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**REPORT OF THE CHAIRPERSON OF THE COMMISSION ON
THE SITUATION IN DARFUR, THE SUDAN**

REPORT OF THE CHAIRPERSON OF THE COMMISSION
ON THE SITUATION IN DARFUR

I. INTRODUCTION

1. The 13th meeting of the Peace and Security Council (PSC), held on 27 July 2004, requested the Commission to submit to it a comprehensive assessment of the situation in Darfur, including the steps taken to disarm and neutralize the Janjaweed militias, facilitate the delivery of humanitarian assistance and bring to justice the perpetrators of human rights violations, as well as on the violations of the ceasefire and the status of the political dialogue. Council further requested the Commission to prepare and submit to it, for consideration, a comprehensive plan on how best to enhance the effectiveness of the AU Mission on the ground, including the possibility of transforming the said Mission into a full-pledged peacekeeping mission, with the requisite mandate and size, to ensure the effective implementation of the Humanitarian Ceasefire Agreement of 8 April 2004.

2. The present report is submitted in pursuance of that decision. It covers political, security and humanitarian developments, and contains proposals on the enhancement of the AU Monitoring Mission in the Sudan (AMIS).

II. STATUS OF THE INTER-SUDANESE PEACE TALKS ON DARFUR

3. Council will recall that, as part of the efforts to find a lasting and comprehensive political settlement to the conflict in Darfur, the Commission convened, in Addis Ababa, from 15 to 17 July 2004, a meeting bringing together the Sudanese Parties, namely the Government of the Sudan (GoS), the Justice and Equality Movement (JEM) and the Sudan Liberation Movement/Army (SLM/A). Although the meeting did not result in any specific agreement, it gave the AU-led Mediation Team a better understanding of the issues involved and the positions of the Parties. It was agreed that further consultations would be needed to determine the next steps to be taken for the resumption of the dialogue.

4. Subsequently, and in order to expedite the resumption of the dialogue, I directed my Special Envoy for Darfur, Hamid Algabid, to undertake in-depth consultations with the Parties. My Special Envoy traveled to Geneva, where, together with representatives of the European Union (EU) and the United Nations (UN), he attended a meeting organized by the Centre for Humanitarian Dialogue (CHD), on 22 July 2004. On that occasion, he met the representatives of the JEM and the SLM/A. He also traveled to Khartoum, from 1 to 3 August 2004, where he met a number of Senior Officials, including the Minister of Foreign Affairs and the Minister of Agriculture, who is the Chief

Negotiator on Darfur. The discussion with the Sudanese Parties focused on the venue, date and agenda for the Talks.

5. President Olusegun Obasanjo, current Chairman of the AU, and I also consulted with the Parties and other stakeholders. In particular, President Obasanjo traveled to Khartoum and Tripoli, in early August, to meet with the leaders of these two countries. It was as a result of these consultations that the Commission, on 7 August 2004, announced that the 2nd Round of the Inter-Sudanese Peace Talks would be convened in Abuja, Nigeria, on 23 August 2004.

6. As scheduled, the Talks between the Sudanese Parties, which were represented by high-level delegations, were formally opened on 23 August 2004 by President Olusegun Obasanjo and myself. President Denis Sassou N'Guesso of the Republic of Congo, in his capacity as the Chairman of the Economic Community of Central African States (ECCAS), representatives of the Presidents of Eritrea and Uganda (the latter as Chair of the Inter-Governmental Authority on Development - IGAD), the Leader of the Libyan Arab Jamahiriya and the Minister of Foreign Affairs of Chad attended the ceremony. President Idriss Deby of Chad joined the closed session that followed the opening ceremony, on the second day. Also present were the Secretary-General of the League of Arab States, the Special Representative of the UN Secretary-General, representatives of the European Union (EU) Presidency (the Netherlands), the United States (US), the United Kingdom (UK) and France.

7. Subsequent to the opening session, and after further consultations, the Parties, meeting in a closed session, under the chairmanship of President Obasanjo, adopted, on 24 August 2004, the following agenda:

- a. humanitarian issues;
- b. security issues;
- c. political questions; and
- d. economic and social affairs.

8. The discussions on the substantive issues, which began in the afternoon of 24 August 2004, were chaired by my Special Envoy, with the support of Chad, as co-Mediator, and a Mediation Team comprising representatives of Nigeria and Libya, as Facilitators, as well as Observers from the UN, the EU, the League of Arab States, the US, the UK and France. Norway and Canada attended as invited guests.

9. On 1 September 2004, the Parties concluded the discussions on humanitarian issues, agreeing on a Protocol on the Improvement of the Humanitarian Situation in Darfur. The Protocol addresses the issues of free movement and access for humanitarian workers and assistance (removal of all

restrictions and procedures that may hinder free movement and access, authorization of cross-border humanitarian activities, etc.) and protection of civilians (prevention of all attacks, threats, intimidation or any other form of violence against civilians, reaffirmation of the principle of voluntary return, respect of the rights of Internally Displaced Persons (IDPs) and refugees to return to their areas of origin, respect for the civilian character of IDP and refugee camps, etc.).

10. Under the Protocol, the Parties requested the AU to take the necessary steps to strengthen AMIS on the ground, to ensure a more effective monitoring of the commitments entered into. In addition, they requested the UN High Commission for Human Rights to expand the number of its human rights monitors in Darfur. The Protocol provides for the establishment of a Joint Humanitarian Facilitation and Monitoring Unit, based in El Fasher, under the leadership of AMIS, to ensure full compliance with its provisions.

11. Extensive discussions were also held on security issues during the Abuja Talks. On the basis on those discussions, and taking into account the written submissions by the Parties, the Mediation Team prepared a draft Protocol on the Enhancement of the Security Situation in Darfur, in accordance with the N'djamena Humanitarian Ceasefire Agreement of 8 April 2004. The draft was revised twice in an attempt to reach a compromise between the Parties.

12. The Parties reached agreement on a number of provisions of the Draft Protocol, including the reaffirmation of their commitment to respect the ceasefire, the release of all persons detained in relation with the hostilities in Darfur and the strengthening of the AU presence on the ground. However, they could not reach an agreement on other provisions of the Protocol, including:

- the development, by the Cease-fire Commission (CFC)/AMIS, of a plan for the separation and relocation of forces to ensure that no exchange of fire takes place and to facilitate the monitoring functions of the CFC/AMIS;
- the modalities for the neutralization and disarmament of the Janjaweed and other militias;
- specific measures aimed at building confidence between the Parties and restoring trust among the local communities; and
- the detailed modalities, including the required mechanisms, for the effective implementation of the Protocol.

13. The Parties also requested the inclusion of additional issues into the last version of the draft prepared by the Mediation Team. In this respect, the GoS delegation proposed that the armed elements of the Movements be assembled in clearly identified locations, agreed upon with the CFC, within the framework of the separation plan; that they refrain from any action that may undermine the fulfillment of its obligations towards the UN; and that they initiate a process of self- disarmament under the supervision and assistance of CFC/AMIS. On their part, the Movements requested the establishment of a no-fly-zone for military aircrafts and civilian aircrafts used for military purposes over the Darfur region ; the withdrawal of Sudanese military and police forces to their administrative positions/original garrisons and their replacement by AU forces; and an international investigation into the charges of genocide and crimes against humanity in Darfur. No agreement was reached by the Parties on these issues, in spite of the sustained efforts exerted by my Special Envoy and the Chairman of the AU, President Obasanjo, to help the Parties overcome their disagreements on the security issues.

14. In light of the above, it was felt necessary that, before the Talks adjourn allow for further consultations, the Parties should formally sign the Protocol on Humanitarian Issues. President Obasanjo and my Special Envoy held consultations with the Parties in this respect. While the Government expressed its readiness to sign immediately, the two Movements indicated that they were not in a position to do so. They did, however, reaffirm their commitment to the provisions of the Protocol. The Talks were formally adjourned on 17 September 2004, and are due to resume on 21 October in Abuja. In this respect, my Special Envoy has embarked on a new round of consultations with the Parties and other stakeholders on the issues to be discussed and other aspects of the Talks.

15. In its resolution 1564 (2004) adopted on 18 September 2004, the UN Security Council called upon the Government and the rebel groups to work together under the auspices of the AU to reach a political solution. The Security Council noted the progress made, and urged the Parties to sign and implement the Humanitarian Agreement immediately and to conclude a Protocol on Security Issues as soon as possible. The Security Council also underscored and supported the role of the AU in monitoring the implementation of all such agreements reached.

III. OPERATIONALIZATION OF THE CFC/AMIS

A) Status of Deployment and Equipment

16. In my report of 4 July 2004 [PSC/MIN/2.(XII)], I updated Council on the efforts to operationalize the CFC and complete the deployment of AMIS, as provided for in the Agreement of 28 May 2004 signed between the Commission and the Sudanese Parties. I am pleased to report that since then significant progress has been made in the operationalization of the CFC and

the deployment of the Military Observers (MILOBs). As of 10 October 2004, the CFC/AMIS had a total of 465 personnel comprised as follows:

a) CFC Headquarters

- Chairman (AU)	1
- Vice Chairman (EU)	1
- AU Representative	1
- Chadian Mediation	2
- GoS Representative	2
- SLM Representative	2
- JEM Representative	2
	<hr/>
Total	11

b) Military Observers (MILOBs)

i) *From the AU*

- Algeria	3
- Congo	10
- Egypt	4
- Ghana	10
- Kenya	5
- Mozambique	5
- Namibia	4
- Nigeria	9
- Senegal	7
- South Africa	9

17. The AU deployed MILOBs numbers 66. The required minimum strength is 80. Additional MILOBs are expected from other Member States.

<i>ii) From the Chadian Mediation</i>	18
<i>iii) From the Parties</i>	36
<i>iv) From the EU</i>	9
<i>iii) From the US</i>	<hr/> 6
Total :	135

- c) Protection Element
- | | |
|------------------------|-----|
| <i>i) From Nigeria</i> | 155 |
| <i>ii) From Rwanda</i> | 155 |
- d) Support Staff (both international and local) - 9

18. The CFC Headquarters, which is responsible for coordinating investigations, verification, monitoring and reporting compliance, in accordance with the Humanitarian Ceasefire Agreement and the Implementation Modalities of 28 May 2004, is located in El Fasher, the capital of Darfur. In addition, there are Sector Headquarters established at El Fasher (Sector 1), Nyala (Sector 2), El Geneina (Sector 3), Kabkabiyah (Sector 4), Tine (Sector 5) and Abeche - Chad (Sector 6). In each Sector, there are two Teams of MILOBs. As at 10 October 2004, there were 18 MILOBs in AMIS Headquarters; 19 in Sector 1; 19 in Sector 2; 20 in Sector 3; 20 in Sector 4; 20 in Sector 5; and 19 in Sector 6. Each Sector has 4 vehicles and, in addition, Sectors 1 and 2 have two helicopters each.

19. The MILOBs Protection Element is made up of two companies, from Rwanda and Nigeria. The Rwandan company arrived in the mission area on 14 and 15 August 2004, while the Nigerian company arrived on 30 August 2004. Both companies have the necessary equipment. 'A' company (Rwanda) supports Sectors 1, 2 and 4, and 'B' company (Nigeria) supports Sectors 3, 5 and 6. Nigeria also provides a 2 x Section Quick Reaction Force (QRF) to the Headquarters of the CFC. As this report was being finalized, 192 protectors were in El Fasher, 54 in Nyala, 11 in El Geneina, 40 in Kabkabiyah and 12 in Tine. The deployment of additional protectors to the Sectors will take place as soon as the construction of the campsites is completed.

20. To facilitate the deployment of the Protection Element, the Commission signed Memoranda of Understanding (MoU) with the Governments of Rwanda and Nigeria, respectively. The MoUs specify the resources to be contributed by these two countries to the Mission and other relevant aspects.

21. Given the organizational constraints facing the Commission and the operational requirements on the ground, the concept of logistics is based on the outsourcing of the provision of supplies, equipment and services. In this respect, and as part of its support to the AU, the US entered into a direct contractual agreement with a US Government contractor (PAE), to provide office furniture and equipment, communications, other equipment and premises to the Mission, and ensure the maintenance of vehicles. The contractor is paid directly by the US Government. In addition, on 30 July 2004, the Commission, entered into a contractual agreement with the same contractor for the provision of catering services, fuel, level one medical

services and communication equipment. The Commission further signed an MoU with the Joint Military Commission (JMC) for the Nuba Mountains and Southern Sudan, who offered gratis the support of its procurement services, in particular for the purchase of vehicles and leasing of helicopters and fixed-wing aircraft.

22. The AU Mission has a total of 68 vehicles; it also uses air support assets such as helicopters and fixed air wings. Regarding communication, the Mission relies on satellite phones, as well as on HF long-range radio transmitters - receivers.

23. As part of the deployment of AMIS, the Commission signed a Status of Mission Agreement (SOMA) with the GoS on 4 June 2004. The SOMA covers all aspects relating to the operations of the Mission, including, inter alia, communications, travel and transport, privileges and immunities and facilities for the CFC and its contractors. During the period under review, the Commission has maintained regular contacts with the GoS to facilitate the implementation of the SOMA. I would like, in particular, to report that, on 30 September 2004, a high level Sudanese delegation led by Dr Tijani Salah Fadel, Secretary of State for Foreign Affairs, and including the Secretary of State for Security Affairs and a number of other civilian and military officials, visited Addis Ababa for consultations with the Commission. The meeting agreed on modalities for enhancing communication and cooperation between the relevant Sudanese authorities and the Commission/AMIS. I am pleased to note the reiteration by the GoS of its commitment to fully cooperate with the CFC/AMIS to facilitate its operations and the concrete steps taken to that end.

B) Financial Aspects

24. A budget estimate of about US\$26 million was approved initially for the deployment and sustainment of 120 military observers and 270 MILOBs Protectors, as well as civilian support staff. The 3rd Ordinary Session of the Assembly of Heads of State and Government, held in Addis Ababa, from 6 to 8 July 2004, decided to increase the number of Observers (of which a minimum of 80 would be AU MILOBs). Accordingly, the initial budget was revised to an amount of US\$43,872,341.

25. With regard to funding, an amount of US\$31,370,609.88 has been pledged and US\$ 25,792,051.91 has been disbursed. The detailed state of contributions pledged and received as at 10 October 2004 is as follows:

- Canada: 1,503,759.40 (received);
- Denmark: US\$736,664.25 (received);

- EU: US\$11,080,201.43 (this amount, which has been received, represent 80% of the total contribution by the EU of 12 million Euro, within the framework of the Peace Facility);
- Germany: US\$1,165,120.00 (received; in addition, Germany has donated communication equipment worth to Euro 100,000,);
- Greece: Euro 100,000.00 (pledged);
- League of Arab States: US\$ 100,000.00 (pledged);
- Netherlands: US\$ 2,000,000.00 (the Dutch donation has already been paid to the JMC in Khartoum for the provision of 3 helicopters for 3 months, including fuel);
- South Korea: US\$ 200,000.00 (pledged);
- Sweden: US\$ 134,066.23 (received);
- United Kingdom: US\$ 3,676,000.00 (received); and
- USA: US\$6,800,000.00 (the USA contribution is actual payment to PAE for contractual services for the purchase of office equipment, construction and maintenance).

C) Activities of the CFC/AMIS and Status of the Ceasefire

26. In accordance with its mandate, the CFC has continued its investigations in response to reports of ceasefire violations. Regular patrols are conducted by MILOBs to promote confidence-building, through AU's presence on the ground. Consultations with all the Parties to the Ceasefire Agreement and with the humanitarian agencies are continuing, while basic orientation for new MILOBs is being conducted. The CFC is also following upon the issue of persons detained as a result of the conflict in Darfur, and a comprehensive list will be released soon to the Parties. The MILOBs also escort convoys carrying fuel to El-Fasher.

27. At its 13th meeting, the PSC was briefed extensively on the ceasefire violations and other attacks against civilians. During the period under review, the CFC has confirmed that a number of violations had occurred. Clearly, this situation needs to be effectively addressed if efforts to resolve the current crisis and alleviate the plight of the civilian population are to succeed.

28. On 6 August, the village of Debba Toka was attacked by elements believed to be Janjaweed, while the SLM/A carried out ambushes to deter further attacks and protect the village. On 12 August, an alleged Janjaweed

leader was killed by IDPs in the Kalma camp. This was followed by a cordon and search operation to identify and arrest the murderers. During the operation and the following days, the GoS forces denied access to the CFC and NGOs. In mid-August, an SLM/A member committed acts of abduction, assault, killing and unlawful collection of taxes in the area of Dar-es-salaam and Wada. On 20 August, health workers involved in an inoculation programme in Kutum were abducted by the SLM/A. On 22 August, SLM/A elements abducted Hac and Nyala TV/Radio personnel, who were released later. On 24 August, the village of Yassin was attacked by men of the Rezigat tribe and Janjaweed militia, resulting in the loss of 57 lives and property. On 26 August, GoS forces used attack helicopters against SLM/A elements in the villages of Hashaba and Gallab. On 28 August, GoS forces attacked the village of Nortig, committing arson. On 31 August, a police team of 9 members was attacked in the village of Tawila by elements believed to be from the SLM/A; two policemen were killed and many others injured.

29. In the month of September, other ceasefire violations were committed. On 2 and 3 September, GoS and SLM/A forces fought in the village of Saiyah. On 2 September, GoS forces attacked the village of Abu Deleyk, including by helicopter bombardment, killing civilians and destroying property; on their part, SLM/A elements extorted goods from a commercial convoy passing through the village. On 20 September, a shootout occurred between the SLM/A and non-identified elements in Ain Siro. While investigating this incident, the MILOBs established that SLM/A had recruited and armed child soldiers.

30. Overall, the current security situation in the Darfur region is best described as an uneasy calm. The activities of armed robbers, armed militias and rebels, which included highway robbery, vehicle snatching and attacks on police stations and villages, resulting in loss of arms and ammunitions, have continued unabated. Police stations have become the target of armed robbers, militias and other groups, as they are an easy means of acquiring weapons. The Janjaweed have also continued to commit atrocities in the region. It is also worth mentioning the arrest of displaced persons from IDP camps by security operatives, particularly after the visit of such camps by dignitaries. Such arrests of IDPs, who are later released on the intervention of the CFC without any explanation, increase the insecurity and vulnerability of IDPs.

31. Some of the ceasefire violations that occurred during the period under review are linked to the way in which the UN Plan of Action for Darfur, developed to operationalize the relevant provisions of Security Council resolution 1556 (2004), has been implemented. Under the Plan, which was signed on 5 August 2004 between the Foreign Minister of the Sudan and the UN Special Representative in the Sudan, the GoS is to identify initial areas it pledged to render safe and secure for the IDP population. In the process of

establishing those safe areas, and as anticipated by the CFC, GoS police forces clashed with SLM/A elements.

32. Against this background, and with the view to harmonizing the implementation of the Plan of Action with that of the N'djamena Ceasefire Agreement, the issue was discussed, on 24 September, at the 6th meeting of the Joint Implementation Mechanism (JIM), established by the UN and the GoS, with the participation of the GoS, the UN and the CFC. During the meeting, the GoS reiterated the pledge it made to the UN to avoid sending its police into territory that is under SLM/A-JEM control. In addition, and in the absence of clearly identified areas of influence, it was agreed that, in case of doubt regarding areas which are under SLM/A-JEM control, the GoS would seek clarification from the CFC before moving forces. However, the GoS indicated that the implementation of the Plan of Action would be impossible if the Movements do not provide the information required under the N'djamena Agreement on the sites occupied by their forces.

33. This issue and other aspects of the ceasefire were discussed in Chad, on 4 October 2004, during the 3rd meeting of the Joint Commission provided for by the N'djamena Agreement. The Joint Commission appealed to the Parties to respect the ceasefire and implement the recommendations of the CFC. It should be recalled that the first meeting of the Joint Commission was held in Addis Ababa on 28 July, and the second one in Abuja, on 28 August, on the margins of the second round of the Inter-Sudanese Peace Talks on Darfur.

IV. EFFORTS BY THE UNITED NATIONS AND OTHER MEMBERS OF THE INTERNATIONAL COMMUNITY

34. Council will recall that, on 3 July 2004, the UN Secretary-General and the Government of the Sudan issued a Joint Communiqué in which the latter made a number of commitments. Regarding humanitarian issues, the GoS undertook to implement a moratorium on restrictions on humanitarian work in Darfur and to remove other obstacles to humanitarian work. Regarding human rights, the GoS undertook to take concrete measures to end impunity, ensure that all individuals and groups accused of human rights violations are brought to justice without delay and allow the deployment of human rights monitors. Regarding security, the GoS undertook to deploy a strong, credible and respected police force in IDP areas, as well as in areas susceptible to attacks; to ensure that no militias are present in areas surrounding IDP camps; and to start immediately to disarm the Janjaweed and the other armed outlaw groups.

35. The Joint Communiqué provided for the establishment of the JIM, referred to above, to follow and appraise developments and to report on progress in the implementation of the Communiqué. Since its establishment, the JIM, which is co-chaired by the Minister of Foreign Affairs of the Sudan

and the Special Representative of the UN Secretary General, has met several times.

36. It was against this background that the UN Security Council adopted resolution 1556 (2004), on 30 July 2004. In that resolution, the UN Security Council, acting under Chapter VII of the UN Charter, called on the GoS to fulfill immediately all the commitments it made in the 3 July 2004 Joint Communiqué. The Security Council demanded that the GoS fulfill its commitment to disarm the Janjaweed militias and apprehend and bring to justice the Janjaweed leaders and their associates who have incited and carried out human rights and international law violations and other atrocities. Council further requested the Secretary-General to report in 30 days, and monthly thereafter, on the progress or lack thereof by the GoS on this matter, and expressed its intention to consider further actions, including measures as provided for in Article 41 of the UN Charter, on the GoS, in the event of non-compliance.

37. On 5 August 2004, the GoS and the Special Representative of the UN Secretary-General agreed on a Darfur Action Plan to provide early indications to the international community that the Government of the Sudan had made positive progress in compliance with the UN Security Council resolution 1556 (2004) and the Joint Communiqué, by 30 August 2004. The Plan of Action was premised on the fact that, although not all commitments made by the GoS could be fully implemented within 30 days, there was nevertheless an urgent need to take immediate action to start moving towards that ultimate objective.

38. Concretely, under the Plan of Action, the GoS committed itself to identify parts of Darfur that could be made secure and safe within 30 days; to cease immediately all offensive military operations in those areas; and to identify and declare those militias over whom it had influence and to instruct them to cease their activities forthwith and lay down their weapons.

39. On 30 August, the UN Secretary-General submitted a report to the Security Council on the implementation of the relevant provisions of resolution 1556 (2004). In his report, the UN Secretary General indicated that certain measures taken by the GoS in accordance with the Joint Communiqué and the Darfur Plan of Action have resulted in some progress. In this respect, he mentioned the improvement of the security in some specific areas where IDPs are concentrated; the deployment of additional police and the beginning of disarmament; the lifting of access restrictions for humanitarian relief; the commitment to a policy of non forced returns; and the establishment of human rights monitoring and investigations.

40. However, the GoS had not met fully its obligations to stop attacks against civilians and ensure their protection. The Secretary-General stated that "Attacks against civilians are continuing, and the vast majority of armed militias have not been disarmed. Similarly, no concrete steps had been taken to bring to justice or even identify any of the militia's leaders or the perpetrators of the attacks, allowing the violations of human rights and basic laws of war to continue in a climate of impunity". The Secretary-General also indicated that the "displaced have been terrorized and have lost confidence in the authorities".

41. On 18 September 2004, the Security Council adopted resolution 1564 (2004) in which it reiterated its call to the Government of Sudan to end the climate of impunity in Darfur by identifying and bringing to justice all those responsible, including members of the Popular Defense Forces and Janjaweed militias, for the widespread human rights abuses and violations of international humanitarian law, and insisted that the Government of Sudan take all appropriate steps to stop all violence and atrocities. It demanded that the Government of Sudan submit to the African Union Mission for verification/documentation, particularly the names of Janjaweed militiamen disarmed and the names of those arrested for human rights abuses and violations of international humanitarian law. Council demanded that all armed groups, including rebel forces, cease all violence, cooperate with international humanitarian relief and monitoring efforts and ensure that their members comply with international humanitarian law, and facilitate the safety and security of humanitarian staff.

42. The Security Council requested that the Secretary-General rapidly establish an International Commission of Inquiry in order to immediately investigate reports of violations of international humanitarian law and human rights law in Darfur by all parties, to determine whether or not acts of genocide have occurred, and to identify the perpetrators of such violations, with a view to ensuring that those responsible are held accountable.

43. The Council declared that, in the event the Government of Sudan fails to comply fully with resolutions 1556 (2004) and 1564 (2004), including, as determined by the Council after consultations with the African Union, failure to cooperate fully with the expansion of the African Union Monitoring Mission in Darfur, it shall consider taking additional measures as contemplated in Article 41 of the Charter of the United Nations, such as actions to affect Sudan's petroleum sector and the Government of Sudan or individual members of the Government of Sudan, in order to take effective action to obtain such full compliance or full cooperation.

44. On 5 October, the UN Secretary-General presented another report to the Security Council, in pursuance of resolutions 1564 and 1556. In that report, he stated that the progress achieved by the GoS in August had not

been reversed. However, no further progress had been made during the month of September in other areas which are key for progress towards full security, including the implementation of the ceasefire, the stopping of attacks on the civilian population, the disarmament of the militias and the prosecution of the perpetrators of atrocities.

45. I should like to report that, during the period under review, the Commission has maintained close contacts with the UN Secretariat on the situation in Darfur and the UN support for the AU's efforts. Both the Commissioner for Peace and Security and myself met on several occasions with UN officials, including Secretary-General Kofi Annan. On 23 September, the UN Special Representative for the Sudan, Jan Pronk, visited Addis Ababa, where, in my absence and that of the Peace and Security Commissioner, he met with a member of the Commission to discuss various aspects of the situation in Darfur and the peace process between the GoS and the SPLM/A. I should also like to report that, on the margins of the UN General Assembly, President Obasanjo, in his capacity as Chairman of the AU, addressed the Security Council during an Open Debate on the situation in Darfur. On that occasion, he updated Security Council members on the AU's efforts.

46. During the period under review, the League of Arab States (LAS) has continued to be seized with the situation in Darfur. On 8 August 2004, the LAS convened an Extraordinary Session of its Ministerial Council. I participated in the meeting, together with my Special Envoy for Darfur. I seized the opportunity to brief the participants on the efforts exerted by the AU to resolve the crisis in Darfur.

47. The Ministerial Council, inter alia, reaffirmed the AU's leading role and expressed its readiness to cooperate fully in support of AU's efforts. The Council also expressed its deep concern for the deteriorating humanitarian situation in Darfur. In this connection, it welcomed the measures taken by the GoS as well as the Darfur Action Plan and its implementation mechanism. The Council further launched an appeal to its Member States and to the Arab organizations to extend urgent humanitarian assistance to the affected population. Finally, it called upon all Parties to abide by the N'djamena Humanitarian Ceasefire Agreement.

48. The EU and its Member States are actively involved in the efforts to address the crisis in Darfur, providing political, financial and logistical support to the AU's efforts, and contributing to the humanitarian action in Darfur. In addition, the EU is involved in the monitoring of the ceasefire in Darfur. The Commission has maintained constant dialogue with the EU and its Member States. A number of EU missions visited Addis Ababa, for consultations with the AU, the last one being a joint EU Council/European Commission delegation on 16-17 September 2004.

49. The Commission is also in regular contact with the USA, which has provided substantial assistance to AU's efforts. In this respect, I should like to note the visit to Addis Ababa of Assistant Secretary for African Affairs Constant Newman, in early July, Congressman Donald Payne, in early August, and Senator Jon Corzine, in early September, as well as the regular contacts at various other levels. The Commission is equally in regular contact with other AU partners, including Canada and Australia, who have expressed their support for the AU's efforts and their readiness to contribute resources to AMIS.

V. HUMANITARIAN SITUATION

50. The humanitarian situation in Darfur remains a matter of very serious concern. According to the latest available report of the United Nations for the month of September 2004, out of the six million inhabitants of Darfur, 1.5 million people are IDPs; they are supported by an equally vulnerable population of conflict-affected residents of about 390,000 people. The increase in the number of vulnerable population is due to further displacement, mainly in South Darfur, and, to an extent, to an improved humanitarian access to remote areas and SLM/A held areas, which is leading to the identification of more IDPs and other conflict affected people.

51 As a result of the efforts by the international community, significant progress has been made regarding humanitarian access. At the same time, the humanitarian agencies have increased their presence on the ground. At the beginning of September, there were over 40 such agencies operating in Darfur, while the number of international staff working in the region is over 700 and the total number of aid staff, including Sudanese, was over 5,000, as of early September 2004. This is, however, considered to be insufficient in view of the scale of the crisis.

52. The UN Agencies are reporting progress in meeting the needs of the people in the larger concentration areas of IDPs. The situation nonetheless remains difficult, with high levels of malnutrition and continued risks of epidemics. Equally difficult is the situation in neighbouring Chad, where over 200,000 people have sought asylum, fleeing the violence in Darfur.

53. A number of factors continue to hamper humanitarian efforts in Darfur. These include the continued insecurity; the state of infrastructure; and insufficient funding – in this respect, it is worth mentioning that out of the total funding requirement of the UN, which are estimated at US\$534 million, only about 58% has been provided by donors.

54. Despite its limited means, the AU has taken steps to contribute to the efforts to address the humanitarian crisis in Darfur. As Council would recall, in February 2004, a delegation from the Commission of Refugees, IDPs and Humanitarian Affairs visited the refugees' camp along the Sudan-Chad border. Subsequently, a symbolic contribution of US\$ 60,000 was made to the UNHCR to fund vital water projects in the barren desert where the refugees have found shelter.

55. From 15 to 17 August 2004, and as a follow-up to my visit to the region towards the end of July, the Commissioner for Political Affairs traveled to Darfur, to assess the realities on the ground. During her visit, she met with a number of Sudanese officials. She also visited IDP camps in Darfur. As a follow up to that visit, and the appeal by the Council for African humanitarian NGOs to be involved in the efforts to alleviate the humanitarian crisis in Darfur, I have authorized a grant of US\$ 130,000 in favour of Africa Humanitarian Action (AHA) – a Pan-African NGO operating in 12 African countries – to support the provision of medical assistance to the affected population in Darfur. AHA has since then deployed a team of experts in Darfur who are currently engaged in providing the necessary health services to the affected populations.

VI. HUMAN RIGHTS AND PROTECTION

56. Over the past months, the PSC, as well as the Executive Council and the Assembly of the Union, have expressed serious concern at the continued violations of human rights in Darfur, including the attacks against civilians by Janjaweed militias. Further, the AU has called on the GoS to swiftly bring to justice those responsible for human rights violations, in line with the AU expressed commitment to fight in impunity.

57. It was against this background that the PSC, on 25 May 2004, requested the African Commission on Human and Peoples' Rights (ACHPR) to undertake an investigation of the human rights situation in Darfur. At its 35th Ordinary Session, held from 21st May to 4 June 2004, the African Commission decided to send a Fact-Finding Mission to the Region. The Fact-Finding Mission took place from 8 to 18 July 2004. Subsequently, and while awaiting the consideration and adoption of the mission report, and in conformity with 111 (3) of the Rules of Procedure of the African Commission, the Chairperson of this body sent a request to President El Bashir, stressing the need to take urgent provisional measures relating to the questions of security of the IDPs, the protection of women from rape and violence, access to displaced persons and supply of humanitarian assistance, the safe return of IDPs to their villages and the deployment of human rights observers.

58. Furthermore, a team of eight UN human rights monitors has been deployed in Darfur, to ensure that the violations of human rights are effectively and quickly addressed and that better protection is afforded to the civilian population. In late September, the UN High Commissioner for Human Rights, Louise Arbour, visited Darfur, where she met with IDPs and representatives of the international community. She reported that grave violations of human rights were committed in the region, and urged the GoS to take effective measures to end impunity and provide security for the IDPs. The Office of the High Commissioner for Human Rights intends to deploy more human rights monitors in Darfur; at an initial phase, their number will be doubled to sixteen.

59. Within the context of the JIM, concerns have been raised with regard to the recruitment of Janjaweed as police or security officers in Darfur and also with regard to the Sudanese Authorities re-casting and charging common criminals as Janjaweed. However, the GoS has repeatedly denied these allegations at the JIM meetings. Reports of rape and sexual violence and exploitation have also been discussed.

60. As noted by the Fact Finding Mission of the ACHPR during its visit to the Sudan, the violence inflicted to the civilian population has created a climate of fear and lack of confidence in the Government forces. Accordingly, although the GoS, within the framework of the Plan of Action, has deployed more police forces on the ground, their impact on the security situation remains limited. Against this background, the GoS has requested the AU to deploy AMIS elements in the IDP camps. The steps required to that end are being taken and will be implemented in the context of the strengthening of AMIS.

61. Council would recall that, in May, GoS established a National Commission of Inquiry on the human rights violations. The Commission shall liaise with this body to gather information on its work and the steps taken to address the issue of impunity.

62. On 7 October 2004, and in accordance with paragraph 12 of UN Security Council resolution 1564 (2004), the Secretary-General appointed the members of the International Commission of Inquiry tasked to investigate the acts of violence and atrocities committed in Darfur. The Commission will be chaired by Judge Antonio Cassese from Italy, who was the First President of the International Criminal Tribunal for the former Yugoslavia (ICTY), and will comprise Mohammed Fayek of Egypt, Hina Jilani of Pakistan and Therese Striggner Scott of Ghana. Dumisa Ntsebeza of South Africa will act as Executive Director, heading the technical team that will support the Commission.

VII. ENHANCEMENT OF AMIS

63. As indicated above, at its 27 July meeting, Council requested the Commission to prepare, for consideration, a comprehensive plan for the enhancement of the effectiveness of AMIS. Subsequently, and following consultations with the UN Secretary-General, towards the end of July 2004, on the margins of the Accra Summit on Côte d'Ivoire, a UN Technical Team traveled to Addis Ababa and the Sudan to assist in this exercise. This was followed by close consultations and coordination between the Commission, the United Nations, the European Union, and other partners. The exercise has now been completed and a comprehensive plan for the strengthening of AMIS has been developed.

64. The proposed plan is informed by the recognition that, although AMIS' initial deployment has been useful, its effectiveness has been constrained by its small size as well as logistical challenges. With its current strength, the Mission cannot provide an effective coverage of Darfur. In the same vein, many IDPs and other civilians are still deeply concerned about their security. This general feeling of insecurity does not contribute to the likelihood of strict adherence to the N'djamena Agreement. Clearly, an international presence, if sufficiently widespread, would have positive effect. Accordingly, it is proposed to bring the total strength of AMIS to 3,320, comprising a military component of 2,341, a civilian police component of 815, and a support staff of 164 both in the Sudan and at the AU Headquarters

65. The military component would include 450 MILOBs and 1703 MILOBs protectors. Central to the proposed plan is the need for a balanced force that is capable of performing the following mandate:

- to monitor the situation proactively and report any violations of the ceasefire to the relevant organs, so that appropriate action can be taken at the political level.;
- to assist in the process of confidence-building;
- to contribute to a secure environment for the delivery of humanitarian relief, and the longer-term objective of supporting the return of IDPs and refugees to their homes;
- to contribute to the improvement of the security situation throughout Darfur, it being understood that the responsibility for the protection of the civilian population lies with the GoS.

66. The force structure, as proposed, will support a proactive approach, enabling it to implement its mandate over a wide geographical area, using a combination of essential mobility assets, appropriate force protection and

reliable information. It would also be sufficiently visible, thereby increasing the confidence of the population. This will help to restore stability and would also have the effect of further enhancing compliance with the ceasefire.

67. Monitoring and verification tasks would include observing the activities of the parties, confirming cessation of hostile acts, investigating reported violations of the ceasefire, verifying the Government of Sudan's provision of security for IDP camps, as well as monitoring and verifying the disarmament of militias. More general military tasks in support of the monitoring effort would include protection of AMIS personnel, equipment and facilities, protection of civilians under imminent threat in the immediate vicinity and within the capabilities of AMIS, facilitation of humanitarian operations under the same provisions and the provision of a visible military presence as a deterrent and a confidence- building-measure.

68. As indicated above, the plan envisages the deployment of 815 civilian police. The role of the civilian police component would be to assist with the monitoring and assist the local police. Among other tasks, the civilian police component would assist in the development of pro-active public confidence building measures; observe, monitor and report the effective service delivery of the local police; assist the local police in developing security plans for the IDP camps and humanitarian relief efforts; investigate and report all matters of police non-compliances with the N'djamena Agreement.

69. The Mission would be deployed in 8 sectors, comprising 15 team sites, including one in Abeche, Chad. Sectors would include integral helicopter support, and each team site will be capable of operating within a radius of 60 to 70 km from its base by land.

70. Current planning envisages a phased deployment, with each phase building up the sectors concurrently until the completion of the final phase, which is planned to be completed within 120 days of a mandate. The total budget for one year for the expansion of AMIS will be US\$ 221,737,791.59, including salaries, allowances and per diem; travel and transportation; purchase of vehicles; office furniture and equipment; construction of camp sites and establishment of other facilities; communication; uniform and clothing; fuel; medical services, etc.

VIII. OBSERVATIONS

71. In spite of the sustained efforts of the AU, supported by the international community, the situation in Darfur remains grave. The extent of the human suffering, the continued violations of the ceasefire, the attacks and other acts of violence against the civilian population have the potential to undermine the ongoing efforts to restore peace and stability to the region.

72. It is therefore crucial that the AU redouble its efforts to find a lasting solution and alleviate the plight of the civilian population. In this respect, the expansion of the AU Mission on the ground is of particular importance, if greater compliance by the Parties with the Humanitarian Ceasefire Agreement is to be achieved. Such enhancement of the Mission is also essential to restore a sense of security and create the minimum conditions required for the displaced civilian population to return and resume its normal activities, and to facilitate the delivery of humanitarian assistance.

73. I am pleased to note that, during the 2nd round of the Inter-Sudanese Peace Talks in Abuja, the Parties requested that the AU strengthen its mission. Subsequently, the Foreign Minister of the Sudan reiterated his Government's request to the Commissioner for Peace and Security on 6 September 2004. The Permanent Representative of the Sudan to the UN has also written to the Security Council to confirm his Government's request and readiness to cooperate fully with the AU regarding the strengthening of AMIS. President El Bashir has formally written to me to reiterate his Government's commitment in this respect. I welcome this positive development.

74. Over the past weeks, and in anticipation of the endorsement of the proposals contained in paragraphs 63 to 70, the Commission, with the support of the UN and other partners has initiated all the preparatory steps required for the deployment of additional personnel to meet the envisaged strength of 3,320.

75. Clearly, such undertaking would require the support of our partners, especially in terms of financial resources and logistical capability. It is encouraging to note that the US has already earmarked an initial amount of US\$20.6 million in logistical support to assist in the deployment and operation of an expanded AMIS, while Canada has indicated that it would contribute Can \$ 20 million. Australia has formally indicated its readiness to put two C-130 transport aircrafts at AU's disposal to assist in the airlift of the AU military personnel to be deployed as part of the expansion of AMIS and to consider any other request for assistance in support of the Mission in Darfur. A number of other bilateral partners have indicated their readiness to make contributions. The EU, within the framework of the Peace Facility, is expected to make a significant contribution. Finally, the United Nations Secretary-General wrote to me on 1st October 2004 to confirm the readiness of the UN to provide immediate assistance to the AU, including the establishment of an Assistance Cell; the opening by the United Nations Advance Mission in Sudan (UNAMIS) of offices in Darfur; and the organization, in collaboration with the AU, of a pledging conference to mobilize support for an expanded AMIS. I intend formally to approach our partners, to seek their support. At the same time, it is essential that our Member States also make contributions in support of AMIS.

76. The AU's efforts in the Sudan can only succeed if fully supported by the Parties. In this respect, I call on them to extend unreserved cooperation to the AU Mission and to comply with the commitments they have entered into. It is crucial that they respect the N'djamena Ceasefire Agreement. Equally important is the need for the GoS to fulfill all the commitments it has made to disarm the Janjaweed and to bring to justice the perpetrators of human rights violations. Impunity should be brought to an end if a lasting reconciliation is to be achieved in Darfur. On the margins of the General Assembly, in New York, this past September, I met with the Foreign Minister of the Sudan to discuss the situation in Darfur and the efforts to reach a speedy solution. This was followed by a working meeting between the Minister and the Commissioner for Peace and Security. During the discussions, the Minister expressed his Government's commitment to fully cooperate with the UN in the implementation of relevant Security Council resolutions, including the International Commission of Inquiry established by resolution 1564 (2004).

77. I also expect the Parties to show the flexibility and spirit of compromise necessary to ensure that the forthcoming round of Talks in Abuja be successful. In this respect, I welcome the readiness of the GoS to sign the Protocol on the Improvement of the Humanitarian Situation agreed upon during the second round of the Inter-Sudanese Peace Talks. I appeal to the Movements to sign this Protocol.

78. In preparation for the resumption of the Talks in Abuja, I have directed my Special Envoy to undertake consultations with the Parties and other stakeholders. Those consultations would help determine how best to organise the discussions on the remaining items on the agenda of the Talks. Over the past weeks, two views have emerged in this respect. Some are of the view that the next round should complete the discussions on the Draft Protocol on Security Issues, as an agreement on this Protocol would enhance confidence among the Parties, thus enhancing the prospect of reaching a consensus on the political issues. Others are of the view that the next round should proceed directly to the consideration of the political issues, as most of the issues in the draft Security Protocol are being addressed in other fora, including the Joint Commission.

79. Since 7 October 2004, talks between the GoS and the SPLM/A have resumed to address the remaining issues of the North-South dialogue. I urge the Parties to show commitment to complete the peace process. Undoubtedly, success in these negotiations will have a positive impact on the Talks on Darfur.

80. I appeal to the international community to provide the much needed support to alleviate the plight of the civilian population in Darfur. I also appeal to AU Members States to make contributions in support of humanitarian action in the region.

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