced by the Independent Electoral Commission.

In his article, President Mbeki raised a number of issues regarding the certification role of the United Nations in Côte d'Ivoire, which need to be clarified. The legal basis for the United Nations certification mandate is derived from the Pretoria Agreement (6 April 2005) and the subsequent Declaration on the Implementation of the Pretoria Agreement (29 June 2005). These agreements, brokered by President Mbeki himself, requested the participation of the

United Nations in the Ivorian elections, and urged the Secretary-General to appoint a high-level representative who would oversee the electoral process. These agreements were endorsed by the relevant organs of ECOWAS and the African Union as well as by the Security Council. In 2007, the post of high representative for the elections was abolished at the request of then President Gbagbo who, together with all the other Ivorian political leaders, agreed to transfer the high representative's mandate to the Special Representative of the Secretary-General. In resolution 1765 (2007), the Security Council, acting under Chapter VII of the Charter, decided that "the Special Representative of the Secretary-General in Cote d'Ivoire shall certify that all stages of the electoral process provide all the necessary guarantees for the holding of open, free, fair and transparent elections in accordance with international standards".

The certification mandate of the United Nations was thus put in place voluntarily by the Ivorians themselves to guarantee the credibility of the elections. They did so because they were aware of the difficulties and sensitivities related to the holding of elections in Côte d'Ivoire, and had foreseen that elections were likely to take place in an environment of mistrust and lack of confidence in some of the institutions responsible for organizing elections. In light of the ensuing developments in Côte d'Ivoire, the certification mandate has proven to be an invaluable tool in guaranteeing the credibility of the Ivorian presidential elections and in protecting the democratically-expressed will of the Ivorian people.

Questions have been raised on why the Special Representative and not the Constitutional Council, which is the highest legal authority in the country, should have the last word on the outcome of the elections. The answer lies in the nature of the certification mandate and the process agreed by the Ivorian parties themselves. The Special Representative was required to pronounce on the outcome of the electoral process only after the Independent Electoral Commission and the Constitutional Council made their own announcement. He closely followed every key stage of the electoral process, analyzed it and pronounced his verdict on whether or not it met internationally accepted standards. He followed a uniform certification process for the first and the second rounds. Former President Gbagbo chose to accept it for the first round in which he emerged in the lead, but not for the second round in which he lost.

In the course of the crisis, some called for a recount of the vote, including former President Gbagbo, to lay to rest some of the allegations regarding the outcome. The United Nations did not support such initiatives, as there was no question that the legitimate results had been determined in a transparent manner. Any recount would have been an expression of lack of confidence in the United Nations, which certified the results on behalf of the international community and the Facilitator who confirmed them on behalf of ECOWAS. Recounting would also have amounted to a reversal of the principled position taken earlier by ECOWAS and the African Union, which had endorsed the results.

Furthermore, the whole idea of a recount was to pave the way for replacing the outcome of a credible election with a "negotiated political solution" that would have led to a power-sharing arrangement of the Kenyan and Zimbabwe type, a solution that President Mbeki seemed to favour. This would have set a dangerous precedent for the entire continent and would have encouraged other incumbent leaders in the future to

refuse to relinquish power in the hope that the international community will automatically propose power-sharing. This is not a path that Africa or the world should tread, as it would undermine the common values and principles of democracy. We have too long accepted desperate acts by rulers seeking to stay in power against the will of the people. This did not happen in Côte d'Ivoire due to the persistence and commitment of the Ivorians themselves with the support of the international community, thus ensuring their right to democracy.

The violent post-elections crisis, during which thousands of people were killed and many more wounded and displaced, was a direct result of former President Gbagbo's refusal to accept defeat and his determination to cling on to power through the use of force. Starting in March, security forces loyal to Mr. Gbagbo resorted to the use of heavy weapons against the civilian population in communities perceived as strongholds of President Ouattara and United Nations peacekeepers, as well as UNOCI's headquarters and the temporary seat of the legitimate Government at the Golf Hotel in Abidjan. The use of heavy weapons against civilians is well-documented, not only by the United Nations, but also by human rights organizations. This prompted the Security Council on 30 March to unanimously adopt Security Council resolution 1975 (2011) reiterating its full support to UNOCI to use all necessary means to protect civilians, including to prevent the use of heavy weapons against the civilian population. In view of these developments, UNOCI and Licorne undertook operations against the use of these heavy weapons, thus preventing further bloodshed in Abidjan, and saving countless lives of innocent civilians. It should be clear that these were limited military operations whose sole purpose was to protect the civilian population. UNOCI and Licorne acted strictly within the bounds of their mandate to protect civilians from the use of heavy weapons and did not, at any stage, launch military operations for the purpose of stopping or facilitating military gains by any side.

The protection of civilians has been an integral part of the UNOCI mandate since the Mission has been established in 2004 under Chapter VII of the Charter. It is incumbent upon the national forces, and the United Nations where so mandated, to use all means necessary to implement its mandate, even with the use of force, to protect civilians. Throughout the crisis, UNOCI has undertaken every effort to implement its mandate in an impartial manner and protect civilians irrespective of their political affiliation. In keeping with its mandate to protect key political stakeholders, UNOCI provided security at the Golf Hotel, where President Ouattara's Government functioned from. In the same way, UNOCI is currently providing security to former President Gbagbo and to more than 50 officials of his *Front populaire ivoirien* (FPI) party in a hotel in Abidjan.

UNOCI has remained consistently impartial. However, impartiality did not mean neutrality. The United Nations peacekeepers had a responsibility to act in the face of possible grave violations of human rights and international humanitarian law, such as may have been committed in the Abobo, Anyama, Treichville and Attécoubé districts of Abidjan early this year. Impartiality means strict and unbiased adherence to the principles of and obligations under the Charter, which UNOCI has done. The United Nations cannot stay silent or not act in the face of basic challenges to its core values and principles.

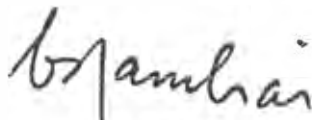
The firm and unified leadership provided by the African Union, ECOWAS and other partners with regard to the outcome of the presidential elections in Côte d'Ivoire demonstrated commitment to shared principles and sent a strong signal to Africa's people, which may have an impact on other democratic transitions and elections in divided societies. President Mbeki claims that the way that the crisis was managed in Côte d'Ivoire confirms the marginalization of the African Union to resolve the most important African challenges. However, there is another perspective shared by many in the African Union, ECOWAS and the international community. The African Union has weighed in on the side of democracy and peace, and refused to allow itself to be used to continue unconstitutional grabs for power. This has heightened its legitimacy in addressing such challenges in Africa and elsewhere too. It may be recalled that the Security Council endorsed the positions of ECOWAS and the African Union, thus acknowledging the leading voice of Africa in resolving such issues in accordance with internationally accepted principles and values.

It is unfortunate that Mr. Gbagbo rebuffed all the efforts by ECOWAS, the African Union and the United Nations to find a peaceful solution to the crisis. Since the onset of the crisis, numerous efforts were undertaken by the African Union and ECOWAS in particular, with the support of the United Nations, to find a peaceful solution to the crisis. All these attempts, including by high-level delegations and the binding decisions of the African Union Peace and Security Council (AUPSC) were snubbed by Mr. Gbagbo, who had amassed a large arsenal of heavy weapons to entrench his de-facto regime. The final offer was made by President Ouattara at the end of March when he ordered the loyal troops that had encircled Abidjan to hold their positions outside the city in order to give Mr. Gbagbo a last chance to leave peacefully and to avoid further fighting. Mr. Gbagbo once again refused. Meanwhile, the support to the Ivorian people by the African Union, ECOWAS and the Security Council throughout the post-elections crisis was principled and unwavering. It was also crucial in ending the fighting and ensuring that the legitimate President assumed power.

The ultimate vindication of the principled position taken by ECOWAS, the AUPSC and the United Nations came from the Ivorian Constitutional Council itself. On 5 May 2011, its very same President Yao N'Dre set aside the fabricated results announced five months earlier, proclaimed President Ouattara as the legitimate winner of the 28 November run-off election, and swore him into office on 6 May.

This response cannot conclude without stressing that while it is well understood that elections are an essential step in moving a country from conflict to peace and stability and from dictatorship to democracy, such elections, on their own, are insufficient. They can never be a panacea for addressing the root causes of any conflict. National reconciliation will have to be the centrepiece of any durable solution of a crisis. The new President and his Government in Côte d'Ivoire have repeatedly expressed their commitment in this regard. This will not be easy, given the multiplicity of challenges before them, including the need to investigate allegations of abuse by the FRCI. But it is the right track. The international community, including Africa, must continue to assist the Government of Côte d'Ivoire and its people in addressing critical challenges in order to restore peace and stability and rebuild the country so that Côte d'Ivoire will in the future reclaim its historic role as the pillar of stability and prosperity in the sub-region. African leaders who wish to play a more

constructive role may begin by offering support to that country as it moves forward.
They must also resist any temptation to reorder facts or rewrite history.



Vijay Nambiar
Chef de Cabinet
6 July 2011