

Annexure II: Implementation Modalities and Global Implementation Matrix and Appendices

signed at Naivasha, Kenya on 31st December, 2004

Preamble:

WHEREAS the Government of the Republic of the Sudan and the Sudan People's Liberation Movement/Sudan People's Liberation Army hereinafter referred to as the "Parties" reconfirm the Protocols and Agreements reached, namely the Machakos Protocol, dated 20th July, 2002; the Agreement on Security Arrangements, dated 25th September, 2003; the Agreement on Wealth Sharing, dated 7th January, 2004; the Protocol on Power Sharing, dated 26th May, 2004; the Protocol on the Resolution of the Conflict in Southern Kordofan and Blue Nile States, dated 26th May, 2004; and the Protocol on the Resolution of the Conflict in the Abyei Area, dated 26th May, 2004;

WHEREAS the Parties having met in Nairobi and Naivasha, Kenya, from 26th November, 2004 through 31st December, 2004 under the auspices of the Inter-Governmental Authority on Development (IGAD) Peace Process, in respect of finalization of the issues related to implementation modalities of the aforementioned Protocols and Agreements;

WHEREAS the Parties have concluded the Agreement on the Implementation Modalities of all Protocols and Agreements;

NOW RECORD THAT the initialized text of the Implementation Modalities which is attached hereto forms an integral part of the Comprehensive Peace Agreement and sets out the details of funding, executing bodies and timeframes and in particular the date on which the Comprehensive Peace Agreement shall come into effect;

THE PARTIES FURTHER RECORD THAT this Agreement on Implementation Modalities shall also include the following:

- (a) The initialed Global Implementation Matrix with its own appendices attached as Annexure A hereto, which covers the detailed implementation of the Machakos Protocol, dated 20th July, 2002; the Agreement on Security Arrangements, dated 25th September, 2003; the Agreement on Wealth Sharing, dated 7th January, 2004; the Protocol on Power Sharing, dated 26th May, 2004; the Protocol on the Resolution of the Conflict in Southern Kordofan and Blue Nile States, dated 26th May, 2004; and the Protocol on the Resolution of the Conflict in Abyei Area, dated 26th May, 2004; and the Permanent Ceasefire and Security Arrangements Implementation Modalities Agreement, notwithstanding Appendices in that agreement;
- (b) The initialed corrections which are agreed to for clarification and accuracy are set out in Annexure B hereto; and
- (c) The initialed List of Abbreviations attached as Annexure C hereto.

AND FINALLY THE PARTIES RECOGNIZE THAT as this Implementation Modalities Annexure and the Global Implementation Matrix and Appendices truly reflect the letter and spirit of the Protocols and Agreements which make up the Comprehensive Peace Agreement (CPA), it is agreed that this Agreement on Implementation Modalities shall be part and parcel of the Comprehensive Peace Agreement and shall be binding on the Parties.

The Constitutional Task Team shall work out an appropriate mechanism for resolving any discrepancies that may arise during the implementation process, between this Agreement on Implementation Modalities Annexure and Appendices and any of the other signed Protocols or Agreements.

The Implementation Modalities of the Machakos and Power Sharing Protocols
signed at Naivasha, Kenya on 31st December, 2004

See table: The Implementation Modalities of the Machakos and Power Sharing Protocols

Appendix A

(i) Functions of the First Vice President

1. Acts in the absence of the President
2. Member of the Council of Ministers
3. Member of the National Security Council
4. Member of the Presidential Council in the Pre-election Period and Chairman of the Council in the Post Election Period in the event of the post of President falling vacant

(ii) Functions of the Vice President

1. Acts in the absence of the President and the First Vice President
2. Member of the Council of Ministers
3. Member of the the Presidential Council and Commander-in-Chief of SAF in case of a vacancy in the post of the President in the Pre and Post Election Periods
4. Member of the National Security Council
5. Any other functions and duties that may be assigned to him by the President taking into account the hierarchy of the Presidency.

Appendix B1:

Appointments that the President is required to make with the consent of the 1st VP

1. Establishment of a Special Commission to ensure that the rights of non Muslims are protected in the National Capital (2.4.6 of the PSP).
2. Establishment of impartial and representative National Electoral Commission (2.10.1.1 of PSP).
3. Establishment of Human Rights Commission (2.10.1.2 of PSP).
4. Establishment of the National Judicial Service Commission (2.10.1.3 of PSP).
5. Establishment of a National Civil Service Commission (2.6.2 and 2.10.1.4 of PSP).
6. Establishment of Ad-Hoc Commission to monitor and ensure accuracy, legitimacy and transparency of the Referendum (2.10.1.5 of PSP and 2.5 of MP).
7. Establishment of Fiscal and Financial Allocation and Monitoring Commission (2.10.1.6 of PSP).

8. Appointment of the President of the Constitutional Court (2.11.3.2 (i) of PSP).
9. Appointment of Judges other than Justices of the Constitutional Court ((2.11.4.4 of PSP).
10. Appointment of Justices of the Constitutional Court ((2.11.4.6 (i) of PSP).
11. Appointment of Justices of the National Supreme Court (2.11.4.6 (ii) of PSP).
12. Establishment and appointment of the National Constitutional Review Commission (2.12.4 of PSP and 3.1.2 of MP).
13. Establishment of the Joint Defence Board (5.1 of SAP).
14. Appointment of Chairperson of the National Land Commission (2.6.10 of WSP).
15. Establishment of the National Petroleum Commission (3.2 of WSP).
16. Establishment and appointment of the Chairperson of FFAMC (8.4 of WSP).
17. Establishment of and appointment to the National Audit Chambers (12.2 of WSP).
18. Appointment of the Governor of CBOS and his/her two Deputies (14.7 of WSP).
19. Appointment of the Board Directors of the CBOS responsible and accountable to the Presidency (14.8 of WSP).
20. Establishment of an independent Commission to assess and evaluate the implementation of the Peace Agreement in the States of Southern Kordofan and Blue Nile (3.4 of SK and BNP).
21. Appointment of Abyei Executive Council (1.2.2 and 2.2 of AP).
22. Appointment of Abyei Area Chief Administrator and his/her Deputy (2.4 of AP).
23. Appointment of the members of Abyei Area Council (4.2 of AP).
24. Establishment of Abyei Boundaries Commission (5.1 of AP).
25. Establishment of Abyei Referendum Commission (8.1 of AP).
26. Establishment of any other Commission or as may be agreed upon by the Parties (2.10.1.7. of PSP).
27. Establishment of an independent assessment and evaluation Commission (2.4 of MP).
28. Any other appointments that may be agreed by the Parties.

Appendix B2:

The following appointments shall be made through consultations within the Presidency.

1. Appointment of the Governors of the States of SK and BN.

2. Appointment of Constitutional Post holders in the Government of National Unity (Ministers and State Ministers).

Appendix C1:

Matters in respect of which the President shall take decisions with the consent of the 1st VP according to the Protocols and Agreements

1. Declaration and termination of state of emergency (2.3.6.1 of PSP).
2. Declaration of War (2.3.6.2 of PSP).
3. Summoning, adjourning or proroguing of the National Legislature (2.3.6.4 of PSP).
4. Determination of SAF troop levels in SK and BN States during the Interim Period (10.1 of SK and BNP).

Appendix C2:

Matters to be decided upon by the Presidency:

1. Determination of the Executive, Legislative and Financial powers and competencies of Abyei Area (2.6 of AP).
2. Application to the Judiciary for establishment of Courts for Abyei Area as deemed appropriate (2.7 of AP).
3. Approval of Abyei Area Special Account (3.5 of AP).
4. Putting the Special Administrative status of Abyei Area into effect (5.3 of AP).
5. Determination of representation of Citizens of Abyei Area in an appropriate State in Bahr El Ghazal and in Southern Kordofan State (6.2 of AP).
6. Approval of the budget of the National Land Commission (2.6.12 WSA).

Appendix D: Clusters of National Ministries

	MINISTRIES OF SOVEREIGNTY	MINISTRIES OF THE ECONOMIC SECTOR	MINISTRIES OF THE SERVICES SECTOR
1.	Ministry of Presidency	Ministry of Finance and National Economy	Ministry of Health
2.	Ministry of Council of Ministers HQs	Ministry of Energy and Mining	Ministry of Humanitarian Affairs
3.	Ministry of Foreign Affairs	Ministry of Irrigation and Water Resources	Ministry of Labour, Public Service and Human Resources Development
4.	Ministry of Interior	Ministry of Agriculture and Forestry	Ministry of Environment and Urban Development (Physical Planning)
5.	Ministry of Justice	Ministry of Industry	Ministry of Education
6.	Ministry of Information and Telecommunications	Ministry of External Commerce	Ministry of Higher Education
7.	Ministry of Parliamentary Affairs	Ministry of Investment	Ministry of Culture, Youth and Sports
8.	Ministry of Defence	Ministry of Wildlife	Ministry of Science and Technology

		Conservation and Tourism	
9.	Ministry of Federal Governance	Ministry of Animal Resources and Fisheries	Ministry of Social Welfare, Gender and Child Affairs
10.		Ministry of Transportation, Roads and Bridges	Ministry of Guidance and Endowment
11.		Ministry of International Co-operation	

The Implementation Modalities of the Framework Agreement on Wealth Sharing
signed at Naivasha, Kenya on 31st December, 2004

See table: The Implementation Modalities of the Framework Agreement on Wealth Sharing

Appendix, Implementation Modalities of Wealth Sharing Agreement, Definition and Calculation of Net Oil Revenue

1. General Definitions:

(a) **Cost Oil:** It is a percentage from the daily production to cover the production cost (exploration, development and operating cost). Exploration and development costs are classified as capital cost amortized within four years. The operating cost is paid annually. If the cost oil is greater than the recoverable cost (actual cost) the difference (Excess Oil) will be added to the government share. If recoverable cost is greater than the cost oil then the difference shall be carried over for the next year. However the Division of Excess Oil between the Government and Contractors is subject to the variables of each agreement.

(b) **Profit Oil:** It is the remaining balance from the daily production after deducting the cost oil.

(c) **Government Share:** It is the percentage share of the government from the profit oil after deducting the contractor's share that is subject to contract agreements. It increases with the increase in production.

(d) **Government Entitlement:** It consists, at Intake Point, of (Government Share plus excess oil plus under lifting less over lifting). Part of the Government Entitlement is either used for local refineries or for export.

(e) **Intake Point:** is the injection point between the pipeline network operated by contractor under the Agreement and the transportation system operated by or under the control of the transporter.

2. Calculation of Government Net Oil Revenue:

Government Entitlement x Export price³
Less Tariff (transport/pipeline fee)
Less Management fee
Equal Government net oil revenue

3. Calculation of Oil Revenue Stabilization Fund:

Government Net Oil Revenue from export
Less Actual Export Quantities x benchmark price
Equal Total Oil Revenue Stabilization Fund

4. Government Net Oil Revenue Available for Allocation:

Government net oil revenue
Less oil revenue stabilization fund
Equal Total government net oil revenue available for allocation

5. Producing States Share of Net Oil Revenue:

Two Percent (2%) Percent of the total government net oil revenue available for allocation as per WSA.

6. GOSS Share:

Fifty Percent (50%) Percent of (percentage of the oil produced in the South from the total production multiply by net oil revenue available for allocation after deducting States share)

The Implementation Modalities of the Protocol on the Resolution of the Abyei Conflict
signed at Naivasha, Kenya on 31st December, 2004

See table: The Implementation Modalities of the Protocol on the Resolution of the Abyei Conflict

Abyei Appendix

Understanding on Abyei Boundaries Commission

1. Upon signature, and notwithstanding Article 5.1 of the Protocol on Abyei, there shall be established by the Parties Abyei Boundaries Commission (ABC) to define and demarcate the Area of the nine Ngok Dinka Chiefdoms transferred to Kordofan in 1905, referred to herein as Abyei Area.
2. Pursuant to Article 5.2 of the Protocol on Abyei, the ABC shall be composed as follows:-
 - 2.1 One representative from each Party;
 - 2.2 The Parties shall ask the US, UK and the IGAD to nominate five impartial experts knowledgeable in history, geography and any other relevant expertise. The ABC shall be chaired by one of those experts;
 - 2.3 Each Party shall nominate two from the present two administrations of Abyei Area;
 - 2.4 The GOS shall nominate two from the Messiriya;
 - 2.5 The SPLM/A shall nominate two from the neighboring Dinka tribes to the South of Abyei Area.
3. The ABC shall listen to representatives of the people of Abyei Area and the neighbours, and shall also listen to presentations of the two Parties.
4. In determining their findings, the Experts in the Commission shall consult the British Archives and other relevant sources on Sudan wherever they may be available, with a view to arriving at a decision that shall be based on scientific analysis and research. The experts shall also determine the rules of procedure of the ABC.

5. The ABC shall present its final report to the Presidency before the end of the Pre-Interim Period. The report of the experts, arrived at as prescribed in the ABC rules of procedure, shall be final and binding on the Parties.

6. The Presidency shall establish the administration of Abyei Area simultaneously with the Government of South Sudan and the Governments of Southern Kordofan and Blue Nile States by the beginning of the Interim Period.

7. In case the ABC delays presentation of the final report beyond the time prescribed above, the Presidency shall take necessary action to put the Abyei Area special status into effect with Abyei town as its seat subject to any readjustment or confirmation by the ABC final report.

8. Meanwhile, the two Parties shall issue appropriate instructions to their respective administrations in Abyei Area to facilitate the return of the citizens of the Area. The JIUs and the UN monitors shall facilitate and provide necessary protection to the IDPs.

9. The Parties shall issue an appeal to the International Community to make funds available for the formation and proper functioning of the ABC.

The Implementation Modalities of the Protocol on the Resolution of Conflict in Southern Kordofan and Blue Nile States

signed at Naivasha, Kenya on 31st December, 2004

See table: The Implementation Modalities of the Protocol on the Resolution of Conflict in Southern Kordofan and Blue Nile States

Southern Kordofan Appendix, State of Southern Kordofan

1. The name of the State shall be Southern Kordofan and its Capital shall be Kadugli.

2. The State Legislature shall compose of Fifty-four (54) members, Thirty Six (36) from the previous Southern Kordofan component and Eighteen (18) from the previous Western Kordofan component including Abyei. However representation of the two components is subject to readjustment according to the population census and the decision of the National Electoral Commission as appropriate.

3. For the pre-election formation of the State Legislature, the GOS shall nominate Eighteen (18) members from the previous Southern Kordofan component and Twelve (12) members from the previous Western Kordofan component, whereas the SPLM/A shall nominate Eighteen (18) members from the previous southern Kordofan component and Six (6) members from the previous Western Kordofan component.

4. The State Cabinet shall be composed as follows:-

4.1 The State shall have Eleven (11) cabinet members including the Governor and the Deputy Governor, Seven (7) cabinet members shall be from the Southern Kordofan component and Four (4) cabinet members shall be from the Western Kordofan component.

4.2 For the pre-election formation of the State cabinet, the GOS shall nominate Six (6) cabinet members of whom Three (3) shall be from each component, whereas SPLM/A shall nominate Five (5) cabinet members of whom Four (4) shall be from the previous Southern Kordofan component and One (1) shall be from the previous Western Kordofan component.

5. Regarding the representation of the State in the Council of States:-

5.1 Each of the two components shall have one of the two representatives in the Council of States. However, this arrangement shall be subject to any agreed future changes.

5.2 In the pre-election arrangement the GOS shall nominate the representative from the previous Western Kordofan component whereas the SPLM/A shall nominate the representative from the previous Southern Kordofan Component.

6. El-Fula shall have branches of all the State ministries and Institutions each headed by a Deputy Secretary General. The branch shall abide by the

7. policies and directives of the concerned ministry and report to its Secretary General.

8. The previous Western Kordofan component (with all its localities) shall continue to enjoy all benefits of the current Western Kordofan Fund, which shall be sustained by the National Government.

9. The State share of the Oil Revenue shall be distributed as follows:-

8.1 The Two Percent (2%) due of the oil revenue produced in any part of the State shall benefit the two components of the state equitably.

8.2 The Two Percent (2%) forming the Messiriya share in Abyei oil shall benefit the previous Western Kordofan component.

8.3 The Two Percent (2%) forming the Western Kordofan share of Abyei Oil shall be equally divided between the two components of the state One Percent (1%) each.

10. Notwithstanding that Kadugli is the Capital and seat of the state legislature, the State legislature shall convene its sessions alternately in Kadugli and El-Fula.

11. Presidency declares the formation of Southern Kordofan State as per agreed borders of 1974.