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**BRIEFING NOTE ON THE STATUS OF IMPLEMENTATION OF THE
COMPREHENSIVE PEACE AGREEMENT (CPA) IN THE SUDAN**

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COMPREHENSIVE PEACE AGREEMENT (CPA) IN THE SUDAN**

I. INTRODUCTION

1. The much-acclaimed signing of the Comprehensive Peace Agreement (CPA) by the Government of the Sudan (GoS) and the Sudan People's Liberation Movement/Army (SPLM/A) brought renewed hope to ordinary Sudanese, after 21 years of seemingly intractable war. The implementation process of the CPA began on 9 January 2005 with the pre-interim period, which ended on the 9 July 2005 with the swearing in of the new Presidency.

2. The present note provides an update on the implementation of the CPA.

II. POLITICAL ASPECTS

3. The Presidency of the Republic, headed by President Omar Al-Bashir, First Vice President, John Garang de Mabior, and Vice President Ali Osman Taha, was inaugurated on 9 July, when the Interim National Constitution (INC) was adopted and signed. This ceremony was attended by a number of African and other Heads of State and Government. The AU Commission was represented by Deputy Chairperson Patrick Mazimhaka. The INC is the supreme law of the Sudan, and the Interim Constitution of the Southern Sudan, State constitutions and all laws must comply with it.

4. Tragically, Dr Garang, President of the Sudan People's Liberation Movement/Army (SPLM/A) and newly inaugurated First Vice President, was killed on 30 July in a helicopter crash, en route from a visit to President Yoweri Museveni of Uganda. Disturbances, which briefly threatened the peace process, followed his death, both in the North and the South of Sudan, including in Khartoum and Juba. Consequently, the Government imposed a state of emergency in Khartoum for a short while. It also instituted two committees, one to investigate the cause of Dr Garang's helicopter crash and the other to investigate the riots that followed the crash.

5. Following Dr Garang's untimely death, and in compliance with the CPA, the SPLM nominated Lt. General Salva Kiir as successor to Dr Garang on 1 August. Upon his nomination, Lt. Salva Kiir stressed that he would continue to work with the National Congress Party (NCP) and other groups to ensure the successful implementation of the CPA. President Omar Al Bashir also vowed to ensure that every aspect of the CPA is implemented, to ensure that the peace reached in the Sudan is sustainable. Lt. General Salva Kiir was sworn in as First Vice President of the Sudan and the President of the GoSS on 11 August 2005, in line with the principles of the CPA that a departed leader is replaced within two weeks. He, in turn, appointed Lt. General (Rtd) Dr Reik Machar Teny Dhurgon as the Vice President of the Government of Southern Sudan (GoSS), on 17 August 2005.

6. Before his untimely demise, Dr John Garang, as President of the GoSS, had replaced the Governors of the ten States of Southern Sudan with new caretaker Administrators. This decision was met with hostile reactions from the Southern Sudan Defence Forces (SSDF), lead by Paulino Matip, who felt that his movement still controls some major parts of the South and that, therefore, SSDF officials should have been appointed instead.

7. On 20 September, after almost one and half months, the Sudanese leadership announced the formation of a Government of National Unity (GoNU). The Cabinet, comprising 15 NCP Ministers, 9 SPLM and 6 going to the other southern and northern groups, was then endorsed by the National Assembly, which had been formed on 31 August. The CPA states that, "during the Interim Period, there shall be a Government of National Unity reflecting the need for inclusiveness, the promotion of national unity, the defence of national sovereignty, and the respect and implementation of the Peace Agreement". The composition of both the National Assembly and the GoNU is guided by the percentages agreed to by the Parties in the CPA, which are: the National Congress Party - 52%; the SPLM - 28%; the other Northern political forces - 14%; the other Southern political forces - 6%.

8. The Parties that made the list of the GoNU included, amongst others, the NCP, the SPLM, the UMMA Party, the Democratic Unionist Party, the United Southern African Parties and members of the National Democratic Alliance (NDA). Even though the SPLM had been a member of the NDA, some members of the NDA have joined the GoNU on the side of the NCP. Ever since the signing of the Cairo Agreement between the GoS and some members of the NDA, the two parties seem to be working closely as evidenced by these new appointments.

9. The interim constitution of South Sudan has been finalized and the South Sudan National Assembly has also been nominated. The southern region is now in the process of forming the GoSS. The GoSS shall function in accordance with a Southern Sudan Constitution, which was drafted by an inclusive Southern Sudan Constitutional Drafting Committee and adopted by the Transitional Assembly of Southern Sudan by a two-thirds majority. Both in the South Sudan Legislature and the Executive, the allocation of seats shall be determined as follows: the SPLM - 70%; the NCP - 15%; other Southern political forces - 15%.

10. The immediate post Garang period has witnessed closer working relations between the SPLM and the SSDF. They have agreed to resume the south-south reconciliation process, under the auspices of former Kenyan President Daniel Arap Moi. General Paulino Matip, leader of the SSDF, was opposed to Dr Garang's appointment of caretaker Administrators in the South. However, he has displayed a sudden change of heart since the death of Dr Garang, expressing his support for the new SPLM leadership in the implementation of the CPA.

11. Other organs provided for under the CPA are to be established. These are: the Assessment and Evaluation Commission (AEC), the Ceasefire Political Commission (CPC) and the Joint Defence Board (JDB). Although a decree to form the CPC has been

passed, the Commission itself has not yet been formed. The CPC is a political decision making body that “shall supervise, monitor and oversee the implementation of the CPA”. The JDB is the military planning and decision making body charged, in the CPA, with the responsibility of “clearly specifying, within the first year of the interim period, the Joint/Integrated Forces within their respective areas of deployment, subject to the approval of the Presidency”. It is to be established under the Presidency, and “shall be comprised of the Chiefs of Staff of the two forces, their deputies and any number of senior officers to be agreed to by the parties”.

12. One of the most contentious issues that is remaining is the Abyei border dispute. It shall be recalled that the report of the Abyei Border Commission (ABC) did not fully resolve this issue. Consequently, the Parties agreed to leave for the Presidency to resolve, as agreed in the CPA. There can be no doubt that this issue has strong potential to derail the progress so far made in the Sudan peace process. It is worth noting that, as the season for the armed Nomads to migrate south commences, more conflicts are bound to occur between the latter and the Ngok Dinka in the Abyei area once again. It is therefore of critical importance that a speedy and more permanent solution to the Abyei problem be devised.

III. MILITARY SITUATION AND SECURITY ISSUES

13. On 24 March 2005, in support of the CPA, the United Nations Security Council adopted resolution 1590 (2005), which established the United Nations Mission in Sudan (UNMIS) for an initial period of six (6) months, and further decided that UNMIS would consist of up to 10,000 military personnel and an appropriate civilian component, including up to 715 civilian police personnel. The UNMIS is currently deploying its troops.

14. As of 25 September, UNMIS had deployed a total of 2377 staff officers and military observers in the following areas; Khartoum, Juba, Wau, Malakal, Kadugli, El Damazin, Abyei, Kassala, El Obeid and El Fasher. There has been a delay in the deployment of the UN troops and, therefore, the UNMIS Military Staff are reportedly revising their deployment plan.

15. The CPA required that the Joint/Integrated Units be formed during the pre-interim and the interim period from both the SAF and the SPLA. They will be expected to form the nucleus of the future Sudanese National Armed Forces (SNAF) “should the result of the referendum on the right of self-determination for the people of Southern Sudan confirm unity of the country”.

16. A major challenge to the peace process in the South, which is also acknowledged by the UNMIS, is posed by the constant incursions of Ugandan rebels, the Lords Resistance Army (LRA). The LRA, is making it difficult for the returning population of South Sudan to settle in their new areas, for example the Juba – Yei road has recently been classified by UNMIS as a no go area for UN Agencies. On 17 August 2005, following the death of Dr Garang, the returnees in some areas of Eastern Equatoria wrote a letter to the First Vice President of the Sudan and President of the GoSS, on the threats posed by the LRA to their lives and the success of the CPA. On 24 August, Lt. General

Salva Kiir advised the LRA to seek political settlement rather than continue fighting. He indicated that the GoSS would otherwise be compelled to forcefully remove them from Southern Sudan. Lt Gen. Kiir has also offered to meet with the head of the LRA personally, at a time and place convenient to the latter.

IV. ECONOMIC DEVELOPMENTS

17. The Sudan is in the process of preparing its national budget for 2006. Indeed, this budget will be prepared by the GoNU, taking into consideration the principles of the wealth sharing agreement within the CPA. The agreement states, in part, "The wealth of Sudan shall be shared equitably so as to enable each level of government to discharge its legal and constitutional responsibilities and duties". It further directs that the "National Government shall also fulfil its obligation to provide transfers to the Government of Southern Sudan". Certainly rebuilding the South, will, by no means be an easy task. It is, in turn, hoped that the international community will make good its pledges made in Oslo, in April 2005, to help the national new budget cater for rehabilitation and development needs of the Sudan.

18. The CPA created Multi Donor Trust Funds (MDTF) to support urgent recurrent and investment budget costs under clearly stated criteria of eligible financing components. Accordingly, the Trust Funds should have been operational during the pre-Interim Period and, thereafter, transformed into two funds - one "MDTF dedicated to the Southern Sudan Reconstruction and Development Fund (the "SRRDF"); and the other MDTF dedicated to the National Reconstruction and Development Fund (the "NRDF)". The MDTF's should have commenced immediately after the signing of the CPA to "support, among other things, priority areas of capacity building and institutional strengthening and quick start/impact programs identified by the Parties". The Parties clearly identified their priority areas in their Joint Assessment Mission (JAM) report. Unfortunately no results have emanated from the MDTF as yet – at least to be able to benefit the multitudes of returnees. The budget being prepared, therefore, should initiate the assistance programmes for these people.

19. On its part, the AU Committee on Post-Conflict Reconstruction in the Sudan has continued to carry out its mandate. The Committee met in Sirte, Libya, on 3 July 2005, on the margins of the session of the Executive Council. On that occasion, it was agreed that a meeting of experts of AU Member States would meet to prepare an AU Conference on Africa's contribution to the post conflict reconstruction of the Sudan, to be held in January 2005. Since then, the Commission has undertaken consultations with South Africa, as chair of the Committee, to make the required preparations.

20. Regardless of the obvious security hurdles, because of the sporadic LRA attacks, there is a semblance of economic activity taking root between Uganda and South Sudan. There are reports of daily commuters between southern towns, such as Yei and Ugandan border towns, hoping to make the most of the emerging commerce in Southern Sudan. This is not without risks. Some villages, such as Loudo, next to Torit town and Gumbo, near Juba, have been attacked. Land mines also pose a threat to these small traders. However, the United Nations Mine Action Service (UNMAS) is assisting in demining some of these areas, and has finished working on the Juba – Yei road.

V. HUMANITARIAN

21. There is great concern over those Southern Sudan returnees who were encouraged by the signing of the CPA, but who have since been apprehensive at the current conditions in Southern Sudan. This is to be expected since the area does not even have the most basic of services needed for survival. It shall be recalled that, in June this year, while appreciating the assistance of the international community, Dr Garang had called for it to assist in resolving the food crisis in the South.

22. The Southern Sudan Reconstruction and Development Fund (SSRDF), which is intended to “solicit, raise and collect funds from domestic and international donors and disburse such funds for the reconstruction and rehabilitation of the infrastructure of the South, for the resettlement and reintegration of internally and externally displaced persons, and to address past imbalances in regional development and infrastructure” needs to be formed as quickly as possible, as well. However, this body shall only be formed by the GoSS together with the SPLM’s Economic Commission. The delay in forming this body is therefore making life on the ground for ordinary returning southerners very unbearable.

VI. OBSERVATIONS

23. Over the past months, significant progress has been made in the implementation of the CPA. However, a number of challenges remain to be met. The AU should continue to support the implementation of the CPA, including through the mobilization of African countries and the larger international community for the post-conflict reconstruction process in the Sudan.

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Briefing Note on the Status of Implementation of the Comprehensive Peace Agreement (CPA) in the Sudan

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