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**REPORT OF THE CHAIRPERSON OF THE COMMISSION ON THE IMPLEMENTATION
PROCESS OF THE COMPREHENSIVE PEACE AGREEMENT (CPA)**

REPORT OF THE CHAIRPERSON OF THE COMMISSION ON THE IMPLEMENTATION PROCESS OF THE COMPREHENSIVE PEACE AGREEMENT (CPA)

I. INTRODUCTION

1. At its 89th meeting held on 24 August 2007, Council reviewed the implementation process of the Comprehensive Peace Agreement (CPA), signed in Nairobi, in January 2005, between the Government of the Sudan (GoS) and the Sudan People's Liberation Movement/Army (SPLM/A). On that occasion, Council reiterated its support to the CPA and welcomed the significant progress achieved by the Sudanese parties in its implementation. Council also welcomed the efforts then deployed by the parties to address the outstanding issues in the implementation of the CPA, including the Abyei Protocol, the full redeployment of forces, the complete formation and deployment of the Joint Integrated Units (JIUs), the demarcation of the North-South border and wealth sharing, and to ensure that all the necessary steps are taken in preparation for the forthcoming elections as stipulated in the CPA. Council requested the Commission to take all the necessary steps to fully support the implementation of the CPA, including through the appointment of a new Special Envoy and the establishment of an AU Liaison Office in Khartoum, with an Office in Juba.

2. The present report provides an update on the overall evolution of the situation and the implementation of the CPA since the 89th meeting of Council. It also covers the efforts being deployed by the AU in support to this process.

II. SECURITY AND POLITICAL DEVELOPMENTS

3. The overall security situation continues to remain calm in the South. However, the period under review witnessed tensions in Abyei. This was exacerbated by the lack of full military redeployment by the parties, absence of a civil administration in Abyei, lack of capacity of the JIUs and the activities of Other Armed Groups (OAGs). Efforts by the leadership of the National Congress Party (NCP) and the SPLM, at the highest level, as well as by the Ceasefire Joint Military Committee (CJMC), to de-escalate the tension were not successful. Subsequently, fighting erupted in Abyei from 14 to 20 May 2008, causing a number of casualties and massive displacement of the civilian population. The situation was finally resolved by the parties through the signing in Khartoum, on 8 June 2008, of the "Roadmap for the Return of IDPs and the Implementation of the Abyei Protocol". In accordance with this Roadmap, the redeployment of Sudan Armed Forces (SAF) and Sudan People's Liberation Army (SPLA) from the Abyei area was completed by October 2008, with the exception of a few SAF and SPLA elements in Diffra and Agok areas, respectively.

4. The presence of the Lord's Resistance Army/Movement (LRA/M) in Southern Sudan continues to impact on the security situation, including in areas such as Yambio, Western Equatoria, which have witnessed the arrival of hundreds of refugees from the Democratic Republic of Congo (DRC). The leader of the LRA, Joseph Kony, has reportedly now agreed to sign the Final Peace Agreement (FPA) at the end of November 2008, in the assembly area of Ri-Kwanba, in Western Equatoria. However, he has

requested to meet with his delegation to the peace talks prior to the signing ceremony. He has also requested that the assembly area be provided with the required facilities, as well as with food. On 8 November 2008, in Juba, the Chief Mediator, Riek Machar, who is also the Deputy President of the Government of Southern Sudan (GoSS), and the Special Envoy of the United Nations Secretary-General for the LRA-affected areas, former Mozambican President Joaquim Chissano, briefed GoSS President, Salva Kiir Mayarditt, on the developments in the peace process. President Kiir has assured the mediators of the cooperation of the GoSS and the SPLA in facilitating the return of the LRA to the assembly area in Ri-Kwanba.

5. At the political level, the period under review marked by the agreement reached by the parties on 11 December 2007, which provided for a number of confidence-building measures aimed at smoothening the way towards national reconciliation and paving the way for the return of SPLM Ministers to the GoNU. Council will recall that, on 11 October 2007, the SPLM, in protest to what it described as deliberate tactics by its partner, the NCP to obstruct the implementation of the CPA, decided to suspend the participation of its Ministers and Presidential Advisors from the GoNU. At its 103rd meeting held on 29 November 2008, Council expressed deep concern at the situation that was then prevailing and urged the parties to spare no effort to overcome the obstacles impeding the full implementation of the CPA.

6. The 2nd National Convention of the SPLM took place from 15 to 20 May 2008, in Juba, under the theme: "No to War, Yes to New Sudan". Under the new and permanent SPLM Constitution, the Convention, made up of over 1,500 delegates from across the country, unanimously elected Mr. Salva Kiir as its new Chairman. In his address to the Convention, Mr. Kiir indicated that significant progress had been made in the implementation of the CPA. At the same time, he stressed that there were still important issues, such as Abyei, to be addressed, without which the parties to the CPA could hardly claim a success. He further stated that it was precisely by using the mechanisms for consultation provided for in the CPA that the two parties had been able to resolve some of the key pending issues and established a road map with definitive time lines for addressing areas of disagreement.

III. STATUS OF THE IMPLEMENTATION PROCESS OF THE CPA

(i) Power Sharing

7. On 13 October 2008, the Interim National Assembly (INA) opened its 7th and final session, which is currently underway. Major legislation to be discussed by the current session include the National Security Act, the Press and Media Act and the Code of Criminal Procedure Act. The INA will also focus on the endorsement of the Political Parties Council, as well as on approving the national budget. According to the CPA, unless the parties collectively decide otherwise, the current session is the last one and shall be dissolved by the end of December 2008 to make way for general elections.

National Census

8. The 5th Sudan National Census took place from 22 April to 6 May 2008. This process was due to take place in February 2008, but was delayed because of disagreements between the parties on issues relating to the non-inclusion of ethnicity and religion in the census questionnaire, the repatriation of IDPs and refugees, the non-completion of border demarcation and the conflict in Darfur. Eventually, on 13 April 2008, and as a sign of growing cooperation between the parties to the CPA, the President of the Republic, Omar Hassan Al-Bashir, and the First Vice-President of the Republic and President of GoSS, Salva Kiir Mayardit, met and agreed to have the Census held from 22 April to 6 May 2008. The results, including population totals at state, county and locality levels, and the North-South ratios, are expected to be released by the end of 2008 or early 2009.

Preparations for elections

9. According to the Interim National Constitution (INC), the general elections shall be held no later than the end of the fourth year of the transition, i.e. 9 July 2009. In this regard, the process of preparing for the elections is underway and the enactment of the National Electoral Law of the Sudan by the INA took place on 7 July 2008. According to this law, the new Parliament will consist of 450 members, with 60% selected by geographical constituencies and 40% by proportional representation party lists, out of which 25% is allocated to a separate women's party list and 15% for political parties' list. The Act further stipulates that the parties must receive a minimum of 4% of the overall votes to secure seats according to proportional representation.

10. On 17 November 2008, the composition of the National Electoral Commission (NEC) was endorsed by the INA. According to the National Electoral Law, the NEC is the only body to assume the function of regulating and supervising the elections of the President of the Republic, the President of the Government of Southern Sudan, the Governors and the Legislative Assemblies at national and state levels. In this respect, it shall prepare, revise, approve and keep the Electoral Register, as well as determine the geographical constituencies and conduct of the elections in accordance with the provisions of the Electoral Law of the Sudan.

11. The CPA further stipulates that there should be a Political Parties Council formed after the adoption of the INC. Due to delays in passing the Political Parties Act, which took place on 22 January 2007, the formation of the Council was also delayed. Eventually, on 14 October 2008, the Presidency submitted the list of nominees for the Political Parties Council to the National Assembly. Although the Legislation and Justice Committee submitted its report on the list on 22 October 2008, it was not still passed due to the unavailability of curriculum vitae of some of the nominees.

12. There are other critical laws that are supposed to be passed by the INA, which remain pivotal to a successful electoral process. These laws include, *inter alia*, the Media and Press Act and the National Security Act, which are expected to be revised and made compatible with the Bill of Rights enshrined in the INC before the elections. Following the banning of some newspapers and as a warning that the non-availability of the revised laws

could be a future setback, the SPLM, on 8 November 2008, withdrew its officers who work in the press department in the National Security and Intelligence Services, citing unconstitutional activities in this section. It is to be recalled that, in accordance with the CPA, the SPLM had appointed a number of its members to the National Security and Intelligence Services.

Preparations for the Referendum

13. The CPA stipulates that, at the end of the six year interim period, there shall be an internationally monitored referendum, organized jointly by the GoNU and the SPLM/A, for the people of South Sudan to either confirm the unity of the Sudan by voting to adopt the system of government established under the Peace Agreement or to vote for secession. More than a year after the deadline set to this effect, the Referendum Act is yet to be passed.

14. The Southern Sudan Legislative Assembly (SSLA) continues to meet and pass the necessary laws in the South. On 22 October 2008, the INA and the SSLA held their first-ever joint session in Juba. In a joint statement issued at the end of the session, the two bodies affirmed the necessity of undertaking comprehensive development in the entire country. They also underscored the importance of the census results and the need to ensure that there are free and fair elections in the Sudan. The joint session further underlined the significance of popular consultations in the Three Areas (Abeyi, Southern Kordofan and Blue Nile States) and the necessity to adhere to the final results of both the census and the elections.

15. In June 2008, the Speaker of the SSLA announced that the following bills had been passed into law: the Code of Civil Procedure Bill, the Southern Sudan Research Council Bill, the Personal Income Tax Provisional Order Bill, the Appropriations Bill, the Judiciary Bill, and the Judicial Service Council Bill. On 23 July 2008, following major concerns regarding the necessity of passing some critical laws in Southern Sudan, the SSLA passed two important bills into law: the Penal Code and the Code of Criminal Procedure.

16. Furthermore, following serious allegations of corruption in the GoSS, its Council of Ministers passed, on 10 October 2008, the Anti-Corruption Bill of 2008. This Bill was expected to be tabled before the SSLA for immediate enactment into law. In this context, it is important to note that the Chairperson of South Sudan's Anti-Corruption Commission presented a report on her visit to the ten States of Southern Sudan to a consultative planning and budgeting workshop in Juba, indicating that funds may not have been used appropriately in some Southern States. Indeed, corruption continues to be a big concern to all the stakeholders.

(ii) Wealth Sharing

17. One of the key components of the CPA is the Wealth Sharing Protocol, which outlines the modalities for the sharing of the wealth of Sudan, particularly the oil revenue, between the GoNU, the GoSS and oil producing states in the country. On 6 August 2008, members of the Joint Committee (GoNU/GoSS) for Monitoring, Calculating and Sharing of the Oil Revenue provided an update on the current state of transfers to GoSS and oil

producing states in a meeting with the AEC Wealth-Sharing Group. The Committee indicated that the cumulative total arrears due to GoSS from 2005, 2006 and 2007 stood at US\$55.86 million. However, there are no arrears due to GoSS for the first half of 2008, and the total amount received by GoSS is said to have exceeded US\$1 billion.

18. In August 2008, the Ministry of Finance and National Economy made available data on GoSS total oil revenue share for the month of August 2008, which amounted to US\$370.65 million (US\$250.71 million from export and US\$119.94 million from local crude). As agreed in the CPA, at least 2% of oil revenue shall be allocated to the oil producing states/regions in proportion to output produced in such states/regions.

19. The second Oslo Donor's Conference was convened in May 2008. During the meeting, countries pledged, for the 2008-2011 period, a total of 4.8 billion dollars for the reconstruction and development of the Sudan. The Consortium acknowledged the progress made over the period 2005 - 2007 and looked forward to meeting daunting challenges before the end of the interim period, including the full implementation of the CPA, the undertaking of major recovery and development projects in the Sudan, and helping those who suffered most from conflict and poverty. The Consortium stressed that peace and development must go hand-in-hand and that the peace dividend should reach the most vulnerable in Sudan.

(iii) Security Arrangements

20. The Ceasefire Political Commission (CPC) and its affiliate bodies, including the Ceasefire Joint Monitoring Committee (CJMC) and the Area Joint Monitoring Committee (AJMC), continue to function, although it is facing many problems to implement its own resolutions and those issued by the CPC. The parties attend meetings relating to ceasefire matters regularly and make use of these meetings to resolve their differences relating to redeployment matters. In this respect, reports of the 84th meeting of the CJMC, convened on 30 October 2008, reflect that the SAF verified redeployment percentage stood at 95.3%, while the SPLA redeployment percentage is reported to stand at 10.6%. On 18 November 2008, the CPC and the Joint Defense Board (JDB) held their first ever joint meeting. They resolved to meet every two months to, among others, follow up on the resolution of the CPC and the CJMC so as to ensure their effective implementation and keep the security arrangements on track.

(iv) Border Demarcation of 1/1/1956

21. The CPA mandated the Sudanese Presidency to establish a Technical *Ad hoc* Border Committee to demarcate precisely the 1/1/1956 North/South borderline. Accordingly, this Committee, which sought technical assistance from both national and international experts, started its work in January 2007. It made a number of field trips to consult with local officials and communities and to collect data. In July 2007, the Committee undertook fact-finding missions to Cairo and London. The Committee has almost completed its work, except for some contentious areas adjacent to the Unity and Warrap States, the resolution of which has been submitted to a National Law Firm. Also, the Committee held a session in Juba on 19 and 20 November 2008 during which it

exchanged views with national and international experts on comparative cases and on the techniques for delineating contentious areas.

(v) The Three Areas

Abyei

22. As indicated above, on 8 June 2008, following clashes between the SAF and the SPLA, the parties agreed on a "Roadmap for the Return of IDPs and the Implementation of the Abyei Protocol". The Roadmap urged the parties to set up the long overdue interim Abyei Administration within two weeks from the signing of this Agreement. Subsequently, President Omar Hassan Al-Bashir issued, in September 2008, a decree establishing an interim administration for Abyei and, in October 2008, the Presidency agreed on appointing officials to various positions of the interim administration. In addition, the parties agreed to refer their disputes over the Abyei permanent boundaries to "final and binding arbitration under the Permanent Court of Arbitration Optional Rules".

23. On 28 October, the Permanent Court of Arbitration in The Hague announced the appointment of Professor Pierre-Marie Dupuis as the Presiding Arbitrator of the Abyei Arbitration Panel, as per the Abyei Roadmap Agreement. The appointment marked the beginning of a six-week period during which the parties are expected to present their oral arguments before the Court and submit relevant supporting documentation. The written materials are expected to be submitted between 8 and 12 December 2008. The Court is expected to issue its final decision by June 2009.

Southern Kordofan

24. There have been some tribal tensions between the Baggara and the Nuba people in the Southern Kordofan State. However, these tensions have been largely defused by local chiefs, with the assistance of the United Nations Mission in the Sudan (UNMIS). During a recent visit of the AEC to the State, the Governor of the State, Omer Suleiman Adam, and the UNMIS officials gave a positive update on the situation. However, in their grievances, the Nuba and other people highlighted the plight of the State in terms of urgent need for better representation and development assistance, in particular in the areas of water, sanitation and medical facilities.

Blue Nile State

25. Progress has been made in the Blue Nile State regarding the implementation of the CPA, thanks to the cooperation between the parties. The rotation of the governorship of the State between the NCP and the SPLM took place in July 2007, when Mr. Malik Agar left his post as GoNU's Minister of Investment to take up the governorship. The AEC for Blue Nile States, which was created by presidential decree in 2007, undertook a tour of the State in April 2008, and confirmed the existence of a good level of cooperation between the two peace partners.

(vi) Disarmament, Demobilization and Reintegration

26. The parties to the CPA agreed to implement, with the assistance of the international community, DDR programmes for the benefit of all those who will be affected by the reduction, demobilization and downsizing of the forces as stipulated in the CPA. In this regard, and in line with the presidential decree on administrative arrangements for DDR in the Three Areas of July 2008, North and South DDR Commissions agreed on the structure of offices for all the Three Areas. Reports indicate that, as a first step towards the implementation of this key exercise, a joint DDR office was established at El Damazin for the State of Blue Nile, which was inaugurated on 22 October. This joint office is expected to take the lead for the operationalisation of the pilot DDR activities in the State of Blue Nile, in El Damazin.

IV. ACTIVITIES OF THE AU IN SUPPORT OF THE IMPLEMENTATION PROCESS OF THE CPA

27. As indicated above, during its 89th meeting, Council requested the Commission to take all the necessary steps to fully support the implementation of the CPA, including through the appointment of a new Special Envoy and the establishment of a Liaison Office in Khartoum, with an Office in Juba. On 15 February 2008, and following the necessary consultations with the Sudanese authorities, Ambassador Oluyemi Adeniji, former Foreign Minister of the Federal Republic of Nigeria, was appointed as the AU Special Envoy for the implementation of the CPA.

28. Since his appointment, the Special Envoy has undertaken extensive consultations with the Sudanese stakeholders and the international partners. From 1 to 8 November 2008, he visited the Sudan, where he met with members of the GoNU and the GoSS, as well as international stakeholders, including members of the African Group in Khartoum, the United Nations and the AEC. In his meeting with members of the GoNU, the Special Envoy stressed the need to work hard on meeting the timeline outlined in the CPA, specifically with regard to the preparations for the upcoming 2009 elections, the timely release of the results of the census, and the 2011 referendum for the South. He emphasized the need for the Sudanese stakeholders to feel and to be persuaded that separation between the North and the South should not be taken as inevitable, adding that creating such a mind-set requires an increased cooperation and the fostering of mutual confidence between the NCP and the SPLM.

29. In his meeting with senior officials of the GoSS, including Mr. Salva Kiir Mayardit, the Special Envoy was made aware of the serious problems being posed by the delay in the implementation of the Agreement. In the view of the SPLM, immediate action is required on border demarcation, the implementation of the Abyei Roadmap and preparatory legislations for the elections. Other difficulties relate to the situation in Southern Kordofan and Blue Nile, delay in the full implementation of the JIUs, which was responsible for the crisis of 2006 in Malakal, revenue distribution in accordance with relevant provisions of the CPA, slow withdrawal of the SAF to the North.

30. The consultations of the Special Envoy with international stakeholders focused on the need to push the Sudanese parties to recommit themselves to fully implement the

Agreement. The regional consequence of the conflict in Darfur and its linkage with the CPA implementation, as well as the need for the international community to increase its support for the resolution of the Darfur problem and to assist the South in its post-conflict reconstruction efforts were also highlighted in these discussions.

31. Earlier on, in July 2008, my Special Envoy traveled to South Africa to meet with the Foreign Minister Nkosazana Dlamini Zuma, in her capacity as the Chair of the AU Ministerial Committee on the Post-Conflict Reconstitution of the Sudan. They seized this opportunity to review the situation, particularly efforts to consolidate peace. In this respect, they agreed on the need to continue to urge AU Member States to increase their assistance to Southern Sudan in terms of post-conflict reconstruction, particularly in the area of civil service training, education and in other areas of specialized training. Similarly, the Special Envoy consulted with Kenya's Special Peace Envoy for the Sudan, Mr. Daniel arap Moi, in June 2008, in Nairobi, where both agreed to put their efforts together to encourage the parties to move forward and try to mitigate the spill-over effects of the conflicts in the Sudan for the region. Ambassador Adeniji also met with the Secretary-General of the League of Arab States, Mr. Amre Moussa, in June 2008, in Sharm El-Sheikh, on the margins of the AU Summit. After reviewing the status of the implementation of the CPA, both the Special Envoy and Mr. Moussa agreed to closely coordinate these activities.

32. I would like to inform Council that the AU Liaison Office in the Sudan has now become operational, and both the GoNU and the GoSS authorities have pledged their full support to the work of the Office. The Liaison Office participates in working visits to war-affected parts of the Sudan with the AEC, with a view to assisting the CPA implementation process. In this regard, visits have been undertaken to Juba, Abyei and Southern Kordofan. The Office in Khartoum also continues to coordinate its activities with other stakeholders in the implementation process of the CPA, such as the GoNU, GoSS, UNMIS, the EU and other diplomatic missions in the Sudan.

33. As Council is aware, the AU has an observer status in the AEC. In this regard, its contributions to the AEC meetings are highly valued by both parties. Recently, the AU played a pivotal role, within the framework of the AEC, to urge the Sudanese parties to proceed with the Census when the commencement of the process was facing some challenges in April 2008.

34. As a follow-up to the conclusions of its meeting held in Addis Ababa, on 29 January 2008, on the margins of the AU Summit, the AU Ministerial Committee for the Post-Conflict Reconstruction of the Sudan visited the Sudan from 31 March to 2 April 2008. During its mission, the Committee had the opportunity of meeting with President Omar Al Bashir, the First Vice President of the Republic, Salva Kiir Mayardit, as well as the heads of UNMIS, the World Bank and the AEC. The Committee also met with the members of the GoSS in Juba. These meetings provided an opportunity for the Sudanese parties to further highlight their priority areas for assistance by the international community.

35. From 17 to 19 May 2008, I paid an official visit to the Sudan, together with the Commissioner for Peace and Security. During the visit, I met with the Sudanese

authorities both in the North and the South and urged them to implement the CPA faithfully and reassured them of AU's continued support to the CPA implementation process.

36. During the period under review, the AU attended the third Sudan Consortium (SC) convened in Oslo on 6 and 7 May 2008. Vice-President Ali Osman Taha led the joint Sudanese delegation to this meeting. It should be noted that, during the Oslo meeting, the two parties worked very closely together and jointly presented the GoNU five-year plan and the GoSS medium-term expenditure priorities. A total of 45 countries and organizations representing donors, international organizations and civil society participated in the meeting. The AU delegation seized the opportunity to reiterate its call for the cancellation of Sudan's debt and the lifting of all trade and economic sanctions against the Sudan, stressing that this would assist the country to fully utilise its resources to sustain the CPA.

V OBSERVATIONS

37. The implementation process of the CPA has made significant strides. The two parties have demonstrated a clear commitment to dialogue, to overcome the challenges facing them. The Agreement reached by the parties on 11 December 2007, which paved the way for the return of the SPLM Ministers to the GoNU, the Agreement on the Abyei Roadmap, and the steps that were subsequently taken by the parties to implement it, the conduct of the Census, as well as the appointment of the NEC members are a clear testimony to this commitment. At the same time, many challenges still lie ahead, relating, among others, to the completion of the preparation for and conduct of the 2009 election and the 2011 referendum, the demarcation of the North/South boundary and the crucial issue of reconstruction and development in the South.

38. The CPA is a complex agreement, dealing with issues as sensitive as power and wealth sharing and self-determination, and, as such, difficulties in its implementation should not be unexpected, especially given the deep mistrust between the North and the South generated by more than two decades of devastating conflict. Undoubtedly, the parties have come a long way. While it is their duty to remain true to their commitments in order to deliver lasting peace and stability the Sudanese people have been yearning for so long, it is also incumbent upon the international community as a whole to accompany and support them. The importance of the CPA cannot be overemphasized, for its failure would not only affect the Sudan and the region, but will also have serious repercussions for the entire continent.

39. In this respect, the Commission will continue to do its utmost, including through my Special Envoy and the AU Liaison Office in the Sudan, to support the parties as they endeavor to meet their commitments. I wish to appeal, once again, to AU member States and the international community at large to provide the much-needed support to the implementation of the CPA and the post-conflict reconstruction efforts in Southern Sudan. I would like to seize this opportunity to express my gratitude to the Republic of South Africa and the other members of the Post-Conflict Reconstruction Committee for their commitment and continued efforts.

2008

Report of the Chairperson of the Commission on the Implementation Process of the Comprehensive Peace Agreement (CPA)

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