

AEC FINAL REPORT

INTRODUCTION

Within a few days, on 9 July, a new sovereign state, the Republic of South Sudan, will be born. The separation of the two republics, Sudan and South Sudan, comes as the result of the free choice of the people of the south in the self determination referendum, accepted without hesitation by the government in Khartoum. For the people of the south this is a great prize. For all of the people of Sudan – north and south – peace has been a prize of inestimable value, hard won in the Comprehensive Peace Agreement (CPA) of 2005 after decades of struggle. Recent weeks have seen a disturbing return to fighting in parts of the CPA ceasefire zone, with serious humanitarian consequences. New understandings have been reached in response to the fighting. And intensive negotiations have been conducted over many months with the aim of ensuring that peace and neighbourly relations are sustained in the post CPA period. These have led to agreements on a substantial number of outstanding CPA and post secession issues. The parties agreed, at an extraordinary IGAD summit in Addis Ababa on 4 July, to continue negotiations after 9 July with the aim of resolving all outstanding issues in the spirit of the CPA.

The Machakos Protocol - the starting point of the CPA - provided for the establishment of an Assessment and Evaluation Commission (AEC). Its membership was to include the two parties and the governments and international organizations which witnessed the agreement. Its mission was to monitor and support the agreement's implementation. The CPA gave little further direction as to the AEC's role, and attributed no powers to it. But it has met regularly throughout the interim period, providing a forum for communication between the parties and with the international community; made frequent field visits; agreed recommendations to members, including the parties; participated in the resolution of problems, for example during the 2008 Abyei crisis; and over the past year provided extensive support to the negotiations between the parties which have taken place under the auspices of the African Union High Level Implementation Panel (AUHIP), thanks to generous funding from member governments in particular the UK and Italy.

Like other CPA institutions the AEC closes down this month at the end of the interim period. It has previously published two analytical reports with recommendations - the mid term evaluation required by the Machakos Protocol in July 2008, and a further report submitted at the three quarters point in the interim period in January 2010. Members decided in April 2011 that a final report at the end of the interim period, on completion of the CPA, would be appropriate. The present paper is submitted pursuant to that decision.

The report is intended - like its predecessors - to provide an objective assessment of CPA implementation, with specific reference to the eighteen months since the January 2010 evaluation was published. It looks too at the negotiations between the parties under the auspices of the AUHIP and the agreements reached. And it offers, at different points in

the text and in the conclusion, some observations and recommendations which have been broadly discussed by members including the two parties, with regard to the future handling of the issues covered in it and to relations in the period ahead between north and south in Sudan and their partnership with the international community. Where recommendations with regard to the future occur in the text they are printed in bold for ease of reference.

THE FINAL PHASE OF THE CPA

Previous Assessment and Evaluation Commission reports have highlighted the resilience of the Comprehensive Peace Agreement. They described its success in maintaining peace between north and south after decades of civil war and in creating circumstances in which refugees and displaced persons could return to war affected areas; economic development could be pursued; and political transformation advanced, alongside a very high degree of self government in the south.

CPA implementation was not problem free. The agreement was complex and mistrust remained deep. Earlier AEC reports detailed how some provisions were neglected or subject to delay in implementation. When the January 2010 report was agreed preparations were finally underway for elections across Sudan. Enabling legislation had just been agreed after lengthy and difficult negotiations between the parties in respect of the self determination referendum of the people of the south, the referendum in Abyei and popular consultation in Southern Kordofan and Blue Nile. This section of the present report will address developments in each of the main CPA protocol areas since then, with a primary focus on the outstanding priorities identified in earlier AEC reports. Where it addresses CPA issues which were still outstanding as the end of the interim period approached it also briefly describes understandings now concluded between the parties, or the point reached in discussions between them, with regard to future arrangements.

ELECTIONS

Elections – a critical milestone in CPA implementation – were held peacefully throughout Sudan in April 2010. The elections covered all levels of government (except in Southern Kordofan where, because of SPLM concern about the census on which constituency demarcation was based, state level elections were postponed). They were conducted with a high degree of support from the international community, including the UN and the donor governments, and extensively monitored by domestic and international observer missions. The parties moved quickly after the elections to form a new Government of National Unity (GoNU) in which the division of portfolios between them reflected the power sharing arrangements agreed in the CPA for the pre election period.

The democratic transformation envisaged in the CPA is not of course something that can be achieved through a single election. Nor is it an area in which a body such as the AEC is well equipped to advise. **But both states envisage the drafting of new constitutions**

post secession: democratic systems which are as inclusive as possible would seem to remain necessary goals for both, particularly given the need to embrace and manage their continuing diversity.

SELF DETERMINATION REFERENDUM

The Southern Sudan Referendum Commission was appointed in June 2010. It took time for staffing to be agreed and the commission to get up and running. Thereafter, however, the commission – with strong support from the United Nations Mission in Sudan (UNMIS) - moved with impressive speed to put in place organizational arrangements for the referendum. The President of Sudan, President Omar al Bashir, visited Juba on 4 January 2011 and underlined the readiness of the Government of Sudan to accept the choice of the people of Southern Sudan and recognise and work with the new state in the event of secession.

Voting took place from 9 to 15 January across the south and among Southerners in centres in the north and outside Sudan. The result was an overwhelming vote for secession.

AEC staff were among those monitoring the referendum. In a statement on 25 January the AEC welcomed “the peaceful conclusion of the vote and congratulated the people of Southern Sudan who had turned out in very significant numbers to exercise their right of self determination as provided for in the CPA”. The AEC expressed “appreciation to President al Bashir and First Vice President Salva Kiir Mayardit for bringing CPA implementation safely to this point and for their commitment to accept the result”. It commended the Referendum Commission, the UN and others concerned for the immense effort made to ensure that “the referendum happened on time and in a credible, well organized and professional manner”.

The result of the referendum was received calmly throughout Sudan, reflecting both the convincing nature of the process and the result and the responsible reaction of the leadership of both parties. In discussion in the AEC and subsequently in meetings of the Presidency the parties confirmed that existing CPA arrangements and institutions would remain in place until the end of the interim period.

The organisational success of the referendum was such that those engaged in similar exercises in future elsewhere in the world might well learn from it. A full and authoritative account should be written, and all credit should continue to be given to those responsible for its success.

NORTH / SOUTH BORDER

The AEC January 2010 report said that work on delimitation and demarcation of the north / south border had been stuck for many months. Agreement had been reached on

delimitation of eighty per cent of the 1/1/56 line (the border as it stood on Sudan's independence, which is the standard accepted by the parties in the CPA). But differences remained with regard to a number of areas along the line and no agreement had been reached on modalities for demarcation on the ground.

For most of the period under review there was no substantive advance on this position. Repeated disagreements in the ad hoc technical committee dealing with the border contributed to the impasse. The border issue was referred to a political committee of the two parties but little progress was made.

Efforts were however made jointly by the parties under the guidance of Vice President Ali Osman Taha and Government of Southern Sudan Vice President Riek Machar in 2010 to encourage cross border cooperation, notably in conferences of border state governors under their chairmanship in Kadugli in February and Aweil in July. The AEC participated in this initiative reflecting its view as to the interdependence of north and south, which is at its most obvious in the border states. These efforts – under the label of “*tamazuj*” or “*intermingling*” – contributed significantly to the concept of a soft but secure border with unimpeded movement of goods and people which was endorsed in late 2010 by the parties in talks led by the AUHIP. Impetus on the concept however diminished in 2011 as tensions rose, leading to interruptions both in the annual migration of nomadic communities across the border and in cross border trade.

In addressing border issues as the end of the interim period approached the parties therefore had to consider three aspects – border demarcation, the disputed areas and the nature of the border and border management. Previous AEC reports have emphasized the urgency of border demarcation. But it is worth recalling that the north/south border in the Sudan will be one of Africa's longest international frontiers, and that across the continent only 25 per cent of all borders are demarcated. As the negotiations have progressed there has been acceptance that the key at this stage is to agree modalities for demarcation, for the handling of the disputed areas and for border management, with the starting point continuing to be a soft but secure border across which economic activity can flourish and settled and itinerant communities and nationals can live peacefully and move freely. At the end of the interim period agreement appeared to be within reach on these modalities, including joint bodies and assistance from the AU.

The length and porosity of the border suggest that the “soft but secure border” concept is the only workable one for border management between north and south, and the parties are encouraged to continue to adhere to it. It should be a useful starting point too for the management of issues in the contested areas, which will continue to be a challenge until such time as their status is finally resolved.

ABYEI

Success in securing agreement to the Abyei referendum law was not followed by establishment of the Abyei referendum commission provided for in that law. The difference between the parties over eligibility to vote in the Abyei referendum proved as

intractable as the earlier one over the size and boundary of the area covered by the Abyei protocol, the parties' difference over which had been resolved by the award of the Permanent Court of Arbitration in 2009. The referendum to determine whether the Abyei area should remain in the north or go south, which was scheduled in the CPA to be held simultaneously with the self determination referendum of the people of the south, did not therefore take place in the CPA interim period.

Tensions on the ground involving members of the Ngok Dinka and Misseriya communities, already high, increased as a result and January 2011 saw armed clashes. Community leaders and the GoNU and GoSS ministers of the interior signed separate agreements that month in Kadugli designed to stabilise the situation on the ground. But despite intensive efforts by the UN these agreements were not implemented and a solution to the wider political problem remained elusive.

Following attacks on convoys carrying members of the Sudan Armed Forces and their contingent with the Joint Integrated Unit on 1 and 19 May, the latter escorted by the UN, the SAF moved to control the Abyei area with the exception of the section south of the Kiir, or Bahr al Arab, river. The JIU – which was charged with responsibility for security in the area - disintegrated. Almost all of the Ngok Dinka population fled south amid reports of looting and destruction of property in Abyei town reminiscent of events in May 2008.

After talks in Ethiopia facilitated by the AUHIP, including at the summit level, the parties on 20 June concluded an “Agreement on Temporary Arrangements for the Administration and Security of the Abyei Area”. The agreement provides for the redeployment of all SAF and SPLA forces out of the area and its demilitarisation. A new UN force with troops contributed by Ethiopia, the United Nations Interim Security Force for Abyei (UNISFA), will be responsible for security, alongside a new local police force. The area administration will be nominated and funded jointly by the two governments and overseen by a joint committee of the parties with AU facilitation. Both the administration and the joint committee are to work on the basis of consensus among their members. The parties recommit to resolve the final status of the Abyei area peacefully and to consider in good faith such proposals as the AUHIP shall offer in that regard; in the meantime the CPA Abyei Protocol shall continue to apply as well as the new agreement.

The priorities now must be the deployment of UNISFA and the withdrawal of all other forces; the appointment of the new administration and oversight committee; and the safe return of IDPs. The two governments in Khartoum and Juba must cooperate to make the new arrangements work, drawing as necessary on the assistance of the AU facilitator. They should also work to restore a minimum of trust between communities on the ground. Donors and international agencies should stand ready to respond to requests for assistance. It is important to emphasise that nothing in the new agreement detracts from the Abyei Protocol or prejudices the final status of the area: indeed proceeding expeditiously with the temporary arrangements will help to create the climate in which early resolution of

the Abyei problem in line with the Protocol is possible, drawing on the expected proposals from the AUHIP.

BLUE NILE AND SOUTHERN KORDOFAN

The AEC's January 2010 report offered a number of recommendations with regard to the situation in the two states. It encouraged the GoNU, as well as international donors, to prioritise development there. It looked to further integration in the civil service and other sectors in the two states. It highlighted the need for early action with regard to SPLA redeployment and decisions with regard to the future of SPLA soldiers from the states. And it called for timely and credible popular consultation, the inclusive political process whereby the arrangements prescribed by the CPA for the states should be reviewed and where necessary adjusted so as to cement peace.

Subsequently the AEC followed developments in the two states closely. The chair and the three areas working group coordinator and their staff paid ten visits to Southern Kordofan in the year from February 2010 to February 2011 and the working group as a whole visited twice. A similar pattern of visits was made to Blue Nile state. AEC and member state mission staff were present in Southern Kordofan to monitor the elections which took place from 2 to 4 May 2011. The AEC chair led a working group visit with a security focus to Blue Nile state later that month which reported a very high level of tension and allegations by both sides of military buildups in and around the state and submitted agreed recommendations to the parties. That the situation in the two states merited this level of attention, and arguably more, was demonstrated by the events of June 2011 in Southern Kordofan in which the ceasefire that had held for most of the previous decade broke down disastrously.

It bears stating, nonetheless, that efforts had been made by the parties during the period under review to achieve progress in respect of some at least of the challenges in the two states. In Southern Kordofan, pending the delayed state level elections, the parties worked together in pursuit of integration, which had been stalled earlier in the CPA interim period. Efforts were made to draw more funding to the state. Preparations were laid for popular consultation, working in part through a "council of the wise" and drawing on national and international expertise. The state level elections in Southern Kordofan in May were judged by observers to be credible but the SPLM complained of violations and refused to accept the result.

In Blue Nile, where the April 2010 election opened the way to popular consultation, a civic education campaign was followed in January 2011 by public hearings in centres across the state: planned thematic hearings, and the final report from the parliamentary commission, were however delayed as a result of disagreements between the parties' representatives locally.

The breakdown in security in Southern Kordofan in June 2011 had its origins primarily in the lack of progress in relation to security arrangements in the two states, despite state level talks and subsequent efforts on the part of the AUHIP. SPLA redeployment

remained an issue and the question of the future of SPLA soldiers from the two northern states was thrown into sharp relief by the south's vote for secession. The SAF announced on 28 May its intention to assert its authority up to the north / south border. Incidents that followed in and around Kadugli escalated rapidly into a conflict encompassing much of the state, with extremely serious humanitarian consequences.

This conflict was internal to the north, involving the SAF and SPLA elements whose future lay entirely within it. The AUHIP strove to bring the Sudanese government and the SPLM (North) together to stop the fighting and agree a way forward in both states. On 28 June Dr. Nafie Ali Nafie, the Assistant to the President of Sudan, and Blue Nile Governor Malik Agar for the SPLMN signed a "Framework Agreement on Political Partnership between NCP and SPLMN and Political and Security Arrangements in Blue Nile and Southern Kordofan States".

The Framework Agreement provides for the formation of joint political and security committees and sets out the principles - including "the principles enshrined in the CPA" - which will guide their work. The agreement commits the parties to completion of the popular consultation process and implementation of its outcomes; to the establishment of governance and political partnership arrangements in both states; and, specifically, to agreeing governance arrangements for Southern Kordofan within a month of its signature. They also agree to work together at the national level on constitutional and other issues as part of a broader national dialogue. On security also they commit to agreeing sustainable security arrangements for the two states within a month, with an agenda to include humanitarian access and modalities for the cessation of hostilities in Southern Kordofan; the integration over time of SPLA forces in both states; and the establishment of a Joint Command Mechanism responsible for coordination, command and dispute resolution. The AUHIP is designated as "third party", mandated to request such external assistance as may be required to support the foregoing arrangements.

The Framework Agreement is a first step. It is intended to complement a separate agreement specific to the cessation of hostilities. At the time of writing this was still under discussion between the parties.

The events of June 2011 in Southern Kordofan represented the most serious breakdown in the CPA system since the Agreement was signed. They carried with them the risk of a wider, prolonged conflict if political and security solutions were not quickly found. Elections in both Southern Kordofan and Blue Nile had earlier demonstrated that the two main political movements in the states were almost equally balanced in strength. In these circumstances political accommodation and renewed partnership, however difficult, were clearly essential if further conflict and suffering were to be avoided.

The Framework Agreement is therefore a significant advance. But it needs urgently to be complemented by the anticipated agreement on the cessation of hostilities, so that the fighting ends and humanitarian assistance is facilitated. Thereafter the international community should stand ready to support new political and security

mechanisms agreed in the two states, including through third party monitoring and verification if requested.

SECURITY

Until the events of May / June 2011 described above, first in Abyei and then in Southern Kordofan, the ceasefire arrangements provided for in the CPA continued to hold reasonably well during the period under review. Some of the issues highlighted in earlier reports remained stuck. Verified redeployment of SPLA personnel south remained low, whereas SAF had redeployed fully out of the south earlier in the CPA interim period. The agreed disarmament, demobilization and reintegration programme made limited progress at best. UNMIS' freedom of movement remained an issue, and was frequently addressed in AEC meetings and reports.

Insecurity in the south, not for the most part a ceasefire issue but addressed in the January 2010 report, took a new form with armed challenges by rebel militia groups in Jonglei, Unity and Upper Nile states which began after the April 2010 elections and continued at varying levels thereafter despite the amnesty announced by the GoSS in October 2010. North / south incidents were contained, partly through discussion in a reactivated Joint Defence Board. The parties reaffirmed, publicly and repeatedly, their determination to avoid a return to war.

The parties moved quickly to agree arrangements for the dissolution of the JIUs (with the exception of those in Abyei or engaged in securing oilfields) once the self determination referendum result was known. But the process was not without incident. In February elements of southern origin in the SAF JIU in Upper Nile state resisted instructions to relocate; and the consequent fighting led to substantial casualties and loss of life. Dissolution of the JIUs in Southern Kordofan and Blue Nile states also presented a serious challenge, given the delicate security situation there and the fact that the great majority of the SPLA components in them originated in the states concerned. Dissolution was delayed following intervention by the AUHIP but the units concerned in Southern Kordofan subsequently became embroiled in the fighting that broke out in that state.

WEALTH SHARING

The Wealth Sharing Protocol of the CPA continued to be implemented effectively in respect of oil revenue transfers to GoSS during the period under review. The equivalent of US\$1.55 billion was transferred in 2010, in conjunction with transfers totaling just under \$90 million to the oil-producing states in the south. Monthly reports on how these figures were derived from Sudan's total oil revenue of US\$4.42 billion in 2010 continued to be shared regularly with GoSS officials, and were not disputed.

There remained however broader concerns in the south regarding transparency in the oil sector. Some efforts were made to address these, particularly following the appointment of an SPLM official, Dr Lual Deng, as GoNU Minister of Petroleum in the wake of the April 2010 elections. The Ministry convened two meetings on oil transparency, both

chaired by the AEC. One examined a report on revenue sharing by Global Witness, an international NGO; the other brought in representatives from the Extractive Industries Transparency Initiative to inform GoNU and GoSS officials. There were also ongoing efforts to commission an international audit of oil revenue sharing under the CPA but the process moved so slowly that it appears to have been overtaken. An increased number of southerners were invited to take up positions and receive training in the national Ministry of Petroleum.

Overall the dual banking system established under the CPA – with a conventional and an Islamic window - operated well. But there have been periodic disagreements, addressed in the January 2010 report, as to whether oil revenue transferred to the south should be in foreign currency or Sudanese pounds. This question re-emerged in late 2010, as pre-referendum pressure on the Sudanese pound resulted in foreign exchange shortages, but was resolved more quickly than previously.

NEGOTIATIONS ON POST SECESSION ARRANGEMENTS

The picture painted in the preceding sections is a mixed one. Peaks of achievement – peace sustained for six and a half years after as many decades of civil war, the efficient conduct of the self determination referendum, the responsible reaction of all concerned to the result – were offset by a darkening scene in May and June 2011, and the serious hostilities that occurred first in Abyei and then in Southern Kordofan.

It had long been clear that the final stage of CPA implementation would be difficult, given the complexity of the challenges, and that a smooth transition and neighbourly longer term relations would depend on successful negotiation before 9 July 2011 of new agreements in respect of outstanding CPA issues and post referendum arrangements. The AEC's January 2010 report recommended an early start to the negotiation of post referendum arrangements on both possible scenarios, unity or secession. The AEC offered in that report and in subsequent contacts between the Chair and the parties to make available expertise, resources and organisational capacity and to undertake some underpinning secretariat functions for the negotiations.

The Presidency announced the commencement of negotiations on post referendum arrangements in February 2010 but substantive talks were delayed until after the national elections. In June 2010 the parties agreed the Mekelle Memorandum of Understanding in which subjects for negotiation were clustered in four working groups dealing with citizenship; security; financial, economic and natural resources issues; and international treaties and legal issues. It was agreed that the AUHIP would facilitate the negotiations, with backing from IGAD and others. A Joint Technical Secretariat of the two parties was established to support the talks in liaison with the AEC.

Later, as the talks moved forward, the relationship between the AEC, the AU and the Joint Technical Secretariat was formalised in a Memorandum of Understanding and the efforts of all three, and of IGAD and UNMIS, in support of the AUHIP- led talks became increasingly closely integrated. The AEC put experts at the disposal of the AUHIP and

made available to it and to the Joint Technical Secretariat logistic support and funding for workshops, cluster groups meetings, etc. Support was also given to northern and southern civil society groups promoting dialogue on post referendum issues.

The post referendum talks started substantively with an exposure workshop in Juba in July 2010 at which some initial guiding principles were agreed. Cluster groups began activity thereafter, but the pace was slow in many of the groups. Late in 2010, however, the AUHIP was successful in securing agreement to draft elements of framework agreement which would commit the parties to cooperate to ensure the security and economic and political stability of “two viable states” in Sudan in the event of secession.

Talks paused during the referendum period but resumed thereafter. The pace of AUHIP facilitated meetings, on the security and economic tracks in particular, quickened, including in several rounds of intensive discussions in Bishoftu, Ethiopia, in March, April and May 2011. Positions were explored thoroughly and advances made (on debts and assets for example). But the lack of any progress on Abyei, or on transitional financial arrangements which might be put in place following the expiry of CPA wealth sharing arrangements, had a chilling effect on progress overall.

A high percentage of AEC activity over the past year – in plenary discussion as well as in the work of the Chair and staff and members and observers – has been devoted to the post referendum negotiations. It is not for the AEC to take the lead in detailing the substance of the negotiations. They were facilitated with persistence and dedication by the AUHIP and any resultant texts are the property in the first instance of the two parties. On the eve of secession, agreement had been reached on a wide range of issues but more work was still needed on others. As already indicated at the IGAD extraordinary summit on 4 July the parties agreed to continue the negotiations after secession with a view to resolving all outstanding issues and talks are planned to resume soon after 9 July. The following are among the subject areas which have been covered, and some of the key points of agreement reached so far:

- **Security:** The parties from the outset gave a high priority to negotiation of new north / south security arrangements designed to minimise the risk of incidents which might threaten a peaceful transition post July 2011. They committed to the renunciation of violence in the future conduct of their relations; to refrain from actions that might contribute to insecurity in either north or south; and to refrain from hosting armed or insurgent groups that operated against the interests of the other. In subsequent negotiations they elaborated detailed security arrangements for the border areas in particular. These include creation of a demilitarised border zone to a depth of 10 kilometres north and south of the 1/1/56 border. Security in this area is to be maintained by the police forces of the two countries and by joint border verification monitoring teams drawn from the two armed forces. These will be supported by a small international monitoring mission with a light footprint and force protection drawn from UNIFSA. Arrangements in the common border zone are to be overseen by a Joint Political and Security Mechanism composed of ministers and senior officers from the two countries.

The arrangements agreed are complex and will require mutual trust, and readiness to cooperate with the international mission. The Joint Political and Security Mechanism will have an important supervisory role, and as constituted could play a similar role in support of the two presidents in other political and security areas where north / south cooperation is important.

- Economic cooperation (oil, currency, trade): The parties having agreed that a key aim of their discussions should be to ensure the economic viability of the two states, the AUHIP – supported by Norwegian experts – engaged intensively with them to explore what sort of transitional financial arrangements might be needed to ensure this. It was agreed that oil reserves and infrastructure should be divided on the territorial principle, but much of the detail – including with regard to contracts straddling the border for example – remains to be worked out. It was further agreed that CPA wealth sharing arrangements ended with the end of the interim period and that an effort should be made to agree transitional financial arrangements for the post CPA period reflecting the interest of the two countries in their mutual economic viability. However as secession approached the two parties were still far apart as to how to operationalise this.

The Republic of South Sudan intends to launch its own currency post secession. The parties have agreed a six-month transition period thereafter during which Sudanese pounds in the south will progressively be replaced by the new currency, though there remains a difference of view as to how to handle Sudanese pounds currently in circulation once they are collected by the government in the south.

As the negotiations went on, and linkages were made with other, intractable, issues, the parties' appetite for the most genuinely cooperative economic models advanced by the facilitators diminished. But the interdependence of the two countries – in the oil sector for example, or in cross border trade – remains self evident. And the dangers of uncertainty or interruption with regard to oil or other aspects of economic cooperation in the immediate post CPA period are very real, for both governments and peoples. The parties are encouraged to continue to give high priority to their discussions on these issues, and to look favourably on mutually beneficial ideas and models for economic cooperation whether of an interim or a more lasting nature.

- Citizenship: Large numbers of southerners live in the north. Equally there is a substantial community of northerners in the south, and many more cross the border each year to graze their livestock. Anxieties have inevitably arisen among such groups and indeed among other Sudanese citizens who might be affected, with regard to their status and rights after secession. Movement of people, mainly southerners going south, on the whole orderly but presenting major challenges to government and humanitarian agencies, peaked around the time of the referendum and in the run up to secession.

In discussion between the parties it has been agreed that nationality should be determined in accordance with the laws of the two countries (and each country is now in the process of adopting relevant national legislation). There was convergence around the concept that nationals of each party should enjoy freedom of residence and movement and freedom to own property and to undertake economic activity in the other, subject to these laws, and should not be forced to leave. The parties have repeatedly asserted that the traditional rights of nomadic communities will be respected. Separately it was agreed that government pension rights would continue to be honoured.

After talks in late June it was reported from Khartoum that a transitional period of 9 months would be provided for persons concerned to regularise their status.

Progress has been made but further consultation, and elaboration of agreed texts including in respect of the points of convergence described above, is encouraged in this area. Citizens of both states will need clear guidance as to the steps they have to take and the rights they will enjoy post secession. Effective and well coordinated public information campaigns will be needed. Flexibility should be encouraged in administering arrangements, especially during the transitional period: both governments (and indeed the international agencies) could be faced with serious challenges with negative humanitarian consequences if movement of people is precipitate.

- Debts and assets: Sudan's unsustainable burden of some \$37 billion of external debt and pressing need for debt relief introduced a further, potentially difficult, element into negotiation of this subject. Nonetheless agreement was reached between the parties on the 'zero option' whereby the north agreed to assume responsibility for external debts and assets - subject to Sudan's reaching the HIPC decision point for debt relief within two years, failing which the debt would be apportioned in accordance with a fallback arrangement. Assets within Sudan would be divided in accordance with the territorial principle. The south agreed to campaign jointly with the north for debt relief.

The emerging agreement between the parties on debt was welcomed at the Spring meetings of the World Bank and the IMF in Washington in April 2011. Debt relief is essential if Sudan is to weather the economic shock of secession and enjoy sustainable development. The parties, the international financial institutions and creditors will need to work closely and constructively together over the next two years to ensure that the hopes now raised are fulfilled.

- Water, communications: The parties have discussed a cooperative framework agreement on transboundary water resources (including the Nile waters, ground water and wadis) and have exchanged texts, which are largely compatible. On transport and communications, they have agreed to cooperate on the regulation and joint management of river and rail transport. They have also agreed a

transitional period to manage the shift to a new telephone country code in South Sudan.

CONCLUSION

The interim period set in January 2005 for CPA implementation ends on 9 July. The CPA has run its course. It has been a unique experiment in peacebuilding, of unprecedented scale and complexity. Some of the outcomes could not have been clearly foreseen when the Agreement was drafted. Lessons can and should be learnt from the problems that arose. But the overall achievement of the CPA as described in this and earlier AEC reports remains something that Sudanese, north and south, can view with pride – not least the act of self determination, promptly accepted by all, which has brought a new member into the community of nations.

The recent negotiations have run, perhaps inevitably, to the wire. Much ground has been covered and progress made. Broad principles for neighbourly relations have been identified and detailed arrangements agreed with regard to some of the key post secession issues identified at the outset of negotiations of 2010. New agreements have also been reached on the handling of some outstanding CPA issues. These last provide for the extension of relevant CPA principles and provisions, varied as necessary to allow for new circumstances and timelines. Although the period set for CPA implementation is complete the Agreement will continue to inform the relationship between the parties in important respects in the period to come.

The parties are to be commended for their intensive engagement in the negotiation to date but the task is not yet done. **Negotiations on remaining issues need to resume soon after 9 July, as agreed at the IGAD summit. It will be valuable to draw the strands of the negotiation together in a single agreement enshrining the principles which have been broadly agreed; consolidating understandings reached; and setting out modalities for the handling of issues which still remain outstanding. For the parties this will be a crucial point of reference. For all concerned it will provide reassurance that a smooth and peaceful transition is indeed under way.**

Even when negotiations are complete there is likely to remain a continuing task of implementation, and follow up, and managing transition, on the part of the parties. The understandings reached are likely to require joint supervision at the highest level, as well as a network of contacts between officials in the two governments and joint staffing to ensure that discussions are prepared and decisions followed up. **The pattern of contact will be a new one, as between two sovereign states, but regular summits and supporting arrangements between the two governments to draw together the various strands of the relationship are likely to be required.**

A successful transition will also require continued support from the international community. The advances made in the negotiations could not have been attained without

the leadership and determination of the AUHIP under the chairmanship of President Thabo Mbeki. **There will be a need for further engagement by the AUHIP for some months to come as negotiations between the two countries continue and understandings are built upon and put into practice: a separate but very important priority will clearly relate to the conflict in Southern Kordofan, and to cementing the agreement already reached in respect of the two states.**

The AUHIP's lead in facilitation was supplemented in later stages of the negotiations by unstinting support from IGAD's chairman, the Prime Minister of Ethiopia, and IGAD staff. Following agreement with donors led by Norway, the logistic and other support for negotiation and implementation of post secession arrangements presently channeled to the AUHIP and the parties through the AEC will henceforth be provided via IGAD through a transition support unit. AUHIP and IGAD staff have achieved a very high degree of integration in supporting the negotiations to date (and indeed provide as they do so a model for cooperation between regional and sub-regional organizations more generally). It is to be hoped that this new support will further cement that.

The new arrangements now agreed provide for direct international engagement on the ground in support of security. The model will be lighter but more complex than the present one. UNMIS' mandate ends on 9 July. In its place there will – in addition to UNISFA and the small border monitoring mission already described - be a new operation in the south with a more overtly peacebuilding role, reflecting the international community's commitment to stability and security sector reform in the new republic. Additionally some third party monitoring and verification, as well as financial assistance, could be needed to support new security arrangements and integration in Southern Kordofan and Blue Nile states. Such operations represent a very substantial investment by the international community in sustaining and deepening peace in the immediate post CPA period. Rationale and footprint differ sharply from operation to operation. **But there are obvious benefits to be derived in terms of cost and effectiveness from coordination consistent with the operations' very different mandates. Appointment of a UN envoy capable of drawing together the various north / south policy strands and interacting with governments and with the African Union at the policy level would seem to be essential.**

The AEC has for six years drawn the parties to the CPA together with the governments and international organizations which witnessed it: the Troika countries - Norway, the UK and the US; the Netherlands, which has played a leadership role in AEC work on Abyei, Southern Kordofan and Blue Nile; Ethiopia and Kenya from IGAD; Italy which chaired the IGAD Partners Forum; more recently Egypt; plus the Arab League, the AU, the EU and the UN. Its engagement in Khartoum and Juba has been paralleled over the period under review in this report by intensive diplomatic activity on the part of the envoys of AEC member and other concerned governments. The challenges in the immediate post CPA period will be different, but no less real. The diplomatic framework for addressing them will necessarily be lighter, reflecting the end of the CPA and the progress made. **But there will remain a need for continued engagement and cooperation, whether informally or in the shape of a group of friends supporting the**

parties and the key regional bodies, the AU and IGAD, as they seek to cement agreements reached and build a cooperative and mutually beneficial relationship between north and south in Sudan.

The agenda is not of course a purely diplomatic or security one. The new Republic of South Sudan, though blessed with natural resources, will rank among the least developed states in the world and the most severely impacted by conflict. As already noted the Republic of Sudan faces immediate and very serious economic challenges post secession, and bears a huge debt burden. Both countries face recurrent humanitarian problems, exacerbated by internal conflict; and both will continue to grapple with the challenge of democratic transformation. International support for development – reflected in debt relief for example, or help with capacity building for the new sovereign government in the south – should receive even higher priority in the post CPA period. Such support will in turn require the active engagement and cooperation of the two governments on the ground to ensure progress.

The people of Sudan, north and south, deserve a peaceful and prosperous future. Successful completion of the CPA represents a major step in that direction. It is important for regional and international peace and security. The opportunity it presents must not be lost. The parties and their international partners may pause in the coming days to celebrate the birth of a nation, the Republic of South Sudan, and the establishment of neighbourly relations on a new basis between it and the continuing state, the Republic of Sudan. Hopefully the celebrations will provide additional stimulus to what will need to be a sustained cooperative effort between the two governments and their international partners in the post CPA period.