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**REPORT OF THE CHAIRPERSON OF THE COMMISSION
ON THE SITUATION IN LIBERIA**

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I. INTRODUCTION

1. The AU continues to bring its modest support to the peace process in Liberia. Despite its limited resources, its Liaison Office in Monrovia is playing an active role in the work of the Joint Cease-Fire Verification Commission, the Joint Follow-up Committee for the Implementation of the Comprehensive Peace Agreement, the International Contact Group on Liberia and in the work of other mechanisms created within the framework of the peace process. On his part, my Special Envoy, Lamamra Ramtane, has undertaken many assessment missions on the ground. The recommendations emanating from his recent assessment mission including the proposals of the Liaison Office, provide a framework on which the AU could take action in support of and to sustain the peace process in Liberia.

2. The Accra Comprehensive Peace Agreement signed on August 18, 2003 was expected to serve as the framework instruments through which Liberia will transit via peaceful means into a full fledged democracy. The Agreement otherwise known as the CPA provided, among others, for a certain number of organs and institutions whose operationalisation were intended to serve as pillars towards the realization of erecting a viable democratic structure that will serve as the foundations on which enduring peace will be established.

3. It should be pointed out from the onset that significant progress has been made in Liberia since the inception of the National Transitional Government of Liberia (NTGL) led by Chairman Charles Gyude Bryant. The United Nations Mission in Liberia (UNMIL) has deployed virtually throughout Liberia beginning from October 2003. With the presence of 15,000 peacekeeping troops across the country and substantial progress in the disarmament and demobilization components of the DDRR process, security in the country has improved considerably. However, a number of challenges abound in the overall implementation of the Accra Comprehensive Peace Agreement and the establishment of an enduring peace and a viable state.

II. POLITICAL SITUATION

a) The National Transitional Government of Liberia (NTGL)

4. Article XXI of the Comprehensive Peace Agreement provided for the establishment of a Transitional Government to replace the erstwhile Government of Liberia. It was thus inaugurated on 14 October 2003, in accordance with the provision. The CPA therefore, provided for restoration of national authority throughout the country with the establishment of a Transitional Government that will prepare the way for an in-coming government and also serve as a vehicle for post-conflict recovery.

5. However, the scorecard shows a mixed picture on whether the NTGL as a whole is up to the task. The Transitional Government is being saddled with a widespread of corruption, which has become a great source of concern to the entire international community. The Chairman of the NTGL has found it intractable to curb

the corrupt excesses of officials. This is due in part to the fact that the Cabinet is made up of factional leaders and members who do not share common understanding of the role of the Transitional Government in the peace process. They have often displayed greater allegiance to their various factions than to the government under which they serve.

6. It is recognized by both the Liberian actors and international community that the ECOWAS brokered Peace Agreement, is such that was based largely on compromise, aimed at bringing the much-desired peace to Liberia. It was in fact based on the principle of including all Liberian stakeholders (including mainly the warring factions) in the transitional government. The CPA nonetheless, assumed good faith by all parties, despite their various political agendas and leanings. However, it is now obvious that this approach has caused great difficulties for the execution of the NTGL's mandate. At the same time the National Transitional Government of Liberia has had to work in an environment of non-existing systems and institutions and where they exist are weakened and made dysfunctional by years of civil conflict and neglect.

7. However, the establishment of the NTGL under such prevailing circumstances, did result in ensuring relative peace and stability in the country. But beyond the immediate peace and stability, which has endured up till the moment, and hopefully will further endure beyond the coming general elections, the international community along with the NTGL recognized the fact that a huge deficit exists. This is in the area of economic and fiscal governance, as well as need to infuse greater devolution of power away from the over-concentration in the Office of the President. These three elements translate to a huge governance deficit, which impedes efforts insufficient to put Liberia's economy firmly on a path of recovery, poverty relief and national reconstruction and reconciliation. The result of this at the moment is the inability of the NTGL to check systemic corruption at virtually all levels. The immediate effect within the international community is to predicate further assistance, particularly, in the area of Reintegration and Rehabilitation on a clean stable. In other words, donor support in other areas of post-conflict reconstruction is also being based on the same premise.

b) NTLA

8. The National Transitional Legislative Assembly (NTLA) is weakened with allegations of corruption, particularly, at the leadership level. Apart from this, it is also composed of people who found their way there by virtue of their being warlords of some sort. They are therefore, not able to fully play their role beyond being self serving. At the moment, the Parliament is embroiled in a serious matter of alleged corruption against its leadership and took disciplinary action by way of indefinite suspension of the Speaker, the Deputy and two of its House Committee Chairmen involved in the matter. The issue has since found its way to the Supreme Court, where it has been awaiting favour of the Court's opinion. It is, however, surprising that, on a serious matter of constitutional interpretation, the Supreme Court has exhibited a damaging vacillation, for no apparent reason. The matter is still awaiting pronouncement even at the dusk of the day in the life of the Transitional arrangement.

c) Judiciary

9. With regard to the judiciary and the importance of rule of law to ensuring that a lasting peace subsists in Liberia, it is to be noted that Liberia's legal, judicial and corrective systems are rather limited. This has been further compounded by years of conflict and neglect, typified by rampant disregard for the rule of law by successive regimes, including the present one. It is in this light, that above judicial lapse can be situated. The Judiciary is obviously rife with favouritism and prejudice.

10. In the last four months, there have been numerous cases where the Courts have come up with injunctions curtailing certain acts of the Executive or directing the Parliament through its interpretive role of the Constitution, only to find these two arms ignoring the judiciary. Such practices by the other arms of government lead to the public losing confidence in the judiciary and are a veritable recipe for breeding anarchy in future. There is therefore, greater need for international support in the area of reforms than hitherto would be required if a solid foundation for an independent and credible judiciary is to be put in place for the in-coming government. As of the moment, many of the Courts are not functioning as they have either been looted or destroyed. There is therefore, need for substantial resources to rehabilitate the court system both in and outside of Monrovia, as well as to train judicial officers particularly prosecutors and magistrates.

d) Governance

11. On the whole, the general assessment of the Government of Transition is that it is not able to fully perform the role assigned to it under the Comprehensive Peace Agreement. On the bright side, it was able to uphold and implement the Ceasefire Agreement. However, due to the inherent problems enunciated above, it has been limited in overseeing and coordinating implementation of the political and rehabilitation programs in the CPA. This has been due to the fact that in addition to already mentioned problems, the Government lacked the necessary resources to complement donor's efforts in the rehabilitation process of the country. It could not perform to optima as the country is under a strict regime of sanctions imposed by the UN Security Council. The shadow of the economic sanctions and the prevailing conditions that occasioned it, which are still pervasive, have led to the need to call for a rethinking from outside of the box, that will critically examine and proffer novel and unusual way of allowing the country to make use of some of its naturally endowed assets for development purposes. Such mechanism will be shaped to ensure that the intended effects of the sanctions are not diluted.

12. Arguably, the greatest challenge in Liberia today is the inability of the present regime to carryout urgently required governance reforms that are needed to ensure and guarantee sustainable peace and eventual stability in the country. In the last decade, almost all government institutions, including the armed forces and police, became moribund and ineffective, with consequent insecurity of lives and property, displacement of about half of the population and massive destruction of public and private infrastructure, and failure to secure an enabling environment for growth and development. The panacea to the dismal picture presented above is the introduction of a structural review and reform of the Liberian Constitution, which would have to

make it consistent with international human rights standards on citizenship and land ownership.

13. It is in the light of the above that the International Contact Group on Liberia (Mano River) and the NTGL agreed at their meeting in Copenhagen, Denmark on 9-11 May 2005 to explore a more robust approach to economic and fiscal governance in Liberia, that will consist of immediate and firm remedial effort. Apart from the conclusions of the ICGL and NTGL, the ECOWAS Mediator, General Abdulsalam Abubakar (Rtd), had earlier in April 2005, recommended to ECOWAS an Audit Team to carry out investigation into numerous and various allegations of corruption against members of the Cabinet, including the Chairman of the NTGL. The result of that investigation is yet to be released. Albeit, it is expected that its tone will not be different from an European Commission financed systems and financial audits of the Central Bank and five state-owned key enterprises, which wholly supported the conclusions of the ICGL.

14. Conclusions drawn at the Copenhagen meeting, as well as the need to guarantee full and scrupulous implementation of the CPA, and ensure that all the revenues to be accrued to the Liberian Government is made available for the reconstruction of the country and the provision of basic amenities, led to the recommendation of putting in place an Economic Governance Action Plan (EGAP) by the ICGL. It is also recommended to ensure that the newly elected Government take onboard appropriate fiscal instruments to capture the revenue required for the development of the country. The whole idea here is to draw up an additional framework of action that will further assist in renewing the structures of governance and fill certain lacuna that were left at the formation of the CPA, which will aid a firmer transition towards enduring peace and stability.

15. The elements of the Plan, which comprises of seven key interlocking components are:

- a) Securing Liberia's Revenue Base – to be accomplished through means 'such as deploying international experts with signature authority to improve financial management practices in selected enterprises and institutions, offering international management contracts for five State owned Enterprises (SoEs) through competitive bidding, establishing escrow accounts for revenue generated, and strictly enforcing the provisions of Executive Order No. 2, which mandates the centralization of the authority to collect revenue at the Ministry of Finance and of government accounts at the Central Bank of Liberia (CBL)'...
- b) Improving Budgeting and Expenditure Management: 'The functioning of the system will be improved through capacity building, revamping business processes, providing an Integrated Financial Management Information System (IFMIS), deploying international experts with signature authority as already requested by the NTGL, ensuring effective commitment control, developing realistic cash and procurement plans, and establishing an empowered Technical Secretariat for the Cash Management Committee (CMCo) staffed with adequate capacity.

- c) Improving procurement practices: Transparency in procurement is to be strengthened through a proposed new procurement law, as well as through implementation of a basic e-procurement system that will require mandatory listing, open competitive bidding and publication of results of public tenders. Specialized procurement expertise will be deployed to strengthen the process for granting of concessions, contracts and licenses. In addition, support will be provided to the Contract and Monopolies Commission (CMC) to strengthen its compliance role and to empower it to review concessions, contracts and licenses.
- d) Establishing Effective Judicial Process to Control Corruption: ... Specific actions are needed to combat corruption. In the immediate term these actions include the need for establishment of an effective and independent Anti-Corruption Commission, as well as technical support from sub-regional serious fraud investigators and anti corruption / economic crimes officers. In the short term, judges from the sub-region must be brought in to support the return of the rule of law to Liberia, particularly in the area of documented cases of corruption. These judges will work with the Liberian judiciary in the dispensation of justice, while international partners work in parallel to revive the Liberian justice system.
- e) Supporting Key Institutions: International assistance will be immediately requested for a number of key institutions, such as Central Bank of Liberia (CBL), General Auditing Office (GAO) and the Governance Reform Commission (GRC). This would be in the form of, but not necessarily limited to, international experts with executive authority in the CBL and GAO, awarding of a contract for an External Audit Agent to support the work of the GAO and provision of technical assistance to the GRC.

15. Capacity Building: ... The approach described in points 1-5 above, targeting national revenues and expenditures, will be accompanied by a plan to enable medium-term planning for poverty reduction and capacity building. The plan will specify the activities planned for building local capacity, the timeline for measuring results through improved service delivery and the exit strategy.

16. Results Focused Transitional Framework (RFTF): The RFTF is the overarching partnership framework through which donor funding and use of national resources are co-ordinated. It is the basis for supporting national priorities in a co-ordinated manner. The linkage between the work of the Economic Governance Steering Committee (EGSC) and the RFTF is critical, since both need to be co-ordinated to deliver results on the ground.

17. It is expected that the implementation of EGAP will be guided and monitored by the Economic Governance Steering Committee (EGSC). The Committee shall be chaired by the Head of NTGL and subsequently by the in-coming Head of State of Liberia, while the Deputy Chair will be a representative of a development partner.

The Plan if finalized, is to be submitted to the UN Security Council for its endorsement.

III. ELECTORAL REFORMS AND ELECTIONS

18. It is expected that elections will signal a profound milestone in Liberia's transition toward peace, stability and good governance. To prepare the way for elections slated for October 2005, National Elections Commission (NEC) was established in accordance with the provisions of the CPA, by Chairman Gyude Bryant. The Commission subsequently prepared a draft Electoral Bill that among other things suspended certain parts of the Constitution of the Republic of Liberia which are overridden by the provisions of the CPA. The passage of the Electoral Bill suffered delay during its visitation at the National Transitional Legislative Assembly (NTLA), it was however, passed and the way was paved for activating the process towards the actual conduct of the elections.

19. With preparations towards elections already on course, there exists a note of optimism in the way and manner the National Elections Commission has so far carried out its mandate. The Commission successfully embarked upon and successfully completed its voter registration exercise. It is noteworthy to reveal that out of the 1.5 million registrations expected a total of 1.3 million citizens registered and only 200 irregularities were recorded across the country. The National Elections Commission is proving able to the task at hand as they have also redressed many of the lapses that were earlier identified which were within its means to rectify. So far, a total number of thirty (30) Political Parties have been registered by the National Elections Commission. Though, many observers, including Liberians, are of the opinion that there appear to be too many parties in the fray, the registered parties have however, been able to satisfy the requirements in the guideline laid down by the Commission. It is also instructive to point out that both the NTGL and the donor community have been consistent in making real their commitments and this has ensured hitch free progress towards actual conduct of elections.

IV. SECURITY SITUATION

a) Disarmament, Demobilization, Rehabilitation and Reintegration (DDRR) Components

20. The DDRR programme has as its objective, to contribute to the consolidation of peace and national security as precondition for reconciliation and long-term development. To achieve this, the programme has as its main goal, the reintegration of demobilized ex-combatants into communities of their choice through access to social and economic reintegration opportunities. It is then envisaged that these ex-combatants will, through specially designed programmes, be provided with opportunities to access market related basic skills training or apprenticeship schemes. These ex-combatants are also to be provided opportunity to access further formal education and they are also provided opportunities to participate in public and community based development projects. They are also to be provided with opportunities to access credits, grants and skills for micro-development. Alongside, the programme is also aimed at addressing the problems of vulnerable groups, i.e. women and children associated with fighting forces and physically

challenged people, who are provided with opportunities to access tailored programmes for economic participation.

21. While the Disarmament and Demobilization phase of the programme was completed in October 2004, and it can be adjudged successful, it is perhaps important that certain caveats be highlighted, that now constitute a great challenge to the implementation of the Reintegration and Rehabilitation component of the programme. In the first instance, there was an underestimation of the number of those to be disarmed and demobilized. The projection for the DD component was to deal with about 40,000 men, women and child soldiers. By the end of the DD process, about 103,000 ex-combatants showed up and registered under the programme. This underestimation by the international community particularly, the implementing agencies, led to another challenge which is funding. Considerable percentage of funds that ought to have gone to the RR Component was used to complete the DD component of the programme. However, with renewed commitment by the donors, after the ICGL Meeting in Stockholm and Copenhagen, the shortfall gap of USD 30 million has been reduced to USD 10 million, while useful repackaging of the RR is also being embarked upon. At the same time, plans are already on to merge the RR programme with the programme for IDPs and Returnees through Community Based Development that will address both issues in pragmatic holistic manner.

22. It is however, necessary to raise a red herring, by pointing to certain facts. Current programmes only cover about 43 000 ex-combatants, and it is for a maximum duration of three years. Secondly, there is a huge number of about 53,000 ex-combatants that are yet to be part of any programme of rehabilitation. What is going to happen to them? There exist a high possibility that these ones may become restive as soon as they realize that they are being shot out.

b) Disbandment, Restructuring and Reforming of the Armed Forces of Liberia

23. Under the Comprehensive Peace Agreement, the restructuring and reforming of the Armed Forces of Liberia is part of the requirement of the peace process. In fulfilment of this requirement, the US Government has undertaken to take the lead role to implement the programme, but has stated that it will not be providing resources to demobilize and bear the cost of severance pay to the existing members of the Armed Forces of Liberia. The US Government will make provision for training, equipping, doctrine and right sizing of the military.

24. Currently, the Armed Forces of Liberia is estimated at about 14,800, of which 8,800 were irregularly recruited from 1989 upwards. Therefore, the real Force is about 6,000 officers and men and normal disengagement benefits (pensions and gratuity) to the bonafide officers and men, a total amount of USD 16.5 million is required. USD 8.5 million is required for severance pay while the rest is for pensions, which will be calculated using three criteria of tenure, rank and physical condition. The figure for the normal Armed Forces strength was based on the recruitment into the Armed Forces prior to 1989, which leaves out subsequent recruitment, which did not adhere to laid down rules and regulations for regular service recruitment. The Chairman of the Transitional Government, H.E. Mr. Gyude

Bryant has approached the African Union to assist in defraying the cost of severance from the coffers of the African Peace Fund. In this regard, the Mediator called upon the African Union to explore concrete ways and means of assisting the government financially for this purpose.

25. The exercise took off on the 28th of June 2005 at one of the major military camps, Camp Schaefflin, with NTGL initial provision of USD 5 million, which it was able to raise from various means. It is hoped that before the end of the exercise, more sources of funds will be brought to the aid of government. It is pertinent to again highlight the importance of this process to the success of implementing the Comprehensive Peace Agreement, as well as to the stability and security of Liberia. It is clear that it will be inimical to the entire peace process to have an incomplete demobilization and restructuring of the Armed Forces of Liberia and at the same time have a dissatisfied group of ex-combatants after the elections. This will have negative consequences for the new government to deal with. It is, therefore, important that the African Union give greater consideration to the request of the NTGL for assistance in funding the demobilization programme as rebuilding is predicated on total demobilization of the erstwhile Force and/or help in exploring other ways and means to achieve the desired goal.

V. RESTRUCTURING OF LIBERIA NATIONAL POLICE AND OTHER SECURITY SERVICES

26. Another important provision of the CPA was for the restructuring of the Liberian National Police (LNP) Force. The UN Civilian Police (CIVPOL) in Liberia began the training of new police cadets in July 2004. It is expected that between 1800 and 1900 members of the new Force would have been trained and operational by the time the country holds elections in October 2005. The new recruits will be representative of all the regions of Liberia and would undergo thorough screening to ensure that they are qualified and possess no record of human rights abuse. The new Police Force is expected to reach its initial full strength of 3500 within the next two years. The main challenge of restructuring the Police Force is that of changing the psyche of the new recruits. There have been reports of graft taking amongst a few of the newly trained and recruited men of the Force. This is noted against the background of the general malaise plaguing the polity. It is also hoped that specialized training and equipment can be obtained on a bilateral basis from Member States, so that the Force can adequately face the challenge at Law.

VI. HUMANITARIAN SITUATION

a) Refugees/ IDPs

27. There are problems and difficulties in implementing a return and repatriation programme. At the moment efforts are underway to arrange for the hiring of a vessel that will go from Nigeria to Ghana and Sierra Leone and repatriate as many refugees wishing to return to do so with their personal effects. About 100,000 have returned on their own out of the over 300,000 Liberian refugees in the Sub-region. With respect to IDPs, it was noted that the rate of repatriation has to be slower than expected. This was due to the fact that repatriation is first and foremost guided by the principle of choice by the individual IDPs to guide movements. At the moment

out of 314,000, about 187,000 have been repatriated through the Facilitated Return Programme of which 36,000 are family heads.

28. The import of the above is that the change in the mode of operation of movement to one that only facilitate through the provision of money by applying the highest cost of transportation, encouraged a higher rate of return. This new approach has resulted in a higher rate of about 30,000 returnees per month. At the moment more than half of the camps have been closed.

VII. COMMENTS, OBSERVATIONS, RECOMMENDATIONS

29. The international community should come to grips with the fact that the Accra Comprehensive Peace Agreement is fraught with fundamental problem of commitment by Liberian actors. This was due, primarily to the need to rid the country of Mr Charles Taylor at the inception of the peace process and ensure the establishment of an immediate ceasefire on the ground in the country. The serious concern for an immediate solution at the time resulted in handing over power to the protagonists who were perpetrating the hostilities even at the time of the peace negotiations. At the Accra conference Liberia was literally 'up for grabs'. Most of the people in power had the intention to protect the interests of only their various factions.

30. On the Economic Governance Action Plan, it is necessary to point out from the on-set that the various elements proposed in the plan have not shunted the hallowed principle of respect for the sovereignty of the State. It respects this within the context of the Accra Comprehensive Peace Agreement, which is largely in conformity with the principles and objectives of the Constitutive Act of the African Union (Article 3 (a, e, g, h); and Article 4 (a, h, l, m, n, o, p). However, it should be pointed out, ab-initio, that for the whole exercise to be productive, and to serve Liberia well, it is necessary to recommend the need for constitutional reformation as sine qua non to successful long term reforms of the type contemplated in the proposed Plan by the in-coming government. This is necessary for proper institutionalization of the proposals through the effect of law.

31. On elements i, ii and iii, the broad principles necessitating the recommendations of the International Contact Group on Liberia (Mano River) is well understood given the prevailing situation. However, some fine-tuning of this proposal is needed and specific provisions are to be further considered with a view to insuring effective Liberian ownership of and participation in the entire process.

32. The PSC is also invited to consider an immediate role for the African Union to embark upon actions that will enhance its role. This will be in the form of both physical contribution and formulation as well as introduction of additional policies aimed at complementing the Comprehensive Peace Agreement. In particular, it is suggested that the AU:

- i) should support some form of Community Based Development projects being executed as part of the RR component of the DDRR programme, such as those that involve African-based NGOs;

- ii) should assist the National Elections Commission with the provision of some vehicles and provide technical assistance by way of sending election experts particularly in the area of civic/voter education programme alongside the traditional Election Monitoring and Observation Team usually provided during actual conduct of elections;
- iii) should accelerate the process of dealing with the issues raised by the request of the NTGL for assistance with respect to defraying the cost of severance for erstwhile men of the Armed Forces of Liberia;
- iv) should appeal the Member States to assist the Liberian National Police Force in its training and material needs;
- v) Reinforce the strength of the Liaison office;
- vi) With regard to the extant regime of sanctions imposed by the UN Security Council, it is recommended that the African Union through the instrumentality of the African Group in New York, explore the possibility of a review of the regime. This is to allow the State to avail itself of its resources in one form or the other to rebuild its structures of governance and be in a position to provide basic services and ensure the human security of its people. This recommendation is made within the overall context of linking proposed review to the proposed Economic Governance Action Plan.
- vii) Consider what specific missions could be assigned to the AU Liaison office in a framework of post-conflict reconstruction effort aimed at promoting democracy, security and development and contemplate the use of it, together with ECOWAS office, to serve the purposes of a comprehensive good governance program

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Report of the Chairperson of the Commission on the Situation in Liberia

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