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PEACE AND SECURITY COUNCIL

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**REPORT OF THE CHAIRPERSON OF THE COMMISSION ON THE  
IMPLEMENTATION OF THE COMPREHENSIVE PEACE AGREEMENT**

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**I. INTRODUCTION**

1. Sudan's Comprehensive Peace Agreement (CPA), signed on 9 January 2005, marked the end to the continent's longest armed conflict, and charted the country's path forward towards peace, democracy and the historic decision on whether southern Sudanese would opt for unity or secession. The CPA was heralded by President Omar Hassan al Bashir as marking Sudan's "second independence."

2. During the last six months, the CPA has successfully passed its major landmark, namely the referendum on self-determination for the people of southern Sudan. Despite many obstacles, the referendum was held on time, from 9 to 15 January 2011, and was universally assessed as credible, free and fair. The Government of Sudan respected the overwhelming choice of the people of southern Sudan in favour of secession.

3. Significant progress has been achieved on some of the remaining CPA issues, including the state elections in South Kordofan, the popular consultation in Blue Nile, and the disbandment of the Joint Integrated Units (JIUs). The issues of the future status of Abyei and the disputed border areas remain to be resolved. The Abyei issue, in particular, is a cause for tension and acrimony between the Parties. Furthermore, although the electoral process in South Kordofan was adjudged credible by both national and international observers, the Sudan People's Liberation Movement (SPLM) rejected the result and withdrew from the process. The AU High-Level Implementation Panel (AUHIP) has played a key role in supporting all these processes, and has been requested by the President and First Vice President Salva Kiir Mayardit to propose a solution to the issue of Abyei.

4. In parallel, the Parties, namely the National Congress Party (NCP) and the SPLM, have been engaged in negotiation on the post-referendum arrangements, under the facilitation of the AUHIP. These are proceeding, and are expected to reach fruition before the conclusion of the CPA, on 8 July 2011.

**II. OVERALL DEVELOPMENTS IN THE CPA: DECEMBER 2010 – MAY 2011**

5. The referendum on self-determination for the people of southern Sudan is the central pillar of the CPA. During 2010, many Sudanese and international partners feared that, for political and technical reasons, the referendum would not be held on time, and indeed might not be held at all. The Sudanese people and Parties, the Southern Sudan Referendum

Commission and Bureau, and their African and international partners, proved such skepticism to be incorrect. Nonetheless, not all other elements of the CPA have met with such success.

#### **A. Southern Sudan Referendum**

6. In December 2010, concerns on the referendum were mitigated by the successful conclusion of the registration exercise, especially in Southern Sudan and the Diaspora, which recorded 95% of the total registration. On its part, the AUHIP closely followed the preparatory activities for the referendum, urging the Parties to take steps to overcome the difficulties encountered in creating the Southern Sudan Referendum Commission. The establishment of the Commission had stalled over disagreements on the appointment of its Secretary-General. The delay in forming the Commission had obliged the timelines for the referendum to be truncated. In addition, the AUHIP developed a Code of Conduct as a voluntary guide for political parties and other stakeholders concerning campaigning for the referendum. The SPLM and the NCP, the main Sudanese Parties to the CPA, as well as 19 other political parties, signed off the Code, which had provisions for a coordinating Political Parties' Council (PPC) and Alternative Coordinating Bodies to be established at the states level. Later transformed into the PPC-Civil Society Referendum Support Forum, this body was guided by the Panel to carry out its awareness raising in Southern Sudan. Attempts to create a similar body in the North met with little success.

7. The referendum campaign was conducted during December 2010. In southern Sudan, the campaign was dominated by the plea for separation, which enjoyed the overwhelming support of the SPLM and other southern Sudanese political parties, as well as civil society. In October, First Vice President Salva Kiir Mayardit presided over a Conference of political parties in which they pledged to work together to ensure the success of the referendum. This provided a strong sentiment of common vision and cooperation among Southerners in the weeks leading up to the referendum, ensuring that the vote itself was conducted in an atmosphere of celebration and harmony.

8. The NCP campaigned for the unity of the Sudan. On 4 January, President Omar Hassan al Bashir travelled to Juba to address the people of southern Sudan. In his speech, he emphasized that he personally supported the unity option. However, he also stated that he recognized the right of the southern Sudanese to choose secession. He emphasized that were they to do so, he would be the first to come and celebrate their independence with them. This remarkable speech provided a conducive atmosphere for the referendum to be conducted in a peaceful environment in both southern and northern Sudan. The timely conduct on the referendum, on 9 January 2011, in a credible and technically proficient manner, was the central achievement of the CPA.

9. Prior to the referendum, the Panel deemed it necessary to provide encouragement and support to the Sudanese people to look at their future in a positive light, as they stood on the verge of a crucial moment in their political history and that of the continent. The Chairperson of

the Panel, former President Thabo Mbeki, made two well-received presentations on behalf of the African Union at the Universities of Khartoum and Juba, on 5 and 7 January, respectively. In both speeches, he urged the Sudanese to consider the referendum as an opportunity “to make a powerful contribution to the development of a large part of the continent and, therefore, of Africa as a whole.” The referendum returned a 98.83% vote in favor of secession. The result was promptly recognized by the Government of Sudan.

## **B. Democratic Transformation: The Southern Sudan Constitutional Process**

10. The constitutional development process in southern Sudan is an important element of the completion of the CPA. With the secession of southern Sudan, on 9 July 2011, the new Republic of Southern Sudan will require a sovereign Constitution. On 21 January, the President of the Government of Southern Sudan (GoSS), Salva Kiir Mayardit, appointed a twenty-member Constitutional Review Committee, to review the Interim Constitution of Southern Sudan, since the Interim National Constitution and the Interim Constitution of Southern Sudan, established through CPA, will cease to exist on 9 July 2011.

11. As this constitutional process evolved, protracted exchanges ensued between the Government and opposition parties concerning the composition of the Committee. The President reviewed the membership three times, bringing the final composition to 52. But each time new opposition members were brought in – usually upon protest – additional SPLM members were quickly drawn in, thus ensuring a continuous SPLM majority in the Committee. Alleging that the SPLM was using this majority unfairly to override minority views in the Committee, six of its members withdrew. Discussion nonetheless continued but in-camera, leading eventually to the Committee’s adoption of a draft Constitution. As at mid May 2011, the draft has been presented before Parliament for review. Opposition parties are concerned that most of their views were not captured in the draft, which is inevitably bound to become law on 9 July.

## **C. The Abyei Question**

12. The CPA includes a provision that the people of Abyei area, defined as the territory of the nine Ngok Dinka chiefdoms transferred from Bahr el Ghazal Province to Kordofan Province in 1905, should be able to vote on whether to be part of northern or southern Sudan. The issue of Abyei, including its administration, security, boundaries and the definition of its residents (and thus eligibility in the referendum), have all proved extremely difficult for the Parties to resolve. In October 2010, the Parties requested the AUHIP to propose solutions to the Abyei issue. Despite the range of options provided to the Parties and a series of meetings held between November 2010 and April 2011, at the highest level, the Parties have been unable to reach agreement.

13. Unfortunately, this political impasse has coincided with continuing insecurity in the Abyei area, with both Parties reinforcing their military presence on the ground. A number of

security incidents led to two agreements, reached in January and February 2011 in Kadugli and Abyei. These agreements covered such issues as the withdrawal of non-authorized troops and police from the area, and the establishment of a security mechanism based solely on the police and the Joint Integrated Units of SAF and SPLA. Despite repeated attempts, this security mechanism was not implemented, and tensions escalated on 1 May 2011 when eleven members of the SAF JIU contingent died following an encounter with elements of the Southern Sudan Police. This led to a crisis, which was resolved when the Security Technical Committee of Abyei met and agreed to implement the earlier security agreements expeditiously. At the time of finalizing this report, the implementation of those agreements, including the withdrawal of unauthorized forces, was incomplete.

14. The AUHIP remains in close contact with the United Nations Mission in Sudan (UNMIS) and other international partners on the implementation of the Kadugli and Abyei Security Agreements. The AUHIP also remains engaged in developing a proposal for the resolution of the final status of Abyei.

#### **D. The North-South Border**

15. The issue of the north-south border remains contentious. It will be recalled that the *ad hoc* Technical Border Committee was established in 2005, with the aims of (a) demarcation of the border, and (b) identifying and resolving disputed border areas. Unfortunately, by 2011, the Committee was approximately five years behind schedule in fulfilling these tasks.

16. The actual border demarcation process remains stalled, with only a small portion of the border demarcated on the ground. In support of the demarcation efforts, the AUHIP has since engaged the African Union Border Programme (AUBP) Unit of the Commission, which has undertaken three field missions to the Sudan. So far, the AUBP Unit has met with the *ad hoc* Technical Border Committee, the Parties' Joint Political Committee (set up following the Mekelle Memorandum of Understanding and made up of Senior Officials of both Parties to oversee discussions on outstanding CPA issues, as well as on the post-referendum arrangements, and other stakeholders. The discussions have centered on delimitation and demarcation and how these might commence, once the political decision has been taken by the Parties.

17. The *ad hoc* Technical Committee has identified five disputed border areas, but has not yet resolved them technically, nor did the Parties' Joint Political Committee resolve the status of these areas politically. The Committee's meeting with the AUBP, in April 2011, agreed that the *ad hoc* Technical Border Committee would study the AUBP's proposal on the border and decide what assistance might later be needed from the AUBP. The *ad hoc* Committee is also to provide the Political Committee with the relevant maps that clarify the unresolved areas and those that have been already agreed.

18. The *ad hoc* Technical Border Committee, jointly with the Parties' respective Political Committees, has provided reports on the disputed border areas to the AUHIP. The issue of the disputed areas has arisen in the context of the Parties' negotiations on post-referendum issues.

**E. Blue Nile and Southern Kordofan**

*i. Popular Consultation in Blue Nile State*

19. The CPA provides for a process of 'Popular Consultation' in the two states of Blue Nile and South Kordofan. Following the 2010 elections, the process of popular consultation has begun in the Blue Nile State. The process has been vigorous, with active engagement by the local communities. Expectations are high that the process will indeed lead to a result that enables the people of Blue Nile to decide on their future status in a democratic manner. However, the process has also been characterized by divisions that eventually led to delays. The SPLM has constantly charged that the NCP, the majority in the Legislature, intends to delay the process of the popular consultation. The SPLM members of the Assembly, 19 of 48, are worried that they may be ignored once deliberations start on the final popular consultations outcomes document.

*ii. Southern Kordofan State (SKS) Election*

20. A dispute between the Parties to the CPA over the coverage of the 2008 census in South Kordofan caused the state gubernatorial and legislative elections in that state to be delayed, while a political agreement was reached that allowed an additional four seats in the National Assembly to be allocated to the SPLM to represent South Kordofan. The delay in holding the state elections means that the process of popular consultation in South Kordofan State cannot begin until June 2011 at the earliest.

21. A new population census was carried out in April 2010, with 32 constituencies being redrawn by the National Elections Commission (NEC). Registration was conducted in January-February 2011. The SPLM alleged some irregularities in voter registration, but the Parties accepted the register. The campaign was conducted during April 2011 and the vote took place from 2 to 4 May. National and international monitors concur that the procedure has been credible and fair, with only minor irregularities. The result was announced on 15 May, with the NCP candidate, Ahmed Haroun, leading the SPLM candidate by 7,000 votes out of 420,000 votes cast. However, on 12 May, the SPLM withdrew from the electoral process, alleging fraud, and refused to recognize the result as legitimate. This dispute threatens to derail the political cooperation between the NCP and the SPLM, the progress towards popular consultations, the security arrangements for the two areas, and the resolution of the issue of Abyei.

**F. Joint Integrated Units (JIUs)**

22. One of the central components of the security arrangements of the CPA was the creation of Joint Integrated Units consisting of SAF and SPLA, in equal numbers, located in southern Sudan, Khartoum, Abyei and the two areas (Blue Nile State and South Kordofan), to ensure security and to form the nucleus of a new national army in the event of the southern Sudanese choosing unity. The JIUs are commanded by the Joint Defence Board (JDB).

23. Following the vote for secession, a process of dissolving the JIUs was set in motion, with the objective of completing this task by 9 April. Exceptions were made for the two JIUs located in the oilfields of southern Sudan (Melut and Bentiu), which are to remain in place until 9 July, and Abyei, where the existing JIU was reinforced and its mandate extended until 9 July.

24. The planned dissolution of the SAF JIU component in Malakal was accompanied by violent resistance by elements that did not want to disarm and relocate. The matter was swiftly brought under control by the Parties, assisted by UNMIS, after regrettable loss of life. The dissolution of the JIUs in southern Sudan and Khartoum has proceeded smoothly.

25. The status of the two JIUs in Blue Nile and South Kordofan was uncertain. The AUHIP intervened with the President and the First Vice President, on 10 April, to propose that these two JIUs remain in place, their status unchanged, until negotiations on the future status of the SPLA forces from the two areas are completed. The Panel further proposed to initiate the negotiations on this issue expeditiously. The JIU in South Kordofan has played an important role in maintaining stability during the tense period of the disputed election.

#### **G. Post Referendum Arrangements (PRAs)**

26. The conclusion of the CPA is taking place in parallel to the Parties' efforts to reach agreement on the post-referendum arrangements and issues, in the spirit of 'two viable states.' The AUHIP is the facilitator of these negotiations. In November 2010, the Panel negotiated a "Framework for Resolving Outstanding Issues Related to the Comprehensive Peace Agreement and the Future Relations between the North and the South." The Agreement was based on the Parties' own recognition that both their peoples' existing close historical, cultural, geographic and economic ties would be better served, in the event of the southern secession, by a commitment to the creation of two viable states. Since December 2010, the Panel's facilitation of the PRA negotiations has been within the context of this Framework, and structured around four clusters: citizenship; security; financial and economic matters and natural resources; and international treaties and agreements and other legal issues.

27. Progress in the negotiations has been slower than expected. However, the Panel is resuming talks between the Parties in May on economic and security issues, while pursuing separate discussions with each of the Parties on citizenship. The Panel is confident that agreement on the outstanding issues can be reached during May and June 2011.

### **III. OBSERVATIONS**

28. The last six months have witnessed tremendous success in the achievement of the principal goal of the CPA, namely the legitimate, peaceful and accepted referendum on self-determination for the people of southern Sudan. This is an immense achievement for which the Sudanese people and the African continent can be proud. At the same time, major CPA issues remain to be resolved, including the status of Abyei, the north-south border, the South Kordofan election, the popular consultations and the status of the JIU forces in the two areas. Successful resolution of post-referendum arrangements on economic and security issues, as well as on the question of citizenship, also remains an essential element in concluding the CPA process.

29. The African Union, through the efforts of the AUHIP, has been at the centre of African and international efforts to conclude the CPA successfully and to reach agreement on post-referendum issues. The work of the Panel has been instrumental in the results achieved thus far. Be that as it may, much remains to be done. The most immediate issues requiring attention for the CPA to be successfully concluded include the resolution of the Abyei impasse and of the political crisis arising from the disputed election in South Kordofan.