

**Designing an Integrated Strategy  
For Peace, Security and Development  
In Post-Agreement Sudan**

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April 2005



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## List of Abbreviations

ABC	Abyei Boundaries Commission
AJMC	Area Joint Military Committees
AU	African Union
CCG	Core Coordination Group
CJMC	Ceasefire Joint Military Committee
CPA	Comprehensive Peace Agreement
CPC	Ceasefire Political Commission
CSO	Civil Society Organisation
DDR	Disarmament, Demobilisation, Reintegration
DUP	Democratic Unionist Party
EDF	Equatoria Defense Force
HIPC	Heavily Indebted Poor Countries
ICG	International Crisis Group
IDP	Internally Displaced Person
IGAD	Intergovernmental Authority for Development
IPF	IGAD Partners Forum
JDB	Joint Defense Board
JIU	Joint Integrated Unit
FFAMC	Fiscal and Financial Allocation and Monitoring Commission
GoS	Government of Sudan
GOSS	Government of South Sudan
GNU	Government of National Unity
IMF	International Monetary Fund
JAM	Joint Assessment Mission
JEM	Justice and Equality Movement
JMC/JMM	Joint Monitoring Commission/ Joint Monitoring Mission
LRA	Lord's Resistance Army
MDTF	Multi-Donor Trust Fund
NCP	National Congress Party
NDA	National Democratic Alliance
NIF	National Islamic Front
NMRD	National Movement for Reform and Development
NPC	National Petroleum Commission
NRDF	National Reconstruction and Development Fund
NRF	National Revenue Fund
NSCC	New Sudan Council of Churches
NSO	National Security Organisation
OAG	Other Armed Group



ODA	Official Development Assistance
PES	Poverty Eradication Strategy
PDF	Popular Defence Forces
PIC	Peace Implementation Council
PNC	Popular National Congress
SAF	Sudanese Armed Forces
SLM/A	Sudan Liberation Movement/Army
SPLM/A	Sudanese People's Liberation Movement/Army
SRSG	Special Representative of the Secretary General
SSDF	South Sudan Defence Forces
SSRDF	South Sudan Reconstruction and Development Fund
TF	Trust Fund
UN	United Nations
UNAMIS	United Nations Advance Mission in Sudan
UNDP	United Nations Development Programme
UNHCR	United Nations High Commissioner for Refugees
UNMISUD	United Nations Mission in Sudan
UNSG	United Nations Secretary General
VMT	Verification Monitoring Team
WB	World Bank

## Executive Summary

Fifteen years after the forcible seizure of power by the National Islamic Front, the Sudan is at a crossroads: the 21-year-long conflict in South Sudan has been nominally brought to an end, but unremitting and extreme violence in the western region of Darfur and lingering tensions in the central and eastern parts of the country cast shadows over the misnamed “*Comprehensive Peace Agreement*” (CPA) signed in Nairobi on January, 9, 2005 and also known as the *Naivasha Agreement*. This paper was drafted within this highly fluid and uncertain context to synthesize the Sudan’s key problems in the fields of governance, security, and development; and to outline potential policy interventions to build a genuinely comprehensive and sustainable peace in Africa’s largest country.

### Governance Issues

Governance problems in the Sudan relate to three factors: a) dictatorial and exclusionary policies generated from the capitol at the expense of Southern Sudanese and other marginalized peoples; b) the autocratic rule of the Sudanese People’s Liberation Movement/Army (SPLM/A) in areas under its control; and c) institutional politicization and the failure to deliver services and enforce the rule of law.

The *Machakos Protocol*, of July 2002, and the *Protocol on Power Sharing*, of May 2004, have the potential to provide the basis for solving the Sudan’s governance conflicts to the extent that they may lead to abolition of the dictatorial regime that has held power for 15 years, and address key grievances of the Southern Sudanese. The *Protocols* call for establishment of a regional government; representation in the national government, the Presidency, and the civil service; exemption from Sharia Law in the South; and commitment to a referendum on self-determination to be held in early 2011. In the course of the interim period before the referendum, the challenge is to implement these provisions and make unity “attractive” for Southerners.

It remains to be seen whether the establishment of a government of national unity, the introduction of reforms at the center, and the move toward an effectively decentralized system will create opportunities to address local conflicts and grievances in other peripheral and marginalized regions. The *Protocols* address the three areas of Abyei, Nuba Mountains, and Southern Blue Nile in parallel with the North-South negotiations, but the terms of the two *Protocols* raise more questions than they answer. Furthermore, the Naivasha agreement not only overlooked the situations in Western and Eastern Sudan, but also consolidated NCP domination over all Northern states at least until elections are held in 2009.

Whether the CPA will result in building a united and democratic Sudan is, therefore, a matter of conjecture. It will greatly depend on the spirit in which the two signatory parties—which allocated to themselves the lion’s share of power—will implement the *Agreement*, open political space at the national and Southern levels, and respond to unaddressed grievances.

Given that the CPA provides a basis for solving the Sudan’s conflicts and fostering democratic transformation, the donor/international community should support full implementation of the peace agreement. Relevant policy interventions include:

- Safeguarding the agreement against unilateral revocation or abrogation;
- Putting the implementation process on-track by supporting key implementation commissions and institutions;
- Preparing for the population census;
- Building civil service capacity (taking into account existing regional asymmetries);
- Enforcing the rule of law by promoting an independent judiciary and reforming the police.

At the same time, in view of the CPA's limitations, the international/donor community should attempt to broaden the scope of, and support for, the *Agreement*. Relevant policy interventions include:

- Publicizing the peace agreement through media campaigns and civil society involvement;
- Opening political space in the Sudan by setting benchmarks for democratization, supporting human rights watchdogs, and helping transform the Sudanese People's Liberation Movement/Army into a democratic party;
- Promoting broad participation in public affairs by supporting an inclusive constitutional review process, facilitating free and fair elections, and providing targeted political party assistance;
- Ensuring accountability for war crimes by supporting the establishment of a truth commission for the South and ICC prosecution of abuses committed in Darfur.

## Security Issues

Security problems in post-agreement Sudan relate to: a) the complex setting of the Southern conflict and the intricate verification mechanisms established during the peace talks; b) the possible emergence of an arc of conflicts throughout the Sudan's central belt from Western Darfur to the Red Sea state; and c) historically negative interactions and linkages with neighbouring countries. Security hot spots can already be identified throughout the Sudan that derive either from agreed-upon security provisions or from issues that were inadequately addressed in the peace negotiations.

The ceasefire agreement concluded on December, 31, 2004 stipulates the complete and permanent cessation of hostilities in South Sudan, the Three Areas, and Eastern Sudan (Darfur is not included in the ceasefire zone). It further details the interim arrangements outlined 15 months earlier in the framework security agreement. During the interim period, the Sudan will have two separate armies (the Sudanese Armed Forces and the Sudanese People's Liberation Army), which will re-deploy their forces to their respective sides of the 1956 North-South border. The two armies will also create a number of joint/integrated units to be dispatched throughout the ceasefire zone. Depending on the 2011 referendum outcome, the two forces may merge into a single army or become the respective armed forces of two separate states.

In order to verify the re-deployment of forces and investigate alleged ceasefire violations, a multi-layered monitoring structure will be established, composed of both national and international representatives. International monitors will enjoy no pre-eminence or decision-making authority at any level, however, and no real enforcement mechanism is foreseen in cases of non-compliance. A "multidimensional" UN peace operation is expected to perform a broad range of tasks, but its effectiveness will depend on whether it is granted the necessary authority and capacity.

The Disarmament, Demobilisation, Reintegration (DDR) process in the Sudan is likely to be exceptionally challenging and atypical. Until negotiations start on the two armies' proportionate downsizing, DDR will mainly address the "Other Armed Groups" (i.e., government-affiliated Southern militias such as the South Sudan Defence Forces [SSDF]) that must disband within a year. SSDF members are unlikely to abide by these provisions, however, since it was barely involved in CPA negotiations and object to the proposed radical changes to their status. The SSDF is more likely to play a spoiling role, especially if reconciliation efforts among Southerners fail to make progress.

The restoration of security in the Sudan is critically dependent upon the behaviour of political actors involved both within and outside of the country, and on international actors' effectiveness in providing adequate peace implementation mechanisms. Necessary security guarantees and policy interventions include:

- Dispatching a robust peacekeeping force that is granted the mandate and means necessary both to meet security requirements in hot spots, and to deter and respond to spoiler behaviour;
- Initiating the reform of the security sector by reforming the national security service, supporting the establishment of the joint defence board and joint/integrated units, and executing a defence review for the two armies;
- Designing DDR programmes that meet the needs of both the targeted groups and the reintegration communities.

Security issues also reflect political antagonisms that must be solved by promoting reconciliation and restraint at all levels. Relevant policy interventions, therefore, include:

- Addressing discontent and growing frustration in the "Northern" marginalized areas;
- Facilitating a comprehensive and transparent South-South dialogue;
- Promoting good neighbourly relations between North and South;
- Encouraging the Sudan's neighbours to support (or at least not undermine) the peace process.

### **Socio-Economic Issues**

Development in the Sudan has been hampered by civil wars fuelled by disputes over resources and power, and by regional and ethnic marginalization. Long-standing structural inequalities, therefore, lie at the root of the country's conflicts. While poverty is higher in the South than in the North, other disparities exist both between regions (especially between Khartoum, the central states, and the peripheral areas) and within regions (while poverty is mainly a rural phenomenon, it is fuelled in urban areas by internal displacement and natural disaster).

Regional disparities, which are particularly striking in terms of access to social services, have increased despite oil development and strong economic growth in the past several years. Social expenditures were actually reduced as part of structural adjustment measures. Oil exploitation has translated into little or no progress for most of the population, however, and mainly benefits the ruling/business elite.

Development inequalities, high poverty, and environmental degradation have exacerbated competition and local conflicts over access to natural resources, especially land and water. Fighting

and insecurity have caused massive population displacements and movement restrictions, which further increase pressure on natural resources and fuel tribal conflicts.

The Sudan has the largest population of displaced persons in the world: about 800,000 Sudanese have sought refuge in neighbouring countries. The signing of the CPA should enable a great number of internally displaced persons (IDPs), and most of the refugees, to return to their homes in the South.

The *Agreement on Wealth Sharing*, of January 2004, is less a shared commitment to address the country's key problems and build a common future than an illustration of the parties' mistrust, self-interest, and ambiguous agendas. In short, each party endorsed the goal of a united Sudan, provided the other party would pay for it. Nevertheless, the parties managed to reach agreement on a number of interim arrangements, establishing two separate trust funds for reconstruction and development; setting up a dual banking system with two separate currencies; sharing oil revenues on a 50:50 basis; and devising plans for re-allocating taxes to local governments. The wealth sharing agreement fails to be specific with regard to natural resources other than oil, however, such as water and land.

In the second half of 2004, a Joint Assessment Mission was executed by the Government of Sudan and Sudanese People's Liberation Movement/Army representatives under the supervision of the World Bank and the United Nations Development Programme (UNDP). The Mission was tasked with assessing socio-economic needs and delivering a more substantial agenda for reconstruction and development.

While structural inequalities will not vanish by 2011, much can be done during the interim period to tackle disparities largely stemming from the way the Sudan has been governed since independence. As the resource envelope will significantly expand with peace, it is essential to promote greater equity, transparency, and accountability in order to respond to grievances and avoid the well-known curse of resource-rich countries. Relevant policy interventions include:

- Improving economic management by insisting on transparency and predictability in budget-making and advocating for pro-poor budget allocations;
- Effecting decentralization by clarifying responsibilities at each governmental level and monitoring allocations to state governments;
- Ensuring transparency of oil exploitation by ensuring respect for the relevant wealth-sharing provisions, supporting oversight mechanisms, and ensuring that oil companies abide by established benchmarks;
- Improving natural resource management by reviewing land legislation and agricultural policies, and by designing an environmental policy.

In addition, immediate and tangible action will be needed at the grassroots level to facilitate the complex and critical return process of IDPs and other refugees. Given the expected magnitude of this movement, and the need for community-based reintegration, assistance should be linked with development-oriented activities. Relevant policy interventions include:

- Ensuring a smooth and successful return process by providing transportation and life-sustaining assistance to returnees *en route*, and identifying sustainable solutions for them within their local communities;
- Implementing a land mine action plan by raising mine awareness, building capacity for mine action, and providing financial incentives for recruiting staff (e.g., ex-combatants);

- Enhancing access to basic social services by increasing staff, equipment, and infrastructure and empowering governments at both state and community levels;
- Promoting local development through designing “quick-win” infrastructure projects, enhancing income and food security for small-scale farmers, and creating a climate conducive to domestic and foreign investments.

### **Requirements for an Effective Multilateral Strategy**

The peace implementation process in the Sudan is likely to face two main challenges. The first is the political dynamics that the peace agreement will trigger and the related risks of spoiler behaviour, especially by the ruling security faction. The second stems from external actors’ differing views about, and interests in, the future of the Sudan. Put differently, successful implementation of the peace agreement rests on national compliance and international commitment. Satisfying these two conditions entails, in turn, several organizational requirements:

- An international steering body should be established so that external actors can reduce, or at least reconcile, their differences and speak with a single voice to the Sudanese parties;
- A strategic framework should be elaborated to set priorities, clarify responsibilities, and review progress against clear benchmarks;
- External actors should create a specific timeline for promoting peaceful and gradual change throughout the interim period;
- Aid conditionalities should be set to maximize leverage on the parties.

### **Optimizing Development Aid**

Since development inequalities and exclusionary policies lie at the heart of the Sudan’s civil wars, the delivery of international assistance is likely to raise highly sensitive questions. The donor community, which predominantly supports Sudanese unity, should be clear about its objectives. Major nations and donors are almost as divided as the Sudanese parties, however, on the best way to promote unity. “Pro-Sudan” factions emphasize an even-handed and bridge-building approach, while “pro-South” proponents stress the need to make unity attractive for the Southern Sudanese. Furthermore, the problems presented by the Three Areas and the rebellions in Darfur and Eastern Sudan illustrate that the North-South paradigm is largely outdated.

In view of the critical implications of aid policy, this paper clarifies the debate and outlines options for optimizing development assistance during the interim period and moving beyond the North-South paradigm.

- A strictly balanced distribution of aid between North and South is inappropriate, as it is unlikely to reduce regional disparities;
- South Sudan needs special and intensive care (including extra efforts to promote Southerners’ participation in public affairs at the central level). Attention should not be paid exclusively to the South, however, as the country has other underdeveloped and/or war-afflicted areas;

- Instead of approaching the Sudan as a dual country, donors should consider the country to contain at least five different regions and allocate aid between these regions according to their relative levels of development and marginalization;
- Donors should plan development assistance over the interim period, and gradually shift their focus from peaceful coexistence to consensual integration; when appropriate, the two Multi-Donor Trust Funds (MDTFs) may be used creatively to promote bridge-building projects.

Another critical question that donors must face relates to creating an appropriate balance between local ownership and international involvement. Despite the parties' common suspicion of international intrusion, the limitations associated with local ownership in the Sudanese context suggest that donors should closely supervise the process and outcome of aid management.

- Within the governing board of each MDTF, donors and recipients should enter into a sustained policy dialogue to ensure that aid is primarily used for reducing regional and social disparities;
- In line with the need to broaden inclusion and create accountability, other regional and local partners should be involved in setting priorities and/or managing aid, where possible.

While difficult to anticipate and measure, the political impact of development assistance on the Sudan's future will be less manageable if donors pull in different directions. Although donors are unlikely to fully coordinate their goals and strategies, some degree of harmonization should be sought.

- Donors should commit themselves (and/or be encouraged) to channel assistance as much as possible through the MDTFs; in order to make this option more attractive, some limitations on these funds will have to be overcome;
- In order to gain anational overview of aid disbursement and bridge the gap within the donor community itself, links should be established between the two funds;
- Donor coordination should not be limited to defining allocation of funds, but should also entail in-depth consultations on strategic issues; the MDTFs should be made part and parcel of a political strategy and linked to the proposed International Council for Peace in the Sudan.



The boundaries and names shown and the designations used on this map do not imply official endorsement or acceptance by the United Nations.



## Introduction

On January, 9, 2005, the Government of Sudan (GoS) and the Sudanese People's Liberation Movement/Army (SPLM/A) met in Nairobi, Kenya, to sign the last pieces of the Comprehensive Peace Agreement (CPA). The CPA, also known as the *Naivasha Agreement*, had negotiated under the auspices of the Intergovernmental Authority for Development (IGAD) for more than two years. The CPA nominally ends a conflict, which started in 1983 and is known as the "oldest running war in Africa". Yet, Western Sudan is currently the theatre of a violent conflict in which the government is accused of establishing and unleashing ethnic militias to suppress another rebellion. Thus, the Sudan is at a crossroads. Early in 2005, it is far from clear whether the Naivasha agreement will eventually prevent the Sudanese state from slipping into total collapse, or whether conflicts in Darfur and other areas will derail the fledgling peace process.

This research paper was prepared with the goal of synthesizing key problems and challenges the international community will face in implementing the peace agreement (Part One), and providing input and stimulating reflection on possible policy responses (Part Two). The methodology consists of integrating the following three components into a comprehensive analysis: a) the Sudan's key problems in the fields of governance, security, and development; b) the parameters of possible solutions as derived mainly, but not exclusively, from the peace protocols and agreements; and c) the policy options and requirements for addressing implementation issues.

The author builds upon personal research carried out on the Sudan peace process since July 2003.<sup>1</sup> This paper has also benefited from the invaluable input of two Sudanese experts who provided an institutional and political analysis of present-day Sudan under condition of anonymity.<sup>2</sup>

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<sup>1</sup> Emeric Rogier, Ph.D., is Senior Research Fellow at the Clingendael Institute (Clingendael Security and Conflict Programme).

<sup>2</sup> Other relevant sources are mentioned throughout the report. Special note should, however, be made of Dina Esposito and Bathsheba Crocker, *To Guarantee the Peace: an Action Strategy for a Post-Conflict Sudan*. A report for the Secretary of State's Africa Policy Advisory Panel, Center for Strategic and International Studies, Washington D.C, January 2004.

## Part One. Problems and Parameters

Jan Pronk, the UN Secretary General's Special Representative for the Sudan, told the Security Council on October, 5, 2004 that reaching a comprehensive and sustainable solution in the Sudan will require meeting three conditions: a) ensuring the legal and physical protection of the people; b) enhancing political representation and participation through constitutional and institutional arrangements that reflect existing diversities and provide some regional autonomy; and c) promoting poverty reduction and sustainable development via a fair distribution of resources.<sup>3</sup> The first part of this paper specifies the current problems in each of these three fields—governance, security, and development—and explains how they were addressed by the two main parties throughout the IGAD negotiations.

### I. Governance Issues

The trend analysis of peace and conflict indicators executed by the Fund for Peace shows that, over the 15 years after 1989, the Sudan's only improving indicator related to economic performance was oil income.<sup>4</sup> Despite expanding oil revenues, the underlying problems in the Sudan have worsened over time. Six indicators in particular have deteriorated: demographic pressures; massive movement of refugees and IDPs; vengeance-seeking group grievances; suspension or arbitrary application of the rule of law, and widespread violation of human rights; the predominance of the security apparatus within state structures; and the rise of factionalized elites. These worsening conditions indicate the seriousness of governance issues in the Sudan.

#### A. Problems<sup>5</sup>

A common feature of state institutions in the Sudan is their *politicization*, meaning that institutions serve the ruling party's goals and interests instead of the public benefit. The current institutions lack political neutrality, professionalism, efficiency, fairness, and transparency. Moreover, they are dominated by state security organs.

##### 1. *The Sudan under the National Congress Party's Rule*

The ruling party in Khartoum forcibly seized power in 1989 with two inter-related objectives: 1) preventing the signing of an impending peace agreement with the SPLM/A that it was then perceived to be a betrayal of the Arab cause; and 2) expanding the Arabo-Islamic agenda throughout the Sudan. Since then, the country has been ruled by the National Congress Party's Islamic military-oriented dictatorship.

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<sup>3</sup> Briefing to the Security Council by Jan Pronk, Special Representative of the Secretary-General for Sudan, 5 October 2004, accessible at <http://www.un.org/News/dh/sudan/infocusnewssudan.asp?NewsID=812&sID=23>

<sup>4</sup> Fund for Peace, *Sudan Report 1989-2004* for the Clingendael Institute, 6 December 2004.

<sup>5</sup> This section draws extensively on the institutional and political analyses provided by two experts on Sudan.

### *1.1 The Nature of the Regime and Political Context*

Ideologically driven, the National Congress Party (NCP) was earlier called the National Islamic Front, which is an extension of the Muslim Brotherhood. The NCP has always been pragmatic about the means used to achieve its goals. Realising that the Sudan's generally conservative and non-doctrinaire Moslems would never adhere to its Islamist project, the NCP has relied on the military to seize and maintain its hold on power.

Since the 1989 coup, the Islamic Movement's military wing has kept a paramount leadership position in the country to such an extent that the Sudanese military can hardly be deemed to be accountable to a civilian authority. The current political regime is, in effect, dominated by the military wing of the Islamic Movement. President Bashir, First-Vice President Ali Osman Taha, and other key ministers simultaneously hold command positions in the armed forces and in the NCP leadership. This security focus has led the regime to vastly expand the security services (for its own benefits) and to use every means at its disposal to suppress opposition to the Islamist agenda. The effect has been the creation of a totalitarian regime.

#### *The State of Political Liberties*

The current political environment does not allow the free development of political parties and associations, as all political parties were banned following the 1989 military coup. Since 2000, political "associations" can be established only with State permission. Gatherings of more than five individuals also require prior approval. Trade unions and professional associations are subject to government control, and elections of their leaders are organized by government organs.

Political opponents, politically active students, and representatives of independent newspapers and human rights NGOs are subjected to harassment that includes torture, in both physical and more subtle, psychological forms. The freedom of the press is largely restricted: press articles are subject to preliminary censorship by the security organs; journalists are instructed on how to reflect information and threatened with imprisonment, and financial burdens are imposed on independent newspapers.

#### *The Role of the Parliament*

The major opposition parties, the Umma Party and the Democratic Unionist Party, had held the majority in the pre-1989 Parliament. Both parties boycotted the December 2000 Parliamentary elections. Most of ruling party candidates ran unopposed and many remaining members of Parliament, especially representatives from the South, were appointed by the President. As a result, the Parliament has become a pro-government institution reduced to serving as a rubber-stamp role for NCP actions.<sup>6</sup> The state of emergency, in force since December 1999, further weakens Parliament's role by giving the President power to overrule any law by decree.

### *1.2 Powerful Security Apparatus*

#### *National Security Organization (NSO)*

In 2002, the Intelligence Service (tasked with external security) and the National Security (in charge of internal security) were unified under one Director and made directly accountable to the President. The

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<sup>6</sup> Nominally, however, the GoS is a multi-party government since the NCP has introduced factions from DUP and Umma Party into the government, and found allies in the South (the Southern Coordinating Council administers Southern areas under GoS-control).

resulting National Security Organization (NSO) is the most powerful and well-organized state institution. Many analysts view the NSO, rather than any political party, as *the* ruling institution. Policies and decisions on vital issues are made within the NSO and passed for implementation to the Council of Ministers or to the ruling party. For the sake of intelligence gathering, the NSO has penetrated the civil society through multiple organizations, businesses, unions, and various other entities active at all levels of society. This enables it to gather and analyze critical information at the economic, social, political, and security levels. Vital for the survival of the regime, the NSO receives significant human and financial resources. The recruitment process is very selective and prioritizes loyalty and political Islamic identity; as a result, NSO officials are given a free hand in performing their duties.

#### *The Role of the Police and Security Officers*

The police have benefited from governmental efforts to improve their training and equipment. But, like all other state institutions, the police forces have been politicized, i.e., they serve the ruling Islamic Movement rather than performing civil service duties. Two organs have been created to that end: the Public Order Police (in charge of enforcing Islamic rules and regulations, notably in terms of dress codes and alcohol consumption) and the Popular Police Force (a volunteer body that defends and promotes Islamic values, and is occasionally involved in fighting in the South).

Police and security forces enjoy a high degree of impunity and are responsible for a great number of human rights abuses. Since December 1999, the state of emergency has provided the basis for imposing security measures that are often arbitrarily implemented. Security forces engage in a campaign of harassment, intimidation, and persecution that targets political opponents and human rights defenders with arbitrary arrest followed by protracted detention without judicial review.

#### *1.3 Dependent Judiciary*

The 1998 Constitution was suspended in December 1999 when the state of emergency was declared by Presidential decree, and thus there is no guarantee for the protection of human rights and basic liberties. In addition, the Judicial branch is subject to the Executive branch and is by no means independent. The president appoints all seven of the Constitutional Court judges for a period of five years and he can also dismiss them at any time. The president also controls judicial appointments to the High Court, Appeal Courts, and Primary Courts.

A major criticism of the judicial system concerns special courts such as the Military Courts and the Public Order Courts due to the fact that lawyers are not allowed to appear before these bodies, and their rulings are final with no appeals possible.

#### *1.4 The Collapsing Public Service*

Under the NIF Regime, the Northern civil service has deteriorated almost to a point of collapse. This trend is partly ascribable to the fact that the public sector salaries and wages did not keep pace with the rampant inflation of the 1990s. As a result of this economic hardship, employee motivation, discipline, and accountability are very low in the civil service while corruption, embezzlement of public funds, and bribes have increased.

Another major problem is the politicization of the civil service, expressed by the priority given to political loyalty over professional competence. In accordance with this policy, any competent civil servant may be fired by his or her unit director for political or personal grounds.

### *1.5 The NCP After 15 Years: Exclusive Governance, Eroded Legitimacy*

The fact that the NCP's totalitarian regime has survived despite the failure of its Islamist project, limited popular support, and a regional environment hostile to its extremism can be ascribed to three main factors: first, its ruthlessness; second, the weakness and lack of legitimacy of the Northern opposition resulting from its failed leadership from 1986 to 1989; and third, the armed opposition movements' failure to mount a real military challenge thus far. Nevertheless, the NCP is effectively discredited in the eyes of the general public; the breakout of peripheral rebellions illustrates the extent to which its legitimacy has been seriously eroded.

The Three Areas of Abyei, Southern Blue Nile, and the Nuba Mountains have experienced systematic marginalization and discrimination since they were placed under Northern administration in 1956. As a result, the areas joined the SPLM/A's fight against the Khartoum government in the mid-1980s. The case of the Three Areas and the rebellions in Darfur and Eastern Sudan exemplify the fact that the Sudan's war should no longer be solely seen as a North-South conflict, but rather as a conflict between the center and the periphery.

The *Black Book*, which was written in 2000 by future rebel leaders from Darfur, illustrates the growing Sudanese perception that political power and economic development have been captured by ethnically Arab and religiously Muslim riverine tribes (in particular the Shaggiya and Jallien tribes) at the expense of both Southerners and those from peripheral areas. With members who include President Bashir, a Jallien, and Vice-President Ali Osman, a Shaggiya, these two tribes control the state security apparatus. Thus, the NCP is reduced to a security cabal for which the state only serves as an instrument to protect its hold on power. Islam is merely a fig leaf offering domestic and international legitimacy as well as a slogan for activating a small group of supporters.

The key objective of the NCP's core is no longer the pursuit of political Islam, but simply to survive. From that perspective, the IGAD process may have served as a lifeline since it secured the maintenance of Sharia in the North, ensured the ruling party a majority in Parliament, and guaranteed the party's existence at least until national elections are held.<sup>7</sup> Overall however, the NCP's current position is best characterized as weak due to:

- a. The party's lack of popularity and dependence on state violence to stay in power;
- b. The schism with Hassan al-Turabi and his supporters, who had been particularly represented in the security sector and in Darfur;
- c. The insurrection in Darfur, which caused the regime to replace many Darfurian security functionaries with Shaggiya members;
- d. Internal dissent over the Naivasha process, the handling of Darfur crisis, the role of Ali Osman, and the distribution of spoils.

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<sup>7</sup> See below for the provisions on power-sharing.

## 2. Governance Problems in SPLM/A-Controlled Areas

The SPLM/A has been the premier Southern party for the past two decades. It has, however, no democratic legitimacy; its legitimacy is, instead, grounded in the military struggle against successive Khartoum-based governments. The SPLM/A has long directed its scarce material and human resources to the war front and paid scant attention to political mobilisation, development, or public administration. With the attainment of peace, therefore, the SPLM/A will have to transform itself. The shift will not be easy, however, as the organization is characterised by a lack of coherent ideology, lack of accountability, tribalism, regionalism, little respect for human rights, and the virtual abandonment of the civil sphere to donors and international NGOs.

### 2.1 Lack of Coherent Ideology

Rather than supporting a coherent ideology, SPLM/A followers have largely been motivated by anti-Arabism and anti-Islam and a strong affirmation of their African character and cultures. Chairman John Garang's professed notions of a common struggle with people in the North, and claims to be fighting for a united "New Sudan", have little resonance among Southerners, many of whom simply want to break their ties with the North. The absence of an ideological framework means that motivation for the SPLM/A's struggle is often reduced to racist denigration of the Northern "jallaba."

### 2.2 Ethnic Politics

While the SPLM/A is officially committed to a Sudan-wide project, it continues to have difficulties in nation-building even in the South, where politics is shaped by the tribes. The SPLM/A's legitimacy is sometimes doubted, as it is perceived to be dominated by the Dinka. It should be recalled that the *Addis Ababa Agreement* of 1972 failed not only because Northerners reneged on their commitments, but also because of power struggles between Southern ethnic communities and Equatorians' fears about Dinka domination. Concern on the part of small tribes about political marginalization by larger tribes is an important factor to consider in the post-settlement setting.

### 2.3 The Absence of Democratic Culture

The absence of a democratic culture in the SPLM/A is most graphically expressed by Chairman John Garang's overwhelming dominance of the movement. Over many years, Garang has been successful in politically or physically eliminating those who challenge his authority. As Chairman, Garang has the power to appoint and dismiss at every level of the military and civilian administrations. Part of Garang's lack of accountability is due to the fact that the SPLM/A has held only two national congresses (in 1983 and 1994) in its 21 years of existence. Elections for the so-called National Congress, theoretically held every four years, have been repeatedly postponed. There are no newspapers or political opposition in South Sudan; in short, there is no real alternative to the SPLM/A.

Two potential challengers to Garang seem to be emerging, however. One is Bona Malwal, probably the most significant politician in South Sudan after Garang (and for whom he has a deep antipathy). Bona Malwal has regional support in Dinka-inhabited northern Bahr El Ghazel, close ties with leading figures in the SPLM/A, and enjoys the respect of elements within the international community. The other challenger is Riek Machar, who is currently the SPLM/A's second Vice President. Although the failure of his attempt to overthrow Garang in the 1990s—and the subsequent

collapse of the *Khartoum Peace Agreement* of 1997—make him an unlikely future leader of the SPLM/A, Riek has the ambition and capacity to mobilise the fractious and militant Nuers, and may serve as a rallying point for anti-Garang forces in the South.

#### *2.4 Little Respect for Human Rights*

In SPLM/A-controlled areas, there is virtually no respect for basic rights and fundamental freedoms. Severe restrictions are placed on freedom of opinion and expression, speech, assembly, and association. In addition, repressive measures are used to control and/or suppress independent political initiatives as well as administrative structures. In general, the judiciary often acts on an arbitrary basis.

#### *2.5 Military Focus and Weak Civil Administration*

The practice of successive governments in Khartoum to violently pursue Islamism and Arabism despite widespread resistance in the South has, in turn, reinforced SPLM/A militarism. SPLM/A's human and material resources have largely been devoted to military struggle. Civil administration is weak, and NGOs have effectively been given the responsibility to provide social, educational, and health services. There are reportedly 86 doctors, 600 nurses, 23 judges, and fewer than 100 trained lawyers in South Sudan. The lack of human resources for civil administration is also due to donors' reluctance to support and strengthen *de facto* authorities. In the coming period, the SPLM/A will face the dual challenge of building new institutions and administering the South, whilst also staffing agreed-upon quotas of Southerners at the central level. At present, it does not possess the required personnel for any of two endeavours.

In December 2004, the Sudanese People's Liberation Movement (SPLM) Leadership Council held a conference that addressed the movement's lack of institutionalization. As a result, the SPLM established three committees to address issues of military reorganization (headed by Salva Kiir, Garang's second-in-command), governance and institutions (headed by Riek Machar), and political reorganization (headed by James Wani Igga).

#### *2.6 An Emerging Southern Civil Society*

The SPLM/A views itself as a military movement and has actively opposed the development of Southern civil society—it has tolerated civil society at best and repressed it at worst. To a considerable extent, the development of Southern civil society has been externally driven within the context of humanitarian intervention, and therefore is not deeply rooted. The weakness of the civil society is a major obstacle to effective and democratic governance in the post-settlement period.

Civil society has become increasingly active in recent years, however, in part because of declining opposition from the SPLM/A, and in part because the advance of the peace process has made the public less willing to have its fate determined by a handful of movement leaders. A host of civic organisations and national NGOs have formed recently, among which three organisations stand out: the New Sudan Council of Churches (NSCC), the Bahr El Ghazel Youth Development Association (BYDA), and the South Sudan Law Society.

## **B. Parameters**

In sum, governance problems in the Sudan relate to:

- a. Dictatorial and exclusionary policies set in Khartoum at the expense of Southern Sudanese and other marginalized people—necessitating greater political participation and access to economic benefits;
- b. Autocratic rule by the SPLM/A of the areas under its control—necessitating more open and accountable political systems in the South;
- c. Politicization of institutions and failure to deliver services and enforce the rule of law in both North and South—necessitating reformed and more effective institutions.

How are these problems addressed in the peace provisions?

### ***1. Power-Sharing Provisions***

#### *1.1 The Machakos Protocol and the Issue of Self-Determination*

The *Machakos Protocol*, of July, 20, 2002, endorsed a historical compromise between the Government of the Sudan (GoS) and the SPLM/A summarized as: Sharia for the North, self-determination for the South. Under the agreement, the SPLM/A accepted that Sharia would remain the source of legislation in Northern Sudan, while the South would be ruled by a secular administration. In exchange, Khartoum accepted an internationally monitored referendum on self-determination would be held in January 2011, in which “the people of South Sudan” would either confirm the Sudan’s unity by voting to adopt the system of government established under the peace agreement, or vote for secession.<sup>8</sup>

The agreement was remarkable because it formalized the parties’ mutual renouncement of their respective historical aims: the Islamicization of South Sudan on the one hand, and the secularization of the entire country on the other. At the same time, the GoS secured the prevalence of Islam at least in Northern Sudan, while the SPLM/A gained a referendum of self-determination for its followers.

The *Machakos Protocol* provided the general framework for a political settlement of the Sudanese conflict.<sup>9</sup> Although the question of whether the Sudan will remain united or be split into two separate states is pending, the parties agreed to “give unity a chance”, i.e., to promote unity as the most desirable outcome of the referendum. The trouble is, however, that the signatories disagree about how best to prioritize unity. The SPLM/A argued that unity would be best served if it is made attractive to

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<sup>8</sup> The implementation period of the peace agreement is phased as follows: Phase I. Pre-interim period: D-Day + 6 Months (January-July 2005); Phase II. First half of the interim period: D-Day + 6 months to D-Day+ 36 months (July 2005 – July 2008); Phase III. Second half of the interim period: D-Day + 42 months to D-Day + 78 months (July 2008 – July 2011); Phase IV. Post-interim period: D-Day + 78 months to D-Day + 84 months (July 2011 – January 2012). See the timelines in the annex.

<sup>9</sup> During the next rounds of negotiations, however, issues related to the status of Sharia Law (in Khartoum) and the right of self-determination (for the Three Areas) were raised again. It was finally agreed that Sharia Law would also apply in the capital city with safeguards to be provided for non-Muslims. With regard to the Three Areas, a specific solution was worked out for Abyei, enabling its residents to choose between North and South, while an autonomy status under the North’s jurisdiction was developed for the states that comprise Southern Blue Nile and the Nuba Mountains (see below).



the South, by which it means that the Southern Sudanese should be granted many types of guarantees and opportunities at the regional and the central levels. The GoS is reluctant to adopt too-special treatments that would (in its view) foster Southern separatism rather than promote unity. Driven by self-preservation, the government is more inclined to create and/or strengthen countrywide institutions under its control.

### *1.2 Power Sharing at the National Level*

According to the agreement, the apex of Sudan's power structure will be the new Institution of the Presidency, which consists of the President and two Vice Presidents. Until presidential elections are held, the incumbent President al Bashir will remain in office, and the current SPLM/A Chairman, John Garang, will act as the First Vice President as well as the President of the Government of South Sudan. The post of Second Vice President should be allocated to the current Vice President and GoS negotiator, Ali Osman Taha, for which it was essentially created. Among other tasks, the President will appoint members of most of the commissions created by the peace agreement.

The *Protocol on Power-Sharing* stipulated that elections be held during the third implementation year and left the date for presidential elections open. During the implementation talks, the parties agreed to hold elections at all levels "before the end of fourth year", by July 2009 at the latest. In agreeing to this schedule, the NCP and the SPLM/A secured their dominant positions in Sudanese interim institutions for an additional year.

A Government of National Unity (GNU) will be established prior to elections. Within the GNU, 52% of ministerial seats are reserved for the NCP (including 49% to Northerners and 3% to Southerners), 28% to the SPLM (including 21% to Southerners and 7% to Northerners), 14% to other Northern political forces, and 6% to other Southern political forces. The allocation of seats prior to the elections will be similar in both the legislative and executive branches, but the National Assembly will be composed of 450 members and the Council of Ministers (the Cabinet) will be composed of 30 ministers and 34 state ministers. In other words, the ruling National Congress Party will remain the country's dominant political force for the coming four years although its share of seats (234 MPs and 33 ministers) probably far exceeds its real support among the public.

Political positions are distributed between North and South according to a ratio that roughly matches the country's demographics (70:30). A population census is scheduled to be conducted by the end of the interim period's second year (e.g., between January and July 2007). The Population Census Council, the principle Sudanese body in charge of preparing and supervising these operations, will conduct the census in cooperation with the United Nations Population Fund (UNFPA).

The *Protocol on Power-Sharing* provides for significant Southern participation in national institutions with membership in the newly established three-member Presidency, reserved seats in the legislative and executive branches, and quotas in the civil service (subject to census results). Recognizing that "imbalances and disadvantages must be redressed", the parties agreed to allocate between 20% and 30% of civil service positions to Southerners incrementally over the interim period (20% within the first three years, 25% within five years, and 30% within six years).

The *Protocol on Power-Sharing* provides a catalogue of human rights and fundamental freedoms "to be enjoyed under Sudanese law, in accordance with the provisions of the [international] treaties." The conditions of implementation of these rights remain unspecified, however, as is the composition, mandate, and authority of the Human Rights Commission called for in the *Protocol*. The fact that the

Commission's members will be appointed by the Presidency raises concerns as to its independence. In addition, as result of a mutual understanding between the two main belligerents, the peace agreement fails to provide a mechanism (such as via a truth commission, prosecution, or any other format) to either bring the perpetrators of war crimes to justice, or account for the numerous abuses committed during the Southern conflict.

The Agreement states that the Constitutional Court, national Supreme Courts, and all judges of other national courts will be independent and will perform their functions without political interference. All judges are to be appointed by the Presidency on the recommendation of the National Judicial service commission, however. While it has criminal jurisdiction over the members of the Presidency and other high level officials, the Constitutional Court is said to be "independent from the Judiciary" and answerable to the Presidency. The president of the Constitutional Court will be appointed by the Sudanese President with the consent of the first Vice President.

Finally, the *Agreement on Power-Sharing* provides for one "National Security Service" which, in accordance with SPLM/A's requests, is to be representative of the population (i.e., non-NIF members may be recruited). The Service is to focus on information-gathering and analysis; arrests and interviews are to be performed only by the police force. While the Service will remain anchored in the Presidency, its mandate is advisory and is to be further elaborated in the National Security Act.

### *1.3 Asymmetrical Federalism*

The political structures of post-conflict Sudan will be based on asymmetrical federalism. While significant powers will be shifted from the national government to the states, South Sudan is to be once again granted its own regional government (as it was under the *Addis Ababa Agreement*) to act as interlocutor between the national government and the Southern states.

Pending general elections, the NCP and SPLM/A will be the dominant force in the North and South, respectively. In addition, Northern political representation will amount to 90% in the Northern states, where the SPLM will be the only Southern political force. Southern political representation will amount to 90% in the Southern states, where the NPC will be the only Northern political force.

#### *In the North*

At the state level, pending elections, the NCP will be allocated 70% of seats in the executive and legislative branches, other Northern political forces will hold 20% and the SPLM 10%. State legislatures should be composed of between 30 to 48 members.

#### *In the South*

In the Government of South Sudan (GoSS), pending elections, SPLM representation will amount to 70% in both the assembly and the Council of Ministers, and the remaining seats will be equally shared between other Southern political forces and the NCP (15% each). In other words, 119 out of 170 MPs in the Southern assembly will be from the SPLM/A. John Garang, will hold the position of first Vice President; head the Southern government; and assume the position of Commander in Chief of the SPLA, the principal Southern army during the interim period.

At the state level, in the Southern executive and legislative branches, the SPLM will hold 70% of seats, other Southern political forces will hold 20% of seats, and the NCP will hold 10% of seats.

#### 1.4 The Three Areas

The status of the Three Areas was also addressed in two separate protocols negotiated under the auspices of the Kenyan government and facilitated by the same mediator, Lt. Gen. Lazarus Sumbeiywo.

The *Protocol on the Resolution of Abyei Conflict* stipulates that, upon signing a comprehensive peace agreement, Abyei area will be awarded a “special administrative status” under the institution of the Presidency. Thereupon, Abyei residents will become citizens and be represented in the legislatures of both a Northern and a Southern state (Southern Kordofan and Bahr al Ghazal, respectively). At the end of the interim period, in January 2011, Abyei residents will have a separate referendum simultaneous with, but irrespective of, the results of the referendum for South Sudan, to decide whether to retain their special administrative status in the North or to become part of Bahr al-Ghazal. The *Protocol* also spells out how oil revenues from Abyei will be divided during the interim period: 50% to the National Government, 42% to the Government of South Sudan and the remaining 8% to be distributed locally. It does not, however, stipulate whether and how any compensation arrangements will be implemented in case of separation after the referendum (neither does the national *wealth sharing Agreement*). Albeit fairly balanced at first sight, the *Protocol on the Resolution of Abyei Conflict* actually contains several loopholes related to the demarcation of the area, the body of electors, and war-generated population displacements. These factors may impact both the *Protocol’s* implementation and the referendum’s outcome. The first, critical step will be to determine the boundaries of the contested area, a task that has been assigned to the Abyei Boundaries Commission (ABC) and its five impartial experts.

The other two contested areas are addressed in the *Protocol on the Resolution of Conflict in Southern Kordofan and Blue Nile States*. As the title suggests, Southern Blue Nile and the Nuba Mountains are not granted autonomous status *per se*. Rather, their case is addressed within the framework of the state to which they belong, namely Blue Nile and Southern Kordofan. In the case of Southern Kordofan, the state’s name excludes all reference to the Nuba Mountains, and Southern Kordofan will merge with Western Kordofan state to reconstitute the former Southern Kordofan province.<sup>10</sup> These changes are likely to be seen by the Nuba people as an attempt to dilute, rather than to account for, their demographic weight and distinct identity within a greater framework to the benefit of (Baggara) Arab tribes. Pending the general elections, the two areas/states will remain firmly under the control of Khartoum’s jurisdiction and be dominated by the National Congress Party. The NCP will be allocated 55%, and the SPLM 45%, of the positions in both the executive and the legislative branches of the two states. Both parties have also agreed to share governorship of the two states.

Furthermore, the *Protocol* does not adequately address two issues at the root of the conflict in the areas: the government’s Islamicization policy and land expropriation. It remains to be seen who will serve on the land commission, how impartial and binding its recommendations will be, and whether the expropriated people will ultimately be given back their land or receive decent compensation. Finally, the indigenous peoples of the two areas will not be directly consulted on the *Protocol*, instead the agreement will be assessed and endorsed by each state’s legislature.

Although the case of the Three Areas was addressed during the peace talks (unlike the issues of Darfur or Eastern Sudan), it is unlikely the peoples concerned will be entirely satisfied with the

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<sup>10</sup> By implication, the newly constituted Southern Kordofan State will be composed of two of the three contested areas, namely the Nuba Mountains and Abyei (the latter with a special administrative status).

outcome of the negotiations. Nuba organizations, in particular, have expressed frustration with a protocol that fails to recognize the right of the people of the Nuba Mountains to govern themselves on their historical land.<sup>11</sup> At the same time, the Misirya Arabs are said to be strongly opposed to the dissolution of Western Kordofan state and the re-absorption of their areas into Southern Kordofan. Building on this discontent, a new Islamist-oriented front, Al Shahama, has emerged in the region; the GoS has ascribed the organization's emergence to Turabi's destabilization strategy (see below).<sup>12</sup>

### 1.5 Conclusion

#### *The Potential for Transforming Sudan's Governance System...*

The *Protocol on Power-Sharing* might provide the basis for solving the Sudan's conflicts of governance to the extent that: a) it may end the current dictatorial regime (thanks to government change, restoration of basic freedoms, holding general elections, etc.); and b) it addresses a number of key Southern grievances (establishment of a regional government, participation in central government, affirmative action in the civil service, a referendum on self-determination, etc.).

In providing not only for regional autonomy but also for Southern representation at the national level (and, reciprocally, for limited Northern representation on the Southern level), the *Protocol on Power-Sharing* presents a more sophisticated compromise solution than the "one country/two systems" formula. This model might also prove to be more consistent with the ultimate goal of a united Sudan.

The agreement provides room for settling North-South conflict as well as a vehicle by which governance problems throughout the Sudan may be addressed. The establishment of a government of national unity and the move towards a decentralized system might create opportunities to address local conflicts and grievances in other peripheral and marginalized areas as well.

#### *... that has yet to Become Reality*

Beyond the letter of the peace provisions, much depends on the spirit in which the signatory parties will implement the peace agreement. From that perspective, it is highly questionable whether a united and democratic Sudan will emerge from the transition period, for several reasons.

First, the *Machakos Protocol* tends to enshrine, territorialize, and reinforce ethnic, religious, and cultural differences throughout the Sudan and stipulates a procedure for divorce. In the final analysis the *Protocol* might bring separation closer rather than unity.

Second, uncertainty remains as to whether the ruling party will share power and whether a government of national unity dominated by the NPC can actually function.

Third, the post-settlement setting also raises serious challenges of governance for the SPLM/A. While the movement should move towards a more democratic system of governance, Garang's position within the organization will be translated into massive personal power in Southern Sudan. Moreover, the SPLM under Garang's control has been given a stranglehold over Southern regional administration. Garang might find it difficult to exert full control on either the movement or Southern administration from his base in Khartoum, however.

Finally, it remains to be seen whether the country will democratize and open political space to other political forces. For the time being, the *Protocol on Power Sharing* recognizes the "need for

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<sup>11</sup> See Nuba Survival, "Naivasha Accord Fails to Address Nuba Grievances", Statement, January 4, 2004.

<sup>12</sup> Justice Africa, *Prospects for Peace in Sudan*, Briefing, October-November 2004, par. 8 and 19.

inclusiveness”, but allocates the lion’s share of power to the signatory parties at all levels. Northern and Southern states will remain dominated by the NCP and SPLM, respectively. The lack of inclusion of the IGAD process has been criticized by many Sudanese stakeholders as well as by other analysts, and is in urgent need of being addressed.

## ***2. An Exclusive Peace Process***

The conflict in the Darfur region that erupted in February 2003 may be viewed as both a side –effect, and a severe refutation, of the bilateral format of the Naivasha talks. Rebel groups deplored the North-South focus of the IGAD negotiations because they did not address the needs of marginalized areas in the west and east. They perceived the negotiations as a bilateral deal between the NCP and SPLM/A to share power and wealth between themselves.

Actually, it can be argued that: a) other groups than these two were indirectly represented by, or incorporated into, the two delegations; b) the search for inclusiveness was conceived as a gradual process with negotiations limited to primary actors and the peace implementation period used to foster greater political participation (via a government of national unity and general elections); and c) despite of its bilateral nature, the IGAD process could benefit Sudanese society as a whole by fostering country-wide changes in both government and governance.

Whichever view is correct, the support base for the peace process will have to be broadened, and political space opened, as originally envisaged. Following is a presentation of the key political players that have a stake in the process and that must be engaged in the process<sup>13</sup>.

### ***2.1 The Umma Party***

The Umma party is the political organization of the Islamic Ansar Sect and has probably been the Sudan’s leading party in the five decades since independence. Its decline in the recent years, while difficult to estimate precisely, has resulted from the following factors: the ineffectual performance of the party and its leader, Sadig Al-Mahdi, during his second term as Prime Minister from 1986 to 1989; the NCP’s efforts to undermine Umma’s electoral base over the past 15 years; the insurrection in Darfur, which is considered to be the heartland of Umma Party support; and the failure of the party to resolve long-standing tensions between those who support and oppose Sadig’s domination of Umma’s political and religious wings.

Considering its total lack of support in the South, the Umma Party currently has neither the capacity nor the legitimacy to play a leading role in the post-settlement period. Family and sect still have hold on significant numbers of Sudanese in the North, however. In addition, the Umma Party has the steady support of the traditional rural classes and can capitalize on the deep resentment of the NCP to perform better in a fair election might be expected. Together with DUP (see below), the Umma Party will likely gain most of the 14% seats allocated to Northern political forces in the *Power-Sharing Agreement*. Unlike the DUP, however, the Umma Party was not involved in the Cairo talks between Northern political parties (since its leader left the NDA in 2000) and has yet to reconcile its differences with the GoS.

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<sup>13</sup> This section draws on the political analysis provided by an expert on the Sudan. The specific case of the SSDF is addressed in the following security issues section.

## 2.2 DUP and NDA

### *The Democratic Unionist Party (DUP)*

Based on the Khatmiyyah sect, the Democratic Unionist Party (DUP) is led by Mohammed Osman al-Mirghani, who also leads the National Democratic Alliance (NDA). Like the Umma Party, support for the DUP has almost certainly declined since the generally free elections of 1986, when it captured 25% of the vote. The core of the DUP's support is among the merchants, Shaggiya, the Beja and related tribes of the East. The party is characterised (and weakened) by a highly disparate membership. Furthermore, the DUP's leadership is much more divided than that of the Umma Party; it has suffered more repression by the GoS because of its leadership's decision to remain outside the country; it is seen as anachronistic and incapable of coherent governance by modern and youthful elements of society; and, despite its alliance with the SPLM/A, the DUP has no support among Southerners. Still (for the same reasons given above for to the Umma Party) the DUP cannot be entirely discounted. And, contrary to the Umma party, the DUP concluded an agreement on behalf of the NDA in January 2005 that should foster its political comeback (and its leaders' physical return) to the Sudan.

### *The National Democratic Alliance (NDA) and the Cairo Reconciliation Deal*

Since the mid-1990s, the National Democratic Alliance (NDA) has brought together 13 political groups (including the DUP and SPLM/A), and more than 50 professional unions and syndicates, which oppose the NCP government.<sup>14</sup> The NDA raised many hopes and expectations, as it links Moslems and Christians, Northerners and Southerners, and had the support of the US and key regional countries.. Other than a few military successes in the mid-1990s (ascribable to the Eritrean and Ethiopian armies), however, the NDA has never lived up to its potential. All the member groups of the NDA oppose to the NCP, but they have little else in common. The separate negotiations that were held in Cairo between the GoS and NDA leaders in parallel with the IGAD talks' final phase may well have been the NDA's ultimate political action.

Under the reconciliation deal signed on January,16, 2005, NDA's demands have been met on the abolition of emergency laws, the restoration of civil and political rights, and NDA's participation in national and local governments (in line with the power-sharing provisions).<sup>15</sup> The Government delegation has been less flexible on the situation in Eastern Sudan, however: the grievances of the Beja people have not been addressed (see below); the 3,000 NDA fighters in the region are to be integrated into the Sudanese army; and no progress has been made on the deployment of a joint/integrated unit in Eastern Sudan. <sup>16</sup> Two committees will be set up to address these political and security issues, respectively.

The Cairo deal was widely seen as a further step in the right direction after the signing of the Naivasha agreement. In fact, the Cairo accord serves the parties' narrow interests, but not necessarily the Sudan's broader interests. The GoS succeeded in dealing separately with its Northern opposition, thereby breaking a long-standing nationwide coalition of opponents, and it did not concede more than had already been done under IGAD auspices. With respect to the NDA, the Cairo deal mainly benefits the DUP, which negotiated acceptable conditions for seizing momentum and making its political

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<sup>14</sup> Apart from SPLM/A and DUP, the NDA includes the Sudanese Communist Party, the Baath Party, the Beja Congress, an alliance of Southern parties independent from the SPLM/A, and the Darfur SLM/A.

<sup>15</sup> The Cairo deal had not yet been made public at the time this report was written.

<sup>16</sup> See below on the joint/integrated units.

comeback. To some extent, the Cairo deal also serves SPLM/A's interests and broadens its support base, as its provisions fit with, and consolidate, the Naivasha framework. The biggest problem relates to the situation in Eastern Sudan. The Beja Congress and the Rashida's Free Lions (see below) found their interests to be so neglected in Cairo (despite the strong DUP presence in the East) that the groups walked out of the meetings and threatened to withdraw from the NDA. Thus, the Cairo deal missed the opportunity to settle the Eastern conflicts; this failure undermines the sustainability of the Naivasha agreement.

### *2.3 Eastern Rebels*

The Beja are a nomadic people with over two million members who have lived in southern Egypt, north-eastern Sudan, and northern Eritrea since ancient times. The Beja Congress has existed on and off since 1958, and has constantly called for the establishment of a decentralized political system to enable these Eastern Sudanese to manage their own affairs. Like other groups, the Beja have complained for decades that they are marginalized, inadequately represented in central government, and abandoned to poverty and neglect. In Eastern Sudan—as in Darfur—ecological degradation, the development of mechanized farming, and demographic changes have increased competition over resources. The situation has caused concern among the Beja about preserving their identity and maintaining their place in their historic land. The Beja have adopted Islam, but many follow a Sufi sheikh, the late Ali Betai. Although some Arabs figure in Beja ancestry, most descend from an indigenous, non-Arab population. Hence, their frustration reached new heights in the 1990s when the NIF regime aggressively promoted its version of Islam in the region, and destroyed Beja mosques and religious schools.

In the late 1990s, with Eritrea's support, the Beja Congress established an armed wing and began guerilla attacks, including attacks on oil installations. In coordination with SPLM/A's New Sudan Brigade, it occupied and administered significant areas of Eastern Sudan, including Hamush Koreb. Sudanese authorities accuse Eritrea of sponsoring an effort to unify these Beja forces with another Eastern Sudanese rebel group which first appeared in 1999. This group, the Free Lions, is composed of Arab Rashaidah nomadic tribes who migrated to the Sudan from Arabia in the 19<sup>th</sup> century. After the signing of the security framework agreement in October 2003, links appear to have been established between the Beja Congress and the Darfur rebel movements to protest the restricted access to the IGAD talks and any "partial solution" to the Sudan's problems. Those connections are even more probable since one million Darfurians have migrated to Eastern Sudan in search of work.

As of January 2005, the Beja Congress may be seen as having been abandoned twice by its allies: first by the SPLA, whose troops are scheduled to pull out of Eastern Sudan within 12 months; and second by the NDA, which failed to defend Beja interests to the government. As sign of rising tensions, on 29-30 January 2005, a demonstration organized by the Beja Congress to protest against the Beja's marginalisation and exclusion from the peace agreements degenerated into two days of riots in Port-Sudan—at least 14 demonstrators were killed by the police forces and many more were wounded.<sup>17</sup> Beja Congress leaders were arrested the next day.

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<sup>17</sup> IRIN, 'Sudan: Scores killed during riots in Port Sudan', February, 1, 2005.

## 2.4 The Darfur Rebels

Led by two separate groups—the Sudan Liberation Movement/Army (SLM/A) and the Justice and Equality Movement (JEM)—the Darfur insurrection poses a major threat to the Islamist regime's survival. The threat is even bigger than that posed by the SPLM/A, for four reasons: 1) JEM has links with Hassan al-Turabi, head of the breakaway Popular National Congress; 2) Darfurians are Moslems, and hence part of the Sudanese religious mainstream; 3) people from Darfur make up a considerable portion of the army and security forces and form a substantial minority of Khartoum's population, and therefore could directly threaten the government; and 4) these opposition groups, either in league with the SPLM/A or with the support of foreign states, have the capacity to overthrow the NCP regime.

### *Political Objectives*

To the extent that the SLM/A has formulated a political program, it closely resembles that of Garang's "New Sudan". The crucial difference is that, while the Southern masses have little sympathy for these objectives, the people of Darfur (and particularly the SLM/A's followers) favour a united, reformed, and secular Sudan that focuses on all of the country's marginalised areas. Under the chairmanship of Dr. Khalil Ibrahim, JEM espouses similar sentiments because of their widespread popularity in Darfur. Less publicly, JEM also endorses an Islamist program with ties to Turabi and his Popular National Congress.

### *Comparative Advantages*

The SLM/A has many weaknesses that largely derive from its inexperience. But it has many strengths as well, including: military capacity, widespread support, political slogans that appeal in peripheral areas beyond Darfur, and the apparent support of Eritrea. It is, further, untainted by association with the Sudan's established and largely discredited parties.

While it lacks military capacity or political support comparable to the SLM/A's, JEM has a more sophisticated leadership, greater access to finances, and links with the Popular National Congress with which to pursue its objectives.

### *The National Movement for Reform and Development (NMRD)*

A third rebel group, the National Movement for Reform and Development (NMRD), was formed after a split within JEM. This split reflects growing disagreement between JEM political leaders—who mainly originated from Turabi's PNC—and the military leaders, most of whom have a Chadian background. JEM's field commanders accused the political leaders of pursuing a national agenda (rather than trying to address Darfur's marginalization) and of exploiting religious divisions for their own political ends. As a result of this conflict, the field commanders broke away in May 2004 and formed the NMRD. Since then, JEM has accused NMRD of being Khartoum's stooge. NMRD claims to have 2,300 soldiers at its disposal and a strong support base in Chad, especially around the border town of Tine. The group has engaged in separate talks with the government, which progressed more quickly than Khartoum's Abuja-based negotiations with either JEM or SLM/A. The two sides signed a ceasefire on December, 17, 2004, and later agreed to promote the return of refugees from Chad to NMRD-controlled areas in the Sudan. It is not all clear what game is being played around and Darfur's so-called "third rebel movement".



### 2.5 Turabi's Popular National Congress

Despite dismissing Hassan al-Turabi from government in December 1999, the NCP leadership was not able to end the threat that Turabi and his followers pose to their existence. Turabi's Popular National Congress (PNC) was created in June 2000 and has supporters in the government, the NPC itself, the security services, and among youth. In addition, it has access to financial resources and weapons, sophisticated cadres, and an international network. These factors make the PNC probably more of a threat to the survival of the NCP than either the SPLM/A or the Darfur-based SLM/A. And, unlike most of the NCP's members, PNC followers are highly committed and led by the most sophisticated political strategist the Sudan has produced in the 50 years since independence.

Turabi has a strategy for the PNC and thinks long-term, while the NCP appears to be reduced to focusing on its day-to-day survival. It remains difficult to decipher what Turabi's exact strategy is, however. It is most likely that Turabi remains committed to overthrowing the regime by force, such as by an insurrection like the Justice and Equality Movement, a coup, or an intifadah-type action in Khartoum. The installation of a "government of national unity" - which would be, in practice, dominated by the NCP - may only reinforce Turabi's determination to spoil implementation of the peace agreement. The outcome may be bloody.

Through the *Black Book*, which was written by his followers, Turabi probably intends to drive a wedge between the so-called Arabs (in particular the riverine Shaggiyya and Jallien tribes that dominate the NCP government) and the Africans who make up the majority of the Sudan's population. The trouble is that the *Black Book* also marks another step in the Sudan's polarization along politically constructed "racial" rather than religious lines. By mobilising the "Arab" Janjaweed against the "African" rebels in Darfur, the GoS has demonstrated its readiness to act along these lines, regardless of the consequences. Turabi's strategy may ultimately unleash the kind of genocidal conflict witnessed in Rwanda.

## II. Security Issues

The Naivasha agreement (or *Comprehensive Peace Agreement [CPA]*) addresses changes in the South and in Khartoum, but does not adequately address the conflicts in the Three Areas, and completely overlooks the situations in Darfur and the East. Furthermore, the CPA confirms the National Congress Party's (NCP) domination over all Northern states until elections are held in 2009.

As a result, unresolved conflicts in the North may persist and, in a worst-case scenario, link with each other across the Sudan's central belt from Western Darfur to Red Sea state. Various rebel group statements suggest that connections are already made between East-based groups (Beja Congress, Free Lions) and the Darfur rebels (SLM/A, JEM). In both cases (and in the Three Areas to some extent) rebel groups are similar in that they: are composed mainly of non-Arab Muslims; complain about being neglected and discriminated against by the regime; are fighting for the same objective (a federal arrangement within a united Sudan that allows the people to govern themselves); and protest their exclusion from IGAD negotiations. Hence, a coalition of those who have been marginalized in the Sudan (as they were in the peace process) may be emerging to continue an armed struggle "until they get rid of marginalisation, poverty, ignorance, and backwardness" and "the regime is toppled or the

rights of all regions are secured from the center”.<sup>18</sup> The possible emergence of an arc of conflicts throughout central Sudan raises critical security questions and seriously threatens the Naivasha agreement.

## **A. Problems**

As war fronts proliferate in the Sudan’s “peripheral areas”, they will generate security problems that are related partly to an increasingly complex domestic scene and in part to the historically negative interactions and linkages with neighbouring countries.

### ***1. Forces in Presence***<sup>19</sup>

#### *1.1 Sudanese Armed Forces*

##### *SAF*

The Sudanese Armed Forces (SAF) is perceived less as a national army that reflects the Sudan’s political and cultural pluralism and more as the ruling Islamic movement’s army. The bulk of SAF officers come from Central and Northern Sudan, with very few officers from the peripheral Southern, Western, and Eastern areas. In order to guarantee the loyalty of the armed forces, purges have occurred over the last 14 years and an “ideological branch” established to instil the values of Political Islam among the officers. The regime has also created, and relied upon, other vehicles to pursue its Islamist agenda and fight in the South.

##### *PDF*

The Popular Defence Force (PDF) was formed from Islamist volunteers to fight alongside the army in Southern Sudan. In practice, the PDF served as a parallel military structure under the NCP’s control when the army’s loyalty to the government was in doubt. The PDF’s loyalty was itself questioned after the NCP split in the late 1990s, however, and many volunteers were dismissed for their perceived affiliation with Turabi. Hence the PDF has declined, although a hard core remains that continues to receive government support. While their members fear that the PDF will be disbanded as a result of the Naivasha peace process, the PDF could be utilised by the NCP (or by other elements in the ruling party) in Moslem-majority areas such as Darfur, Southern Blue Nile, and the East.

#### *1.2 Militias Affiliated with the Government of the Sudan*

##### *SSDF*

Another of the Government of the Sudan’s (GoS) long-standing war strategies has been to co-opt Southern militias not only to wage war by proxy but also to undermine attempts at Southern reconciliation. There are some 32 GoS-affiliated militias in South Sudan, including 26 in Upper Nile

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<sup>18</sup> Joint statement SLA/Beja Congress, January 2004 and Joint statement JEM/Free Lions Movement, July 2004, respectively. In the same vein, a mysterious “national movement for all the marginalized people” was reportedly formed over the spring 2004 in Western Kordofan to address the plight of marginalized people all over the Sudan, especially in the North, East, and West. Reportedly created by the SLM/A, the movement calls on all armed factions to unite and escalate their operations until the government is overthrown. The movement’s leader, Abd-al-Rahim Al-Bashandi, claims to be from the same tribe as Vice President Ali Osman.

<sup>19</sup> This section draws on the political and institutional analyses provided by two experts on the Sudan.

and three each in Equatoria and Bahr el Ghazal. Most of these militias are organized under the umbrella of the South Sudan Defence Forces (SSDF). The militias are important military actors because they: a) are composed of thousands of fighters, possibly up to 35,000; b) control a large band of territory in South Sudan and provide security in the oilfields; and c) include a substantial number of Nuer, the second largest ethnic group in South Sudan. Linked to the GoS under the Khartoum peace agreement of 1997, the SSDF opposes the SPLM/A in several respects. The SSDF rejects any notion of a new or united Sudan and pursues separatist goals, despite an alliance to the government; it opposes Garang's hegemonic control and Dinka domination of the SPLM/A; and it demands a greater role in post-settlement South Sudan and greater access to the oil revenues of Unity state.

### *Janjaweed*

It is now widely acknowledged that, in Darfur, the GoS mobilised, established, armed, and directed "Arab militias" that are commonly known as "Janjaweed". The term "Arab" is ambiguous and fluid in Darfur, however, as it is a politically constructed identity, and the "Janjaweed" include different armed groups such as pastoralist groups, camel-herding clans, and Chadian Arabs. PDF forces have also been involved in attacks in Darfur and have absorbed Janjaweed fighters. The GoS's willingness and capacity to honour its commitment to effectively disarm these groups is very questionable.

### *1.3 SPLM/A*

It is typical, at the end of a civil war, for the armed forces of the various sides merge to into a unified army. When it entered into negotiations, however, the Sudanese People's Liberation Movement had no intention of disappearing. Instead, it sought to be recognized as the Southerners' sole army (albeit under a confederal arrangement) until at least the 2011 referendum. The SPLM/A, therefore, hoped to gain control over South Sudan, preserve a self-defence capacity, and provide itself with the necessary leverage to ensure implementation of the peace provisions. This goal derived from the precedent of the 1970s, when Southern forces were gradually incorporated into the Sudanese army and were unable to prevent the abrogation of the *Addis Ababa Agreement*. The Naivasha deal gave the SPLM/A satisfaction, although the Southern Government will have to finance its own forces. The Southern army's size is a matter of speculation: most estimates are between 30-40,000 troops, but it might be as large as 80,000 if one includes "reservists" normally engaged in agriculture and mobilized only to defend local communities or engage in large-scale offensives. It has been suggested that the SPLM/A aspires to support as many as 200,000 men in the post-settlement period.<sup>20</sup>

To conclude, the complex security setting is exacerbated by the deep-seated animosities that characterize relations between most of the actors both within and between the North and South. In Khartoum, the NCP's extremist agenda, repressive practices, and self-benefiting policies make it widely hated. Despite more than two years of negotiations, huge mistrust persists between the GoS and the SPLM, whose paranoia is fuelled by a long history of "dishonoured agreements". Negative perceptions and loathing are no less severe between the Dinka and the Nuer, who have invested more time and energy in fighting each other than in combating the government.

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<sup>20</sup> According to the agreement on permanent ceasefire, the SPLM/A is expected to provide details on its troops strength and locations to the UN Advanced Mission in the Sudan (UNAMIS).

## **2. Regional Actors and Cross-Border Instability**

The Sudan is the largest country in Africa and shares borders with nine countries. The signing of the *Comprehensive Peace Agreement* has the potential to change the regional dynamics, and conversely the regional actors may impact the CPA's implementation. In the past, most of the Sudan's neighbours have been involved in the so-called North-South conflict, either directly or indirectly, on one side or the other (and sometimes on both sides successively). Likewise, most have played the role of either arsonist or peacemaker, and sometimes have played both roles simultaneously. It is important to note that the regional actors' involvement in peacemaking activities is usually driven by their own security interests rather than by humanitarian concerns. Therefore, while genuine sympathy for the cause of a given group cannot be excluded, the Sudan's neighbours usually "mediate" in accordance with their perceived, and changing, interests.

### *2.1 Changing Regional Dynamics*

Two trends over the past 15 years are worth stressing with relation to the Sudanese position within the region and the role of regional actors in the country's conflicts. First, the GoS has managed to move away from almost complete isolation and gain fairly strong regional support. In the early 1990s, the National Islamic Front's (NIF) aggressive policy of exporting political Islam to neighbouring countries and sponsoring international terrorism triggered negative reactions from Egypt, Ethiopia, Eritrea, and Uganda. As a means of checking the regime, the latter three initiated IGAD's mediation efforts in the Southern conflict, and then engaged militarily with the SPLM/A under US auspices. In the late 1990s, the breakout of the Eritrea/Ethiopia war, Egypt's mixed feelings about isolating Khartoum, and Turabi's dismissal all paved the way for the GoS' gradual reintegration. While the Darfur conflict threatened the GoS with once again becoming an international pariah state, it has, instead, elicited support from Arab countries who oppose "all foreign intervention" in the region.

Second, according to the circumstances and the specific conflict, the peacemaker role has shifted from one country to another. The conflict in the South has been mainly mediated by the Sudan's southern neighbours (first, the "frontline states" and then Kenya under IGAD auspices) at the expense of Arab countries (particularly Egypt and Libya, whose "joint initiative" never progressed). By contrast, the Darfur conflict has enabled the Sudan's northern neighbours and other "marginalized mediators" such as Nigeria to accomplish a diplomatic comeback under the auspices of the African Union (instead of the IGAD). Most recently, the Egyptian government has seized the chance to offer its services and host talks in Cairo that will be limited to the Northern Sudanese.

The distribution of peacemaking roles, therefore, reflects geopolitical realities around the Sudan's conflicts and the strategic interests of the "mediating" governments. The two trends coincide, as the countries involved in mediating the conflict in the South are fairly hostile to the GoS, while those involved in the Darfur conflict are more supportive of Khartoum. The mediators' views are reflected in their proposals. Experience shows, however, that being both judge and party is seldom conducive to successful mediation and that regional differences tend to reinforce (rather than lessen) the Sudan's divisions. For the time being, the Sudan's neighbours may be roughly categorized in terms of supporting either the Government or the various rebellions.

## 2.2 Countries Silent on, or Supportive of GoS, policy in Darfur and the South

Arab countries and organizations have never shown great sympathy for the Southern aim of overthrowing the dominant Muslim and Arab regime, and are unenthusiastic about the prospects of an independent South. *Egypt's* concern with NIF fundamentalism in the 1990s was counter-balanced by its fear of the SPLM/A gaining control over the flow of the Nile River. *Libya's* President Qaddafi supported the SPLA until the fall of Nimeiri in 1985, when he changed positions and worked to improve both Libya's relations with President Bashir and its image of potential peacemaker. In 2001, Egypt and Libya promoted a peace initiative whose main characteristic was the lack of any promise of self-determination for South Sudan. With respect to the Darfur conflict, Arab countries tend to support the GoS partly on behalf of Arab solidarity, and partly for domestic reasons. This group includes *Ethiopia*, which shifted sides following the breakout of hostilities with Eritrea in 1998, and has since built a mutually-beneficial alliance with Khartoum and Yemen. For this reason, Ethiopia is viewed with great suspicion by the Darfur rebels.

## 2.3 Countries Silent on, or Supportive of, Rebel Movements in Darfur and the South

Although a rapprochement with Khartoum has been attempted on occasions, Eritrea and Uganda have predominantly provided support to the GoS' political and armed opponents. *Eritrea* has long provided political and military support to the Asmara-based National Democratic Alliance (NDA) and particularly the Beja forces, and is strongly suspected of backing Darfur's rebel groups. Asmara and Khartoum accuse one another of supporting the other country's armed dissidents but, contrary to its position in the early 1990s, Eritrea seems to be facing growing regional and international isolation.

Similarly, despite bilateral agreements to the contrary, *Ugandan-Sudanese* relations have been dominated by the long-standing support Kampala and Khartoum provide to the SPLM/A and the Lord's Resistance Army (LRA) - the notorious Ugandan armed group based in South Sudan. The LRA is a possible wild card in the NCP's plans to generate instability in the South. The LRA has been weakened by the Ugandan army's recent incursions into South Sudan (which the future Government of South Sudan may continue to authorize), however, and by the military alliance concluded between the SPLM/A and the formerly GoS-affiliated Equatoria Defence Force (EDF). The SPLM/A seems to be resolute in not allowing the LRA to operate from South Sudan, and its administration of the region may hamper the GoS' ability to supply the group.

Finally, *Chad* has been dragged in the Darfur disaster. President Déby tried to mediate the issue before handing it over to the African Union. The case is fairly complex, and President Déby found himself caught between multiple fires. First, many Janjaweed are, in fact, "Arab" Chadians who fled to the Sudan when their livestock was rustled by Zaghawa in Chad. This has caused around 200,000 Sudanese to seek sanctuary in eastern Chad since 2003. Second, President Déby comes from a sub-group of the Zaghawa people, who are among the Janjaweed's main targets. While Déby was accused of abandoning his own people to avoid confrontation with Khartoum, many Zaghawa officers from the Presidential Guard and general staff have helped both JEM and the SLA. Third, Khartoum repeatedly threatens to support Chadian armed opponents if President Déby does not help the regime defeat JEM. Despite the deployment of French troops on the Chadian border, and an agreement between Khartoum and N'Djamena to set up border patrols, cross-border infiltrations and attacks are likely to continue in both directions.

## 2.4 Regional Peacemakers

Only two countries have played a genuine peacemaking role in the sense that they have never been a party to the conflict they proposed to mediate. *Kenya's* support for the SPLM/A has never been of a military character and the Kenyan authorities have always managed to maintain cordial relations with the Sudanese government. This may explain why Kenya is at the forefront of peace diplomacy despite the fact that the Southern conflict provides significant resources to the country due to its long-standing role as a launching pad for relief assistance. Especially after the appointment, in 2001, of Lt. Gen. Sumbeiywo as chief negotiator, the Kenyan government has gradually taken the lead of the IGAD peace initiative and overshadowed other state members. Critics argue that Kenya is acting upon close guidance from the US.

*Nigeria* has long-standing political and cultural ties with the Sudan. The countries share no borders but are similarly divided along north-south and Muslim-non-Muslim fault lines. The Nigerian authorities mediated, unsuccessfully, in the Southern conflict in the early 1990s and tried again a decade later to address the Darfur crisis. Nigerian President Obasanjo sought a high-profile event to showcase his African Union (AU) Presidency and to demonstrate Africa's capacity to resolve conflicts on the continent. For domestic reasons, however, Obasanjo, who is both Christian and a southerner, has to be seen as even-handed in his approach to the Sudan. He also has to engage with potential rivals, and spoilers, of his peace efforts that include Egyptian President Mubarak and Libyan President Qaddafi. The involvement of Arab leaders and the Arab League has impacted the peace negotiations' conduct and contents in a manner that the GoS supports. Hence, Nigeria's position on Darfur is coming increasingly closer to the GoS' over the rebels'. Nevertheless, since Nigeria provides troops to the AU mission in Darfur, and may also contribute to the UN mission in the South, its role in peace implementation may be critical for years to come.

To conclude, support by neighbouring countries for one another's rebel groups is a critical element in regional relations and represents a threat to the implementation of any peace agreement. Khartoum fuels cross-border instability in the South by supporting the LRA, and there are elements in both Chad and Eritrea that could further destabilize Western and Eastern Sudan and contribute to increased conflicts in the Sudan's central belt.<sup>21</sup> While the Eritrean authorities appear to be more openly hostile to Khartoum than is the Chadian president, both governments need to be kept in check. The countries that seem to support the Sudanese Government may also undermine the peace implementation process if they act as last defenders against "aggressive" Western countries and are complacent about whether the GoS fulfills its commitments.

## B. Parameters

The security parameters for the interim period are fairly complex. This situation results not only from the multiplicity of war fronts, but also from the variety of security-related agreements signed since 2002 (pertinent to the South, Darfur, the Nuba Mountains, etc.) and the number of existing or future on-site monitoring mechanisms that have been established under the auspices of IGAD, the IGAD Partners Forum, the African Union, and finally the United Nations.

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<sup>21</sup> Bordering Southern Sudan, the Democratic Republic of the Congo and the Central African Republic have also emerged as havens for various armed groups and centres of illicit trade.

## 1. *Provisional Ceasefires and Monitoring Mechanisms*

The GoS and the SPLM/A were involved in continuous negotiations from 2002 to 2004 without a general and permanent ceasefire. Historically, the SPLM/A viewed signing a comprehensive ceasefire as the final - rather than preliminary - step in peace talks. The rebellion intended this as a way to gain leverage by demonstrating its capacity to sustain the war. The SPLM/A also feared that the GoS would use a ceasefire to reinvest oil revenues and develop its own arsenal. Given the risk that continued fighting would ultimately derail the negotiation process, a compromise was brokered in October 2002 under the auspices of IGAD. The agreement stipulates that the parties would *suspend* hostilities and ensure a military stand-down of their forces. As part of a series of “tests” developed by US Senator Danforth (President Bush’s envoy for peace in the Sudan) to assess the parties’ willingness to engage in a serious process, a separate ceasefire agreement was also concluded for the Nuba Mountains. Finally, the GoS concluded several ceasefires with Darfur rebels which paved the way for the creation of an African Union mission. A brief assessment of these security arrangements is provided below, with the goal of drawing some lessons for the interim period.

### 1.1 *The Cessation of Hostilities and the Verification and Monitoring Team (VMT)*

Signed in October 2002 and regularly extended since then, the *Agreement on the Cessation of Hostilities* represents the first real effort since 1989 to bring the military confrontation to a halt in the South.<sup>22</sup> Although the intensity of the conflict has actually reduced, hostilities have not completely ceased since 2002, due partly to the weaknesses in the monitoring mechanisms.

Initially, the Memorandum of Understanding (MoU) on the suspension of hostilities did not include an on-site monitoring body; instead, a “channel of communication” was to be established by the IGAD secretariat. The agreement was, therefore, almost immediately violated. Under strong international pressure, the parties then agreed to the creation of the Verification and Monitoring Team (VMT) to be placed under the command of General Sumbeiywo and the IGAD Secretariat for Peace in Sudan. The VMT is composed of both parties’ representatives and international monitors—it is mandated to investigate any complaint filed by either party and has free access to travel in any relevant area.<sup>23</sup>

Discussions with, and among, the parties about the responsibilities and composition of the VMT combined with bureaucratic and diplomatic hurdles to complicate its establishment. This, in turn, undermined donor confidence and counterproductively delayed disbursement of funds to support the VMT. In fact, to all intents and purposes the VMT began to be operational at precisely the same time that the parties reached agreement on security arrangements for the interim period. In the end, the VMT may have contributed less to the peace process than benefited from it.

During the spring of 2004, the VMT investigated allegations and confirmed the existence of a campaign of violence by GoS-allied forces against civilians in the Shilluk Kingdom (Upper Nile).

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<sup>22</sup> *Agreement of Cessation of Hostilities*, Machakos, 15th October 2002. The parties were committed to retain current military positions, refrain from any offensive military action, cease laying landmines, refrain from occupation of new areas, cease supplying all areas with weapons and ammunition, refrain from any acts of violence or other abuse on the civilian population, and freeze media propaganda against one another.

<sup>23</sup> Headquartered in Nairobi, the VMT is staffed by representatives of ten countries: Eritrea, Ethiopia, Italy, Kenya, the Netherlands, Norway, Sudan, Uganda, the United Kingdom, and the United States. VMT patrols typically consist of a leading international monitor, a monitor from each of the two parties, and a monitor from an IGAD member state.

Although a valuable finding, the VMT could neither deter nor prevent such attacks, which illustrates the deteriorating security situation in the South.

### *1.2 The Ceasefire in the Nuba Mountains and the Joint Monitoring Mission (JMM)*

In contrast, the ceasefire in the Nuba Mountains and the establishment of the Joint Monitoring Mission (JMM) are often referred to as a “success”.<sup>24</sup> Undeniably, respect for the ceasefire in this area has generated a very welcome respite for the Nuba people and marked a significant achievement. The active involvement of the parties in monitoring an agreement to which they had fully agreed probably contributed to this success.

The ceasefire in the Nuba Mountains, however, was used by the two parties to reposition their forces for operations in the southern oilfields. Therefore, the JMM’s “success” might have been achieved at the expense of the VMT. The success may be less ascribable to the inherent merits of the mechanism (as the VMT was also based on mixed monitoring teams) than to the parties’ strategic decision to freeze hostilities in one area in order to pursue them elsewhere.

### *1.3 The Ceasefire in Darfur and the AU Mission*

In Darfur, the provisional ceasefire agreement signed on April, 8 2004 in N’Djamena, Chad, has been constantly violated by both parties. On November, 9, 2004, following lengthy talks under AU auspices in Abuja, the GoS and the rebel groups JEM and SLM/A concluded two protocols - on the humanitarian situation and the security situation respectively - under which they committed to refrain from all hostilities and military actions. In the security protocol, the GoS agreed in particular to “refrain from conducting hostile military flights in and over the Darfur region” and to “expeditiously implement its stated commitment to neutralize and disarm the Janjaweed/armed militias”. Since then, little change has been perceived on the ground.

A team of AU monitors is charged with enforcing the agreements, backed by a protection force that had 1,410 members as of February 2005, and will eventually number 3,320 troops,. Violence has continued unabated, however. UN officials have warned that the situation in the Darfur region is deteriorating and could easily descend into a state of anarchy and total collapse of law and order.

### *1.4 Lessons from the Monitoring Mechanisms*

The permanent ceasefire agreement signed on December, 31, 2004 stipulates the establishment of a UN peace support mission in South Sudan. Pending the mission’s deployment, the VMT and JMM are called upon to play a stopgap role in the area. It is, therefore, worth drawing a few lessons from these monitoring mechanisms.

First, international scrutiny as illustrated by the monitoring mechanisms—has gradually been taken more seriously by the parties and is absolutely required to implement the agreements. The roles, responsibilities, and *modus operandi* of these monitoring mechanisms should, however, be clearly agreed upon by the parties in order to avoid controversy and obstructionist tactics.

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<sup>24</sup> The JMM includes a team of international monitors who work with representatives from each Sudanese party and report to the Joint Military Commission (JMC), itself composed of three representatives from each party and three neutral members appointed by participating foreign countries. Under the command of a Norwegian General, about 40 international monitors came from Italy, Denmark, France, the Netherlands, Norway, Sweden, Switzerland, the United Kingdom, and the United States.



Second, joint monitoring activities to be conducted by the parties may appear to be a commendable way to provide a sense of ownership, reinforce consent, and build confidence both between the parties themselves and with third parties. (This type of arrangement can also compensate for limited human resources.) It is a dangerous misinterpretation to believe that security issues in post-settlement Sudan can be solved simply through consent-based mechanisms and “local ownership”, however.

The ceasefire agreements contained no procedures (other than reminders about the agreed-upon commitments) or appropriate sanctions (other than international condemnation) to compel compliance. Thus the ceasefire agreements were extended as regularly as they were violated. The experiment of the VMT and JMM, and renewed fighting in South Sudan, suggest that the parties’ capacity for strategic deceit is high, good will cannot be counted on, and strong enforcement mechanisms will be crucial to implementing the peace agreement.

Fourth, in addition to “teeth”, effective monitoring mechanisms require operational flexibility, especially in such a vast territory. Too often, donors wait for the process to get underway rather than investing in means to encourage the process itself. Such a wait-and-see attitude is even more counter-productive when the mechanisms in question result from a crisis response and require immediate follow-up.

Finally, political backing from the international/donor community is as crucial as the parties’ cooperation and may help overcome resistance from the parties.

## ***2. Security Predicament for the Interim Period***

During the interim period, the Sudan’s security context is intended to be governed by two distinct documents concluded by Khartoum and the SPLM/A. The *Permanent Ceasefire Agreement*, concluded on December, 31, 2004 in Naivasha, builds upon, and elaborates, the framework security agreement reached by the parties 15 months before. The resulting provisions are presented below. The overall logic of the security arrangements is that during the interim period, the Sudan will have two separate armies (all other armed groups will disband) that will re-deploy their forces to their respective area of responsibility. The armies will also create several joint/integrated units. Depending on the 2011 referendum’s outcome, the two forces will either merge into a single national army or become the respective armed forces of two separate states.

### ***2.1 Ceasefire Provisions and Monitoring Structures***

On New Year’s Eve 2004, the GoS and SPLM/A agreed to end their 21-year-long conflict and commit themselves, on behalf of their allied forces, to permanently cease hostilities in South Sudan, the Three Areas, and Eastern Sudan. Simultaneously, the state of emergency was to be lifted in the ceasefire zone (which does not, however, include the Darfur region). The parties further agreed not to “arm, train, harbour on their respective areas of control, or render any form of support to external subversive elements or internal armed groups”. If respected, this commitment can have far-reaching national and regional implications in that it will prohibit the NIF from supporting the LRA or SSDF elements, and prevent the SPLM/A from helping Darfur or other rebel groups. This clause provides at least a legal basis for monitoring the parties’ conduct not only between themselves, but also with regard to other parties.

A multi-layered structure will be used to monitor the ceasefire and, in particular, to verify the re-deployment of forces and investigate alleged violations. At the lowest level, Joint Military Teams

(JMTs) - to be composed of equal number of SAF/SPLM/A officers and international United Nations (UN) monitors - will conduct patrols and report on violations to one of the eight Area Joint Military Committees (AJMC) that are to be established (seven in the South, one in the East). With a similar membership, AJMC will report to the Ceasefire Joint Military Committee (CJMC), the military decision-making body to be located in Juba. The CJMC will be chaired by the UN Force Commander and include his deputy as well as security officers from each party. The CJMC reports to the Ceasefire Political Commission (CPC), the political decision-making body that will be composed of senior political, military, and legal party representatives; the Deputy Special Representative of the UN Secretary General; and observers from IGAD and the IGAD Partners Forum (IPF). The UN will chair the CJMC on a permanent basis and the CPC on a rotational basis.

The ceasefire monitoring structure builds on a mixed monitoring concept of including both national and international representatives, which has been effective in other locations (see above). International representatives enjoy no pre-eminence or decision-making authority at any level, however. The CPC is ultimately answerable to the Presidency rather than the SRSG and decisions will be made by consensus even under UN chairmanship. The agreement suggests no role for the UN in cases of ceasefire violations and, indeed, presents no real UN response other than individual “disciplinary measures”. Finally, the ceasefire agreement states that “any deadlock arising out of the implementation of the ceasefire shall be referred, as of last resort, to the Presidency” (par.10.5). These provisions suggest that, despite international representation and the presence of UN monitors on the ground, the parties will act as their own judges. In case of either non-compliance or simple disagreement among the parties, there is no real enforcement mechanism or authority.

## *2.2 Separate Armed Forces, Joint/Integrated Units*

According to the security agreement, the Sudanese Armed Forces (SAF) and the Sudan People’s Liberation Army (SPLA) will remain largely separate during the interim period, although they will be treated equally as Sudan’s National Armed Forces.

The parties agreed to redeploy their forces to their respective side of the 1956 border and form “joint/integrated units” (JIU) that will be composed of equal numbers of soldiers from SAF and the SPLA. Joint/integrated units will be established in South Sudan (a total of 24,000 soldiers), in the Nuba Mountains and Southern Blue Nile (a total of 6,000 troops each), in Khartoum (a total of 3,000 troops) and, possibly, in Eastern Sudan. These units will not merely constitute the “nucleus of a post-referendum army of Sudan” as the agreement stipulates; they should also be tasked with protecting the oil fields and enabling each party to maintain troops on the other’s territory despite obligations to withdraw.

Hence, the Sudanese Armed Forces will have to evacuate north to the 1956 border within two years and a half of the beginning of the pre-interim period.<sup>25</sup> The SAF is, however, authorized to maintain 12,000 troops in South Sudan within the joint/integrated units. Similarly, the SPLA must pull out of the Nuba Mountains and Southern Blue Nile within six months of the deployment of JIUs in these areas, but each JIU in these areas can include up to 3,000 SPLA troops. By contrast, the parties

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<sup>25</sup> The SAF will have to reduce their presence every six months by 17, 14, 19, 22 and 28% respectively and finally evacuate north to the 1956 border within to 2 ½ years from the beginning of the pre-Interim period (July 2007).

have failed to reach any agreement on the size and format of a joint integrated unit to be deployed in Eastern Sudan and the SPLA must withdraw in full from the region within 12 months.<sup>26</sup>

It should be noted that security arrangements were not fully finalized when the security agreement was signed, and differ from one area to another. In the case of Abyei, the parties have agreed to constitute a “joint battalion” that is to be the only accepted military presence in the area, but have failed to define its size. In the Nuba Mountains and Southern Blue Nile, the GoS reserved the possibility of deploying SAF troops as well as the proposed JIUs. These differing outcomes reflect the dynamics of the negotiations in each case.

A Joint Defence Board (JDB) will be established under the Presidency to coordinate the two forces and command the joint/integrated units. The Board will be composed of the two forces’ chiefs of staff, deputies, and senior officials. The JDB, which will make decisions by consensus, may have an important role to play in clarifying differences and avoiding unexpected developments. It is also tasked with working out a comprehensive framework for building confidence between the two groups. A common military doctrine will have to be developed by the parties within the first year of implementation, and JIU components will be jointly trained for no less than six months.

In the end, the process of selecting, training, tasking, and deploying the JIUs is scheduled to take place over a 21 month-period, with significant financial and technical international support. The ultimate objective is to gradually shift from joint to fully integrated units within 52 months, i.e., by May of 2009. The JIUs will be dissolved if separation is voted for in the 2011 referendum.

### *2.3 Disarmament, Demobilisation, Reintegration Challenges*

Although the disarmament, demobilization and reintegration of former combatants is seen as crucial to a secure and peaceful Sudan, the implementation modalities for conducting Disarmament, Demobilisation, and Reintegration (DDR) activities were not elaborated. The CPA mainly provides for creation of a National DDR Coordination Council (NDDRCC) to be appointed by the Presidency and responsible for guidance and evaluation of two separate DDR committees. These committees are tasked with designing and implementing programmes at their respective levels (North and South). Never a straightforward process, DDR in the Sudan will be exceptionally challenging and atypical for a number of reasons.

First, the geography and climate of the Sudan pose many transportation, logistical, and communication problems. South Sudan consists of an area of about 400,000 square miles (an area bigger than Germany) that is inundated during the Nile River system’s annual floods from April to November. The few roads that exist are impassable during this period.

Second, the reintegration of thousands of combatants is scheduled to occur simultaneously with the return of hundreds of thousand of refugees and internally displaced persons. The two processes will cause enormous strains on local communities. Community burdens will be even heavier due to the fact that reintegration prospects are extremely limited, if not non-existent, in the southern regions. Development lags behind in Southern Sudan; rural areas provide practically no basis for economic reintegration, and urban centers have very little absorption capacity.

Third, the security agreement states the principle of downsizing the forces, but the parties’ interests in DDR are asymmetrical. Since GoS will redeploy a large number of combatants from South to North, it

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<sup>26</sup> SPLA forces in Eastern Sudan should be reduced by 30% within four months after signing, 40% within eight months and the remainder 30% by January 2006.

is likely to want to demobilize and reintegrate many of its soldiers within a short timeframe. Yet, more than half of the 120,000 GoS combatants in the South are Southerners who must either be withdrawn or be reintegrated in the communities against which they may have fought earlier. By contrast, the SPLM/A was adamant about maintaining its own army throughout the interim period and is likely to move much more slowly towards DDR. In fact, the parties have agreed to start negotiating the proportionate downsizing only after completion of SAF redeployment to the North (i.e., not before July 2007). In the meantime, DDR will mainly focus on the so-called “non-essentials” (including child soldiers, the elderly, and the disabled) who should be demobilized within six months, and the “Other Armed Groups” (i.e., GoS-affiliated Southern militias, such as the SSDF), which must disband within a year. The latter are a serious problem.

### *The SSDF Problem*

According to the CPA, the Other Armed Groups (OAGs) have one year after the signing of the *Comprehensive Peace Agreement* to be either incorporated into the organized forces of the signatories (e.g., army, police, prisons, and wildlife forces) or reintegrated into the civil service and civil society institutions. The peace agreement established an “OAGs Collaborative Committee” composed of representatives from the three sides and a UN observer. The Committee is to ascertain the strength and armament of the groups, ensure their members freely choose the forces/services to join, and oversee the incorporation process.

The theory is that the reintegration programme will be worked out by the South Sudan’s DDR Commission with technical assistance from international experts. In practice, the so-called “collaborative approach” reflects concerns that SSDF members are unlikely to abide by provisions in the negotiation of which they were barely involved and that stipulate radical changes to their status. The SSDF components are more likely to be used as spoiling force by the GoS, all the more so if reconciliation efforts are blocked by SPLM/A. The SSDF, therefore, pose one of the greatest threats to the peace accord.

Fighting in late 2003 and early 2004 suggest that, despite the prospects of civilian and military reintegration, certain military commanders are not keen to join either of the two official armies (especially the Dinka-dominated SPLA). Nor do they appear to be willing to sacrifice the territory under their control, which is their source of income. SSDF commanders who are Nuer (a group that make up the majority of oil-rich Unity state) may be further disgruntled with the *Wealth Sharing Agreement’s* provisions allocating only 2 percent of oil revenues to oil-producing states, versus 40 percent in the 1997 Khartoum agreement.

Southern militias are allied with either the GoS or SPLM/A (but mostly with the GoS), yet the degree of control exerted by the two parties is as debatable as the militia commanders’ willingness to accept new command structures. The SSDF is not one united force but is, rather, an entity composed of separate organizations and military forces directed individually by the Sudanese Government’s Military Intelligence. In the absence of central command, disarming and disbandment of each SSDF component will have to occur on a case-by-case basis. Recent developments in Western and Central Upper Nile suggest that the GoS may be able (and willing) to use its influence over SSDF member organizations to undermine, rather than foster, the peace process.

Unless the SSDF components are accommodated and included in South Sudan’s political and military administration, they will remain potential spoilers both independently and at the service of other actors. The incorporation of a number of SSDF groups into the SPLA is a valid option, especially

given the lack of civilian reintegration prospects in South Sudan, but this option raises other issues. First, the strength of the SPLA will increase during the first implementation years, along with its costs. Yet, the GoS refused to support these costs from the national treasury and they will be funded instead from oil revenues and international assistance. The GoSS will, therefore, need extra support to incorporate SSDF elements into Southern army.

Second, this incorporation presupposes genuine rapprochement between the SSDF and the SPLM/A. While there has been much discussion of, and appeals for, South-South reconciliation since the *Machakos Protocol*, the results have been negligible. (Interestingly, the CPA refers to DDRR with an extra “R” that stands for “reconciliation”).

#### 2.4 *The United Nations Mission in Sudan (UNMIS)*

Although a United Nations peace operation to support implementation of the peace agreement was foreseen long before it was actually signed, the parties hold differing views and expectations on its mandate and structure. While the GoS envisaged non-armed peace observers, the SPLM/A desired peacekeeping troops that have Chapter VII mandate. In either case, the UN mission would be deployed with the parties’ consent and cooperation, but a Chapter VII mandate would authorize the mission to use force in circumstances other than self-defence. Finally, the ceasefire agreement stipulates a “peace support mission” mandated under Chapter VI only to “monitor and verify” the ceasefire and to “support” implementation of the CPA (par. 15.1). The parties also agreed that the UN mission should include a ‘force protection element’ (i.e., troops) but the troop numbers were not specified (par. 15.3).

For its part, the UN Secretariat held the position that the UN’s role is to monitor, not to enforce, implementation of the peace agreement but acknowledged that formal units are required to protect the mission’s personnel and assets (as has been the case with the AU’s peacekeeping force in Darfur). In his report of January, 31, 2005, the UN Secretary General recommended the establishment—under Chapter VI of the UN Charter— of a peacekeeping force of 10,130 military personnel. This force was to include 750 military observers, enabling units of 5,070 troops, a force protection component of 4,150 soldiers, and a civil police force of 755 officers.<sup>27</sup>

In accordance with the ceasefire provisions and with the recommendation of the UN Secretary General, on March, 24, 2005, the UN Security Council decided to establish the United Nations Mission in Sudan.<sup>28</sup> UNMIS will consist of “up to 10,000 military personnel and an appropriate civilian component including up to 715 civilian personnel”. It will be up to DPKO planners to set up the mission within this range. The main role of the Mission will be to support implementation of the Comprehensive Peace Agreement, in particular the security provisions related to the permanent ceasefire, the re-deployment of forces, the formation of the JIUs, and the DDR activities.<sup>29</sup> The UN Mission will also assist the parties in disseminating the CPA and implementing governance-related aspects, in particular restructuring the police, promoting human rights and the rule of law, and preparing for the elections and referenda.

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<sup>27</sup> Report of the Secretary General on Sudan, S/2005/57, 31 January 2005.

<sup>28</sup> Resolution 1590 (2005).

<sup>29</sup> According to the ceasefire agreement, the UN mission will be given all relevant information concerning the parties’ troop strength, location, and military equipment.

Since it is established to foster implementation of the Naivasha agreement, the UN Mission will be deployed, as proposed earlier by the Secretariat, in the former war areas of the so-called North-South conflict: Southern Sudan (divided into three sectors: Equatoria, Bahr el Ghazal, and Upper Nile) and the Three Areas (with one sector each).<sup>30</sup> The mission's headquarters will be based in Khartoum with a special office located in the Southern capital (initially Rumbek). A Redeployment Coordination Headquarters is also proposed to be established in Kassala in order to monitor the redeployment of troops in Eastern Sudan.

It should be stressed that UNMIS is mandated to perform these tasks under Chapter VI of the UN Charter. The role of the mission is to 'assist' the parties and 'monitor' the process, not to enforce implementation by instructing or sanctioning the parties in case of non-compliance. Yet, past experience in other "post-conflict" countries suggests that relying exclusively on the good will of the signatory parties to implement the CPA appears to be fairly hazardous given that: a) the parties (in particular the GoS) are only loosely and tactically committed to the peace process; b) the level of mistrust lingering between the belligerents after two decades of war justifies stringent third-party intervention; and c) breakaway groups or proxy forces that are supported either from within or outside the country may act to undermine the process.

UNMIS is authorized to resort to force under Chapter VII in two specific cases only: to protect its personnel, equipment and freedom of movement, and to protect civilians under imminent threat of physical violence. As violence in the Shilluk Kingdom illustrates, it may indeed well be that civilians are found under threat in the mission's area of deployment. Since the UN Security Council has not decided to send troops to Darfur, but only requested to increase the number of human rights monitor there, this provision raises much question, however. The supposition that the UN mission will protect civilians may create unrealistic expectations that may ultimately and seriously undermine its credibility.<sup>31</sup> It may also generate confusion and tensions with the African Union Mission in Sudan (AMIS). In the worst-case scenario, civilians will continue to be abused and killed under the eyes of *both* AU and UN monitors, with both refusing to protect the people or ensure respect for humanitarian and security protocols.

To conclude, the UN Mission has a vital role to play in post-settlement Sudan, but its concept of deployment appears flawed from the outset. On the one hand, UNMIS is tasked with ensuring implementation of the CPA, yet it is not granted the required authority over the signatories for doing so. On the other hand, UNMIS is authorized to take action to protect civilians, yet its forces will not be deployed in areas where civilians are mostly targeted. Finally, the late approval of resolution 1590 means that UN military personnel may not be fully deployed before the end of 2005, several months *after* the end of the pre-interim period. This gives any potential spoilers ample time to act.

### *2.5 Concluding Assessment: Hot Spots and Tough Nuts*

Hot spots and tough nuts can be anticipated already. They are that derive in part from the CPA's security provisions (e.g., redeployment of forces, handover of areas, and DDR), and in part from issues that were inadequately addressed in the peace negotiations (e.g., Northern conflicts). Basically, hot spots can be identified throughout the whole of the Sudan, and include:

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<sup>30</sup> The area of the UN's responsibility measures approximately 1,250 by 1000 kilometers and has very poor communication structures.

<sup>31</sup> The unfortunate precedent set by UN mission in the DRC should be remembered here.

- Southern oil fields: the Southern militias, which secure the areas on behalf of the GoS, may disagree with the wealth-sharing and/or security agreements and resist disbanding;
- Southern garrison towns: instead of transferring the towns to the SPLM, it has been suggested that Khartoum may relocate militias from rural areas to the garrison towns in order to maintain control and to prevent militiamen from joining the SPLA;
- The Three Areas: the *Protocol on Southern Kordofan* is unlikely to respond to the Nuba's grievances and may trigger discontent on the part of Western Kordofan state as well; the demarcation of Abyei area is likely to create problems and may impact the deployment of the "joint battalions" stipulated in the *Protocol*;
- Darfur: the security agreement does not address Darfur, but the Western areas may be affected if SAF units are redeployed there *en masse*;
- NDA-held areas in Eastern Sudan: While the SPLA must withdraw from Eastern Sudan within one year, the issue of establishing a joint/integrated unit in this area has not been solved due to the GoS' reluctance to accept the continued presence of Southern/NDA troops in a region that falls under the North's jurisdiction;
- Khartoum: The city is the location of one joint/integrated unit and the centre of potentially troubled political activity during the interim period; the capital city is likely to be vulnerable to both tensions and spoiler behaviour.

### III. Socio-Economic Issues

#### A. Problems

The Sudan is one of the poorest countries in the world (it was ranked 138<sup>th</sup> out of 162 countries by the UNDP in 2001). Development in the Sudan has been hampered by civil wars, which are themselves fuelled by disputes over resources and power, as well as by regional and ethnic marginalization. Long-standing structural inequalities, therefore, lie at the roots of the Sudan's conflicts.

#### 1. *Structural Inequalities and Macro-Economic Performance*

Sudanese poverty is higher in the South than in the North: 90% of Southerners in SPLM/A-held areas live on less than US\$1 per day, compared to 60-75% of those living in Northern states. Other disparities also exist between regions (especially between Khartoum, the central states, and the peripheral areas), and within regions (poverty is mainly a rural phenomenon, but it is fuelled in urban areas by internal displacement and natural disasters). Specific groups and sectors are particularly affected by poverty; these include smallholder farmers, nomadic pastoralists, public sector employees, internally displaced persons, and youth.

##### 1.1 *A Pyramidal Society*

As a result of regional and social disparities, Sudanese society can be divided into five population groups with varying degrees of power:

1. At the top of the pyramid is the Islamist bourgeois elite who have good connections with the formal economy, Islamic banking circuits, and the outside world;
2. Next down are the remnants of the traditional Arab bourgeoisie, who survive poorly or due to relatives abroad, and are excluded from the formal productive sector;
3. Then are the Sudanese Arab masses (peasants and petty traders), who survive through subsistence agriculture or on the margins of the informal economy;
4. In the penultimate position are the marginalized Muslim populations of the West and East, whose position has further worsened with the conflict in Darfur;
5. Finally, at the bottom are the Southerners, who survive in conflict-affected areas or live in extremely dire circumstances as displaced people in the North.<sup>32</sup>

### 1.2 Unequal Access to Social Services

Regional disparities are particularly striking in terms of access to social services. The health and nutrition situation in the South is among the worst in the world; most health services are provided by NGOs, and there are few hospitals, a small workforce, and very limited health coverage. In the North, health indicators are comparable to Sub-Saharan African averages, but the health system has deteriorated in rural and marginalized areas.<sup>33</sup>

Similarly, the levels of access to improved water sources and sanitation facilities are, respectively, three and four times lower in the South than in the rest of the country. Consequently, in South Sudan, children are three times more likely to die before the age of five than in the rest of the Sudan.<sup>34</sup> Access to water in the North also illustrates rural-urban and intra-state disparities, and water access is one cause of conflicts among indigenous farming communities, displaced/returnee populations, and migrating pastoralists.

In education, primary education enrolment rates indicate a pattern of regional disparities. Enrolment rates are 23 to 25% in SPLM-held areas; 30-39% in South and West Darfur; 40-49% in Southern Kordofan, Blue Nile, and Western Kordofan; 50-59% in Kassala, Gedaref, North Darfur, and the garrison towns; and 99% in Northern State. The population of South Sudan (e.g., SPLM areas), is thought to be the youngest of the world with 21% of the population aged under five, yet its children have the least access to primary education in the world. In fact, hardly any Southern child receives a full, basic education.<sup>35</sup> Similarly, three out of every four Southern adults and about 90% of Southern women are illiterate. In the North, adult literary rates range from about 30% in North/West Kordofan and Nile River States, to 60-70% in Khartoum and the central states. On average, educational enrolment and retention rates are higher in the North, although they vary significantly between states. These disparities are increasing despite the strong economic growth of the past years.

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<sup>32</sup> Gérard Prunier, 'The Sudan: A Successfully Failed State' in Robert I. Rotberg (Ed.), *State Failure and State Weakness in a Time of Terror*, World Peace Foundation, Cambridge MA, 2003, p.121.

<sup>33</sup> JAM Cluster 5: Basic Social Service, PowerPoint presentation dated January 7, 2005.

<sup>34</sup> One-quarter of Southern children die before age five. These statistics are drawn from: *Towards a Baseline: Best Estimates of Social Indicators for Southern Sudan*, New Sudan Center for Statistics and Evaluation, in association with UNICEF, May 2004, and *Regional Differences in the Sudan and the Transition to Peace*, PowerPoint presentation made at JAM retreat, September 2004.

<sup>35</sup> The state of Southern Sudan's education system is best described by the following data: 7% teachers are trained; only 1,600 schools exist for 1,6 million children; 10% of the classrooms are in permanent buildings; and 80% of children have no bench upon which to sit.



### *1.3 Structure of the Economy and Sources of Growth*

The economy is, and will remain, highly dependent on agriculture and oil. Both sectors are vulnerable to external shocks from climatic conditions and/or international price fluctuations.

#### *Agriculture*

Agriculture contributes about 37% of GDP and 15% of exports, and provides a livelihood for about 70% of the population. In recent years, the government's policy has been to support expansion of the industrial sectors; agricultural taxation was abandoned in 2001 as a national policy. While neither sector's potential is fully exploited, the agricultural share of the GDP has declined since the late 1990s while the oil sector has developed from virtually zero to more than 11% of the GDP.

#### *Oil*

After developing rapidly between 1998 and 2000, the oil sector's growth has been steady but moderate. Still, oil production has changed some of the fundamentals of the economy, which now shows a commodity trade surplus. In 2003, oil revenue accounted for 9.6% of the GDP and 56.6% of total revenues, compared to 0.6 and 7.6 in 1999 respectively. Likewise, oil exports accounted for 44.5% of the GDP and 76.4% of total exports, compared to 10.5% and 35.4% respectively.<sup>36</sup> (In contrast, food importation remains high, representing 20% of the Sudan's total imports). The challenge for the near future will be to avoid the negative effects of increasing dependency on oil, also known as the "oil curse". The solution lies in establishing a sound and transparent framework for managing oil revenues.

#### *Recent High Economic Growth*

Thanks to oil development, the Sudan has had an average annual growth of 6% since the late 1990s. Simultaneously, the government has successfully implemented a comprehensive structural adjustment programme monitored by the International Monetary Fund (IMF) (without external financial assistance). This programme has led to reduced inflation and fiscal deficits, generated a stable exchange rate, decreased direct corporate taxation, encouraged the privatization of state enterprises, and fostered incentives for local and foreign investment.

### *1.4 Constraints on Growth*

Growth is constrained by many factors, including an insecure environment for oil exploitation (especially in the South), a poorly skilled work force, a significant national brain drain, run-down economic and transportation infrastructures, limited foreign investment, and massive external debt.

#### *Missing Talents*

The Sudanese work force is poorly skilled due to low literacy rates and deteriorating standards for technical education. Highly educated Sudanese leave for Middle Eastern countries in significant numbers. This brain drain contributes to impoverishment of the Sudan's human resources. Although remittances from abroad have provided the regime, and the Islamic banking system, with a

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<sup>36</sup> JAM Cluster 3: Economic Policy, PowerPoint presentation dated 20 January 2005.

considerable floating capital, it is not invested in the country. It is alleged that, along with revenues from the oil sector, this expatriate economy has enabled the regime's financial survival.<sup>37</sup>

### *Infrastructure in Dire Straits*

The Sudan's transportation and communications infrastructures are nonexistent or in poor condition. In total, the Sudan has only 55,000 kilometres of roads within a 2.5 million square km area. The road network is concentrated in the centre and northeast of the country, and is extremely limited at the state and local levels. Infrastructure projects have been established in connection with oil exploitation and large-scale agricultural development plans. Such projects have, historically, fuelled conflict.

### *Unsustainable Debt*

Standing at approximately US\$ 26.5 billion by the end of 2004, the Sudan's debt is one of the highest in the world. Interest arrears reached 11% of GDP in 2000 and consume almost the entire federal budget. The magnitude of external debt prevents re-engagement by International Financial Institutions. The Sudan would qualify for the Heavily Indebted Poor Countries (HIPC) initiative if not for disagreements between the GoS and US and Paris Club members. The possibility of debt relief is seriously considered as a "peace dividend", however, and has been used by the Security Council as an incentive for signing the *Comprehensive Peace Agreement* (Resolution 1574). Likewise, it is expected that US sanctions will be gradually lifted in the post-agreement period.

The challenge is to deal with the debt and other macroeconomic issues in a way that improves citizens' lives. So far, the economic growth of recent years has not reduced conflict. While oil exploitation has boosted the economy, it had had a negative impact on local populations who have been forcibly dislodged by the government from oil-producing areas.

## **2. Poverty and Conflicts at the Grass Root Level**

Despite oil development and strong economic growth, poverty, inequalities and conflicts have increased in the last decade.

### *2.1 Elitist Governance*

It is estimated that income inequality has increased dramatically over the last 10 years. The income share of the bottom 40% of the population has decreased from 9 to 4%, while the share of the top 10% has risen from 65 to 77%. In other words, economic growth seems to have exclusively benefited the ruling elite. Through measures aimed at curbing the power of trade unions, facilitating privatization, reducing taxes on corporate capital, and encouraging foreign investment (especially from Islamic sources), the state is perceived to strongly serve the interests of the business class. Simultaneously, the National Islamic Front (NIF) leadership has enriched itself and strengthened already strong positions in strategic areas like banking, trade, military production, and religious and educational institutions. Security (including the police and military) consumes a dominant share of the federal budget, and expenditures on education and health care have decreased.

Responsibilities for social services delivery have been transferred to the federal states and localities, but local administrations do not necessarily have the technical and managerial capacities to

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<sup>37</sup> Prunier, *op.cit.*, p.121.

manage these responsibilities and do not receive adequate funding. Structural inequalities and disparate state revenues are not compensated by central transfers. Instead, social expenditures were reduced within the framework of the structural adjustment programme. In the end, recent economic growth has translated into little or no progress for most of the population in terms of health, nutrition, and education.

## *2.2 Resource Conflicts*

Development inequalities, high poverty, and environment degradation (in particular increased desertification) have exacerbated competition and local conflicts over access to natural resources, especially land and water. Conflicts typically pit nomads against settlers, although they also occur between nomads and between settlers. A vicious circle has emerged in which fighting and insecurity have caused massive population displacements and movement restrictions. This, in turn, further increases pressure on natural resources and fuels tribal conflicts.

### *Competing Farming Systems*

Conflicts result not only from competition over scarce resources but also from the expansion of privately owned mechanized farming schemes at the expense of communal subsistence agriculture and pastoralism. The difficult coexistence between modern and the traditional farming sectors has been exacerbated by flaws in the current land legislation (which tends to perpetuate regional inequalities), and by biased government policies.

Mechanised or irrigated farming, for which land is on lease and registered, is mainly found in parts of Central, Eastern, and Northern Sudan. Traditional farming and husbandry, with traditional usufruct rights on unregistered land, continues on the margins of registered land and in most of Southern and Western Sudan. In the past, the government clearly promoted the former sector at the expense of the latter. Almost all (95-99%) of formal agricultural credits are devoted to the mechanised sector compared to just 1-5% for traditional farming. Yet, the mechanised sector produces only 29% of the GDP that derives from agriculture, and sustains just 13% of the population that is engaged in agriculture. Land has been allocated following the same logic: the peoples of Blue Nile state and the Nuba Mountains have been displaced so that the government could develop large agricultural schemes in these areas predominantly funded by Gulf investors to benefit of Northern/Arab Sudanese with strong links to Khartoum.<sup>38</sup>

## *2.3 IDPs and Refugees*

As a result of over 20 years of conflict, 4.5 million Southern Sudanese have been uprooted. This includes 4 million displaced within the country (the highest number of internally displaced people (IDPs) in the world<sup>39</sup>) and 600,000 refugees who have fled to neighbouring countries (mainly Eritrea,

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<sup>38</sup> See Douglas H. Johnson, *The Root Causes of Sudan's Civil Wars*, the International African Institute with James Currey (Oxford), Indiana University Press (Bloomington & Indianapolis) and Fountain Publishers (Kampala), 2003, pp.131-136.

<sup>39</sup> The number of IDPs is difficult to precisely estimate because IDPs and economic migrants are not always easy to distinguish (especially in and around Khartoum) and because figures might have been exaggerated to attract international attention.

Ethiopia, Kenya, Uganda, the DRC, Central African Republic, and Egypt).<sup>40</sup> The number of displaced persons and refugees has increased by 30% since fighting began in Western Sudan in 2003. By late 2004, the conflict in Darfur has affected over 2 million people, including 1.6 million who are internally displaced and 200,000 who have sought refuge in neighbouring Chad.

The signing of a peace agreement between the GoS and SPLM/A should enable a great number of IDPs, and most of the refugees, to return to their homes in the South. Given that host countries wish to close refugee camps as quickly as possible, and the SPLM/A wants to repatriate Southerners before the planned census and elections, one of the biggest challenges will be to ensure that returns are voluntary. In 2005 alone, it is expected that 640,000 to 1.2 million IDPs and refugees could return to their areas of origin, mainly in South Sudan; perhaps two-thirds of the displaced persons living in and around Khartoum could return to their homes during the interim period.<sup>41</sup> No systematic survey of the intentions and wishes of these people has been conducted, however. Rather, there are doubts about “semi-urbanized” IDPs’ true desires to return to agricultural lives in areas that lack any basic infrastructure. Furthermore, according to the UNHCR’s Kampala office, Sudanese refugees in Northern Uganda may have received the CPA with joy, but they are reluctant to consider immediate repatriation to South Sudan because of the lack of infrastructure (especially health facilities and schools), the perilous security situation, and their political marginalization. Very few of the 200,000 registered Sudanese refugees are SPLA sympathisers or Dinkas.<sup>42</sup>

Nevertheless, large-scale population movements are to be anticipated in the near future. With them will come political jockeying, competition for donor resources, food security problems, and other tensions and conflicts. As a result of returnees and high natural population growth (almost 3% annually) it is estimated that the population of SPLM-held areas (7.5 million in 2003) will grow by as much as 4.5 million in the next six years. This increase will cause a major drain on already scarce resources and services. For this reason, assistance will have to reach different types of beneficiaries in order to not only improve the absorption capacity of host communities but also meet the returnees’ specific needs. Female returnees will need special attention since they form the bulk of the refugee population yet are discriminated against in many respects.

#### *2.4 Land Mines*

Approximately one million land mines were laid in the Sudan during the past two decades, primarily in the South and the transitional areas and, more recently, in Darfur.<sup>43</sup> Little is known about the scope of the land mine problem, however, or its impact on the local populations. Mines are suspected to affect as many as 21 out of 26 states, but there has been no in-depth, countrywide mine survey. Mines and unexploded ordnances are an issue of serious concern for obvious safety reasons. In addition, they may hamper the delivery of international assistance, hinder agricultural revival, and present an obstacle to returnees.

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<sup>40</sup> The Sudan itself hosts more than 285,000 refugees; 270,000 from Eritrea, the rest from Ethiopia, Chad, Uganda, DRC, and Somalia.

<sup>41</sup> UN Press release, “Launch of the 2005 Work Plan for Sudan” and JAM Cluster 7: Livelihood and Social Protection, PowerPoint presentation dated January 20, 2005. According to JAM, about 500,000 IDPs/refugees have “recently” returned.

<sup>42</sup> IRIN, ‘Sudan-Uganda: Refugees reluctant to repatriate to southern Sudan, UN agency says’, February, 1, 2005.

<sup>43</sup> According to JAM Cluster 7, PowerPoint presentation dated January 20, 2005.

In 2002, the United Nations Mine Action Service (UNMAS) was invited by the SPLM/A and the GoS to develop a Mine action strategy. UNMAS started coordination efforts and awareness-raising initiatives in September, 2002. As for the Sudanese parties, a joint operation on land mines is currently in effect, in which SPLM/A is in charge of de-mining Southern Sudan using an SPLM/A-affiliated NGO that employs former soldiers who have been trained by international experts, and the GoS is responsible for Darfur. Operations in Darfur are, however, unlikely to begin before the end of the conflict there.

The Sudan was one of the first states to sign the international land mine ban treaty in 1997; the government finally ratified this treaty in October, 2003. Opponents claim that the government continued to lay land mines until 2002. In addition to political obstacles, insufficient staff, lack of access, poor infrastructure, and difficult climate and geography all make de-mining a thorny task.

## **B. Parameters**

The *Wealth Sharing Agreement* was signed on 7 January, 7, 2004, and formulates answers to some of the economic and financial issues under contention by the two main parties. These include sharing oil revenues and establishing autonomous financial institutions in the South. In the second half of 2004, a Joint Assessment Mission co-led by the World Bank and UNDP was tasked with delivering a more substantial agenda for socio-economic reconstruction and development.

### ***1. The Wealth Sharing Agreement***

Discussions on wealth sharing reflect the parties' conflicts over the best way to promote unity. The SPLM/A claims that it is necessary to correct historical imbalances in regional development; the GoS refuses to focus exclusively on Southerners' needs. The negotiations have been further marred by persistent mistrust - especially on the part of the Southern delegation, which is suspicious of any kind of financial centralization and tried to circumvent the GoS's interference in national and international money flows. Nevertheless, the parties managed to reach agreement on a number of interim arrangements about funding facilities for reconstruction and development, sharing oil and non-oil revenues, and improving the banking system.<sup>44</sup>

#### ***1.1 A Dual Mechanism for Reconstruction and Development***

Among the guiding principles for equitable wealth sharing, the parties agreed that South Sudan has "serious needs" in terms of basic government functions, civil administration, and social and physical infrastructure. They additionally agreed that the South "shall be brought up to the same average level of socio-economic and public standards as the Northern states" (Art.1-5). Thus, regional imbalances between the North and the South were acknowledged. The agreement also referred to "other war affected areas" (particularly the Nuba Mountains, Southern Blue Nile, and Abyei) that have similar needs although they are not part of the South.

The acknowledged inequities justified establishing two reconstruction and development funds: the South Sudan Reconstruction and Development Fund (SSRDF) and the National Reconstruction

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<sup>44</sup> *Framework Agreement on Wealth Sharing During the Pre-Interim and Interim Period between the GoS and the SPLM/A*, Naivasha, Kenya, 7 January 2004.

and Development Fund (NRDF) as well as two Multi-Donor Trust Funds (MDTFs). In theory, the national funds will be principally financed by the respective governments, while the MDTFs will channel international assistance. In practice, money flows from the multi-donor to the national funds are expected.

Discussions on implementation modalities resulted in assigning administration of both MDTFs to the World Bank. Arrangements will be made to enable UN agencies to operate within these funds while applying their own rules. Both MDTFs are to have a similar three-tier governance structure: a) the *Governing Board* will be the key decision-making authority regarding programmes and allocation of funds; it will be composed of representatives of the World Bank, UN, donor countries (who hold two permanent seats and one rotational seat) and the representatives of the national/Southern governments (with the other government sitting as observer); b) the *Technical Secretariat* will be directed by the World Bank and located in Khartoum/Rumbek; it is tasked with receiving and reviewing proposals and making recommendations to the Governing Board regarding allocation of resources; and c) a *donor committee* which will review the performance of the MDTFs and provide guidance to the governing boards; the committee memberships will consist of major contributors (including donors not represented on a permanent basis on the Governing Board).

The establishment of two trust funds instead of one carries both pros and cons. On the one hand, establishing a separate MDTF for South Sudan will enable the GoSS to raise funds directly from international donors without relying on Khartoum's good will. This should help ensure that the South's development needs will be addressed during the interim period. On the other hand, this structure may not help the development of a national view of the Sudan. It might, instead, contribute to consolidating the validity (including among donors) of a North-South paradigm that must, in fact, be overcome for the Sudan's problems to be resolved.<sup>45</sup>

In this respect, it is noted that the scope of the national fund - initially envisaged only for the Three Areas - is being gradually expanded to include all Sudanese regions except the South. Upon Khartoum's insistence, the NRDF and the National MDTF are dedicated not only to "war affected areas" (such as the Nuba Mountains and Southern Blue Nile) but also to "least developed areas" outside South Sudan. This approach enabled the government to avoid an exclusive focus on SPLM-held, or -affiliated, areas. But, it also fuels the flawed perception of the need establishment of a specific fund for the North. This perception was reinforced after the outbreak of the Darfur conflict highlighted the region's marginalization and future reconstruction needs. While Darfur is likely to be eligible for NRDF support because it is a war-affected area, the proportions of this support remain to be decided.<sup>46</sup> In consultation with the signatory parties, donors will have to define ratios and criteria for distributing aid and using this complex mechanism to correct, rather than perpetuate, regional disparities.<sup>47</sup>

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<sup>45</sup> As a means of safeguarding connections, the steering committee of each national fund will include a representative of the other government.

<sup>46</sup> *The Protocol on the Two Areas* allocated 75% of the national fund to war-affected areas, in particular Southern Kordofan and Blue Nile states, and the remaining 25% to least-developed areas (Abyei is eligible to access both national and Southern funds). These provisions disregarded the conflict in Darfur, however.

<sup>47</sup> These issues are discussed below, in Part Two. Section II.B. "Optimizing Development Aid".

## *1.2 Sharing of Oil and Non-Oil Revenues*

### *Oil Revenues*

While the *Wealth Sharing Agreement* does not specify a ratio for the two MDTFs, it does stipulate that oil revenues are to be shared on a 50-50 basis between the Government of South Sudan (GoSS), and the National Government and Northern states. While oil resources are mostly located in the South, the agreement should generate substantial revenues for the GoSS and, simultaneously, benefit the country as a whole. In the end, it is likely that only the oil-producing states themselves will complain, as they were directly allocated only 2% of oil revenues in proportion to their production.

A National Petroleum Commission (NPC) will be established during the pre-interim period; it will be chaired by the Sudanese President and the President of the GoSS, and include four representatives of each side and up to three representatives per oil-producing state/region. The NPC will formulate policies related to the oil sector's management and development and will negotiate and approve all contracts for oil exploration and development. Through this commission, therefore, Southern representatives will be directly involved in oil exploitation. Southern representatives will also be granted access to existing oil contracts with the goal of assessing potential social and environmental problems caused by oil exploitation. Although oil contracts signed before the CPA's signing date are not renegotiable, where there are problems, the government will have to compensate the affected individuals.

### *Non-Oil Revenues*

The parties have also agreed on how to share non-oil revenues to be pooled in a National Revenue Fund (NRF). In the name of "equalization", the parties agreed that 50% of all of the taxes collected in South Sudan by the national government would be allocated back to the GoSS. At the Southern delegation's request, this proportion may increase after a review to be held in the middle of the interim period. As a further indication of Southern mistrust and their need for guarantees, the NRF agreement stipulates that the GoS shall not withhold any allocation that is earmarked to a state/region or to the Government of South Sudan (Art. 114). To ensure the effective transfers of funds, a Fiscal and Financial Allocation and Monitoring Commission (FFAMC) will be established, composed of experts from the interested parties (e.g., the states/regions, the GoSS, and the national government). The FFAMC is tasked with creating a formula for allocating resources to war-affected and least-developed areas, and may seek international assistance on this subject.

## *1.3 Dual Banking and Monetary System*

Despite the creation of the FFAMC, internal money flows may prove to be fairly cumbersome, as two banks and currencies will be in operation during the interim period.

### *Two-Headed Banking System*

Reflecting the country's conflicted identities, the parties agreed to establish a dual banking system, albeit not ones that are as fully separate as the SPLM/A had hoped. In the North, the Central Bank of the Sudan will operate according to Islamic law (which prohibits, for instance, charging interest on loans); in the South, the Bank of South Sudan will be created and act as a branch of the Central Bank that functions under conventional (e.g., Western) banking regulations. Each bank will use its respective financing instruments to implement the same national monetary policy.

### *Separate Currencies*

The two parties did not reach agreement on a single currency. They decided that two currencies would be used concurrently until the establishment “as soon as is practical during the Interim Period” of an overall national currency whose design will “reflect the cultural diversity of Sudan”. In the meantime, the Sudanese dinar will be the currency of the North and the newly created Sudanese pound will replace the multiple currencies circulating *de facto* in the South, including Kenyan and Ugandan shillings and US dollars.

#### *1.4 Shortcomings of the Wealth Sharing Agreement*

The *Wealth Sharing Agreement* is not specific with regard to natural resources other than oil, such as water and land.

##### *Water Resources*

The crucial issue of the division of water resources was not addressed, presumably because of the problem’s regional dimension. Controversy may arise again if the national government - which enjoys exclusive oversight for management of the Nile Waters - increases the flow of the Nile northwards as it did previously with the construction of the Jonglei Canal. While the *Machakos Protocol* increased prospects for an independent South and concurrently exacerbated Egyptian concerns, the Nile Waters issue will have to be addressed within a regional framework soon after the signing of the Comprehensive Peace Agreement.

##### *Land Ownership*

The agreement only superficially addresses the question of land and national resource ownership, although this issue is at the root of many conflicts throughout the Sudan. It may, in addition, prove to be increasingly critical when hundreds of thousands of refugees and internally displaced persons return to their homes in the aftermath of the peace agreement. A settlement process has been designed that calls for the establishment of a National Land Commission. This commission is to be “representative and independent”, and is intended to arbitrate conflicting claims over land. It will also provide advice on land reform policies and the incorporation of customary law and practices into land legislation. Given the politicization of these issues, however, it remains to be seen which principles the commission will apply in its rulings, how it will arbitrate between the modern and traditional farming sectors, and whether it will resist political pressures. A sister commission with an analogous mandate will also be established for South Sudan. The prevalence of differing legal and exploitation systems in the North and the South may make the commissions unlikely to apply similar principles, although they are expected to cooperate with one another.

In the end, the wealth sharing provisions illustrate more the parties’ mistrust, self-interest, and ambiguous agendas than any shared commitment to addressing the country’s key problems and building a common future. The SPLM/A wanted to sever all links with the central government other than North-South monetary flows. For its part, the GoS was reluctant to provide political and financial autonomy for the South and much more willing, for the sake of unity, to “share” Southern resources with the rest of the country. In fact, each party subscribes to the goal of a united Sudan provided the other party pays for it.



## 2. *The Joint Assessment Mission (JAM)*

The *Wealth Sharing Agreement* was not the final word on reconstruction and development issues in post-conflict Sudan. The Joint Assessment Mission (JAM) was initiated by the IGAD Partners Forum in December 2003, with the goal of making a comprehensive assessment of the Sudan's recovery and development needs for the six-year interim period. The results of this mission, presented at the donors' pledging conference held in Oslo, Norway, on 11-12 April 2005, are likely to guide donors' involvement in post-settlement Sudan for years to come.

### 2.1 *JAM's Structure*

The JAM was managed by a Core Coordination Group (CCG) composed of representatives from the two main parties (GoS and SPLM), the two main implementation agencies (the UNDP, on behalf of the United Nations system and the World Bank), and representatives from IGAD and its Partners Forum (donor governments of Norway, Italy, the US, and the UK).

In practice, the JAM included two core teams that covered the GoS and SPLM areas respectively, as well as an international UN/World Bank team involved on both sides to provide coordination and linkages. Within the international team, the division of labour was based on comparative advantages: the World Bank led on economic growth and fiscal policy, civil service, infrastructure, private sector development, and monitoring, along with a focus on the poverty eradication strategy; the UN led on governance issues, returnees and their livelihoods, and the relief/recovery needs in the immediate post-war period.

The JAM's implementation occurred in two phases: the first phase was devoted to preparation and information-gathering; the second phase entailed follow-up missions, discussions and workshops, data processing and analysis, and drafting reports.

### 2.2 *Thematic Clusters*

The JAM's needs assessment was structured in eight thematic clusters. For each cluster, an SPLM team, a GoS team, and an international team were established. Each cluster was co-led by a national and an international representative. The eight clusters are:

1. *Institutional development and capacity building* (including public service, local government and service delivery, decentralization framework, public financial management, and public procurement);
2. *Governance* (including rule of law and police, security, peace-building and reconciliation, human rights, accountability, and media and information campaigns);
3. *Economic policy and management* (including macro-economic policy, fiscal policy and budget allocations, sources of growth, and economic and financial institutions);
4. *Productive Sectors* (including agricultural and private sector development);
5. *Basic social services* (including health, HIV/AIDS, education, and rural water and sanitation);
6. *Infrastructure* (including transport and civil works, communications, urban water and sanitation, and energy);
7. *Livelihood and social protection* (including IDPs and refugees, DDR, mine action, and community driven development);

## 8. *Information* (including data collection and analysis, monitoring, and evaluation).

Cluster teams were requested to pay attention to linkages within and between clusters, and to cross-cutting issues such as gender, HIV/AIDS, capacity building, conflict assessment, and natural resources/environment.

### *2.3 The JAM's Output*

The JAM provided essential data and analysis to be used to support a reconstruction policy and produced a “Framework for Sustained Peace, Development and Poverty Eradication”. This Framework will include two phases.

The first phase will cover the first two years after signing the peace agreement (2005-2007), during which the focus will be on immediate rehabilitation and recovery needs and strengthening local delivery mechanisms. This part of the JAM report includes a detailed programme with budgeted costs. The needs assessment is disaggregated into three categories covering the National Government and the Northern States, the Three Areas, and the Government of South Sudan. The total needs for this period were estimated at US\$ 7.8 billion – US\$ 4.3 for the North (including the Three Areas) and US\$ 3.5 for the South. Donor community would be asked to contribute \$ US 2.66 billion of the total funds required.

The second phase will cover the subsequent four years (from 2007 to 2011) and correspond with launching a full-fledged Poverty Eradication Strategy (PES). This part of the JAM report consists of a strategic framework and only provides indicative cost estimates. The strategy presents objectives around poverty alleviation in the short-term, poverty reduction in the medium-term and poverty eradication in the long-term. The goals will be pursued through macro-economic stability, decentralized governance structures, major infrastructure programmes, promotion of private sectors, comprehensive capacity-building and institutional strengthening, and sound natural resource management.

### *2.4 The JAM's Limitations*

Despite its name, the JAM conducted separate, rather than joint, assessments of needs in the North and the South. Although the two core teams focused on the same issues, used a similar framework, and will present their findings in a single document, the fact remains that they have separately assessed their own areas. The cluster/core teams were not mixed: the JAM did not allow Northerners to assess Southern needs and vice versa. Moreover, contacts between the two groups were fairly limited and the parties did not engage in substantive debate before the Poverty Eradication Strategy workshop and the JAM retreat of September 2004.<sup>48</sup> Therefore, it is difficult to argue that the JAM reflected or generated, a “shared vision” of the Sudan’s post-conflict reconstruction.

The JAM proved to be no less exclusive than the IGAD process itself. Although arrangements were made for consultations with NGOs, and with the donors that were not included in the Core Coordination Group, the GoS and the SPLM were once again the main Sudanese parties involved. The JAM was not open to representatives from other parties, marginalized areas, or local communities, despite the fact that they directly suffer from the country’s structural inequalities.

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<sup>48</sup> At the time, however, IGAD negotiations were suspended and the JAM provided a mechanism where GoS and SPLM formally continue to meet and plan.

In another similarity with the IGAD process, the JAM stuck to the North-South paradigm and was caught up in the Darfur crisis. The needs assessment for the North and, by extension, for the country as a whole is partly outdated because the JAM could not operate in Darfur. It therefore could not assess the repercussions of the crisis and incorporate the findings into its analysis. This shortcoming is a major source of concern, as the Darfur crisis has generated regional competition for donor attention and funds and therefore, necessitates adjustments to assessments of the North and South's comparative needs. Without such an adjustment, donors might opt for a rough estimate (for example, 50-50) that may not necessarily help to address regional disparities adequately.

The JAM focused on development and reconstruction, and was led by two prominent development actors (UNDP and the World Bank). The result has been that the entity pondered structural deficiencies without necessarily attending to critical security issues and political dynamics. For instance, DDR, which is one of the most crucial aspects of any peace process, is only addressed by the JAM as a sub-issue of the "livelihood and social protection" cluster. The costs of the UN peace mission were not taken into account either. The structural approach will be faulty if it produces flawed prioritizations (security is an absolute pre-requisite for development activities) or overlooks political risks, constraints, and opportunities. States, like peace processes, do not fail because of structural shortcoming but because of the decisive actions and policies of political leaders.

In conclusion, the JAM report presents reconstruction and development requirements for the consolidation of peace. Although a useful achievement per se, the JAM report should not be adopted by donors as *the* blueprint for the interim period since fostering peace in Sudan can neither be reduced to reconstruction and development efforts nor to the mere implementation of the CPA.

## Part Two. Policy Response

### I. Policy Interventions

From the previous analysis of key problems and parameters, it is clear that restoring peace in the Sudan is a task of a magnitude proportional to the size of the country. In part because of the signatory parties' doubtful commitment to the peace process, the international community must show its determination through sustained political engagement, strong security guarantees, and significant economic assistance. These requirements are elaborated below.

It should be stressed that wars in the Sudan have evolved from North- South opposition into conflicts between the center and the periphery. Donors should, therefore, incorporate the center-periphery paradigm fully into their analysis and policy plans. The Naivasha protocols themselves are more than an agreement for the South alone, as they provide a framework for resolving conflicts in other marginalized areas. This potential should be fully recognized and exploited by the donor community. In other words, while the signing of the CPA should be unreservedly welcomed as a historic achievement, the so-called 'North-South' peace agreement would best be supported by filling in its lacunas and moving beyond the North-South paradigm.

#### A. Governance

The following recommendations focus on the governance aspects of the peace process and are generated from the assessment that the peace agreement is *necessary*, but *not sufficient*. It is necessary because, as argued above, the CPA provides a basis for transformation; hence, donors must support its implementation in full. It is, concurrently, insufficient because the CPA may result in entrenching the two main parties in power at the expense of other stakeholders; hence, donors should not focus on the two major parties alone, but should work to broaden the scope of, and support for, the agreement.

##### *1. Supporting Implementation*

A number of concrete steps must be taken immediately after signing of the CPA to put the implementation process on track. In particular, the establishment of important implementation bodies/institutions will have to be supported both politically and financially.

###### *1.1 Safeguarding the CPA*

The international community's first step to ensure implementation of the CPA should be to guarantee safeguarding of the agreement against unilateral revocation or abrogation.

The agreement may be safeguarded through official endorsement by the Security Council, acting under Chapter VII of the UN Charter, and/or by a statement recognizing that, in the event of unilateral abrogation, Southerners may exercise their right to self-determination without delay.<sup>49</sup>

### *1.2 Supporting Implementation Commissions*

The *Protocol on Power-Sharing* foresees the establishment of a number of independent and national commissions with implementation responsibilities. These commissions include:

- National Constitutional Review Commission;
  - National Electoral Commission;
  - Human Rights Commission;
  - National Judicial Service Commission;
  - National Civil Service Commission;
  - Fiscal and Financial Allocation and Monitoring Commission;
  - An Ad Hoc Commission to monitor and ensure the accuracy, legitimacy and transparency of the Referendum (the *Machakos Protocol* stipulates the participation of international experts in this commission);
  - A Special commission for the rights of non-Muslims in Khartoum.
- Donors should monitor and, if need be, assist these commissions to fulfill their functions by assisting in drafting and reviewing their mandates, assisting staff members, and providing financial support;
  - Where possible, international representatives should hold observer seats on these commissions, to be secured along with financial support.

Preparations for the census should also begin immediately after signing the peace agreement, taking into account IDPs and refugees' return movements; support may be given on short notice directly to the Population Census Council or through the United Nations Population Fund (UNFPA)

### *1.3 Building Capacity for Civil Service*

The political and administrative structures foreseen in the peace agreement will only work if the positions are fulfilled with qualified people. Both governments will need technical assistance and capacity building. At present however, there are strong asymmetries between North and South in terms of institutional and human resource capacities: institutions exist in the North but their capacities have deteriorated over time, especially at the state and local levels. In the South, the capacity for service delivery is basically nonexistent and will have to be built from the center.

In building capacity for civil service throughout the Sudan, donors should take into account the regional disparities between the North and South instead of training equal number of 'Northerners' and 'Southerners' for political expediency.

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<sup>49</sup> As suggested by Justice Africa, *Prospects for Peace in Sudan*, Briefing January 2005, par. 12.

Capacity building in the North will necessarily entail efforts to depoliticize state institutions through adequate training and increased representation; in the South, civil service should be built with an emphasis on its neutrality.

An extra effort will be needed to train Southern candidates for reserved national governmental positions.

#### *1.4 Enforcing the Rule of Law*

Law-enforcement institutions and capacity must be either reformed (in the North) or built virtually from scratch (in the South). The emergence of an efficient and independent judiciary can be promoted through:

- Conducting a survey of the state of the judiciary in the Sudan in terms of human resources, physical infrastructure, policy, and legislation;
- Provide support to human rights watchdog groups;
- Rehabilitating and/or providing new correctional facilities.

In the post-conflict environment, in particular in the South, the police forces must re-examine their roles, functions, and methods of operation. They must, moreover, move away from military-style to community-based policing. International assistance may help this shift by:

- Establishing a detailed picture of police activities and community expectations, and determining the needs and available resources;
- Designing and implementing training programmes for civil police and prison wardens;
- While the UN civilian police component will conduct the needs assessment and help coordinate initiatives of other international actors, a donor government should volunteer to play a lead role in the area of police/judicial reform.<sup>50</sup>

## ***2. Broadening Support for, and Inclusion in, the Peace Process***

The IGAD negotiations were held outside the Sudan, were restricted to two parties, and addressed a broad range of complex issues. As a result, people at the grassroots know little about the final outcome. The process has, moreover, generated frustration on the part of the “excluded” parties. A multifaceted approach is required to broaden support for the peace process. Donors may usefully promote the peace process not only by promoting and implementing the relevant peace provisions, but also by diversifying aid recipients and moving beyond the North-South paradigm.

### *2.1 Disseminating the Peace Agreement*

Public knowledge of the peace process will need to be increased in order to build popular support and legitimacy.

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<sup>50</sup> As suggested by the UN Secretary General, UNSG Report S/2005/57 of 31 January 2005.

- Media campaign should be conducted to disseminate, explain, and popularize key provisions of the peace agreement to the wider population. In the South, this will first entail setting up a media network. The UN plans to establish a radio broadcasting service;
- Local NGOs and civil society organizations should be encouraged to take ownership of the peace protocols in order to further disseminate the CPA and hold authorities accountable for their commitments.

## 2.2. *Opening the Political Space throughout Sudan*

Donors must begin to press for the liberalization of autocratic governing structures in both Northern and Southern Sudan. The dictatorial regime must be abolished in the North and leadership in the South must shift from militarism to democratic accountability.

- Benchmarks toward democratization should be established with the goal of improving the overall political context and allowing “excluded” parties and stakeholders to operate again in the Sudan. Aid conditionalities may have to be set accordingly;<sup>51</sup>
- Donors should also press for, and support, the creation of independent internal institutions to monitor the human rights situation. Support may be given to the network of NGOs established following training provided by the Office of the High Commissioner for Human Rights. External systems of monitoring should also be continued (e.g., the Civilian Protection Monitoring Team), re-established (e.g., the UN special rapporteur on human rights) and/or established within the upcoming UN peace mission;
- In the South, assistance should be provided to help the SPLM/A leadership transform the guerilla movement into an accountable, democratic political party. Assistance to the SPLM/A may be both of a technical (public management) and political (good governance and human rights) nature.

## 2.3 *Promoting Broad Participation in Public Affairs*

It would be a mistake for donors to direct all of their attention and disburse all of their resources to the two signatory parties alone. While the NCP and SPLM/A will dominate the political scene, the parties do not represent the Sudanese society in all its diversity. They enjoy little popular support (particularly the NCP) and their democratic credentials are limited. Efforts should be made to promote greater inclusiveness and increase participation in public affairs.

- The constitutional review process should be given due attention and used as an opportunity to include political constituencies that have been excluded to date. Unfortunately, the National

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<sup>51</sup> Among the benchmarks that should be set to improve the political context are the following: the state of emergency should be lifted and civil liberties and respect for human rights be restored. In particular, these rights must include freedom of expression and the media (all form of censorship lifted, freedom of movement, and freedom of assembly and association. The *Political Parties Act*, to be enacted during the pre-interim period, should result in lifting all restrictions on political activities. NGOs, students, churches, etc. should be allowed to assemble peacefully, and to form and join trade unions to protect their interests. Similarly, civil society and watchdog organizations should be supported and encouraged to operate in both North and South. The independence of the judiciary should be guaranteed, as well as the right to a fair trial; special courts should be abolished. The European Coalition on Oil in the Sudan has developed similar benchmarks for EU-GoS dialogue.

Constitutional Review Commission will be composed according to the same power-sharing formula that gives pre-eminence to the signatory parties. Donors should, therefore, ensure careful monitoring, provide technical and financial assistance as required, and examine ways to enhance participation in the constitutional review process throughout the interim period;

- The national elections, which will be held in the fourth year of implementation, constitute the second decisive step by which political forces other than the major two parties can access responsibilities. Electoral preparations should be timely and careful, and should begin with benchmarking key conditions for free and fair elections;
- Donors should provide political party assistance to the new political forces that are coming, or aspiring to come, peacefully to power. Assistance should be provided under the strict condition that the recipient parties provide democratic guarantees.

#### *2.4 Ensuring Accountability for War Crimes*

The negotiating parties failed to address the issue of accountability for war crimes and human rights abuses committed during the conflict. Therefore, the international/donor community still has a role to play in correcting this critical lacuna of the peace agreement.

- With regard to the conflict in the South, donors may promote and support the establishment of a truth and reconciliation commission, or another type of healing and accountability mechanism;
- With regard to the conflict in Darfur, donors should demand that the GNU cooperate with the International Criminal Court in accordance with Security Council Resolution 1593 (2005). This cooperation should be a condition for disbursing aid through the National MDTF.

## **B. Security**

The restoration of security in the Sudan is critically dependent on the behaviour of the political actors involved both within and outside the country, and on the effectiveness of international actors in providing adequate peace implementation mechanisms. In the past, the international community has lacked the resolve to hold the parties accountable for failing to meet their commitments and for carrying out aggressive policies. In a post-settlement Sudan, the primary challenge will be to provide sufficient security to ensure that neither the parties (nor other spoiler groups) cause a resumption of hostilities, but instead act to allow reconstruction efforts to occur. This will require providing security guarantees while promoting reconciliation and restraint at all levels.

### *1. Providing Security Guarantees*

#### *1.1 Dispatching a Robust Peacekeeping Force*

A multidimensional mandate does not necessarily make an effective force if its authority and capacity are lacking. Given the multiple challenges faced by the UN mission in the Sudan, it is recommended that the mission be supported in the following ways:

- The Security Council should grant the UN mission the necessary authority, including a clear mandate under Chapter VII of the UN Charter to support implementation of the peace agreement;



- The UN mission should be robust enough to meet security requirements in hot spots, and to deter and respond to spoiler behaviour. The force protection component and/or the force reserve battalion should include a rapid reaction force;
- The UN mission should have a monitoring and intervention capacity outside its immediate area of responsibility, in particular Eastern Sudan and Southern Kordofan (beyond Abyei and the Nuba Mountains);
- The UN mission should be tasked with protecting civilians only if it is provided with adequate capability and effectively deployed in conflict areas. Any ambiguity in the mission's mandate regarding the protection of civilians should be avoided;
- Strong liaison at the operational, headquarters and strategic levels as well as clear division of responsibilities should be ensured between AMIS and UNMIS;
- For maximum flexibility and rapid deployment, UN member states should provide, on a short notice, the UN mission with the required enabling units, long-range communication equipment, adequate transportation means (especially air assets) and capacity to demine, reconstruct, and maintain its supply routes.

### *1.2 Initiating Reform of the Security Sector*

Although the SAF and SPLA will remain largely separated during the interim period, initiatives based on agreed-upon provisions may be used to reform the security sector. Such efforts are critical to transform the governance system and build bridges between the parties.

- The composition, mandate, and accountability mechanism of the future National Security Service should be closely monitored (along with the drafting of the relevant law);
- Donors and other external actors should encourage the parties to set up the joint/integrated units and help professionalize them through training and advice (in particular on military doctrine, training concepts, joint force structure, etc.);
- Donors and other external actors should encourage the parties to install the Joint Defence Board as the joint/integrated force headquarters and accept assistance and advice from an international/UN security representative;
- In preparation for the negotiations on proportionate downsizing, donors should help to implement a defence review to identify and assess the most appropriate troop strengths and level of military spending for both SAF and SPLA;
- Any donor may usefully propose to assume the leadership role in the area of security sector reform.<sup>52</sup>

### *1.3 Supporting Community-Based DDR<sup>53</sup>*

DDR programmes targeted at combatants and based on incentives provide privileged access to economic opportunities to weapon-holders at the expense of local communities and tend to double the number of claimants. For these reasons, they are both divisive and counter-productive. DDR programming should, therefore, avoid the usual incentive-based and narrowly focused schemes.

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<sup>52</sup> As suggested by the UN Secretary General, UNSG Report S/2005/57 of 31 January 2005.

<sup>53</sup> See Jeremy Brickhill, *Strategic Outline for Planning DDR in Sudan*, 10 February 2004.

- DDR planning should include former combatants along with refugees and IDPs in the category of “returnees” while responding to differing needs within the category;
- DDR planning should include packages for individuals as well as support for the receiving communities. International assistance should focus on rural areas and urban centers where returnees will go, and seek to enhance the absorption capability of these communities;
- Since conditions and integration strategies differ from village to village and region to region, DDR planning should include micro-level mapping of local conditions;
- Given the existence of localized and inter-community tensions, successful DDR will require reconciliation efforts at all levels;
- Any UN member state may usefully identify itself as lead donor for DDR and provide the required start-up funds for reintegration.<sup>54</sup>

## ***2. Promoting Reconciliation and Restraint at All Levels***

Security issues reflect political antagonisms that must be solved in order for stability to become sustainable. The IGAD process was intended to bring a settlement to the Southern conflict, but the Sudanese context is both broader and more fragmented than this. Separate negotiations channels are, or should be, set up to address distinct issues within the North, within the South, and between the North and South. The country’s long-term stability will require completing and integrating these separate negotiation channels. Ultimately, consolidating peace within both North and South should help avoid future proxy wars between both parts, whether or not they become separate states.

### *2.1 Within the North*

- External actors should ensure that the Cairo deal between the GoS and the NDA lead to fostering political liberalization in the Sudan rather than enabling the ruling party to disempower former opponents;
- Discontent and growing frustration in the “Northern” marginalized areas (especially in Southern Kordofan, Red Sea, and Kassala) should be closely monitored and addressed. Whether through the NDA or another entity, serious political negotiations should be promoted between the GoS and the Eastern movements, in particular the Beja Congress and the Free Lions;
- A political settlement will have to address the conflict in Darfur. Such an agreement must simultaneously consider issues of power- and resource-sharing at the local level, as well as the marginalization of the region within the country. The settlement should also include clear strategies to enable refugees and displaced people to return home and reverse ethnic cleansing. This entails greater international presence to secure areas of return, and an unequivocal national policy to prohibit retention or use of any land that was illegally acquired during the conflict;
- Bearing in mind that traditional leaders have historically been manipulated by the political powers, traditional chieftains may be solicited to promote local level reconciliation and social peace;
- Naivasha is not the final solution to Sudan’s governance problems and should, therefore, not necessarily be seen as a fixed document. At a later stage (possibly sooner rather than later if Darfur demands), it might prove useful to *review* and revise some aspects of the Naivasha

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<sup>54</sup> As suggested by the UN Secretary General, UNSG Report S/2005/57 of 31 January 2005.

framework in order to accommodate grievances other than the Southerners'. For instance, the possibility of (re)creating additional regions (Western, Eastern, Central) in the Northern part of the Sudan may have to be examined.

## *2.2 Within the South*

A comprehensive and transparent intra-South dialogue should be encouraged and facilitated by donors; this could possibly be held under the auspices of the New Sudan Council of Churches.

## *2.3 Between North and South*

Whereas the two protocols contain a number of loopholes and/or shortcomings that may hinder implementation, not to mention oil-related issues:

- The donor/international community should closely monitor the Three Areas and, in particular, the Southern Kordofan state which will include Abyei and Nuba Mountains, and should provide support and funding to Abyei Boundaries Commission, and maintain contacts with Nuba organizations.

In addition, positive interactions and good neighbourly relations between Northerners and Southerners may be promoted by:

- Encouraging and training Southerners to fulfill their responsibilities in national institutions and services;
- Supporting joint projects between Northern- and Southern-based CSOs;
- Supporting Sudan-wide political platforms such as the NDA;
- Promoting joint media reporting and prohibiting hate speech;
- Setting up a truth and reconciliation commission.

## *2.4 Within the Region*

Finally, international actors should seek to secure regional support for, or at least non-interference in, the peace process through:

- Establishing mechanisms to prevent cross-border infiltrations, in particular on Sudan's Western and Eastern borders (e.g., French deployment in Chad);
- Prohibiting mutual state sponsorship of armed groups (and possibly conditioning external assistance accordingly);
- Disapproving and/or discouraging flawed mediation attempts by biased neighbours;
- Organizing regional consultations on divisive issues like the management of the Nile River waters.

## C. Economic Development and Reconstruction

Even if the CPA is successful, development will not occur overnight in the Sudan - a country the size of Western Europe but without any infrastructure - and structural inequalities will not vanish during the implementation period. Nevertheless, much can be done in the coming years to tackle disparities that largely stem from the way the Sudan has been governed since independence. Hence, the first priority, costless *per se*, will be to change the mode of governance at the macro level towards greater equity, transparency, and accountability. In addition, immediate and tangible action will be needed at the grassroots levels, less to create the much emphasized “peace dividends” than to facilitate the complex and critical return process of IDPs and refugees.

### 1. Promoting Macro-Economic Good Governance

The signing of the *Comprehensive Peace Agreement* creates a historic opportunity to promote better governance in the Sudan. On the one hand, the CPA will lead to the installation of a new, potentially more responsive government; on the other, possible debt relief and substantial assistance will provide the international/donor community with greater leverage over the Sudanese authorities. While international actors and financial institutions will not set the country’s priorities or impose policy agendas, by providing a significant share of the public budget, they may usefully insist on conditions of equity and transparency in public finance management. These requirements are essential for the Sudan to avoid the well-known curse of resource-rich countries.

#### 1.1 Improving Economic Management

The resource envelope will expand significantly after the peace agreement is signed since oil revenues, ODA flows, taxes (with GDP growth), and direct foreign investments are all expected to increase. Given the notorious lack of reliability of official statistics, and the history of assistance manipulation and non-transparent resource use in the Sudan, financial management of both domestic and foreign funds must be significantly improved. The establishment of the MDTFs will require both the GNU and GoSS to present their budgets to the donor community, thereby providing the latter with significant leverage.

- Donors should insist on transparency and predictability in budget-making and allocations; in particular, they should ensure that all flows of funds are reported to the Central Bank, and that budget allocations are publicized to the Sudanese public;
- Donors should provide oversight with regard in particular to tender procedures;
- Donors should strengthen human resources in accounting and financial matters (through adequate training programmes).

At the same time, increased resources should be primarily used during the interim period to reduce regional and social disparities that have caused conflict.

- Donors should insist on budget allocations for pro-poor spending (and request public expenditure review to that end);

- The Poverty Eradication Strategy should be drafted with the overall aim of addressing regional and social disparities.

### *1.2 Effecting (Fiscal) Decentralization*

Addressing regional and social disparities will require effecting decentralization. Decentralization is a special challenge that assumes, especially in the South, a commitment to establishing and implementing decentralized structures and approaches. In addition, whilst the federal budget is more or less public, it poorly accounts for intergovernmental transfers. Other budgets are non-existent or not public, and therefore enhanced transparency at all levels would be necessary. Donors may consider the following steps/requirements:

- Elaborating further on the peace protocols, responsibilities at each governmental level should be further clarified with regard, in particular, to social service delivery;
- Donors should advocate for, and monitor, increased allocations to state governments along with the rules and roles of the Fiscal and Financial Allocation and Monitoring Commission (FFAMC);
- Localities and states have little or no borrowing capacity, thus greater autonomy for diversifying revenues and making budgets may be required. Local levels of governments should be able to access funding directly from the Trust Funds, and receive appropriate support in implementing budgets.

### *1.3 Ensuring Transparency of Oil Exploitation*

Oil exploitation will generate hundreds of millions of dollars annually which, although it may no longer solely benefit the ruling elite, will nonetheless require sound and accountable management. With this objective in mind, the international/donor community should:

- Develop, and take an active part in managing, oversight mechanisms for oil exploitation, such as the National Petroleum Commission that is stipulated in the *Wealth Sharing Agreement*. Such action is necessary to ensure transparency of oil revenue streams, contracts, and payments (such a mechanism may be made a condition/benchmark for international assistance);
- Monitor, and ensure respect for, the *Wealth Sharing Agreement's* provisions on access to existing oil contracts, assessment of social and environmental problems, and sharing of oil revenue;
- Propose the establishment of an oil fund to concentrate oil wealth before spending and provide advice on the allocation of oil revenues;
- Engage oil companies from all countries to abide by benchmarks for oil exploitation during the interim period, as developed by the European Coalition for Oil in the Sudan.<sup>55</sup>

### *1.4 Improving Natural Resource Management*

Since about 70% of the Sudanese people are engaged in agricultural activities, a long-term and less contentious policy of land and water resource management is necessary. Entry points for donors and the national authorities may include:

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<sup>55</sup> [http://www.ecosonline.org/back/pdf\\_reports/2004/BenchmarksPrinciples/ECOS%20BchmrksCompsfinal3.doc](http://www.ecosonline.org/back/pdf_reports/2004/BenchmarksPrinciples/ECOS%20BchmrksCompsfinal3.doc)

- Executing a review and diagnosis of current land legislation and water use regulations, involving local chieftaincies as required;
- Monitoring, and ensuring the effectiveness and impartiality of the land commissions that will be established at the national and Southern levels;
- Elaborating an agricultural policy based on more balanced support to large-scale mechanized farming schemes and small-scale subsistence agriculture;
- Elaborating an environmental policy for sustainable natural resource exploitation.

## ***2. Responding to Urgent and Basic Needs***

According to the GoS and the SPLM/A, the most urgent humanitarian and socio-economic needs for the coming months relate to the massive return movement of IDPs and refugees to South Sudan that the peace prospects will trigger.<sup>56</sup> As a matter of priority, the donor community should, therefore, help the Sudanese authorities make the return, reintegration, and resettlement process as smooth as possible. Given the expected magnitude of the return process, and the need for community-based reintegration, this assistance must link with more traditional, but no less vital, development-oriented activities.

### *2.1 Ensuring a Smooth and Successful Return Process*

By necessity, the return process requires a joint effort in which the Northern side is involved in providing transportation and life-sustaining assistance along the way, and the Southern side is tasked with identifying sustainable solutions for returnees within their local communities. Oversight will be provided by the Sustainable Returns Team (SRT) - a joint coordination body established set up by the GoS-led Humanitarian Assistance Commission (HAS) and SPLM/A-led Sudan Relief and Rehabilitation Commission (SRRC) - that may require donor support. Donors should further ensure:

- That returnees make a free and informed choice about whether, and where, to return by executing surveys of IDP communities to gauge expectations and intentions, and by raising awareness on conditions prevailing in areas of potential return;
- That individuals can return with safety and dignity, by improving the key transportation infrastructure (repairing roads, providing railway equipment/engines, and river transportation such as barges) and providing returnees with food, shelter, emergency health services, potable water, and protection from various potential sources of abuse (harassment, racketing, mines, communicable diseases, etc.);
- That returnees are reintegrated within communities that enjoy equal access to services and opportunities provided to facilitate the return process. This can be done by upgrading basic health and education services, and by providing potable water and sanitation in areas of return, as well as by providing basic inputs and materials for making a living, and ensuring security at the various destinations;

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<sup>56</sup> *Joint Paper on Urgent Needs in Sudan*, October 2004-June 2005, GoS and SPLM, Oslo, Norway, September 29, 2004. This paper builds on the *Six Month Framework Plan for Spontaneous Return* authored by the parties on 13 July 2004.

- That women (who constitute two thirds of the IDP population) receive special attention and adequate physical, legal, and economic protection;
- That, given the expected magnitude of the return process, donor assistance targets priority areas. Criteria for selecting these areas may include the level of service delivery, the burden on communities (ratio of returnees to the hosting population), the risk of conflicts, the level of food and water security, and the area's strategic importance;<sup>57</sup>
- That the same level of assistance and protection be sought for those IDPs who decide not to return, but to integrate locally.

## 2.2 De-Mining

Ideally, de-mining activities should be undertaken and roughly completed before the return of IDPs and refugees, at least on essential routes and in areas of return. In practice, de-mining will take place during the return process, hence:

- Land mine risk education materials should be developed and disseminated for all displaced peoples;
- A land mine impact survey and related marking should be conducted as soon as possible;
- Capacity should be built in both the North and South to respond to requirements of mine action.

In the long run, successful de-mining will depend upon:

- Unhindered access to mined areas (i.e., restoration of security in war-affected zones such as Darfur and the Upper Nile);
- Absolute compliance from all Sudanese parties with the *Mine Ban Treaty*;
- Significant funding (from donors) and staff (e.g. ex-combatants), two conditions that are related in so far as financial incentives may help to recruit staffing candidates.

## 2.3 Increasing Access to Basic Social Services

As seen above, the return process will both impact on, and provide additional stimulus for, increasing access to basic services. Requirements for both health and education sectors are similar and include:

- Improving baseline data and methodology for data collection and monitoring;
- Training personnel, especially outside urban centres;
- Expanding coverage through increased staff, equipment, and infrastructure;
- Empowering governments at the state and community levels (e.g., effecting decentralization).<sup>58</sup>

These directions apply both to North and South, bearing in mind existing discrepancies throughout the country. In addition, the demand for basic services from the local population and returnees is expected to increase in the South, although the newly established Government of South Sudan will have very limited capacity to absorb funds and deliver services.

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<sup>57</sup> As suggested by JAM Cluster 7.

<sup>58</sup> For additional recommendations on access to basic social services, see JAM Cluster 5.

- Given the capacity deficit in South Sudan, the international community and NGOs will have to directly provide basic social services and build the public administration structure that will ultimately be responsible for service delivery.

#### 2.4 Promoting Local Development

Local development requires promoting income-generating activities especially, although not exclusively, in the South where the population is expected to increase significantly. Three main directions are suggested:

- Given that isolation creates and sustains poverty (as in rural areas), infrastructure investments are worthwhile for increasing access to services, facilitating trade, and directly creating jobs (e.g. for ex-combatants). During the first two years, donors should prioritize “quick win” projects that are quickly prepared and easily implemented;<sup>59</sup>
- Rural development may be promoted through enhancing income and food security for small-scale farmers (e.g., increasing access to agricultural micro-credit, ensuring land tenure, storing and transporting food from surplus to deficit areas);
- Private sector development may be facilitated through improved infrastructure (see above), a climate conducive to domestic and foreign investments, and expanded trade linkages with the Sudan’s neighbours.<sup>60</sup>

## II. Consolidating an International Strategy

The previous sections have outlined a number of challenging tasks that the international/donor community will have to perform (or facilitate) in order to consolidate peace and foster reconstruction in post-settlement Sudan. Yet, even more is needed. In the past, the IGAD Partners Forum was criticized for following a largely peripheral agenda, centred on funding and support activities instead of placing political pressure on the Sudanese parties.<sup>61</sup> The lesson remains all the more valid for the interim period. Peacebuilding requires more than elaborating “to do” lists and identifying funding niches. Peacebuilding necessarily entails addressing the *political dynamics* that shaped the conflict and that will determine the course of the peace process - it entails managing actors and tackling key issues.<sup>62</sup> The work plan proposed above was developed to account for the political dimensions and implications of each issue that external actors will face. This section further aims to highlight additional requirements for crafting an effective integrated strategy for post-conflict Sudan. Specifically, the first part focuses on the rationale and requirements for a multilateral approach, and the second part deals with the ways and means for optimizing development assistance within the framework of the peace implementation process.

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<sup>59</sup> In Southern Sudan, repair/construction works can only be undertaken during the dry season from November to April. For additional recommendations on infrastructure development, see JAM Cluster 6.

<sup>60</sup> For additional recommendations on the productive sector, see the conclusions of JAM Cluster 4.

<sup>61</sup> ICG, *God, Oil and Country. Changing the Logic of War in Sudan*, Africa Report N°38, January 2002, p.168.

<sup>62</sup> In the same vein, donors should reflect on ICG’s assessment of current international involvement in Liberia and Sierra Leone: “Peacebuilding in both countries is off-track because it is treated as a straightforward matter of implementing a checklist of operational processes and does not tackle underlying political dynamics”. ICG, *Liberia & Sierra Leone: Rebuilding Failed States*, Africa Report N°87, 8 December 2004.



## A. Rationale and Requirements for a Multilateral Strategy

The peace implementation process in the Sudan is likely to face two main challenges: the first one concerns the national dynamics the peace agreement will trigger and the related risks of spoiler behaviour; the second one stems from external actors' differing views and interests on the future of the Sudan. These challenges request the international community to take specific steps to organize itself.

### 1. *The National Challenge: Managing Change and Peace Spoilers*

The *Comprehensive Peace Agreement* has not directly addressed every aggrieved group's concerns, but it may contribute to creating conditions conducive to doing so in the relatively near future by opening the political space, restructuring the governance system, and providing a framework for resolving local conflicts. For these reasons, the CPA might offer a last chance for the Sudanese state to avoid collapse, and its implementation should be fully supported by external actors. Outsiders should be well aware, however, that the "agreement" does not, in itself, denote a national consensus on the country's future. Rather it is a reflection of power relations at the time of the CPA's signing; the political struggle will continue as before (although in a different context). Furthermore, the *Comprehensive Peace Agreement* will immediately be threatened by (many of) those who feel disgruntled with its provisions.

#### 1.1 *Identifying Potential Spoilers*

Contrary to a widely-held assumption, potential spoilers may not necessarily or exclusively be found among the "excluded" (or non-signatory) parties. Eventually, the support provided by a given party to a peace agreement depends less on this party's status in the negotiating process (in or out) than on its perceived interests. If the peace process is seen as fostering change, it may be supported by those advocating a new political dispensation, but resisted by conservative forces unwilling, for instance, to give up too big a share of power. If the peace agreement is seen as creating too few opportunities, it may be undermined by political forces that hope for more radical changes.

At present, it appears that the Northern opposition parties - although "excluded" from the Naivasha talks - support the peace process because of its provisions for a coalition government and for general elections that offer them both the opportunity for regime change and simultaneously for their own political comeback. Thus, the danger does not come from this front. Instead, likely spoilers include:

- Rebel groups from Eastern and Western Sudan which deplore the North-South focus of the IGAD process;
- Turabi and his followers who view the "government of national unity" as a subterfuge for the NCP continuing to hold power;
- SSDF members who refuse to disband without proper compensation;
- Last but not least, elements within the ruling security elite who prioritize Arab supremacy and the benefits of exclusive power.

Although a direct party to the agreement, the GoS probably poses the biggest threat to the CPA. This creates a serious dilemma for outsiders. On the one hand, international actors should recognize that

peace in the Sudan has as its corollary the end of NCP supremacy. Under continuous Islamic dictatorship, state institutions cannot be reformed and the South is unlikely to remain part of a united Sudan. On the other hand, it is equally clear that the ruling security cabal did not engage in the peace process with the goal of democratic transformation of the Sudan, but essentially for self-preservation after the failure of its Islamist project. And, as the tragedy of Darfur shows, the security clique is ready to resort to extreme violence to preserve its perceived interests and maintain its grip on power.

By contrast, the SPLM/A has many reasons to support a peace agreement that gives it more than it could have expected before entering into negotiations (including the 2011 referendum, a separate army for the interim period, and a SPLM/A-dominated Southern government). A major challenge, however, for the movement in the post-settlement period will be to maintain unity: with the advent of peace, leaders and combatants will expect to reap the political and economic benefits of their past engagement; individuals who have enjoyed the power of arms may feel threatened; and old regional rivalries and internal divisions that have been suppressed in the name of unity may resurface. In addition, the SPLM/A will have to engage in a serious dialogue and reconciliation efforts with other Southern constituencies such as the SSDF.

The peace implementation process in the Sudan has a high potential for both relapse and backlash. In addition, the politicization of the civil service means that the fate of the regime and the existence of the state bureaucracy are largely intertwined: in the event that the former collapses, the bureaucratic apparatus (which is composed of members from the Islamic Movement) may disintegrate as well.

### *1.2 From Total Chaos to Peaceful Change: Possible Scenarios*

These parameters suggest at least three possible scenarios for the interim period, which center on the fate of the current regime:

- *From status quo to disintegration*: the security cabal manages to remain in power in the Sudan, thereby accelerating the secession of the South and triggering further instability in the North;
- *From forcible change to chaos*: the security cabal is forcibly removed from power, but the ensuing power struggle plunges the country into chaos and anarchy;
- *From dictatorship to democracy*: after installation of the coalition government and democratic elections, the security cabal gradually loses its grip on power due to pressures from within (possibly through members of the two riverine tribes) and from outside (through international diplomacy).

These scenarios deserve further elaboration but the policy implications are already clear: whereas drastic institutional and political changes are needed in the Sudan to sustain peace, these changes must be handled with great care to avoid backlash and renewed violence. In other words, donors should both promote and manage change to ensure a peaceful transition. This requires in turn a genuinely multilateral approach.

## **2. The International Challenge: Managing Differing Views on Sudan**

External actors have a crucial role to play during the peace implementation phase. The major nations/donors are almost as divided as the Sudanese parties over the best way to rebuild Sudan,

however. In theory, they all abide by the *Machakos Protocol* (which was agreed upon by the parties) and the basic principle of giving unity a chance. In practice they differ on the implementation modalities and the most desirable outcome for the transition period. The spectrum of opinions range from “pro-South” to “pro-Sudan” and matches to a large extent the parties’ own positions.<sup>63</sup>

### 2.1 Pro-South vs. Pro-Sudan

The “pro-South” group shares the SPLM/A’s view that unity may be given a chance only if historical inequalities are corrected to the benefit of the aggrieved party. Development assistance may help this process by prioritizing the South, by fostering development, and building the region’s governance capacity. Whether this effort will ultimately help the Southerners act as equal partners with the Northerners or whether it will, instead, prepare them to run their own state is a secondary issue left to the voters. But the “pro-South” are prone to see independence as an acceptable and fairly legitimate outcome given the political, cultural, and economic deprivation the people of Southern Sudan have consistently experienced since (at least) 1956.

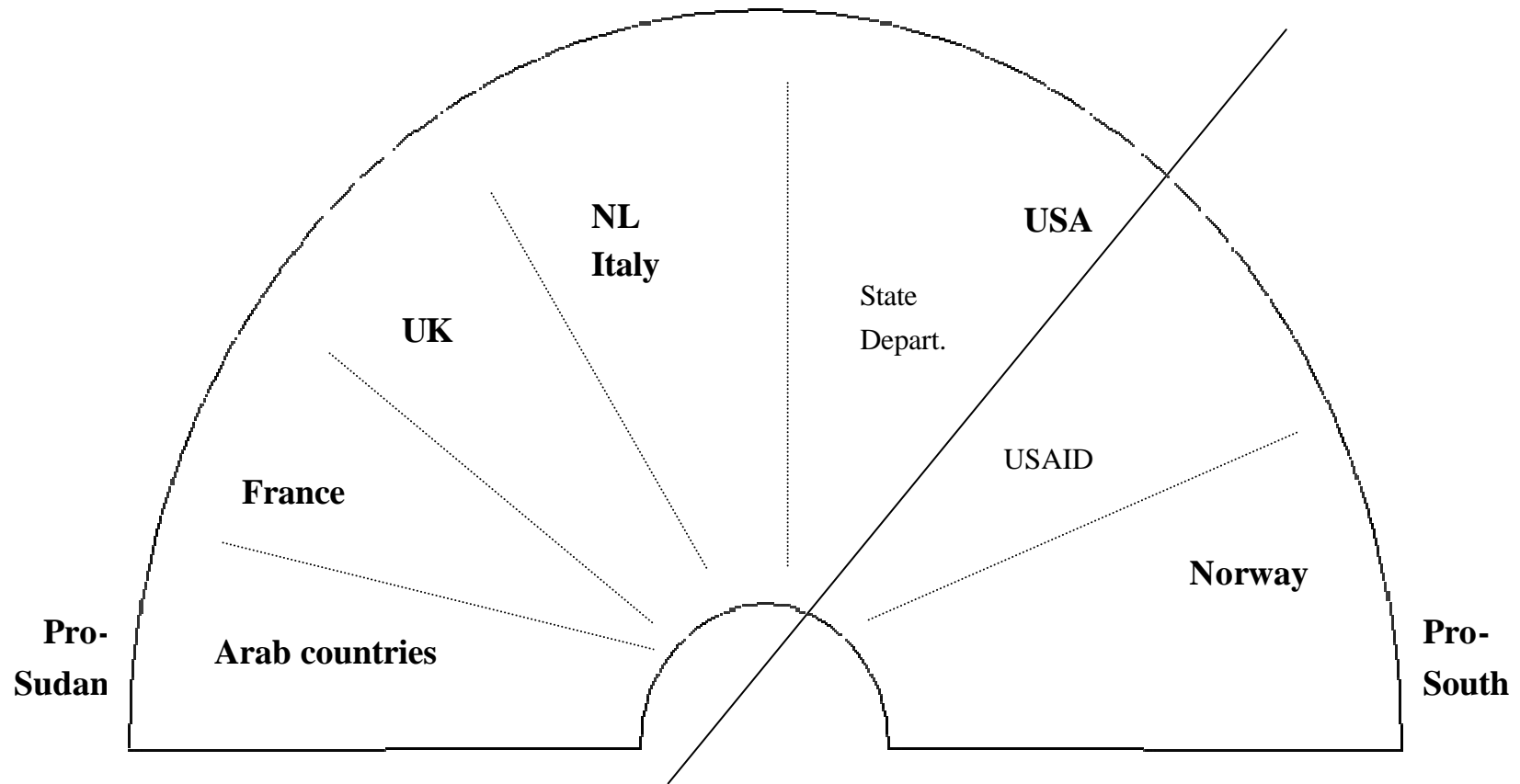
Echoing the GoS, the “pro-Sudan” group argues that unity may not be fostered only by helping the South to catch up, but also entails a broader view on national development. Therefore, prioritizing unity implies targeting other marginalized areas in the North, strengthening national institutions, and working in partnership with, rather than circumventing, the central government. Not surprisingly, the “pro-Sudan” perceive the prospect of an independent South as a non-desirable and non-viable option since it may: a) instigate a new cycle of hostilities if it is forcefully opposed by Khartoum; b) establish a precedent with damaging effects on the region’s stability; and c) fail to solve the South’s development problems while leading to the creation of a landlocked country that is dependent on its neighbours including, strikingly, Northern Sudan.

Interestingly, outside perceptions of the parties differ significantly according to their political inclinations. The “pro-Sudan” stress the lack of accountability, sense of statehood, and capability of the rebellion while the “pro-South” caution against the unreliability, duplicity, and ruthlessness of the ruling Islamic party. In the end, few believe either party is sincerely committed to a new and/or united Sudan.

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<sup>63</sup> As the chart shows, outsiders’ views on the Sudan reflect a range of opinions rather than two opposing sides.

Figure 1: Spectrum of donor views on Sudan



## *2.2 Another Transatlantic Divide in the Making?*

State actors being, as a rule, reluctant to support contemporary application of the principle of self-determination of people, few governments in the Western Hemisphere openly defend the cause and advocate for separation of the South from Sudan. The US government has long been influenced by anti-Khartoum lobbies, however, and is allegedly ready to accept (if not to facilitate) the establishment of an independent state of South Sudan as part of the US' containment policies for political Islam.<sup>64</sup> This would have major implications: the SPLM would gain a major sponsor and ally, although not one that is concerned with its democratic credentials and reconciliation efforts as long as "stability" is guaranteed. The US policy on the Sudan would become more coherent (especially between the U.S. Agency for International Development [USAID] and the U.S. State Department), but international, and particularly transatlantic, differences on the Sudan would intensify as well. With the exception of Norway (which is not an EU member), most European countries have strong reservations about an independent South and would prefer a united Sudan. In fact, the French and British views are not that different from the Arab states'. While acknowledging greater development needs in the South, these countries are likely to support nationwide initiatives rather than to concentrate all their efforts on setting up a new administration in Rumbek.<sup>65</sup>

In the past years, Western countries have been similarly divided over the best way to exert pressure on the parties. European members promoted "constructive engagement" with Khartoum through dialogue and incentives; the United States favoured sustained pressures on the GoS until the peace negotiations prove conclusive. There is no doubt that peace implementation in the Sudan would be hampered if these differences emerged again. Instead it is critical that an international strategy be shaped to cope with the upcoming challenges.

## ***3. Organizational Requirements for an Effective International Strategy***

Successful implementation of the peace agreement rests on two key conditions: national compliance and international commitment. Meeting these two conditions entails, in turn, several organizational requirements. First, an international steering body should be established so that external actors can reduce, or at least reconcile, their differences and speak with a single voice to the Sudanese parties. Second, a strategic framework should be elaborated to set priorities, clarify responsibilities, and review progress against clear benchmarks. Third, external actors should have a specific timeline in mind for promoting peaceful change through the interim period. Finally, aid conditionalities should be set to maximize leverage on the parties.

### *3.1 Establishing an International Council for Peace in Sudan*

Experience has shown, notably in the case of the Sudan, that differing views are not insurmountable obstacles and may even set the basis for a balanced, multilateral approach provided a forum is established for it to be nurtured.

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<sup>64</sup> Observers read the US administration's acceptance of a separate Southern army during the interim period as a clear indication of this policy shift.

<sup>65</sup> It should be noted, however, that these differing opinions can be found not only between but within governments: embassies based in Nairobi are usually more sympathetic to the Southern cause, while diplomats based in Khartoum tend to view the Sudan from a government perspective.

- For the sake of increasing effectiveness, coherence, and sustainability of external actors' involvement in the Sudan, an international advisory council should be set up and tasked with mobilising support, monitoring progress, and providing guidance for the peace process.

The establishment of a "Sudan consortium" is already envisaged, with representatives from the donor community, the Sudanese parties, and civil society organizations. If it is mainly composed of development actors, and mostly focuses on reconstruction and economic issues, the consortium will not be able to ensure implementation of an integrated strategy, nor to provide overall political supervision of the peace process. In that case, the consortium should be transformed into (or supplemented by) a qualitatively different international structure.

The Peace Implementation Council (PIC), established to review progress on the *Dayton Peace Agreement for Bosnia and Herzegovina*, provides a possible model from which to draw inspiration. Established shortly after completion of the Dayton negotiations, the PIC includes representatives from all of the interested states, donors, and executing agencies; it met at the ministerial level, on average, once a year. Simultaneously, a Steering Board, composed of the most directly involved nations, was also established to provide political guidance to the High Representative, the executive arm of the PIC. The Steering Board meets at the political directors' level every three months. Finally, a Board of Principals was established, under the chairmanship of the High Representative, to serve as focal point and main coordination body for international activities in the country.

A comparable International Council for Peace in the Sudan should be set up for assessing and ensuring implementation of the *Comprehensive Peace Agreement*. This structure would build upon the multilateral model applied during the negotiations (with the Troika, IGAD member states and partners, and the chief negotiator) as well as the agreed-upon provisions for establishing an Independent Assessment and Evaluation Commission composed of international representatives. Actually, the proposed international council may fulfil the functions of the commission, or the latter may be established aside from the council.<sup>66</sup> The structure could be as follows:

- The International Council for Peace in the Sudan shall include major international actors and donors, the Sudan's neighbours, and implementing agencies (including the United Nations and the World Bank);
- Besides the two signatory parties, the International Council should broaden participation to a wide range of Sudanese stakeholders and, in particular, the other political forces represented in the GNU and GoSS;
- A restricted steering committee for the Council shall be established to provide support and guidance to the Special Representative of the UN Secretariat General (SRSG). The steering committee shall meet alternatively in Khartoum and the Southern capital;
- The SRSG should be seen, and act, as the executive arm of the international community in the Sudan, and receive adequate political backing and decision-making authority from the Security

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<sup>66</sup> The assessment and evaluation commission shall be established during the pre-interim period and consist of equal representation from the GoS and the SPLM/A and no more than two representatives respectively from: a) IGAD member states; b) observer states (Italy, Norway, UK, US); and c) any other country or regional or international body agreed upon by the parties. Its mandate should be to monitor the implementation of the peace agreement and to conduct a mid-term evaluation of the institutions and arrangements created under it.

Council. One of the SRSG's essential tasks should be to report on, and address, implementation issues on the basis of a strategic framework.

### 3.2 Developing a Strategic Framework

This framework would consist of a programme of implementation of the *Comprehensive Peace Agreement*, elaborated in collaboration with the parties and approved by the international council.<sup>67</sup> This programme would set priorities and clarify national/international responsibilities in the three fields of governance, security, and economic reconstruction - the three main components of an integrated post-conflict strategy.<sup>68</sup>

- The peace implementation programme should assess the parties' compliance with the *Agreement* and their progress on reform, and help international actors coordinate among themselves.

In line with resolution 1591 (2005) on Darfur, the Security Council should threaten to impose targeted sanctions on individuals or groups who obstruct or attempt to spoil the implementation of the CPA.

- While progress toward democratization must be monitored against benchmarks, intelligence-gathering and political analysis are needed to regularly assess the risks of spoiler behaviour, including that on the part of the signatory parties themselves.

### 3.3 Elaborating a Timeline for Peaceful Transition

The international community should try to use the fairly long duration of the interim period to promote effective, but gradual, change from within. The interim period's objective is to achieve the dual democratization of both ruling parties and state institutions. While the end goal is clear, the timeline should provide room for a smooth transition from a dictatorial to a democratic system. Initially, the "government of national unity" will not be inclusive (since it is largely, although not exclusively, dominated by the signatory parties), and even less democratic (since its members will not be elected and have few democratic credentials). Yet, the GNU is expected to be more representative and accountable than the previous GoS. The aim of the transition period is to continue this trend and increase both the weight of democratic forces and the government's democratic legitimacy. The fact that elections are not scheduled until the end of the fourth implementation year postpones this prospect further, yet also gives time for proper preparation. Elections will anyhow constitute the likely turning point for political transition. A possible sequence of the interim period is as follows:

- 2005-2007: Broadening support for the peace agreement by establishing an inclusive coalition government and resolving pending disputes. Steps may be taken during this phase to restore public liberties, undertake institutional reforms, and facilitate the return of refugees and IDPs. Simultaneously, security guarantees should be provided and security arrangements implemented;

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<sup>67</sup> Again, the Mission Implementation Programme developed by the High Representative may be referred to although it serves as a workplan mainly for his own Office.

<sup>68</sup> The three sections above might provide a first outline. The development of a Transitional Results Matrix is a relevant step as well, provided it is not reduced to a technical check-list with quantitative outputs, but clearly highlights the tasks and responsibilities of political leaders.

- 2008-2009: Preparing for general elections with the goal of favouring a democratic outcome; this entails establishing voters' lists and expanding support for alternative and democratic political parties;
- 2009-2011: Assuming a democratic government is elected, accelerating institutional reforms and participation of all groups in public affairs. Preparing for the referendum with a goal of ensuring free and fair conditions, and respect for the results.

### 3.4 Conditioning Aid

The general principle of aid conditionality has already been used in the Sudan: the signing of the *Comprehensive Peace Agreement* was a precondition for disbursing aid, and resumption of hostilities are likely to trigger suspension of aid. This paper suggests, however, that it is necessary to go a step further and more closely link the flow of aid with implementation of the peace provisions.<sup>69</sup>

In effect, peace conditionality amounts to politicizing aid - using aid as a political tool for political objectives. It might, for this reason, be resisted by developmental actors. It is also less challenging to conduct business as usual and shift full responsibility to the parties to drive "their" peace process. The politicization of aid is, however, indispensable to affecting an integrated strategy (that is, one that combines various tools and policies to reach an overarching goal) and should not be opposed out of principle. Everything depends upon the political purpose pursued. In the case of the Sudan - given the country's record of aid manipulation, the extent of reforms to be made, and the need to maximize leverage on the parties - conditioning aid to foster implementation of the peace agreement is a sensible thing to do. Optimizing peace conditionality itself requires that a number of conditions be met, however.

First, inter-donor coordination is crucial to prevent aid recipients from shopping for the least constraining offer and/or enhancing their fallback positions. A given Sudanese government is unlikely to be impressed with threats of aid suspension from a minor donor. It will be much more concerned if it is faced with a unanimous position among donor groups.<sup>70</sup> Although fraught with difficulties, donor coordination is imperative to leverage the benchmarks and methods of conditioning aid. The international council proposed above should provide a forum in which to discuss and agree upon such on a joint approach.

Second, the carrot has to be sliced: aid should be divided into instalments and delivery made dependent upon progress being made. "Slicing" may not raise much difficulty *per se*, but must be worked out in advance. In the case of multi-donor trust funds, slicing must be agreed upon in conjunction with the governing boards.

Third, donors must ensure that peace conditionality should not harm the poor, but only impact those in power. This implies that conditions may only be tied to certain types of aid (for instance, recurrent costs and budget support). It further justifies the necessity of diversifying aid supplies in the Sudan so that vulnerable people are not all dependent on the major leaders. The establishment of two MDTFs will enable donors to begin immediately channelling assistance to the Government of South

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<sup>69</sup> On this issue, see in particular James K. Boyce, *Investing in Peace: Aid and Conditionality After Civil Wars*, Adelphi Paper 351, September 2002.

<sup>70</sup> For instance, the SPLM/A should be more responsive to conditions set by its major US sponsor than to the European Commission, which is not allowed to deal directly with it.



Sudan, and simultaneously to condition the flow of aid to the national MDTF upon improvements in the Darfur situation.

The key question is how donors will react if the benchmarks (or “targets”) are not achieved. At this stage, only general comments can be made, as the specific context will ultimately determine reactions. First, peace conditionality does not necessarily need to be viewed negatively; it is a way to plan assistance within the framework of a jointly elaborated implementation programme. From this perspective, missed targets create useful opportunities to continue the policy dialogue. If conditionality is seen, or used, as a threat rather than as a form of encouragement, then the question begs a different answer. In this case, donors and external actors should, as a matter of policy, threaten to impose sanctions (such as suspension of aid) only if they are collectively determined to follow through on the threats. In any case, sanctions should be proportionate with the “crime”, i.e. aid may be suspended provided non-compliance or misbehaviour poses a serious threat to the peace process.

It is necessary—albeit difficult—to use aid as a political tool. But the provision of aid will in itself raise political questions that are no less critical for donors.

## **B. Optimizing Development Aid**

Whilst development inequalities and exclusionary policies lie at the heart of the Sudan’s civil wars, the delivery of international assistance raises highly sensitive questions. Some relate to the political implications of aid policy: Who should be the primary recipient of aid (the distributional issue)? What type of aid is most likely to promote unity (the qualitative issue)? Other questions relate to aspects of aid management: How can donors ensure that aid is properly used by recipients without imposing donor control (the ownership issue)? How can aid be managed so that donors’ differing views are mitigated (the donor coordination issue)?

### ***1. The Political Implications of Aid: Facing up to the Machakos Protocol***

Aid for whom? Aid for what? What, in exchange for aid? These questions are all the more important given the impending referendum, to be held in 2011 at the end of the interim period. Since development assistance will influence the potential reunification of the Sudan, donors cannot remain indifferent to this prospect.

#### ***1.1 How Best to Prioritize Unity?***

Most donors argue that their objective is to promote unity in the Sudan. They have, however, differing views on *how* to promote unity, and these differences are likely to impact the type of projects that donors decide to fund.

#### ***Consociational vs. Integrative Approaches***

The position of pro-South donors is consistent with the “consociational” approach, to use Arend Lijphard’s term. According to this approach, creating peace in divided societies entails granting minority groups guarantees and safeguards to protect their interests. The pro-Sudan position is in line with the “integrative” approach described by Donald Horowitz, which focuses on creating incentives for inter-group co-operation, building joint institutions, and enhancing collective decision-making processes. Hence, the former group is likely to focus on institution- and capacity-building in the South

and other marginalised areas; the latter group is likely to be more inclined to support joint institutions. Likewise, the pro-South are likely to support infrastructure projects that may link Southern Sudan with Kenya and East Africa, while pro-Sudan donors can be expected to prioritize internal South-North communications and projects.

Both “pro-South” and “pro-Sudan” donors will claim that they are promoting unity: the former by making unity attractive to the South, the latter by building bridges between the two sides. Both will claim to be “even-handed”, the former by treating the South on an equal footing with Khartoum, the latter by providing aid to the two sides without discrimination. In the end, the Southerners will decide their own path, and donors will have little say in the process.

### *The Referendum Issue*

The possible impact of aid on the referendum’s outcome remains elusive for several reasons. First, aid might have a dual effect: if the peace dividends are tangible, Southerners may conclude that their region can develop within a united Sudan. They may, alternatively, equate the peace and development dividends with the benefits of autonomy from Khartoum and become confident about their capacity to manage an independent state with the support of the “international community”.

Secondly, the Southerners’ ultimate decision will also depend on Khartoum’s perceived role: voters are likely to opt for independence if they continue to feel subordinate to Khartoum (in particular if the NCP remains in power), and/or if Khartoum is not perceived as being committed to increasing living standards in the South. This perception issue raises another dilemma for the donors, which will have to engage Khartoum in the process without fuelling the South’s sense of dependency.

Third, the outcome of the referendum will depend, to a great extent, on the SPLM’A and other Southern leaders’ election campaigns and instructions to their followers. These leaders are likely to be squeezed between the international (donor) community and their own constituencies, however. Were the referendum held today, it is widely believed that 99 percent of voters would opt for independence. While the SPLM’s leader, John Garang, is one of the few genuine unionists, most Southerners see themselves engaged in a war of liberation (i.e. with the goal of separation from the “Jallaba”). Given the legacy of mistrust and resentment that has accumulated in the South over the past decades, it is doubtful if the percentage supporting separation will decline from 99% to below 50% in just six and a half years.

To conclude, it may well be that despite all efforts to preserve the Sudan’s unity Southern voters will ultimately act upon their right to secede. The impact of development assistance will be even more elusive if donors fail to develop clear views about the objectives they want to pursue, and how they can use aid to those ends.

### *1.2 Finding the Balance: the Distributional Issue*

Individually and collectively, donors will have to decide whether development assistance will be strictly balanced (on a 50/50 basis) between the South and the North in the name of “even-handedness”; focus exclusively on the South, which is the country’s most deprived region; or be shared with other marginalized areas, in some as-yet to be determined proportions.

The notion of even-handedness should be clarified. Granting the same diplomatic treatment to two parties does not necessitate providing them with equal amounts of aid, especially if, as in the Sudan, the partners do not have equal needs. On the contrary, being even-handed requires, first and

foremost, recognizing these differences. Similarly, the misleading “one country-two systems” formula should not imply that the two systems should be equally supported.

- If derived from a principled position, a strictly balanced approach of aid between North and South is inappropriate, as it is unlikely to reduce regional disparities.

The Darfur crisis has further complicated this debate by revealing the extent of the needs and inequalities outside of the South, and by expanding the country’s war-affected areas further in the North. As a result, focusing on the South can hardly be justified on the grounds that the region has suffered most from the Sudan’s wars.

- While South Sudan needs special and intensive care, this intervention should not be exclusive, since the Sudan includes other underdeveloped and/or war-afflicted areas.

In fact, part of the problem lies with the misleading North-South paradigm which fails to differentiate - within the North - between Khartoum and the peripheral areas and therefore induces donors to think in dual terms (e.g., two governments, two systems, two trust funds, etc.).

- Instead of approaching the Sudan as a dual country, donors should consider the country to have at least five different regions: 1) Khartoum and the Northern state (properly speaking); 2) North-eastern Sudan (Red Sea, Kassala); 3) Western Sudan (Darfur); 4) Central Sudan (Kordofan); and 5) South Sudan.

Using this conceptualization, donors should select specific areas to support based on a local/regional assessment, rather than focus on a pre-determined national allotment of aid between North and South. The key question is not how to divide aid between Khartoum and Rumbek, but how to correct regional disparities across the entire country. To that end, donors should answer the parties’ call to provide technical assistance to the FFAMC to develop comprehensive equalization criteria which are likely to include population size, human development index, the war impact, etc.<sup>71</sup> It is also necessary to improve and facilitate development planning through enhancing the availability and use of statistical information.<sup>72</sup>

- Overall, aid should be allocated per *region*, and the amount should be inversely proportional to the region’s level of development.

The question of which channelling facility to use is secondary; the answer should derive from the needs assessment. In the final analysis, it might appear that aid is collectively disbursed on a 50/50 basis, but this should not be the starting point or the final objective for aid distribution. The approach described above will help individual donors make informed choices and move beyond the North-South paradigm.

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<sup>71</sup> *Protocol on Southern Kordofan and Blue Nile States*, par. 8.10.

<sup>72</sup> JAM Cluster 8 on Information and Monitoring has closely examined this issue and proposed to elaborate an integrated national statistical system. In the meantime, however, the donor community will have to act on the basis of scarce and approximate information.

### 1.3 Finding the Balance: the Qualitative Issue

Helping the weak or building bridges? There is, of course, no “best” approach between the “consociational” and “integrative” approaches, but the following elements should be considered.

Determining which approach is most suitable depends upon the context. The “consociational” approach may create more problems than it solves if it leads to reinforcement of divisions along ethnic/identity lines. In the case of the Sudan, however, such fault lines already exist and the Southerners’ grievances are well-founded.

- Giving peace a chance entails, first and foremost, addressing legitimate grievances.

Knowing which approach is the most suitable also depends upon timing: building bridges requires both confidence and equally solid pillars on both sides, two conditions that may take some time to occur in the Sudan. The *Power Sharing Agreement* foresees the recruitment of Southerners into public administration as a gradual process; this is appropriate, since they have to not only be trained, but also build their own administration and gain confidence (electoral changes in Khartoum may also help this process).

- Donors may plan development assistance over the interim period, and gradually shift their focus from peaceful coexistence to consensual integration.

A dose of integration is needed to prevent unity from becoming a mere pretence. Links between the North and the South will have to be sustained and/or be gradually restored. In that respect, the expression “one country-two systems” is misleading: the peace protocols do not create two separate regional governments, but a national government with inclusive participation and a Southern government with Northern participation. Actually, the Naivasha agreement could not offer the chance for peace and unity without this window of opportunity to reform the Sudanese state at its centre. Building capacity in Rumbek or Juba is necessary but not sufficient - as paradoxical as that may appear.

- Additional efforts should be made to promote Southerners’ and others’ participation in public affairs at the central level in Khartoum.

Whether the North and South ultimately separate or not, they will remain neighbours. Thus, building connections between Northerners and Southerners (and/or other groups) should not necessarily be seen as being linked to any specific political agenda. Likewise, infrastructure programmes that connect South Sudan to its neighbouring countries are not necessarily contradictory to, or incompatible with, North/South projects. Establishment of two MDTFs does not proscribe setting up “cross-border” projects, for example.

- Donors should not restrict themselves to the concept of “one fund for the North, one fund for the South”, but should, instead, employ the dual system creatively. The national trust fund is not reserved for programmes in the North but can be used to finance initiatives that have a nationwide scope; the Southern trust fund may be used to foster Southern participation at the central level;

and the two MDTFs may be used in combination for North-South projects such as infrastructure development or joint workshops.

#### *1.4 Finding the Balance: the Referendum Issue*

Donors should not focus solely on unity as their preferred outcome and must not lose sight of the fact that independence is a likely outcome of the referendum. Instead, donors should consider the referendum as: a) a source of leverage to compel Khartoum's compliance with its commitments, thereby increasing the possibility for unity; and b) a human right that should be implemented under the best possible conditions.

- While unity is seen as the best option to avoid the resumption of hostilities, a vote for independence may not necessarily lead to violence if the terms of a peaceful separation are negotiated in due time with Khartoum, and/or if international guarantees are used to deter or stop attempts to disrupt the process. Conversely, a vote for unity may also trigger violence, in particular among Southerners, if secessionist factions oppose the outcome by force.
- While working for unity, donors and interested governments should also make plans for the potential of peaceful separation by ensuring proper conditions for holding the referendum and fostering respect for the outcome - whatever it is.

#### *2. Aid Management: Local Ownership and International Coordination*

Another critical question that donors must face concerns finding an appropriate balance between local ownership and international involvement. The case for ownership is well-known and has some validity in "normal" developing countries, but it may prove to be a more complex issue in the Sudan's post-conflict/peace implementation stage. In such a setting, the key question becomes how to ensure compliance with the peace agreement and, possibly, how to limit the parties' ability to manoeuvre and deceive. From this perspective, local ownership should not be seen a panacea but should be promoted with great care; as much, if not more, attention should be given to effective international/donor coordination.

##### *2.1 Limitations of and to Local Ownership*

At first sight, donors' emphasis on local ownership should not be problematic, as the concept meets the Sudanese parties' expectations. Both the NCP and SPLM/A expect to receive massive amounts of financial support even as they seek to preserve maximum autonomy from the international community. The NIF regime engaged in the peace process as a way to generate breathing space and improve its international status, and does not welcome external intrusion and demands for transparency. The SPLM/A seeks direct contacts with the international/donor community in order to circumvent the Khartoum regime, yet it would rather be empowered than instructed by donors, and wishes to exert full control over the region it has fought for over the last two decades. In other words, the regime views the international community as a constraint in its relationships with Southern and other rebel areas, as well as an opportunity to gain status and financial dividends. By contrast, the SPLM/A views the international community not only as helpful in applying pressure on, and securing guarantees from,

the NIF, but also as a hindrance to empowerment and self-governance. Both parties welcome international financial assistance, but reject the political price of international involvement.

#### *Why Ownership is not a Panacea*

It would be much easier for international actors/donors to meet the parties' wishes and support local ownership. One may argue for that purpose that solutions that are imposed from the outside are bound to fail, that aid cannot drive change, and that processes must be "locally grounded". This may be true for the long-term development processes, but it is less apt with respect to a peace process that is threatened by spoiler behaviour, for several reasons.

First, without international involvement, there would be no peace process in the Sudan and the longest conflict in Africa would still be continuing. International involvement needs to be both sustained and expanded during the peace agreement's implementation phase, rather than reduced. Critically, the emphasis placed on "local ownership" downgrades the role external actors have to play, and is a passive conception of the donors' role (e.g., as bankers rather than political actors)—this is not compatible with the requirements for peace in the Sudan.

Second, the peace process carries with it a high risk of failure because it threatens vested interests. There is no clear reason to believe that aid will be wisely used to support the peace process by the very forces that oppose the components of the peace agreements. On the contrary, local ownership may lead to aid being used to sustain patronage networks, reward soldiers and followers, and perpetuate patterns of exclusive governance.

Third, the lack of administrative and institutional capacity at all levels (and the past records of aid fraud and manipulation) make it difficult to place full trust in local/national authorities for managing aid flows.

In sum, donors should not overstate the virtues of ownership. Instead, they must reconcile their desire for sound and transparent aid management with the parties' desire to be in charge of these funds.

#### *Steps Towards an Internationally Guided Sense of Ownership*

The limitations of local ownership do not imply, however, that donors should set the agenda. Rather, these limits suggest that the initiative and priority-setting can be placed in the recipients' hands provided that donors closely supervise both the aid process and outcomes. Hence, "local ownership" should be internationally supervised following these principles and conditions:

- Local/national ownership should be compatible with the peace process' broader objectives. When setting priorities, the parties/recipients should engage in a policy dialogue with donors which focuses on how each aid allotment will contribute to a more equitable sharing of political power and/or economic opportunities. The governing board of each MDTF is an appropriate forum for this dialogue since the entities are composed of representatives from the governments and the donor community;<sup>73</sup>

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<sup>73</sup> Each governing board will be composed of representatives of the GNU/GoSS, the World Bank, the UN, the two largest donors (with a rotational seat for other donors), and possibly international financial institutions. Its decisions will be made by consensus, and by a simple majority if no consensus emerges after two sessions.

- Local/national ownership does not apply only to the two main signatory parties. In keeping with the need to broaden political inclusion and create fiscal accountability, other regional and local partners should be involved in setting priorities and/or managing aid whenever possible;
- Local/national ownership presupposes a level of local/national capacity. As long as this capacity is lacking, donors and/or executing agencies should be involved in co-managing aid with the recipients with the goal of supervising and training the local/national authorities.

## 2.2. Donor Coordination: More than a Final Wish?

This presentation of key aid policy issues should clarify the case for donor coordination. Coordination is needed not only to track gaps and overlaps in specific sectors, but also to frame more fundamental strategic issues. Although it is difficult to anticipate precisely, the political impact of development assistance on the Sudan's future will be less manageable if donors pull in different directions. Coordination is hampered by three main obstacles, and by the establishment of the dual system of trust funds.

Coordination is hampered by the range of options for channelling funds that donors face. Funds may be allocated: a) through either of the two multi-donor trust funds; b) bilaterally to either of the two governments; and c) directly to NGOs and/or UN agencies.

Coordination is also hindered by donors' differing views on the Sudan and the most appropriate use of aid to promote unity. Although these differences are not necessarily incompatible, and may even provide the basis for a balanced approach, they also reflect political preferences and interests that are hard to reconcile.

Coordination is further constrained by structural differences between different categories of donors (e.g., governments vs. international organizations) that impact how various donors can interact with recipients. For example, the European Commission is restricted from dealing directly with regional governments such as the GoSS.

These obstacles make it unlikely that donors will fully coordinate their goals and strategies. It is equally unlikely, however, that each donor will act on a unilateral basis according to its own views, since most European donors acknowledge the need for some degree of harmonization.

### *Making the Best Use of the MDTFs*

One realistic option consists of effectively using the MDTFs. This would limit fragmentation while enabling each donor to allocate funds according to its own views and preferences. Additionally, the MDTFs provide clearly identified consultative structures for the Sudanese authorities. Donors should, therefore, commit themselves - and/or be encouraged, such as by the Security Council - to channel as much assistance as possible through these funds. MDTFs have limitations, however, that will need to be overcome.

First, donors' quests for visibility and their affection for "flagship" development projects make them unlikely to channel all aid through the "anonymous" MDTFs.

- In order to make MDTFs more attractive, the Trust Fund administrator should develop ways to increase donors' visibility, such as by optimizing the system of preferences.

Second, because of World Bank's restrictions, the MDTFs may not be used for financing security-related activities (such as disarming armed groups, training joint/integrated units, etc.), which limits their harmonization value.

- In order to facilitate the flow of funds through these channels, special procedures should be adopted to allow the MDTFs to finance both civilian and security-related activities, including expenditures related to disarming soldiers and/or training the armed forces.

Third, while the establishment of two trust funds in the Sudan will greatly increase the complexity of aid coordination, linkages should be established between the MDTFs to avoid breaking aid into two. Allocating the governing board's permanent seats to the two largest donors risks splitting the donor community between the pro-Sudan faction (represented in the National MDTF) and pro-Southern groups (represented in the Southern MDTF).

- The Donor Committee should link the two funds and collect an overview of how aid is collectively disbursed at the country level in order to ensure that regional disparities are reduced;
- Instead of (or in addition to) the rotational seat on each MDTF's governing board, a third seat should be reserved for the largest donor of the other trust fund.

To conclude, donor coordination should not be limited to defining the allocation of funds, but should also entail in-depth consultations on strategic issues. In that regard, the MDTFs should be made part and parcel of a political strategy, and linked to the proposed International Council for Peace in the Sudan.



## **Conclusion**

This paper attempts to outline an integrated strategy for post-settlement Sudan that is comprehensive in scope and coherent in means. It seeks to reconcile two usually differing approaches in conflict and post-conflict settings, namely the political approach and the development perspective. These two policy lines converge to the extent that development aid can serve as a tool for inducing national leaders to improve governance, implement structural reforms and, in this case, implement a peace agreement. Aid may contribute to reducing conflict in the Sudan if, and only if, it is linked to a specific political objective: promoting peaceful change throughout the country, from the centre to the periphery.

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<sup>74</sup> This bibliography only includes major documents and studies referred to throughout the report.

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## **Annexe**

# Implementation Timelines of the Comprehensive Peace Agreement

## Explanatory Note

The *Comprehensive Peace Agreement* (CPA) signed between the GoS and the SPLM/A on January, 9, 2005 in Nairobi will be implemented over a six and a half year period. This period is composed of a six-month *pre-interim period* (from January to July 2005) and a six-year *interim period* (from July 2005 to July 2011). Timelines for each period are included as annexes to this paper.<sup>75</sup> These timelines represent the various activities and deadlines to which the signatory parties have committed to under the provisions of the CPA.

### *How to Read the Timelines - the Common Structure*

Both timelines are built on a similar model. Peace provisions are presented in three thematic clusters that parallel this paper: “Security and Ceasefire Activities”, “Governance” and “Socio-Economic Issues”. The right-hand column references all of the CPA’s relevant provisions, particularly the pertinent paragraphs of the *Agreement on a Permanent Ceasefire*, the *Protocol on Power Sharing* (PSP) and related Implementation Modalities (IMPS), and the *Agreement on Wealth Sharing* (WSA) and related Implementation Modalities (IMWS).

Each cluster is composed of a number of sub-issues (presented in the left-hand column) around which specific activities must be conducted within a given deadline (these are presented in the cells in the center). Two colours are used to improve readability. The size of each cell indicates the time period within which the activity is to be performed. For the sake of clarity and precision, comments have been added, when necessary, in beige captions. The “status” column on the far right-hand side lists relevant dates (e.g., the CPA was approved by the SPLM/A’s National Liberation Council on January 24, and by the National Assembly on February, 1, 2005).

### *Differences in Reference Dates and Intervals*

In both timelines, the key reference date is the signing of the CPA. Certain activities planned for the pre-interim period are conditional upon the prior completion of three specific tasks, however. These are: a) the UN Security Council’s adoption of the mandate for the UN Mission; b) the approval of the Interim National Constitution; and c) the approval of South Sudan’s Constitution. These tasks have three specific reference dates, referred to as M-Day, C-Day, and SSC-Day respectively. While these precise dates were not known at the time the timelines were designed, the CPA provides some indication for the expected duration of each task.

Reflecting the CPA’s precision, the two timelines also differ in terms of time allocations. The *pre-interim period* timeline is based on monthly intervals of 30 days. The timeline for the *interim*

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<sup>75</sup> Designed by Emeric Rogier and created by Carola van der Heiden, Clingendael Conflict Research Unit.

*period* is divided into semesters of six months each, and comprises two halves of three years each, as specified in the ceasefire agreement. Given the signing date and the six-month *pre-interim period*, each implementation year runs from July to July (rather than from January to December). Finally, the *interim period* timeline includes the *post-interim period*, which will last for six months after the Southern referendum to be held in 2011.

### *Using the Timelines*

The CPA contains two agreements, four protocols, and two annexes on implementation modalities, and totals more than 250 pages. The timelines, therefore, provide a quick and comprehensive snapshot of the key provisions. They may be used to easily assess what should be done, when, and by whom. The timelines are designed to help observers and external actors monitor the CPA's implementation process and, if necessary, remind the parties of their obligations.

It should be noted, however, that the timelines do not include other possible and relevant activities for building peace in the Sudan that are not contained in the CPA. Additionally, for practical reasons, the timelines do not reference provisions specific to the Three Areas contained in the *Protocol on Southern Kordofan and Blue Nile States* and the *Protocol on Abyei*.

Implementation Timeline Pre-Interim Period (January-July 2005)													
	D-Day 9 Jan 05	M-Day XX Feb	+30	+60	C-Day XX March	+90	+120	SSC-Day XX May	+150	+180 days			
	9 Jan - 8 Feb	9 Feb - 8 March	9 March - 8 April	9 April - 8 May	9 May - 8 June	9 June - 8 July	Reference	Status					
<b>Security and Ceasefire Activities</b>								<b>Ceasefire</b>					
PoWs	Release PoWs	←						1.8					
Ceasefire Structures	Est. CPC	← Ceasefire Political Commission operational within 30 days from D-Day						14					
	Est. Ceasefire Joint Military Committee	← CJMC operational within 45 days from M-Day						14.6					
	Est. Area Joint Military Committees (AJMCs)	← Oper. within 90 Days from M-Day						14.7					
	Est. Joint Monitoring Teams (JMTs)	← Oper. within 90 Days from M-Day						14.8					
UN Peace Support Mission	Deployment UN mission	← Completed within 90 days after M-Day						15					
	Gradual termination monitoring teams	← (according to parties)						15.9					
Landmines	Est. N/S authorities	← Mandate ends by completion UN deployment						8.6.6		within 6 months			
Re-deployment SAF/SPLA	Concentration of forces in assembly areas	←						8.3					
	Reduction of SAF by 17%	←						18.2					
	Reduction of SPLA forces in Eastern Sudan by 30%	← Within 4 months (May)						18.4					
Armed Forces & JIUs	Est. JDB	←						17					
	Deployment JIUs in Khartoum and Juba	←						20.10.4					
	Selection of staff for JIUs	←						20.10.1					
	JIU components in training centers	←						20.10.2					
Other Armed Groups (OAGs)	Est. OAG Committee	← 15 days from D-Day						11.4		From April 2005 onwards for at least 6 months			
	Est. Ad Hoc Committees	← 15 days from D-day						11.11					
DDR	Est. National DDR Coord. Council	←						25.1.1					
	Est. Northern DDR Coord. Council	←						25.1.2					
	Est. Southern DDR Coord. Council	←						25.1.2					
	Est. Southern DDR Coord. Council	←						25.1.2					

D-Day = Signing of CPA; M-Day = Approval UN Mission Mandate; C-Day = Adoption Interim National Constitution; SSC-Day = Approval Southern Sudan Constitution

Implementation Timeline Pre-Interim Period (January-July 2005)							Reference		Status
							PSP	IMPS	
<div style="display: flex; justify-content: space-between;"> <span>9 Jan - 8 Feb</span> <span>9 Feb - 8 March</span> <span>9 March - 8 April</span> <span>9 April - 8 May</span> <span>9 May - 8 June</span> <span>9 June - 8 July</span> </div>									
<b>Governance</b>									
<b>Approval, safeguard, dissemination CPA</b>	Approval CPA by NLC and NA	Within 2 weeks from signing					2.12.4.1	40	24/01 01/02
	Guarantees against unilateral revocation or abrogation (throughout period)						2.6	5	
	Information Campaign in all languages to popularize peace agreement (throughout period)						2.5.9	27	
<b>Constitutional Review</b>	Est. NCRC	National Constitutional Review Commission within two weeks from D-Day					2.12.4.2	40	
		Preparation and approval Interim National Constitution (INC)	Within 8 weeks after est. NCRC				2.12.5/7	42/43	
<b>National Level</b>									
<b>National Institutions</b>		On C-Day	Est. Presidency				2.3.2	15	
		Within 30 days after C-Day	Est. Council of Ministers	Within two weeks after C-Day				18 + 26	
			Est. Council of States				2.2.3.2	11	
		Within two weeks after C-Day	National Assembly	After C-day during pre-interim period			2.2.5	12	
<b>Evaluation</b>			Est. Assessment and Evaluation Commission			2.4, 2.4.1	3		
<b>Political Environment</b>			Enactment Political Parties Act			1.4.6	6		
			Reconciliation and healing process (throughout period)			1.7	7		
<b>Census</b>			Est. Population Census Council			1.8.2	8a		
<b>National Capital</b>			Representativeness of the administration			2.4.2	21		
			Representativeness and training of law enforcement agencies			2.4.4	22		
			Est. Special commission for protection of non-Muslims			2.4.6	23		
			Est. Guarantees mechanisms for non-Muslims in Khartoum			2.4.6	24		
<b>Affirmative Action</b>			Est. National Civil Service Commission (Act)			2.6.2	28		
<b>National Security</b>	After C-Day during pre-interim period (all other steps after enactment act)		Nat. Security Act			2.7.1	30		
			Est. National Security Council			2.7.1	31		
			Identification security organs of two parties			2.7.2.8	34		
			Est. National Security Service			2.7.2.1	32		
			Est. Security Committees at GoSS and state levels			2.7.2.5	33		
<b>Languages</b>		After C-day during pre-interim period	Est. Council for devel. and promotion of national languages			2.8.1	35		
<b>Human Rights</b>			Est. Human Rights Commission (Act)			2.10.1.2	36		

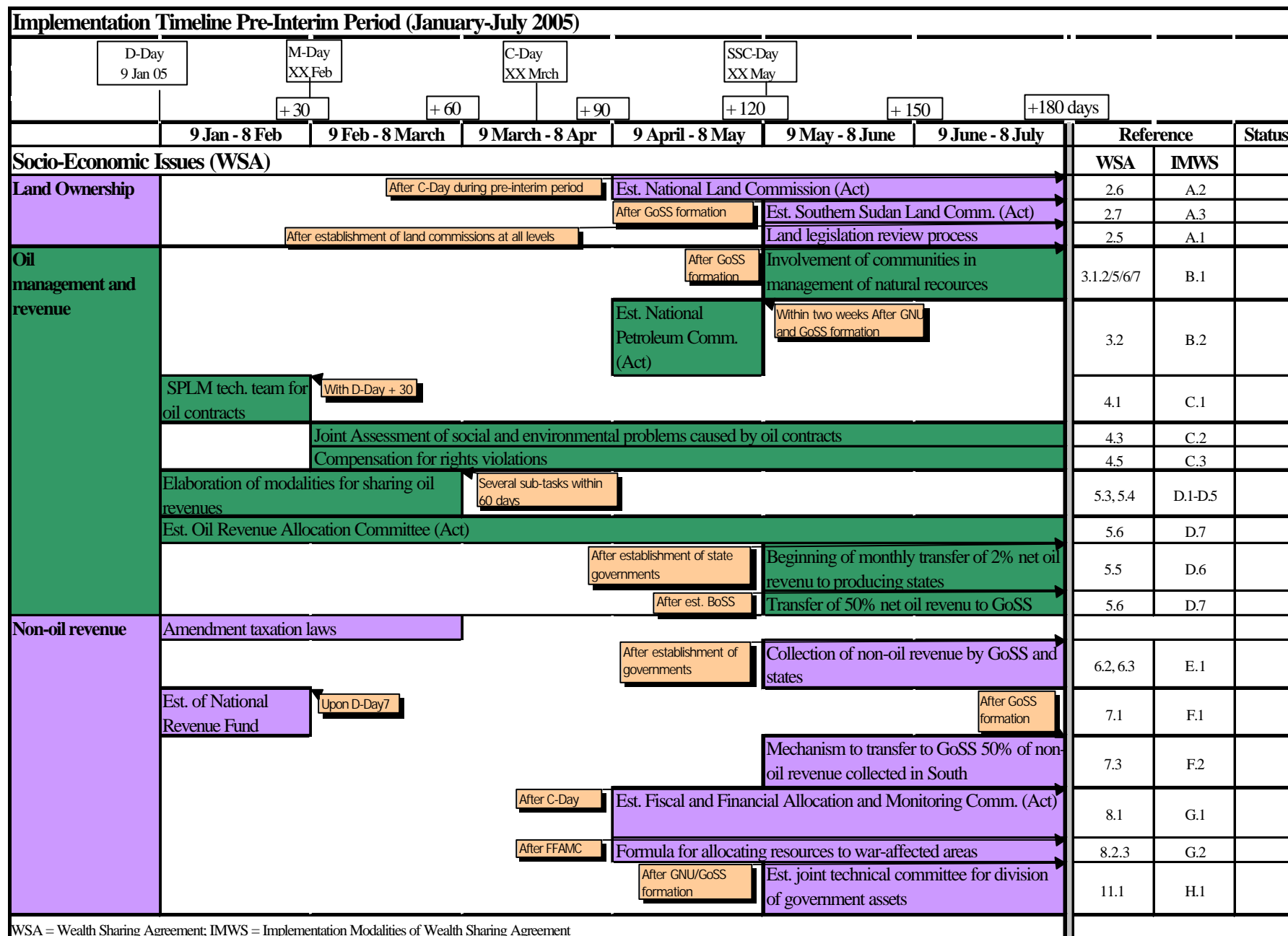
PSP = Power Sharing Protocol; IMPS: Implementation Modalities of Power Sharing Protocol

After C-Day during pre-interim period



Pre-interim period - Governance							Reference		Status
							PSP	IMPS	
	D-Day 9 Jan	M-Day XX Feb	C-Day XX March	SSC-Day XX May					
		+ 30	+ 60	+ 90	+ 120	+ 150	+ 180		
	9 Jan - 8 Feb	9 Feb - 8 March	9 March - 8 Apr	9 April - 8 May	9 May - 8 June	9 June - 8 July			
<b>Governance</b>									
<b>Constitutional Court</b>				Est. Constitutional Court			2.11.2.1	37	
				Southern Sudan representation in Constitutional court			2.11.4.6	39	
<b>National Judiciary</b>				Est. National Judicial Service Commission (Act)			2.11.4.5	38	
<b>Southern Level</b>									
<b>Border</b>				Determination of North/South border of 1/1/1956			3.1	46	
<b>Constitutional Process</b>				SS Constitutional Committee (Act)	After C-Day during pre-interim period		3.2	47a	
				Adoption Southern Sudan Constitution	Within seven weeks after C-Day		3.2	47	
<b>Southern Institutions</b>				Est. Southern Sudan	Within two weeks after C-Day		3.5.1	48	
				Est. Council of Ministers	Within one week from adoption SSC		3.6.1, 3.6.4	51	
				Est. Judiciary			3.7.1	52/53	
<b>State Level</b>									
<b>Sequencing for the North</b> (within 6 weeks after C-Day)				Appointment of State Governors	Upon C-Day			54	
				Mechanism for selection of 20% other political forces	Within six weeks after C-Day		4.4.2.2	57	
				Est. of state legislatures			4.4.2	55	
				Drafting and adoption of State constitutions	Within six weeks after C-Day			58	
				Est. of States' Council of Ministers	Within six weeks after C-Day		4.5.1, 4.5.3	59	
<b>Sequencing for the South</b> (within 7 weeks after SSC-Day)				Appointment of State Governors	Upon SSC-Day			54	
				Mechanism for selection of 20% other			4.4.2.2	57	
				Est. of state legislatures			4.4.2	55	
				Drafting and adoption of State constitutions				58	
				Est. of States' Council of Ministers			4.5.1, 4.5.3	59	

PSP = Power Sharing Protocol; IMPS: Implementation Modalities of Power Sharing Protocol



Pre-Interim Period - Socio-Economic Issues								
	D-Day 9 Jan 05	M-Day XX Feb	C-Day XX March	SSC-Day XX May				
		+30	+60	+90	+120	+150	+180 days	
	9 Jan - 8 Feb	9 Feb - 8 March	9 March - 8 Apr	9 April - 8 May	9 May - 8 June	9 June - 8 July	Reference	Status
Socio-Economic Issues (WSA)							WSA	IMWS
Financing the transition	Est. Joint National Transition Team	Upon signing				Immediately after GNU/GoSS formation	13.1/2	K.1/2
					Est. National and Southern Sudan Audit Chambers		12.2	L.1
Banking and currency	Enactment legislation to set up dual banking system						14.1	L.1
			One week after Act	Appointment Board of Directors of CBOS			14.8	L.2
				30 days after BoD appointment	Restructuring CBOS		14.3	L.1
					Est. Bank of South Sudan	30 days after BoD appointment	14.12 14.10	L.4
				After CBOS Act and est. governments	Enacting borrowing standards and requirements by CBOS		14.15 14.16	M.1
		Joint committee national currency					14.9	5.a
		Assessment circulating currencies in South Sudan				14.9	5.b	
Reconstruction and Development Funds				After GoSS establishment	Est. SSRDF		15.1	N.1
					Est. GoSS monitoring and evaluation		15.2	N.2
					Est. Oversight committee for SSRDF		15.3	N.3
				Est. National RDF			15.4	N.4
	Est. 2 Multi-Donor Trust Funds			Before donor conference			15.5	N.5
Set criteria for eligible financing from MDTFs						15.6	N.7	

WSA = Wealth Sharing Agreement; IMWS = Implementation Modalities of Wealth Sharing Agreement

First Half of the Interim Period: July 2005 - July 2008										
	D-Day 9 Jan 05	+ 6	+ 12	+ 18	+ 24	+ 30	+ 36	+ 42 months		
	Jan 05 - July 05	July 05 - Jan 06	Jan 06 - July 06	July 06 - Jan 07	Jan 07 - July 07	July 07 - Jan 08	Jan 08 - July 08			
	Pre-Int. Period	1st Implementation Year		2nd Implementation Year		3rd Implementation Year		Reference   Status		
<b>Security and Ceasefire Activities</b>								<b>Ceasefire</b>		
<b>UN Mission</b>	UN verification and monitoring							annex		
<b>Redeployment of SAF</b>	Reduction of SAF by 14%							18.2		
	In three phases: 30% after 4 months (May) 70% after 8 months (Sept), 100% after 12 months (Jan 06)		Reduction by 19%						18.2	
				Reduction by 22%					18.2	
					Reduction by 28 %				18.2	
<b>Redeployment of SPLA</b>	Redeployment from Eastern Sudan							18.4		
	SPLA redeployment from NM and SBN (within 15 months)			Compl. by April 2006 after JIU deployment in areas			After completion SAF re-deployment	annex		
<b>Armed Forces &amp; JiUs</b>	Negotiations on downsizing							19		
	Formation, training and deployment of JIUs formations (within 21 months)				To be completed no later than D-Day + 21 months (9 October 2006)			20.3		
	Training SPLA staff JIU service arms		Beginning of training within 12 months					annex		
	Establishment 1st joint/integrated service arms unit						Within 36 months	annex		
	Common doctrine and conduct code							annex		
<b>OAGs</b>	Incorporation/Reintegration OAGs		within 12 months					11.9		
<b>DDR</b>	Reintegration non-essentials							11.10		
	Continuation of DDR process							annex		
	Disarmament of non military personnel (continued)							annex		

First Half of the Interim Period: July 2005 - July 2008												
	D-Day 9 Jan 05	+6	+12	+18	+24	+30	+36	+42 months				
	Jan 05 - July 05	Jul 05 - Jan 06	Jan 06 - July 06	July 06 - Jan 07	Jan 07 - July 07	July 07 - Jan 08	Jan 08 - July 08					
	Pre-Int. Period	1st Implementation Year		2nd Implementation Year		3rd Implementation Year		Reference	Status			
<b>Governance</b>								PSP	IMPS			
Census				Date review	6 months before end of 2nd year			1.8.4	10			
				Conduct of census				1.8.1	8.b			
Electoral Matters		Enact. national electoral law						9.a				
		Est. Nat. electoral commission	1 month after law				6 months before end 3rd year	9.b				
						Date review		1.8.4	10			
Referendum					Beginning 3rd year	Referendum Act		1.a				
	Throughout pre-interim and interim periods				After establishment of Ref. commission	Est. of Referendum Commission	After Act, by Presidency	1.b				
						Enlightenment campaign on the referendum		1.d				
Information	Information campaign in all languages to popularize peace agreement								2.5.9	27		
Affirmative Action	Within first 3 years	20% middle and upper level civil service positions filled in with Southerners								2.6.2.2		
	Throughout interim period	Southern Sudan representation in national supreme court and other national courts in the capital								2.11.4.6	39	
Const. Review		Organization of an inclusive Constitutional Review Process						During interim period	2.12.10	45		
<b>Socio-Economic Issues</b>								WSA	IMWS			
Oil revenues		Est. of Future Generation Fund upon reaching 2 million barrels/day production					No specific date	5.7	D.8			
Non-oil revenues				FFAMC Review of allocation to GoSS of 50% non-oil revenues collected in South		Review 50% allocation to GoSS		7.3	F.3			
Currency		Issuing new currency					'After assessing and designing currencies'	14.9	5.C			

PSP = Power Sharing Protocol; IMPS = Implementation Modalities Power Sharing; WSA = Wealth Sharing Agreement; IMWS = Implementation Modalities Wealth Sharing

Second Half of the Interim Period: July 2008 - July 2011										
	D-Day 9 Jan 05	+ 48	+ 54	+ 60	+ 66	+ 72	+ 78	+ 84 months		
	Jul 08 - Jan 09	Jan 09 - July 09	July 09 - Jan 10	Jan 10 - July 10	July 10 - Jan 11	Jan 11 - July 11	July 11 - July 12	Reference	Status	
	4th Implementation Year		5th Implementation Year		6th Implementation Year		Post-interim			
<b>Security</b>								<b>Ceasefire</b>		
<b>UN Mission</b>	Continued deployment							annex		
<b>Armed Forces &amp; JIUs</b>	Continuation of training programmes							annex		
	Continuation of establishment of JIU service arms							annex		
	JIU integration modalities	Beginning second half interim period						annex		
	Process of full integration of JIU		Completed by D-Day + 52 months (9 May 2009)				20.5			
<b>DDR</b>	Continuation of DDR Process							annex		
<b>Governance</b>								<b>PSP</b>	<b>IMPS</b>	
<b>Elections</b>	Holding of general elections		Elections at all levels before end of 4th year					1.8.3	2.3.7	
<b>Affirmative Action</b>	25% civil service positions filled in with Southerners							2.6.2.2		
	30% middle and upper level civil service positions filled in with Southerners							2.6.22		
	Southern Sudan representation in national supreme court and other national courts in the capital							2.11.4.6	39	
<b>Const. Review</b>	Organization of an inclusive Constitutional Review Process							2.12.10	45	
<b>Referendum</b>	From beginning 6th year until 3 months before voting (Oct. 2010) <sup>7</sup>				Registration		6 months before end of interim period = Jan 2011		1.c	
					Voting (Jan 2011)				1.e	
<b>Post Interim Review</b>					Within 30 days after referendum		Review	ceasefire annex		
					Within 90 days after referendum		Est. SNAF or dissolution JIUs	ceasefire annex		