



ASSESSMENT AND EVALUATION COMMISSION

MID TERM EVALUATION REPORT

**SUBMITTED PURSUANT TO THE
COMPREHENSIVE PEACE AGREEMENT**

JULY 2008

EXECUTIVE SUMMARY AND RECOMMENDATIONS

The Comprehensive Peace Agreement (CPA) is an extraordinary achievement. It has proven resilient in the first three years of the interim period, despite delays and tensions. But outstanding issues need to be addressed to ensure success in meeting the challenges ahead.

The Assessment and Evaluation Commission is tasked in the CPA with monitoring its implementation. It is specifically required to conduct a mid term evaluation by 9 July 2008. The attached report is submitted in fulfilment of that requirement, and to complement the Factual Report submitted last year. It is intended to be analytical in character, evaluating the extent of implementation and what more needs to be done to secure the objectives of the CPA and make unity attractive.

The evaluation report stresses the interlocking nature of the CPA and how partial or non-implementation of one of the elements impacts negatively on others. All elements are therefore important and need to be implemented. The following recommendations, some broad, others specific, have been drawn by the Commission from the analysis in the evaluation. They are directed, unless otherwise stated, to the parties jointly. None are prescriptive; the AEC can advise and encourage; it is for the parties and the people to determine the way forward.

The evaluation does however highlight certain areas in which actions recommended are, in the Commission's view, critical for the sustainability of the CPA and unity arrangements. These are: resolution of the Abyei issue, starting with implementation of the Road Map; demarcation of the North/South border; timely preparation for elections and democratic transition; preparation for 2011 and beyond; and security sector reform, particularly in respect of the JIUs and DDR.

Power Sharing (pages 10 to 18)

Much has been achieved in this area but schedules have slipped and many actions provided for in the CPA are overdue. At the level of the executive the importance of timely and collegial action in pursuit of CPA implementation is underlined, and has recently been demonstrated.

The following steps are recommended as being of particularly urgent priority in the power sharing section:

- A major focus now on preparations for the elections due in 2009, starting with passage this summer of the electoral law and establishment of the National Electoral Commission.
- Definition and demarcation as soon as possible of the 1/1/1956 North/South border
- Initiation, in the National Constitutional Review Commission, of consideration of modalities for the 2011 referendum in the South

Also of high priority:

- Pursuit of outstanding CPA – related legislation including, in advance of elections, the National Security Act and the Press and Media Act; and establishment of commissions still pending, including the Human Rights Commission.
- Initiation of a programme of national reconciliation, and confidence building measures in the spirit of the CPA.

Other actions strongly recommended for improving unity arrangements are:

- Continued pursuit of fair representation from both North and South in the national civil service; in light of the role played by the National Civil Service Commission, states might also consider establishing their own civil service commissions.

- Redoubled effort to ensure appropriate Southern Sudanese representation in national judicial institutions, and to reinforcing the judiciary in the south
- Greater support for capacity building in the Southern Sudan Legislative Assembly and state institutions
- Ongoing support for the work of the Commission for non-Muslims in the National Capital

Wealth Sharing (pages 18 to 26)

As reflected in the body of the report, the Wealth Sharing Protocol of the CPA is largely being implemented. However, there is room for improvement in terms of increasing transparency and, consequently, confidence by both sides.

Accordingly, consideration of the following steps is recommended:

- To look for ways of improving the process for regular transfers of revenues by the GoNU to the GoSS.
- To consider within the framework of the Joint Technical Committee changes in the format, delivery and publication of monthly oil production figures and revenue transfers to take into account current GoSS capacity, in such a manner that will accommodate GoSS concerns about transparency.
- With assistance from the international donor community, to examine ways to build Southern capacity in order to boost Southern employment in the hydrocarbons sector.
- Creation of separate Oil Revenue Stabilization Accounts – one for the North and one for the South.
- To expedite the establishment of a systematic programme for consultation with and participation of communities in the management of natural resources, in particular oil; also to expedite formation of the committee charged with assessing the social and environmental impact of existing oil contracts.
- To make more use of the National Petroleum Commission.

The Three Areas (pages 26 to 34)

The overriding priority is to implement the Abyei Road Map. To this end the following are specifically recommended

- A continuing sense of urgency with regard to deadlines, in view of the tense situation and the plight of the displaced:
- All necessary support and training for the new JIU; provision, and acceptance, of donor assistance in this regard;
- UNMIS to enjoy unfettered freedom of movement and to be proactive in exercise of its mandate and in support of the JIU; it should be strengthened as needed in the Abyei area;
- Flexibility on the part of the parties with regard to the composition of the Abyei Administration;
- Provision of international legal assistance with regard to preparations for arbitration
- Reconciliation between the Dinka Ngok and Misseriya to be actively pursued; agreements on grazing rights and routes to be built upon in discussions which should involve them

In Southern Kordofan and Blue Nile there has been more progress in implementing the relevant Protocol but the following are recommended:

- The delivery of quick high impact peace dividends to local communities in both provinces
- Further effort on integration in the police and public services in both these states
- Modalities for popular consultation to be fully worked up, to ensure completion of the process in the coming year

Security (pages 34 to 41)

The evaluation recognises the importance of further security sector reform. It stresses the importance of completing the process of redeployment. It focuses in particular on Joint Integrated Units and Disarmament, Demobilisation and Reintegration. It recommends:

- Further work to transform JIUs into genuinely integrated units.
- Donor support for and implementation of a comprehensive programme of support for the JIUs, to include high impact “quick fixes”, longer term training and infrastructure development.
- Implementation of the DDR programme, and donor support to that end;
- Compiling of information available on all DDR related programmes to allow effective co-ordination and, where appropriate, rationalisation.

Additionally it recommends:

- Joint Monitoring Committees to be given full access in the Three Areas
- The UN to be invited to attend the Joint Defence Board for matters relating to the JIUs and other matters in which the JDB agrees UNMIS has a concern, in order to ensure transparency in decisions and effective coordination

International Support and Conclusion (pages 41 to 46)

The report underlines the importance of international support for CPA implementation. It recommends:

- Generous donor support for CPA implementation in the coming period, including specifically for DDR; JIUs; elections; unity projects; and programmes in the Three Areas and along the border.

- That the parties make full use of UNMIS capabilities; it also recommends pursuit of the UN's intention to strengthen further UNMIS conflict prevention capacity.
- That the AEC play a more active role in offering ideas and support for CPA implementation and unity arrangements, recognising the scale of the challenges through to 2011; and that its staffing should be strengthened, with a presence in Juba.
- Encouragement of the broadest possible range of international support for CPA implementation, keeping under review the holding of high level international meetings to support progress and overcome blockages.

The conclusion notes the continuing importance of steps to build confidence and trust between the parties, and fostering North/South links and the spirit of the agreement, in ensuring that its objectives are met and in making unity attractive. It also recommends the development of joint arrangements across the political, economic, energy and security fields which look beyond 2011 and will obtain and be beneficial whatever the outcome of the referendum.

INTRODUCTION

THE COMPREHENSIVE PEACE AGREEMENT: THE FOUNDATION OF PEACE IN SUDAN

The Comprehensive Peace Agreement is an extraordinary achievement. It brought to an end one of Africa's longest running civil wars which had caused horrendous loss of life and untold suffering. It was the achievement of the two parties, now partners in peace.

The CPA was signed in Nairobi, Kenya on 9 January 2005. The agreement provides for a six year interim period for implementation, following an initial six month pre-interim period. It comprises a number of interlocking texts, covering political, economic and security issues, unprecedented in the history of peacemaking in Africa in its complexity and comprehensive nature. It was the product of years of negotiation.

Three years precisely have passed since the beginning of the interim period for implementation provided for in the agreement. During that time peace between the parties has been sustained. The ceasefire arrangements have for the most part held. Security has been established in most war affected areas, sufficient for some two million refugees and displaced persons to return. The constitutional arrangements and institutions provided for in the agreement, including the Government of National Unity, the Government of Southern Sudan and the national, Southern and state legislatures, were put in place expeditiously and have become familiar to the people of Sudan. Oil revenue has been shared.

In these and other respects the CPA has proved to be a resilient and successful instrument. But public appreciation for the peace it has brought is frequently mixed with concern about the perceived absence of a peace dividend and about delays in, and partial or non- implementation of, aspects of the agreement. Among the latter, failure to proceed with implementation of the Abyei Protocol and continuing uncertainty on and around the border between North and South

have been persistent sources of tension and have led to violence. The recent heavy fighting and destruction in Abyei, and the displacement of its population, was by far the most serious instance of this to date, and probably the greatest challenge that has yet faced the CPA.

The partnership between the parties is the basis on which the CPA rests. They have repeatedly reiterated their determination never to return to war. Together they have worked through periods of serious strain: their success in this has been particularly noteworthy and important given the tragic incidence of conflict elsewhere in Sudan at the time. Their commitment, in December 2007, to revitalization of the spirit of the agreement and to specific measures to reinforce its implementation, carried with it the promise of new momentum. The census in April/May 2008 was an important step forward, as were agreements recently reached on arrangements for the disarmament, demobilisation and reintegration of ex-combatants. The Third Sudan Consortium meeting in Oslo on 6-7 May 2008 was a further encouraging development, bringing as it did generous commitments on the part of the international community of support for CPA implementation during the remaining three years of the interim period. Intensive negotiations between the parties following the fighting in Abyei led to agreement and signature on 8 June 2008 of a "Road Map for Return of IDPs and implementation of the Abyei Protocol".

Rapid progress on outstanding issues - first and foremost on the Abyei Road Map, and on the border - is now vital to sustaining momentum in the CPA. The new tasks ahead are formidable. The time set of 2009 for elections at all levels in Sudan, which are crucial to the democratic transformation promised by the CPA, is rapidly approaching. 2009 is also due to witness conclusion of the popular consultation provided for by the CPA in Southern Kordofan and Blue Nile. 2011 will see the referenda on self determination for Southern Sudan and the status of Abyei, and the conclusion of the interim period. The CPA is not just a framework for peace between North and South but the essential foundation for

peace for the people of Sudan as a whole. Successful accomplishment of these tasks will provide the best possible basis for their shared future.

EVALUATING PROGRESS AGAINST MACHAKOS AND OTHER CPA PROTOCOLS

The Assessment and Evaluation Commission was established under the terms of the CPA and is tasked with monitoring its implementation. The parties are enjoined to work with it in improving the institutions and arrangements created under the agreement and making the unity of Sudan attractive to the people of the South. It is composed of representatives of the parties and of governments which supported and witnessed the agreement. The United Nations, the African Union, the Arab League and the European Union are observers.

The Machakos Protocol is the starting point and opening protocol of the CPA. It sets out fundamental principles, the timetable for the transition and the political framework for the peace process. In it the parties agree on the priority of unity; confirm the right of self-determination for Southern Sudan through a referendum; and recognise the diversity of Sudan as a source of strength rather than division. It describes in broad terms the balance of responsibility between the national government and that of Southern Sudan and makes provision for freedom of religion and respect in legislation for applicable religious systems. The Protocol prohibits discrimination on grounds of religion, belief or custom. It provides for a repatriation, resettlement, rehabilitation, reconstruction and development plan to address the needs of war-affected areas and redress the historical imbalances of development and resources.

The Machakos Protocol requires the AEC to conduct an evaluation of the unity arrangements established under the agreement by the middle of the interim period, which corresponds to 9 July 2008. The report which follows is submitted in fulfilment of that obligation.

The report is intended to complement the Factual Report on the Status of CPA Implementation completed by the AEC in October 2007. It is designed to be analytical in character, offering an objective evaluation of the extent of implementation; what has been achieved; and what more needs to be done if the objectives of the CPA are to be met. It draws upon inputs prepared in the light of activity and discussions in the four AEC working groups (which mirror protocols of the CPA, focusing respectively on wealth sharing; power sharing; the three areas of Abyei, Southern Kordofan and Blue Nile; and security arrangements). It also addresses international support for CPA implementation: the international community was, in effect, the third party to the agreement and its interest and support were assumed at the outset to be important for its successful implementation.

The recommendations contained in the evaluation, and listed briefly in the Executive Summary, are designed to assist in advancing the implementation process and in making unity attractive. Some of the recommendations are self evident. Some may seem bold when set against the overall pace of implementation in the first three years of the interim period. But time is short given the number of issues still outstanding and the scale of the new challenges ahead. For the necessary momentum to be sustained tensions must be overcome and the issues approached in a revitalised spirit of the CPA - with each side demonstrating the goodwill needed to accommodate the concerns of the other.

POWER SHARING

The power sharing protocol sets a bold agenda for Sudan, providing a new foundation not just for the relationship between North and South but between all levels of government, and between government and people, based on the principles of good governance, accountability, transparency, democracy and the rule of law.

Progress on the institutional framework has been solid. Over the last three years following adoption of the Interim National Constitution (INC), the main pillars of Sudan's new decentralised system including the Presidency, the Government of National Unity (GoNU), the Government of Southern Sudan (GoSS) and institutions at state level have been put in place (Annex A). But lack of full implementation, as well as lack of capacity at different levels, has had a negative impact. Major building blocks covered by the Protocol, including crucially border demarcation, have yet to be put in place. The backlog of legislation needs to be cleared, with particular priority given to preparations for the forthcoming elections due to take place in 2009 at all levels: unless urgent action is taken and the electoral law passed and the National Electoral Commission established, the timetable set for these in the CPA will slip. Preparatory work for the 2011 self determination referendum for the people of Southern Sudan is an emerging priority.

Institutions

National Legislature

The national legislature, consisting of the National Assembly and the Council of States, is operational, although observers for Abyei to the Council of States have yet to be appointed. The Inter-chamber Standing Committee is up and running. The Power Sharing Working Group noted improved coordination between the executive branch and the national legislature, and that the enactment of laws by decree has stopped.

The National Assembly has enacted substantive legislation (Annex B); but a number of major pieces of legislation envisaged in the protocol and important for CPA implementation are outstanding. These include, in addition to the electoral law, the National Land Commission Act, the National Security Act, the Press and Media Act and legislation to establish a Human Rights Commission. The delay in these areas is creating a bottleneck in the progressive implementation of the CPA at national, southern and state levels. Furthermore, much of the outstanding legislation mentioned will be important

in underpinning the Bill of Rights, which is a central element in the Interim National Constitution.

National Executive

The announcement in October 2007 by the SPLM that it was suspending its participation in the Government of National Unity was a serious test of the CPA. A way forward was found with agreement between the parties in December which included a new matrix for Presidency action and new timelines. The SPLM rejoined the GoNU in January 2008 and a reshuffle of portfolios followed as agreed. The resolution of the crisis demonstrated the will of the parties to settle their differences through negotiation and compromise, and the resilience of the peace process. But as always much depends on follow-up. A pragmatic lesson from this and other testing episodes during the interim period so far would seem to be the central importance of mutual understanding and give and take within the institution of the Presidency when difficulties arise in CPA implementation, and the need for timely and collegial action to achieve consensus. Distance and pressure of commitments have been among the factors which have at times constrained the Presidency in addressing issues in this way. The matrix agreed in December 2007 provided for a permanent joint committee of the two parties within the Presidency to act as a “decision making task force”: this could be one means among others of supporting joint decision making, and act as an early warning system when problems arise.

National Commissions

A number of independent commissions have been formed pursuant to the Power Sharing Protocol. They include the Fiscal and Financial Monitoring and Allocation Commission (FFAMC), the National Civil Service Commission (NCSC), the National Judicial Service Commission (NJSC) and the Commission on the rights of non-Muslims in the National Capital. Even though some major commissions have yet to be appointed, the National Constitutional Review Commission

(NCRC) has for the most part drafted the legislation (e.g. for the National Electoral Commission; the National Land Commission; and the Human Rights Commission). In the case of the Political Parties Council, legislation was passed in January 2007 but has yet to be implemented.

The time is now fast approaching when the NCRC will be expected to initiate deliberations on modalities for legislation in respect of the self-determination referendum for the people of Southern Sudan; the legislative burden imposed by the CPA is heavy, and experience with other major pieces of legislation suggests that achieving consensus will at best be time consuming. Early and careful preparation for this legislation will surely be needed. Work on this should therefore shortly begin. The AEC stands ready to facilitate studies, for example with regard to precedents elsewhere, should that be helpful.

The Civil Service

The National Civil Service Commission is now functioning and has defined the mechanism for realising affirmative action. However, the reform and integration of the national civil service, which also affects civil service performance at state level, is behind schedule. The AEC considers that the formation of state civil service commissions and provision for training of state civil servants could be a useful complementary next step for any state that would like to do this. The matrix agreed by the parties in December 2007 helpfully reconfirmed their commitment to meet the targets for Southern participation in civil service positions and to accelerate the process.

The Judiciary

The National Judicial Service Commission is operational, and receives external technical support and training. Acting on its recommendations, the Constitutional Court, the National Supreme Court, the National Court of Appeal and the other courts have been established and are operational.

Appropriate Southern representation in the higher national judicial institutions remains an important issue that needs to be addressed.

Progress has also been made in the establishment of a judicial system in the South. Judges have been appointed to the Supreme Court, the Appeal Court and the County Courts of Southern Sudan. The system is starting to be operational but there is a significant lack of qualified judges and administrative capacity. The judicial presence needs to be strengthened on the ground to promote public trust in the judicial system.

Southern Sudan Legislative Assembly

The Southern Sudan Legislative Assembly (SSLA) has held five sessions. Among other initiatives it has embarked on addressing issues of official corruption. Capacity remains an issue, which has had an impact on the pace of legislation, including in respect of fourteen Southern Sudan commissions which were established by presidential decree in 2006 but which have not been the subject of legislation (Annex C).

State-level Institutions

The state constitutions of the Northern and Southern states have all been adopted; the legislative, executive and judicial institutions in all 25 states of Sudan have been established and governors appointed. The issue of compatibility to the Interim National Constitution of the constitutions of the states of Southern Sudan remains to be resolved. A state constitution model has however been developed and agreed both by the Ministry of Justice and the Ministry of Legal Affairs in Southern Sudan.

Delays at state level, particularly in the South and in the Three Areas, have meant that the work of state assemblies has only just started; the consequent lack of key institutions such as state land commissions and state civil service

commissions is hampering progress. Prioritisation will be important. Again, capacity needs to be developed through support and training.

North/South Boundary Demarcation

Determination of the North/South border as it stood on 1/1/1956 was due to have been completed in the pre-interim period. It has yet to be done. The work of the ad hoc North/South Technical Border Committee tasked with reporting with recommendations to the Presidency is seriously behind schedule. Once it reports the Presidency will need time to consider its recommendations, and action will then have to be taken to demarcate the border. Delay in this area has implications for CPA implementation in a wide range of areas, including redeployment; wealth sharing and the allocation of oil revenues; and elections and electoral districts. Disagreement persists over certain areas along the border and the uncertainty contributes to tension and insecurity.

The Committee carried out a reconnaissance survey on the ground at the beginning of 2007. The Committee also travelled to the UK and Egypt in July 2007 to consult maps and archives. A workshop by the International Boundaries Research Unit of Durham University (UK) was held in Khartoum in February 2008, for further research and technical advice.

The Committee will need to finalise and deliver its recommendations on the border to the Presidency soon, not least to enable demarcation to be carried out before the holding of the elections in 2009. The parties will need to give the Committee every assistance in its work and safe access to all areas along the border will need to be guaranteed. Once the border is demarcated it will be important to ensure, through development projects in the area and through the promotion of local political, communal and commercial contacts across it, that it does not become a line of division but rather that the benefits of peace and reconciliation in the area, and the final settlement of border issues, contribute positively to making unity attractive.

National Population Census

A significant milestone was passed with the holding of the national population census from 22 April to 5 May 2008. Delay due to GoSS concern over the exclusion of ethnicity and religion from the questionnaire and over security, resettlement and geographic coverage was overcome, albeit at the last moment and with residual reservations. The SPLM has voiced concerns since about the coverage achieved by the census. The responsible commissions and the UN have yet to issue their assessment and it will take some months before the results of the census are known. It will be important that this essentially technical exercise continue to be treated as such.

Electoral Process and Democratic Transition

The elections which according to the CPA are to be held by the end of the fourth year of the interim period, i.e. by 9 July 2009, are central to the democratic transformation envisaged in the agreement. Successful free and fair elections will be a key element in making unity attractive and in ensuring wider ownership of the peace process. The inter-locking preparatory work for the elections is lagging seriously behind schedule and new impetus is badly needed.

First and most important will be speedy adoption of the electoral law which was referred to the Presidency in March 2008. At the initiative of the Power Sharing Working Group the AEC met the Speaker and leaders of the NCP and SPLM in the National Assembly on 12 June 2008 to discuss this. Remaining differences were said by the two parties to be narrow and they have indeed since been resolved in the Presidency, and the draft law is now before the National Assembly.

UN experts, drawing on experience elsewhere, suggest that overall timelines will slip sharply if the electoral law is not adopted and the National Electoral Commission formed this summer. The Commission which is to be composed of independent, representative figures, is due to be appointed within one month of

adoption of the law. Its role in subsequent election preparations, from raising awareness to supervising the complex process of countrywide electoral registration, will be crucial.

Other elements will need to be in place and implemented well in advance of the elections. Although the Political Parties Act became law more than a year ago, the Political Parties Council, which will register parties, has not yet been established. The census results and decisions in respect of the border will need to be available. To ensure a free and fair environment the security and broader reform legislation envisaged in the CPA, will need to be in place in advance of the election campaign. The passing of the Police Act in June 2008 has begun this process, but other legislation covering security and media remains to be enacted. Arrangements will need to be set in hand soon for international technical support and, in due course, for monitoring.

All this suggests that there should be a major focusing of effort now on preparations if elections are to be held next year, and democratic transformation achieved in a timely fashion consistent with the overall timelines in the CPA.

National Reconciliation

The CPA sets out to shape, through a six year interim period, a Sudan which is democratic and decentralised in which wounds are healed, diversity is respected and unity is attractive. The provisions of the power sharing protocol, like those of the CPA as a whole, interlock. A lack of forward movement in one area will impact on others. The different powers of the various levels of government established have to be respected, as do the rights of the citizen.

Achievement of this complex purpose requires a step change in attitude and a positive spirit of tolerance. The CPA makes provision for a programme of reconciliation and healing to be initiated by the GoNU. The idea was endorsed in the matrix drawn up in the Presidency in December 2007. Failure to move forward on it in an organised fashion risks perpetuating grievance. The objective,

of redirecting effort into this area three years into the interim period, and giving it new priority, would not be to reopen wounds but to develop messages and programmes which help all to face up to the suffering of the past, to put it behind them and to open eyes to the reality of interdependence. Elder statesmen or women might be approached to assist with this. A process of peace education at both local and national level could help build a common vision of the future and foster a sense of shared goals. The delivery of positive messages on the part of leaders would be a necessary element.

The national capital should be a crucible for unity and reconciliation, not least because so many from Southern Sudan are resident there. The work of the Commission to protect the rights of non-Muslims in the National Capital, established in April 2007, is still at an early stage. Work to ensure broad representation of the people of Sudan in law enforcement agencies in the capital, envisaged in the CPA, needs to be pressed ahead.

WEALTH SHARING

There is now good implementation of the provisions of the Wealth-Sharing Protocol. Oil and non-oil revenues are being regularly transferred by the Government of National Unity to the Government of Southern Sudan. Since the CPA was signed up to April 2008, the GoSS has received over US\$4 billion in oil revenues from the GoNU.¹ The largest outstanding issue has been that of oil production revenues from the contested Abyei area; interim arrangements in respect to these were agreed and set out in June 2008 in the Abyei Road Map.

Arrears are now beginning to be paid and the trend is positive. Nonetheless, greater transparency over the oil sector, including on the transfer of revenues and the timely availability of oil production and sales data to the GoSS, would help to build confidence and trust between the parties. This is also needed in order for GoSS to improve their financial planning and cash management. There

¹ Reports of the Joint Technical Committee for Monitoring Net Oil Revenues, April 2008

is now agreement on a plan to eliminate uncertainty over collection of national revenues in the South.

Sharing of Oil Revenue

Following agreement on the definition of the term “net revenue from oil”, which allowed the two parties to work out a formula for sharing oil revenues, a system has been established to calculate net oil revenues. Revenues are now being divided and distributed on a continuing basis according to the formula stipulated in the Wealth Sharing Protocol which states that, after deducting 2% of net revenue for the oil producing states, the net revenue from oil from Southern Sudan is to be divided equally between the GoSS and GoNU. The transfers do not appear however to be taking place according to a regular schedule, which has led to uncertainty over whether the transfers are being made in a timely fashion. Agreement on a clearer process for transfers would do much to improve confidence between the parties.

According to information provided by the Fiscal and Financial Allocation and Monitoring Commission (FFAMC), the allocation of revenue by the GoNU to the GoSS for calendar 2007 was 2.798 billion Sudanese pounds, or about US\$1.4 billion. According to the Joint Technical Committee reports, the allocation of revenue to GoSS for the first four months of 2008 was US\$844.10 million².

Arrears to the GoSS

The historical problem with arrears of transfers is now being addressed. According to information provided by the Petroleum Unit of the GoSS Ministry of Finance & Economic Planning (MoFEP), the annual amount of arrears owed to the GoSS by the federal government is getting smaller. A significant amount of arrears does however remain. For the year 2005, arrears totalled US\$80.6 million, of which approximately US\$44 million had been paid off by 31 January

² Taken from the reports of the Joint Technical Committee for Monitoring Net Oil Revenues, Jan-April 2008,

2008. For 2006 of the US\$64.2 million arrears, US\$10 million has been cleared. For 2007: there were arrears of approximately US\$32 million. Arrears in 2008 up to April of that year were over \$28 million.³

Monitoring of Production

A system to monitor the daily production of oil in all Sudan has been established. Monthly reports on oil production in Southern Sudan, together with the amounts of oil revenue transferred to the GoSS, are prepared by the Ministry of Energy and Mining (MEM), which are then reviewed and approved at regular monthly meetings of the Joint Technical Committee (which includes representatives of both of the parties). These monthly reports are then posted, in English, at the MEM's website⁴. However, the GoSS remains concerned that there is not sufficient transparency in the reporting and monitoring process. This concern could be addressed by making the information available to the GoSS in a more organised manner or according to a regular schedule. Overall oil production (and revenue) data should also be more easily available to the GoSS, reflecting its still developing technical capacity, and overall figures received by the GoNU could be made public, as transfers to the GoSS currently are. The disclosure by the NCP to the SPLM of the production sharing formula agreed between the GOS and oil concessions has helped improve transparency. The flow of information might improve further if the GoSS were to second more personnel to the MEM. Beyond this, regularly publishing overall figures, including indeed those for non-oil revenues, would change the terms of the debate about transparency and further build trust.

Southern Employment in the Hydrocarbon Sector

The CPA set targets for employment of Southerners in all sectors of the national civil service including the oil sector and relevant ministries. There remains

³ Figures approved by the Specialised Joint Committee for Monitoring, Calculating and Sharing Oil Revenues

⁴ (http://www.mof.gov.sd/topics_show_E.php?topic_id=1)

however a particular need to move more Southerners into positions in the hydrocarbon sector. The lack of them has exacerbated concerns in the South over transparency in the oil sector and the transfer of funds. This should be addressed through the provision of training and funding to build technical capacity in Southern Sudan.

Oil Revenue Stabilization Account (ORSA)

The two parties have agreed on a mechanism to monitor the Oil Revenue Stabilisation Account and have agreed the annual benchmark price. This is a continuing process. However, to reap the full benefits of an ORSA, more regular management of it is advisable. Currently, the GoNU withdraws funds from the ORSA, and simultaneously allocates funds to the GoSS. One change that is being considered would be to divide the funds allocated to the ORSA from the start, depositing the funds in two separate accounts, one for the GoNU and one for the GoSS. Each side would then be responsible for the management of its own fund. For the GoSS this would have the advantage of permitting its fund to accrue interest (not possible under the Northern banking system). This issue has been referred to the national Ministry of Finance for an advisory opinion as to whether it can be done.

Oil from the Abyei area

The transfer of a two percent share of net oil revenue to the producing states involved is being done on a continuing basis, as outlined in the CPA. However, the entitlement to oil revenue for Bahr el Ghazal, Southern Kordofan, Abyei, and the Dinka Ngok and Misseriya tribes was not established because borders for the Abyei area had not been agreed upon. This also meant that the entitlement to oil revenues of the GoSS from Abyei was not established.

Until agreement was reached on the Abyei Road Map the position was that oil revenue from the Abyei area was being distributed, by the GoNU, according to the area's current status as part of the North. The understanding was that, when

Abyei's special administrative status was implemented and an administrative structure established, calculations would be made of the net oil revenues that should have been transferred to Abyei since the start of the CPA⁵. The Presidency has stated that any and all funds owed upon conclusion of an agreement on the area's boundaries will be paid to all the parties concerned.

The Abyei Road Map provides for oil revenue from oil fields in the contested area now to be allocated, pending arbitration and subject to its outcome, in accordance with the Abyei Protocol ie shared between the GoNU, GoSS, etc. This should happen imminently.

National Petroleum Commission (NPC)

Responsibility for overall oversight of the petroleum sector rests with the NPC. The NPC was established by Presidential Decree in 2005 and the NPC's internal regulations were adopted on 19 April, 2007. The Joint Technical Committee on Oil Revenue has been formed and is functioning. The NPC's Secretariat is partially functioning, but is not yet fully staffed from the South. The NPC Secretariat has offices in Khartoum and has met once, in the summer of 2007, to decide the fate of Block B. It has met twice in 2008 (as of 8 May, 2008).

The NPC is supposed to develop policies, strategies and guidelines for the development and management of the oil industry. Issues that should be addressed by the NPC arise continuously. It is important that it is fully staffed in order to make it fully operational. Further, it is strongly recommended that both parties start to use the NPC much more actively.

Sharing of Non-Oil Revenue.

For a period following the signing of the CPA, difficulties were experienced in collecting non-oil revenues in the South, although both parties agree that the

⁵ AEC factual report, p. 55, "The Three Areas" section

schedules of powers enumerated in the CPA are to be respected. The announcement by the Chairman of the FFAMC in April 2008, that the parties have cleared up confusion over the collection of non-oil revenues – in particular, taxes and customs duties – in the South is welcome and the GoSS and GoNU have established a Joint Non-Oil Revenue Sharing Committee to oversee sharing of national revenues collected in the South. A system has been agreed on the agency charged with collecting these revenues, and how they are to be distributed under the terms of the CPA. The mechanisms necessary for full collection of revenues due by the relevant authorities have also been established and now need to be operationalised. Enabling legislation to allow taxation of these sources is under preparation by the GoSS. Information on state revenues is lacking. Agreement on a timetable (e.g., a date of every month) according to which revenues are to be transferred by the GoNU to the GoSS, would help ease concerns about the timeliness of revenue transfers.

Other Areas of the Wealth Sharing Protocol

Land Ownership

As noted in the previous chapter, on power sharing, a National Land Commission, which will enable a process to develop and amend the relevant laws to incorporate customary traditional laws and practices, has not yet been established. A consensus-building process to support the draft legislation emerging from the National Constitutional Review Commission is underway. Although establishing a Southern Sudan Land Commission has not yet been enacted, the Commission was one of those formed by decree in 2006 (Annex B) and personnel have been appointed.

Oil - Consultations with Communities; Existing Oil Contracts

As required by the CPA, the SPLM appointed a technical committee charged with having access to existing oil contracts. A team of Norwegian experts is currently engaged in the process of assessing the social and environmental impact of

existing contracts. Once this assessment is completed it will be evaluated by the NPC. Any further work is then expected to be carried out by a joint technical committee formed from the GoNU and the GoSS, as selected by the NPC. The CPA states that persons whose rights have been violated by oil contracts should be able to seek remedy. The process whereby such affected persons can seek redress is ongoing. Some consultation with and participation of communities in the management of natural resources, in particular oil, has taken place. However, a systematic community consultation programme has yet to be developed.

Equalisation & Allocation of Nationally Collected Revenues.

The National Revenue Fund (NRF) has been established, managed by the national Ministry of Finance. Revenues collected nationally are to be paid into the fund, and then the various shares going to the GoSS and the various states are to be paid out of the fund. The two parties have also agreed on an approach by which appeals can be directed to the international community for donor funds for reconstruction in Southern Sudan: the Sudan donors Consortium fulfils this role.

Fiscal and Financial Allocation and Monitoring Commission (FFAMC).

The FFAMC, created by presidential decree to monitor vertical and horizontal allocation of revenues at the national level, is functioning and the current chairman has demonstrated a readiness to cooperate with the AEC. The FFAMC cooperated with the national Ministry of Finance in drafting a protocol that spells out how the two bodies are to interact and to share information. The FFAMC has devised a formula for allocating and distributing revenue resources to war-affected areas as well as a formula for distribution of revenues to all the states.

The FFAMC now needs the governments of the Southern states to provide the information requested by the Commission. The NCP has concerns that the

establishment of a separate body, the Southern Sudan FFAMC, by the GoSS may be usurping national functions and is extra-constitutional. The SPLM contest this.

Division of Government Assets and Accounting Standards

The two sides have formed several committees to carry out the task of assessing and allocating assets between the various levels of government. Work on this task is ongoing. A National Audit Chamber and a Southern Sudan Audit Chamber have been established. However, the necessary enabling legislation has not yet been enacted for the Southern Sudan Audit Chamber.

Banking & Currency

Legislation establishing the dual banking system has been enacted. The Presidency appointed a Board of Directors for the Central Bank of Sudan. Borrowing standards and requirements have been adopted by the Central Bank of Sudan (CBOS), which are embodied in an amended CBOS Act. The CBOS was restructured, and the Bank of Southern Sudan was established, and is in operation.

To foster a sense of national unity, the CPA called for the establishment of a new national currency. A new currency was duly issued on January 9, 2007, and was successfully phased in over the period ending 31 August, 2007, a major achievement.

Reconstruction & Development Funds

A National Reconstruction and Development Fund (NRDF) has been established by the Ministry of Finance of the GONU but is not operational. The GoSS has established a South Sudan Reconstruction and Development Fund (SSRDF) together with an oversight committee which are also not yet fully operational.

The Abyei Road Map provides for the GoNU and the GoSS to contribute 50% and 25% respectively from oilfields in the areas under arbitration to a fund to be established by the Presidency for development of areas along the North South border and for financing joint projects. A Presidential decree has now been issued to this effect.

Two multi-donor trust funds (MDTFs) – one national in scope, and another for Southern Sudan -- have been established and are in operation. (see also Pp 41-44) which cover international support). The GoSS has instituted a system for monitoring and evaluating accountability and transparency with the establishment of an Anti-Corruption Committee, as well as an Employee Justice Chamber and a Public Grievances Board.

THE THREE AREAS

Security and development in the three areas of Abyei, Southern Kordofan and Blue Nile are essential for wider stability and sustainable peace in Sudan. Successful implementation of the CPA in respect of them is vital to the integrity of the agreement as a whole.

Abyei has historically been perceived as a bridge between North and South. It could be so again in future, a focus for economic cooperation and for unity. But for the past three years it has been the centre of contention. The Abyei Protocol was not implemented and disagreements over the border and administration and security led to rising tension. In mid May 2008 heavy fighting between the Sudan Armed Forces (SAF) and the Sudan Peoples Liberation Army (SPLA) resulted in Abyei town being largely destroyed and its population and that of the surrounding villages being displaced. This fighting is now the subject of an investigation in the context of the ceasefire mechanisms.

The fighting in May made new security arrangements in and around Abyei essential. It created a new humanitarian imperative, given the displacement of an estimated fifty thousand people. And it underlined in the starkest possible way the dangers inherent in the continued non-implementation of the Abyei Protocol for the partnership between the parties and for the CPA as a whole. The parties began intense negotiations within the framework of the Presidency, leading to agreement on the Abyei Road Map.

The Protocol relating to Southern Kordofan and Blue Nile states has been implemented, and there has been some concrete progress. But much remains to be done in both states.

In different parts of the Three Areas during the interim period there has been recurring tension between the SPLA and tribal and other groups aligned to the SAF, and conflict at local levels over access to water, land and grazing. In all three there is economic deprivation and a lack of basic services, including water health and education. For all of the areas the expected peace dividend has yet to be experienced. Only five per cent of the total estimated funding identified as being required for the Three Areas over the 2005-2007 period by the Joint Assessment Mission (JAM) has been forthcoming⁶.

Abyei

The Abyei Protocol

The Abyei Protocol tasked the Abyei Boundaries Commission (ABC) with defining and demarcating the area of the nine Ngok Dinka Chiefdoms transferred to Kordofan in 1905. The ABC's report and recommendations, which it submitted to the Presidency on 14 July 2005, have not been acted on. The NCP state that the ABC exceeded its mandate and the report is therefore not valid; the SPLM

⁶ Total costs of Phase I, 2005-7, of the JAM for development and reconstruction for the three areas were estimated at US\$735 million; by the end of 2007, only US\$38.7million was reported by the Government of National Unity as spent; Third Sudan Consortium – Joint Staff Assessment Report, p. 25

disagree stating, that as it was properly presented to the Presidency, it should be implemented. The impasse has stymied progress on the majority of provisions of the Abyei Protocol, including establishment of an administration and division of oil revenues. A high level joint political committee meeting between the NCP and the SPLM in May 2006 led to agreement between the parties on four options for resolving the border issue: (i) to reach a political solution; (ii) to invite the experts to come and present/defend their report; (iii) to refer the question for solution through legal means i.e. to the constitutional court; (iv) to refer to arbitration through a third party approved by the two sides. The first option was the preferred route, although the other options were not excluded by either party.

Growing frustration over the continuing delay in implementing most of the Abyei Protocol was one of the reasons given for the SPLM suspending participation in the GoNU in October 2007. The issue was not resolved when the SPLM returned to the GoNU in December 2007, but the parties did agree on the urgent need for a final settlement; they also agreed in principle to set up an interim administration. Discussion continued, covering this and interim border and wealth sharing arrangements, without an outcome until the outbreak of fighting in May.

In the absence of agreement, and the triggering of Abyei's special status under the Protocol, the wider area around Abyei was administered through the governorates of Warap and Southern Kordofan. Cooperation between governors at times proved useful in resolving disputes. But the absence of a Chief Administrator in Abyei, acceptable to both of the parties, and of a balanced administration acceptable to the local population, was felt acutely in Abyei town and the surrounding areas. It was reflected in the absence of much needed services and in the emergence of self administration and of parallel structures for policing and justice.

Failure to trigger the Protocol and establish an administration or borders also meant that such net oil revenues as should have been transferred since 2005

were not identified or allocated (c f page 21 above). Additional resources might have been expected from the National Reconstruction Development Fund, but this has not yet become operational. Funds from the GoNU for services etc were contingent on establishment of an administration. All this of course meant that resources for the civilian population were severely stretched, and that at a time when persons displaced by the civil war were returning

Security in Abyei

The security situation in and around Abyei over the past three years has been complex. In the absence of a delineated border each party deployed forces to areas contested by the other, which inevitably gave rise to tension. An Abyei JIU was in position but, in common with other JIUs, struggled with lack of resources and training: it imploded in the May fighting. An informal Abyei Security Committee – informal because of the absence of an Abyei area administration – functioned, incorporating the Commander of the SAF 31st Brigade, the Commander of the JIU (SPLA) and membership from the police NIIS and the Dinka and Misseriya communities, and proved effective in addressing some imminent security threats.

Tension was exacerbated by growing competition between the Dinka Ngok and Misseriya tribes over scarce natural resources, basic services and the passage during rainy and dry seasons of people and cattle. Local reconciliation efforts were successful in securing positive agreements on grazing rights along three of the main pastoral migration corridors - namely, the corridor that passes near Higlig to Unity; that passing around Abyei town; and that passing around Meiram. In future, priority should in the Commission's view be given to expanding these agreements, reconfirming the traditional rights of the Misseriya to graze cattle and move across territory and focusing on the safety both of the Misseriya and of people in the vicinity of the grazing routes.

UNMIS monitors were deployed in the Abyei area from the time of the signing of the CPA but their access was restricted. SAF's position was that the area north of Abyei town was not part of the cease fire zone and so did not fall within the scope of UNMIS' monitoring mandate. The SPLA in response imposed restrictions on UNMIS movement in the area south of Abyei town. Sporadic lifting of restrictions occurred on the ground but implementation even of such temporary freedom of movement was limited. The result was that monitoring of actual and potential conflicts was intermittent and ineffective including in the run up to the May fighting. The frustration of the UN Military Observers who AEC members met during their visit to Abyei on 28 May was palpable. Separate movement restrictions, and insecurity, also affected the work of UN agencies and international NGOs, hampering humanitarian and development work and other support to the people of Abyei.

Responding to the Abyei crisis: The Road Map

Abyei was discussed repeatedly at AEC plenary meetings in April, May and June 2008. An extraordinary plenary session was held in response to the crisis on 25 May 2008. On the same day, the CPC met and decided on the first steps to de-escalate the crisis. The AEC, including Mr. Deng Alor and Mr. Dirdeiri Mohamed Ahmed who subsequently signed the Road Map for the SPLM and the NCP respectively, visited Abyei, Agok and Muglad on 28 May 2008.⁷

The Road Map agreed by the parties on 8 June 2008 provides for the deployment of a new JIU and police to the Abyei area; withdrawal of SAF and SPLA troops; the return of those displaced by the fighting; and the establishment of an Abyei Area Administration with the special status set out in the Abyei Protocol.⁸ These steps are to be taken within deadlines varying from ten to thirty days from signature. UNMIS is to enjoy freedom of movement. Interim boundaries for the Abyei Area are agreed. The dispute over the findings of the Abyei Boundary Commission is to be referred to arbitration, to be arranged

⁷ The Three Areas Working Group Coordinator's personal record of the visit is at Annex D

⁸ Abyei Roadmap is at Annex E

through the Permanent Court of Arbitration in The Hague. In the meantime, and as already noted in the wealth sharing section of this report, oil revenue from the areas under arbitration (ie including the Higlig oilfield which lies outside the interim boundary) is to be allocated in accordance with the Abyei Protocol, and specified percentages of the GoNU and GoSS shares will go to development and unity projects along the North South border.

The Road Map is a significant achievement, concluded within the institution of the Presidency with exemplary speed. Problems which had proven intractable for months, indeed years, were settled in days in the spirit of partnership implicit in the CPA. But the deadlines for implementation are very tight (appropriately so, given the tense situation on the ground and the plight of the displaced). Details remain to be settled. The same sense of urgency that obtained during negotiation of the Road Map needs to be sustained through the implementation period.

On the security side the Road Map helpfully acknowledges that lessons need to be learnt from experience with earlier JIUs. The new JIU now deployed in Abyei, and responsible for security throughout the area, needs to be genuinely integrated. It will need to receive generous support in respect of equipment and training if it is to be effective. UNMIS will need to work very closely in support of the JIU on the ground, and to be proactive in exercise of its mandate. Its freedom of movement within the area must be genuinely unfettered. It may need new personnel given what is in effect an enhanced role and area of operation. The parties will need to show flexibility with regard to the composition of the Abyei administration. Given recent history real priority will need to be given to reconciliation efforts involving the Dinka Ngok and the Misseriya. Finally, the parties have chosen arbitration as the means to settle their dispute over the findings of the Abyei Boundary Commission, and it would be wrong to anticipate that process. But once immediate implementation issues are settled they might wish also to discuss the longer term: the separate arrangements in the Road Map on land and wealth sharing could provide a model for the future.

Members of the international community have warmly welcomed the Road Map. International support for the return of the displaced and for reconstruction will obviously be important. But there is readiness too, including on the part of AEC members, to help in other ways. The Commission strongly recommends that the parties avail themselves of donor support offered for the JIU. Legal assistance with regard to preparation for arbitration is another area in which international partners may be able to be of assistance.

Southern Kordofan and Blue Nile

As already noted, there has been progress in implementation of the Protocol for Southern Kordofan and Blue Nile. The governors and deputies of both states have been appointed, the executive and state legislatures have been established, constitutions adopted and other institutions confirmed. Both states are represented at the national level, including in the executive, the legislature and in various commissions. As stipulated by the CPA, in July 2007 the first SPLM nominated governor of Southern Kordofan was replaced by an NCP nominee and the first NCP governor of Blue Nile was replaced by an SPLM nominee.

A key component of the Southern Kordofan and Blue Nile Protocol is the provision, as a democratic right, for a process of popular consultation to allow the people of both states to express their views on the CPA. The timelines for this are now short. The availability of public information to increase popular understanding of the CPA and what its implementation means for the two states will be important. A start has been made with the appointment in late 2007 of the two states' Assessment and Evaluation Commissions (AECs). The independent commission to be set up by the Presidency now needs to be formed.

Pending demobilisation or integration some SPLA troops, and elements of other armed groups, remain present in parts of Southern Kordofan. Lack of reconstruction and development has a negative impact on integration and

security. For wider stabilisation the historical marginalisation of the Nuba needs to be addressed.

Delays in forming the state government and adopting the constitution in Southern Kordofan have meant that the legislature there has not had time to make much impact and have prevented budgets from being spent efficiently and on time. Both states, although represented on the FFAMC, are coping with the capacity challenges posed by fiscal and policy decentralisation. In the protocol the parties agreed that of the seventy-five percent of the total funds to be made available from the National Reconstruction and Development Fund for war-affected areas, allocations would be made in particular for Southern Kordofan, and Blue Nile; but as already noted the fund is not yet operational. The Presidency is also required to allocate an amount of money to each of the states. It is to be hoped that, as with Abyei, requisite funding will now become available expeditiously for both states.

Equitable representation of the parties and local communities has progressed in the top structure of government in both states but less well in institutions at the local or county level. To foster inclusion in both states, civil service commissions need to be established and integration carried forward in the civil service. It is also important to quickly move forward on police reform, including on the bringing together of parallel and different systems. As efforts to establish the states' police services are stepped up, it will be important to ensure that they are representative of the local population.

In both Southern Kordofan and Blue Nile there is strong competition between pastoralists, settled communities and returnees over land. Both parties agree that the establishment of state land commissions which would, among other things, review existing land leases and contracts, is a priority. According to the CPA, state land commissions can be formed in advance of the establishment of a national land commission, so delay in establishing the latter should not impact at the state level. Issues of land access and ownership are invariably complex and

demand long-term engagement: it is to be hoped that work on this issue can begin as soon as possible.

SECURITY

The overarching achievement of the Comprehensive Peace Agreement (CPA) is that the seemingly intractable civil war between North and South has ended and that over the last three years the larger peace has prevailed. This has been underpinned by a number of security reforms and measures. The Joint Integrated Units (JIUs) have been formed and co-located and significant progress has been made in redeployment and in the integration and disarmament of other armed groups (OAGs). Significant first steps have also been taken on disarmament, demobilisation and reintegration (DDR). These are major achievements which are central to the successful implementation of the CPA. There are, nonetheless, important challenges that remain to be tackled. The JIUs need greater support and attention; there is continuing insecurity in many parts of the South and intermittent conflict in the Three Areas which needs to be addressed; redeployment needs to be completed; the pace of DDR needs to be stepped up; and security sector reform more generally needs to be carried forward.

Cease-fire arrangements

The institutional arrangements relating to the ceasefire and monitoring have bedded down and are functioning well. The Joint Military Teams (JMTs) have been established to provide feedback to each of the six Area Joint Military Committees. They report to the Ceasefire Joint Military Committee (CJMC). UNMIS, the Sudan Armed Forces (SAF) and the Sudan People's Liberation Army (SPLA) are represented in both of these bodies. The CJMC has been effective in

resolving disputes and played a leading role in resolving the conflict in Malakal in November 2006. It has also been active in issuing formal reports to the Ceasefire Political Commission (CPC), which has helped build confidence between the parties: both the CJMC and the CPC were actively engaged in May 2008 in efforts to de-escalate and resolve the conflict in Abyei area. The CPC reports to the Presidency. The Joint Defence Board (JDB) oversees the implementation of the security arrangements. The JDB also oversees the deployment of the JIUs.

UNMIS reported no ceasefire violations between the SPLA and SAF from July 2006 to May 2008, which is welcome evidence of adherence to the CPA principle of resolving problems through dialogue and political will. The fighting in Abyei in May 2008, however, served as a very sharp reminder of the continuing risk of resumed conflict between them in areas along the border. Ensuring the freedom of movement of UNMIS, as already mentioned in the previous section, as well as reconfiguration of UNMIS deployment to potential flashpoints, would help to contain that risk.

Heavy fighting between armed groups of Misseriya / elements aligned to the SAF and the SPLA did however continue to occur during the period under review in the areas south of the town of Abyei, straddling South Kordofan and Bahr el Ghazal and near Kharsana. There were also ongoing acts of violence involving armed individuals in the transitional areas and in different parts of Southern Sudan. While such problems continue full security between North and South cannot be said to have been achieved. In the meantime the JMTs need to be granted full access across the Three Areas in particular, in order to become fully effective. A UN presence on the JDB when discussing JIUs and other matters in which in which the JDB agrees UNMIS has a concern would help greatly to ensure fuller transparency of security decision making and enhance co-ordination between UNMIS and the parties.

Status of Other Armed Groups (OAGs)

There has been significant progress in integrating OAGs over the last eighteen months. The SPLA states that all OAGs have now been integrated and the completed nominal rolls have been received by the CJMC. SAF have also declared that they have integrated or disarmed all former aligned OAGs. This claim is contested by the SPLA and UNMIS has confirmed that at least one OAG has been involved in fighting elements of the SPLA. The SAF argue that the existence of groups north of the “current border line” falls outside the scope of the CPA - though the CPA states that no armed group allied to either party shall be allowed to operate outside the two forces.

Redeployment

The UN verified figures for the redeployment of SAF either side of the “current border line” in April 2008 was nearly 98% per cent. Given standard variations in categories such as deserters and those on leave, this figure represents complete redeployment of the SAF. Measurement of SPLA redeployment is continuing and involves frequent recounts of troops in the designated assembly areas. Given the number of soldiers on leave or hospitalised at any one time, the numbers verified have varied. Nonetheless, the official figure for SPLA redeployment stood in April 2008 at less than eleven per cent.

The SPLM offer a number of reasons for the low figure of redeployment, among them being the delays in demarcation of the North - South border: the NCP dispute this. It is important that the process of redeployment be completed. Following the fighting in May, redeployment of the forces of both sides away from the immediate area of Abyei town is now agreed.

Status of Joint Integrated Units (JIUs)

The deployment of militarily effective JIUs is key to the completion of the CPA security arrangements. Not only would they form the core of a future national army, they also have important symbolic value as an expression of co-operation between the SAF and SPLA. They enable the two parties to maintain a shared

military presence in strategic areas where a lack of trust would make it difficult for either to withdraw completely. If properly constituted, trained, equipped and deployed as originally envisaged, the JIUs would also be able to provide support to the organisation of the elections and referenda and play a positive role in the detailed implementation of DDR programmes. More widely, they could provide the vehicle through which to continue to build trust between the parties and a shared vision of the future.

Good progress has been made in setting up the JIUs, though a good deal remains to be done if they are to be genuinely integrated. Over eighty five per cent of the total number of individual soldiers authorised under the CPA to join the JIUs have now been deployed to their designated units. The force, totalling some 39,000 soldiers, is split equally between SAF and SPLA members, all units have been formed and most have deployed. It comprises a JIU headquarters in Juba, five divisional headquarters and twelve brigade headquarters. Forty seven battalions tasked with security, are now deployed in Khartoum, the Three Areas and across much of the South.

The JIUs have achieved some operational success. Joint patrolling is underway in a number of towns, with JIUs, working to State Governors, carrying out security tasks, including security of the oil installations. The deployment of a Joint Integrated Demining Unit to clear the Babanousa-Wau railway (445 km) connecting Northern and Southern Sudan has been a particular success. Despite these achievements, lack of resources and of training has prevented the JIUs from developing into militarily effective and integrated units. Indeed, rather than acting as pillars to support the CPA, their lack of resources constitutes a potential threat to its implementation.

The urgency of further support for the JIUs was made apparent to the AEC Security Working Group during their visit to Juba and Bentiu in March 2008. The JIUs lack access to fresh water, leading to cases of typhoid, non-deployment in some areas and withdrawal after initial deployment in others. Access to scarce

water also has the potential to cause conflict with local communities. Infrastructure, including accommodation, is inadequate and sanitation is consequently poor, contributing to well above average levels of malaria and HIV. The director of the JIU hospital in Juba believes that levels of malaria, typhoid and HIV within the JIUs are just below epidemic level. No unit has a vehicle or any communications systems, rendering them operationally ineffective and unable to evacuate serious medical cases. Units are not able to carry out basic training and inactivity is causing low morale and indiscipline. The JIU HQ is not properly able to exercise its command and management function due to a critical absence of communications equipment and effective office facilities. Transport is also an issue, but not as grave as at brigade and battalion level. The Working Group concluded that, unless action is taken to remedy these shortcomings, conflict within the JIUs could break out and escalate in the south. The serious ceasefire violations in Malakal in November 2006 when components of the JIUs fought each other, and in Abyei in May 2008 when under the strain of conflict the JIU imploded and members also fought each other, serve as a reminder of this wider risk.

Under the terms of the CPA, the Government of National Unity (GoNU) is obligated to fund the JIUs, with the support of the international community. The GoNU has released sufficient funds to pay salaries and provide uniforms, but has only disbursed around forty per cent of the JIUs' 2007 budget allocation. As a priority the full allocation needs to be released. Lack of political trust and will between the parties contributed to delay in the deployment of the JIUs. Now that the parties have, over the last six months, opened the door to greater UNMIS and international support the opportunity exists for others to do more. UNMIS, which is mandated to support the JIUs, could step up efforts within their existing assets. Help might include engineering support to improve basic infrastructure, and cadre training. A start has been made with the establishment of a JIU support cell in UNMIS through which support can be channelled. The international community should respond to the need for inexpensive "quick fix"

but high impact actions, a longer-term training programme and provision of resources. As already noted assistance in this regard to the new Abyei JIU will be particularly important.

Disarmament, Demobilisation and Reintegration (DDR)

Successful disarmament, demobilisation and reintegration is essential for the development of an appropriately sized, efficient and democratically accountable armed force. It would also remove a potential source of future instability, meet the moral obligation towards former combatants and their dependants – especially special needs groups (disabled, women and former child soldiers) - and relieve some of the current crippling budgetary pressure on both north and south. But success will depend on an integrated, well-planned and funded, coherent approach. Particular attention will need to be given to implementation in parts of the Three Areas, given the tension that has prevailed.

Progress over the last two years has been constrained in part by organisational problems in the UN Integrated DDR Unit (UNIDDRU) and by a lack of political engagement. Over the last six months these problems have been resolved and significant progress has now been made. This has been particularly marked at the political level. The National DDR Coordinating Council (NDDRCC) has convened and Joint Coordination meetings between the North and South Commissions are now regularly taking place. This has been complemented by the formation of a UN DDR Steering Committee. A successful DDR Round Table of GoNU, Government of Southern Sudan (GoSS), UN and donors on 9 April led to several clear recommendations on the way forward.

The NDDRCC has adopted a national strategy, although a small number of policy issues remain outstanding, and has agreed a reintegration policy. Most significantly, agreement on the size and scale of the multi-year DDR programme has now been reached. This will target 180,000 individuals (split evenly between the SAF and SPLA) in the CPA areas over four years. The SPLA has already

registered over 25,000 candidates and the SAF nearly 26,000. These figures include significant numbers of special needs groups – 5,284 women and 17,500 disabled combatants. While the eligibility criteria have been elaborated in the National DDR strategy, it will be necessary to provide to the international community a clear selection process for DDR candidates. In particular, there needs to be provision in place that would disqualify individuals who receive pensions from also receiving (pro-rated) reintegration benefits.

The UN has proposed late 2008 as a realistic start date for the introduction of a DDR programme that will be in time to make a difference to CPA implementation. Time is therefore short. There is a pressing need to agree a date to begin the demobilisation phase. It will be important to have effective reintegration programmes well developed and funding in place in order to avoid the risk of a significant gap between demobilisation and reintegration.

The total cost of the DDR programme is set at US\$566 million; with around US\$430 million for reintegration and around US\$136 million for disarmament and demobilisation. Agreement has been reached on a per capita cost of US\$3000 as the Government's estimate of the needs for reintegration. Of this amount US\$1750 is the assumed costs of individual support to ex-combatants, to be largely funded by donors. The Government of National Unity and the Government of Southern Sudan will contribute a certain percentage as well as seek funding for the remaining US\$1250. On top of the sum requested for individual support to ex-combatants, support is also sought for a US\$550 million community security and arms programme in the Northern states and for a US\$62 million community-based development package in the South: however these programmes are at a very early stage of development.

The overall estimate for the above programmes is extremely high and will compete with other funding priorities in Sudan. It will be important to ensure that elements of the community-based programmes do not overlap with other recovery and development efforts. Implementation of an effective DDR

programme will need to incorporate sufficient managerial and planning capacity. The formal involvement of relevant ministries in the implementation of reintegration programmes will be important.

Overall, significant progress has been made in preparing for DDR in recent months. Most recently, on 25 June 2008, the GoNU, the GoSS, and the UN signed in Geneva a multi year project document for the reintegration component of DDR: the funding mechanism for receipt of voluntary contributions was also agreed. The signature of this document, covering an important aspect of CPA implementation, is an important step forward. However several planning challenges remain, including with regard to demobilisation procedures and modalities as well as capacity building for national DDR entities.

INTERNATIONAL SUPPORT FOR THE COMPREHENSIVE PEACE AGREEMENT

The international community's interest in and support for the CPA was demonstrated at Naivasha. The parties, in the chapeau to the agreement, appealed for continuing support as it was implemented. Naivasha created expectations with regard to the international community's role in implementation as well as that of the parties.

Since then the UN Security Council, IGAD, the African Union, the Arab League and the European Union, among others, have repeatedly underlined their support for full implementation. This support has received vital practical expression through UNMIS and through financial and technical assistance, including crucially that initiated by the Joint Assessment Mission (JAM) and the first Sudan Consortium meeting in Oslo. It has also been reflected in the continuing active participation of the governments and organisations which are AEC members or observers in the work of the Commission.

It is not the purpose of this report to repeat analysis undertaken elsewhere in recent months of international assistance in the first half of the interim period and of the impact of other demands, notably those relating to the situation in Darfur, on such assistance; or of the role of UNMIS. The issues are fully covered in the Joint Staff Assessment and the Joint Report of the Government of National Unity and the Government of Southern Sudan prepared for the Third Consortium meeting; and in the reports of the UN Secretary General to the Security Council relevant to the CPA and to the fulfilment of UNMIS' mandate, the most recent of which was submitted on 22 April. Rather the purpose is to emphasise the importance of continuing support in the coming period, and also to highlight priorities which are particularly relevant to the objectives of the evaluation.

In terms of assistance the Third Consortium meeting in Oslo had before it proposals for early recovery and development programmes from international agencies and from the Government of National Unity and the Government of Southern Sudan which, if funded, should have a real impact on perceptions of the absence of a peace dividend – perceptions which were fed in part at least by the slow disbursement originally of aid pledged through the Multi Donor Trust Funds and the inevitable focus in the South on capacity building and humanitarian assistance. Some US\$4.8 billion was pledged at the latest Consortium meeting. The continued deep divergence in the level of development between the different regions, the poor performance of Sudan against the Millennium Development Goals indicators and the centrality of the CPA to peace in the country as a whole all argue for generous international assistance in support of implementation in the second half of the interim period.

As already suggested priority areas for such assistance of particular relevance to the objectives of this evaluation include the elections due to be held next year when very substantial assistance, both technical and material, will be required; DDR and JIUs; and funding, both national and international, for services and

development projects in the Three Areas and along the border. Emphasis should also be placed on the unity projects presented by the two governments and designed to put in place infrastructure to link the South and North of Sudan, facilitating and supporting an interdependence which is important economically and socially to communities throughout the country (the agreement reached in the Abyei Road Map on the use of funds derived from oil revenue from the area under arbitration holds out the promise of some new national funding to kick start some of these).

UNMIS is the visible manifestation of the international community's commitment on the ground. It can help sometimes with community and local infrastructure projects. Its role is crucial in providing expert advice and support to the parties. As implementation moves forward the tasks evolve or increase, as now in relation to DDR or election preparations.

The Commission would wish to take this opportunity to stress again the importance it attaches to the parties making the fullest possible use of UNMIS' capabilities, especially in helping to contain and defuse tensions when they arise. In this context it is worth noting again the extent to which restrictions on its freedom of movement are self-defeating in terms of the parties' interest in preserving the peace. UNMIS' intention to strengthen still further its conflict management capacity and work to support local conflict management is particularly welcome in the light of recurrent instances of violence, including between local communities, in the South and the border areas.

The AEC's monitoring role will grow in importance as the major milestones of the second half of the interim period – elections, popular consultation, the referenda – approach, and decisions are taken on outstanding issues such as Abyei and the border. As an institution it is meagrely staffed, but it brings the parties together on a regular basis with governments from the region and beyond with a longstanding record of support for and experience of the peace process. The

AEC staff is being strengthened and a staff presence should be established in Juba.

The real test for the AEC in the coming period will be whether it can carry out its mandate not just by regularly monitoring arrangements through discussion but also by working with the parties to develop ideas and recommendations which help in improving the institutions and arrangements created under the agreement and in making the unity of Sudan attractive, as stipulated in the Machakos Protocol. In this it will continue to be dependent not just on its staff and international members but also crucially on the cooperation of the parties and on the active support and participation of observers – the United Nations, the African Union, the Arab League and the European Union. The recent enhanced participation of the AU, Arab League and EU has been particularly welcome.

The AEC's importance derives from the unique and specific role conferred upon it by the CPA. But regional and international interest in the successful implementation of the CPA extends far beyond the AEC membership or, for that matter, the donors represented in Oslo. The AEC should look for ways to encourage the broadest possible international support for this objective in the coming period. AEC members and others should keep under review the idea of a high level international meeting or meetings at future stages in CPA implementation to support progress and help overcome blockages.

CONCLUSION: MAKING UNITY ATTRACTIVE

The introduction to this evaluation spoke of the possibility of new momentum in CPA implementation, and of significant milestones which have already been passed during the course of the present year. The solid achievements of the first half of the interim period will have been evident from the subsequent sections of the evaluation. Full implementation of every aspect of the CPA was always likely

to prove extremely challenging. The burden on the parties and on all branches of government has been heavy, and the transformations achieved impressive.

But recent events in Abyei have highlighted a major threat to the stability of the agreement resulting from lack of implementation. As the evaluation has demonstrated there is a backlog of outstanding actions which, given the interlocking nature of the CPA, need to be addressed to ensure success in meeting the challenges ahead, including notably that of next year's elections.

Implementation is of course not just a matter of putting arrangements in place. If the objectives of the CPA, in particular in making unity attractive, are to be met the parties need to make, and to be seen by the people of Sudan to make, every effort to achieve full implementation and to reflect and foster the spirit of the agreement and the guarantees of individual rights set out in the Interim National Constitution. Building confidence and trust, and fostering links between North and South, is as important now as in the early days of peace.

Indeed one could argue that it is more important. The CPA has at its end point an uncertainty, or uncertainties, in the shape of the 2011 referenda, and the exercise by the people of the South of their right to self-determination. In the section on the Power Sharing Protocol we noted the importance of beginning soon the practical studies and preparation which will be needed before measures are adopted in respect of the referendum in the South. The whole thrust of this evaluation has been to identify at the mid point in the interim period those steps which are now, or will soon be, necessary to ensure the agreement's success and thus make unity attractive. It will be important to use the next three years to put in place links and to develop arrangements across the political and economic, energy and security fields which look beyond 2011 and will obtain and be beneficial whatever the outcome of the referendum. The successful negotiation of the Abyei Road Map could provide the impetus for this. The development of

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such arrangements, reflecting the fundamental interdependence of North and South, will be important to lasting peace in Sudan.

APPENDICES

Annex A: Institutional measures taken in implementation of the CPA

Adoption of the Interim National Constitution (INC)

Establishment of the National Legislature

Establishment of the Institution of the Presidency

Appointment of the Government of National Unity (GONU)

Establishment of the National Judiciary

Adoption of the Interim Southern Sudan Constitution

Establishment of the Southern Sudan Legislature

Appointment of the Government of Southern Sudan (GoSS)

Establishment of the Southern Sudan Judiciary

Adoption of the 25 State Constitutions

Establishment of the State Legislatures

Establishment of the State Governments

Appointment of the State Governors

Establishment of the State Judiciaries

Annex B: Legislation enacted during the first six sessions of the National Assembly:⁹

1st session (31st August 2005 – 22nd February 2006)

Constitutional Court Act (2005)

Judicial Service Commission Act (2005)

Bank of Sudan (Amendment) Act (2005)

⁹ This text is based on the list handed out on 12 June 2008 at the AEC special plenary session at the National Assembly

Resources Allocation Act 2005

Financial appropriation (general budget 2006) and accompanying Acts 2005

Joint/Integrated Forces Act, 2005

Voluntary and Humanitarian Work Organisation Act 2006

2nd session (17th April 2006 – 3rd July 2006)

Insurance control (amendment) Act 2006

3rd session (30th October 2006 – 24th January 2007)

Financial resources sharing 1999 (repeal) Act 2006

Bank of Sudan (Amendment) Act (2006)

Financial provision (General government expenditures, expenditure for development, for taking a share in the Capitals of Public Companies and Corporations) in the period from 1/1/2007 to 31/12/2007, Act 2006

Income Tax (amended) Act 2006

Value Added Tax (amended) Act 2006

Capital profits (amended) Act 2006

Procurement of resources and revenues in the period from 1/1/2007 to 31/12/2007 Act 2006

National Civil Service Act, 2007

National Civil Service Commission Act 2007

Political Parties Act, 2007

Accountability of the National Civil Services Act 2007

Development fund of Southern Sudan and the War-affected Act (Repeal) Act 2007

Development of Mineral Resources and Mining Act 2007

4th session (4th April 2007 – 11th June 2007)

The National Information Crimes Act 2007

Electronic Transactions Act, 2007

Al-Nelain Bank group for industrial development act (1994) (repeal) Act 2007

5th session (24th October 2007 – 17th January 2008)

Resources and Revenue Allocation Act – from 1st January to 31st December 2006 for the year 2007

The National Budget Act (the Public Revenues, government expenditure and Acquisition of Financial and non-financial Assets)

Value Added Tax (amendment) Act 2007

The Social Development Tax Act 2007

Investment Encouragement (Amendment) Act 2007

The Financial and Accountability Procedures Act 2007

Income Tax (amended) Act 2007

The Armed Forces Act 2007

The Medical, Sciences and Technology University Act 2007

The Sciences and Technology University Act 2007

The Holy Quran and Sciences Regionalization University Act 2008

El Butana University Act 2008

Sudan International University Act 2008

Kerari University Act 2008

Rumbek University Act 2008

6th session (7th April 2008 -)

National Public Health Act 2008

Measurement and Calibration Act 2008

Metrology and Standards Act 2008

Al-Salam University Act 2008

Council of Developing and Promoting Natural Languages Act 2008

National Council for Population Act 2008

Valuable Minerals and Precious Stones Act 2008

National Council of Childhood Care Act 2008

National Medical Commission Act 2008

National Police Act 2008.

Annex C: Southern Sudan Commissions

On 27th June 2006, when the SSLA was on recess, the following 14 Southern Sudan Commissions were established through Presidential decree:

Southern Sudan Relief and Rehabilitation Commission

Southern Sudan De-Mining Authority;

Southern Sudan Peace Commission;

Southern Sudan Anti-corruption Commission;

Southern Sudan Human Rights Commission;

Public Grievance Chamber;

Reconstruction and Development Fund;

Civil Service Commission;

Land Commission;

Fiscal and Financial Allocation and Monitoring Commission;

Centre for Census Statistics and Evaluation;

HIV/AIDS Commission;

Audit Chamber;

Employees Justice Chamber.

Annex D: Personal Report of the Coordinator of the Three Areas Working Group on the AEC visit to Abyei, Agok and Muglad: 28 May 2008

Observations and Conclusions of the AEC Visit to Abyei, 28 May 2008

Report of the coordinator of the Three Areas working group

On Wednesday 28 May, the Assessment and Evaluation Commission (AEC) visited Abyei-town, Agok and Muglad in order to get a first hand impression of the situation in order to make recommendation to parties how the current situation can be addressed and how the recent developments can be prevented in the future. Acting upon the decision of the AEC Plenary, the visit was organised by the Netherlands as Coordinator of the AEC Working Group for the Three Areas and included senior representatives for both parties such as Minister of Foreign Affairs Deng Alor for the SPLM and Abyei expert Dr. Al Dirdeiry Mohammed Ahmed for the NCP.

Abyei-town

In Abyei-town, the AEC delegation received a briefing by the Commander of the Zambian TCC, United Mission in Sudan (UNMIS) and the UNMIS Head of Office in Abyei. The Zambian TCC stressed that due to the continuous build up of troops, the danger of resumption of fighting was present. Key issues discussed with the Zambian TCC and the United Nations Military Observers were the freedom of movement of UNMIS, the need for freedom of reporting. Key observations and recommendations were:

* It is still unclear what led to the clashes and subsequent destruction of (parts of) Abyei-town. The CPC decided to start a full and independent investigation into the events leading to the clashes and destruction.

Recommendation: Request the CJMC to start this investigation as soon as possible and call upon the parties to fully co/operate with the investigation including letting UNMIS military observers unfettered access to Abyei.

* According to the United Nations, despite the decision and recommendation of the AJMC and CJMC, parties continue to maintain a large number of troops in the region making the resumption of hostilities a realistic option

Recommendation: Implement the CPC-decisions confirming and supplementing the AJMC and CJMC decisions, and immediately withdraw all non-JIU troops and militia, including elements of the former JIU from in and around Abyei in order to create an area of disengagement. The Government should redeploy a new JIU unit as soon as possible which is technically assisted by the United Nations Mission in Sudan and supported by the international community.

* Restrictions imposed by both parties of the freedom of movement for UNMIS are the rule rather than the exception. The restrictions are more stringent for the UNMIS military observers than for the UNMIS civilian component but both short of what is required under the Comprehensive Peace Agreement (CPA) and the Status of Forces Agreement (SOFA).

Recommendation: Remove all the restrictions for the UNMIS military observers and UNMIS civilian component so as UNMIS can exercise its duties mandated to it under UNSC 1590 and subsequent resolutions most recently UNSCR 1812.

* UN military observers have no freedom of reporting. If one of the parties does not agree with the scope and content of the reporting, the report does not get filed and the information is lost

Recommendation: Ensure optimal and free reporting in line with the UNSC 1590 and the CPA. UNMIS and parties should devise a mechanism that ensures free reporting. The information and reporting should be made more transparent and accessible to the international community.

The delegation was taken on a tour of Abyei-town and was confronted with scenes of mass and organized lootings. The damage to the centre of town, and increasingly in the periphery of town, was extensive.

Recommendation: A strong national and international condemnation of the looting, emphasizing the need for immediate actions to ensure the safety of Abyei-town and the belongings of the inhabitants of Abyei

Agok

The AEC delegation subsequently travelled to Agok where the bulk of the Dinka Ngok IDPs have fled to after the clashes started. The delegation was briefed by the UN and other agencies involved in the humanitarian effort. The following observations and recommendations were noted:

The delegation met with representatives of the SPLM in Agok and the Dinka Ngok nine tribal leaders and their deputies who were critical of the role played by the SAF in the recent events. Also UNMIS was criticised for not having reacted adequately to the events. According to the SPLM and Dinka Ngok, the humanitarian effort was appreciated but this was only a temporary solution. The real change and effort should be concentrated on Abyei-town so as to enable a return of the IDPs as soon as possible. They pleaded for the withdrawal of all SAF-forces and Misseriya militia from Abyei-town.

* The number of affected people was estimated to be up to 90.000. Sufficient food and Non-Food Items (NFI) are available but the humanitarian effort would greatly benefit from opening of the northern supply route. Currently, the food and NFIs are taken from pre-positioned stocks in South Sudan which limits the capacity of the UN to answer to any further incidents requiring humanitarian assistance. OCHA Khartoum will be responsible for the needs assessment.

The overflight of Antonovs-planes whether observation or regular/scheduled overflight are causing uncertainty amongst the IDPs and humanitarian assistance staff, and is affecting the efficiency of the humanitarian effort. The SAF is blocking the northern supply route.

Recommendation: Refrain from flying Antonov or airplane sorties in the Abyei airspace for the duration of the current crisis thereby creating a de fact humanitarian airspace over Abyei.

Recommendation: The SAF should open the northern supply route immediately to create an humanitarian corridor.

Recommendation: The parties to work with the UN to do as soon as possible an assessment of the damage to Abyei-town, and cooperate fully with the UN to enable the return as soon as possible of the IDPs to Abyei-town

Recommendation: The Government, UN humanitarian agencies and the international community should act together without delay to address the issue of reconstruction to permit the safe and voluntary return of the IDPs as soon as possible.

Muglad

In Muglad the AEC delegation met with the Abyei Locality Commissioner and Misseriya representatives led by the Paramount Chief. The Misseriya stated that up to 5.000 Misseriya fled Abyei-town but were absorbed for a great part by the local community. Nevertheless, the Misseriya needed humanitarian support and were concerned about the

lack of attention given to Muglad by the international community. Dinka Ngok and Misseriya had always been partners in Abyei-town and should be able to co-exist. The current developments have affected the relations between the Dinka Ngok and Misseriya.

Recommendation: Ensure the humanitarian assessment of Muglad and the situation of the Misseriya as soon as possible and allocate commensurate resources to the Misseriya as soon as possible and for parties to co/operate fully with this effort including letting UNMIS establish a permanent presence in Muglad.

Recommendation: The Parties to start a reconciliation process between the Dinka Ngok and Misseriya as soon as possible addressing the current and past grievances.

General Recommendation: Request the AEC Working Group on the Three Areas, in consultation with the relevant other Working Groups, predominantly the WG on Security Arrangements, to follow up on the recommendations with parties.

END, WGTA, LT, 31 May 2008

Annex E: Abyei Roadmap: 8 June 2008

**The Road Map for Return of IDPs
and Implementation of Abyei Protocol
Khartoum, 8th June 2008**

1. Security Arrangements:

- 1.1. The JDB shall deploy a new JIU battalion within a maximum of ten days from the date of adoption of these resolutions by the Presidency; the new JIUs battalion shall be constituted from new elements other than those elements of the former Abyei JIUs battalion as per the resolution of the CPC issued on 27/5/2008. The Parties urge the JDB to learn the lessons from the experience with the former Abyei JIUs battalion and expedite training and integration process to make this new battalion a model unit and more effective.
- 1.2. Police shall be deployed in the area after consultation between the National Minister of Interior and Minister of Internal Affairs of Government of Southern Sudan within two weeks from the date of adoption of these resolutions.
- 1.3. UNMIS force in Abyei area shall have free movement and access to the north and south of Abyei area to carry out its mandate as specified in the CPA.
- 1.4. With the deployment of the new JIU battalion and police force in the area and resumption of their duties, SAF and SPLA troops shall be redeployed beyond the Abyei administrative area as per the attached map.
- 1.5. The Parties condemn the incidents that took place recently in Abyei, and confirm the CPC resolution to immediately investigate the incidents by CJMC plus additional members as shall be agreed upon by the Parties.

2. Return of IDPs:

- 2.1. The civil population shall return to their former homesteads on completion of the above mentioned security arrangements, which are expected to finish before the end of June 2008.
- 2.2. The GoNU shall take all arrangements for availing the resources for the return programme of the civil population and with the involvement of the relevant international agencies and organizations, which shall be implemented through the Abyei Area Administration.

3. Interim Arrangements for Abyei Administration:

Without prejudice to the outcome of arbitration as per the provisions of section 4 below, the Parties agree on the following:

- 3.1 The Presidency shall set up Abyei Area Administration as per the provisions of the CPA within two weeks from the date of the adoption of these resolutions.
- 3.2 The interim boundaries of the administration of Abyei Area shall be as per the attached map.
- 3.3 The administration of Abyei Area shall be accorded special administrative status and perform its functions as per the provisions of the Abyei Protocol.
- 3.4 The Presidency shall appoint Chief Administrator as nominee of the Sudan People's Liberation Movement (SPLM) and Deputy Chief Administrator as nominee of the National Congress Party (NCP) from among the residents of Abyei area as per provisions of the CPA. The Parties shall observe in their nominations considerations of amity, reconciliation and accord.

- 3.5 The Chief Administrator, in consultation with Deputy Chief Administrator, shall make recommendations to the Presidency for the appointment of the heads of departments and members of Abyei Area Council from among the residents of Abyei area as per the provisions of the CPA.
- 3.6 The Presidency to avail the necessary funds to the Abyei Area Administration for delivery of basic services and running of administration in accordance with the provisions of the CPA.
- 3.7 The Presidency shall initiate the peace and reconciliation in the area in collaboration with the administration of the area and the surrounding communities.
- 3.8 The Presidency shall work at making Abyei area a model of national reconciliation and peace building.
- 3.9 Without prejudice to the wealth sharing formula agreed upon in the CPA and pending the final demarcation of the Abyei area in accordance with the arbitration award and subject to its outcome, the oil revenue from the oilfields in the areas under arbitration shall be allocated in accordance with the wealth sharing arrangements in Abyei Protocol.
- 3.10 The Government of National Unity and Government of Southern Sudan shall contribute fifty percent (50%) and twenty-five percent (25%) respectively from their oil revenue share from oilfields in the areas under arbitration to a fund to be established by the Presidency for the development of the areas along the North-South border and financing the joint projects presented to the Third Sudan Consortium in Oslo, Norway, May 2008.

4. Arrangements for Final Settlement:

Without prejudice to the position of either party on the findings of the Abyei Boundaries Commission (ABC) Report, the Parties agree on the following:

- 4.1. The two parties shall resort to a professional and specialized arbitration tribunal to be agreed upon by the Parties to settle their dispute over the finding of the Abyei Boundaries Commission (ABC).
- 4.2. The two parties shall work out the terms of reference (*compromis*) for the arbitration which shall include nomination of professional arbitration tribunal, selection process of the arbitrators, referred issues for decision by the arbitration, procedure of arbitration, decision making process and the enforcement of the award of the arbitration tribunal.
- 4.3. The parties commit themselves to abide by and implement the award of the arbitration tribunal.
- 4.4. The entire arbitration process including the issuance of the final award shall be done within a period not exceeding six months from the date of the formation of the arbitration tribunal, and subject to an extension for a period not exceeding three months.
- 4.5. In case the two Parties failed within one month to reach agreement on the arbitration tribunal or *compromis* or other terms of reference and rules of procedure for the arbitral process, the Secretary General of the Permanent Court of Arbitration (PCA), the Hauge, shall, within fifteen days, designate an institution and finalize the rules of procedures and terms

of reference in accordance with the PCA Rules and applicable international practices.

Signed by:

Mr. Dirdeiry Mohamed Ahmed
National Congress Party
Khartoum, 8th June 2008

Mr. Deng Alor Kuol
Sudan People's Liberation Movement,
Khartoum, 8th June 2008

Endorsed by the Presidency:

Vice President of the Republic

First Vice President of the Republic

President of the Republic of the Sudan