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PEACE AND SECURITY COUNCIL

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**REPORT OF THE AFRICAN UNION HIGH-LEVEL IMPLEMENTATION PANEL FOR SUDAN AND
SOUTH SUDAN**

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I. INTRODUCTION

1. This report is prepared pursuant to Council's communiqués at its 319th meeting on 24 April, 339th meeting on 24 October and 349th meeting on 14 December 2012, addressing outstanding matters between the Republic of Sudan and the Republic of South Sudan. It draws upon the activities undertaken by the African Union High-Level Implementation Panel for Sudan (AUHIP) in facilitating talks between Sudan and South Sudan, as well as activities undertaken by the Panel and the Chair of Inter-Governmental Authority on Development (IGAD) to mediate between the Government of Sudan and Sudan People's Liberation Movement North (SPLM-N) during this period. In particular, the report includes the outcomes of the Summit meeting of 4 and 5 January 2013, as well as subsequent discussions between the Parties.

2. Following the outbreak of fighting along the border between Sudan and South Sudan, Council convened a meeting at ministerial level on 24 April 2012, at which it adopted a communiqué incorporating a Roadmap for implementation by Sudan and South Sudan to ease the tension between the two countries, facilitate the resumption of negotiations on post-secession relations and outstanding issues in the Comprehensive Peace Agreement (CPA), and assist in the normalization of relations between the two States. The communiqué also addressed the conflict in the "Two Areas" of Blue Nile and Southern Kordofan states in the Republic of Sudan. The Roadmap was endorsed by the UN Security Council, acting under Chapter VII authority, in resolution 2046 (2012) of 2 May 2012. The AU and UN adopted a three-month deadline for the resolution of the issues in the Roadmap.

3. Subsequently, the AUHIP facilitated negotiations between the Parties, including a Summit meeting held between the two Presidents of Sudan and South Sudan from 22 to 27 September 2012. The Summit culminated in the signing of a Cooperation Agreement and Agreements on eight other issues, covering security arrangements, oil and transitional financial arrangements, the status of nationals of one country resident in the other, post-service benefits, trade, banking, border issues and certain other economic matters.

4. A number of outstanding issues between the two States remained unresolved. Subsequently, Council met on 24 October 2012 and, again, on 14 December 2012, to consider reports of the AUHIP on progress made by the Parties on these matters. These meetings took further decisions on the relations between Sudan and South Sudan.

5. At its 349th meeting, Council requested the AUHIP to submit a final report on all outstanding issues arising from the 24 April 2012 communiqué and Roadmap, to a meeting of

the Council in January 2013, on the margins of the Ordinary Session of the Assembly of the Union, at the level of Heads of State and Government.

6. From 4 to 5 January 2013, with the support of the Chair of IGAD, the AUHIP convened a Summit meeting between the Presidents of South Sudan and Sudan, in Addis Ababa, to address outstanding issues. This Summit agreed on the need for the expedited, unconditional and coordinated implementation of all elements of the 27 September 2012 Agreements.

II. OUTSTANDING MATTERS ARISING FROM THE 24 APRIL COMMUNIQUÉ AND ROADMAP OF THE PEACE AND SECURITY COUNCIL

Security

7. In the 24 April 2012 Communiqué and Roadmap, Council resolved that there should be an unconditional withdrawal of all armed forces to their side of the border, in accordance with previously adopted agreements. Both Parties have publicly announced that they have fulfilled their commitments in this regard. This shall be verified by the Joint Border Verification Monitoring Mechanism (JBVMM).

8. Council resolved that the two States should activate the necessary border security mechanisms, namely the Safe Demilitarized Border Zone (SDBZ) and the JBVMM:

a. During an extraordinary meeting of the Joint Political and Security Mechanism (JPSM), convened by the AUHIP, on 19 December 2012, the Parties developed an implementation matrix for security issues and a detailed implementation plan with timelines, with the assistance of the United Nations Interim Security Force for Abyei (UNISFA) Force Commander. From 13 to 18 January 2013, the AUHIP convened a subsequent extraordinary meeting of the JPSM. During this meeting, the Governments of Sudan and South Sudan made public statements to affirm their compliance with the Planning Matrix on implementation of security arrangements agreed on 19 December 2012. They further agreed on the time-bound implementation plan, which included detailed deployment dates for the JBVMM and additional requirements for force protection and logistical support for the border monitoring mission.

b. The Security Agreement of 27 September 2012 stipulated that the Safe Demilitarized Border Zone (SDBZ) would be operationalized in accordance with the AUHIP administrative and security map of November 2011, with special arrangements for the '14 Mile Area', which shall include the complete demilitarisation of the 14 Mile Area. At the JPSM meeting of 15 December 2012, the AUHIP submitted to the Parties a geographical definition of the 14 Mile Area, which was derived from historical maps and agreements, and reflected the AUHIP's November 2011 map of the SDBZ. On this matter, the two Parties presented their positions at the last meeting of the JPSM. However, they failed to agree on the geographical definition of the length of the 14 Mile Area. The co-chairs of the JPSM agreed that this issue should be resolved at a

forthcoming extraordinary meeting of the JPSM on, or before, 13 February 2013. They also agreed to meet every 45 days thereafter.

9. Council also called on both Parties to cease harboring and supporting rebel groups against the other State. It further urged the 'activation of the Ad-Hoc Committee, under the JPSM, to receive and investigate complaints and allegations made by one Party against the other:

a. During the 13-18 January JPSM meeting, the Parties agreed on a process for dealing with security-related complaints and concerns of each State. Harboring and support to rebels shall be dealt with through this process. In this regard, the Parties have tasked the Ad-Hoc Committee and the JBVMM to investigate concerns and complaints submitted to the JPSM by both States.

10. The Panel recommends that Council remains seized of these matters and that it report to Council on progress.

Abyei

11. Council requested the Parties to engage each other on the matter of the final status of Abyei Area:

a. During the Summit meeting held from 22 to 27 September 2012, the Government of the Republic of South Sudan accepted the 21 September 2012 AUHIP Proposal on the final resolution of the status of Abyei, while the Government of the Republic of Sudan did not. The two Presidents discussed the matter in the Summit meeting of 4-5 January 2013 and agreed that the immediate priority should be given to the full implementation of the Agreement on Temporary Arrangements for the Administration and Security of the Abyei Area, and that they would resume their discussion on the final status of Abyei, - including matters relevant to the formation of the Abyei Area Referendum Commission - after the Abyei Area Administration, the Abyei Area Council and the Abyei Police Service have been constituted ("the Abyei administrative bodies").

b. As discussed in paragraph 12 below, the outstanding differences regarding the constitution of the Abyei administrative bodies have now been referred to the two Presidents and will serve on the agenda of their next meeting, with the facilitation of the Panel.

c. The Panel is confident that the Presidents will honour their 5th January undertaking to proceed to deal with the matter of the final status of Abyei Area, as soon as they have resolved the outstanding issues relating to the Abyei administrative bodies.

d. The Panel stands ready to support the two Presidents in their deliberations to resolve the final status of Abyei Area, in accordance with the decisions of the Council on this matter.

12. Council called on the Parties immediately to implement, in its entirety, the Agreement on Temporary Arrangements for the Administration and Security of the Abyei Area:

- a. The Presidents of Sudan and South Sudan agreed at the Summit meeting of 4-5 January 2013 to implement the terms of the agreement with immediately effect. The Abyei Joint Oversight Committee (AJOC) met on 12 and 13 January 2013. During this meeting, the AJOC confirmed nominations for the leading positions of the administrative bodies to be established. However, these nominations have been held in abeyance until the conclusion of the outstanding issue of the number of persons each State may appoint to the Abyei Area Council (AAC). The AJOC has referred this issue to the two Presidents for their guidance. The AJOC agreed to continue technical discussions and deliberate on proposals relating to the establishment the Abyei Police Service on 30 January 2013.
- b. Although this outstanding matter of the AAC membership has stalled progress in establishing the relevant bodies in Abyei, as agreed by the two Presidents at the Summit meeting of 4-5 January 2013, it is hoped that the two Presidents will resolve the issue urgently, so that the process can proceed.
- c. The AUHIP recommends that Council remains seized of this matter and that it reports to Council on progress on these matters.

Disputed and Claimed Border Areas

13. Council called on the Parties to reach agreement on the process for the resolution of Disputed and Claimed Border Areas:

- a. The Presidents of Sudan and South Sudan, in their Summit meeting on 4-5 January 2013, directed that the necessary and agreed measures should be taken without further delay to demarcate the agreed sections of the border, and that the agreements relating to the matter of processing the disputed areas should be implemented. They further agreed that, as soon as the two Governments had concluded their discussions on the Disputed Areas after receiving the opinion of the AU Team of Experts, the Presidents will meet to determine the way in which the matter of Claimed Areas should be processed.
- b. The Panel is concerned that the Joint Border Commission, the Joint Demarcation Committee and the Joint Technical Teams responsible for overseeing and implementing the demarcation process have not yet been activated. The two States have already nominated representatives for these bodies.
- c. The Panel considers that the matter of the process for dealing with the Disputed and Claimed Border Areas has been satisfactorily dealt with. The Panel will monitor the

implementation of the Presidents' decision in this regard. Following the Lead Negotiating Panels (LNP) meeting from 13 to 18 January, most of the sequencing has been agreed, but the question of exact timing still remains to be referred to the Heads of State for their guidance.

d. In these circumstances, the Panel does not currently see any requirement for it to present any proposal to Council on the matter of the process for determining the final status of the Disputed and Claimed Border Areas.

e. The Panel proposes that Council urge the two States to activate the institutions for overseeing and implementing the demarcation process. The Panel further proposes that it report to Council on the processes for dealing with Disputed and Claimed Border Areas as appropriate.

The Two Areas

14. In its meetings of 24 October and 14 December, Council called upon the Government of Sudan and the SPLM-N to enter into direct negotiations to seek a political solution to the conflict in the Two Areas:

a. The Parties have not yet acted upon these calls.

b. The AUHIP stresses that there is no military solution to the conflict in the Two Areas and that there is no alternative to the Parties sitting at the negotiating table to seek a political settlement. The AUHIP recalls the Framework Agreement of 28 June 2011 and the proposed agreement it submitted to the Parties on 17 September 2012, but also notes that it is willing to entertain new ideas should the Parties bring them forward. The AUHIP remains ready to facilitate the needed political negotiations.

15. In its meetings of 24 April, 24 October and 14 December 2012, Council called on the Government of Sudan and the SPLM-N to enable urgent humanitarian assistance to reach the affected population in the Two Areas, and additionally called for a ceasefire for these purposes.

a. The Parties have not yet acted on these calls.

b. The Panel proposes that Council reiterates its call for immediate and unconditional humanitarian assistance for the war-affected people of the Two Areas. The Panel further notes that if either of the two Parties persist in failing to permit such assistance, it will not be possible for Council to discourage any other mechanisms for humanitarian assistance that are not necessarily in full conformity with the preferred principles of impartiality and transparency.

III. RELATED MATTERS ARISING FROM 24 OCTOBER AND 14 DECEMBER 2012 COMMUNIQUÉS OF THE PEACE AND SECURITY COUNCIL

International Assistance to Sudan and South Sudan

16. In its Communiqué of 14 December 2012, Council called on the international community to provide political, economic and financial assistance to the Parties as they strive to implement the Agreements reached:

- a. There has been no progress on this action point.
- b. In the Lead Negotiating Panel (LNP) meeting from 13 to 18 January 2013, the Parties agreed that, as part of the implementation of the Matrix, the Panel should move forward with its commitment to propose modalities for Joint Approach to the international community to seek economic assistance, including debt relief, within 30 days.
- c. The AUHIP notes the exceptional development and financial needs of both countries, and recommends that Council calls upon international partners to provide scaled-up development cooperation assistance to South Sudan, and to take expedited steps to lift economic sanctions imposed on Sudan and to provide Sudan with debt relief.

International Assistance to Communities in Abyei

17. Council also called on the international community urgently to assist the Parties to effect the safe and dignified return of all displaced persons to Abyei, and requested the Commission to convene an international conference bringing together relevant stakeholders and partners to coordinate assistance for the rehabilitation and reconstruction of Abyei, including addressing the economic needs of the nomadic population:

- a. Such a conference requires the establishment of the Abyei administrative structures to convene local communities to discuss and present their views to the conference. International partners have indicated their support for the conference and have been urged to stand ready to convene as soon as possible.
- b. The AUHIP notes that the normalization of life in Abyei is a prerequisite for creating stability and good relations between the different communities that reside in Abyei and utilize its territory on a seasonal basis. The AUHIP recommends that Council strongly urge the Parties to establish the administrative bodies in Abyei to facilitate the convening of the conference.

Implementation of Cooperation Agreements between Sudan and South Sudan

18. In its meeting of 14 December 2012, Council encouraged the two States to ensure the effective and timely implementation of the Agreements signed, as well as other Agreements reached with the facilitation of the AUHIP.

a. Very little progress was made towards the implementation of any of the Agreements made during the period between the signing of the Agreements on 27 September 2012 and the Summit meeting between the Presidents of Sudan and South Sudan from 4 to 5 January 2013.

b. The two Presidents therefore requested the AUHIP to produce a Matrix with timeframes for the speedy, unconditional and coordinated implementation of all issues by 13 January 2013. The Panel produced the requested Matrix with timeframes and submitted it to the Parties.

c. The Parties provided comments, and the Matrix was discussed in detail at the level of the LNP from 13 to 18 January 2013. Most differences of interpretation have been resolved or eliminated, with four exceptions, namely: the timing of negotiations on “claimed” border areas; whether or not the arbitration concerning Sudapet, Sudan’s state oil company, should be suspended during negotiations; whether it is possible to conduct the joint approach to the international community to address matters such as forgiving Sudan’s international debt, lifting sanctions on Sudan and the international contribution to the transitional financial arrangements, whilst the Sudapet dispute is under arbitration; and whether the timing of the resumption of oil exports should be linked to the full operationalization of the SDBZ. The Panel intends to convene a meeting of the two Presidents to resolve the above issues at the margins of the AU Heads of State Summit.

d. The Matrix covers all issues under discussion. It sets “D-Day” as 20 January 2013. A copy of the Matrix, as amended in consultation with the Parties, is appended to this Report.

e. The Panel understands the matrix to be an aid to the implementation of the Parties’ obligations and not a pre-requisite for fulfilling those obligations. The Panel therefore recommends that Council urges the two States immediately to commence implementation of all their obligations under the agreements without condition, using the agreed parts of the Matrix.

f. The Panel further recommends that it should work together with the two States to monitor and facilitate, as appropriate, the implementation of these commitments and report to Council every three months or at such intervals as Council may determine.

IV. OBSERVATIONS

19. Sudan and South Sudan are linked by immutable facts of geography and history. There is no viable alternative except for the two countries to affirm these ties and develop closer, cooperative relations with each other in the economic, social, political and security spheres. In this regard, the range of the September 2012 Agreements provide an appropriate basis upon which to build their bilateral relations.

20. Without effective implementation, all of these Agreements will remain mere aspirations. Translating them into concrete reality for the benefit of their peoples requires the two States fully to invest in the effective functioning of implementation arrangements they have already adopted in the Agreements. They will, in particular, need to adopt viable joint mechanisms for monitoring and overseeing the full realisation of these important Agreements. In these critical endeavours, the two States are entitled to rely upon the political and practical support of the AU and the international community as a whole.

21. Following the secession of South Sudan, the Republic of Sudan continues to face the historical challenges of managing its diversity, nurturing democracy and promoting equitable development. In October 2009, the AU High Level Panel on Darfur (AUPD) identified the Darfur conflict as “Sudan’s crisis in Darfur” and proposed that the final resolution of the Darfur conflict would be achieved only within a wider national transformation. That democratic transformation remains the urgent task of the Sudanese leadership in all its manifestations, which will continue to need Africa’s unwavering encouragement and support.

22. By this analysis, a lasting settlement of the Sudanese conflict in the Two Areas of Blue Nile and Southern Kordofan states is required. Ending the war in the “Two Areas” cannot be achieved without putting in place inclusive national political arrangements, which will remove grievances that fuel Sudan’s crises.

23. Africa’s youngest State, the Republic of South Sudan, is taking its first steps on the long and exciting road of nation building. It faces opportunities as well as dangers, as it seeks to forge itself into a nation built on democratic values, dedicated to building the best future for its citizens. It too faces the challenge of building national cohesion, as well as institutions for the tasks of separating civil administration, party and army.

24. Council adopted its Roadmap and Communiqué of 24 April 2012 at a time when Sudan and South Sudan were engaged in active military hostilities and were on the brink of all-out war. Such a war threatened not only massive disruption and loss of life, but also to bankrupt and destabilise the two countries and raise a host of additional grievances between them. In the weeks following the adoption of the Roadmap, the two countries, with the facilitation of the AUHIP, succeeded in averting the threat of immediate war. The Summit meetings of 22-27 September 2012 and 4-5 January 2013 have since resolved a number of key issues between Sudan and South Sudan and paved the way for resolving other issues of contention.

25. Although the two countries have stepped back from the brink of war and have opened the door to restoring relations based on the principle of “two viable States”, security tensions on the border and economic pressures in both countries remain issues of considerable concern. The prospect of mutual prosperity can only be realised if the two countries move forward immediately and unconditionally, with the implementation of all Agreements, especially the establishment of security structures and the restart of oil production in South Sudan, and its export through Sudan.

26. The meetings of the LNP, JPSM and AJOC in January 2013 have resolved most of the outstanding issues. However, five questions of implementation and sequencing remain, as noted in paragraph 18. Two issues relating to Abyei also remain to be resolved, namely the matter of the membership of the Abyei Area Council, and the major issue of the Final Status of Abyei Area. The Panel is confident that the Presidents of Sudan and South Sudan will be able to provide guidance or reach agreement to enable the resolution of all these matters.

27. The conflict in the Two Areas threatens both to jeopardize prospects for a stable and democratic Sudan and also to undermine good-neighbourly relations between South Sudan and Sudan. It is imperative that negotiations to resolve this conflict are entered into as soon as possible, for the sake of the citizens of Sudan, especially those directly affected by the conflict and the ensuing humanitarian crisis, for the sake of the Sudanese nation and its promise of democracy and inclusivity, and for the sake of relations between Sudan and the African continent, including its neighbours.

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